



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2021-0761; FRL-12258-02-R5]

Air Plan Approval; Indiana; Indiana NO_x Emissions Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving 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 recordkeeping 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 recordkeeping requirements that are permissible as alternatives under Federal rules for these sources for purposes of the NO_x SIP Call.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2021-0761. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information

whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Cecilia Magos, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886-7336, email address: magos.cecilia@epa.gov.

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

I. Background

Under the "good neighbor provision" of the CAA section 110(a)(2)(D)(i)(I), States are required to prohibit emissions within their State that contribute significantly to nonattainment in, or interfere with the maintenance of, the National Ambient Air Quality Standards (NAAQS) in a downwind State. The EPA published a series of regulations requiring eastern States, including Indiana, to comply with statewide budgets limiting ozone season emissions of NO_x, a precursor to ozone, as well as annual emissions of NO_x and sulfur dioxide (SO₂), precursors to fine particulate matter (PM_{2.5}). On October 27, 1998 (63 FR 57356), the EPA published the NO_x SIP Call

pursuant to the good neighbor provision for the 1979 ozone NAAQS. The NO_x SIP Call required eastern States to submit SIPs that prohibit excessive emissions of ozone season NO_x by complying with statewide NO_x emissions budgets. The NO_x SIP Call also established the NO_x Budget Trading Program (NBTP), a regional allowance trading program that States could adopt to meet most of their obligations under the NO_x SIP Call.

On August 8, 2011 (76 FR 48208), the EPA published the Cross-State Air Pollution Rule (CSAPR), pursuant to the good neighbor provision of the 1997 ozone NAAQS, 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS, establishing new statewide budgets for eastern States for ozone season NO_x emissions and annual NO_x and SO₂ emissions. State EGUs participating in the CSAPR trading program for ozone season NO_x emissions generally addressed their NO_x SIP Call obligations for EGUs through the CSAPR trading program.

Indiana is meeting its obligation under the NO_x SIP Call for EGUs by participating in the CSAPR trading program for ozone season NO_x emissions. For large non-EGUs, Indiana is meeting its NO_x SIP Call obligations through the implementation of emissions cap and monitoring requirements under the SIP-approved (85 FR 44738, July 24, 2020) State rule at 326 Indiana Administrative Code (IAC) 10-2. Under 326 IAC 10-2, the affected large non-EGUs in the State are required 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), the EPA published final amendments to the NO_x SIP Call regulations giving States flexibility to authorize other monitoring, recordkeeping 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 alternative monitoring requirements could be made available to sources through the EPA approval of their State SIP revisions. On October 21, 2021, IDEM submitted a request to revise the Indiana SIP at 326 IAC 10-2 to allow for alternative NO_x monitoring, recordkeeping and reporting requirements permitted under the newly published NO_x SIP Call amendments.

On April 21, 2025 (90 FR 16658), the EPA published a rulemaking proposing to approve IDEM's October 21, 2021, request addressing ongoing NO_x SIP Call requirements with respect to most of the State's affected large non-EGUs, specifically approve monitoring, reporting, and recordkeeping requirements that are permissible as alternatives to the part 75 monitoring requirements for purposes of the NO_x SIP Call. Public comments on the proposal were due by May 21, 2025.

II. The EPA's Response to Comments

The EPA received one supportive comment recommending the EPA finalize the proposed action and two adverse comments. Summaries of the adverse comments and the EPA's responses are provided below. The comments submitted during the public comment period are available in the docket of this action.

Comment: A commenter recommends Indiana be prohibited from revising its NO_x emissions monitoring, noting such revisions will lead to increased pollution.

Response: The EPA disagrees with this comment. An owner or operator of a large non-EGU is required to apply for an operating permit or a modification to an existing operating permit with an indication of the alternative monitoring to be used and procedures being requested. The request should demonstrate compliance sufficiently with existing ozone season NO_x emissions budgets established upon approval. The request does not modify the established ozone season NO_x emissions budgets; it only modifies the monitoring procedures utilized. As discussed in more detail in the proposed rule and below, the EPA does not expect alternative monitoring procedures either to be systematically biased toward understatement of emissions or to create any incentive leading to increased emissions, as the commenter states. IDEM must report all NO_x emissions under this rule annually to the EPA.

Comment: A commenter requests information on provisions that prioritize air quality monitoring and target emissions reductions of NO_x and ozone pollution in communities of color and low-income neighborhoods, citing an EPA 2021 environmental justice webpage.

Response: This rule does not establish new monitoring locations. It applies to all sources affected by the NO_x SIP Call and does not involve targeted monitoring in certain communities.

Comment: A commenter questions how IDEM and the EPA will “verify that alternative monitoring and reporting methods do not systematically underestimate NO_x emissions, especially when emission factors are used instead of continuous emissions monitoring systems (CEMS).” The commenter also references a journal article on occupational air pollution exposure in urban workers.

Response: As stated in the proposal, the EPA acknowledges alternative monitoring requirements may provide less detailed monitoring data and require less rigorous quality assurance with a consequently greater possibility that the total NO_x emissions amount reported by a source for a given ozone season might understate or overstate the source’s actual total emissions for that ozone season to some degree. However, there is no reason to expect any approved alternative monitoring methodology, including the use of emission factors, either to be systematically biased toward understatement of emissions or to create any incentive leading to increased emissions. In the proposed rule, the EPA stated that no changes to air emissions or air quality are expected because no changes are being made to the NO_x SIP Call’s emissions requirements. Additionally, the EPA does not find the cited journal article on occupational air pollution exposure in urban workers to be relevant to the concerns raised by the commenter. The cited article compares the differences in air pollution exposure across a range of occupations in urban workers, which the EPA does not find

applicable for this action.

