

accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

## II. Background

On November 8, 2001 (66 FR 56465), EPA approved an Indiana NO<sub>x</sub> SIP revision because it fulfilled the NO<sub>x</sub> SIP Call Phase I emission budget requirements. That plan addressed emissions from electric generating units, large industrial boilers, turbines and cement kilns, in order to achieve reductions and meet the NO<sub>x</sub> budget required by EPA's October 27, 1998, NO<sub>x</sub> SIP Call. (63 FR 57357). The regulations approved include 326 Indiana Administrative Code (IAC) 10-3, the NO<sub>x</sub> reduction program for specific categories, and 326 IAC 10-4, the NO<sub>x</sub> budget trading program.

The amendment to the Indiana plan currently before EPA, also referred to by Indiana as the "NO<sub>x</sub> fix-up rule," addresses additional matters, some of which occurred after State adoption of the rule. The revisions consist of: (1) Regulating Ispat Inland Steel's and U.S. Steel's blast furnace gas boilers in 326 IAC 10-4 instead of 326 IAC 10-3; (2) correcting the omission of three boilers at Purdue University and specifying their allowance allocations in 326 IAC 10-4; (3) amending the definition of "energy efficiency projects" to include anaerobic digestion systems; (4) adding three new formulas to the energy efficiency renewable energy "set-aside" provisions; (5) changing compliance and other dates for all sources subject to the NO<sub>x</sub> trading program, as a result of a judicial decision; and (6) making minor wording changes and correcting typographical errors.

## III. Summary of the State Submittal

### A. What Sources Are Affected by This Rule Change?

There are a number of sources affected by this rule change. Purdue University's heating plant consists of

four boilers which provide steam and electricity to the school. Three of these boilers were originally classified as "small boilers" in the NO<sub>x</sub> SIP Call inventory and therefore, were not included in the NO<sub>x</sub> rules. However, Indiana has determined that these boilers meet the applicable threshold for the NO<sub>x</sub> trading program (250 million BTU per hour). IDEM calculated and allocated allowances for the boilers and included these boilers in 326 IAC 10-4.

When EPA approved Indiana's NO<sub>x</sub> SIP on November 8, 2001, we determined that the Indiana submittal met the Phase I NO<sub>x</sub> SIP Call budget requirement. The plan included Indiana's Phase I budget demonstration and supporting documentation including initial unit allocations and two new rules: 326 IAC 10-3 and 326 IAC 10-4. The final adopted rule included the regulation of blast furnace gas units under 10-3 rather than 10-4. A total of 25 blast furnace gas boilers at 4 facilities with a maximum design heat input of greater than 250 mmBtu/hr were regulated in 326 IAC 10-3. Since all of the units have a low emission rate on a lb/mmBtu basis, IDEM did not include these units in the trading program and did not require further emission reductions. The State inventory notes all of these units use blast furnace gas, natural gas, and/or coke oven gas to make steam. The steam is needed to operate cold air blowers which provide air to stoves and subsequently to the blast furnaces.

The Indiana submittal addressed here moves 14 units from 2 sources (Ispat Inland and U.S. Steel-Gary Works) from 10-3 to 10-4, making the 14 units at these 2 sources part of the trading program, and makes additional allowances available in the trading budget. This approach however, continues to maintain the total overall NO<sub>x</sub> budget for the State as is demonstrated in the revised budget demonstration.

EPA does not generally believe it is appropriate to regulate only a portion of a category of similar sources under a cap and trade program, unless conditions (such as those in the opt-in provisions of the model trading rule in 40 Code of Federal Regulations (CFR) part 96) are imposed in order to address the potential for shifting utilization out of the trading program. When only a portion of a group of similar sources is regulated, there is the potential for utilization to be redistributed from capped to non-capped units in the category in such a way that emissions are shifted from within the trading program, meaning allowances are freed up and total emissions increase. When

emissions from all sources in a source category are regulated and accounted for in a cap and trade program, utilization shifts among sources do not increase total emissions. However, for the particular source category involved here, specifically blast furnace gas boilers in the iron and steel industry, there seems to be little or no ability to shift utilization among plants. The boilers are located in proximity to blast furnaces and burn the by-product gas from the furnaces, which are used in the iron making process. The iron making process is integral to the steel making process at an iron and steel plant. The four plants in Indiana are owned and operated by four separate companies. In order for utilization of the blast furnace gas boilers at one plant to be shifted to those at another plant, steel production would have to be shifted, which seems highly unlikely. Given the low energy content and economic value of blast furnace gas itself, it is also highly unlikely that such gas from one plant would be transported to be burned at another plant.

Considering the relatively small emissions and the unlikelihood of utilization and emissions shifting, EPA in this unique case accepts Indiana's proposal to split this particular source category for the purposes of Indiana's NO<sub>x</sub> budget trading program. However, EPA intends, as part of its review in 2007 of the results of the NO<sub>x</sub> SIP call, to evaluate the impact (including the effect on total emissions) of allowing some, but not all, of the blast furnace gas boilers to participate in the NO<sub>x</sub> budget trading program.

The State has demonstrated and we agree that the changes submitted by Indiana will continue to provide for the timely compliance with the State's NO<sub>x</sub> budget during the 2007 ozone season. The 2 sources which remain in and are subject to the provisions of 326 IAC 10-3 will not adversely affect the overall budget. We are approving the revision because it meets the requirements of § 51.121(b)(1)(I). While the changes increase the trading budget, the overall Phase I budget for Indiana will continue to be met.

These newly included units will make a very small impact on the Indiana overall NO<sub>x</sub> budget. The budget remains within the NO<sub>x</sub> budget approved on November 8, 2001, (66 FR 56465). Specifically, the November 2001 plan contained a budget of 233,633 tons of NO<sub>x</sub> during the 2007 ozone season. The current revision caps NO<sub>x</sub> emissions for the same period at 233,548, well within the previously approved budget.

The rule also adds anaerobic digesters to the list of sources in 326 IAC 10-4-