ARTICLE 24. TRADING PROGRAMS: NITROGEN OXIDES (NO_x) AND SULFUR DIOXIDE (SO_2)

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

326 IAC 24-1-1 Applicability

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

Sec. 1. (a) This rule establishes an annual NO_x emissions budget and annual NO_x trading program. The following units shall be clean air interstate rule (CAIR) NO_x units, and any source that includes one (1) or more such units shall be a CAIR NO_x source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

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

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR NO_x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR NO_x unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR NO_x units as follows:

(1) Any unit that is a CAIR NO_x unit under subsection (a):

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

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

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

(2) Any unit that is a CAIR NO_x unit under subsection (a) commencing operation before January 1, 1985:

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

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

(3) Any unit that is a CAIR NO_x unit under subsection (a) commencing operation on or after January 1, 1985:

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

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

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

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

326 IAC 24-1-2 Definitions

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

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

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

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

(3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 78*.

(4) "Allocate" or "allocation" means, with regard to CAIR NO_x allowances, the determination by a permitting authority or the U.S. EPA of the amount of such CAIR NO_x allowances to be initially credited to a CAIR NO_x unit, a new unit set-side, an energy efficiency or renewable energy set-aside, or other entity.

(5) "Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period, and is the deadline by which a CAIR NO_x allowance transfer must be submitted for recordation in a CAIR NO_x source's compliance account in order to be used to meet the source's CAIR NO_x emissions limitation for such control period in accordance with section 9(i) and 9(j) of this rule.

(6) "Alternate CAIR designated representative" means, for a CAIR NO_x source and each CAIR NO_x unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 through 12 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO_x annual trading program. If the CAIR NO_x source is also a CAIR SO_2 source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO_2 trading program. If the CAIR NO_x source is also a CAIR NO_x ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x ozone season trading program. If the CAIR NO_x source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NO_x source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under section 11 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by section 11 of this rule.

(8) "Biomass" means any of the following:

(A) Organic material grown for the purpose of being converted to energy.

(B) Organic byproduct of agriculture that can be converted into energy.

(C) Material that:

(i) can be converted into energy and is nonmerchantable for other purposes;

(ii) is segregated from other nonmerchantable material; and

(iii) is:

(AA) a forest-related organic residue, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(BB) a wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way trimmings.

(9) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to

recirculating water, steam, or other medium.

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

(11) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 9, and 12 of this rule, to transfer and otherwise dispose of CAIR NO_x allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(12) "CAIR designated representative" means, for a CAIR NO_x source and each CAIR NO_x unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 12 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_x annual trading program. If the CAIR NO_x source is also a CAIR SO_2 source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO_2 trading program. If the CAIR NO_x source is also a CAIR NO_x ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x ozone season trading program. If the CAIR NO_x source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NO_x source is also subject to the mercury budget trading program, then this natural person shall be the same person as the mercury designated representative under the mercury budget trading program.

(13) "CAIR NO_x allowance" means a limited authorization issued by a permitting authority or the U.S. EPA under provisions of a state implementation plan that are approved under 40 CFR 51.123(o)(1), 40 CFR 51.123(o)(2), or 40 CFR 51.123(p)*, or under 40 CFR 97*, to emit one (1) ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x program. An authorization to emit nitrogen oxides that is not issued under provisions of a state implementation plan that are approved under 40 CFR 51.123(o)(1), 40 CFR 51.123(o)(2), or 40 CFR 51.123(p)*, or under 40 CFR 97* shall not be a CAIR NO_x allowance.

(14) "CAIR NO_x allowance deduction" or "deduct CAIR NO_x allowances" means the permanent withdrawal of CAIR NO_x allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO_x units at a CAIR NO_x source for a control period, determined in accordance with section 11 of this rule, or to account for excess emissions.

(15) "CAIR NO_x allowances held" or "hold CAIR NO_x allowances" means the CAIR NO_x allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 9, 10, and 12 of this rule, in a CAIR NO_x allowance tracking system account.

(16) "CAIR NO_x allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR NO_x allowances under the CAIR NO_x annual trading program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

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

(18) "CAIR NO_x annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule; 40 CFR 96, Subparts AA through II* and 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II* and 40 CFR 51.123(p)* and 40 CFR 52.35*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(19) "CAIR NO_x emissions limitation" means, for a CAIR NO_x source, the tonnage equivalent, in NO_x emissions in a control period, of the CAIR NO_x allowances available for deduction for the source under section 9(i) and 9(j)(1) of this rule for the control period.

(20) "CAIR NO_x ozone season source" means a source that is subject to the CAIR NO_x ozone season trading program.

(21) "CAIR NO_x ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-3; 40 CFR 96, Subparts AAAA through IIII* and 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2), and 40 CFR 51.123(bb)(1), 40 CFR 51.123(bb)(2), or 40 CFR 51.123(dd)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII* and

40 CFR 51.123(ee)* and 40 CFR 52.35*, as a means of mitigating interstate transport of ozone and nitrogen oxides.
(22) "CAIR NO_x source" means a source that is subject to the CAIR NO_x annual trading program.
(23) "CAIR NO_x unit" means a unit that is subject to the CAIR NO_x annual trading program under section 1 of this rule and, except for purposes of sections 3 and 8 of this rule, a CAIR NO_x opt-in unit under section 12 of this rule.
(24) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR NO_x annual trading program requirements applicable to a CAIR NO_x source, to each CAIR NO_X unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.
(25) "CAIR SO_2 source" means a source that is subject to the CAIR SO_2 trading program.
(26) "CAIR SO_2 trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-2; 40 CFR 96, Subparts AAA through III* and 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2)*; or established in accordance with 40 CFR 97, Subparts AAA through III and 40 CFR 51.124(r)* and 40 CFR 52.36*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.
(27) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.
(28) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.
(29) "Coal-fired" means:
(A) except for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or
(B) for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.
(30) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:
(A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy;
(B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:
(i) for a topping-cycle cogeneration unit:
(AA) useful thermal energy not less than five percent (5%) of total energy output; and
(BB) useful power that, when added to one-half (½) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and
(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input; and
(C) provided that the total energy input under clause (B)(i)(BB) and (B)(ii) shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.
(31) "Combustion turbine" means:
(A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and
(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.
(32) "Commence commercial operation" means, with regard to a unit, the following:
(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in sections 3 and 12(f)(10) of this rule, subject to the following:
(i) For a unit that is a CAIR NO_x unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO_x unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR NO_x unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x unit under section 1 of this rule, subject to the following:

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

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

(33) "Commence operation" means the following:

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

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

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

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

(35) "Compliance account" means a CAIR NO_x allowance tracking system account, established by the U.S. EPA for a CAIR NO_x source under section 9 or 12 of this rule, in which any CAIR NO_x allowance allocations for the CAIR NO_x units at the source are initially recorded and in which are held any CAIR NO_x allowances available for use for a control period in order to meet the source's CAIR NO_x emissions limitation in accordance with section 9(i) and 9(j) of this rule.

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

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

(B) a nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x emissions, in parts per million (ppm);

(C) a nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO_2 or O_2) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million (ppm), diluent gas concentration, in percent CO_2 or O_2, and NO_x emission rate, in pounds per million British thermal units (lb/MMBtu);

(D) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2)* and providing a permanent, continuous record of the stack gas moisture content, in percent H_2O;

(E) a carbon dioxide monitoring system, consisting of a CO_2 pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO_2 emissions, in percent CO_2; and

(F) an oxygen monitoring system, consisting of an O_2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O_2, in percent O_2.

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

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

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

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

(B) Highly efficient electricity or steam generation for the predominant use of a single end user, such as combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed one (1) of the following thresholds:

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

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

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

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

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

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

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

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

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

(F) Improvements to existing fossil fuel-fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity, including gas reburning projects that reduce NO_x emissions.

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

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

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

(40) "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO_x units at a CAIR NO_x source during a control period that exceeds the CAIR NO_x emissions limitation for the source.

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

(42) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.
(43) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.
(44) "Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum byproducts used as a fuel whether in a liquid, solid, or gaseous state.
(45) "General account" means a CAIR NO_x allowance tracking system account, established under section 9 of this rule, that is not a compliance account.
(46) "Generator" means a device that produces electricity.
(47) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process. This process may include, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.
(48) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 11 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.
(49) "Heat input rate" means the amount of heat input, in million British thermal units (MMBtu), divided by unit operating time, in hours, or, with regard to a specific fuel, the amount of heat input attributed to the fuel, in million British thermal units (MMBtu), divided by the unit operating time, in hours, during which the unit combusts the fuel.
(50) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(A) for the life of the unit;

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

(C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(51) "Maximum design heat input" means the maximum amount of fuel per hour, in British thermal units per hour (Btu/hr), that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.
(52) "Mercury (Hg) budget trading program" means a multistate Hg air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 40 CFR 60, Subpart HHHH* and 40 CFR 60.24(h)(6)*, or established by the U.S. EPA under the Clean Air Act, Section 111, as a means of reducing national mercury emissions.
(53) "Monitoring system" means any monitoring system that meets the requirements of section 11 of this rule, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75*.
(54) "Most stringent state or federal NO_x emissions limitation" means, with regard to a unit, 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.
(55) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount as of such completion as specified by the person conducting the physical change.
(56) "Oil-fired" means, for the purposes of section 8 of this rule, combusting fuel oil for more than fifteen percent (15%) of

the annual heat input in a specified year and not qualifying as coal-fired.

(57) "Operator" means any person who operates, controls, or supervises a CAIR NO_x unit or a CAIR NO_x source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

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

(A) With regard to a CAIR NO_x source or a CAIR NO_x unit at a source, respectively, any of the following:

(i) Holder of any portion of the legal or equitable title in a CAIR NO_x unit at the source or the CAIR NO_x unit.

(ii) Holder of a leasehold interest in a CAIR NO_x unit at the source or the CAIR NO_x unit.

(iii) Purchaser of power from a CAIR NO_x unit at the source or the CAIR NO_x unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR NO_x unit.

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

(59) "Permitting authority" means the state air pollution control agency, local agency, other state agency, or other agency authorized by the U.S. EPA to issue or revise permits to meet the requirements of the CAIR NO_x annual trading program or, if no such agency has been so authorized, the U.S. EPA.

(60) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

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

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

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

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

Where:

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

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

(63) "Recordation", "record", or "recorded" means, with regard to CAIR NO_x allowances, the movement of CAIR NO_x allowances by the U.S. EPA into or between CAIR NO_x allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

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

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

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

(A) atmospheric or pressurized fluidized bed combustion;

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

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

(68) "Serial number" means, for a CAIR NO_x allowance, the unique identification number assigned to each CAIR NO_x allowance by the U.S. EPA.

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

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

(71) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rule:
(A) in person;
(B) by United States Postal Service; or
(C) by other means of dispatch or transmission and delivery.

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

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

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

(74) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR NO_x emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 11 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

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

(76) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself. Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

$$LHV = HHV - 10.55(W + 9H)$$

Where: LHV = Lower heating value of fuel in Btu/hr.
HHV = Higher heating value of fuel in Btu/hr.
W = Weight % of moisture in fuel.
H = Weight % of hydrogen in fuel.

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

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

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

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

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

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

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

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

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-1-2; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-1-3 Retired unit exemption

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

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

(b) Any CAIR NO_x unit that is permanently retired and is not a CAIR NO_x opt-in unit under section 12 of this rule shall be exempt from the CAIR NO_x annual trading program, except for the provisions of this section and sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, and 8 through 10 of this rule.

(c) The exemption under this section shall become effective the day on which the CAIR NO_x unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

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

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

(2) The department shall allocate CAIR NO_x allowances under section 8 of this rule to the unit.

(3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

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

(5) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under 326 IAC 2-7 or a FESOP under 326 IAC 2-8, the unit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days before the later of January 1, 2009, or the date on which the unit resumes operation.

(6) A unit exempt under this section shall lose its exemption on the earlier of the following dates:

(A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (5).

(B) The date on which the CAIR designated representative is required under subdivision (5) to submit a CAIR permit application for the unit.

(C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(7) For the purpose of applying monitoring, reporting, and record keeping requirements under section 11 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

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

326 IAC 24-1-4 Standard requirements

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

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

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

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

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

(2) The owners and operators of each CAIR NO_x source required to have a federally enforceable permit and each CAIR NO_x unit required to have a federally enforceable permit at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 12 of this rule, the owners and operators of a CAIR NO_x source that is not otherwise required to have a federally enforceable permit and each CAIR NO_x unit that is not otherwise required to have a federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR NO_x source and such CAIR NO_x unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR NO_x source and CAIR NO_x unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

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

(2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each CAIR NO_x source with the CAIR NO_x emissions limitation under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR NO_x source and CAIR NO_x unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO_x source and each CAIR NO_x unit at the source shall hold, in the source's compliance account, CAIR NO_x allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_x units at the source, as determined in accordance with section 11 of this rule.

(2) A CAIR NO_x unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of January 1, 2009, or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1), 11(c)(2), or 11(c)(5) of this rule and for each control period thereafter.

(3) A CAIR NO_x allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR NO_x allowance was allocated.

(4) CAIR NO_x allowances shall be held in, deducted from, or transferred into or among CAIR NO_x allowance tracking system accounts in accordance with sections 9, 10, and 12 of this rule.

(5) A CAIR NO_x allowance is a limited authorization to emit one (1) ton of nitrogen oxides in accordance with the CAIR NO_x annual trading program. No provision of the CAIR NO_x annual trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the state of Indiana or the United States to terminate or limit such authorization.

(6) A CAIR NO_x allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 8, 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from a CAIR NO_x source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) The owners and operators of a CAIR NO_x source and each CAIR NO_x unit at the source that emits nitrogen oxides during any control period in excess of the CAIR NO_x emissions limitation shall do the following:

(1) Surrender the CAIR NO_x allowances required for deduction under section 9(j)(4) of this rule.

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

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

(e) Owners and operators of each CAIR NO_x source and each CAIR NO_x unit at the source shall comply with the following record keeping and reporting requirements:

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

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

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

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

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

(2) The CAIR designated representative of a CAIR NO_x source and each CAIR NO_x unit at the source shall submit the reports required under the CAIR NO_x annual trading program, including those under section 11 of this rule.

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

(1) Each CAIR NO_x source and each CAIR NO_x unit shall meet the requirements of the CAIR NO_x annual trading program.

(2) Any provision of the CAIR NO_x annual trading program that applies to a CAIR NO_x source or the CAIR designated representative of a CAIR NO_x source shall also apply to the owners and operators of such source and of the CAIR NO_x units at the source.

(3) Any provision of the CAIR NO_x annual trading program that applies to a CAIR NO_x unit or the CAIR designated representative of a CAIR NO_x unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR NO_x annual trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO_x source or CAIR NO_x unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act. *(Air Pollution Control Division; 326 IAC 24-1-4; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

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

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

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

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

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO_x annual trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the CAIR NO_x annual trading program will follow those procedures set forth in 40 CFR 78*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-1-5; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-1-6 CAIR designated representative for CAIR NO_x sources

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

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

(b) The CAIR designated representative of the CAIR NO_x source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_x units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_x source represented and each CAIR NO_x unit at the source in all matters pertaining to the CAIR NO_x annual trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

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

(e) The following shall apply to submissions made under the CAIR NO_x annual trading program:

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

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

(f) The following shall apply where the owners or operators of a CAIR NO_x source choose to designate an alternate CAIR

designated representative:

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

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

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

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

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

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

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

(A) In the event an owner or operator of a CAIR NO_x source or a CAIR NO_x unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.

(B) Within thirty (30) days following any change in the owners and operators of a CAIR NO_x source or a CAIR NO_x unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

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

(1) Identification of the CAIR NO_x source, and each CAIR NO_x unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

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

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

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

equitable title to, or a leasehold interest in, a CAIR NO_x unit, or where a utility or industrial customer purchases power from a CAIR NO_x unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_x unit at the source; and CAIR NO_x allowances and proceeds of transactions involving CAIR NO_x allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_x allowances by contract, CAIR NO_x allowances and proceeds of transactions involving CAIR NO_x allowances will be deemed to be held or distributed in accordance with the contract.".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A notice of delegation submitted under subdivision (3) shall be effective, with regard to the CAIR designated

representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

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

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

326 IAC 24-1-7 Permit requirements

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

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

(1) For CAIR NO_x sources required to have a Part 70 operating permit under 326 IAC 2-7, the CAIR portion of the Part 70 operating permit shall be administered in accordance with 326 IAC 2-7, except as provided otherwise by this section and sections 3 and 12 of this rule.

(2) For CAIR NO_x sources required to have a FESOP under 326 IAC 2-8, the CAIR portion of the FESOP shall be administered in accordance with 326 IAC 2-8, except as provided otherwise by this section and sections 3 and 12 of this rule.

(3) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR NO_x source and the CAIR NO_x units at the source covered by the CAIR permit, all applicable CAIR NO_x annual trading program, CAIR NO_x ozone season trading program, and CAIR SO_2 trading program requirements and shall be a complete and separable portion of the Part 70 operating permit or FESOP.

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

(1) The CAIR designated representative of any CAIR NO_x source required to have a Part 70 operating permit or FESOP shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR NO_x unit at the source at least two hundred seventy (270) days before the later of January 1, 2009, or the date on which the CAIR NO_x unit commences commercial operation, except as provided in section 12(e) of this rule.

(2) For a CAIR NO_x source required to have a Part 70 operating permit or FESOP, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR NO_x unit at the source to renew the CAIR permit in accordance with 326 IAC 2-7-4(a)(1)(D) or 326 IAC 2-8-3(h), as applicable, except as provided in section 12(e) of this rule.

(c) A complete CAIR permit application shall include the following elements concerning the CAIR NO_x source for which the application is submitted:

(1) Identification of the CAIR NO_x source.

(2) Identification of each CAIR NO_x unit at the CAIR NO_x source.

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

(d) Each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under subsection (c).

(e) Each CAIR permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under section 8, 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from the compliance account of the CAIR NO_x source covered by the permit.

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

(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_x source's Part 70 operating permit or FESOP.

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

(1) The permit modification and revision provisions under 326 IAC 2-7, for a CAIR source with a Part 70 operating permit.
(2) The permit modification and revision provisions under 326 IAC 2-8, for a CAIR source with a FESOP.

(Air Pollution Control Division; 326 IAC 24-1-7; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)

326 IAC 24-1-8 CAIR 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. 8. (a) The trading program budget allocated by the department under subsections (d) through (h) for each control period shall equal the CAIR NO_x allowances apportioned to the CAIR NO_x units under section 1 of this rule, as determined by the procedures in this section. The total number of CAIR NO_x allowances that are available for each control period for annual allocations of CAIR NO_x allowances under this rule are one hundred eight thousand nine hundred thirty-five (108,935) tons in 2009 through 2014 and ninety thousand seven hundred seventy-nine (90,779) in 2015 and thereafter, apportioned as follows:

(1) For existing units (that is, units that have a baseline heat input, as determined under subsection (c)(1)):
(A) one hundred three thousand four hundred eighty-eight (103,488) tons for CAIR NO_x units in 2009 through 2014; and
(B) eighty-eight thousand fifty-five (88,055) tons for CAIR NO_x units in 2015 and thereafter.

(2) For new unit allocation set-asides:
(A) four thousand nine hundred two (4,902) tons for CAIR NO_x units in 2009 through 2014; and
(B) two thousand two hundred seventy (2,270) tons for CAIR NO_x units in 2015 and thereafter.

(3) For the energy efficiency and renewable energy allocation set-asides:
(A) five hundred forty-five (545) tons for CAIR NO_x units in 2009 through 2014; and
(B) four hundred fifty-four (454) tons for CAIR NO_x units in 2015 and thereafter.

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

(1) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the CAIR NO_x allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods in 2009, 2010, 2011, 2012, 2013, and 2014.

(2) By October 31, 2008, and October 31 every six (6) years thereafter, the department shall submit to the U.S. EPA the CAIR NO_x allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowance allocation.

(3) By October 31, 2009, and October 31 of each year thereafter, the department shall submit to the U.S. EPA the CAIR NO_x allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (e), and (f), for the control period in the year of the applicable deadline for submission under this rule.

(4) The department shall make available for review to the public the CAIR NO_x allowance allocations under subdivision (2) on July 31 of each year allocations are made and shall provide a thirty (30) day opportunity for submission of objections to the CAIR NO_x allowance allocations. Objections shall be limited to addressing whether the CAIR 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.

(c) The baseline heat input, in million British thermal units (MMBtu) used with respect to CAIR NO_x allowance allocations under subsection (d) for each CAIR NO_x unit shall be as follows:

(1) For units commencing operation before January 1, 2001:
(A) For a CAIR NO_x allowance allocation under subsection (b)(1), the average of the three (3) highest amounts of the unit's adjusted control period heat input for 1998 through 2005, with the adjusted control period heat input for each year calculated as follows:
(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

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

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

(B) For a CAIR NO_x allowance allocation under subsection (b)(2), the average of the three (3) highest amounts of the unit's adjusted control period heat input for the eight (8) years before when the CAIR NO_x allocation is being calculated, with the adjusted control period heat input for each year calculated as follows:

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

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

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

(2) For units commencing operation on or after January 1, 2001, and operating each calendar year during a period of three (3) or more consecutive calendar years, the average of the three (3) highest amounts of the unit's total converted control period heat input for the years before when the CAIR NO_x allocation is being calculated, not to exceed (8).

(3) A unit's control period heat input, and a unit's status as coal-fired or not coal-fired, for a calendar year under subdivision (1), and a unit's total tons of NO_x emissions during a control period in calendar year under subsection (e), shall be determined in accordance with 40 CFR 75*, to the extent the unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75* for the year.

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

(A) The control period gross electrical output of the generator or generators served by the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) for coal-fired units or seven thousand six hundred (7,600) British thermal units per kilowatt hour (Btu/kWh) for a unit that is not coal-fired divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu), provided that if a generator is served by two (2) or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year.

(B) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) plus the useful energy, in British thermal units (Btu), produced during the control period divided by eight-tenths (0.8), and with the sum divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu).

(d) For each control period in 2009 and thereafter, the department shall allocate to all CAIR NO_x units that have a baseline heat input, as determined under subsection (c), a total amount of CAIR NO_x allowances as listed in subsection (a)(1), except as provided in subsection (f). The department shall allocate CAIR NO_x allowances to each CAIR NO_x unit in an amount determined by multiplying the total amount under subsection (a)(1) by the ratio of the baseline heat input of such CAIR NO_x unit to the total amount of baseline heat input of all such CAIR NO_x units and rounding to the nearest whole allowance as appropriate.

(e) For each control period in 2009 and thereafter, the department shall allocate CAIR NO_x allowances to CAIR NO_x units that commenced operation on or after January 1, 2001, and do not yet have a baseline heat input, as determined under subsection (c), in accordance with the following procedures:

(1) The department shall establish a new unit set-aside for each control period equal to the following:

(A) Four thousand nine hundred two (4,902) tons for a control period during 2009 through 2014.

(B) Two thousand two hundred seventy (2,270) tons for CAIR NO_x units for a control period during 2015 and thereafter.

(2) The CAIR designated representative of such a CAIR NO_x unit may submit to the department a request, in a format specified by the department, to be allocated CAIR NO_x allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO_x unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x allowances under subsection (d). A separate CAIR NO_x

allowance allocation request for each control period for which CAIR NO_x allowances are sought must be submitted on or before May 1 of such control period and after the date on which the CAIR NO_x unit commences commercial operation.

(3) In a CAIR NO_x allowance allocation request under subdivision (2), the CAIR designated representative may request for a control period CAIR NO_x allowances in an amount not exceeding the CAIR NO_x unit's total tons of NO_x emissions during the calendar year immediately before such control period.

(4) The department shall review each CAIR NO_x allowance allocation request under subdivision (2) and shall allocate CAIR NO_x allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after May 1 of the control period, the department shall determine the sum of the CAIR NO_x allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of CAIR NO_x allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of CAIR NO_x allowances requested, as adjusted under clause (A), to each CAIR NO_x unit covered by an allowance allocation request accepted under clause (A).

(D) If the new unit set-aside for the 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), but the energy efficiency and renewable energy allocation set-aside is under-subscribed, the department shall allocate the amount of the NO_x allowances requested with the difference allocated from the energy efficiency and renewable energy allocation set-aside.

(E) If the amount of CAIR NO_x allowances in the new unit set-aside for the control period is less than the sum under clause (B), and the energy efficiency and renewable energy allocation set-aside is over subscribed, then the department shall allocate to each CAIR NO_x unit covered by an allowance allocation request accepted under clause (A) the amount of the CAIR NO_x allowances requested, as adjusted under clause (A), multiplied by the amount of CAIR NO_x allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(F) The department shall notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO_x allowances, if any, allocated for the control period to the CAIR NO_x unit covered by the request and submit the CAIR NO_x allowances to U.S. EPA according to subsection (b)(3).

(f) If, after completion of the procedures under subsection (e)(4) for a control period, any unallocated CAIR NO_x allowances remain in the new unit set-aside for the control period, the department shall allocate to each CAIR NO_x unit that was allocated CAIR NO_x allowances under subsection (d) an amount of CAIR NO_x allowances equal to the total amount of such remaining unallocated CAIR NO_x allowances, multiplied by the unit's allocation under subsection (d), divided by one hundred three thousand four hundred eighty-eight (103,488) for a control period during 2009 through 2014, and eighty-eight thousand fifty-five (88,055) for a control period during 2015 and thereafter, rounding to the nearest whole allowance as appropriate.

(g) In addition to the CAIR NO_x allowances allocated under subsections (c) through (f), the department shall allocate for the control period in 2009 up to twenty thousand one hundred fifty-five (20,155) compliance supplement pool NO_x allowances to CAIR NO_x units, in accordance with this section. First, the department shall reserve allowances for eligible units and assign the reserved allowances in accordance with subdivisions (2) and (3). Then, the department will allocate earned CAIR NO_x allowances and surplus CAIR NO_x allowances in accordance with subdivision (5):

(1) The following terms and meanings apply to this section:

(A) "Baseline emission rate" means the heat input weighted average NO_x emission rate for 2003 through 2005 (excluding May 1 through September 30 of each year).

(B) "Eligible unit" or "eligible units" means a CAIR NO_x unit that:

(i) is a coal-fired unit that will be required to comply with CAIR annual NO_x emission limitations beginning January 1, 2009;

(ii) has or will have:

(AA) post-combustion NO_x control equipment, or shares a common stack with a unit that has or will have post-combustion NO_x control equipment installed before December 31, 2008; or

(BB) for all other units be able to achieve a NO_x emissions rate that is at least ten percent (10%) lower than the heat input weighted average NO_x emission rate for 2003 through 2005 (excluding May 1 through September 30 of each year);

(iii) has an established baseline emissions rate;

(iv) for which the department has approved its application in accordance with subdivision (2); and

(v) for which the unit in item (ii)(BB) achieves in 2007 or 2008, or both (excluding May 1 through September 30 of each year), a NO_x emissions rate at least ten percent (10%) lower than the baseline emissions rate.

