

TITLE 326 AIR POLLUTION CONTROL DIVISION

Rule Information Sheet

Nitrogen Oxides Reasonably Available Control Technologies for Lake and Porter Counties
LSA Document #25-204

Overview

This rulemaking will add rules to 326 IAC 10-7 concerning reasonably available control technologies (RACT) for emissions of nitrogen oxides (NO_x). This rulemaking is required due to the moderate nonattainment status given to the Chicago area, which includes the northern townships of Lake and Porter counties. During the 2018-2020 period, design values for this area remained above the 70 parts per billion for the 2015 8-hour NAAQS for ozone. The Clean Air Act requires States with moderate nonattainment areas to implement reasonably available control technologies for stationary sources that emit NO_x and volatile organic compounds. A major stationary source is any source that has the potential to emit 100 tons per year of any air pollutant. NO_x gases are most often produced during the combustion of fossil fuels. NO_x, along with volatile organic compounds, are precursor emissions to ozone.

On October 17, 2023, U.S. EPA published a final rule, finding that eleven states, including Indiana, failed to submit State Implementation Plan (SIP) revisions required by the Clean Air Act (88 FR 71757). Specific to Indiana, U.S. EPA determined that the state failed to submit NO_x RACT for major stationary sources in the Chicago area, which encompasses the northern townships of Lake and Porter counties. U.S. EPA requires that IDEM make this SIP submission within 18 months of November 17, 2023. If IDEM fails to amend the SIP by this deadline, U.S. EPA will impose what is known as an "offset sanction" in accordance with 40 CFR § 52.31(e)(1). This sanction requires a 2:1 ratio of emission reductions to be achieved within the nonattainment area to offset emissions from new or modified major facilities. If the SIP is not appropriately amended within six months of the offset sanction, then U.S. EPA will impose highway sanctions in accordance with 40 CFR 52.31(e)(2). These sanctions would withhold an average of \$183.7 million annually in federal transportation funding from Lake and Porter counties.

This rulemaking provides an enforceable mechanism that satisfies U.S. EPA's SIP requirements for NO_x RACT. Specifically, this rulemaking imposes presumptive NO_x RACT requirements that are applicable to all major stationary sources of NO_x in the nonattainment area, with source-specific requirements for eleven affected sources—eight in Lake County and three in Porter County. IDEM worked extensively with the owner or operator of each affected source and U.S. EPA to ensure that the state remains in compliance with the Clean Air Act while avoiding overly burdensome requirements on these sources.

Affected Persons

This rulemaking affects eleven sources with the potential to emit more than 100 tons per year of any pollutant in the northern townships of Lake and Porter Counties.

Reasons for the Rule

This rulemaking is federally required. If IDEM fails to amend the SIP by May 17, 2025, U.S. EPA will impose what is known as an "offset sanction" in accordance with 40 CFR § 52.31(e)(1). This sanction requires a 2:1 ratio of emission reductions to be achieved within the nonattainment area to offset emissions from new or modified major facilities. If the SIP is not appropriately amended by November 17, 2025, then U.S. EPA will impose highway sanctions in accordance with 40 CFR 52.31(e)(2). These sanctions would withhold an average of \$183.7 million annually in federal transportation funding from Lake and Porter counties.

Economic Impact of the Rule

This rule is required by federal law; therefore, any costs resulting from compliance with the rule must be attributed to that federal law not the state rule. Only two affected sources would be required to apply new controls under the draft rule, and each are unique.

W.R. Grace already planned to replace burners for its sodium silicate furnace, and this draft rule would simply accelerate this timeline by less than one year—this was part of the facility's unit-specific RACT analysis. Its estimated expenses associated with replacing its burners are roughly \$1.6 million.

Cleveland Cliffs Indiana Harbor plant is the only potentially affected source that did not conduct a unit-specific RACT analysis, but IDEM's analysis found that low-NO_x burners for its boiler #8 would be cost-effective. The source did not have concerns over this analysis, as it is part of the iron production plant that has been idled for over a decade. Like W.R. Grace, Cleveland Cliffs would take on replacement costs, roughly \$4.65 million. The source also has suggested it may retire the boiler because it is not essential to its operations.

Bear in mind that these costs are negligible compared to the costs imposed by federal highway sanctions, which would average \$183.7 million annually, and the potential costs of U.S. EPA implementing a federal implementation plan on all affected sources.

Scheduled Board Action and Hearings

First Public Hearing: June 11, 2025

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Seth Engdahl, Rules Development Branch, Office of Legal Counsel, at sengdahl@idem.in.gov, (317) 234-9535, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov.