ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Air Division

Chapter 335-3-8
Nitrogen Oxides Emissions

335-3-8-.01 Standards for Portland Cement Kilns.

(1) Applicability. The requirements of this Rule apply only to Portland cement kilns in the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston with process rates of at least the following:

(a) Long dry kilns-12 short tons per hour (TPH) of clinker produced;

(b) Long wet kilns-10 short TPH of clinker produced;

(c) Preheater kilns-16 short TPH of clinker produced; and

(d) Precalciner and preheater/precalciner kilns-22 short TPH of clinker produced.

(2) Definitions. For the purpose of this Rule, the following definitions apply:

(a) "Clinker" means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(b) "Long Dry Kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is dry.

(c) "Long Wet Kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is a slurry.

(d) "Low-NO_X Burners" means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel rich zones for initial combustion.

(e) "Mid-kiln System Firing" means secondary firing in kiln systems by injecting solid fuel at an intermediate point in the kiln system using a specially designed fuel injection mechanism for the purpose of decreasing nitrogen oxide (NO_X) emissions through:

1. Burning part of the fuel at a lower temperature; and

2. Reducing conditions at the fuel injection point that may destroy some of the NO_X formed upstream in the kiln burning zone.

(f) "Portland Cement" means a hydraulic cement produced by pulverizing clinker consisting

essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

(g) "Portland Cement Kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

(h) "Precalciner Kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and utilize a second burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.

(i) "Preheater Kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.

(3) Standard Requirements. After May 31, 2004, the owner or operator of any Portland cement kiln subject to this Rule shall not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 to September 30 with at least one of the following: low-NO_X burners, mid-kiln system firing, alternative control techniques or reasonably available control technology approved by the Director and the EPA as achieving at least the same emissions decreases as with low-NO_X burners or mid-kiln system firing.

(4) The owner or operator subject to the requirements of paragraph (3) of this Rule above shall comply with the requirements as follows:

(a) By May 31, 2004, submit to the Department the identification number and type of each Portland cement kiln subject to this Rule, the name and address of the facility where the kiln is located, and the name and telephone number of the person responsible for demonstrating compliance with paragraph (3); and

(b) Submit data, electronically and in a format prescribed and provided by the Department, which reports the total NO_X emissions from May 1 through September 30 of each year as follows:

1. Annual reporting. For each kiln, beginning with emission year 2004 and every year thereafter, by March 31st of the calendar year following the emission year being reported, the data specified in 40 CFR, §§ 51.122(c)(1) and (2) must be submitted to the Department.

2. Triennial reporting. For each kiln, beginning with emission year 2005 and every third year thereafter, by March 31st of the calendar year following the emission year being reported, the data specified in 40 CFR,51.122(c)(3) must be submitted to the Department.

3. Year 2003 reporting. For each kiln, by March 31, 2004, the data specified in 40 CFR, § 51.122(c)(3) must be submitted to the Department.

4. Year 2007 reporting. For each kiln, by March 31, 2008, the data specified in 40 CFR, § 51.122(c)(3) must be submitted to the Department.

(5) By May 31, 2004, the owner or operator of a kiln subject to this Rule shall submit to the

Department a demonstration of compliance with the requirements of paragraph (3). If compliance is being achieved by use of prescribed equipment, for example low-NO_X burners or mid-kiln system firing, the demonstration of compliance shall be written certification to the Department that this equipment is installed and in use. If compliance is being achieved by use of alternative control techniques, approved by the Director and EPA, demonstration of compliance shall be specified by the Director and EPA. In case of compliance proposed to be achieved by use of alternative control techniques, a plan for compliance demonstration shall be submitted to the Department by May 1, 2003. Upon receipt, the Department shall immediately forward a copy of the plan to the EPA. By November 1, 2003, the Director shall specify in writing to the owner or operator of the kiln how compliance shall be demonstrated, this specification consistent with methods and requirements specified by the EPA following its review of the submitted plan.