(C) "Emission reduction" or "emission reductions" will be calculated, in tons per year, in accordance with the following formula:

Emission reductions = [eligible unit's actual heat input for 2007 or 2008, or both (excluding May 1 through September 30 of each year) × eligible unit's baseline emission rate] - [eligible unit's actual heat input for 2007 or 2008, or both (excluding May 1 through September 30 of each year) × actual NO_x emission rate (excluding May 1 through September 30 of each year)]/2000.

(D) "Reserved allowance" means an allowance from the compliance supplement pool that the department reserves for an eligible unit. Reserved allowances have no independent value and cannot be traded until after they are earned and allocated as CAIR NO_x allowances to an eligible unit.

(E) "Unit's excess emissions reductions" means one (1) of the following:

(i) The eligible unit's tons of NO_x emission reductions in excess of its reserved allowances × 1.5 for units with all of the following control equipment installed:

(AA) Electrostatic precipitator.

(BB) Selective catalytic reduction.

(CC) Flue gas desulfurization.

(ii) The eligible unit's tons of NO_x emission reductions in excess of its reserved allowances × 1.0 for all other units.

(2) To receive reserved allowances, the designated representative for a CAIR NO_x unit must submit an application to the department, in a format specified by the department, within thirty (30) days of the effective date of this rule, demonstrating that it satisfies subdivision (1)(B)(i) through (1)(B)(iii). The department shall approve or deny the application within one hundred twenty (120) days after receipt of the application and designate the amount of allowances it has reserved for that unit at that time.

(3) The department shall assign reserved allowances to each eligible unit, based on the following formula:

Amount of reserved allowances, in tons per year = (eligible unit's baseline heat input as defined in subsection (c) ÷ sum of baseline heat input from all eligible units as defined in subsection (c)) × (95% × 20,155). The amount of reserved allowances shall be determined separately each year, 2007 and 2008, depending upon the number of approved applications for eligible units each year. No more than fifty percent (50%) of the compliance supplement pool shall be reserved for eligible units in 2007. The remainder of the compliance supplement pool shall be reserved for eligible units in 2008 and any demonstrations of need.

(4) In order to receive CAIR NO_x allowances from the compliance supplement pool the following conditions must be met:

(A) The owners and operators of an eligible unit shall monitor and report the NO_x emissions rate and the heat input of the unit in accordance with section 11 of this rule in each control period for which early reduction credit is requested.

(B) The CAIR designated representative of an eligible unit shall submit to the department by May 1, 2009, a request, in a format specified by the department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool identifying the amount of tons of emissions reductions it has achieved and demonstrating that it has satisfied subdivision (1).

(C) The actual NO_x emission rate used in the emissions reduction calculation in subdivision (1)(C) shall be the monitored NO_x emission rate for 2007 or 2008, respectively.

(D) Units that share a common stack shall meet the following requirements:

(i) For each eligible unit that is part of a common stack group the restriction in subdivision (1)(B)(ii)(BB) is applied to the entire common stack group except as provided in item (ii).

(ii) For a common stack group that has a least one (1) unit with post-combustion NO_x control equipment, the restriction in subdivision (1)(B)(ii)(AA) for post-combustion NO_x control equipment shall apply to the entire common stack group.

(E) No more than fifty percent (50%) of the compliance supplement pool shall be reserved or allocated for emission reductions or excess emission reductions implemented in 2007. The remainder of the compliance supplement pool shall be allocated for emission reductions or excess emission reductions implemented in 2008 and demonstrations of need.

(5) The department shall review each request under subdivision (4) and shall allocate CAIR NO_x allowances from the compliance supplement pool for the control period in 2009 to CAIR NO_x units, in accordance with the following procedures:

(A) Upon receipt of each such request, the department shall make any necessary adjustments to the request to ensure that the amount of the CAIR NO_x allowances requested meets the requirements of subdivisions (3) and (4). If an eligible unit achieved emission reductions less than or equivalent to the reserved allowances assigned to it under subdivision (3), the department shall allocate CAIR NO_x allowances from the compliance supplement pool to the eligible unit equal to the actual emission reductions achieved by the eligible unit. Any reserved allowances not earned by an eligible unit shall remain in the compliance supplement pool to be distributed in accordance with clause (C).

(B) To the extent an eligible unit achieved emission reductions in excess of the reserved allowances assigned to it under subdivision (3), the department shall allocate CAIR NO_x allowances to the eligible unit equal to the amount of its reserved allowances, plus additional CAIR NO_x allowances, if any, from the compliance supplement pool in accordance with clause (C).

(C) Any CAIR NO_x allowances that remain in the compliance supplement pool following allocation required by clauses (A) and (B) shall be allocated to eligible units that achieved emission reductions in excess of their reserved allowances. The department shall make allocations of the remaining CAIR NO_x allowances in accordance with the following formula:

An eligible unit's additional CAIR NO_x allowances from the compliance supplement pool = (unit's excess emissions reductions/ the total tons of adjusted excess NO_x emissions reductions achieved by all eligible units) × the total of remaining CAIR NO_x allowances in the compliance supplement pool following allocation under clauses (A) and (B). In no case shall the actual amount of additional CAIR NO_x allowances awarded in this clause exceed the number of actual emission reductions achieved in excess of the reservation under subdivision (3).

(6) For any CAIR NO_x unit whose compliance with CAIR NO_x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period, the CAIR designated representative of the unit may request the allocation of CAIR NO_x allowances from the compliance supplement pool in accordance with the following:

(A) The CAIR designated representative of such CAIR NO_x unit shall submit to the department by May 1, 2009, a request, in a format specified by the department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO_x allowances necessary to remove such undue risk to the reliability of electricity supply.

(B) In the request under clause (A), the CAIR designated representative of such CAIR NO_x unit shall demonstrate that, in the absence of allocation to the unit of the amount of CAIR NO_x allowances requested, the unit's compliance with CAIR NO_x emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period. This demonstration must include a showing that it would not be feasible for the owners and operators of the unit to:

(i) obtain a sufficient amount of electricity from other electricity generation facilities, during the installation of control technology at the unit for compliance with the CAIR NO_x emissions limitation, to prevent such undue risk; or

(ii) obtain under subdivisions (5) and (7), or otherwise obtain, a sufficient amount of CAIR NO_x allowances to prevent such undue risk.

(7) The department shall review each request under subdivision (6) and shall allocate CAIR NO_x allowances, not to exceed one thousand eight (1,008) allowances, for the control period in 2009 to CAIR NO_x units covered by such request. If no requests for allowances are received under subdivision (6), the allowances shall be available for allocation under subdivision

(5)(C).

(8) By November 30, 2009, the department shall determine, and submit to the U.S. EPA the allocations of CAIR NO_x allowances from the compliance supplement pool under subdivisions (5) and (7).

(9) By January 1, 2010, the U.S. EPA will record the allocations under subdivision (8).

(h) For projects that reduce NO_x emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during a control period beginning January 1, 2009, the department shall allocate NO_x allowances in accordance with the following procedures:

(1) The energy efficiency and renewable energy allocation set-aside shall be allocated NO_x allowances equal to the following:

(A) Five hundred forty-five (545) tons for a control period during 2009 through 2014.

(B) Four hundred fifty-four (454) tons for a control period during 2015 and thereafter.

(2) Any person may submit to the department a request, in writing, or in a format specified by the department, for NO_x allowances as follows:

(A) Sponsors of energy efficiency or renewable energy projects in section 2(39)(A) through 2(39)(H) of this rule may request the reservation of NO_x allowances, for one (1) control period in which the project is implemented. Project sponsors may reapply each year, not to exceed five (5) control periods for energy efficiency projects in sections 2(39)(A), 2(39)(B), 2(39)(E), and 2(39)(F) of this rule and for an unlimited number of years for projects in sections 2(39)(C), 2(39)(D), and 2(39)(H) of this rule. Requests for allowances may be made for projects implemented two (2) years before the effective date of this rule. 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.

(B) The NO_x allowance allocation request must be submitted by May 1 of the calendar year for which the NO_x allowance allocation is requested.

(C) The NO_x allowance allocation request for an integrated gasification combined cycle project under section 2(39)(G) of this rule must be submitted by May 1 of the calendar year for which the NO_x allowance allocation is requested and after the date on which the department issues a permit to construct the CAIR NO_x unit. For integrated gasification combined cycle projects, project sponsors may request the reservation of NO_x allowances, based on the number of kilowatt hours of electricity generated based on an eighty-five percent (85%) capacity factor and expected heat rate of the unit. Project sponsors may reapply each year, not to exceed five (5) control periods. Requests for allowances may be made only for integrated gasification combined cycle projects which first start commercial operations in 2009 and beyond.

(3) In a NO_x allowance allocation request made under this subsection, the project sponsor may request for a control period, NO_x allowances not to exceed the following:

(A) Projects in section 2(39)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or nonutility third parties receive allowances based upon the number of kilowatt hours of electricity saved during a control period and the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.0015)/2{,}000$$

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

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

(B) Projects in section 2(39)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by electric generating units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.00075/2{,}000)$$

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

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

(C) Projects in section 2(39)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not CAIR NO_x units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2}))/2{,}000$$

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

Et1 = Energy consumed per control period before project implementation.

Pt1 = Units of product produced per control period before project implementation.

Et2 = Energy consumed in the most recent control period.

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

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

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

(D) Projects in section 2(39)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are CAIR NO_x units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((Et1/Pt1) - (Et2/Pt2)) \times Pt2 \times NPt2 \times (NPt1/NPt2) \times 0.5)/2{,}000$$

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

Et1 = Energy consumed per control period before project implementation.

Pt1 = Units of product produced per control period before project implementation.

Et2 = Energy consumed in the most recent control period.

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

NPt1 = NO_x produced during the production process, measured in pounds per million British thermal units before project implementation.

NPt2 = NO_x produced during the production process, measured in pounds per million British thermal units in the most recent control period.

Product produced, as used in the formulas in this clause and clause (C), 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.

(E) Projects in section 2(39)(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(39)(B) of this rule, that are not CAIR NO_x units under section 1 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 a control period and the following formula:

$$\text{Allowances} = (kWG \times (0.0015\text{-}NO_x))/2{,}000$$

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

kWG = The number of net kilowatt hours of electricity generated during a control period by the project.

NO_x = The amount of NO_x produced during the generation of electricity, measured in pounds per kilowatt hour.

(F) Projects in section 2(39)(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(39)(B) of this rule, that are not CAIR NO_x units under section 1 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 a control period and the following formula:

$$\text{Allowances} = (NO_x \text{ conventional} - NO_x \text{ CHP})/2{,}000$$

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

NO_x conventional = $[(0.15 \times 3{,}412 \times kWG / 0.34) + (0.17 \times HeatOut / 0.8)] / 1{,}000{,}000$

NO_x CHP = $(BtuIn \times NO_xRate)/1{,}000{,}000$

Where: kWG = The number of net kilowatt hours of electricity generated during a control period by the project.

HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.

NO_xRate = NO_x emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.

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

(G) Projects in section 2(39)(B) and 2(39)(G) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during a control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells; or integrated gasification combined cycle, 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 shall receive allowances based upon the net amount of electricity generated during a control period and the following formula:

$$\text{Allowances} = (\text{kWG} \times (0.0015 - NO_x) \times 0.5)/2{,}000$$

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

(H) Projects in subdivision (2) and specified in section 2(39)(C) and 2(39)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during a control period and according to the following formula:

$$\text{Allowances} = (\text{kWG} \times 0.0015)/2{,}000$$

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

(I) Projects in subdivision (2) and specified in section 2(39)(E) through 2(39)(G) 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:

$$\text{Allowances} = ((\text{Et1} - \text{Et2}) \times \text{h}) \times 0.5)/2{,}000$$

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 control period.

(J) Projects in section 2(39)(A) of this rule based upon energy efficiency other than electricity savings shall be awarded allowances according to the following formula:

$$\text{Allowances} = (NO_x\ \text{Rate} \times \text{HeatOut} / 0.8)/1{,}000{,}000/2{,}000$$

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

(K) Projects in section 2(39)(H) of this rule using renewable energy to displace coal, natural gas, or oil combustion and reduce NO_x emissions shall be awarded allowances according to the following formula:

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

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

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

(A) Upon receipt of the NO_x allowance allocation request, the department shall make any necessary adjustments to

the request to ensure that the number of allowances specified in the request is consistent with the requirements of subdivision (3).

(B) If the energy efficiency and renewable energy allocation set-aside for the 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 reserve the amount of the NO_x allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects.

(C) If the energy efficiency and renewable energy allocation set-aside for the 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), but the new unit set-aside is under-subscribed, the department shall reserve the amount of the NO_x allowances requested with the difference reserved from the new unit set-aside.

(D) If the energy efficiency and renewable energy allocation set-aside for the 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), and the new unit set-aside is over-subscribed, the department shall reserve the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(39)(A), 2(39)(C), 2(39)(D), and 2(39)(H) of this rule shall be reserved first, reserved for projects under section 2(39)(B) and 2(39)(G) of this rule second, reserved for projects under section 2(39)(E) of this rule third, and reserved for projects under section 2(39)(F) of this rule fourth.

(E) Any unreserved allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unreserved allowances shall be retained by the state to fund a grant program for energy efficiency and renewable energy projects. The grant program projects do not need to meet the one (1) ton of NO_x emissions for singular or aggregated projects under subdivision (2). The unreserved NO_x allowances shall be deposited in a general allowance account established in accordance with this rule by the Indiana office of energy and defense development in accordance with the allowance allocation requirements of this rule, subject to the following:

(AA) The Indiana office of energy and defense development shall deposit revenue from the sale of unreserved NO_x allowances in a dedicated general NO_x account established by this rule used exclusively to provide matching grant funds for energy efficiency and renewable energy projects, including, but not limited to, the purchase and installation of alternative energy systems and programs to support energy efficiency projects.

(BB) The Indiana office of energy and defense development shall hold the unreserved NO_x allowances in a general NO_x account until such time that project(s) are approved for grant funding, at which time NO_x allowances shall be sold to provide cash dollars for the grant funding.

(CC) Revenue from the sale of unreserved NO_x allowances held by the state of Indiana through the Indiana office of energy and defense development shall not revert to the state general fund, and shall only be used to provide matching grant funds for the installation of energy efficiency and renewable energy projects as defined in this subsection.

(DD) Effective November 1, 2009, and annually thereafter, the Indiana office of energy and defense development shall provide a report to the commissioner and the air pollution control board regarding the allowance transaction activity and the distribution and the balance of the matching grant funds for energy efficiency and renewable energy projects during that period. At a minimum, the report shall contain the following:

(aa) The number of NO_x allowances currently held in general NO_x account(s) by the Indiana office of energy and defense development.

(bb) A summary of transactions in the market, including the date(s) of transactions, the number of allowances transacted, and the distribution of proceeds from transactions (including brokerage fees).

(cc) The distribution of grant funding by recipient.

(dd) A full description of type of project(s) funded.

(ee) A summary of the benefits of each project.

(EE) If at any time after November 1, 2009, the total number of unreserved annual NO_x allowances held

by the Indiana office of energy and defense development is greater than five hundred (500) tons, fifty percent (50%) of the total amount of NO_x allowances shall be returned to the department for redistribution to existing CAIR NO_x units on a pro rata basis.

(ii) Fifty percent (50%) of the unreserved allowances shall be allocated to CAIR NO_x units on a pro rata basis.

(5) After the completion of the control period for which CAIR NO_x allowances had been reserved, the project sponsor shall submit the results of the actual savings or generation by January 31 the following year. Allowances shall be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department shall consult the Indiana office of energy and defense development concerning verification and certification.

(6) The department shall allocate the appropriate amount of CAIR NO_x allowances based on the review of the submittal of actual savings or generation results under subdivision (5) and notify the CAIR NO_x designated representative that submitted the request and the U.S. EPA of the number of NO_x allowances allocated for the control period by March 31 of each year. Any person to whom the department allocates NO_x allowances shall establish a general account under section 9(b) of this rule.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-1-8; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-1-9 CAIR 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. 9. (a) Except as provided in section 12(f)(7) of this rule, upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the CAIR NO_x source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_x allowances. An application for a general account may designate one (1) and only one (1) CAIR authorized account representative and one (1) and only one (1) alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative. The establishment of the 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 CAIR authorized account representative and any alternate CAIR authorized account representative:

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

(B) Organization name and type of organization, if applicable.

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

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_x allowances held in the general account. I certify that I have all

the necessary authority to carry out my duties and responsibilities under the CAIR NO_x annual trading program on behalf of such persons and that each such 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 CAIR authorized account representative and any alternate CAIR 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 application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(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 CAIR authorized account representative and any alternate CAIR 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 CAIR NO_x allowances held in the general account in all matters pertaining to the CAIR NO_x annual trading program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(D) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO_x allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR 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.".

(E) 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 (D).

(3) The following shall apply to changing the CAIR authorized account representative or alternate CAIR authorized account representative, and changes in persons with ownership interest:

(A) The CAIR 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 any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x allowances in the general account.

(B) The alternate CAIR 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 any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x allowances in the general account.

(C) In the event a person having an ownership interest with respect to CAIR NO_x allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be

subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list.

(D) Within thirty (30) days following any change in the persons having an ownership interest with respect to CAIR NO_x allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR 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 CAIR 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)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the U.S. EPA under the CAIR NO_x annual 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 CAIR authorized account representative or any alternative CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO_x allowance transfers.

(7) The following shall apply to delegation by the CAIR authorized account representative and alternate CAIR authorized account representative:

(A) A CAIR authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under sections 9 and 10 of this rule.

(B) An alternate CAIR authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under sections 9 and 10 of this rule.

(C) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with clause (A) or (B), the CAIR authorized account representative or the alternate CAIR authorized account representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

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

(AA) The CAIR authorized account representative or alternate CAIR authorized account representative.

(BB) Each natural person, referred to as an "agent".

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

(iii) The following certification statements by such CAIR authorized account representative or alternate CAIR authorized account representative:

(AA) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR authorized account representative or alternate CAIR authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 326 IAC 24-1-9(b)(7)(D) shall be deemed to be an electronic submission by me.".

(BB) "Until this notice of delegation is superseded by another notice of delegation under 326 IAC 24-1-9(b)(7)(D), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under 326 IAC 24-1-9(b)(7) is terminated.".

(D) A notice of delegation submitted under clause (C) shall be effective, with regard to the CAIR authorized account representative or alternate CAIR authorized account representative identified in such notice, upon receipt of such

notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(E) Any electronic submission covered by the certification in clause (C)(iii)(AA) and made in accordance with a notice of delegation effective under clause (D) shall be deemed to be an electronic submission by the CAIR authorized account representative or alternate CAIR authorized account representative submitting such notice of delegation.

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

(d) Following the establishment of a CAIR 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 CAIR NO_x allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(e) By September 30, 2007, the U.S. EPA will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the department in accordance with section 8(b)(1) of this rule, for the control periods in 2009, 2010, 2011, 2012, 2013, and 2014.

(f) By December 1, 2008, and every six (6) years thereafter, the U.S. EPA will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the department in accordance with section 8(b)(2) of this rule, for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the allowance allocation.

(g) By December 1, 2009, and December 1 of each year thereafter, the U.S. EPA will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source, as submitted by the department in accordance with section 8(b)(3) of this rule, for the control period in the year of the applicable deadline for recordation under this subsection.

(h) When recording the allocation of CAIR NO_x allowances for a CAIR NO_x unit in a compliance account, the U.S. EPA will assign each CAIR NO_x allowance a unique identification number that includes digits identifying the year of the control period for which the CAIR NO_x allowance is allocated.

(i) The CAIR NO_x allowances are available to be deducted for compliance with a source's CAIR NO_x emissions limitation for a control period in a given calendar year only if the CAIR NO_x allowances:

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

(2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_x allowance transfer correctly submitted for recordation under section 10(a) through 10(d) by the allowance transfer deadline for the control period.

(j) The following shall apply to deductions for purposes of compliance with a source's emissions limitation:

(1) Following the recordation, in accordance with section 10(b) through 10(d) of this rule, of CAIR NO_x allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account CAIR NO_x allowances available under subsection (i) in order to determine whether the source meets the CAIR NO_x emissions limitation for the control period:

(A) until the amount of CAIR NO_x allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with section 11 of this rule, from all CAIR NO_x units at the source for the control period; or

(B) if there are insufficient CAIR NO_x allowances to complete the deductions in clause (A), until no more CAIR NO_x allowances available under subsection (i) remain in the compliance account.

(2) The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO_x allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1) or (4). Such request shall be submitted to the U.S. EPA by the allowance transfer deadline for the control period and include, in a format prescribed by the U.S. EPA, the identification of the CAIR NO_x source and the appropriate serial numbers.

(3) The U.S. EPA will deduct CAIR NO_x allowances under subdivision (1) or (4) from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_x allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any CAIR NO_x allowances that were allocated to the units at the source, in the order of recordation.

(B) Any CAIR NO_x allowances that were allocated to any entity and transferred and recorded in the compliance account under section 10 of this rule, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the CAIR NO_x source has excess emissions, the U.S. EPA will deduct from the source's compliance account an amount of CAIR NO_x allowances, allocated for the control period in the immediately following calendar year, equal to three (3) times the number of tons of the source's excess emissions.

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the CAIR NO_x source or the CAIR NO_x units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an account under subdivisions (1), (4), and (5) and section 12 of this rule.

(7) The U.S. EPA may review and conduct independent audits concerning any submission under the CAIR NO_x annual trading program and make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may deduct CAIR NO_x allowances from or transfer CAIR NO_x allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7), and record such deductions and transfers.

(k) CAIR NO_x allowances may be banked for future use or transfer in a compliance account or a general account. Any CAIR NO_x allowance that is held in a compliance account or a general account shall remain in such account unless and until the CAIR NO_x allowance is deducted or transferred under subsection (i), (j), or (l) or section 10 or 12 of this rule.

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

(m) The CAIR authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 10(a) through 10(d) of this rule for any CAIR NO_x allowances in the account to one (1) or more other CAIR NO_x allowance tracking system accounts.

(n) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any CAIR NO_x allowances, the U.S. EPA may notify the CAIR authorized account representative for the account that the account shall be closed following twenty (20) business days after the notice is sent. The account shall be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a correctly submitted transfer of CAIR NO_x allowances into the account under section 10(a) through 10(d) of this rule or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed. *(Air Pollution Control Division; 326 IAC 24-1-9; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-1-10 CAIR NO_x allowance transfers

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

Sec. 10. (a) A CAIR authorized account representative seeking recordation of a CAIR NO_x allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the CAIR NO_x allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

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

(2) The serial number of each CAIR NO_x allowance that is in the transferor account and that is to be transferred.

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

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

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

(2) The transferor account includes each CAIR NO_x allowance identified by serial number in the transfer.

(c) A CAIR NO_x allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO_x allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under section 9(i) and 9(j) of this rule for the control period immediately before such allowance transfer deadline.

(d) Where a CAIR NO_x allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record such transfer.

(e) The following notification requirements shall apply to CAIR NO_x allowance transfers:

(1) Within five (5) business days of recordation of a CAIR NO_x allowance transfer under subsections (b) and (c), the U.S. EPA will notify the CAIR authorized account representatives of both the transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a CAIR NO_x allowance transfer that fails to meet the requirements of subsection (b), the U.S. EPA will notify the CAIR authorized account representatives of both accounts subject to the transfer of the decision not to record the transfer and the reasons for such nonrecordation.

(f) Nothing in this section shall preclude the submission of a CAIR NO_x allowance transfer for recordation following notification of nonrecordation. *(Air Pollution Control Division; 326 IAC 24-1-10; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-1-11 NO_x monitoring and reporting requirements

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

Sec. 11. (a) The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO_x unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H*. For purposes of complying with such requirements, the definitions in section 2 of this rule and 40 CFR 72.2* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75* shall be replaced by the terms CAIR NO_x unit, CAIR designated representative, and continuous emission monitoring system (CEMS) respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a CAIR NO_x unit but that is monitored under 40 CFR 75.72(b)(2)(ii)* shall comply with the same monitoring, record keeping, and reporting requirements as a CAIR NO_x unit.

(b) The owner or operator of each CAIR NO_x unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring NO_x mass emissions and individual unit heat input. This includes all systems required to monitor NO_x emission rate, NO_x concentration, stack gas moisture content, stack gas flow rate, CO_2 or O_2 concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71* and 40 CFR 75.72*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this section and 40 CFR 75* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a CAIR NO_x unit that commences commercial operation before July 1, 2007, by January 1, 2008.

(2) For the owner or operator of a CAIR NO_x unit that commences commercial operation on or after July 1, 2007, by the later of the following dates:

(A) January 1, 2008.

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR NO_x unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivision (1), (2), (4), or (5), compliance by the earlier of:

(A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or

(B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.

(4) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, by the date specified in section 12(f)(2) through (f)(4) of this rule.

(5) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a CAIR NO_x opt-in unit under section 12 of this rule, by the date on which the CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program as provided in section 12(9) of this rule.

(d) The owner or operator of a CAIR NO_x unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for NO_x concentration, NO_x emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_x mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3)*, 40 CFR 75, Appendix D, Section 2.4*, or 40 CFR 75, Appendix E, Section 2.5*, as applicable.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a CAIR NO_x unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a CAIR NO_x unit shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75*.

(3) No owner or operator of a CAIR NO_x unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75*.

(4) No owner or operator of a CAIR NO_x unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a CAIR NO_x unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21*, 40 CFR 75, Appendix B*, 40 CFR 75, Appendix D*, and 40 CFR 75, Appendix E* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) If the U.S. EPA has previously approved a petition under 40 CFR 75.17(a)* or 40 CFR 75.17(a)(b)* for apportioning

the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66* for an alternative to a requirement in 40 CFR 75.12* or 40 CFR 75.17*, the CAIR designated representative shall resubmit the petition to the U.S. EPA under subsection (o)(1) to determine whether the approval applies under the CAIR NO_x annual trading program.

(h) Except as provided in subsection (f), the owner or operator of a CAIR NO_x unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D* and 40 CFR 75, Appendix E*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this section in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO_x monitoring system under 40 CFR 75, Appendix E*, under subsection (b)(1) are subject to the recertification requirements in 40 CFR 75.20(g)(6)*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5)* and 40 CFR 75.20(g)(7)* in lieu of the procedures in clause (E) of this subdivision. Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The CAIR designated representative shall submit to the department, the U.S. EPA Region V, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)*. A provisionally certified monitoring system may be used under the CAIR NO_x annual trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application shall be deemed certified for use under the CAIR NO_x annual trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(iv) The department or, for a CAIR NO_x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (l).

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)*, 40 CFR 75.20(g)(7)*, or 40 CFR 75.21(e)* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i)* or 40 CFR 75.20(g)(7)*:

(AA) For a disapproved NO_x emission rate, NO_x-diluent, system, the maximum potential NO_x emission rate, as defined in 40 CFR 72.2*.

(BB) For a disapproved NO_x pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_x and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.2.1 and 2.1.4.1*.

(CC) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO_2 concentration or the minimum potential O_2 concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2*.

(DD) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1*.

(EE) For a disapproved excepted NO_x monitoring system under 40 CFR 75, Appendix E*, the fuel-specific maximum potential NO_x emission rate, as defined in 40 CFR 72.2*.

