

Bold = new language

~~Strikeout~~ = existing language deleted in this rulemaking

TITLE 326 AIR POLLUTION CONTROL DIVISION

RULE AS PRELIMINARILY ADOPTED AND PROPOSED FOR FINAL ADOPTION

LSA Document #19-589

DIGEST

Amends 326 IAC 10-2-3, 326 IAC 10-2-4, and 326 IAC 10-2-8 and adds 326 IAC 10-2-8.5, concerning nitrogen oxides (NO_x) monitoring requirements for certain sources. Effective 30 days after filing with the Publisher.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-7 and Second Notice of Comment Period: November 20, 2019, Indiana Register (DIN: 20191120-IR-326190589FDA).

Notice of First Hearing: November 20, 2019, Indiana Register (DIN: 20191120-IR-326190589PHA).

Change in Notice of Public Hearing: January 15, 2020, Indiana Register (DIN: 20200115-IR-326190589CHA).

Change in Notice of Public Hearing: April 8, 2020, Indiana Register (DIN: 20200408-IR-326190589CHA).

20201007-IR-326190589CHA). Change in Notice of Public Hearing: October 7, 2020, Indiana Register (DIN:

Date of First Hearing: November 18, 2020

Proposed Rule: January 6, 2021, Indiana Register (DIN: 20210106-IR-326190589PRA).

Notice of Second Hearing: January 6, 2021, Indiana Register (DIN: 20210106-IR-326190589PHA).

Third Comment Period: January 6, 2021, Indiana Register (DIN: 20210106-IR-326190589PHA).

Change in Notice of Public Hearing: February 10, 2021, Indiana Register (DIN: 20210210-IR-326190589CHA).

Date of Second Hearing: May 12, 2021.

326 IAC 10-2-3

326 IAC 10-2-4

326 IAC 10-2-8

326 IAC 10-2-8.5

SECTION 1. 326 IAC 10-2-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-2-3 Monitoring provisions

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

Affected: IC 13-15; IC 13-17

Sec. 3. (a) The owner or operator of a large affected unit subject to this rule, and to the extent applicable, the designated representative, shall comply with the monitoring, record keeping, and reporting requirements ~~as provided in this section and sections 4 through 8 of this rule~~, and in 40 CFR 75, Subpart H*, **except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule.** The owner or operator of a unit that is not a large affected unit, but that is required to monitor under 40 CFR 75.72(b)(2)(ii)* **for units with common stack and multiple stack configurations**, shall comply with the same monitoring, record keeping, and reporting requirements as a large affected unit **in this section and sections 4 through 8 of this rule.**

(b) The owner or operator of each large affected unit shall do the following, **except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule:**

(1) Install all monitoring systems required under this section for monitoring NO_x ozone season mass emissions and individual unit heat input, ~~This includes~~ **including** all systems required to monitor the following operating parameters in accordance with 40 CFR 75.71* and 40 CFR 75.72*, as applicable:

- (A) NO_x emission rate.
- (B) NO_x concentration.
- (C) Stack gas moisture content.
- (D) Stack gas flow rate.
- (E) Carbon dioxide (CO₂) or ~~ozone~~ **oxygen (O₂)** concentration.
- (F) Fuel flow rate.

(2) Complete all certification tests required under section 5(b) of this rule and meet all other requirements of this section and 40 CFR 75* applicable to the monitoring systems under subdivision (1).

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

(c) The designated representative for a large affected unit shall submit written notice to the department and U.S. EPA in accordance with 40 CFR 75.61*, **except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule.**

(d) The owner or operator of a large affected unit is subject to the applicable provisions of 40 CFR 75* concerning units in long term cold storage, **except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule.**

(e) The prohibitions in 40 CFR 75.70(c)* apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a continuous emissions monitoring system required under this rule, **except when the owner or operator is complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule.**

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Air Pollution Control Division; 326 IAC 10-2-3; filed Jul 27, 2018, 2:25 p.m.: 20180822-IR-326150414FRA*)