(6) By December 31 of each year, beginning in 2004, the owner or operator of a Portland cement kiln subject to this Rule shall submit to the Department a written certification that compliance with the requirements of paragraph (3) has been maintained during that year's five-month period May 1 though September 30. The methods of determining that this compliance has been maintained shall be as specified on the major source operating permit issued for the facility at which the kiln is operated.

(7) Beginning May 1, 2004, the owner or operator of a Portland cement kiln subject to this Rule shall maintain records for May 1 through September 30 of each year that include the data as follow:

(a) The date, time, and duration of any startup, shutdown, or malfunction in the operation of the cement kiln or its emissions monitoring equipment or of any scheduled maintenance activity that affects NOx emissions or emissions monitoring;

(b) The results of any compliance testing; and

(c) Other data required by permit to be maintained.

(8) The records listed in paragraph (7) of this Rule shall be retained on-site for a minimum of 2 years following the calendar year for which they are made and shall be made available to the Department for review upon request.

(9) The requirements of this Rule shall not apply to periods of scheduled maintenance activities that affect NO_X emissions.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919

335-3-8-.02 Nitric Acid Manufacturing

(1) Except as provided in paragraph (2) of this Rule, no person shall cause or permit the emission of nitrogen oxides, calculated as nitrogen dioxide, from nitric acid manufacturing plants in excess of 5.5 pounds per ton of one hundred percent (100%) acid produced.

(2) For nitric acid manufacturing plants within a designed capacity greater than one hundred and fifty (150) tons per day of one hundred percent (100%) acid, no person shall cause or permit the emission of nitrogen oxides, calculated as nitrogen dioxide, from such manufacturing plants in excess of twenty (20) pounds per ton of one hundred percent (100%) acid produced.

Author: James W. Cooper and John E. Daniel
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: November 21, 1996.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	JAN 25, 1972	MAY 31, 1972	37 FR 10842
1st Revision	OCT 31, 1989	MAR 19, 1990	55 FR 10062
2nd Revision	OCT 30, 1996	JUN 06, 1997	62 FR 30991

335-3-8-.03 NO_X Emissions from Electric Utility Steam Generating Units

(1) Applicability. This Rule applies to existing coal-fired electric utility steam generating installations in Walker and Jefferson Counties.

(2) During the compliance period specified in paragraph (3) below, no person shall cause or permit the operation of a coal-fired electric utility steam generating installation in Walker or Jefferson Counties in such a manner that nitrogen oxides (NO_X) are emitted in excess of the emission limits established by the Department in this Rule and specified in the Major Source Operating Permit for the affected unit(s). The BTU-weighted 30-day rolling average NO_X emission rate for the affected units shall be less than or equal to 0.21 pounds per million BTU of heat input, during the compliance period specified in paragraph (3) below.

(3) Beginning May 1, 2003, and each year thereafter, the compliance period shall begin May 1 and end on September 30 of each year. Compliance is based on a 30-day rolling average.

(a) The first calculated 30-day averaging period shall be May 1 through May 30.

(b) The last calculated 30-day averaging period shall be September 1 through September 30.

(4) Testing, Recordkeeping and Reporting.

(a) Continuous emissions monitoring systems (CEMS) to measure nitrogen oxide emissions from each affected unit shall be installed and operated at locations approved by the Director. The CEMS shall meet the specifications and procedures of 40 CFR Part 75 and will be certified and maintained in accordance with 40 CFR Part 75. In addition, each of the CEMS shall undergo a relative accuracy test audit (RATA) on an annual basis at times approved by the Director.

(b) Records of the 30-day average nitrogen oxide emission rate for the affected units shall be kept for a period of five (5) years.

(c) A written report of the 30-day average nitrogen oxide emission rates for the affected units shall be submitted to the Department by the 15^{th} day of each month during the period from May 1 to September 30 of each year. The first report shall be submitted by June 15 and shall include data for the month of May. The final report shall be submitted by October 15 and shall include data for the month of September.