(ii) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

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

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

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75*, data shall be substituted using the applicable missing data procedures in 40 CFR, Subpart D*, 40 CFR 75, Subpart H*, 40 CFR 75, Appendix D*, or 40 CFR 75, Appendix E*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f) through (j) or the applicable provisions of 40 CFR 75*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR NO_x opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

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

(n) The CAIR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements under 40 CFR 75.73*, and the requirements of section 6(e)(1) of this rule as follows:

(1) The owner or operator of a CAIR NO_x unit shall comply with requirements of 40 CFR 75.73(c)* and 40 CFR 75.73(e)* and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule.

(2) The CAIR designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (f) through (j), including the information required under 40 CFR 75.63*.

(3) The CAIR designated representative shall submit quarterly reports as follows:

(A) The CAIR designated representative shall report the NO_x mass emissions data and heat input data for the CAIR NO_x unit, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2008 through March 31, 2008;

(ii) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering January 1, 2008, through March 31, 2008;

(iii) notwithstanding items (i) and (ii), for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the calendar quarter corresponding to the date specified in section 12(f)(2), 12(f)(3), and 12(f)(4) of this rule; and

(iv) notwithstanding items (i) and (ii), for a CAIR NO_x opt-in unit under section 12 of this rule, the calendar quarter corresponding to the date on which the CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program as provided in section 12(f)(9) of this rule.

(B) The CAIR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f)*.

(C) For CAIR NO_x units that are also subject to an acid rain emissions limitation or the CAIR NO_x ozone season trading program, CAIR SO_2 trading program, or mercury budget trading program quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through I* as applicable, in addition to the NO_x mass emission data, heat input data, and other information required by this section.

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

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

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

(o) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

(1) Except as provided in subdivision (3), the CAIR designated representative of a CAIR NO_x unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.

(2) The CAIR designated representative of a CAIR NO_x unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(3) The CAIR designated representative of a CAIR NO_x unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 * to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72*. Application of an alternative to any such requirement is in accordance with this section only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

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

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-1-11; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-1-12 CAIR NO_x opt-in units

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

Sec. 12. (a) A CAIR NO_x opt-in unit is a unit that meets all of the following requirements:

(1) Is located in Indiana.

(2) Is not a CAIR NO_x unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule.

(3) Is not covered by a retired unit exemption that is in effect under 40 CFR 72.8*.

(4) Has or is required or qualified to have a Part 70 operating permit or other federally enforceable permit.

(5) Vents all of its NO_x emissions to a stack and can meet the monitoring, record keeping, and reporting requirements of section 11 of this rule.

(b) Except as otherwise provided in sections 1, 2, 4 through 7, and 9 through 11 of this rule, a CAIR NO_x opt-in unit shall be treated as a CAIR NO_x unit for purposes of applying such sections of this rule.

(c) Solely for purposes of applying, as provided in this section, the requirements of section 11 of this rule to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, such unit shall be treated as a CAIR NO_x unit before issuance of a CAIR opt-in permit for such unit.

(d) Any CAIR NO_X opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, located at the same source as one (1) or more CAIR NO_x units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO_x units.

(e) The CAIR designated representative of a unit meeting the requirements for a CAIR NO_x opt-in unit in subsection (a) may apply for an initial CAIR opt-in permit at any time, except as provided under subsection (h)(8) and (h)(9), and, in order to apply, must submit the following:

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

(2) A certification, in a format specified by the department, that the unit:

(A) is not a CAIR NO_x unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule;

(B) is not covered by a retired unit exemption that is in effect under 40 CFR 72.8*;

(C) vents all of its NO_x emissions to a stack; and

(D) has documented heat input for more than eight hundred seventy-six (876) hours during the six (6) months immediately preceding submission of the CAIR permit application under section 7(c) of this rule.

(3) A monitoring plan in accordance with section 11 of this rule.

(4) A complete certificate of representation under section 6(h) of this rule consistent with subsection (d), if no CAIR designated representative has been previously designated for the source that includes the unit.

(5) A statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR NO_x allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8). If allocation under subsection (j)(4) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.

The CAIR designated representative of a CAIR NO_x opt-in unit shall submit a complete CAIR permit application under section 7(c) of this rule to renew the CAIR opt-in unit permit in accordance with 327 IAC 2-7 or 327 IAC 2-8, if applicable, addressing permit renewal. Unless the department issues a notification of acceptance of withdrawal of the CAIR opt-in unit from the CAIR NO_x annual trading program in accordance with subsection (h) or the unit becomes a CAIR NO_x unit under section 1 of this rule, the CAIR NO_x opt-in unit shall remain subject to the requirements for a CAIR NO_x opt-in unit, even if the CAIR designated representative for the CAIR NO_x opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR NO_x opt-in permit.

(f) The department shall issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under subsection (e) is submitted in accordance with the following:

(1) The department and the U.S. EPA will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under subsection (e). 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 and all other applicable parameters are monitored and reported in accordance with section 11 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(2) If the department and the U.S. EPA determine that the monitoring plan is sufficient under subdivision (1), the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit and all other applicable parameters, in accordance with section 11 of this rule, starting on the date of certification of the appropriate monitoring systems under section 11 of this rule and continuing until a CAIR opt-in permit is denied under subdivision (8) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x annual trading program in accordance with subsection (h).

(3) The monitoring and reporting under subdivision (2) shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x annual trading program under subdivision (9), during which period monitoring system availability must not be less than ninety percent (90%) under section 11 of this rule and the unit must be in full compliance with any applicable state or federal emissions or emissions-related requirements.

(4) To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with section 11 of this rule for one (1) or more control periods, in addition to the control period under subdivision (3), during which control periods monitoring system availability is not less than ninety percent (90%) under section 11 of this rule and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three (3) years before the unit enters the CAIR NO_x annual trading program under subdivision (9), such information shall be used as provided in subdivisions (5) and (6).

(5) The unit's baseline heat input shall equal one (1) of the following:

(A) If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivisions (2) and (3), the unit's total heat input, in million British thermal units (MMBtu), for the control period.

(B) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), the average of the amounts of the unit's total heat input, in million British thermal units (MMBtu), for the control periods under subdivisions (3) and (4).

(6) The unit's baseline NO_x emission rate shall equal one (1) of the following:

(A) If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivisions (2) and (3), the unit's NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control period.

(B) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), and the unit does not have add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate in pounds per million British thermal units (lb/MMBtu), for the control periods under subdivisions (3) and (4).

(C) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), and the unit has add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate in pounds per million British thermal units (lb/MMBtu), for such control periods during which the unit has add-on NO_x emission controls.

(7) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivisions (5) and (6) and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_x opt-in unit in subsection (a) and meets the elements certified in subsection (e)(2), the department shall issue a CAIR opt-in permit. The department shall provide a copy of the CAIR opt-in permit to the U.S. EPA, who will then establish a compliance account for the source that includes the CAIR NO_x opt-in unit unless the source already has a compliance account.

(8) Notwithstanding subdivisions (1) through (7), if at any time before issuance of a CAIR opt-in permit for the unit, the department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_x opt-in unit in subsection (a) or meets the elements certified in subsection (e)(2), the department shall issue a denial of a CAIR opt-in permit for the unit.

(9) A unit for which an initial CAIR opt-in permit is issued by the department shall become a CAIR NO_x opt-in unit, and a CAIR NO_x unit, as of the later of January 1, 2009, or January 1 of the first control period during which such CAIR opt-in permit is issued.

(10) If a CAIR designated representative requests, and the department issues, a CAIR opt-in permit providing for, allocation to a CAIR NO_x opt-in unit of CAIR NO_x allowances under subsection (j)(4) and such unit is repowered after its date of entry into the CAIR NO_x annual trading program under subdivision (9), the repowered unit shall be treated as a CAIR NO_x opt-in unit replacing the original CAIR NO_x opt-in unit, as of the date of start-up of the repowered unit's combustion chamber. Notwithstanding subdivisions (5) and (6), as of the date of start-up, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_x emission rate as the original CAIR NO_x opt-in unit, and the original CAIR NO_x opt-in unit shall no longer be treated as a CAIR NO_x opt-in unit or a CAIR NO_x unit.

(g) The following shall apply to the content of each CAIR opt-in permit:

(1) Each opt-in permit shall contain:

(A) All elements required for a complete CAIR permit application under section 7(c) of this rule.

(B) The certification in subsection (e)(2).

(C) The unit's baseline heat input under subsection (f)(5).

(D) The unit's baseline NO_x emission rate under subsection (f)(6).

(E) A statement whether the unit is to be allocated CAIR NO_x allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h).

(F) A statement that the unit may withdraw from the CAIR NO_x annual trading program only in accordance with subsection (h).

(G) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of subsection (i).

(2) Each CAIR opt-in permit is deemed to incorporate automatically the definitions under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 9 and 10 of this rule, every allocation, transfer, or deduction of CAIR NO_x allowances to or from the compliance account of the source that includes a CAIR NO_x opt-in unit covered by the CAIR opt-in permit.

(3) The CAIR opt-in permit shall be included, in a format prescribed by the department, in the CAIR permit for the source where the CAIR opt-in unit is located and in a Part 70 operating permit or FESOP.

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

(1) Except as provided under subdivision (8), a CAIR NO_x opt-in unit may withdraw from the CAIR NO_x annual trading program, but only if the department issues a notification to the CAIR designated representative of the CAIR NO_x opt-in unit of the acceptance of the withdrawal of the CAIR NO_x opt-in unit in accordance with subdivision (6).

(2) In order to withdraw a CAIR NO_x opt-in unit from the CAIR NO_x annual trading program, the CAIR designated representative of the CAIR NO_x opt-in unit shall submit to the department a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four (4) years after December 31 of the year of entry into the CAIR NO_x annual trading program under subsection (f)(9). The request must be submitted not later than ninety (90) days before the requested effective date of withdrawal.

(3) Before a CAIR NO_x opt-in unit covered by a request under subdivision (1) may withdraw from the CAIR NO_x annual trading program and the CAIR opt-in permit may be terminated under subdivision (7), the following conditions must be met:

(A) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x opt-in unit must meet the requirement to hold CAIR NO_x allowances under section 4(c) of this rule and cannot have any excess emissions.

(B) After the requirement for withdrawal under clause (A) is met, the U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO_x opt-in unit CAIR NO_x allowances equal in amount to, and allocated for, the same or a prior control period as any CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under subsection (j) for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_x units at the source, the U.S. EPA will close the compliance account, and the owners and operators of the CAIR NO_x opt-in unit may submit a CAIR NO_x allowance transfer for any remaining CAIR NO_x allowances to another CAIR NO_x allowance tracking system in accordance with section 10 of this rule.

(4) After the requirements for withdrawal under subdivisions (2) and (3) are met, including deduction of the full amount of CAIR NO_x allowances required, the department shall issue a notification to the CAIR designated representative of the CAIR NO_x opt-in unit of the acceptance of the withdrawal of the CAIR NO_x opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

(5) If the requirements for withdrawal under subdivisions (2) and (3) are not met, the department shall issue a notification to the CAIR designated representative of the CAIR NO_x opt-in unit that the CAIR NO_x opt-in unit's request to withdraw is denied. Such CAIR NO_x opt-in unit shall continue to be a CAIR NO_x opt-in unit.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the CAIR permit covering the CAIR NO_x opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision (4). The unit shall continue to be a CAIR NO_x opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_x annual trading program concerning any control periods for which the unit is a CAIR NO_x opt-in unit, even if such requirements arise or must be

complied with after the withdrawal takes effect.

(7) If the department denies the CAIR NO_x opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions (2) and (3).

(8) Notwithstanding subdivisions (1) through (7), a CAIR NO_x opt-in unit shall not be eligible to withdraw from the CAIR NO_x annual trading program if the CAIR designated representative of the CAIR NO_x opt-in unit requests, and the department issues, a CAIR NO_x opt-in permit providing for, allocation to the CAIR NO_x opt-in unit of CAIR NO_x allowances under subsection (j)(4).

(9) Once a CAIR NO_x opt-in unit withdraws from the CAIR NO_x annual trading program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under subsection (e) for such CAIR NO_x opt-in unit before the date that is four (4) years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit shall be treated as an initial application for a CAIR opt-in permit under subsection (f).

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

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

(2) The U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO_x opt-in unit that becomes a CAIR NO_x unit under section 1 of this rule, CAIR NO_x allowances equal in amount to and allocated for the same or a prior control period as follows:

(A) Any CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under subsection (j) for any control period after the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule.

(B) If the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule is not December 31, the CAIR NO_x allowances allocated to the CAIR NO_x opt-in unit under subsection (j) for the control period that includes the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(3) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO_x opt-in unit that becomes a CAIR NO_x unit under section 1 of this rule contains the CAIR NO_x allowances necessary for completion of the deduction under subdivision (2).

(4) For every control period after the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule, the CAIR NO_x opt-in unit shall be allocated CAIR NO_x allowance allocations under section 8(c) of this rule.

(5) Notwithstanding subdivision (4), if the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule is not December 31, the following amount of CAIR NO_x allowances shall be allocated to the CAIR NO_x opt-in unit, as a CAIR NO_x unit, under section 8(c) of this rule for the control period that includes the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule:

(A) the amount of CAIR NO_x allowances otherwise allocated to the CAIR NO_x opt-in unit, as a CAIR NO_x unit, under section 8(c) of this rule for the control period;

(B) multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt-in unit becomes a CAIR NO_x unit under section 1 of this rule, divided by the total number of days in the control period; and

(C) rounded to the nearest whole allowance, as appropriate.

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

(1) When the CAIR opt-in permit is issued under subsection (f)(7), the department shall allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit, and submit to the U.S. EPA the allocation for the control period in which a CAIR NO_x opt-in unit

enters the CAIR NO_x annual trading program under subsection (f)(9), in accordance with subdivision (3) or (4).

(2) By not later than October 31 of the control period in which a CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program under subsection (f)(9) and October 31 of each year thereafter, the department shall allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit, and submit to the U.S. EPA the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_x opt-in unit, in accordance with subdivision (3) or (4).

(3) For each control period for which a CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances, the department shall allocate in accordance with the following procedures:

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

(i) The CAIR NO_x opt-in unit's baseline heat input determined under subsection (f)(9).

(ii) The CAIR NO_x opt-in unit's heat input, as determined in accordance with section 11 of this rule, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program under subsection (f)(9).

(B) The NO_x emission rate, in million British thermal units (MMBtu), used for calculating CAIR NO_x allowance allocations shall be the lesser of the following:

(i) The CAIR NO_x opt-in unit's baseline NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) and multiplied by seventy percent (70%).

(ii) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.

(C) The department shall allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equaling the heat input under clause (A), multiplied by the NO_x emission rate under clause (B), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(4) Notwithstanding subdivision (3), if the CAIR designated representative requests, and if the department issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under subsection (e)(5)) providing for, allocation to a CAIR NO_x opt-in unit of CAIR NO_x allowances under this subdivision, subject to the conditions in subsections (f)(10) and (h), the department shall allocate to the CAIR NO_x opt-in unit as follows:

(A) For each control period in 2009 through 2014 the CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating CAIR NO_x allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The NO_x emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating CAIR NO_x allowance allocations shall be the lesser of the following:

(AA) The CAIR NO_x opt-in unit's baseline NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6).

(BB) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period in which the CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program under subsection (f)(9).

(iii) The department shall allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equal to the heat input under item (i), multiplied by the NO_x emission rate under item (ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(B) For each control period in 2015 and thereafter the CAIR NO_x opt-in unit is to be allocated CAIR NO_x allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR NO_x allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The NO_x emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating the CAIR NO_x allowance allocation shall be the lesser of the following:

(AA) Fifteen-hundredths (0.15) pounds per million British thermal units (lb/MMBtu).

(BB) The CAIR NO_x opt-in unit's baseline NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6).

(CC) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x opt-in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.

(iii) The department shall allocate CAIR NO_x allowances to the CAIR NO_x opt-in unit in an amount equaling the heat input item (i), multiplied by the NO_x emission rate under item (ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(5) The U.S. EPA will record, in the compliance account of the source that includes the CAIR NO_x opt-in unit, the CAIR NO_x allowances allocated by the department to the CAIR NO_x opt-in unit under subdivision (1).

(6) By December 1 of the control period in which a CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program under subsection (f)(9) and December 1 of each year thereafter, the U.S. EPA will record, in the compliance account of the source that includes the CAIR NO_x opt-in unit, the CAIR NO_x allowances allocated by the department to the CAIR NO_x opt-in unit under subdivision (2).

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-1-12; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

Rule 2. Clean Air Interstate Rule (CAIR) Sulfur Dioxide Trading Program

326 IAC 24-2-1 Applicability

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

Sec. 1. (a) This rule establishes a SO_2 emissions budget and SO_2 trading program. The following units shall be CAIR SO_2 units, and any source that includes one (1) or more such units shall be a CAIR SO_2 source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

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

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR SO_2 unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR SO_2 unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR SO_2 units as follows:

(1) Any unit that is a CAIR SO_2 unit under subsection (a):

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

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

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO_2 unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is a CAIR SO_2 unit under subsection (a) commencing operation before January 1, 1985:

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

(B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a

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

(3) Any unit that is a CAIR SO_2 unit under subsection (a) commencing operation on or after January 1, 1985:

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

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

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO_2 unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Division; 326 IAC 24-2-1; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)

326 IAC 24-2-2 Definitions

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

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

(1) "Account number" means the identification number given by the U.S. EPA to each CAIR SO_2 allowance tracking system account.

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

(3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR 72 through 40 CFR 78*.

(4) "Allocate" or "allocation" means, with regard to CAIR SO_2 allowances issued under the acid rain program, the determination by the U.S. EPA of the amount of such CAIR SO_2 allowances to be initially credited to a CAIR SO_2 unit or other entity and, with regard to CAIR SO_2 allowances issued under provisions of a state implementation plan that are approved under 40 CFR 51.124(o)(1), 40 CFR 51.124(o)(2), or 40 CFR 51.124(r)*, or 40 CFR 97*, the determination by a permitting authority of the amount of SO_2 allowances to be initially credited to a CAIR SO_2 unit or other entity.

(5) "Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period and is the deadline by which a CAIR SO_2 allowance transfer must be submitted for recordation in a CAIR SO_2 source's compliance account in order to be used to meet the source's CAIR SO_2 emissions limitation for such control period in accordance with section 8(j) and 8(k) of this rule.

(6) "Alternate CAIR designated representative" means, for a CAIR SO_2 source and each CAIR SO_2 unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source in accordance with sections 6 and 11 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR SO_2 trading program. If the CAIR SO_2 source is also a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x annual trading program. If the CAIR SO_2 source is also a CAIR NO_x ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x ozone season trading program. If the CAIR SO_2 source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR SO_2 source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission

monitoring system, or other emissions monitoring system approved for use under section 10 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by section 10 of this rule.

(8) "Biomass" means any of the following:

(A) Organic material grown for the purpose of being converted to energy.

(B) Organic byproduct of agriculture that can be converted into energy.

(C) Material that:

(i) can be converted into energy and is nonmerchantable for other purposes;

(ii) is segregated from other nonmerchantable material; and

(iii) is:

(AA) a forest-related organic residue, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(BB) a wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way trimmings.

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

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

(11) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 8, and 11 of this rule, to transfer and otherwise dispose of CAIR SO_2 allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(12) "CAIR designated representative" means, for a CAIR SO_2 source and each CAIR SO_2 unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 11 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR SO_2 trading program. If the CAIR SO_2 source is also a CAIR NO_x source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x annual trading program. If the CAIR SO_2 source is also a CAIR NO_x ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x ozone season trading program. If the CAIR SO_2 source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR SO_2 source is also subject to the mercury budget trading program, then this natural person shall be the same person as the mercury designated representative under the mercury budget trading program.

(13) "CAIR NO_x annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-1; 40 CFR 96, Subparts AA through II* and 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II* and 40 CFR 51.123(p)* and 40 CFR 52.35*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(14) "CAIR NO_x ozone season source" means a source that is subject to the CAIR NO_x ozone season trading program.

(15) "CAIR NO_x ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-3; 40 CFR 96, Subparts AAAA through IIII* and 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2), and 40 CFR 51.123(bb)(1), 40 CFR 51.123(bb)(2), or 40 CFR 51.123(dd)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII* and 40 CFR 51.123(ee)* and 40 CFR 52.35*, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(16) "CAIR NO_x source" means a source that is subject to the CAIR NO_x annual trading program.

(17) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR SO_2 trading program requirements applicable to a CAIR SO_2 source, to each CAIR SO_2 unit at the source, and to the owners and

operators and the CAIR designated representative of the source and each such unit.

(18) "CAIR SO_2 allowance" means a limited authorization issued by the U.S. EPA under the acid rain program, or by a permitting authority under provisions of a state implementation plan that are approved under 40 CFR 51.124(o)(1), 40 CFR 51.124(o)(2), or 40 CFR 51.124(r)*, or under 40 CFR 97*, to emit sulfur dioxide during the control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR SO_2 trading program as follows:

(A) For one (1) CAIR SO_2 allowance allocated for a control period in a year before 2010, one (1) ton of sulfur dioxide, except as provided in section 11(k) of this rule.

(B) For one (1) CAIR SO_2 allowance allocated for a control period in 2010 through 2014, fifty-hundredths (0.50) ton of sulfur dioxide, except as provided in section 11(k) of this rule.

(C) For one (1) CAIR SO_2 allowance allocated for a control period in 2015 or later, thirty-five hundredths (0.35) ton of sulfur dioxide, except as provided in section 11(k) of this rule.

(D) An authorization to emit sulfur dioxide that is not issued under the acid rain program, provisions of a state implementation plan that are approved under 40 CFR 51.124(o)(1), 40 CFR 51.124(o)(2), or 40 CFR 51.124(r)*, or under 40 CFR 97*, shall not be a CAIR SO_2 allowance.

(19) "CAIR SO_2 allowance deduction" or "deduct CAIR SO_2 allowances" means the permanent withdrawal of CAIR SO_2 allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of tons of total sulfur dioxide emissions from all CAIR SO_2 units at a CAIR SO_2 source for a control period, determined in accordance with section 10 of this rule, or to account for excess emissions.

(20) "CAIR SO_2 allowances held" or "hold CAIR SO_2 allowances" means the CAIR SO_2 allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 8, 9, and 11 of this rule or 40 CFR 73*, in a CAIR SO_2 allowance tracking system account.

(21) "CAIR SO_2 allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR SO_2 allowances under the CAIR SO_2 trading program. This is the same system as the allowance tracking system under 40 CFR 72.2* by which the U.S. EPA records allocations, deduction, and transfers of acid rain SO_2 allowances under the acid rain program.

(22) "CAIR SO_2 allowance tracking system account" means an account in the CAIR SO_2 allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of CAIR SO_2 allowances. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(23) "CAIR SO_2 emissions limitation" means, for a CAIR SO_2 source, the tonnage equivalent, in SO_2 emissions in a control period, of the CAIR SO_2 allowances available for deduction for the source under section 8(j) and 8(k) of this rule for the control period.

(24) "CAIR SO_2 source" means a source that includes one (1) or more CAIR SO_2 units.

(25) "CAIR SO_2 trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule; 40 CFR 96, Subparts AAA through III* and 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAA through III* and 40 CFR 51.124(r)* and 40 CFR 52.36*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(26) "CAIR SO_2 unit" means a unit that is subject to the CAIR SO_2 trading program under section 1 of this rule and, except for purposes of section 3 of this rule, a CAIR SO_2 opt-in unit under section 11 of this rule.

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

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

(29) "Coal-fired" means combusting any amount of coal or coal-derived fuel, alone, or in combination with any amount of any other fuel.

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

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

(B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during

any calendar year after the calendar in which the unit first produces electricity:

(i) for a topping-cycle cogeneration unit:

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

(BB) useful power that, when added to one-half (½) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and

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

(C) provided that the total energy input under clause (B)(i)(BB) and (B)(ii) shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.

(31) "Combustion turbine" means:

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

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

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

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in sections 3 and 11(f)(10) of this rule, subject to the following:

(i) For a unit that is a CAIR SO_2 unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change, other than replacement of the unit by a unit at the same source, such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR SO_2 unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR SO_2 unit under section 1 of this rule on the later of November 15, 1990, or date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR SO_2 unit under section 1 of this rule, subject to the following:

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

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

(33) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in section 11(f)(10) of this rule.

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

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement, and the

replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B), as appropriate, except as provided in section 11(f)(10) of this rule.

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

(35) "Compliance account" means a CAIR SO_2 allowance tracking system account, established by the U.S. EPA for a CAIR SO_2 source subject to an acid rain emissions limitations under 40 CFR 73.31(a)* or 40 CFR 73.31(b)* or for any other CAIR SO_2 source under section 8 or 11 of this rule, in which any CAIR SO_2 allowance allocations for the CAIR SO_2 units at the source are initially recorded and in which are held any CAIR SO_2 allowances available for use for a control period in order to meet the source's CAIR SO_2 emissions limitation in accordance with section 8(j) and 8(k) of this rule.

(36) "Continuous emission monitoring system" or "CEMS" means the equipment required under section 10 of this rule to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of sulfur dioxide emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75*. The following systems are the principal types of continuous emission monitoring systems required under section 10 of this rule:

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

(B) a sulfur dioxide monitoring system, consisting of a SO_2 pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of SO_2 emissions, in parts per million (ppm);

(C) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2)* and providing a permanent, continuous record of the stack gas moisture content, in percent H_2O;

(D) a carbon dioxide monitoring system, consisting of a CO_2 pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO_2 emissions, in percent CO_2; and

(E) an oxygen monitoring system, consisting of an O_2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O_2, in percent O_2.

(37) "Control period" means the period beginning January 1 of a calendar year, except as provided in section 4(c)(2) of this rule, and ending on December 31 of the same year, inclusive.

(38) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and as determined by the U.S. EPA in accordance with section 10 of this rule.

(39) "Excess emissions" means any ton, or portion of a ton, of sulfur dioxide emitted by the CAIR SO_2 units at a CAIR SO_2 source during a control period that exceeds the CAIR SO_2 emissions limitation for the source, provided that any portion of a ton of excess emissions shall be treated as one (1) ton of excess emissions.

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

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

(42) "General account" means a CAIR SO_2 allowance tracking system account, established under section 8 of this rule, that is not a compliance account.

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

(44) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 10 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

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

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

(A) for the life of the unit;

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

(C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

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

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

(49) "Monitoring system" means any monitoring system that meets the requirements of section 10 of this rule, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75*.

(50) "Most stringent state or federal SO_2 emissions limitation" means, with regard to a unit, the lowest SO_2 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.

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

(52) "Operator" means any person who operates, controls, or supervises a CAIR SO_2 unit or a CAIR SO_2 source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

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

(A) With regard to a CAIR SO_2 source or a CAIR SO_2 unit at a source, respectively, any of the following:

(i) Holder of any portion of the legal or equitable title in a CAIR SO_2 unit at the source or the CAIR SO_2 unit.

(ii) Holder of a leasehold interest in a CAIR SO_2 unit at the source or the CAIR SO_2 unit.

(iii) Purchaser of power from a CAIR SO_2 unit at the source or the CAIR SO_2 unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR SO_2 unit.

(B) With regard to any general account, any person who has an ownership interest with respect to the CAIR SO_2 allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR SO_2 allowances.