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

326 IAC 10-2-4 Compliance dates for monitoring

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

Affected: IC 13-15; IC 13-17

Sec. 4. (a) Except as provided in ~~section~~ **sections 3(d) and 8.5** of this rule, the owner or operator shall meet the monitoring system certification and other requirements of section 3(b) **or 8.5(e)** of this rule on or before the applicable dates in this section. The owner or operator shall record, report, and quality assure the data from the monitoring systems under section 3(b)(1) **or 8.5(e)** of this rule on and after the following dates:

(1) For units that commenced operation before ~~the effective date of this rule, the effective date of this rule,~~ **August 26, 2018, by August 26, 2018.**

(2) For the owner or operator of a large affected unit that commences operation after ~~the effective date of this rule,~~ **August 26, 2018**, and that reports on an annual basis under section 8(b) of this rule, by one hundred eighty (180) calendar days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a large affected unit that commences operation after ~~the effective date of this rule,~~ **August 26, 2018**, and that reports on a control period basis under section 8(b) of this rule, by the later of the following dates:

(A) One hundred eighty (180) calendar days after the date on which the unit commences commercial operation.

(B) If the compliance date under clause (A) is not during ~~a~~ **an ozone** control period, then by May 1 immediately following the compliance date under clause (A).

(4) For the owner or operator of a large affected unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after ~~the effective date of this rule,~~ **August 26, 2018**, and that reports on an annual basis under section 8(b) of this rule, by the earlier of the following dates:

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

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

(5) For the owner or operator of a large affected unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after ~~the effective date of this rule~~ **August 26, 2018**, and that reports on a control period basis under section 8(b) of this rule, by the later of the following dates:

- (A) The earlier of:
- (i) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or
 - (ii) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.
- (B) If the compliance date under clause (A) is not during a **an ozone** control period, May 1 immediately following the compliance date under clause (A).

(b) The owner or operator of a large affected unit that does not meet the applicable compliance date set forth in subsection (a) for any monitoring system under section 3 of this rule shall, for each monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for the following:

- (1) NO_x emission rate.
- (2) NO_x concentration.
- (3) Stack gas moisture content.
- (4) Stack gas flow rate.
- (5) Fuel flow rate.
- (6) Any other parameters required to determine NO_x mass emissions and heat input in accordance with the following, as applicable:
 - (A) 40 CFR 75.31(b)(2)*.
 - (B) 40 CFR 75.31(c)(3)*.
 - (C) 40 CFR 75, Appendix D, Section 2.4*.
 - (D) 40 CFR 75, Appendix E, Section 2.5*.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Air Pollution Control Division; 326 IAC 10-2-4; filed Jul 27, 2018, 2:25 p.m.: 20180822-IR-326150414FRA*)

SECTION 3. 326 IAC 10-2-8 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-2-8 Record keeping and reporting

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

Affected: IC 13-15; IC 13-17

Sec. 8. (a) The designated representative of a large affected unit shall comply with all applicable record keeping and reporting requirements in this section and 40 CFR 75.73* as follows, **except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule:**

- (1) The owner or operator of a large affected unit shall comply with requirements of both:
 - (A) 40 CFR 75.73(c)*; and

(B) 40 CFR 75.73(e)*.

(2) The designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under section 5 of this rule, including the information required under 40 CFR 75.63*.

(b) The designated representative shall submit quarterly reports as follows, **except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule:**

(1) If the large affected unit is subject to an acid rain emissions limitation or if the owner or operator of the unit chooses to report on an annual basis under this section, the designated representative shall:

(A) meet the requirements of 40 CFR 75, Subpart H*, for the entire year; and
(B) report the NO_x mass emissions data and heat input data in an electronic quarterly report in a format prescribed by U.S. EPA, for each calendar quarter corresponding to the earlier of:

(i) the date of provisional certification; or
(ii) for a unit that commences commercial operation on or after ~~the effective date of this rule~~, **August 26, 2018**, the calendar quarter corresponding to the earlier of:

(AA) the date of provisional certification; or

(BB) the applicable deadline for initial certification under section 4(a) of this rule.