(d) Any exceedances of the NO_X emission rate specified in paragraph (2) of this Rule shall be reported to the Department within two (2) working days of the date of the exceedance.

(e) Additional testing, recordkeeping, and reporting requirements may be necessary and will be specified by the Department at such times as they become necessary.

Author: A. David Ousley, C. Lynn Garthright, and Jeffery W. Kitchens
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: December 1, 2000.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	NOV 1, 2000	NOV 7, 2001	66 FR 56223

335-3-8-.04 Standards for Stationary Reciprocating Internal Combustion Engines

(1) Applicability. The requirements of this Rule apply to any person that owns or operates a facility at which one or more large affected engines were located during the baseline period.

(2) Definitions. For the purpose of this Rule, the following definitions apply:

(a) "Affected engine" means an engine that was operated within the fine grid during the baseline period and was included in the NOx SIP call Inventory.

(b) "Control period" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive, beginning in 2007.

(c) "Fine grid portion of the State" or "fine grid" means the geographic area that includes the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, DeKalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston, located within the State of Alabama.

(d) "Large affected engine" means any affected engine whose average daily NOx emission rate was greater than one ton per day during the baseline period.

(e) "NOx potential to emit" means the maximum capacity of an engine to emit NOx under its physical and operational design or applicable permit condition for a given period of time. Any physical limitation on the capacity of a source's potential to emit an air pollutant, including air pollution control equipment or combustion modification, shall be treated as part of its design if the limitation is enforceable by the Director.

(f) "NOx SIP Call baseline period" or "baseline period" means the period beginning May 1, 1995, and ending on September 30, 1995, inclusive.

(g) "NOx SIP Call baseline period of utilization" or "baseline utilization" means the amount of work performed by an affected engine during the baseline period in brake horsepower-hours (bhp-hr).

(h) "NOx SIP Call Inventory" means the NOx emission inventory published March 2, 2000, at 65 FR 11222 and amended April 21, 2004 at 69 FR 21603.

(i) "Projected 2007 Ozone Season Base NOx Emissions" or "projected 2007 emissions" means, for an affected engine, the projected uncontrolled NOx emissions (in tons) for the 2007 ozone season as published in the NOx SIP Call Inventory and denoted as the variable labeled 'SNOx07'. For an affected engine that is not a large affected engine to which a control device is added or a combustion modification is made after September 30, 1995, if the Director approves a demonstration made by the person subject to this Rule that the Projected 2007 Ozone Season Base NOx Emission published in the NOx SIP Call Inventory for that affected engine was not

calculated from the correct 1995 ozone season emissions, the Projected 2007 Ozone Season Base NOx Emissions for that affected engine will be the product of its uncontrolled 1995 NOx hourly emission rate (lb/hr), the number of hours it operated during the 1995 ozone season, and the 1995-2007 growth factor assigned to the affected engine in the NOx SIP Call Inventory denoted as the variable labeled 'GF9507.' The demonstration should provide representative emission test data or manufacturer's emission data for the affected engine applicable during the 1995 ozone season and records documenting its hours of operation during the 1995 ozone season.

(j) "Projected 2007 Ozone Season utilization" or "projected utilization" means the baseline utilization of an affected engine multiplied by the 1995-2007 growth factor assigned to that affected engine in the NO_X SIP Call Inventory denoted as the variable labeled 'GF9507.'

(k) "Ozone season" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(l) "Stationary reciprocating internal combustion engine" or "engine" means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not self-propelled or intended to be propelled while performing its function.

(3) NO_X Emission Standards.

(a) Any person subject to this Rule shall reduce NO_X emissions from one or more affected engines within the fine grid during each control period by an amount not less than 82% of the 2007 Ozone Season Base NO_X Emissions (rounded to the nearest whole ton) of the large affected engines currently or formerly located at a facility that is under their control or ownership.