(54) "Permitting authority" means the state air pollution control agency, local agency, other state agency, or other agency authorized by the U.S. EPA to issue or revise permits to meet the requirements of the CAIR NO_x annual trading program or, if no such agency has been so authorized, the U.S. EPA.

(55) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

(56) "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 hard copy or by authorized electronic transmission, as indicated in an official log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

(57) "Recordation", "record", or "recorded" means, with regard to CAIR SO_2 allowances, the movement of CAIR SO_2 allowances by the U.S. EPA into or between CAIR SO_2 allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

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

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

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

(A) atmospheric or pressurized fluidized bed combustion;

(B) integrated gasification combined cycle;

(C) magnetohydrodynamics;

(D) direct and indirect coal-fired turbines;

(E) integrated gasification fuel cells; or

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

(61) "Sequential use of energy" means:

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

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

(62) "Serial number" means, for a CAIR SO_2 allowance, the unique identification number assigned to each CAIR SO_2 allowance by the U.S. EPA.

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

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

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

(A) in person;

(B) by United States Postal Service; or

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

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

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

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

(68) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR SO_2 emissions limitation, total tons of sulfur dioxide emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 10 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

(69) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to

produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(70) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself. Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

$$LHV = HHV - 10.55(W + 9H)$$

Where:	LHV	=	Lower heating value of fuel in Btu/hr.
	HHV	=	Higher heating value of fuel in Btu/hr.
	W	=	Weight % of moisture in fuel.
	H	=	Weight % of hydrogen in fuel.

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

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

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

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

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

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

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

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

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-2-2; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-2-3 Retired unit exemptions

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

Sec. 3. (a) This section applies to any CAIR SO_2 unit, other than a SO_2 opt-in source, that is permanently retired.

(b) Any CAIR SO_2 unit that is permanently retired and is not a CAIR SO_2 opt-in unit under section 11 of this rule shall be exempt from the CAIR SO_2 trading program, except for the provisions of this section and sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, 8, and 9 of this rule.

(c) The exemption under this section shall become effective the day on which the CAIR SO_2 unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

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

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

(2) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(3) The owners and operators and, to the extent applicable, the CAIR designated representative of the unit shall comply with the requirements of the CAIR SO_2 trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under 326 IAC 2-7, the unit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days before the later of January 1, 2010, or the date on which the unit resumes operation.

(5) A unit exempt under this section shall lose its exemption on the earlier of the following dates:

(A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (4).

(B) The date on which the CAIR designated representative is required under subdivision (4) to submit a CAIR permit application for the unit.

(C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(6) For the purpose of applying monitoring, reporting, and record keeping requirements under section 10 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(Air Pollution Control Division; 326 IAC 24-2-3; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)

326 IAC 24-2-4 Standard requirements

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

Sec. 4. (a) The owners and operators, and CAIR designated representative of each CAIR SO_2 source shall comply with the following permit requirements:

(1) The CAIR designated representative of each CAIR SO_2 source required to have a permit under 326 IAC 2-7 and each CAIR SO_2 unit required to have a permit under 326 IAC 2-7 at the source shall submit the following to the department:

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

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

(2) The owners and operators of each CAIR SO_2 source required to have a Part 70 operating permit and each CAIR SO_2 unit required to have a permit under 326 IAC 2-7 at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 11 of this rule, the owners and operators of a CAIR SO_2 source that is not otherwise required to have a permit under 326 IAC 2-7 and each CAIR SO_2 unit that is not otherwise required to have a permit under 326 IAC 2-7 are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR SO_2 source and such CAIR SO_2 unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR SO_2 source and CAIR SO_2 unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of section 10 of this rule.

(2) The emissions measurements recorded and reported in accordance with section 10 of this rule shall be used to determine compliance by each CAIR SO_2 source with the CAIR SO_2 emission requirements under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR SO_2 source and CAIR SO_2 unit at the

source shall comply with the following SO_2 emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR SO_2 source and each CAIR SO_2 unit at the source shall hold, in the source's compliance account, a tonnage equivalent in CAIR SO_2 allowances available for compliance deductions for the control period, as determined in accordance with section 8(j) and 8(k) of this rule, not less than the tons of total sulfur dioxide emissions for the control period from all CAIR SO_2 units at the source, as determined in accordance with section 10 of this rule.

(2) A CAIR SO_2 unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of January 1, 2010 or the deadline for meeting the unit's monitor certification requirements under section 10(c)(1), 10(c)(2), or 10(c)(5) of this rule and for each control period thereafter.

(3) A CAIR SO_2 allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR SO_2 allowance was allocated.

(4) CAIR SO_2 allowances shall be held in, deducted from, or transferred into or among CAIR SO_2 allowance tracking system accounts in accordance with sections 8, 9, and 11 of this rule.

(5) A CAIR SO_2 allowance is a limited authorization to emit sulfur dioxide in accordance with the CAIR SO_2 trading program. No provision of the CAIR SO_2 trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the state of Indiana or the United States to terminate or limit such authorization.

(6) A CAIR SO_2 allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 8, 9, or 11 of this rule, every allocation, transfer, or deduction of a CAIR SO_2 allowance to or from a CAIR SO_2 source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) If a CAIR SO_2 source emits sulfur dioxide during any control period in excess of the CAIR SO_2 emissions limitation, then:

(1) the owners and operators of the source and each CAIR SO_2 unit at the source shall surrender the CAIR SO_2 allowances required for deduction under section 8(k)(4) of this rule and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law; and

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

(e) Owners and operators of each CAIR SO_2 source and each CAIR SO_2 unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the CAIR SO_2 source and each CAIR SO_2 unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department or U.S. EPA:

(A) The certificate of representation under section 6(h) of this rule for the CAIR designated representative for the source and each CAIR SO_2 unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source, or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the CAIR designated representative.

(B) All emissions monitoring information, in accordance with section 10 of this rule, provided that to the extent that section 10 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR SO_2 trading program.

(D) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR SO_2 trading program or to demonstrate compliance with the requirements of the CAIR SO_2 trading program.

(2) The CAIR designated representative of a CAIR SO_2 source and each CAIR SO_2 unit at the source shall submit the reports required under the CAIR SO_2 trading program, including those under section 10 of this rule.

(f) The owners and operators of each CAIR SO_2 source and each CAIR SO_2 unit shall be liable as follows:

(1) Each CAIR SO_2 source and each CAIR SO_2 unit shall meet the requirements of the CAIR SO_2 trading program.

(2) Any provision of the CAIR SO_2 trading program that applies to a CAIR SO_2 source or the CAIR designated representative of a CAIR SO_2 source shall also apply to the owners and operators of such source and of the CAIR SO_2 units at the source.

(3) Any provision of the CAIR SO_2 trading program that applies to a CAIR SO_2 unit or the CAIR designated representative of a CAIR SO_2 unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR SO_2 trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR SO_2 source or CAIR SO_2 unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act. *(Air Pollution Control Division; 326 IAC 24-2-4; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA)*

326 IAC 24-2-5 Computation of time and appeal procedures

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

Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the CAIR SO_2 trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR SO_2 trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR SO_2 trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the CAIR SO_2 trading program will follow those procedures set forth in 40 CFR 78*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-2-5; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-2-6 CAIR designated representative for CAIR SO_2 sources

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

Sec. 6. (a) Except as provided under subsection (f), each CAIR SO_2 source, including all CAIR SO_2 units at the source, shall have one (1) and only one (1) CAIR designated representative, with regard to all matters under the CAIR SO_2 trading program concerning the source or any CAIR SO_2 unit at the source.

(b) The CAIR designated representative of the CAIR SO_2 source shall be selected by an agreement binding on the owners and operators of the source and all CAIR SO_2 units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR SO_2 source represented and each CAIR SO_2 unit at the source in all matters pertaining to the CAIR SO_2 trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No CAIR permit shall be issued, no emissions data reports shall be accepted, and no CAIR SO_2 allowance tracking system account will be established for a CAIR SO_2 unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a CAIR designated representative of the source and the CAIR SO_2 units at the source.

(e) The following shall apply to submissions made under the CAIR SO_2 trading program:

(1) Each submission under the CAIR SO_2 trading program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR SO_2 source on behalf of which the submission is made. Each such submission shall include

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

(2) The department and U.S. EPA will accept or act on a submission made on behalf of owner or operators of a CAIR SO_2 source or a CAIR SO_2 unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a CAIR SO_2 source choose to designate an alternate CAIR designated representative:

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

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

(3) Except in this subsection and subsections (a), (d), (g), (h), and (j) and sections 2, 8(a) through 8(c), and 11(d) of this rule, whenever the term CAIR designated representative is used in this rule, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

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

(1) The CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR SO_2 source and the CAIR SO_2 units at the source.

(2) The alternate CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR SO_2 source and the CAIR SO_2 units at the source.

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

(A) In the event an owner or operator of a CAIR SO_2 source or a CAIR SO_2 unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.

(B) Within thirty (30) days following any change in the owners and operators of a CAIR SO_2 source or a CAIR SO_2 unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

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

(1) Identification of the CAIR SO_2 source, and each CAIR SO_2 unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

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

designated representative and any alternate CAIR designated representative.

(3) A list of the owners and operators of the CAIR SO_2 source and of each CAIR SO_2 unit at the source.

(4) The following certification statements by the CAIR designated representative and any alternate CAIR designated representative: "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR SO_2 unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO_2 trading program on behalf of the owners and operators of the source and of each CAIR SO_2 unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each CAIR SO_2 unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR SO_2 unit, or where a utility or industrial customer purchases power from a CAIR SO_2 unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR SO_2 unit at the source; and CAIR SO_2 allowances and proceeds of transactions involving CAIR SO_2 allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR SO_2 allowances by contract, CAIR SO_2 allowances and proceeds of transactions involving CAIR SO_2 allowances will be deemed to be held or distributed in accordance with the contract.".

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

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

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

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

(2) Except as provided in subsection (g)(1) and (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission, of the CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the department or the U.S. EPA under the CAIR SO_2 trading program.

(3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR designated representative, including private legal disputes concerning the proceeds of CAIR SO_2 allowance transfers.

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

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

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

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

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

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

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

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

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

representative:

(i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 326 IAC 24-2-6(j)(4) shall be deemed to be an electronic submission by me.".

(ii) "Until this notice of delegation is superseded by another notice of delegation under 326 IAC 24-2-6(j)(4), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under 326 IAC 24-2-6(j) is terminated.".

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

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

(Air Pollution Control Division; 326 IAC 24-2-6; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)

326 IAC 24-2-7 Permit requirements

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

Sec. 7. (a) For each CAIR SO_2 source required to have a federally enforceable permit, the permit shall include a CAIR permit administered by the department as follows:

(1) The CAIR portion of the Part 70 permit under 326 IAC 2-7 shall be administered in accordance with 326 IAC 2-7 or the CAIR portion of the federally enforceable state operating permit (FESOP) shall be administered in accordance with 326 IAC 2-8, as applicable, except as provided otherwise by this section or sections 3 and 11 of this rule.

(2) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR SO_2 source and the CAIR SO_2 units at the source covered by the CAIR permit, all applicable CAIR SO_2 trading program, CAIR NO_x annual trading program, and CAIR NO_x ozone season trading program requirements and shall be a complete and separable portion of the Part 70 operating permit or FESOP.

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

(1) The CAIR designated representative of any CAIR SO_2 source required to have a Part 70 operating permit or FESOP shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR SO_2 unit at the source at least two hundred seventy (270) days before the later of January 1, 2010, or the date on which the CAIR SO_2 unit commences commercial operation, except as provided in section 11(e) of this rule.

(2) For a CAIR SO_2 source required to have a Part 70 operating permit or FESOP, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR SO_2 unit at the source to renew the CAIR permit in accordance with 326 IAC 2-7-4(a)(1)(D) or 326 IAC 2-8-3(h), as applicable, except as provided in section 11(e) of this rule.

(c) A complete CAIR permit application shall include the following elements concerning the CAIR SO_2 source for which the application is submitted:

(1) Identification of the CAIR SO_2 source.

(2) Identification of each CAIR SO_2 unit at the CAIR SO_2 source.

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

(d) Each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under subsection (c).

(e) Each CAIR permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon

recordation by the U.S. EPA, under section 8, 9, or 11 of this rule, every allocation, transfer, or deduction of a CAIR SO_2 allowance to or from the compliance account of the CAIR SO_2 source covered by the permit.

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

(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR SO_2 source's Part 70 operating permit or FESOP.

(h) Except as provided in subsection (e), the department shall revise the CAIR permit, as necessary, in accordance with the permit modification and revision provisions under 326 IAC 2-7 or 326 IAC 2-8, as applicable. *(Air Pollution Control Division; 326 IAC 24-2-7; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-2-8 CAIR SO_2 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. 8. (a) Except as provided in section 11(f)(7) of this rule, upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the CAIR SO_2 source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring CAIR SO_2 allowances. An application for a general account may designate one (1) and only one (1) CAIR authorized account representative and one (1) and only one (1) alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative. The establishment of the 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 CAIR authorized account representative and any alternate CAIR authorized account representative:

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

(B) Organization name and type of organization, if applicable.

(C) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR SO_2 allowances held in the general account.

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR SO_2 allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO_2 trading program on behalf of such persons and that each such 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 CAIR authorized account representative and any alternate CAIR 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 application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(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 CAIR authorized account representative and any alternate CAIR 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 CAIR SO_2 allowances held in the general account in all matters pertaining to the CAIR SO_2 trading program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(D) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR SO_2 allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR SO_2 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.".

(E) 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 (D).

(3) The following shall apply to changing the CAIR authorized account representative or alternate CAIR authorized account representative, and changes in persons with ownership interest:

(A) The CAIR 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 any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR SO_2 allowances in the general account.

(B) The alternate CAIR 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 any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR SO_2 allowances in the general account.

(C) In the event a person having an ownership interest with respect to CAIR SO_2 allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list.

(D) Within thirty (30) days following any change in the persons having an ownership interest with respect to CAIR SO_2 allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR 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 CAIR SO_2 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)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the U.S. EPA under the CAIR SO_2 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 CAIR authorized account representative or any alternative CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR SO_2 allowance transfers.

(7) The following shall apply to delegation by the CAIR authorized account representative and alternate CAIR authorized account representative:

(A) A CAIR authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under sections 8 and 9 of this rule.

(B) An alternate CAIR authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under sections 8 and 9 of this rule.

(C) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with clause (A) or (B), the CAIR authorized account representative or the alternate CAIR authorized account representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

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

(AA) The CAIR authorized account representative or alternate CAIR authorized account representative.

(BB) Each natural person, referred to as an "agent".

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

(iii) The following certification statements by such CAIR authorized account representative or alternate CAIR authorized account representative:

(AA) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR authorized account representative or alternate CAIR authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 326 IAC 24-2-8(b)(7)(D) shall be deemed to be an electronic submission by me.".

(BB) "Until this notice of delegation is superseded by another notice of delegation under 326 IAC 24-2-8(b)(7)(D), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under 326 IAC 24-2-8(b)(7) is terminated.".

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

(E) Any electronic submission covered by the certification in clause (C)(iii)(AA) and made in accordance with a notice of delegation effective under clause (D) shall be deemed to be an electronic submission by the CAIR authorized account representative or alternate CAIR authorized account representative submitting such notice of delegation.

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

(d) Following the establishment of a CAIR SO_2 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 CAIR SO_2 allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(e) After a compliance account is established under subsection (a) or 40 CFR 73.31(a) or 40 CFR 73.31(b)*, the U.S. EPA will record in the compliance account any CAIR SO_2 allowance allocated to any CAIR SO_2 unit at the source for each of the thirty (30) years starting the later of 2010 or the year in which the compliance account is established and any CAIR SO_2 allowance allocated for each of the thirty (30) years starting the later of 2010 or the year in which the compliance account is established and transferred to the source in accordance with section 9 of this rule or 40 CFR 73, Subpart D*.

(f) In 2011 and each year thereafter, after U.S. EPA has completed all deductions under subsection (k)(1), the U.S. EPA will record in the compliance account any CAIR SO_2 allowance allocated to any CAIR SO_2 unit at the source for the new thirtieth year, that is, the year that is thirty (30) years after the calendar year for which such deductions are or could be made, and any CAIR SO_2 allowance allocated for the new thirtieth year and transferred to the source in accordance with section 9 of this rule or 40 CFR 73, Subpart D*.

(g) After a general account is established under subsection (b) or 40 CFR 73.31(c)*, the U.S. EPA will record in the general account any CAIR SO_2 allowance allocated for each of the thirty (30) years starting the later of 2010 or the year in which the general account is established and transferred to the general account in accordance with section 9 of this rule or 40 CFR 73, Subpart D*.

(h) In 2011 and each year thereafter, after U.S. EPA has completed all deductions under subsection (k)(1), the U.S. EPA will record in the general account any CAIR SO_2 allowance allocated for the new thirtieth year, that is, the year that is thirty (30) years after the calendar year for which such deductions are or could be made, and transferred to the general account in accordance with section 9 of this rule or 40 CFR 73, Subpart D*.

(i) When recording the allocation of CAIR SO_2 allowances for a CAIR SO_2 unit in a compliance account, the U.S. EPA will assign each CAIR SO_2 allowance a unique identification number that shall include digits identifying the year of the control period for which the CAIR SO_2 allowance is allocated.

(j) The CAIR SO_2 allowances are available to be deducted for compliance with a source's CAIR SO_2 emissions limitation for a control period in a given calendar year only if the CAIR SO_2 allowances:

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

(2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR SO_2 allowance transfer correctly submitted for recordation under section 9(a) through 9(f) of this rule by the allowance transfer deadline for the control period.

(k) The following shall apply to deductions for purposes of compliance with a source's emissions limitation:

(1) Following the recordation, in accordance with section 9(d) through 9(f) of this rule, of CAIR SO_2 allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account CAIR SO_2 allowances available under subsection (j) in order to determine whether the source meets the CAIR SO_2 emissions limitation for the control period, as follows:

(A) For a CAIR SO_2 source subject to an acid rain emissions limitation, the U.S. EPA will, in the following order:

(i) Deduct the amount of CAIR SO_2 allowances, available under subsection (j) and not issued by the department under section 11(j) of this rule, that is required under 40 CFR 73.35(b)* and 40 CFR 73.35(c)*. If there are sufficient CAIR SO_2 allowances to complete this deduction, the deduction shall be treated as satisfying the requirements of 40 CFR 73.35(b)* and 40 CFR 73.35(c)*.

(ii) Deduct the amount of CAIR SO_2 allowances, available under subsection (j) and not issued by the department under section 11(j) of this rule, that is required under 40 CFR 73.35(d)* and 40 CFR 77.5*. If there are sufficient CAIR SO_2 allowances to complete this deduction, the deduction shall be treated as satisfying the requirements of 40 CFR 73.35(d)* and 40 CFR 77.5*.

(iii) Treating the CAIR SO_2 allowances deducted under item (ii) as also being deducted under this item, deduct CAIR SO_2 allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, in order to determine whether the source meets the CAIR SO_2 emissions limitation for the control period:

(AA) until the tonnage equivalent of the CAIR SO_2 allowances deducted equals, or exceeds in accordance

with subdivisions (2) and (3), the number of tons of total sulfur dioxide emissions, determined in accordance with section 10 of this rule, from all CAIR SO_2 units at the source for the control period; or

(BB) if there are insufficient CAIR SO_2 allowances to complete the deductions in subitem (AA), until no more CAIR SO_2 allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, remain in the compliance account.

(B) For a CAIR SO_2 source not subject to an acid rain emissions limitation, the U.S. EPA will deduct CAIR SO_2 allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, in order to determine whether the source meets the CAIR SO_2 emissions limitation for the control period:

(i) until the tonnage equivalent of the CAIR SO_2 allowances deducted equals, or exceeds in accordance with subdivisions (2) and (3), the number of tons of total sulfur dioxide emissions, determined in accordance with section 10 of this rule, from all CAIR SO_2 units at the source for the control period; or

(ii) if there are insufficient CAIR SO_2 allowances to complete the deductions in item (i), until no more CAIR SO_2 allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, remain in the compliance account.

(2) The CAIR authorized account representative for a source's compliance account may request that specific CAIR SO_2 allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1) or (4). Such request shall be submitted to the U.S. EPA by the allowance transfer deadline for the control period and include, in a format prescribed by the U.S. EPA, the identification of the CAIR SO_2 source and the appropriate serial numbers.

(3) The U.S. EPA will deduct CAIR SO_2 allowances under subdivision (1) or (4) from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR SO_2 allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any CAIR SO_2 allowances that were allocated to the units at the source for a control period before 2010, in the order of recordation.

(B) Any CAIR SO_2 allowances that were allocated to any entity for a control period before 2010 and transferred and recorded in the compliance account under section 9 of this rule or 40 CFR 73, Subpart D*, in the order of recordation.

(C) Any CAIR SO_2 allowances that were allocated to the units at the source for a control period during 2010 through 2014, in the order of recordation.

(D) Any CAIR SO_2 allowances that were allocated to any entity for a control period during 2010 through 2014 and transferred and recorded in the compliance account under section 9 of this rule or 40 CFR 73, Subpart D*, in the order of recordation.

(E) Any CAIR SO_2 allowances that were allocated to the units at the source for a control period in 2015 or later, in the order of recordation.

(F) Any CAIR SO_2 allowances that were allocated to any entity for a control period in 2015 or later and transferred and recorded in the compliance account under section 9 of this rule or 40 CFR 73, Subpart D*, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the CAIR SO_2 source has excess emissions, the U.S. EPA will deduct from the source's compliance account the tonnage equivalent in CAIR SO_2 allowances, allocated for the control period in the immediately following calendar year, including any issued by the department under section 11(j) of this rule, equal to, or exceeding in accordance with subdivisions (2) and (3), three (3) times the number of tons of the source's excess emissions minus, if the source is subject to an acid rain emission limitation, the amount of the CAIR SO_2 allowances required to be deducted under subdivision (1)(A)(ii).

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the CAIR SO_2 source or the CAIR SO_2 units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an account under subdivisions (1), (4), and (5) and section 11 of this rule.

(7) The U.S. EPA may review and conduct independent audits concerning any submission under the CAIR SO_2 trading program and make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may deduct CAIR SO_2 allowances from or transfer CAIR SO_2 allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7), and record such deductions and transfers.

(l) CAIR SO_2 allowances may be banked for future use or transfer in a compliance account or a general account. Any CAIR SO_2 allowance that is held in a compliance account or a general account shall remain in such account unless and until the CAIR SO_2 allowance is deducted or transferred under subsection (j), (k), or (m) or section 9 or 11 of this rule.

(m) The U.S. EPA may, at his or her sole discretion and on his or her own motion, correct any error in any CAIR SO_2 allowance tracking system account. Within ten (10) business days of making such correction, the U.S. EPA will notify the CAIR authorized account representative for the account.

(n) The CAIR authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 9(a) through 9(f) of this rule for any CAIR SO_2 allowances in the account to one (1) or more other CAIR SO_2 allowance tracking system accounts.

(o) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any CAIR SO_2 allowances, the U.S. EPA may notify the CAIR authorized account representative for the account that the account shall be closed following twenty (20) business days after the notice is sent. The account will be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a correctly submitted transfer of CAIR SO_2 allowances into the account under section 9(a) through 9(f) of this rule or a statement submitted by the CAIR 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 incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-2-8; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-2-9 CAIR SO_2 allowance transfers

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

Sec. 9. (a) A CAIR authorized account representative seeking recordation of a CAIR SO_2 allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the CAIR SO_2 allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

(1) the account numbers for both the transferor and transferee accounts;

(2) the serial number of each CAIR SO_2 allowance that is in the transferor account and is to be transferred; and

(3) the name and signature of the CAIR authorized account representative of the transferor account and the date signed.

(b) The CAIR authorized account representative for the transferee account shall meet the requirements in subsection (a)(3) by submitting, in a format prescribed by the U.S. EPA, a statement signed by the CAIR authorized account representative and identifying each account into which any transfer of allowances, submitted on or after the date on which the U.S. EPA receives such statement, is authorized. Such authorization shall be binding on any CAIR authorized account representative for such account and shall apply to all transfers into the account that are submitted on or after such date of receipt, unless and until the U.S. EPA receives a statement signed by the CAIR authorized account representative retracting the authorization for the account.

(c) The statement under subsection (b) shall include the following: "By this signature I authorize any transfer of allowances into each account listed herein, except that I do not waive any remedies under state or federal law to obtain correction of any erroneous transfers into such accounts. This authorization shall be binding on any CAIR authorized account representative for such account unless and until a statement signed by the CAIR authorized account representative retracting this authorization for the account is received by the U.S. EPA.".

(d) Within five (5) business days, except as provided in subsection (e), of receiving a CAIR SO_2 allowance transfer, the U.S. EPA will record a CAIR SO_2 allowance transfer by moving each CAIR SO_2 allowance from the transferor account to the transferee account as specified by the request, provided the following:

(1) The transfer is correctly submitted under this section.

(2) The transferor account includes each CAIR SO_2 allowance identified by serial number in the transfer.

(3) The transfer is in accordance with the limitation on transfer under 40 CFR 74.42* and 40 CFR 74.47(c)*, as applicable.

(e) A CAIR SO_2 allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR SO_2 allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under subsections (j) and (k) for the control period immediately before such allowance transfer deadline.

(f) Where a CAIR SO_2 allowance transfer submitted for recordation fails to meet the requirements of subsection (d), the U.S. EPA will not record such transfer.

(g) The following notification requirements shall apply to CAIR SO_2 allowance transfers:

(1) Within five (5) business days of recordation of a CAIR SO_2 allowance transfer under subsections (d) through (f) the U.S. EPA will notify the CAIR authorized account representatives of both the transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a CAIR SO_2 allowance transfer that fails to meet the requirements of subsection (d), the U.S. EPA will notify the CAIR authorized account representatives of both accounts subject to the transfer of the decision not to record the transfer and the reasons for such nonrecordation.

(h) Nothing in this section shall preclude the submission of a CAIR SO_2 allowance transfer for recordation following notification of nonrecordation.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-2-9; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-2-10 SO_2 Monitoring and reporting requirements

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

Sec. 10. (a) The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR SO_2 unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subparts F and G*. For purposes of complying with such requirements, the definitions in section 2 of this rule and 40 CFR 72.2* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75* shall be replaced by the terms CAIR SO_2 unit, CAIR designated representative, and continuous emission monitoring system (CEMS) respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a CAIR SO_2 unit but that is monitored under 40 CFR 75.16(b)(2)* shall comply with the same monitoring, record keeping, and reporting requirements as a CAIR SO_2 unit.

(b) The owner or operator of each CAIR SO_2 unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring SO_2 mass emissions and individual unit heat input. This includes all systems required to monitor SO_2 concentration, stack gas moisture content, stack gas flow rate, CO_2 or O_2 concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.11* and 40 CFR 75.16*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this section and 40 CFR 75* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a CAIR SO_2 unit that commences commercial operation before July 1, 2008, by January 1, 2009.

(2) For the owner or operator of a CAIR SO_2 unit that commences commercial operation on or after July 1, 2008, by the later of the following dates:

(A) January 1, 2009.

