



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2021-0761; FRL-12258-01-R5]

Air Plan Approval; Indiana; Indiana NO_x Emissions Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Clean Air Act (CAA) a request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP) to incorporate revisions to nitrogen oxides (NO_x) emissions monitoring, reporting and record keeping requirements for new and existing large non-Electric Generating Units (non-EGUs) affected by the NO_x SIP Call. This SIP revision would approve monitoring, reporting, and record keeping requirements that are permissible as alternatives under Federal rules for these sources for purposes of the NO_x SIP Call.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2021-0761 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its

public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Cecilia Magos, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7336, magos.cecilia@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background of SIP Submission

CAA section 110(a)(2)(D)(i)(I), often called the "good

neighbor" provision, requires each State to include provisions in its SIP to prohibit emissions from within that State that will significantly contribute to nonattainment or interfere with maintenance of a National Ambient Air Quality Standard (NAAQS) in a downwind State. On October 27, 1998 (63 FR 57356), EPA published the NO_x SIP Call, which addressed the good neighbor provision for the 1979 ozone NAAQS by requiring eastern States, including Indiana, to submit SIPs that prohibit excessive emissions of ozone season NO_x by implementing statewide NO_x emissions budgets. The NO_x SIP Call was designed to mitigate the impact of transported NO_x emissions, one of the precursors of ozone. As a component of the NO_x SIP Call, EPA developed the NO_x Budget Trading Program (NBTP), a regional allowance trading program. States could meet most of their obligations under the NO_x SIP Call by requiring certain sources to participate in the NBTP, namely EGUs with capacity greater than 25 megawatts and large non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units (MMBtu) per hour. The NO_x SIP Call also identified potential reductions from Portland cement kilns and stationary internal combustion engines.

To implement the requirements of the NO_x SIP Call for Indiana, on November 8, 2001 (66 FR 56465), EPA published an action approving into the SIP the original version of IDEM's rules at 326 Indiana Administrative Code (IAC) 10-3, which established source-by-source emission rate limits and monitoring

requirements for Portland cement kilns and blast furnace gas-fired boilers, and 326 IAC 10-4, which required EGUs and certain other non-EGUs in the State to participate in the NBTP. EPA subsequently approved revised portions of these rules into the SIP. On December 11, 2003 (68 FR 69025), EPA approved Indiana rule revisions that changed the regulatory approach selected by the State for blast furnace gas-fired boilers at two sources, making such units subject to the NBTP at 326 IAC 10-4 instead of the source-by-source emission rate limits at 326 IAC 10-3. On October 1, 2007 (72 FR 55664), EPA approved into the SIP 326 IAC 10-5, which addressed emissions from stationary internal combustion engines, as well as associated revisions to 326 IAC 10-3 and 326 IAC 10-4, in fulfillment of the "Phase II" requirements of the NO_x SIP Call.

On May 12, 2005 (70 FR 25162), EPA published the Clean Air Interstate Rule (CAIR), which required eastern States, including Indiana, to submit SIPs that prohibited emissions consistent with annual and ozone season NO_x budgets and annual sulfur dioxide (SO₂) budgets. CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter (PM_{2.5}) NAAQS and was designed to mitigate the impact of transported NO_x emissions, a precursor of both ozone and PM_{2.5}, as well as transported SO₂ emissions, another precursor of PM_{2.5}. Upon implementation of the CAIR trading program for ozone season NO_x in 2009, EPA discontinued administration of the NBTP, but the requirements of the NO_x SIP Call continued to apply.