(b) For the purposes of the compliance plan required by paragraph (4), NO_X emission reductions shall be calculated according to the following criteria:

1. For an affected engine to which a control device is added or a combustion modification is made after September 30, 1995, the NO_X emission reductions shall be equal to the difference (in tons) in the affected engine's projected 2007 emissions and the affected engine's NO_X potential to emit at the controlled emission rate during a control period.

2. For an affected engine that is removed from service after September 30, 1995, and the facility's operating capacity equivalent to the removed affected engine's projected utilization is replaced, in part or in total, during a control period by a NO_X emitting device installed after September 30, 1995, the NO_X emission reductions shall be the difference (in tons) in the removed affected engine's projected 2007 emissions and the replacement device's NO_X potential to emit during a control period for the operating capacity (in brake horsepower-hours) equivalent to the portion of the removed affected engine's projected utilization that it will replace, not to exceed 100%.

3. For an affected engine that is removed from service after September 30, 1995, and the facility's operating capacity (in brake horsepower-hours) equivalent to the removed affected engine's projected utilization is replaced, in part or in total, during a control period by a device

that does not emit NO_X installed after September 30, 1995, the NO_X emission reductions shall be the removed affected engine's projected 2007 emissions except where a NO_X emitting device is installed at the removed affected engine's facility after the date that the device that does not emit NO_X was installed.

4. For an affected engine that is removed from service after September 30, 1995, and the facility's operating capacity (in brake horsepower-hours) equivalent to the removed affected engine's projected utilization is replaced, in part or in total, during a control period by a device that does not emit NO_X and a NO_X emitting device is installed at the removed affected engine's facility after the date that the device that does not emit NO_X was installed, the NO_X emission reductions shall be the difference (in tons) in the removed affected engine's projected 2007 emissions and the NO_X emitting device's NO_X potential to emit during a control period for its operating capacity (in brake horsepower-hours) equivalent to the removed affected engine's projected utilization it will replace, not to exceed 100%.

(c) The following shall not be considered NO_X emission reductions for the purposes of complying with this Rule:

1. A restriction on an affected engine's hours of operation during a control period, including a prohibition from operating;

2. A NO_X emission limitation enforceable by the Director placed upon an affected engine to which no control device was added or combustion modification was made after September 30, 1995; or

3. The removal of an affected engine from service if that affected engine is placed into service at another location within the fine grid.

4. NO_X emission reductions achieved at a facility that is not owned or operated by the person who is responsible for demonstrating compliance with this Rule.

(d) Demonstrability and Enforceability of NO_X Emission Reductions.

1. NO_X emission reductions calculated in accordance with subparagraph (3)(b)1., (3)(b)2., or (3)(b)4. shall be demonstrable and enforceable if:

(i) An hourly NO_X emission limitation (in pounds per hour, "lb/hr") is incorporated into a permit enforceable by the Director for the affected engine or replacement device that is to be operated during a control period (the hourly NO_X emission limitation shall be equal to the hourly emission rate used to calculate the NO_X potential to emit for the affected engine or replacement device in the source's compliance plan), and

(ii) A performance test conducted in accordance with paragraph (5) determines that the affected engine or replacement device is capable of complying with the hourly NO_X emission limitation.

2. For any affected engine removed from service, NO_X emission reductions calculated in accordance with subparagraphs (3)(b)2. through (3)(b)4. shall be demonstrable and enforceable if the applicable permit has been modified or voided, whichever is applicable, such that the

affected engine's authorization to operate ceases on or before the first day of the control period for which NO_X emission reductions would be credited for its removal.

(e) NO_X emission reductions achieved to comply with this Rule shall not be considered creditable for compliance with any other applicable requirement and shall not be considered a contemporaneous emission decrease for the purposes of netting or offsets under ADEM Admin. Code R. 335-3-14-.04 or .05.

(4) Compliance Plan.

(a) Any person subject to this Rule shall submit a complete compliance plan to the Director no later than May 1, 2006.