(2) If the large affected unit is not subject to an acid rain emissions limitation, the designated representative shall meet either of the following requirements:

(A) If the owner or operator chooses to report on an annual basis, both of the following:

(i) Meet the requirements of 40 CFR 75, Subpart H* for the entire year.
(ii) Report the NO_x mass emissions data and heat input data for the unit in accordance with this clause.

(B) If the owner or operator does not choose to report on an annual basis, both of the following:

(i) Meet the requirements of 40 CFR 75, Subpart H* for the **ozone** control period.

(ii) Report NO_x mass emissions data and heat input data for the **ozone** control period in an electronic quarterly report in a format prescribed by U.S. EPA, for each calendar year beginning with:

(AA) ~~the effective date of this rule~~; **August 26, 2018**; or

(BB) for a unit that commences commercial operation on or after ~~the effective date of this rule~~, **August 26, 2018**, the calendar quarter corresponding to the earlier of:

(aa) if it falls during the **ozone** control period, the date of provisional certification;

(bb) if it falls during the **ozone** control period, the applicable deadline for initial certification under section 4(a) of this rule; or

(cc) if neither subitem (aa) nor (bb) fall during the **ozone** control period, the quarter that includes May 1 through June 20 of the first **ozone** control period after the date of provisional certification or the applicable deadline for initial certification under section 4(a) of this rule.

(3) For large affected units that are also subject to an acid rain emissions limitation or another annual trading program, quarterly reports must include the following:

(A) Applicable data and information required by 40 CFR 75, Subparts F through H*, as applicable.

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

(4) For all large affected units subject to this rule, the designated representative shall submit quarterly reports to U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report in the manner specified in 40 CFR 75.73(f)*.

(c) **Except when complying with approved alternative monitoring and reporting requirements in section 8.5 of this rule**, the designated representative shall submit to U.S. EPA a compliance certification, in a format prescribed by U.S. EPA, in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification must state that:

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

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

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

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

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

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

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

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

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

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Air Pollution Control Division; 326 IAC 10-2-8; filed Jul 27, 2018, 2:25 p.m.: 20180822-IR-326150414FRA*)

SECTION 4. 326 IAC 10-2-8.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 10-2-8.5 Alternative monitoring and reporting

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

Affected: IC 13-15; IC 13-17

Sec. 8.5. (a) Owners and operators of a large affected unit subject to this rule may use an alternative monitoring method and comply with the reporting requirements established in an operating permit in lieu of the requirements in sections 3 through 8 of this rule, if:

- (1) approved by the department as sufficient to demonstrate compliance with the ozone season NO_x emissions budget established under section 9 of this rule; and**
- (2) consistent with the requirements in this section.**

(b) To request use of alternative monitoring and reporting requirements in this section, the owner or operator of a large affected unit shall submit an application for an operating permit or an application for a modification to an existing operating permit issued in accordance with 326 IAC 2.

(c) The application must include all of the following:

(1) An indication of which of the following alternatives is being requested:

(A) Monitoring in accordance with 40 CFR 60*.

(B) Monitoring in accordance with 40 CFR 75*, except that:

(i) references to the “Administrator” in 40 CFR 75* means the department; and

(ii) reporting of data to U.S. EPA through electronic means in accordance with 40 CFR 75*, Subpart G, does not apply.

(C) Monitoring of heat input and fuel use using a fuel flowmeter, with NO_x emission rate determined through an emissions monitoring system certified, operated, and maintained in accordance with 40 CFR 60*.