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation;

or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR SO_2 unit for which construction of a new stack or flue or installation of add-on SO_2 emission controls is completed after the applicable deadline under subdivision (1), (2), (4), or (5), compliance by the earlier of:

(A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on SO_2 emissions controls; or

(B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on SO_2 emissions controls.

(4) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, by the date specified in section 11(f)(2) through 11(f)(4) of this rule.

(5) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a CAIR SO_2 opt-in unit under section 11 of this rule, by the date on which the CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program as provided in section 11(f)(9) of this rule.

(d) The owner or operator of a CAIR SO_2 unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for SO_2 concentration, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine SO_2 mass emissions and heat input in accordance with 40 CFR 75.31(b)(2), 40 CFR 75.31(c)(3)*, or 40 CFR 75, Appendix D, Section 2.4*, as applicable.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a CAIR SO_2 unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a CAIR SO_2 unit shall operate the unit so as to discharge, or allow to be discharged, SO_2 emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75*.

(3) No owner or operator of a CAIR SO_2 unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording SO_2 mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75*.

(4) No owner or operator of a CAIR SO_2 unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a CAIR SO_2 unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21*, 40 CFR 75, Appendix B*, and 40 CFR 75, Appendix D* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) Reserved.

(h) Except as provided in subsection (f), the owner or operator of a CAIR SO_2 unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this section in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record SO_2 mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system under subsection (b)(1) is subject to the recertification requirements in 40 CFR 75.20(g)(6)*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word certified with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5)* and 40 CFR 75.20(g)(7)* in lieu of the procedures in clause (E). Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The CAIR designated representative shall submit to the department, the appropriate U.S. EPA Regional Office, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)*. A provisionally certified monitoring system may be used under the CAIR SO_2 trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application shall be deemed certified for use under the CAIR SO_2 trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the

additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(iv) The department or, for a CAIR SO_2 opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, the U.S. EPA may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (l).

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)*, 40 CFR 75.20(g)(7)*, or 40 CFR 75.21(e)* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i)* or 40 CFR 75.20(g)(7)*:

(AA) For a disapproved SO_2 pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of SO_2 and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.1.1 and 2.1.4.1*.

(BB) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO_2 concentration or the minimum potential O_2 concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2*.

(CC) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1*.

(ii) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

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

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

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75*, data shall be substituted using the applicable missing data procedures in 40 CFR 75, Subpart D* or 40 CFR 75, Appendix D*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f) through (j) or the applicable provisions of 40 CFR 75*, both at the time

of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR SO_2 opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

(m) The CAIR designated representative for a CAIR SO_2 unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61*.

(n) The CAIR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements in 40 CFR 75, Subparts F and G*, and the requirements of section 6(e)(1) of this rule as follows:

(1) The owner or operator of a CAIR SO_2 unit shall comply with requirements of 40 CFR 75.62* and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule.

(2) The CAIR designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (f) through (j), including the information required under 40 CFR 75.63*.

(3) The CAIR designated representative shall submit quarterly reports as follows:

(A) The CAIR designated representative shall report the SO_2 mass emissions data and heat input data for the CAIR SO_2 unit, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009, through March 31, 2009;

(ii) for a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009, through March 31, 2009;

(iii) notwithstanding items (i) and (ii), for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, the calendar quarter corresponding to the date specified in section 11(f)(2), 11(f)(3), and 11(f)(4) of this rule; and

(iv) notwithstanding items (i) and (ii), for a CAIR SO_2 opt-in unit under section 11 of this rule, the calendar quarter corresponding to the date on which the CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program as provided in section 11(f)(9) of this rule.

(B) The CAIR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.64*.

(C) For CAIR SO_2 units that are also subject to an acid rain emissions limitation or the CAIR NO_x ozone season trading program or CAIR NO_x trading program, quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through H* as applicable, in addition to the SO_2 mass emission data, heat input data, and other information required by this subpart.

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

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

(B) for a unit with add-on SO_2 emission controls and for all hours where SO_2 data are substituted in accordance with 40 CFR 75.34(a)(1)*, the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR 75, Appendix B* and the substitute data values do not systematically underestimate SO_2 emissions.

(o) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

(1) The CAIR designated representative of a CAIR SO_2 unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this subpart. Application of an alternative to any requirement of this subpart is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.

(2) The CAIR designated representative of a CAIR SO_2 unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this subpart. Application of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(p) The owner or operator of a CAIR SO2 unit is subject to the applicable provisions of 40 CFR 75* concerning units in long term cold storage.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-2-10; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-2-11 CAIR SO_2 opt-in units

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

Sec. 11. (a) A CAIR SO_2 opt-in unit must be a unit that meets the following requirements:

(1) Is located in Indiana.

(2) Is not a CAIR SO_2 unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule.

(3) Is not covered by a retired unit exemption that is in effect under 40 CFR 72.8* and is not an opt-in source under 40 CFR 74*.

(4) Has or is required or qualified to have a Part 70 operating permit or other federally enforceable permit.

(5) Vents all of its SO_2 emissions to a stack and can meet the monitoring, record keeping, and reporting requirements of section 10 of this rule.

(b) Except as otherwise provided sections 1, 2, 4 through 7, and 8 through 10 of this rule, a CAIR SO_2 opt-in unit shall be treated as a CAIR SO_2 unit for purposes of applying such sections of this rule.

(c) Solely for purposes of applying, as provided in this section, the requirements of section 10 to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, such unit shall be treated as a CAIR SO_2 unit before issuance of a CAIR opt-in permit for such unit.

(d) Any CAIR SO_2 opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, located at the same source as one (1) or more CAIR SO_2 units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR SO_2 units.

(e) The CAIR designated representative of a unit meeting the requirements for a CAIR SO_2 opt-in unit in subsection (a) may apply for an initial CAIR opt-in permit at any time, except as provided under subsection (h)(8) and (h)(9), and, in order to apply, must submit the following:

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

(2) A certification, in a format specified by the department, that the unit:

(A) is not a CAIR SO_2 unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule;

(B) is not covered by a retired unit exemption that is in effect under 40 CFR 72.8*;

(C) is not and, so long as the unit is a CAIR SO_2 opt-in unit, shall not become, an opt-in source under 40 CFR 74*;

(D) vents all of its SO_2 emissions to a stack; and

(E) has documented heat input for more than eight hundred seventy-six (876) hours during the six (6) months immediately preceding submission of the CAIR permit application under section 7(c) of this rule.

(3) A monitoring plan in accordance with section 10 of this rule.

(4) A complete certificate of representation under section 6(h) of this rule consistent with subsection (d), if no CAIR designated representative has been previously designated for the source that includes the unit.

(5) A statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR SO_2 allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8). If allocation under subsection (j)(4) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.

The CAIR designated representative of a CAIR SO_2 opt-in unit shall submit a complete CAIR permit application under section 7(c) of this rule to renew the CAIR opt-in unit permit in accordance with the department's regulations for Part 70 operating permits. Unless the department issues a notification of acceptance of withdrawal of the CAIR SO_2 opt-in unit from the CAIR SO_2 trading program in accordance with subsection (h) or the unit becomes a CAIR SO_2 unit under section 1 of this rule, the CAIR SO_2 opt-in unit shall remain subject to the requirements for a CAIR SO_2 opt-in unit, even if the CAIR designated representative for the CAIR SO_2 opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit.

(f) The department shall issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under subsection (e) is submitted in accordance with the following:

(1) The department and the U.S. EPA will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under subsection (e). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the SO_2 emissions rate and heat input and all other applicable parameters of the unit and all other applicable parameters are monitored and reported in accordance with section 10 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(2) If the department and the U.S. EPA determine that the monitoring plan is sufficient under subdivision (1), the owner or operator shall monitor and report the SO_2 emissions rate and the heat input of the unit and all other applicable parameters, in accordance with section 10 of this rule, starting on the date of certification of the appropriate monitoring systems under section 10 of this rule and continuing until a CAIR opt-in permit is denied under subdivision (8) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR SO_2 trading program in accordance with subsection (h).

(3) The monitoring and reporting under subdivision (2) shall include the entire control period immediately before the date on which the unit enters the CAIR SO_2 trading program under subdivision (9), during which period monitoring system availability must not be less than ninety percent (90%) under section 10 of this rule and the unit must be in full compliance with any applicable state or federal emissions or emissions-related requirements.

(4) To the extent the SO_2 emissions rate and the heat input of the unit are monitored and reported in accordance with section 10 of this rule for one (1) or more control periods, in addition to the control period under subdivision (3), during which control periods monitoring system availability is not less than ninety percent (90%) under section 10 of this rule and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three (3) years before the unit enters the CAIR SO_2 trading program under subdivision (9), such information shall be used as provided in subdivisions (5) and (6).

(5) The unit's baseline heat input shall equal:

(A) if the unit's SO_2 emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's total heat input, in million British thermal units (MMBtu), for the control period; or

(B) if the unit's SO_2 emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), the average of the amounts of the unit's total heat input, in million British thermal units (MMBtu), for the control periods under subdivisions (3) and (4).

(6) The unit's baseline SO_2 emission rate shall equal one (1) of the following:

(A) If the unit's SO_2 emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's SO_2 emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control period.

(B) If the unit's SO_2 emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), and the unit does not have add-on SO_2 emission controls during any such control periods, the average of the amounts of the unit's SO_2 emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control periods under subdivisions (3) and (4).

(C) If the unit's SO_2 emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), and the unit has add-on SO_2 emission controls during any such control periods, the average of the amounts of the unit's SO_2 emissions rate, in pounds per million British thermal units (lb/MMBtu), for such control periods during which the unit has add-on SO_2 emission controls.

(7) After calculating the baseline heat input and the baseline SO_2 emissions rate for the unit under subdivisions (5) and (6) and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR SO_2 opt-in unit in subsection (a) and meets the elements certified in subsection (e)(2), the department shall issue a CAIR opt-in permit. The department shall provide a copy of the CAIR opt-in permit to the U.S. EPA, who will then establish a compliance account for the source that includes the CAIR SO_2 opt-in unit unless the source already has a compliance account.

(8) Notwithstanding subdivisions (1) through (7), if at any time before issuance of a CAIR opt-in permit for the unit, the department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR opt-in unit in subsection (a) or meets the elements certified in subsection (e)(2), the department shall issue a denial of a CAIR SO_2 opt-in permit for the unit.

(9) A unit for which an initial CAIR opt-in permit is issued by the department shall become a CAIR SO_2 opt-in unit, and a CAIR SO_2 unit, as of the later of January 1, 2010, or January 1 of the first control period during which such CAIR opt-in permit is issued.

(10) If the CAIR designated representative requests, and the department issues a CAIR opt-in permit providing for, allocation to a CAIR SO_2 opt-in unit of CAIR SO_2 allowances under subsection (j)(4) and such unit is repowered after its date of entry into the CAIR SO_2 trading program under subdivision (9), the repowered unit shall be treated as a CAIR SO_2 opt-in unit replacing the original CAIR SO_2 opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

Notwithstanding subdivisions (5) and (6), as of the date of start-up under subdivision (10), the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline SO_2 emission rate as the original CAIR SO_2 opt-in unit, and the original CAIR SO_2 opt-in unit shall no longer be treated as a CAIR SO_2 opt-in unit or a CAIR SO_2 unit.

(g) The following shall apply to the content of each CAIR opt-in permit:

(1) Each opt-in permit shall contain the following:

(A) All elements required for a complete CAIR permit application under section 7(c) of this rule.

(B) The certification in subsection (e)(2).

(C) The unit's baseline heat input under subsection (f)(5).

(D) The unit's baseline SO_2 emission rate under subsection (f)(6).

(E) A statement whether the unit is to be allocated CAIR SO_2 allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8).

(F) A statement that the unit may withdraw from the CAIR SO_2 trading program only in accordance with subsection (h).

(G) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of subsection (i).

(2) Each CAIR 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 8 and 9 of this rule, every allocation, transfer, or deduction of CAIR SO_2 allowances to or from the compliance account of the source that includes a CAIR SO_2 opt-in unit covered by the CAIR opt-in permit.

(3) The CAIR opt-in permit shall be included, in a format specified by the department, in the CAIR permit for the sources where the CAIR SO2 opt-in is located and in a Part 70 operating permit or FESOP.

(h) The following requirements must be satisfied in order to withdraw an opt-in unit from the CAIR SO_2 trading program:

(1) Except as provided under subdivision (8), a CAIR SO_2 opt-in unit may withdraw from the CAIR SO_2 trading program, but only if the department issues a notification to the CAIR designated representative of the CAIR SO_2 opt-in unit of the acceptance of the withdrawal of the CAIR SO_2 opt-in unit in accordance with subdivision (6).

(2) In order to withdraw a CAIR SO_2 opt-in unit from the CAIR SO_2 trading program, the CAIR designated representative of the CAIR SO_2 opt-in unit shall submit to the department a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four (4) years after December 31 of the year of entry into the CAIR SO_2 trading program under subsection (f)(9). The request must be submitted not later than ninety (90) days before the requested effective date of withdrawal.

(3) Before a CAIR SO_2 opt-in unit covered by a request under subdivision (1) may withdraw from the CAIR SO_2 trading program and the CAIR opt-in permit may be terminated under subdivision (7), the following conditions must be met:

(A) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR SO_2 opt-in unit must meet the requirement to hold CAIR SO_2 allowances under section 4(c) of this rule and cannot have any excess emissions.

(B) After the requirement for withdrawal under clause (A) is met, the U.S. EPA will deduct from the compliance account of the source that includes the CAIR SO_2 opt-in unit CAIR SO_2 allowances equal in amount to and allocated for the same or a prior control period as any CAIR SO_2 allowances allocated to the CAIR SO_2 opt-in unit under subsection (j) for any control period for which the withdrawal is to be effective. If there are no remaining CAIR SO_2 units at the source, the U.S. EPA will close the compliance account, and the owners and operators of the CAIR SO_2 opt-in unit may submit a CAIR SO_2 allowance transfer for any remaining CAIR SO_2 allowances to another CAIR SO_2 allowance tracking system in accordance with section 9 of this rule.

(4) After the requirements for withdrawal under subdivisions (2) and (3) are met, including deduction of the full amount of CAIR SO_2 allowances required, the department shall issue a notification to the CAIR designated representative of the CAIR SO_2 opt-in unit of the acceptance of the withdrawal of the CAIR SO_2 opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

(5) If the requirements for withdrawal under subdivisions (2) and (3) are not met, the department shall issue a notification to the CAIR designated representative of the CAIR SO_2 opt-in unit that the CAIR SO_2 opt-in unit's request to withdraw is denied. Such CAIR SO_2 opt-in unit shall continue to be a CAIR SO_2 opt-in unit.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the CAIR permit covering the CAIR SO_2 opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision (4). The unit shall continue to be a CAIR SO_2 opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR SO_2 trading program concerning any control periods for which the unit is a CAIR SO_2 opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(7) If the department denies the CAIR SO_2 opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions (2) and (3).

(8) Notwithstanding subdivisions (1) through (7), a CAIR SO_2 opt-in unit shall not be eligible to withdraw from the CAIR SO_2 trading program if the CAIR designated representative of the CAIR SO_2 opt-in unit requests, and the department issues a CAIR SO_2 opt-in permit providing for, allocation to the CAIR SO_2 opt-in unit of CAIR SO_2 allowances under subsection (j)(4).

(9) Once a CAIR SO_2 opt-in unit withdraws from the CAIR SO_2 trading program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under subsection (e) for such CAIR SO_2 opt-in unit before the date that is four (4) years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit shall be treated as an initial application for a CAIR opt-in permit under subsection (f).

(i) When a CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule, then the CAIR designated representative shall notify in writing the department and the U.S. EPA of such change in the CAIR SO_2 opt-in unit's regulatory

status, within thirty (30) days of such change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning the CAIR SO_2 opt-in source:

(1) When the CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule, the department shall revise the CAIR SO_2 opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under section 7(d) and (7)(e) of this rule, and remove the CAIR opt-in provisions, as of the date on which the CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account of the source that includes the CAIR SO_2 opt-in unit that becomes a CAIR SO_2 unit under section 1 of this rule, CAIR SO_2 allowances equal in amount to and allocated for the same or a prior control period as follows:

(A) Any CAIR SO_2 allowances allocated to the CAIR SO_2 opt-in unit under subsection (j) for any control period after the date on which the CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule.

(B) If the date on which the CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule is not December 31, the CAIR SO_2 allowances allocated to the CAIR SO_2 opt-in unit under subsection (j) for the control period that includes the date on which the CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR SO_2 opt-in unit becomes a CAIR SO_2 unit under section 1 of this rule divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(3) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR SO_2 opt-in unit that becomes a CAIR SO_2 unit under section 1 of this rule contains the CAIR SO_2 allowances necessary for completion of the deduction under subdivision (2).

(j) The department shall allocate CAIR SO_2 allowances to CAIR SO_2 opt-in sources as follows:

(1) When the CAIR opt-in permit is issued under subsection (f)(7), the department shall allocate CAIR SO_2 allowances to the CAIR SO_2 opt-in unit, and submit to the U.S. EPA the allocation for the control period in which a CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program under subsection (f)(9), in accordance with subdivision (3) or (4).

(2) By not later than October 31 of the control period in which a CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program under subsection (f)(9) and October 31 of each year thereafter, the department shall allocate CAIR SO_2 allowances to the CAIR SO_2 opt-in unit, and submit to the U.S. EPA the allocation for the control period that includes such submission deadline and in which the unit is a CAIR SO_2 opt-in unit, in accordance with subdivision (3) or (4).

(3) For each control period for which a CAIR SO_2 opt-in unit is to be allocated CAIR SO_2 allowances, the department shall allocate in accordance with the following procedures:

(A) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR SO_2 allowance allocation shall be the lesser of the following:

(i) The CAIR SO_2 opt-in unit's baseline heat input determined under subsection (f)(5).

(ii) The CAIR SO_2 opt-in unit's heat input, as determined in accordance with section 10 of this rule, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program under subsection (f)(9).

(B) The SO_2 emission rate, in million British thermal units (MMBtu), used for calculating CAIR SO_2 allowance allocations shall be the lesser of the following:

(i) The CAIR SO_2 opt-in unit's baseline SO_2 emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) and multiplied by seventy percent (70%).

(ii) The most stringent state or federal SO_2 emissions limitation applicable to the CAIR SO_2 opt-in unit at any time during the control period for which CAIR SO_2 allowances are to be allocated.

(C) The department shall allocate CAIR SO_2 allowances to the CAIR SO_2 opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under clause (A), multiplied by the SO_2 emission rate under clause (B), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(4) Notwithstanding subdivision (3) and if the CAIR designated representative requests, and the department issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under subsection (e)(5)) providing for, allocation to a CAIR SO_2 opt-in unit of CAIR SO_2 allowances under this subdivision, subject to the conditions in subsections (f)(10) and

(h), the department shall allocate to the CAIR SO_2 opt-in unit as follows:

(A) For each control period in 2010 through 2014 for which the CAIR SO_2 opt-in unit is to be allocated CAIR SO_2 allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating CAIR SO_2 allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The SO_2 emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating CAIR SO_2 allowance allocations shall be the lesser of:

(AA) the CAIR SO_2 opt-in unit's baseline SO_2 emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6); or

(BB) the most stringent state or federal SO_2 emissions limitation applicable to the CAIR SO_2 opt-in unit at any time during the control period in which the CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program under subsection (f)(9).

(iii) The department shall allocate CAIR SO_2 allowances to the CAIR SO_2 opt-in unit with a tonnage equivalent equal to, or less than by the smallest possible amount, the heat input under item (i), multiplied by the SO_2 emission rate under item (ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(B) For each control period in 2015 and thereafter for which the CAIR SO_2 opt-in unit is to be allocated CAIR SO_2 allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR SO_2 allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The SO_2 emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating the CAIR SO_2 allowance allocation shall be the lesser of:

(AA) the CAIR SO_2 opt-in unit's baseline SO_2 emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) multiplied by ten percent (10%); or

(BB) the most stringent state or federal SO_2 emissions limitation applicable to the CAIR SO_2 opt-in unit at any time during the control period for which CAIR SO_2 allowances are to be allocated.

(iii) The department shall allocate CAIR SO_2 allowances to the CAIR SO_2 opt-in unit in an amount equaling the heat input item (i), multiplied by the SO_2 emission rate under clause (B)(ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(5) The U.S. EPA will record, in the compliance account of the source that includes the CAIR SO_2 opt-in unit, the CAIR SO_2 allowances allocated by the department to the CAIR SO_2 opt-in unit under subdivision (1).

(6) By December 1 of the control period in which a CAIR SO_2 opt-in unit enters the CAIR SO_2 trading program under subsection (f)(9) and December 1 of each year thereafter, the U.S. EPA will record, in the compliance account of the source that includes the CAIR SO_2 opt-in unit, the CAIR SO_2 allowances allocated by the department to the CAIR SO_2 opt-in unit under subdivision (2).

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-2-11; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

Rule 3. Clean Air Interstate Rule (CAIR) NO_x Ozone Season Trading Program

326 IAC 24-3-1 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 establishes a NO_x ozone season emissions budget and NO_x trading program for fossil-fuel-fired generating units and large affected units as described in this rule. The following units shall be CAIR NO_x ozone season units, and

any source that includes one (1) or more such units shall be a CAIR NO_x ozone season source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

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

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

(3) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR NO_x ozone season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR NO_x ozone season unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR NO_x ozone season units under subsection (a)(1) or (a)(3) as follows:

(1) Any unit that is a CAIR NO_x ozone season unit under subsection (a)(1) or (a)(3):

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

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

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

(2) Any unit that is a CAIR NO_x ozone season unit under subsection (a)(1) or (a)(3) commencing operation before January 1, 1985:

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

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

(3) Any unit that is a CAIR NO_x ozone season unit under subsection (a)(1) or (a)(3) commencing operation on or after January 1, 1985:

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

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

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x ozone season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Division; 326 IAC 24-3-1; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)

326 IAC 24-3-2 Definitions

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

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

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

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

(3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 40 CFR 78*.

(4) "Allocate" or "allocation" means, with regard to CAIR NO_x ozone season allowances, the determination by a permitting authority or the U.S. EPA of the amount of such CAIR NO_x ozone season allowances to be initially credited to a CAIR NO_x ozone season unit, a new unit set-aside, an energy efficiency or renewable energy set-aside, or other entity.

(5) "Allowance transfer deadline" means, for a control period, midnight of November 30 (if it is a business day), or midnight of the first business day thereafter (if November 30 is not a business day), immediately following the control period and is the deadline by which a CAIR NO_x ozone season allowance transfer must be submitted for recordation in a CAIR NO_X source's compliance account in order to be used to meet the source's CAIR NO_x ozone season emissions limitation for such control period in accordance with sections 9(i) and 9(j) of this rule.

(6) "Alternate CAIR designated representative" means, for a CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source in accordance with sections 6 and 12 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO_x ozone season trading program. If the CAIR NO_x ozone season source is also a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x annual trading program. If the CAIR NO_x ozone season source is also a CAIR SO_2 source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO_2 trading program. If the CAIR NO_x ozone season source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NO_x ozone season source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under section 11 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by section 11 of this rule.

(8) "Biomass" means any of the following:

(A) Organic material grown for the purpose of being converted to energy.

(B) Organic byproduct of agriculture that can be converted into energy.

(C) Material that:

(i) can be converted into energy and is nonmerchantable for other purposes;

(ii) is segregated from other nonmerchantable material; and

(iii) is:

(AA) a forest-related organic residue, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(BB) a wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way trimmings.

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

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

then used for electricity production.

(11) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 9, and 12 of this rule, to transfer and otherwise dispose of CAIR NO_x ozone season allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(12) "CAIR designated representative" means, for a CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 12 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_x ozone season trading program. If the CAIR NO_x ozone season source is also a CAIR NO_x source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x annual trading program. If the CAIR NO_x ozone season source is also a CAIR SO_2 source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO_2 trading program. If the CAIR NO_x ozone season source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NO_x ozone season source is also subject to the mercury budget trading program, then this natural person shall be the same person as the mercury designated representative under the mercury budget trading program.

(13) "CAIR NO_x annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-1; 40 CFR 96, Subparts AA through II* and 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II* and 40 CFR 51.123(p)* and 40 CFR 52.35*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(14) "CAIR NO_x ozone season allowance" means a limited authorization issued by a permitting authority or the U.S. EPA under provisions of a state implementation plan that are approved under 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2), and 40 CFR 51.123(bb)(1), 40 CFR 51.123(bb)(2), 40 CFR 51.123(dd), or 40 CFR 51.123(ee)*, or under 40 CFR 97*, to emit one (1) ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x ozone season trading program or a limited authorization issued by a permitting authority for a control period during 2003 through 2009 under the NO_x budget trading program in accordance with 40 CFR 51.121(p)* or 326 IAC 10-4 to emit one (1) ton of nitrogen oxides during a control period, provided that the provision in 40 CFR 51.121(b)(2)(ii)(E)* shall not be used in applying this definition and the limited authorization shall not have been used to meet the allowance-holding requirement under the NO_x budget trading program. An authorization to emit nitrogen oxides that is not issued under provisions of a state implementation plan approved under 40 CFR 51.121(p)* or 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2), and 40 CFR 51.123(bb)(1), 40 CFR 51.123(bb)(2), 40 CFR 51.123(dd), or 40 CFR 51.123(ee)*, or under 40 CFR 97* shall not be a CAIR NO_x ozone season allowance.

(15) "CAIR NO_x ozone season allowance deduction" or "deduct CAIR NO_x ozone season allowances" means the permanent withdrawal of CAIR NO_x ozone season allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO_x ozone season units at a CAIR NO_x ozone season source for a control period, determined in accordance with section 11 of this rule, or to account for excess emissions.

(16) "CAIR NO_x ozone season allowances held" or "hold CAIR NO_x ozone season allowances" means the CAIR NO_x ozone season allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 9, 10, and 12 of this rule, in a CAIR NO_x ozone season allowance tracking system account.

(17) "CAIR NO_x ozone season allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR NO_x ozone season allowances under the CAIR NO_x ozone season trading program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

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

(19) "CAIR NO_x ozone season emissions limitation" means, for a CAIR NO_x ozone season source, the tonnage equivalent, in NO_x emissions in a control period, of the CAIR NO_x ozone season allowances available for deduction for the source under section 9(i) and 9(j)(1) of this rule for the control period.

(20) "CAIR NO_x ozone season source" means a source that includes one (1) or more CAIR NO_x ozone season units.
(21) "CAIR NO_x ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule; 40 CFR 96, Subparts AAAA through IIII* and 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2), and 40 CFR 51.123(bb)(1), 40 CFR 51.123(bb)(2), or 40 CFR 51.123(dd)*; or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII* and 40 CFR 51.123(ee)* and 40 CFR 52.35*, as a means of mitigating interstate transport of ozone and nitrogen oxides.
(22) "CAIR NO_x ozone season unit" means a unit that is subject to the CAIR NO_x ozone season trading program under section 1 of this rule and, and except for the purposes of sections 3 and 8 of this rule, a CAIR NO_x ozone season opt-in unit under section 12 of this rule.
(23) "CAIR NO_x source" means a source that is subject to the CAIR NO_x annual trading program.
(24) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR NO_x ozone season trading program requirements applicable to a CAIR NO_x ozone season source, to each CAIR NO_x ozone season unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.
(25) "CAIR SO_2 source" means a source that is subject to the CAIR SO_2 trading program.
(26) "CAIR SO_2 trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-2; 40 CFR 96, Subparts AAA through III* and 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2)*; or established in accordance with 40 CFR 97, Subparts AAA through III and 40 CFR 51.124(r)* and 40 CFR 52.36*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.
(27) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.
(28) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.
(29) "Coal-fired" means:
(A) except for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or
(B) for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.
(30) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:
(A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy;
(B) producing electricity during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:
(i) for a topping-cycle cogeneration unit:
(AA) useful thermal energy not less than five percent (5%) of total energy output; and
(BB) useful power that, when added to one-half (½) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and
(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input; and
(C) provided that the total energy input under clause (B)(i)(BB) and (B)(ii) shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.
(31) "Combustion turbine" means:
(A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and
(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.
(32) "Commence commercial operation" means, with regard to a unit serving a generator, the following:

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

(i) For a unit that is a CAIR NO_x ozone season unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO_x ozone season unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR NO_x ozone season unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x ozone season unit under section 1 of this rule, subject to the following:

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

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

(C) Notwithstanding clauses (A) and (B), for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.

(33) "Commence operation" means the following:

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

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

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

(D) Notwithstanding clauses (A) through (C), and solely for purposes of section 11 of this rule, for a unit that is not a large affected unit under subdivision (51)(A) or (51)(B) on the later of November 15, 1990, or the date the unit commences operation as defined in clause (A) and that subsequently becomes a large affected unit under subdivision (51)(A) or (51)(B), the unit's date for commencement of operation shall be the date on which the unit becomes a large affected unit under subdivision (51)(A) or (51)(B).

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

(F) For a unit with a date for commencement of operation as defined in clause (D) and that is subsequently replaced by a unit at the same source, for example, repowered, such date shall remain the replaced unit's date of commencement

of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause and clauses (A) through (E), as appropriate.

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

(35) "Compliance account" means a CAIR NO_x ozone season allowance tracking system account, established by the U.S. EPA for a CAIR NO_x ozone season source under section 9 or 12 of this rule, in which any CAIR NO_x ozone season allowance allocations for the CAIR NO_x ozone season units at the source are initially recorded and in which are held any CAIR NO_x ozone season allowances available for use for a control period in order to meet the source's CAIR NO_x ozone season emissions limitation in accordance with section 9(i) and 9(j) of this rule.

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

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

(B) A nitrogen oxides concentration monitoring system, consisting of a NO_x ozone season pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x ozone season emissions, in parts per million (ppm).

(C) A nitrogen oxides emission rate (or NO_x -diluent) monitoring system, consisting of a NO_x ozone season pollutant concentration monitor, a diluent gas (CO_2 or O_2) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x ozone season concentration, in parts per million (ppm), diluent gas concentration, in percent CO_2 or O_2; and NO_x ozone season emission rate, in pounds per million British thermal units (lb/MMBtu).

(D) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2)* and providing a permanent, continuous record of the stack gas moisture content, in percent H_2O.

(E) A carbon dioxide monitoring system, consisting of a CO_2 pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO_2 emissions, in percent CO_2.

(F) An oxygen monitoring system, consisting of an O_2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O_2, in percent O_2.

(37) "Control period" means the period beginning May 1 of a calendar year, except as provided in section 4(c)(2) of this rule, and ending on September 30 of the same year, inclusive.

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

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

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

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

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

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

(ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy

efficiency of forty percent (40%).

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

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

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

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

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

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

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

(F) Improvements to existing fossil fuel-fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity, including gas reburning projects that reduce NO_x emissions.

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

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

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

(41) "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO_x ozone season units at a CAIR NO_x ozone season source during a control period that exceeds the CAIR NO_x ozone season emissions limitation for the source.

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

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

(44) "Fossil-fuel-fired" means, with regard to a unit, the following:

(A) Except as provided in clause (B), combusting any amount of fossil fuel in any calendar year.

(B) Solely for the purposes of applying the term "large affected unit", the combustion of fossil fuel, alone or in combination with any other fuel, under any of the following scenarios:

(i) 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.

(ii) 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.

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

(46) "General account" means a CAIR NO_x ozone season allowance tracking system account, established under section 9 of this rule, that is not a compliance account.

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

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

(49) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into

a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 11 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

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

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

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

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

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

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

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

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

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

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

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

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

(C) For units other than cogeneration units that are not already subject to this rule under section 1(a)(1) or 1(a)(3) of this rule commencing operation:

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

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

(iii) on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid.

(D) For cogeneration units that are not already subject to this rule under section 1(a)(1) or 1(a)(3) of this rule commencing operation:

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

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

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

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

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

(A) for the life of the unit;

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

(C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

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

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

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

(56) "Most stringent state or federal NO_x emissions limitation" means, with regard to a unit, 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.

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

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

(59) "Operator" means any person who operates, controls, or supervises a CAIR NO_x ozone season unit or a CAIR NO_x ozone season source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

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

(A) With regard to a CAIR NO_x ozone season source or a CAIR NO_x ozone season unit at a source, respectively, any of the following:

(i) Holder of any portion of the legal or equitable title in a CAIR NO_x ozone season unit at the source or the CAIR NO_x ozone season unit.

(ii) Holder of a leasehold interest in a CAIR NO_x ozone season unit at the source or the CAIR NO_x ozone season unit.

(iii) Purchaser of power from a CAIR NO_x ozone season unit at the source or the CAIR NO_x ozone season unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR NO_x ozone season unit.

(B) With regard to any general account, any person who has an ownership interest with respect to the CAIR NO_x ozone season allowances held in the general account and who is subject to the binding agreement for the CAIR

authorized account representative to represent the person's ownership interest with respect to CAIR NO_x ozone season allowances.

(61) "Permitting authority" means the state air pollution control agency, local agency, other state agency, or other agency authorized by the U.S. EPA to issue or revise permits to meet the requirements of the CAIR NO_x annual trading program or, if no such agency has been so authorized, the U.S. EPA.

(62) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

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

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

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

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

Where:

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

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

(65) "Recordation", "record", or "recorded" means, with regard to CAIR NO_x ozone season allowances, the movement of CAIR NO_x ozone season allowances by the U.S. EPA into or between CAIR NO_x ozone season allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

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

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

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

(A) Atmospheric or pressurized fluidized bed combustion.

(B) Integrated gasification combined cycle.

(C) Magnetohydrodynamics.

(D) Direct and indirect coal-fired turbines.

(E) Integrated gasification fuel cells.

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

(69) "Sequential use of energy" means:

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

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

(70) "Serial number" means, for a CAIR NO_x ozone season allowance, the unique identification number assigned to each CAIR NO_x ozone season allowance by the U.S. EPA.
(71) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a solid waste incineration units as defined in the Clean Air Act, Section 129(g)(1).
(72) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.
(73) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rule:

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

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt by the department or U.S. EPA.
(74) "Title V operating permit" or "Part 70 operating permit" means a permit issued under 326 IAC 2-7.
(75) "Title V operating permit regulations" or "Part 70 operating permit regulations" means the rules under 326 IAC 2-7.
(76) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR NO_x ozone season emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 11 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.
(77) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.
(78) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself. Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

$$LHV = HHV - 10.55(W + 9H)$$

Where:	LHV	=	Lower heating value of fuel in Btu/hr.
	HHV	=	Higher heating value of fuel in Btu/hr.
	W	=	Weight % of moisture in fuel.
	H	=	Weight % of hydrogen in fuel.

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

(A) except as provided in clause (B), a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device; and
(B) solely for the purposes of applying the term "large affected unit", a fossil-fuel-fired:
    (i) stationary boiler;
    (ii) combustion turbine; or
    (iii) combined cycle system.

(81) "Unit operating day" means a calendar day in which a unit combusts any fuel.
(82) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.
(83) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.
(84) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

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

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-3-2; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-3-3 Retired unit exemption

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

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

(b) Any CAIR NO_x ozone season unit that is permanently retired and is not a CAIR NO_x ozone season opt-in unit under section 12 of this rule shall be exempt from the CAIR NO_x ozone season trading program, except for the provisions of this section, sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, and 8 through 10 of this rule.

(c) The exemption under this section shall become effective the day on which the CAIR NO_x ozone season unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

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

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

(2) The department shall allocate CAIR NO_x ozone season allowances under section 8 of this rule to the unit.

(3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(4) The owners and operators and, to the extent applicable, the CAIR designated representative of the unit shall comply with the requirements of the CAIR NO_x ozone season trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(5) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under 326 IAC 2-7 or FESOP under 326 IAC 2-8, the unit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days or such lesser time provided by the department, before the later of January 1, 2009, or the date on which the unit resumes operation.

(6) A unit exempt under this section shall lose its exemption on the earlier of the following dates:

(A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (5).

(B) The date on which the CAIR designated representative is required under subdivision (5) to submit a CAIR permit application for the unit.

(C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a

CAIR permit application for the unit.

(7) For the purpose of applying monitoring, reporting, and record keeping requirements under section 11 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

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

326 IAC 24-3-4 Standard requirements

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

Sec. 4. (a) The owners and operators, and CAIR designated representative of each CAIR NO_x ozone season source shall comply with the following permit requirements:

(1) The CAIR designated representative of each CAIR NO_x ozone season source required to have a federally enforceable permit and each CAIR NO_x ozone season unit required to have a federally enforceable permit at the source shall submit the following to the department:

(A) A complete CAIR permit application under section 7(c) of this rule in accordance with the deadlines specified in section 7(b)(1) of this rule.

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

(2) The owners and operators of each CAIR NO_x ozone season source required to have a federally enforceable permit and each CAIR NO_x ozone season unit required to have a federally enforceable permit at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 12 of this rule, the owners and operators of a CAIR NO_x ozone season source that is not otherwise required to have a federally enforceable permit and each CAIR NO_x ozone season unit that is not otherwise required to have a federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR NO_x ozone season source and such CAIR NO_x ozone season unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR NO_x ozone season source and CAIR NO_x ozone season unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

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

(2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each CAIR NO_x ozone season source with the CAIR NO_x ozone season emissions limitation under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR NO_x ozone season source and CAIR NO_x ozone season unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source shall hold, in the source's compliance account, CAIR NO_x ozone season allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_x ozone season units at the source, as determined in accordance with section 11 of this rule.

(2) A CAIR NO_x ozone season unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of May 1, 2009 or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1), 11(c)(2), 11(c)(3), or 11(c)(7) of this rule and for each control period thereafter.

(3) A CAIR NO_x ozone season allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR NO_x ozone season allowance was allocated.

(4) CAIR NO_x ozone season allowances shall be held in, deducted from, or transferred into or among CAIR NO_x ozone season allowance tracking system accounts in accordance with sections 9, 10, and 12 of this rule.

(5) A CAIR NO_x ozone season allowance is a limited authorization to emit one (1) ton of nitrogen oxides in accordance with the CAIR NO_x ozone season trading program. No provision of the CAIR NO_x ozone season trading program, the CAIR

permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the state of Indiana or the United States to terminate or limit such authorization.

(6) A CAIR NO_x ozone season allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO_x ozone season allowance to or from a CAIR NO_x ozone season source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) If a CAIR NO_x ozone season source emits nitrogen oxides during any control period in excess of the CAIR NO_x ozone season emissions limitation, then:

(1) the owners and operators of the source and each CAIR NO_x ozone season unit at the source shall surrender the CAIR NO_x ozone season allowances required for deduction under section 9(j)(4) of this rule and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law; and

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

(e) Owners and operators of each CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source shall comply with the following record keeping and reporting requirements:

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

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

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

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

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

(2) The CAIR designated representative of a CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source shall submit the reports required under the CAIR NO_x ozone season trading program, including those under section 11 of this rule.

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

(1) Each CAIR NO_x ozone season source and each CAIR NO_x ozone season unit shall meet the requirements of the CAIR NO_x ozone season trading program.

(2) Any provision of the CAIR NO_x ozone season trading program that applies to a CAIR NO_x ozone season source or the CAIR designated representative of a CAIR NO_x ozone season source shall also apply to the owners and operators of such source and of the CAIR NO_x ozone season units at the source.

(3) Any provision of the CAIR NO_x ozone season trading program that applies to a CAIR NO_x ozone season unit or the CAIR designated representative of a CAIR NO_x ozone season unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR NO_x ozone season trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO_x ozone season source or CAIR NO_x ozone season unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act. *(Air Pollution Control Division; 326 IAC 24-3-4; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-3-5 Computation of time and appeal procedures

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

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

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

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO_x ozone season trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the CAIR NO_x ozone season trading program will follow those procedures set forth in 40 CFR 78*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-3-5; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-3-6 CAIR designated representative for CAIR NO_x ozone season sources

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

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

(b) The CAIR designated representative of the CAIR NO_x ozone season source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_x ozone season units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by its representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_x ozone season source represented and each CAIR NO_x ozone season unit at the source in all matters pertaining to the CAIR NO_x ozone season trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No CAIR permit shall be issued, no emissions data reports shall be accepted, and no CAIR NO_x ozone season allowance tracking system account shall be established for a CAIR NO_x ozone season unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a CAIR designated representative of the source and the CAIR NO_x ozone season units at the source.

(e) The following shall apply to submissions made under the CAIR NO_x ozone season trading program:

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

(2) The department and U.S. EPA will accept or act on a submission made on behalf of owner or operators of a CAIR NO_x ozone season source or a CAIR NO_x ozone season unit only if the submission has been made, signed, and certified in

accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a CAIR NO_x source choose to designate an alternate CAIR designated representative:

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

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

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

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

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

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

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

(A) In the event an owner or operator of a CAIR NO_x ozone season source or a CAIR NO_x ozone season unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.

(B) Within thirty (30) days following any change in the owners and operators of a CAIR NO_x ozone season source or a CAIR NO_x ozone season unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

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

(1) Identification of the CAIR NO_x ozone season source, and each CAIR NO_x ozone season unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

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

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

(4) The following certification statements by the CAIR designated representative and any alternate CAIR designated representative: "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO_x ozone

season unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x ozone season trading program on behalf of the owners and operators of the source and of each CAIR NO_x ozone season unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each CAIR NO_x ozone season unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO_x ozone season unit, or where a utility or industrial customer purchases power from a CAIR NO_x ozone season unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_x ozone season unit at the source; and CAIR NO_x ozone season allowances and proceeds of transactions involving CAIR NO_x ozone season allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_x ozone season allowances by contract, CAIR NO_x ozone season allowances and proceeds of transactions involving CAIR NO_x ozone season allowances will be deemed to be held or distributed in accordance with the contract.".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice

of delegation is superseded by another notice of delegation under 326 IAC 24-3-6(j)(4) shall be deemed to be an electronic submission by me.".

(ii) "Until this notice of delegation is superseded by another notice of delegation under 326 IAC 24-3-6(j)(4), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under 326 IAC 24-3-6(j) is terminated.".

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

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

(Air Pollution Control Division; 326 IAC 24-3-6; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)

326 IAC 24-3-7 Permit requirements

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

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

(1) For CAIR NO_x sources required to have a Part 70 operating permit under 326 IAC 2-7, the CAIR portion of the Part 70 permit shall be administered in accordance with 326 IAC 2-7, except as provided otherwise by this section and sections 3 and 12 of this rule.

(2) For CAIR NO_x sources required to have a FESOP under 326 IAC 2-8, the CAIR portion of the FESOP shall be administered in accordance with 326 IAC 2-8, except as provided otherwise by this section and sections 3 and 12 of this rule.

(3) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR NO_x ozone season source and the CAIR NO_x ozone season units at the source covered by the CAIR permit, all applicable CAIR NO_x ozone season trading program, CAIR NO_x annual trading program, and CAIR SO_2 trading program requirements and shall be a complete and separable portion of the Part 70 operating permit or FESOP.

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

(1) The CAIR designated representative of any CAIR NO_x ozone season source required to have a Part 70 operating permit or FESOP shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR NO_x ozone season unit at the source at least two hundred seventy (270) days before the later of January 1, 2009, or the date on which the CAIR NO_x ozone season unit commences commercial operation, except as provided in section 12(e) of this rule.

(2) For a CAIR NO_x ozone season source required to have a Part 70 operating permit or FESOP, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR NO_x ozone season unit at the source to renew the CAIR permit in accordance with 326 IAC 2-7-4(a)(1)(D) or 326 IAC 2-8-3(h), as applicable, except as provided in section 12(e) of this rule.

(c) A complete CAIR permit application shall include the following elements concerning the CAIR NO_x ozone season source for which the application is submitted:

(1) Identification of the CAIR NO_x ozone season source.

(2) Identification of each CAIR NO_x ozone season unit at the CAIR NO_x ozone season source.

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

(d) Each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under subsection (c).

(e) Each CAIR permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under section 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO_x ozone

season allowance to or from the compliance account of the CAIR NO_x ozone season source covered by the permit.

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

(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_x ozone season source's Part 70 operating permit or FESOP.

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

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

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

(Air Pollution Control Division; 326 IAC 24-3-7; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)

326 IAC 24-3-8 CAIR NO_x ozone season allowance allocations

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

Sec. 8. (a) The NO_x ozone season trading program budget allocated by the department under subsections (d) through (j) for each control period shall equal the total number of CAIR NO_x ozone season allowances apportioned to the CAIR NO_x ozone season units under section 1 of this rule for the control period, as determined by the procedures in this section. The total number of CAIR NO_x ozone season allowances that are available for each control period for allocation as CAIR NO_x ozone season allowances under this rule are fifty-five thousand seven hundred twenty-nine (55,729) tons in 2009 through 2014, and forty-nine thousand fifty (49,050) tons in 2015 and thereafter, apportioned as follows:

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

(A) forty-three thousand six hundred fifty-four (43,654) tons in 2009 through 2014 and thirty-eight thousand ninety-five (38,095) tons in 2015 and thereafter for CAIR NO_x ozone season units under section 1(a)(1) of this rule; and

(B) eight thousand five hundred sixty-four (8,564) tons in 2009 and eight thousand seven hundred twenty-seven (8,727) tons for large affected units under section 1(a)(2) of this rule for a control period during 2010 and thereafter.

(2) For new unit allocation set-asides:

(A) two thousand two hundred ninety-eight (2,298) tons in 2009 through 2014 and one thousand one hundred seventy-eight (1,178) tons in 2015 and thereafter for CAIR NO_x ozone season units under section 1(a)(1) of this rule; and

(B) ninety-eight (98) tons in 2009 and four hundred (400) tons in 2010 and thereafter for large affected units under section 1(a)(2) of this rule.

(3) For the energy efficiency and renewable energy allocation set-aside, one thousand one hundred fifteen (1,115) tons in 2009 and five hundred (500) tons in 2010 and thereafter.

(4) For a hardship set-aside for large affected units under section 1(a)(2) of this rule, one hundred fifty (150) tons in 2010 and thereafter.

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

(1) For CAIR NO_x ozone season units under section 1(a)(1) and large affected units under 1(a)(2) of this rule, an initial five (5) year allocation and then a six (6) year allocation that is recorded six (6) years in advance of the 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 CAIR NO_x ozone season allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (d), and (e) for the control periods in 2010, 2011, 2012, 2013, and 2014.

(B) By October 31, 2008, and October 31 every six (6) years thereafter, the department shall submit to the U.S. EPA the CAIR NO_x ozone season allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (d), and (e), for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowance allocation.

(C) By July 31, 2009 and July 31 of each year thereafter, the department shall submit to the U.S. EPA the CAIR NO_x

ozone season allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (f) through (h), for the control period in the year of the applicable deadline for submission under this rule.

(D) For the 2009 control period, the CAIR NO_x ozone season allowances are the 2009 ozone season allowances issued under 326 IAC 10-4-9 that have been recorded by U.S. EPA as of the effective date of this rule.

(2) The department shall make available for review to the public the CAIR NO_x allowance allocations under subdivision (1)(B) on July 31 of each year allocations are made and shall provide a thirty (30) day opportunity for submission of objections to the CAIR NO_x allowance allocations. Objections shall be limited to addressing whether the CAIR 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.

(c) The baseline heat input, in million British thermal units (MMBtu), used with respect to CAIR NO_x ozone season allowance allocations under subsection (d) for each CAIR NO_x ozone season unit shall be:

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

(A) For a CAIR NO_x ozone season allowance allocation under subsection (b)(1)(A), the average of the three (3) highest amounts of the unit's adjusted control period heat input for 1998 through 2005, with the adjusted control period heat input for each year calculated as follows:

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

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

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

(B) For a CAIR NO_x ozone season allowance allocation under subsection (b)(1)(B), the unit's average of the three (3) highest amounts of the unit's adjusted control period heat input for the eight (8) years before when the CAIR NO_x ozone season allocation is being calculated, with the adjusted control period heat input for each year calculated as follows:

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

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

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

(2) For units commencing operation on or after January 1, 2001, and operating each calendar year during a period of three (3) or more consecutive calendar years, the average of the three (3) highest amounts of the unit's total converted control period heat input for the years before when the CAIR NO_x ozone season allocation is being calculated, not to exceed eight (8).

(3) A unit's control period heat input, and a unit's status as coal-fired or not coal-fired, for a calendar year under subdivision (1), and a unit's total tons of NO_x ozone season emissions during a control period in a calendar year under subsection (e)(3), shall be determined in accordance with 40 CFR 75*, to the extent the unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75* for the year.

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

(A) The control period gross electrical output of the generator or generators served by the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) for coal-fired units or seven thousand six hundred (7,600) British thermal units per kilowatt hour (Btu/kWh) for a unit that is not coal-fired divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu), provided that if a generator is served by two (2) or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year.

(B) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial,

heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) plus the useful energy, in British thermal units (Btu), produced during the control period divided by eight-tenths (0.8), and with the sum divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu).

(d) The department shall allocate CAIR NO_x ozone season allowances to all CAIR NO_x ozone season units under section 1(a)(1) of this rule as follows:

(1) For the control period in 2009, the CAIR NO_x ozone season allowances are the 2009 ozone season allowances issued under 326 IAC 10-4-9 that have been recorded by U.S. EPA as of the effective date of this rule.

(2) For each control period in 2010 and thereafter, the department shall allocate to all CAIR NO_x ozone season units that have a baseline heat input, as determined under subsection (c), a total amount of CAIR NO_x ozone season allowances as listed in subsection (a)(1), except as provided in subsection (f).

(3) The department shall allocate CAIR NO_x ozone season allowances to each CAIR NO_x ozone season unit under this subsection, except large affected units, in an amount determined by multiplying the total amount of CAIR NO_x ozone season allowances allocated under this subsection by the ratio of the baseline heat input of such CAIR NO_x ozone season unit to the total amount of baseline heat input of all such CAIR NO_x ozone season units and rounding to the nearest whole allowance as appropriate.

(e) The department shall allocate CAIR NO_x ozone season allowances to each large affected unit under section 1(a)(2) of this rule as follows:

(1) For the control period in 2009, the CAIR NO_x ozone season allowances are the 2009 ozone season allowances issued under 326 IAC 10-4-9 that have been recorded by U.S. EPA as of the effective date of this rule.

(2) For the control period in 2010 and thereafter, a fixed CAIR NO_x ozone season allowance allocation to the following large affected units:

Source	Unit	Allowances
(A) American Electric Power-Rockport	Auxiliary Boiler 1	2
	Auxiliary Boiler 2	2
(B) Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34

(3) For the control period in 2010 and thereafter, all large affected units that commenced operation before January 1, 2001, and not identified in subdivision (2), CAIR ozone season NO_x allowances will be allocated as follows:

(A) The target NO_x emission rate for purposes of allowance allocation for all large affected units that commenced operation before January 1, 2001, shall be as follows:

Source	Target NO_x Emission Rate (lb NO_x/MMBtu)
(i) BP Whiting Business (units 1SPS13, 1SPS14, 1SPS15, 1SPS16, 1SPS17, 3SPS31, 3SPS32, 3SPS33, 3SPS34, 3SPS36)	0.184
(ii) C.C. Perry Steam (units 11, 13, 14)	0.17
(iii) C.C. Perry Steam (unit 12)	0.368
(iv) C.C. Perry Steam (units 15, 16)	0.240
(v) Mittal Steel Indiana Harbor (units 211, 212, 213, 401, 402, 403, 404, 405, 501, 502, 503)	0.17
(vi) New Energy (unit U400)	0.24
(vii) Purdue University (units 1, 2)	0.24
(viii) Purdue University (unit 3)	0.17
(ix) Purdue University (unit 5)	0.24

(x) U.S. Steel - Gary Works (units 701 B1, B2, B3)	0.09
(xi) U.S. Steel - Gary Works (units 701 B5)	0.08
(xii) U.S. Steel - Gary Works (units 701 B6)	0.05
(xiii) U.S. Steel - Gary Works (units 720 B1, B2, B3)	0.06
(xiv) Warrick (units 1, 2, 3)	0.28

(B) The maximum design heat input based NO_x rate allocation shall be the product of the design heat input (Design HI), in million British thermal units per hour (MMBtu/hr), multiplied by three thousand six hundred seventy-two (3,672) hours multiplied by the target NO_x emission rate in clause (A), in pounds per million British thermal units (lb/MMBtu), multiplied by fifty percent (50%), and divided by two thousand (2,000). The Design HI, in million British thermal units per hour (MMBtu/hr), shall be the value supplied to the U.S. EPA in the RT504 field of the quarterly electronic data report (EDR) as required in section 11 of this rule or equivalent quality assured and certified data.

(C) The actual heat input based NO_x rate allocation shall be the product of the actual control period heat input multiplied by the target NO_x emission rate in clause (A) divided by two thousand (2,000) where:

(i) the unit's actual control period heat input shall be determined using one hundred twenty percent (120%) of the highest actual control period heat input recorded in:

(AA) the years 2000 through 2005 for an allocation under subsection (b)(1)(A); and

(BB) the eight (8) years before the year the CAIR NO_x ozone season allocation is being calculated under subsection (b)(1)(B); and

(ii) actual control period heat input shall be based on the best available data for each control period reported in accordance with section 11 of this rule and 40 CFR Part 75* or for control periods prior to 2008 certified accurate by a responsible official in accordance with 326 IAC 2-7-4(f).

(D) The total ozone season CAIR NO_x allocation shall be the sum of the maximum design heat input based NO_x rate allocation and actual heat input based NO_x rate allocation.

(E) If the initial total number of NO_x allowances allocated to all large affected units for a control period under this subsection does not equal the amount under subsection (a)(1)(B), the department shall adjust the total number of NO_x allowances allocated to all large affected units for the control period under this subdivision so that the total number of NO_x allowances allocated equals the amount under subsection (a)(1)(B) minus the allocations under subdivision (2). This adjustment shall be made by:

(i) multiplying each unit's allocation by the amount under subsection (a)(1)(B) minus the amounts allocated in subdivision (2); and

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

(f) For each control period in 2009 and thereafter, the department shall allocate CAIR NO_x ozone season allowances to CAIR NO_x ozone season units under section 1(a)(1) of this rule that commenced operation on or after January 1, 2001, and do not yet have a baseline heat input, as determined under subsection (c), in accordance with the following procedures:

(1) For CAIR NO_x ozone season units under section 1(a)(1) of this rule, the department shall establish a separate new unit set-aside for each control period equal to two thousand two hundred ninety-eight (2,298) tons for a control period during 2009 through 2014 and one thousand one hundred seventy-eight (1,178) tons for a control period during 2015 and thereafter.