To meet the requirements of CAIR, IDEM promulgated rules at 326 IAC 24-1, 326 IAC 24-2, and 326 IAC 24-3 that required EGUs to participate in the CAIR annual SO₂ and annual and ozone season NO_x trading programs. Participation by EGUs in the CAIR trading program for ozone season NO_x emissions addressed the State's obligation under the NO_x SIP Call for those units. IDEM also opted to incorporate large non-EGUs previously regulated under 326 IAC 10-4 into 326 IAC 24-3, to meet the obligations of the NO_x SIP Call with respect to those units through the CAIR trading program as well. On October 22, 2007 (72 FR 59480) EPA published an action approving portions of 326 IAC 24-1, 326 IAC 24-2, and 326 IAC 24-3 into the Indiana SIP. On November 29, 2010 (75 FR 72956), EPA published an action approving additional sections of and revisions to 326 IAC 24-1, 326 IAC 24-2, and 326 IAC 24-3 into the Indiana SIP, fully addressing the requirements of CAIR, along with associated revisions to 326 IAC 10-3 and 326 IAC 10-4. The approved revision to 326 IAC 10-4 added a "sunset" clause to all requirements for Indiana's large EGUs and large non-EGUs under the NBTP in coordination with the implementation start date for the CAIR ozone season NO_x trading program.

CAIR was remanded to EPA by the D.C. Circuit in *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), *modified on reh'g*, 550 F.3d 1176. On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published the Cross-State Air Pollution Rule (CSAPR), replacing CAIR and addressing the good

neighbor provision for the 1997 ozone NAAQS, 1997 PM_{2.5} NAAQS, and 2006 PM_{2.5} NAAQS. Through Federal Implementation Plans (FIPs), CSAPR required EGUs in eastern States, including Indiana, to meet annual and ozone season NO_x budgets and annual SO₂ budgets implemented through new trading programs. CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. Participation by a State's EGUs in the CSAPR trading program for ozone season NO_x generally addressed the State's NO_x SIP Call obligations for EGUs. However, CSAPR did not initially contain provisions allowing States to incorporate large non-EGUs into that trading program to meet the ongoing requirements of the NO_x SIP Call for non-EGUs.

On October 26, 2016 (81 FR 74504), EPA published the CSAPR Update to address the good neighbor provision for the 2008 ozone NAAQS by establishing new statewide budgets in eastern States for ozone season NO_x emissions. As under the original CSAPR, participation by a State's EGUs in the new CSAPR trading program for ozone season NO_x generally addressed the State's obligations under the NO_x SIP Call for EGUs. The CSAPR Update also expanded options available to States for meeting NO_x SIP Call requirements for large non-EGUs by allowing States to incorporate those units into the new trading program.

On December 17, 2018 (83 FR 64472), EPA approved a November 27, 2017, submission from IDEM requiring EGUs to participate in CSAPR State trading programs integrated with the Federal CSAPR trading programs and largely administered by EPA. The State's trading program rules were codified at 326 IAC 24-5, 326 IAC 24-6, and 326 IAC 24-7. The SIP revision also removed from the Indiana SIP the regulations at 326 IAC 24-1, 326 IAC 24-2, and portions of 326 IAC 24-3 that had established the State CAIR trading programs which the CSAPR trading programs replaced. However, the December 17, 2018, SIP action left in place the portions of 326 IAC 24-3 establishing ozone season NO_x monitoring requirements for large non-EGUs affected under the NO_x SIP Call, because at the time of that action no other SIP-approved rules addressed monitoring requirements for these units for NO_x SIP Call purposes.

After evaluating the various options available following promulgation of the CSAPR Update, IDEM chose to meet NO_x SIP Call requirements for existing and new large non-EGUs by adopting a new rule at 326 IAC 10-2 and revising its rule at 326 IAC 10-3. The new rule at 326 IAC 10-2 made the portion of the State's NO_x SIP Call budget assigned to non-EGUs enforceable without an allowance trading mechanism and included requirements for monitoring, record keeping, and reporting in accordance with 40 CFR part 75 to ensure compliance with the budget. The revised rule at 326 IAC 10-3 provided source-by-source emission rate limits for certain blast furnace gas-fired units formerly

regulated under the NBTP. In an August 27, 2018, submission, IDEM requested that EPA approve into the Indiana SIP the new rule at 326 IAC 10-2 and revised rule at 326 IAC 10-3. IDEM also requested removal from the SIP of its remaining CAIR rules at 326 IAC 24-3 and its NBTP rule at 326 IAC 10-4.

On July 24, 2020 (85 FR 44738), EPA published a final rule approving Indiana's request to modify its SIP. Given EPA's approval of these revisions, the Indiana SIP currently contains a rule at 326 IAC 10-2 that establishes a cap on the collective ozone season NO_x mass emissions of most of the affected non-EGUs formerly covered by the NBTP and CAIR ozone season NO_x trading programs and that requires monitoring and reporting for the units in accordance with 40 CFR part 75.

In September 2019, the D.C. Circuit remanded the CSAPR Update to EPA in *Wisconsin v. EPA*, 938 F.3d 303 (D.C. Cir. 2019) (*Wisconsin*), on the grounds that the rule did not fully address upwind States' good neighbor obligations by "the next applicable attainment date" of downwind States. In response to the *Wisconsin* remand, on April 30, 2021 (86 FR 23054), EPA published the Revised CSAPR Update, in which EPA promulgated new or amended FIPs for 12 States, including Indiana, revising the States' emissions budgets for EGUs to address the States' remaining good neighbor obligations with respect to the 2008 ozone NAAQS. The new FIP promulgated for Indiana required the State's EGUs to participate in the Federal CSAPR NO_x Ozone Season Group 3 Trading Program beginning with the 2021 ozone season and

simultaneously ended EPA's administration of the previously approved State CSAPR trading program for ozone season NO_x emissions under 326 IAC 24-6.

On June 5, 2023 (88 FR 36654), EPA published the Good Neighbor Plan to address the good neighbor obligations of 23 States, including Indiana, with respect to the 2015 ozone NAAQS. As published, the Good Neighbor Plan requires EGUs in 22 States, including Indiana, to participate in a revised version of the CSAPR NO_x Ozone Season Group 3 Trading Program with updated budgets.¹ For States such as Indiana with pre-existing good neighbor obligations to reduce ozone season NO_x emissions from EGUs with respect to the 1997 ozone NAAQS under the NO_x SIP Call (or with respect to the 2008 ozone NAAQS under the CSAPR Update or the Revised CSAPR Update), EPA deems participation of the States' EGUs in the Good Neighbor Plan's trading program sufficient to meet those additional obligations. See 88 FR 36654 at 36844.

As a result of the series of Federal and State actions described in the preceding paragraphs of this section, Indiana is meeting its obligations under the NO_x SIP Call to reduce NO_x emissions by subjecting its EGUs to the CSAPR trading program for ozone season NO_x and as to most of the State's large non-EGUs

¹ On June 27, 2024, the United States Supreme Court granted emergency applications seeking a stay of the Good Neighbor Plan and ordered that the rule may not be enforced against the stay applicants, including Indiana, pending judicial review. *Ohio v. EPA*, 144 S. Ct. 2040, 2058 (2024). On August 5, 2024, EPA released a memorandum describing how the Agency plans to comply with the Supreme Court's order while ensuring that the obligations of Indiana and other States to address interstate ozone pollution under previous rules continue to be met. See www.epa.gov/system/files/documents/2024-08/gnp-stay-policy-memo-08-05-2024-signed.pdf.

by the emissions cap and monitoring requirements under the SIP-approved State rule at 326 IAC 10-2. The current regulations at 326 IAC 10-2 for Indiana's large non-EGUs require the affected large non-EGUs to monitor, report and keep records of their mass emissions of ozone season NO_x in accordance with 40 CFR part 75.