(D) Monitoring of heat input and fuel use and an approved emission factor for determination of NO_x emissions. Liquid or gaseous fuel use must be measured using meters calibrated to the levels of accuracy specified in:

- (i) Section 2.1.5 of 40 CFR 75, Appendix D*;
 - (ii) 40 CFR 98.3(i)*;
 - (iii) the ASME standards at 40 CFR 98.7*; or
 - (iv) other procedures recommended by the manufacturer.
 - (2) A description of the proposed monitoring procedures, including how:
 - (A) data will be obtained, recorded, and quality assured; and
 - (B) NO_x emissions will be accounted for during periods of missing data, such as periods of maintenance or malfunction.
 - (3) Emission monitoring data must be reported as provided in subsection (e).
 - (4) If monitoring of heat input and fuel use and an approved emission factor under subdivision (1)(D) is requested as the alternative, an emission factor analysis evaluating potential emission factors in pounds of NO_x emitted per unit of fuel and heat input, for each fuel type, based on one (1) of the following:
 - (A) U.S. EPA's Compilation of Air Pollutant Emissions Factors, AP-42*, as described in 326 IAC 1-1-3.5.
 - (B) A valid stack test using 40 CFR 60, Appendix A, Method 3*, Method 7*, and Method 19*, conducted within the previous two (2) years from the date of the application submittal, if available.
 - (C) An analysis of continuous emission monitoring data representative of current operating conditions.
 - (D) An analysis of other relevant data or emission factors, if available.
 - (5) If monitoring and annual reporting of ozone control period NO_x emissions in accordance with 40 CFR 60* under subdivision (1)(A) or (1)(C) is requested, an explanation for how the amount of NO_x emissions in tons per ozone control period will be determined from the NO_x emission rate data in accordance with 40 CFR 60*.
 - (6) If alternative monitoring and reporting is requested to begin within an ozone control period, a description of the transition process that ensures there will not be gaps in data collection and reporting of ozone control period NO_x emissions.
- (d) Prior to the use of alternative monitoring and reporting, one (1) of the following must be specified in an operating permit issued in accordance with 326 IAC 2:
- (1) Applicable terms and conditions, including monitoring and reporting requirements in accordance with 40 CFR 60* or 40 CFR 75*.
 - (2) An emission factor and monitoring procedure for fuel use and heat input.
- (e) The owner or operator of a large affected unit subject to alternative monitoring and reporting under this section shall meet all of the following:
- (1) Comply with all terms and conditions specified in the operating permit.
 - (2) Install all data collection and recording systems required for alternative monitoring.
 - (3) Record and report the data from the monitoring systems required under this section in accordance with the terms and conditions in the operating permit.
 - (4) By April 15 each year, report NO_x emissions in tons to the department, as determined using the approved alternative monitoring procedures, for the previous ozone control period.

(5) If alternative monitoring is based on an approved emission factor, the following requirements apply:

(A) Conduct stack tests to demonstrate the approved emission factor continues to be representative of current operating conditions.

(B) If the emissions factor analysis submitted in accordance with subsection (c)(2) did not include a stack test, an initial stack test must be conducted within ninety (90) days of permit issuance.

(C) Ongoing stack tests must be conducted at least once every five (5) years from the date of approval of the alternative monitoring request.

(D) Stack tests must be conducted in accordance with a test method specified in the operating permit and reported to the department within forty-five (45) days of the test.

(E) If a stack test indicates an emission factor may require upward adjustment, the owner or operator shall use the revised emission factor to report NO_x emissions in tons per ozone control period and submit an application for a modification to an operating permit within sixty (60) days of receiving stack test results.

(6) Maintain records in accordance with the terms and conditions in the operating permit for a period of not less than five (5) years from the date the records are created. These records must be made available to the department upon request.

(f) An owner or operator of a large affected unit subject to this section shall not do the following:

(1) Operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere during an ozone control period without accounting for all emissions in accordance with the applicable provisions of this section.

(2) Retire or permanently discontinue use of the monitoring system, or any component thereof, except when discontinuing use of alternative monitoring and reporting in accordance with this section and resuming compliance with monitoring and reporting requirements in accordance with sections 3 through 8 of this rule. This may only occur outside of an ozone control period.

(g) This section does not authorize exceptions or alternatives to any 40 CFR Part 75 monitoring requirements that apply to a source under a different legal authority.

(h) In accordance with the requirements of 40 CFR 51.122(c)(1)(i)*, the department shall report annually to U.S. EPA all NO_x emissions reported under this section.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204. (*Air Pollution Control Division; 326 IAC 10-2-8.5*)**