(2) The CAIR designated representative of such a CAIR NO_x ozone season unit may submit to the department a request, in a format specified by the department, to be allocated CAIR NO_x ozone season allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO_x ozone season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x ozone season allowances under subsection (d). A separate CAIR NO_x ozone season allowance allocation request for each control period for which CAIR NO_x ozone season allowances are sought must be submitted on or before February 1 of such control period and after the date on which the CAIR NO_x ozone season unit commences commercial operation.

(3) In a CAIR NO_x ozone season allowance allocation request under subdivision (2), the CAIR designated representative may request for a control period CAIR NO_x ozone season allowances in an amount not exceeding the CAIR NO_x ozone season unit's total tons of NO_x ozone season emissions during the calendar year immediately before such control period.

(4) The department shall review each CAIR NO_x ozone season allowance allocation request under subdivision (2) and shall allocate CAIR NO_x ozone season allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after February 1 of the control period, the department shall determine the sum of the CAIR NO_x ozone season allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of CAIR NO_x ozone season allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of CAIR NO_x ozone season allowances requested, as adjusted under clause (A), to each CAIR NO_x ozone season unit covered by an allowance allocation request accepted under clause (A).

(D) If the amount of CAIR NO_x ozone season allowances in the new unit set-aside for the control period is less than the sum under clause (B), then the department shall allocate to each CAIR NO_x ozone season unit covered by an allowance allocation request accepted under clause (A) the amount of the CAIR NO_x ozone season allowances requested, as adjusted under clause (A), multiplied by the amount of CAIR NO_x ozone season allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(E) The department shall notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO_x ozone season allowances, if any, allocated for the control period to the CAIR NO_x ozone season unit covered by the request and submit to U.S. EPA according to section (b)(3).

(g) For each control period in 2009 and thereafter, the department shall allocate CAIR NO_x ozone season allowances to large affected units under section 1(a)(2) of this rule that commenced operation on or after January 1, 2001, in accordance with the following procedures:

(1) For large affected units under section 1(a)(2) of this rule, the department shall establish a separate new unit set-aside for each control period equal to ninety-eight (98) tons in 2009 and four hundred (400) tons in 2010 and thereafter.

(2) The CAIR designated representative of such a CAIR NO_x ozone season unit may submit to the department a request, in a format specified by the department, to be allocated CAIR NO_x ozone season allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO_x ozone season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO_x ozone season allowances under subsection (e). A separate CAIR NO_x ozone season allowance allocation request for each control period for which CAIR NO_x allowances are sought must be submitted on or before February 1 of such control period and after the date on which the CAIR NO_x ozone season unit commences commercial operation.

(3) In a CAIR NO_x ozone season allowance allocation request under subdivision (2), the CAIR designated representative may request for a control period CAIR NO_x ozone season allowances in an amount not exceeding the following for determining the total ozone season CAIR NO_x allocation:

(A) The target NO_x emission rate for allowance allocation purposes for units that commence operation on or after January 1, 2001, shall be determined as the lesser of seventeen-hundredths (0.17) lb/MMBtu or the federally enforceable limit on NO_x emissions found in any applicable permit or rule for the emissions unit, except that a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher may request allowances based on seventeen-hundredths (0.17) lb/MMBtu notwithstanding the allowable emission rate.

(B) The maximum design heat input based NO_x rate allocation shall be the product of the design heat input (Design HI), in million British thermal units per hour (MMBtu/hr), multiplied by three thousand six hundred seventy-two (3,672) hours multiplied by the target NO_x emission rate in clause (A), pound per million British thermal units per hour (lb/MMBtu), multiplied by fifty percent (50%), and divided by two thousand (2,000). The Design HI, in million British thermal units per hour (MMBtu/hr), shall be the value supplied to the U.S. EPA in the RT504 field of the quarterly electronic data report (EDR) as required in section 11 of this rule or equivalent quality assured and certified data.

(C) The actual heat input based NO_x rate allocation shall be the product of the actual control period heat input multiplied by the target NO_x emission rate in clause (A) divided by two thousand (2,000) where:

(i) the unit's actual control period heat input shall be determined using one hundred twenty percent (120%) of the highest actual control period heat input recorded in the calendar years, since the startup of the unit, immediately preceding the allocation year, not to exceed eight (8) years; and

(ii) actual control period heat input shall be based on the best available data for each control period reported in accordance with section 11 of this rule and 40 CFR Part 75*.

(D) The total ozone season CAIR NO_x allocation that may be requested shall be the sum of the maximum design heat input based NO_x rate allocation and actual heat input based NO_x rate allocation.

(4) The department shall review each CAIR NO_x ozone season allowance allocation request under subdivision (2) and shall allocate CAIR NO_x ozone season allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after February 1 of the control period, the department shall determine the sum of the CAIR NO_x ozone season allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of CAIR NO_x ozone season allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of CAIR NO_x ozone season allowances requested, as adjusted under clause (A), to each CAIR NO_x ozone season unit covered by an allowance allocation request accepted under clause (A).

(D) If the new unit set-aside for the 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), but the energy efficiency and renewable energy allocation set-aside or hardship set-aside for large affected units is under-subscribed, the department shall allocate the amount of the NO_x allowances requested with the difference allocated from the energy efficiency and renewable energy allocation or hardship set-aside.

(E) If the new unit set-aside for the 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), and the energy efficiency and renewable energy allocation set-aside or hardship set-aside for large affected units is over-subscribed, the department shall allocate the allocation set-aside on a pro rata basis, multiplied by the amount of CAIR NO_x ozone season allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(F) The department shall notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO_x ozone season allowances, if any, allocated for the control period to the CAIR NO_x ozone season unit covered by the request.

(5) Large affected units commencing operation after January 1, 2001, and allocated allowances under this subsection shall be eligible to receive allowances from the new unit set-aside until allocated allowances in accordance with the provisions of subsection (e). The inventory of sources in subsection (e) shall be updated prior to the allowance allocations in calendar year 2008 (for compliance years 2015-2020), in calendar year 2014 (for compliance years 2021-2026) and every six (6) years thereafter.

(h) If, after completion of the procedures under subsections (f), (g), and (i) for a control period, any unallocated CAIR NO_x ozone season allowances remain in a new unit set-aside for the control period, the department shall allocate to each CAIR NO_x ozone season unit that was allocated CAIR NO_x ozone season allowances under subsection (d) an amount of CAIR NO_x ozone season allowances equal to the following:

(1) For CAIR NO_x units under section 1(a)(1), the total amount of such remaining unallocated CAIR NO_x ozone season allowances, multiplied by the unit's allocation under subsection (d), divided by forty-three thousand six hundred fifty-four (43,654) for a control period during 2009 through 2014, and thirty-eight thousand ninety-five (38,095) for a control period during 2015 and thereafter.

(2) For large affected units, the total amount of such remaining unallocated CAIR NO_x ozone season allowances, multiplied by the unit's allocation under subsection (d), divided by eight thousand five hundred sixty-four (8,564) in 2009 and eight thousand seven hundred twenty-seven (8,727) in 2010 and thereafter.

(i) For projects that reduce NO_x emissions through the implementation of energy efficiency or renewable energy measures,

or both, implemented during a control period beginning May 1, 2009, the department shall allocate NO_x allowances in accordance with the following procedures:

(1) The energy efficiency and renewable energy allocation set-aside shall be allocated NO_x allowances equal to one thousand one hundred fifteen (1,115) tons in 2009 and five hundred (500) tons in 2010 and thereafter.

(2) Any person may submit to the department a request, in writing, or in a format specified by the department, for NO_x allowances as follows:

(A) Sponsors of energy efficiency or renewable energy projects in section 2(40)(A) through 2(40)(H) of this rule may request the reservation of NO_x allowances, for one (1) control period in which the project is implemented. Project sponsors may reapply each year, not to exceed five (5) control periods for energy efficiency projects in sections 2(40)(A), 2(40)(B), 2(40)(E), and 2(40)(F) of this rule and for an unlimited number of years for projects in sections 2(40)(C), 2(40)(D), and 2(40)(H) of this rule. Requests for allowances may be made for projects implemented two (2) years before the effective date of this rule. 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.

(B) The NO_x allowance allocation request must be submitted by May 1 of the calendar year for which the NO_x allowance allocation is requested.

(C) The NO_x allowance allocation request for an integrated gasification combined cycle project under section 2(40)(G) of this rule must be submitted by May 1 of the calendar year for which the NO_x allowance allocation is requested and after the date on which the department issues a permit to construct the CAIR NO_x unit. For integrated gasification combined cycle projects, project sponsors may request the reservation of NO_x allowances, based on the number of kilowatt hours of electricity generated based on an eighty-five percent (85%) capacity factor and expected heat rate of the unit. Project sponsors may reapply each year, not to exceed five (5) control periods. Requests for allowances may be made only for integrated gasification combined cycle projects which first start commercial operations in 2009 and beyond.

(3) In a NO_x allowance allocation request made under this subsection, the CAIR designated representative may request for a control period, NO_x allowances not to exceed the following:

(A) Projects in section 2(40)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or nonutility third parties receive allowances based upon the number of kilowatt hours of electricity saved during a control period and the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.0015)/2{,}000$$

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.

(B) Projects in section 2(40)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by electric generating units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.00075/2{,}000)$$

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.

(C) Projects in section 2(40)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not CAIR NO_x ozone season units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2}))/2{,}000$$

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

Et1 = Energy consumed per ozone control period before project implementation.

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

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

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

NPt1 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units before 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.

(D) Projects in section 2(40)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are CAIR NO_x ozone season units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((Et1/Pt1) - (Et2/Pt2)) \times Pt2 \times NPt2 \times (NPt1/NPt2) \times 0.5)/2{,}000$$

Where:

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

Et1 = Energy consumed per ozone control period before project implementation.

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

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

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

NPt1 = NO_x produced during the production process, measured in pounds per million British thermal units before project implementation.

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

Product produced, as used in the formulas in this clause and clause (C), 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.

(E) Projects in section 2(40)(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(40)(B) of this rule, that are not CAIR NO_x ozone season units under section 1 of this rule 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 a control period and the following formula:

$$\text{Allowances} = (kWG \times (0.0015 - NO_x))/2{,}000$$

Where:

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

kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

NO_x = The amount of NO_x produced during the generation of electricity, measured in pounds per kilowatt hour.

(F) Projects in section 2(40)(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(40)(B) of this rule, that are not CAIR NO_x ozone season units under section 1 of this rule 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:

$$\text{Allowances} = (NO_x \text{ conventional} - NO_x \text{ CHP})/2{,}000$$

Where:

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

NO_x conventional = $[(0.15 \times 3{,}412 \times kWG / 0.34) + (0.17 \times HeatOut / 0.8)] / 1{,}000{,}000$

NO_x CHP = $(BtuIn \times NO_xRate)/1{,}000{,}000$

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.

NO_xRate = NO_x emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.

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

(G) Projects in section 2(40)(B) and 2(40)(G) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells; or integrated gasification combined cycle, 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 receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

$$\text{Allowances} = (\text{kWG} \times (0.0015 - NO_x) \times 0.5)/2{,}000$$

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

(H) Projects in section 2(40)(C) and 2(40)(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:

$$\text{Allowances} = (\text{kWG} \times 0.0015)/2{,}000$$

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.

(I) Projects in section 2(40)(E) through 2(40)(G) 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:

$$\text{Allowances} = ((\text{Et1} - \text{Et2}) \times \text{h}) \times 0.5)/2{,}000$$

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.

(J) Projects in section 2(40)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are large affected units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} \times NO_x \times 0.5)/2{,}000)$$

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

(K) Projects in section 2(40)(A) of this rule based upon energy efficiency other than electricity savings shall be awarded allowances according to the following formula:

$$\text{Allowances} = (NO_x \text{ Rate} \times \text{HeatOut} / 0.8)/1{,}000{,}000/2{,}000$$

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

(L) Projects in section 2(40)(H) of this rule using renewable energy to displace coal, natural gas, or oil combustion and reduce NO_x emissions shall be awarded allowances according to the following formula:

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

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

Fuel-Input = The amount of heat input, in Btu, from the renewable energy.

(M) Projects in section 2(40)(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(40)(B) of this rule, that are large affected units as defined in section 2 of this rule, receive allowances based upon the net amount of energy generated and used during an ozone control period and the following formula:

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

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

NO_x conventional = [(0.15 × 3,412 × kWG / 0.34) + (0.17 × HeatOut / 0.8)] / 1,000,000

NO_x CHP = (BtuIn × NO_xRate)/1,000,000

Where: kWG = The number of net kilowatt hours of electricity generated during 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.

NO_xRate = NO_x emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.

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

(4) The department shall review, and reserve CAIR NO_x allowances pursuant to, each allowance allocation request by July 31 each year as follows:

(A) Upon receipt of the NO_x allowance allocation request, the department shall make any necessary adjustments to the request to ensure that the number of allowances specified in the request is consistent with the requirements of subdivision (3).

(B) If the energy efficiency and renewable energy allocation set-aside for the 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 reserve the amount of the NO_x allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects.

(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 less than the number requested, as adjusted under clause (A), but the new unit set-aside or hardship set-aside for large affected units is under-subscribed, the department shall reserve the amount of the NO_x allowances requested with the difference reserved from the new unit or hardship set-aside.

(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), and the new unit set-aside and hardship set-aside for large affected units are over-subscribed, the department shall reserve the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(40)(A), 2(40)(C), 2(40)(D), and 2(40)(H) of this rule shall be reserved first, reserved for projects under section 2(40)(B) and 2(40)(G) of this rule second, reserved for projects under section 2(40)(E) of this rule third, and reserved for projects under section 2(40)(F) of this rule fourth.

(E) Any unreserved allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unreserved allowances shall be retained by the state to fund a grant program for energy efficiency and renewable energy projects. The grant program projects do not need to meet the one (1) tons of NO_x emissions for singular or aggregated projects under subdivision (2). The unreserved NO_x allowances shall be deposited in a general allowance account established in accordance with this rule by the Indiana office of energy and defense development in accordance with the allowance allocation requirements of this rule, subject to the following:

(AA) The Indiana office of energy and defense development shall deposit revenue from the sale of unreserved NO_x allowances in a dedicated general NO_x account established by this rule used exclusively

to provide matching grant funds for energy efficiency and renewable energy projects, including, but not limited to, the purchase and installation of alternative energy systems and programs to support energy efficiency projects.

(BB) The Indiana office of energy and defense development shall hold the unreserved NO_x allowances in a general NO_x account until such time that project(s) are approved for grant funding, at which time NO_x allowances shall be sold to provide cash dollars for the grant funding.

(CC) Revenue from the sale of unreserved NO_x allowances held by the state of Indiana through the Indiana office of energy and defense development shall not revert to the state general fund, and shall only be used to provide matching grant funds for the installation of energy efficiency and renewable energy projects as defined in this subsection.

(DD) Effective November 1, 2009, and annually thereafter, the Indiana office of energy and defense development shall provide a report to the commissioner and the air pollution control board regarding the allowance transaction activity and the distribution and the balance of the matching grant funds for energy efficiency and renewable energy projects during that period. At a minimum, the report shall contain the following:

(aa) The number of NO_x allowances currently held in general NO_x account(s) by the Indiana office of energy and defense development.

(bb) A summary of transactions in the market, including the date(s) of transactions, the number of allowances transacted, and the distribution of proceeds from transactions (including brokerage fees).

(cc) The distribution of grant funding by recipient.

(dd) A full description of type of project(s) funded.

(ee) A summary of the benefits of each project.

(EE) If at any time after November 1, 2009, the total number of unreserved ozone season NO_x allowances held by the Indiana office of energy and defense development is greater than five hundred (500) tons, fifty percent (50%) of the total amount of NO_x allowances shall be returned to the department for redistribution to existing large affected units on a pro rata basis.

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

(5) After the completion of the control period for which CAIR ozone season NO_x allowances had been reserved, the project sponsor shall submit the results of the actual savings or generation by October 31 of that year. Allowances shall be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department shall consult the Indiana office of energy and defense development concerning verification and certification.

(6) The department shall allocate the appropriate amount of CAIR NO_x allowances based on the review of the submittal of actual savings or generation results under subdivision (5) and notify the CAIR NO_x designated representative that submitted the request and the U.S. EPA of the number of NO_x allowances allocated for the control period by March 31 of each year. Any person to whom the department allocates NO_x allowances shall establish a general account under section 9(b) of this rule.

(j) The department shall make available CAIR NO_x ozone season allowances from the hardship set-aside for large affected units under section 1(a)(2) of this rule. The amount of CAIR NO_x ozone season allowances in the set-aside shall equal one hundred fifty (150) tons in 2010 and thereafter. The department shall allocate CAIR NO_x ozone season allowances as follows:

(1) The CAIR NO_x designated representative shall submit a request by May 1 of the year for which CAIR NO_x ozone season allowances are needed that includes the following:

(A) A demonstration that compliance with this rule absent hardship allowances could pose an unacceptable risk either to the source's own operation or its associated industry.

(B) A demonstration that the cost of compliance with the requirements in this rule will not be cost-effective without an allocation of hardship allowances. The owner or operator can show that it meets this cost factor if the unit's average cost of seasonal compliance with requirements in this rule will exceed two thousand four hundred dollars ($2,400) per ton of NO_x reduced. Such a showing can be based on cost methodology assessments or engineering studies which are

reliably indicative of NO_x compliance costs for these entities, including data produced through the use of the U.S. EPA Air Pollution Control Cost Manual.

(2) If the hardship set-aside for the control period for which NO_x ozone season allowances are requested has an amount of NO_x allowances less than the number requested, but the energy efficiency and renewable energy allocation set-aside or new unit set-aside for large affected units is under-subscribed, the department shall allocate the amount of the NO_x ozone season allowances requested with the difference allocated from the energy efficiency and renewable energy allocation or new unit set-aside.

(3) If the hardship set-aside for the control period for which NO_x ozone season allowances are requested has an amount of NO_x allowances less than the number requested and the energy efficiency and renewable energy set-aside or new unit set-aside for large affected units is over-subscribed, the department shall allocate NO_x allowances from the hardship set-aside on a pro rata basis.

(4) Any unallocated allowances shall be distributed to existing large affected units on a pro rata basis.

(5) Any transfer of allowances under this subsection shall be submitted to U.S. EPA by July 31 of each year.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-3-8; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-3-9 CAIR NO_x ozone season 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. 9. (a) Except as provided in section 12(f)(7) of this rule, upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the CAIR NO_x ozone season source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_x ozone season allowances. An application for a general account may designate one (1) and only one (1) CAIR authorized account representative and one (1) and only one (1) alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative. The establishment of the 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 CAIR authorized account representative and any alternate CAIR authorized account representative:

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

(B) Organization name and type of organization, if applicable.

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

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_x ozone season allowances held in the general account. I certify

that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_x ozone season trading program on behalf of such persons and that each such 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 CAIR authorized account representative and any alternate CAIR 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 application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(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 CAIR authorized account representative and any alternate CAIR 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 CAIR NO_x ozone season allowances held in the general account in all matters pertaining to the CAIR NO_x ozone season trading program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(D) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO_x ozone season allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO_x ozone season 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.".

(E) 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 (D).

(3) The following shall apply to changing the CAIR authorized account representative or alternate CAIR authorized account representative, and changes in persons with ownership interest:

(A) The CAIR 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 subsection (b)(1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x ozone season allowances in the general account.

(B) The alternate CAIR 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 subsection (b)(1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_x ozone season allowances in the general account.

(C) In the event a person having an ownership interest with respect to CAIR NO_x ozone season allowances in the

general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list.

(D) Within thirty (30) days following any change in the persons having an ownership interest with respect to CAIR NO_x ozone season allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR 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 CAIR NO_x ozone season 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)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the U.S. EPA under the CAIR NO_x ozone season 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 CAIR authorized account representative or any alternative CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO_x ozone season allowance transfers.

(7) The following shall apply to delegation by the CAIR authorized account representative and alternate CAIR authorized account representative:

(A) A CAIR authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under sections 9 and 10 of this rule.

(B) An alternate CAIR authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under sections 9 and 10 of this rule.

(C) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with clause (A) or (B), the CAIR authorized account representative or the alternate CAIR authorized account representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

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

(AA) The CAIR authorized account representative or alternate CAIR authorized account representative.

(BB) Each natural person, referred to as an "agent".

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

(iii) The following certification statements by such CAIR authorized account representative or alternate CAIR authorized account representative:

(AA) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR authorized account representative or alternate CAIR authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 326 IAC 24-3-9(b)(7)(D) shall be deemed to be an electronic submission by me.".

(BB) "Until this notice of delegation is superseded by another notice of delegation under 326 IAC 24-3-9(b)(7)(D), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under 326 IAC 24-3-9(b)(7) is terminated.".

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

(E) Any electronic submission covered by the certification in clause (C)(iii)(AA) and made in accordance with a notice of delegation effective under clause (D) shall be deemed to be an electronic submission by the CAIR authorized account representative or alternate CAIR authorized account representative submitting such notice of delegation.

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

(d) Following the establishment of a CAIR NO_x ozone season 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 CAIR NO_x ozone season allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(e) By September 30, 2007, the U.S. EPA will record in the CAIR NO_x ozone season source's compliance account the CAIR NO_x ozone season allowances allocated for the CAIR NO_x ozone season units at the source, as submitted by the department in accordance with section 8(b)(1)(A) of this rule, for the control periods in 2010, 2011, 2012, 2013, and 2014.

(f) By December 1, 2008, and December 1 every six (6) years thereafter, the U.S. EPA will record in the CAIR NO_x ozone season source's compliance account the CAIR NO_x ozone season allowances allocated for the CAIR NO_x ozone season units at the source, as submitted by the department in accordance with section 8(b)(1)(B) of this rule, for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowance allocation.

(g) By September 1, 2009, and September 1 of each year thereafter, the U.S. EPA will record in the CAIR NO_x ozone season source's compliance account the CAIR NO_x ozone season allowances allocated for the CAIR NO_x ozone season units at the source, as submitted by the department in accordance with section 8(b)(1)(C) of this rule, for the control period in the year of the applicable deadline for recordation under this subsection.

(h) When recording the allocation of CAIR NO_x ozone season allowances for a CAIR NO_x ozone season unit in a compliance account, the U.S. EPA will assign each CAIR NO_x ozone season allowance a unique identification number that shall include digits identifying the year of the control period for which the CAIR NO_x ozone season allowance is allocated.

(i) The CAIR NO_x ozone season allowances are available to be deducted for compliance with a source's CAIR NO_x ozone season emissions limitation for a control period in a given calendar year only if the CAIR NO_x ozone season allowances:

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

(2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_x ozone season allowance transfer correctly submitted for recordation under section 10(a) through 10(d) of this rule by the allowance transfer deadline for the control period.

(j) The following shall apply to deductions for purposes of compliance with a source's emissions limitation:

(1) Following the recordation, in accordance with section 10(b) and 10(c) of this rule, of CAIR NO_x ozone season allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account CAIR NO_x ozone season allowances available under subsection (i) in order to determine whether the source meets the CAIR NO_x ozone season emissions limitation for the control period in one (1) of the following ways:

(A) Until the amount of CAIR NO_x ozone season allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with section 11 of this rule, from all CAIR NO_x ozone season units at the source for the control period.

(B) If there are insufficient CAIR NO_x ozone season allowances to complete the deductions in clause (A), until no more CAIR NO_x ozone season allowances available under subsection (i) remain in the compliance account.

(2) The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO_x ozone season allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1) or (4). Such request shall be submitted to the U.S. EPA by the allowance transfer deadline for the control period and include, in a format prescribed by the U.S. EPA, the identification of the CAIR NO_x ozone season source and the appropriate serial numbers.

(3) The U.S. EPA will deduct CAIR NO_x ozone season allowances under subdivision (1) or (4) from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_x ozone season allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any CAIR NO_x ozone season allowances that were allocated to the units at the source, in the order of recordation.

(B) Any CAIR NO_x ozone season allowances that were allocated to any entity and transferred and recorded in the compliance account under section 10 of this rule, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the CAIR NO_x ozone season source has excess emissions, the U.S. EPA will deduct from the source's compliance account an amount of CAIR NO_x ozone season allowances, allocated for the control period in the immediately following calendar year, equal to three (3) times the number of tons of the source's excess emissions.

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the CAIR NO_x ozone season source or the CAIR NO_x ozone season units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an account under subdivisions (1), (4), and (5) and section 12 of this rule.

(7) The U.S. EPA may review and conduct independent audits concerning any submission under the CAIR NO_x ozone season trading program and make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may deduct CAIR NO_x ozone season allowances from or transfer CAIR NO_x ozone season allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7), and record such deductions and transfers.

(k) CAIR NO_x ozone season allowances may be banked for future use or transfer in a compliance account or a general account. Any CAIR NO_x ozone season allowance that is held in a compliance account or a general account shall remain in such account unless and until the CAIR NO_x ozone season allowance is deducted or transferred under subsection (i), (j), or (l) or section 10 or 12 of this rule.

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

(m) The CAIR authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 10(a) through 10(d) of this rule for any CAIR NO_x ozone season allowances in the account to one (1) or more other CAIR NO_x ozone season allowance tracking system accounts.

(n) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any CAIR NO_x ozone season allowances, the U.S. EPA may notify the CAIR authorized account representative for the account that the account will be closed following twenty (20) business days after the notice is sent. The account will be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a correctly submitted transfer of CAIR NO_x ozone season allowances into the account under section 10(a) through 10(d) of this rule or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed. *(Air Pollution Control Division; 326 IAC 24-3-9; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

326 IAC 24-3-10 CAIR NO_x ozone season allowance transfers

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

Sec. 10. (a) A CAIR authorized account representative seeking recordation of a CAIR NO_x ozone season allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the CAIR NO_x ozone season allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

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

(2) The serial number of each CAIR NO_x ozone season allowance that is in the transferor account and is to be transferred.

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

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

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

(2) The transferor account includes each CAIR NO_x ozone season allowance identified by serial number in the transfer.

(c) A CAIR NO_x ozone season allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO_x ozone season allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under section 9(i) and 9(j) of this rule for the control period immediately before such allowance transfer deadline.

(d) Where a CAIR NO_x ozone season allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record such transfer.

(e) The following notification requirements shall apply to CAIR NO_x allowance transfers:

(1) Within five (5) business days of recordation of a CAIR NO_x ozone season allowance transfer under subsections (b) and (c) the U.S. EPA will notify the CAIR authorized account representatives of both the transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a CAIR NO_x ozone season allowance transfer that fails to meet the requirements of subsection (b), the U.S. EPA will notify the CAIR authorized account representatives of both accounts subject to the transfer of the decision not to record the transfer and the reasons for such nonrecordation.