On March 8, 2019 (84 FR 8422), EPA published final amendments to the NO_x SIP Call regulations giving States flexibility to authorize other monitoring, record keeping and reporting requirements as alternatives to the requirements of 40 CFR part 75 for large non-EGUs for purposes of the NO_x SIP Call. Ultimately, such alternate monitoring requirements could be made available to sources through approval by EPA of States' revisions to their SIPs. The Indiana submissions dated November 27, 2017, and August 27, 2018, predated the March 8, 2019, publication of EPA's amendments to the NO_x SIP Call's monitoring requirements and therefore did not include provisions that would allow non-EGUs subject to the new rule at 326 IAC 10-2 to meet the NO_x SIP Call's monitoring requirements using approaches other than part 75 monitoring.

II. Analysis of this SIP Submission by EPA

Indiana's October 21, 2021, submission requests that EPA approve into Indiana's SIP revisions to the rule at 326 IAC 10-2 that already addresses ongoing NO_x SIP Call requirements with respect to most of the State's affected large non-EGUs. The purpose of the revisions is to allow alternative NO_x monitoring, record keeping and reporting requirements for Indiana's large

non-EGUs as permitted under the NO_x SIP Call amendments that EPA finalized in March 2019. The revisions would be implemented primarily through the addition of a new rule section at 326 IAC 10-2-8.5 concerning alternative NO_x monitoring and reporting requirements and secondarily through conforming changes to the rule's existing monitoring and reporting provisions at 326 IAC 10-2-3, 326 IAC 10-2-4, and 326 IAC 10-2-8. Additionally, Indiana's submission includes a demonstration under section 110(1) of the CAA intended to show that this SIP revision does not interfere with any applicable CAA requirement.

A. Indiana's New and Revised Rule Sections

The rule 326 IAC 10-2 pertains to the State's ongoing NO_x SIP Call obligations with respect to most of the State's affected large non-EGUs under the NO_x SIP Call. Concerning the ongoing NO_x SIP Call requirement for emissions monitoring, the revisions to Indiana's rule at 326 IAC 10-2 that the State is requesting be approved into the SIP would make it possible for non-EGUs subject to that rule to monitor and report their ozone season NO_x emissions using approaches other than those contained in 40 CFR part 75. The requested revisions would have no effect on monitoring and reporting requirements for the State's affected EGUs under the NO_x SIP Call, because the EGUs would remain subject to part 75 monitoring and reporting requirements under the applicable CSAPR trading program for ozone season NO_x emissions.

The alternative monitoring and reporting requirements for

non-EGUs are set forth in new rule section 326 IAC 10-2-8.5, which is structured into paragraphs (a) through (h). Paragraph (a) generally provides that a source may use an alternative monitoring method consistent with the remaining requirements of the section if IDEM approves the method into the source's operating permit as sufficient to demonstrate compliance with the emissions budget for non-EGUs under 326 IAC 10-2-9.

Paragraph (b) requires a large non-EGU seeking authorization to use alternative monitoring to submit an application for a new or amended operating permit in accordance with 326 IAC 2.

Paragraph (c) specifies the permissible alternative monitoring methods and identifies the required contents of an application. Under section 326 IAC 10-2-8.5(c)(1), the specified permissible methods include: (A) monitoring of NO_x emission rates in accordance with 40 CFR part 60 (in combination with the use of other identified information on heat input to compute NO_x mass emissions in tons, in compliance with the requirements of paragraphs (c)(5) and (e)(4)); (B) monitoring of NO_x mass emissions in accordance with 40 CFR part 75, but with reporting to IDEM instead of to EPA; (C) monitoring of NO_x emission rates in accordance with 40 CFR part 60, combined with heat input and fuel use data monitored using a fuel flowmeter to compute NO_x mass emissions; and (D) monitoring of heat input and fuel use combined with an approved emission factors for NO_x emissions rates to compute NO_x mass emissions, where liquid or