Comment: A commenter raised concerns on stack testing frequency and the availability of stack testing data, requesting IDEM's commitment to more frequent stack tests and public reporting. The commenter cited a U.S. Government Accountability Office (GAO) report that recommends identifying a federal entity to lead efforts to update methodologies used to develop the social cost of carbon.

Response: This rulemaking is specific to the EPA's authority under CAA section 110, to approve amendments to the Indiana SIP. The EPA defers to States' choices regarding additional stack testing and reporting, as such additional testing and reporting are not required by Federal regulations. The cited report originates from the GAO, an office within the legislative branch, and does not apply to the authority of the EPA under the executive branch of the United States.

Comment: A commenter inquired about additional measures to prevent gaps in NO_x emissions data "during transitions between monitoring methods or when equipment malfunctions," and the accessibility of such information to the public.

Response: IDEM's rule changes include revisions to monitoring procedures that describe how NO_x emissions will be accounted for during periods of missing data, such as maintenance and malfunctions, as inquired by the commenter. Additionally, if alternative monitoring and reporting is requested within an ozone control period, IDEM will require adequate description of

the transition process to ensure there will be no gaps in data collection and reporting of ozone control period NO_x emissions. As stated, all alternative monitoring and reporting shall meet the conditions of recording and reporting data in accordance with the terms and conditions in the operating permit. These records must be made available upon request. The EPA finds the requirements for the use of approaches other than part 75 monitoring requests satisfactory. The commenter cites an online webpage that is not available, so the EPA was unable to review that source.

Comment: A commenter questioned how the EPA and IDEM will ensure alternative monitoring options do not weaken enforcement of ozone season NO_x caps or attainment of the NAAQS.

Response: The original purpose of the emission monitoring requirements under the NO_x SIP Call was to ensure compliance with the control measures adopted to achieve the rule's emissions reduction requirements. This action does not change NO_x emission budgets or the emissions from the impacted facilities. The rule amendments to the NO_x SIP Call published on March 8, 2019 (84 FR 8422), expanded the options available to States for addressing the ongoing general requirements by allowing alternative monitoring methods other than methods in 40 CFR part 75 monitoring. Alternative monitoring requirements are intended to potentially reduce monitoring costs. As stated previously, alternative monitoring requirements are not meant to impact emissions or air quality. Sources must submit an application

for an operating permit or a modification to an existing one to implement alternative monitoring methods. And IDEM's rules require compliance with ozone season emissions budget to implement an alternative monitoring method. Alternative monitoring methods will provide adequate data to support enforcement of ozone season NO_x budgets as required under the NO_x SIP Call. Further, the commenter cites an online webpage that is not available.

Comment: A commenter questioned whether IDEM conducted cumulative impact assessments ensuring alternative monitoring methods do not exacerbate local NO_x "hotspots" and asked about the public availability of these assessments.

Response: The commenter cited a United States White House webpage that is no longer applicable nor available. This action is meant to support monitoring and enforcement of ozone season NO_x budgets as required under the NO_x SIP Call and does not change any emission limits for sources that might be contributing to local NO_x hotspots.

Comment: A commentor requested information pertaining to the reporting of worker safety and training associated with the installation, maintenance, and operation of new monitoring systems.

Response: The EPA notes these comments are outside the scope of this action and are not discussed further in this document. This rulemaking addresses compliance with NO_x SIP Call regulations, which do not contain provisions related to worker

safety and training.

Comment: A commenter inquired whether the EPA or IDEM will track possible co-benefits for greenhouse gas reductions and climate resilience as a result of NO_x emission reductions in vulnerable communities.

Response: The commenter includes an online webpage that is not available, and these concerns are outside the scope of this action. As previously stated, this rule does not change existing emission limits, rather it allows for the use of alternative monitoring requirements in compliance with NO_x SIP Call emissions reductions.

Comment: A commenter inquired about the availability of all monitoring and compliance data in a "centralized, accessible, and multilingual online database to promote transparency and community engagement."

Response: The commenter cites an online webpage that is no longer available. The EPA notes the changes in this rule pertain to the use of non-part 75 monitoring requirements for reporting NO_x ozone season emissions. These alternative monitoring approaches require data collection and reporting systems, in accordance with the terms and conditions of the approved operating permit.

Comment: A commenter inquired about the EPA and IDEM's commitment to re-evaluating "the effectiveness and equity of these alternative monitoring provisions every three years and updating the SIP accordingly," citing an invalid webpage

presumably on the evolution of the CAA.

Response: The comments fall outside the scope of this action and the commenter cites an invalid online webpage. There is no Federal requirement for States to re-evaluate alternative monitoring provisions or update a SIP every three years.

III. What Action is the EPA Taking?

The EPA is approving IDEM's request to modify its SIP to revise rule 326 IAC 10-2. Specifically, this includes revisions to 326 IAC 10-2-3, 326 IAC 10-2-4, and 326 IAC 10-2-8 and the addition of 326 IAC 10-2-8.5 to include alternative monitoring, recordkeeping and reporting requirements.

IV. Incorporation by Reference.

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Indiana Regulations described in section III of this preamble and set forth in the amendments to 40 CFR part 52 below. The EPA has made, and will continue to make, these documents generally available through <https://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). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the

effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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, the 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);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- 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.*);

¹ 62 FR 27968 (May 22, 1997).

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 the 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).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 4, 2026.

Anne Vogel,
Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) is amended by revising the entry for “10-2” under the section titled “Article 10. Nitrogen Oxides” to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * * * *				
Article 10. Nitrogen Oxides				
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10-2	NO _x Emissions from Large Affected Units	10/21/2021	[INSERT DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>], 91 FR	[INSERT <i>FEDERAL REGISTER</i> PAGE WHERE THE DOCUMENT BEGINS]
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