(f) Nothing in this section shall preclude the submission of a CAIR NO_x ozone season allowance transfer for recordation following notification of nonrecordation. *(Air Pollution Control Division; 326 IAC 24-3-10; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-3-11 Monitoring and reporting requirements

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

Sec. 11. (a) The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO_x ozone season unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H*. For purposes of complying with such requirements, the definitions in section 2 of this rule and 40 CFR 72.2* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75* shall be replaced by the terms CAIR NO_x ozone season unit, CAIR designated representative, and continuous emission monitoring system (CEMS) respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a CAIR NO_x ozone season unit but that is monitored under 40 CFR 75.72(b)(2)(ii)* shall comply with the same monitoring, record keeping, and reporting requirements as a CAIR NO_x ozone season unit.

(b) The owner or operator of each CAIR NO_x ozone season unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring NO_x ozone season mass emissions and individual unit heat input. This includes all systems required to monitor NO_x ozone season emission rate, NO_x ozone season concentration, stack gas moisture content, stack gas flow rate, CO_2 or O_2 concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71* and 40 CFR 75.72*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this section and 40 CFR 75* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a CAIR NO_x ozone season unit that commences commercial operation before July 1, 2007, by May 1, 2008.

(2) For the owner or operator of a CAIR NO_x ozone season unit that commences commercial operation on or after July 1, 2007, and that reports on an annual basis under subsection (n)(3), by the later of the following dates:

(A) May 1, 2008.

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR NO_x ozone season unit that commences commercial operation on or after July 1, 2007, and that reports on a control period basis under subsection (n)(3)(B)(ii), by the later of the following dates:

(A) If the compliance date under clause (B) is not during a control period, May 1 immediately following the compliance date under clause (B).

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(4) For the owner or operator of a CAIR NO_x ozone season unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivisions (1), (2), (6), or (7) and that reports on an annual basis under subsection (n)(3), compliance by the earlier of:

(A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or

(B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.

(5) For the owner or operator of a CAIR NO_x ozone season unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the applicable deadline under subdivision (1), (3), (6), or (7) and that reports on control period basis under subsection (n)(3)(B)(ii), by the later of the following dates:

(A) If the compliance date under clause (B) is not during a control period, May 1 immediately following the compliance date under clause (B).

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or

(ii) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.

(6) Notwithstanding the dates in subdivisions (1) through (3), for the owner or operator of a unit for which a CAIR NO_x ozone season opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, by the date specified in section 12(f)(2) through 12(f)(4) of this rule.

(7) Notwithstanding the dates in subdivisions (1), (2), and (3), for the owner or operator of a CAIR NO_x ozone season opt-in unit, by the date on which the CAIR NO_x ozone season opt-in unit under section 12 of this rule enters the CAIR NO_x ozone season trading program as provided in section 12(f)(9) of this rule.

(d) The owner or operator of a CAIR NO_x ozone season unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for NO_x concentration, NO_x emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_x mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3)*, 40 CFR 75, Appendix D, Section 2.4*, or 40 CFR 75, Appendix E, Section 2.5*, as applicable.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a CAIR NO_x ozone season unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a CAIR NO_x ozone season unit shall operate the unit so as to discharge, or allow to be discharged, NO_x ozone season emissions to the atmosphere without accounting for all such emissions in accordance with

the applicable provisions of this section and 40 CFR 75*.

(3) No owner or operator of a CAIR NO_x ozone season unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x ozone season mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75*.

(4) No owner or operator of a CAIR NO_x ozone season unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a CAIR NO_x ozone season unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21*, 40 CFR 75, Appendix B*, 40 CFR 75, Appendix D*, and 40 CFR 75, Appendix E* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) If the U.S. EPA has previously approved a petition under 40 CFR 75.17(a)* or 40 CFR 75.17(b)* for apportioning the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66* for an alternative to a requirement in 40 CFR 75.12* or 40 CFR 75.17*, the CAIR designated representative shall resubmit the petition to the U.S. EPA under subsection (o)(1) to determine whether the approval applies under the CAIR NO_x ozone season trading program.

(h) Except as provided in subsection (f), the owner or operator of a CAIR NO_x ozone season unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D* and 40 CFR 75, Appendix E*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions accepted monitoring methodology under 40 CFR 75.19* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this section in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO_x monitoring system under 40 CFR 75, Appendix E*, under subsection (b)(1) are subject to the recertification requirements

in 40 CFR 75.20(g)(6)*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words certification and initial certification with the word recertification, replace the word certified with the word recertified, and follow the procedures in 40 CFR 75.20(b)(5)* and 40 CFR 75.20(g)(7)* in lieu of the procedures in clause (E). Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The CAIR designated representative shall submit to the department, the appropriate EPA Regional Office, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)*. A provisionally certified monitoring system may be used under the CAIR NO_x ozone season trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application shall be deemed certified for use under the CAIR NO_x ozone season trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(iv) The department or, for a CAIR NO_x ozone season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (l).

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)*, 40 CFR

75.20(g)(7)*, or 40 CFR 75.21(e)* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i)* or 40 CFR 75.20(g)(7)*:

(AA) For a disapproved NO_x emission rate, NO_x-diluent, system, the maximum potential NO_x emission rate, as defined in 40 CFR 72.2*.

(BB) For a disapproved NO_x pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_x and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.2.1 and 2.1.4.1*.

(CC) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO_2 concentration or the minimum potential O_2 concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2*.

(DD) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1*.

(EE) For a disapproved excepted NO_x ozone season monitoring system under 40 CFR 75, Appendix E, the fuel-specific maximum potential NO_x ozone season emission rate, as defined in 40 CFR 72.2*.

(ii) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

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

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

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75*, data shall be substituted using the applicable missing data procedures in 40 CFR, Subpart D*, 40 CFR 75, Subpart H*, 40 CFR 75, Appendix D*, or 40 CFR 75, Appendix E*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f) through (j) or the applicable provisions of 40 CFR 75*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR NO_x ozone season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection and subsection (k), an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

(m) The CAIR designated representative for a CAIR NO_x ozone season unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61*.

(n) The CAIR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements under 40 CFR 75.73*, and the requirements of section 6(e)(1) of this rule as follows:

(1) The owner or operator of a CAIR NO_x ozone season unit shall comply with requirements of 40 CFR 75.73(c)* and 40

CFR 75.73(e)* and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule.

(2) The CAIR designated representative shall submit an application to the department within forty (45) days after completing all initial certification or recertification tests required under subsections (f) through (j), including the information required under 40 CFR 75.63*.

(3) The CAIR designated representative shall submit quarterly reports as follows:

(A) If the CAIR NO_x ozone season unit is subject to an acid rain emissions limitation or a CAIR NO_x emissions limitation or if the owner or operator of such unit chooses to report on an annual basis under this section, the CAIR designated representative shall meet the requirements of 40 CFR 75, Subpart H*, concerning monitoring of NO_x mass emissions, for such unit for the entire year and shall report the NO_x mass emissions data and heat input data for such unit, in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008, through June 30, 2008;

(ii) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering May 1, 2008, through June 30, 2008;

(iii) notwithstanding items (i) and (ii), for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the calendar quarter corresponding to the date specified in section 12(f)(2), 12(f)(3), and 12(f)(4) of this rule; and

(iv) notwithstanding items (i) and (ii), for a CAIR NO_x opt-in unit under section 12 of this rule, the calendar quarter corresponding to the date on which the CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program as provided in section 12(f)(9) of this rule.

(B) If the CAIR NO_x ozone season unit is not subject to an acid rain emissions limitation or a CAIR NO_x emissions limitation, then the CAIR designated representative shall meet either of the following:

(i) Meet the requirements of 40 CFR 75, Subpart H*, concerning monitoring of NO_x mass emissions, for such unit for the entire year and report the NO_x mass emissions data and heat input data for such unit in accordance with clause (A).

(ii) Meet the requirements of 40 CFR 75, Subpart H* for the control period, including the requirements in 40 CFR 75.74(c)*, and report NO_x mass emissions data and heat input data, including the data described in 40 CFR 75.74(c)(6)*, for such unit only for the control period of each year and report, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(AA) for a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008 through June 30, 2008;

(BB) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that date is not during a control period, in which case reporting shall commence in the quarter that includes May 1 through June 30 of the first control period after such date;

(CC) notwithstanding subitems (AA) and (BB), for a unit for which a CAIR opt-in permit application submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the calendar quarter corresponding to the date specified in section 12(f)(2), 12 (f)(3), and 12(f)(4) of this rule; and

(DD) notwithstanding items (i) and (ii), for a CAIR NO_x opt-in unit under section 12 of this rule, the calendar quarter corresponding to the date on which the CAIR NO_x opt-in unit enters the CAIR NO_x annual trading program as provided in section 12(f)(9) of this rule.

(C) The CAIR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f)*.

(D) For CAIR NO_x ozone season units that are also subject to an acid rain emissions limitation or the CAIR NO_x ozone season trading program, CAIR SO_2 trading program, or mercury budget trading program, quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through I* as applicable, in addition to the NO_x mass emission data, heat input data, and other information required by this subpart.

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

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

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

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

(o) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

(1) Except as provided in subdivision (3), the CAIR designated representative of a CAIR NO_x ozone season unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.

(2) The CAIR designated representative of a CAIR NO_x ozone season unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(3) The CAIR designated representative of a CAIR NO_x ozone season unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 * to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72*. Application of an alternative to any such requirement is in accordance with this subpart only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(p) The owner or operator of a CAIR NO_x unit is subject to the applicable provisions of 40 CFR 75* concerning units in long-term cold storage.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-3-11; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 24-3-12 CAIR NO_x ozone season opt-in units

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

Sec. 12. (a) A CAIR NO_x ozone season opt-in unit must be a unit that meets the following requirements:

(1) Is located in Indiana.

(2) Is not a CAIR NO_x ozone season unit under section 1 of this rule and is not covered by a retired unit exemption under section 3 of this rule that is in effect.

(3) Is not covered by a retired unit exemption under 40 CFR 72.8* that is in effect.

(4) Has or is required or qualified to have a Part 70 operating permit or other federally enforceable permit.

(5) Vents all of its NO_x emissions to a stack and can meet the monitoring, record keeping, and reporting requirements of

section 11 of this rule.

(b) Except as otherwise provided sections 1, 2, 4 through 7, and 9 through 11 of this rule, a CAIR NO_x ozone season opt-in unit shall be treated as a CAIR NO_x ozone season unit for purposes of applying sections of this rule.

(c) Solely for purposes of applying, as provided in this section, the requirements of section 11 of this rule to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, such unit shall be treated as a CAIR NO_x ozone season unit before issuance of a CAIR opt-in permit for such unit.

(d) Any CAIR NO_X opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, located at the same source as one (1) or more CAIR NO_x ozone season units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO_x ozone season units.

(e) The CAIR designated representative of a unit meeting the requirements for a CAIR NO_x ozone season opt-in unit in subsection (a) may apply for an initial CAIR opt-in permit at any time, except as provided under subsection (h)(8) and (h)(9), and, in order to apply, must submit the following:

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

(2) A certification, in a format specified by the department, that the unit:

(A) is not a CAIR NO_x ozone season unit under section 1 of this rule and is not covered by a retired unit exemption under section 3 of this rule that is in effect;

(B) is not covered by a retired unit exemption under 40 CFR 72.8* that is in effect;

(C) vents all of its NO_x emissions to a stack; and

(D) has documented heat input for more than eight hundred seventy-six (876) hours during the six (6) months immediately preceding submission of the CAIR permit application under section 7(c) of this rule.

(3) A monitoring plan in accordance with section 11 of this rule.

(4) A complete certificate of representation under section 6(h) of this rule consistent with subsection (d), if no CAIR designated representative has been previously designated for the source that includes the unit.

(5) A statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR NO_x ozone season allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8). If allocation under subsection (j)(4) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.

The CAIR designated representative of a CAIR NO_x ozone season opt-in unit shall submit a complete CAIR permit application under section 7(c) of this rule to renew the CAIR NO_x ozone season opt-in unit permit in accordance with the department's regulations for Part 70 operating permits, or the department's regulations for other federally enforceable permits if applicable, addressing permit renewal. Unless the department issues a notification of acceptance of withdrawal of the CAIR NO_x ozone season opt-in unit from the CAIR NO_x ozone season trading program in accordance with subsection (h) or the unit becomes a CAIR NO_x ozone season unit under section 1 of this rule, the CAIR NO_x ozone season opt-in unit shall remain subject to the requirements for a CAIR NO_x ozone season opt-in unit, even if the CAIR designated representative for the CAIR NO_x ozone season opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit.

(f) The department shall issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under subsection (e) is submitted in accordance with the following:

(1) The department and the U.S. EPA will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under subsection (e). 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 and all other applicable parameters are monitored and reported in accordance with section 11 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(2) If the department and the U.S. EPA determine that the monitoring plan is sufficient under subdivision (1), the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit and all other applicable parameters, in accordance with section 11 of this rule, starting on the date of certification of the appropriate monitoring systems under section 11 of this rule and continuing until a CAIR opt-in permit is denied under subdivision (8) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x ozone season trading program in accordance

with subsection (h).

(3) The monitoring and reporting under subdivision (2) shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x ozone season trading program under subdivision (9), during which period monitoring system availability must not be less than ninety percent (90%) under section 11 of this rule and the unit must be in full compliance with any applicable state or federal emissions or emissions-related requirements.

(4) To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with section 11 of this rule for one (1) or more control periods, in addition to the control period under subdivision (3), during which control periods monitoring system availability is not less than ninety percent (90%) under section 11 of this rule and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three (3) years before the unit enters the CAIR NO_x ozone season trading program under subdivision (9), such information shall be used as provided in subdivisions (5) and (6).

(5) The unit's baseline heat input shall equal one (1) of the following:

(A) If the unit's NO_x emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's total heat input, in million British thermal units (MMBtu), for the control period.

(B) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), the average of the amounts of the unit's total heat input, in million British thermal units (MMBtu), for the control periods under subdivisions (3) and (4).

(6) The unit's baseline NO_x emission rate shall equal one (1) of the following:

(A) If the unit's NO_x emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control period.

(B) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), and the unit does not have add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control periods under subdivisions (3) and (4).

(C) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), and the unit has add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), for such control periods during which the unit has add-on NO_x emission controls.

(7) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivisions (5) and (6) and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_x ozone season opt-in unit in subsection (a) and meets the elements certified in subsection (e)(2), the department shall issue a CAIR opt-in permit. The department shall provide a copy of the CAIR opt-in permit to the U.S. EPA, who will then establish a compliance account for the source that includes the CAIR NO_x ozone season opt-in unit unless the source already has a compliance account.

(8) Notwithstanding subdivisions (1) through (7), if at any time before issuance of a CAIR opt-in permit for the unit, the department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_x ozone season opt-in unit in subsection (a) or meets the elements certified in subsection (e)(2), the department shall issue a denial of a CAIR NO_x ozone season opt-in permit for the unit.

(9) A unit for which an initial CAIR opt-in permit is issued by the department shall become a CAIR NO_x ozone season opt-in unit, and a CAIR NO_x ozone season unit, as of the later of May 1, 2009, or May 1 of the first control period during which such CAIR opt-in permit is issued.

(10) If the CAIR designated representative requests, and the department issues a CAIR opt-in permit providing for, allocation to a CAIR NO_x ozone season opt-in unit of CAIR NO_x ozone season allowances under subsection (j)(4) and such unit is repowered after its date of entry into the CAIR NO_x ozone season trading program under subdivision (9), the repowered unit shall be treated as a CAIR NO_x ozone season opt-in unit replacing the original CAIR NO_x ozone season opt-in unit, as of the date of start-up of the repowered unit's combustion chamber. Notwithstanding subdivisions (5) and (6), as of the date of start-up, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement

of commercial operation, baseline heat input, and baseline NO_x ozone season emission rate as the original CAIR NO_x ozone season opt-in unit, and the original CAIR NO_x ozone season opt-in unit shall no longer be treated as a CAIR NO_x ozone season opt-in unit or a CAIR NO_x ozone season unit.

(g) The following shall apply to the content of each CAIR opt-in permit:

(1) Each opt-in permit shall contain the following:

(A) All elements required for a complete CAIR permit application under section 7(c) of this rule.

(B) The certification in subsection (e)(2).

(C) The unit's baseline heat input under subsection (f)(5).

(D) The unit's baseline NO_x ozone season emission rate under subsection (f)(6).

(E) A statement whether the unit is to be allocated CAIR NO_x ozone season allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8).

(F) A statement that the unit may withdraw from the CAIR NO_x ozone season trading program only in accordance with subsection (h).

(G) A statement that the unit is subject to, and the owners and operators of the unit must comply with the requirements of subsection (i).

(2) Each CAIR 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 9 and 10 of this rule, every allocation, transfer, or deduction of CAIR NO_x ozone season allowances to or from the compliance account of the source that includes a CAIR NO_x ozone season opt-in unit covered by the CAIR opt-in permit.

(3) The CAIR opt-in permit shall be included, in a format prescribed by the department, in the CAIR permit for the source where the CAIR NO_x ozone season opt-in unit is located and in a Part 70 operating permit or FESOP.

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

(1) Except as provided under subdivision (8), a CAIR NO_x ozone season opt-in unit may withdraw from the CAIR NO_x ozone season trading program, but only if the department issues a notification to the CAIR designated representative of the CAIR NO_x ozone season opt-in unit of the acceptance of the withdrawal of the CAIR NO_x ozone season opt-in unit in accordance with subdivision (6).

(2) In order to withdraw a CAIR NO_x ozone season opt-in unit from the CAIR NO_x ozone season trading program, the CAIR designated representative of the CAIR NO_x ozone season opt-in unit shall submit to the department a request to withdraw effective as of midnight of September 30 of a specified calendar year, which date must be at least four (4) years after September 30 of the year of entry into the CAIR NO_x ozone season trading program under subsection (f)(9). The request must be submitted not later than ninety (90) days before the requested effective date of withdrawal.

(3) Before a CAIR NO_x ozone season opt-in unit covered by a request under subdivision (1) may withdraw from the CAIR NO_x ozone season trading program and the CAIR opt-in permit may be terminated under subdivision (7), the following conditions must be met:

(A) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x ozone season opt-in unit must meet the requirement to hold CAIR NO_x ozone season allowances under section 4(c) of this rule and cannot have any excess emissions.

(B) After the requirement for withdrawal under clause (A) is met, the U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO_x ozone season opt-in unit CAIR NO_x ozone season allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO_x ozone season allowances allocated to the CAIR NO_x ozone season opt-in unit under section 12(j) of this rule for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_x ozone season units at the source, the U.S. EPA will close the compliance account, and the owners and operators of the CAIR NO_x ozone season opt-in unit may submit a CAIR NO_x ozone season allowance transfer for any remaining CAIR NO_x ozone season allowances to another CAIR NO_x ozone season allowance tracking system in accordance with section 10 of this rule.

(4) After the requirements for withdrawal under subdivisions (2) and (3) are met, including deduction of the full amount of CAIR NO_x ozone season allowances required, the department shall issue a notification to the CAIR designated representative of the CAIR NO_x ozone season opt-in unit of the acceptance of the withdrawal of the CAIR NO_x ozone season opt-in unit as of midnight on September 30 of the calendar year for which the withdrawal was requested.

(5) If the requirements for withdrawal under subdivisions (2) and (3) are not met, the department shall issue a notification to the CAIR designated representative of the CAIR NO_x ozone season opt-in unit that the CAIR NO_x ozone season opt-in unit's request to withdraw is denied. Such CAIR NO_x ozone season opt-in unit shall continue to be a CAIR NO_x ozone season opt-in unit.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the CAIR permit covering the CAIR NO_x ozone season opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision (4). The unit shall continue to be a CAIR NO_x ozone season opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_x ozone season trading program concerning any control periods for which the unit is a CAIR NO_x ozone season opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(7) If the department denies the CAIR NO_x ozone season opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions (2) and (3).

(8) Notwithstanding subdivisions (1) through (7), a CAIR NO_x ozone season opt-in unit shall not be eligible to withdraw from the CAIR NO_x ozone season trading program if the CAIR designated representative of the CAIR NO_x ozone season opt-in unit requests, and the department issues a CAIR NO_x ozone season opt-in permit providing for, allocation to the CAIR NO_x ozone season opt-in unit of CAIR NO_x ozone season allowances under subsection (j)(4).

(9) Once a CAIR NO_x ozone season opt-in unit withdraws from the CAIR NO_x ozone season trading program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under subsection (e) for such CAIR NO_x ozone season opt-in unit before the date that is four (4) years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit shall be treated as an initial application for a CAIR opt-in permit under subsection (f).

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

(1) When the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule, the department shall revise the CAIR NO_x ozone season opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under section 7(d) and (7)(e) of this rule, and remove the CAIR opt-in permit provisions, as of the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO_x ozone season opt-in unit that becomes a CAIR NO_x ozone season unit under section 1 of this rule, CAIR NO_x ozone season allowances equal in amount to, and allocated for, the same or a prior control period as follows:

(A) Any CAIR NO_x ozone season allowances allocated to the CAIR NO_x ozone season opt-in unit under subsection (j)(4) for any control period after the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule.

(B) If the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule is not September 30, the CAIR NO_x ozone season allowances allocated to the CAIR NO_x ozone season opt-in unit under section 12(j) of this rule for the control period that includes the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(3) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO_x ozone season opt-in unit that becomes a CAIR NO_x ozone season unit under section 1 of this rule contains the CAIR NO_x ozone season allowances necessary for completion of the deduction under subdivision (2).

(4) For every control period after the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule, the CAIR NO_x ozone season opt-in unit shall be allocated CAIR NO_x ozone season allowances under section 8(c) of this rule.

(5) Notwithstanding subdivision (4), if the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x

ozone season unit under section 1 of this rule is not September 30, the following amount of CAIR NO_x ozone season allowances shall be allocated to the CAIR NO_x ozone season opt-in unit, as a CAIR NO_x ozone season unit, under section 8(c) of this rule for the control period that includes the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule:

(A) the amount of CAIR NO_x ozone season allowances otherwise allocated to the CAIR NO_x ozone season opt-in unit, as a CAIR NO_x ozone season unit, under section 8(c) of this rule for the control period;

(B) multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x ozone season opt-in unit becomes a CAIR NO_x ozone season unit under section 1 of this rule, divided by the total number of days in the control period; and

(C) rounded to the nearest whole allowance, as appropriate.

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

(1) When the CAIR opt-in permit is issued under subsection (f)(7), the department shall allocate CAIR NO_x ozone season allowances to the CAIR NO_x ozone season opt-in unit, and submit to the U.S. EPA the allocation for the control period in which a CAIR NO_x ozone season opt-in unit enters the CAIR NO_x ozone season trading program under subsection (f)(9), in accordance with subdivision (3) or (4).

(2) By not later than July 31 of the control period in which a CAIR opt-in unit enters the CAIR NO_x ozone season trading program under subsection (f)(9) and July 31 of each year thereafter, the department shall allocate CAIR NO_x ozone season allowances to the CAIR NO_x ozone season opt-in unit, and submit to the U.S. EPA the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_x ozone season opt-in unit, in accordance with subdivision (3) or (4).

(3) For each control period for which a CAIR NO_x ozone season opt-in unit is to be allocated CAIR NO_x ozone season allowances, the department shall allocate in accordance with the following procedures:

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

(i) The CAIR NO_x ozone season opt-in unit's baseline heat input determined under subsection (f)(5).

(ii) The CAIR NO_x ozone season opt-in unit's heat input, as determined in accordance with section 11 of this rule, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_x ozone season opt-in unit enters the CAIR NO_x ozone season trading program under subsection (f)(9).

(B) The NO_x emission rate, in million British thermal units (MMBtu), used for calculating CAIR NO_x ozone season allowance allocations shall be the lesser of the following:

(i) The CAIR NO_x ozone season opt-in unit's baseline NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) and multiplied by seventy percent (70%).

(ii) The most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x ozone season opt-in unit at any time during the control period for which CAIR NO_x ozone season allowances are to be allocated.

(C) The department shall allocate CAIR NO_x ozone season allowances to the CAIR NO_x ozone season opt-in unit in an amount equaling the heat input under clause (A), multiplied by the NO_x ozone season emission rate under clause (B), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(4) Notwithstanding subdivision (3) and if the CAIR designated representative requests, and the department issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under subsection (e)(5)) providing for, allocation to a CAIR NO_x ozone season opt-in unit of CAIR NO_x ozone season allowances under this subdivision, subject to the conditions in subsections (f)(10) and (h), the department shall allocate to the CAIR NO_x ozone season opt-in unit as follows:

(A) For each control period in 2009 through 2014 for which the CAIR NO_x ozone season opt-in unit is to be allocated CAIR NO_x ozone season allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating CAIR NO_x ozone season allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The NO_x emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating CAIR NO_x ozone season allowance allocations shall be the lesser of:

(AA) the CAIR NO_x ozone season opt-in unit's baseline NO_x emissions rate, in pounds per million British

thermal units (lb/MMBtu), determined under subsection (f)(6); or

(BB) the most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x ozone season opt-in unit at any time during the control period in which the CAIR NO_x ozone season opt-in unit enters the CAIR NO_x ozone season trading program under subsection (f)(9).

(iii) The department shall allocate CAIR NO_x ozone season allowances to the CAIR NO_x ozone season opt-in unit in an amount equaling the heat input under clause (A)(i), multiplied by the NO_x emission rate under clause (A)(ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(B) For each control period in 2015 and thereafter for which the CAIR NO_x ozone season opt-in unit is to be allocated CAIR NO_x ozone season allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR NO_x ozone season allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The NO_x emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating the CAIR NO_x ozone season allowance allocation shall be the lesser of:

(AA) fifteen-hundredths (0.15) pounds per million British thermal units (lb/MMBtu);

(BB) the CAIR NO_x ozone season opt-in unit's baseline NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6); or

(CC) the most stringent state or federal NO_x emissions limitation applicable to the CAIR NO_x ozone season opt-in unit at any time during the control period for which CAIR NO_x ozone season allowances are to be allocated.

(iii) The department shall allocate CAIR NO_x ozone season allowances to the CAIR NO_x ozone season opt-in unit in an amount equaling the heat input under clause (B)(i), multiplied by the NO_x emission rate under clause (B)(ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(5) The U.S. EPA will record, in the compliance account of the source that includes the CAIR NO_x ozone season opt-in unit, the CAIR NO_x ozone season allowances allocated by the department to the CAIR NO_x ozone season opt-in unit under subdivision (1).

(6) By September 1 of the control period in which a CAIR opt-in unit enters the CAIR NO_x ozone season trading program under subsection (f)(9) and September 1 of each year thereafter, the U.S. EPA will record, in the compliance account of the source that includes the CAIR NO_x ozone season ozone season opt-in unit, the CAIR NO_x ozone season ozone season allowances allocated by the department to the CAIR NO_x ozone season ozone season opt-in unit under subdivision (2).

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 24-3-12; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA; errata filed Jan 29, 2007, 2:43 p.m.: 20070221-IR-326050117ACA; filed May 12, 2009, 11:16 a.m.: 20090610-IR-326080005FRA)*

Rule 4. Clean Air Mercury Rule (CAMR) Trading Program (Repealed)

(Repealed by Air Pollution Control Division; filed Sep 19, 2014, 3:11 p.m.: 20141015-IR-326130488FRA)

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