gaseous fuel usage must be measured using meters calibrated to levels of accuracy specified in the manufacturer's procedures or in listed provisions of 40 CFR part 75 or 40 CFR part 98. Under section 326 IAC 10-2-8.5(c)(2), for all methods, the application must include descriptions of the procedures for obtaining, recording and quality-assuring data, accounting for periods of missing data, and avoiding any gaps in collection and reporting of ozone period NO_x mass emissions. Under section 326 IAC 10-2-8.5(c)(3), for reporting of emission monitoring data, the owner or operator must comply with the requirements of paragraph (e) described below. Under section 326 IAC 10-2-8.5(c)(4), for the method involving use of approved emission factors, the application must include an analysis supporting the potential emission factors based on EPA AP-42 emission factors, stack test data obtained within the two-year period before the application date (if available), representative data obtained from continuous emissions monitoring systems (CEMS), or other relevant data. Under section 326 IAC 10-2-8.5(c)(5), for the methods that involve monitoring of NO_x emission rates in accordance with 40 CFR part 60, the application must explain how the emission rate data will be combined with other data to determine NO_x mass emissions in tons per ozone control period. Under section 326 IAC 10-2-8.5(c)(6), if the use of alternative monitoring and reporting is requested to begin within an ozone control period, the application must include a description of the transition process to ensure there are no gaps in data

collection and reporting of ozone control period NO_x emissions.

Paragraph (d) provides that the alternative monitoring method may be used only after issuance of an operating permit in accordance with 326 IAC 2 specifying the applicable requirements for one of the permissible methods under paragraph (c).

Paragraph (e) sets forth ongoing requirements for use of an alternative monitoring method, including compliance with all terms and conditions specified in the operating permit, installation of all required data collection and recording systems required for alternative monitoring, recording and reporting of data from the monitoring systems as required by the operating permit, reporting of NO_x mass emissions in tons determined in accordance with the approved procedures for each ozone season to IDEM by April 15 of the following year, and record keeping requirements that include the maintenance of records for at least five years in accordance to the terms and conditions of the operating permit, made available to the department upon request. For the method involving approved emission factors, the paragraph also requires stack tests at least every five years, including an initial stack test within 90 days of permit issuance if the permit application did not include data from a stack test conducted within the two years preceding the application date. All stack test results must be reported to IDEM within 45 days of the test, and if the results of any stack test indicate that an emissions factor may require upward adjustment, the owner or operator must submit an

application for a modification to the operating permit within 60 days of receiving the test results.

Paragraph (f) prohibits operation of a large affected unit without accounting for all ozone season NO_x emissions in accordance with section 326 IAC 10-2-8.5 and generally prohibits discontinuation of any component of the monitoring system used under the section, except outside the ozone season when a unit is transitioning to compliance with the default monitoring and reporting requirements under sections 326 IAC 10-2-3 through 8.

Paragraph (g) states that section 326 IAC 10-2-8.5 does not authorize exceptions or alternatives to any requirements of 40 CFR part 75 that may apply to a source under a different legal authority.

Paragraph (h) provides for IDEM to annually report to EPA all NO_x emissions reported to IDEM under section 326 IAC 10-2-8.5 in accordance with 40 CFR 51.122(c)(1)(i).

In addition to the new section 326 IAC 10-2-8.5 setting forth permissible alternative monitoring and reporting requirements, Indiana's SIP submission includes conforming revisions and other minor revisions to existing rule provisions at 326 IAC 10-2-3, 326 IAC 10-2-4, and 326 IAC 10-2-8. The conforming revisions generally provide that the otherwise applicable requirements under sections 326 IAC 10-3 through 10-8 to monitor and report ozone season NO_x emissions in accordance with 40 CFR part 75 do not apply to a large non-EGU that is instead using an approved alternative monitoring and reporting

method under 326 IAC 10-2-8.5. The other minor revisions include insertion of an explanatory phrase for an existing cross-reference in 326 IAC 10-2-3(a), correction of the word "ozone" to the word "oxygen" in 326 IAC 10-2-3(b)(1)(E), and insertion of the word "ozone" before "control period" and substitution of the rule's actual August 26, 2018, effective date for the phrase "the effective date of this rule" in several locations in 326 IAC 10-2-4 and 8.

B. Evaluation by EPA

Under the ongoing requirements of the NO_x SIP Call, the Indiana SIP must: (1) include enforceable control measures for ozone season NO_x mass emissions from existing and new large EGUs and large non-EGUs that the State relied on to achieve emission reductions to meet its statewide NO_x budget and (2) require those sources to monitor and report ozone season NO_x mass emissions, which may be in accordance with 40 CFR part 75. The State's ongoing NO_x SIP Call obligations as to the State's EGUs, both with respect to enforceable control measures and with respect to emissions monitoring and reporting, are being met by the continued participation of the State's EGUs in a CSAPR ozone season NO_x trading program. Under the existing approved provisions of Indiana's SIP, the State's ongoing NO_x SIP Call obligations as to the State's non-EGUs formerly covered by the NO_x Budget Trading Program (with the exception of certain units addressed separately²) are addressed by the provisions of 326 IAC

² Indiana's blast furnace gas-fired units that formerly would have been

10-2. Existing rule section 326 IAC 10-2-9 addresses the requirement for enforceable control measures for non-EGUs by establishing an emissions budget and would not be changed under Indiana's requested revisions. Existing rule sections 326 IAC 10-2-3 through 326 IAC 10-2-8 address the monitoring and reporting requirements for non-EGUs by requiring the affected units to meet the monitoring and reporting requirements of 40 CFR part 75. Indiana's requested revisions would allow the monitoring and reporting requirements for non-EGUs to be met through alternative approaches, as is now permitted under EPA's 2019 amendments to the NO_x SIP Call regulations.

In EPA's rulemaking amending the NO_x SIP Call's monitoring requirements at 40 CFR 51.121(i)(4), EPA observed that, under 40 CFR 51.121(i), the principal criterion for approval of monitoring and reporting requirements for purposes of the NO_x SIP Call following the amendments would be that the requirements must be sufficient to determine whether sources are in compliance with the control measures adopted to achieve the required emissions reductions.³ EPA noted that for purposes of demonstrating the sufficiency of the monitoring and reporting requirements, a State generally would be able to cite the same types of data (e.g., data indicating substantial compliance margins) that EPA cited to support finalizing the amendments to the NO_x SIP Call regulations.⁴ In addition, EPA pointed out the

covered by the NO_x Budget Trading Program are now subject to source-by-source emission rate limits under 326 IAC 10-3. See 85 FR 10064 at 10067-68.

³ See 84 FR 8422 at 8428-29.

⁴ Id. n. 30.

need to consider whether the State's regulation contains provisions to avoid gaps in required monitoring and whether any monitoring approach that uses emission factors is designed to avoid any bias toward understatement of emissions.⁵

In Indiana's case, the relevant control measure is the collective cap of 8,008 tons of ozone seasons NO_x emissions established for the set of existing and new non-EGUs in 326 IAC 10-2-9(a). Since 2019, the highest collective amount of ozone season NO_x emissions for Indiana's non-EGUs subject to this cap was 2,910 tons, indicating a compliance margin of more than two times emissions levels. For the 2023 ozone season, the collective ozone season NO_x emissions for this set of units was 2,251 tons, indicating a compliance margin of more than three times the most recent emissions levels. See emissions data at <https://campd.epa.gov/data>.

While the alternative monitoring requirements available under Indiana's rule would not provide the same degree of detailed reporting or quality assurance as 40 CFR part 75 monitoring data and may therefore be more likely to overstate or understate actual emissions to some degree, there is nothing in Indiana's rule suggesting that the data obtained using the alternative monitoring methodologies would be biased toward understatement of emissions. As discussed above, several of the permissible alternative monitoring methods would require the use of CEMS to determine the NO_x emission rate component of the

⁵ Id.

reported NO_x mass emissions. In the case of the alternative monitoring method that would allow the use of emission factors instead of CEMS, the rule requires stack testing at least every five years to verify the continued representativeness of the approved emission factors and it includes provisions to address cases where the test results indicate that an emission factor may no longer be representative. Further, the rule requires procedures to account for emissions during periods of missing data and procedures to avoid data gaps during the transition from 40 CFR part 75 monitoring to alternative monitoring. Given the substantial compliance margin in this instance, EPA believes that the data monitored and reported under Indiana's alternative monitoring requirements would be sufficient to determine whether the State's non-EGUs are in compliance with their collective emissions cap.

EPA proposes to find that the monitoring and reporting provisions of Indiana's 326 IAC 10-2 as revised by the addition of new rule section 326 IAC 10-2-8.5, with conforming revisions to rule sections 326 IAC 10-2-3, 326 IAC 10-2-4, and 326 IAC 10-2-8, would meet Indiana's ongoing requirements under 40 CFR 52.121(i)(1) for monitoring and reporting provisions for existing and new large non-EGUs sufficient to demonstrate compliance with the control measure already approved for these units for NO_x SIP Call purposes. EPA is therefore proposing to approve these rule revisions into the Indiana SIP.

C. Section 110(1) Demonstration

CAA section 110(1) provides that EPA cannot approve a SIP revision if the revision would interfere with attainment or maintenance of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA. Indiana's submission includes a demonstration intended to show that CAA section 110(1) does not prohibit approval of this SIP revision.

As noted in section II.B of this document, this proposed action would not alter the NO_x SIP Call emission budgets that apply to emissions in the State. Further, the alternative monitoring requirements at 326 IAC 10-2-8.5 would be permanent, enforceable and sufficient to determine whether Indiana's large non-EGUs are in compliance with the control measures adopted to meet the NO_x SIP Call's emissions requirements. Given continued implementation of SIP requirements governing the unchanged amounts of allowable emissions, accompanied by replacement monitoring requirements sufficient to ensure compliance with the unchanged emissions requirements, this SIP revision is not expected to result in increases in emissions that could interfere with other statutory or regulatory requirements. Importantly, the substitute measure ensures compliance with the existing NO_x SIP Call budgets and thus will preserve the status quo in air quality.

For these reasons, EPA proposes to find that the revisions will not interfere with attainment and maintenance of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA. EPA is therefore proposing to find that CAA section

110(1) does not prohibit approval of this SIP revision.

III. What Action is EPA Taking?

EPA is proposing to approve revisions concerning NO_x requirements from large non-EGUs by the State. The SIP submission includes new rule section 326 IAC 10-2-8.5 with alternative monitoring, record keeping and reporting methods, as well as revisions to rule sections 326 IAC 10-2-3, 326 IAC 10-2-4, and 326 IAC 10-2-8 reflecting language corrections and conditions for the adoption of approved alternative monitoring and reporting requirements as written in new rule section 326 IAC 10-2-8.5.

IV. Incorporation by Reference.

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Indiana rule(s) 326 IAC 10-2-3, 326 IAC 10-2-4, 326 IAC 10-2-8, and 326 IAC 10-2-8.5, effective October 14, 2021, discussed in section III of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and

applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the

National Technology Transfer and Advancement Act of 1995
(15 U.S.C. 272 note) because application of those
requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian
reservation land or in any other area where EPA or an Indian
Tribe has demonstrated that a Tribe has jurisdiction. In those
areas of Indian country, the rule does not have Tribal
implications and will not impose substantial direct costs on
Tribal governments or preempt Tribal law as specified by
Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Ozone, Particulate matter, Reporting and
recordkeeping requirements, Sulfur oxides.

Dated: April 7, 2025.

Cheryl Newton,
Acting Regional Administrator, Region 5.

[FR Doc. 2025-06617 Filed: 4/18/2025 8:45 am; Publication Date: 4/21/2025]