(b) Contents. The compliance plan shall contain the following:

1. Name and address of person subject to this Rule, including the name and telephone number of the person responsible for demonstrating compliance with the submitted compliance plan.

2. Identification of the large affected engines for which the person is subject to this Rule to include:

(i) Facility name and location;

(ii) Engine manufacturer, model, and maximum design capacity (brake horsepower);

(iii) NO_X SIP Call Inventory source identification number ('POINTID'); and

(iv) 2007 Ozone Season Base NO_X Emissions.

3. Calculation of the NO_X emission reductions required by subparagraph (3)(a).

4. Identification of the affected engines from which NO_X emission reductions will be achieved to include:

(i) Facility name and location;

(ii) Engine manufacturer, model, and maximum design capacity (brake horsepower);

(iii) NO_X SIP Call Inventory source identification number ('POINTID'); and

(iv) 2007 Ozone Season Base NO_X Emissions.

5. A narrative to describe the manner in which the NO_X emission reductions will be achieved;

6. A numerical demonstration of the NO_X emission reductions to be achieved that identifies the following for each affected engine or replacement device during a control period:

(i) Maximum hourly emission rate, in lb/hr;

(ii) Maximum design capacity, in brake horsepower;

(iii) NO_X potential to emit (based upon 3,672 hours during a control period) for the affected engine or replacement device;

(iv) The baseline utilization of the affected engine that will be removed, if applicable; and

(v) For a replacement device that emits NO_X, the maximum operating capacity (in brake horsepower-hours) during a control period.

(c) Modifications.

1. Any person subject to this Rule shall submit a request to modify the approved compliance plan if:

(i) An affected engine removed from service for which NO_X emission reductions are relied upon for compliance with this Rule will be reinstalled and operated within the fine grid during a control period;

(ii) The operating capacity equivalent to a removed affected engine's projected utilization at the location at which the affected engine was

located during the baseline period will be replaced, in part or in total, by the installation of another device that is not included in the approved compliance plan; or

(iii) The actual hourly NO_X emission rate of an affected engine or replacement device in the approved compliance plan is determined to exceed the applicable hourly NO_X emission limitation, except where it has been determined that maintenance or repair of the affected engine or replacement device has reduced the actual hourly NO_X emission rate below the applicable hourly NO_X emission limitation.

2. A request to modify a compliance plan shall be submitted at least 60 days prior to the control period in which the modification would be applicable, unless another time period is specifically approved by the Director.

(d) Completeness Determination. Within 60 days of receipt of a compliance plan or a request to modify a compliance plan, the Director shall notify the person in writing of the completeness of the submitted plan.

(e) Approval. A compliance plan shall be considered approvable if:

1. All permits required by subparagraph (3)(d) have been modified, issued, or voided, as applicable;

2. All performance tests required by paragraph (5) have been conducted, reviewed, and accepted; and

3. The plan establishes that demonstrable and enforceable NO_X emission reductions required by

subparagraph (3)(a) would be achieved.

(5) Performance Testing.

(a) Any person subject to this Rule which relies upon NO_X emission reductions achieved from an affected engine in accordance with subparagraph (3)(b)1. or a replacement device in accordance with subparagraph (3)(b)2. or (3)(b)4. to comply with this Rule shall conduct a performance test in accordance with EPA Reference Method 7E or 20, as appropriate, found at Appendix A of 40 CFR 60 on the affected engine or replacement device to determine the actual hourly NO_X emission rate, in lb/hr.

(b) The performance test shall be conducted at least 60 days, but not more than one year, prior to the first control period for which NO_X emission reductions are to be achieved by that affected engine or replacement device, unless another period of time is specifically approved by the Director.

(c) At least 30 days prior to conducting the test, the person subject to this Rule shall submit written notification of testing to the Director. To avoid problems concerning testing methods and procedures, the following shall be included with the notification letter:

1. The date the test crew is expected to arrive, the date and time anticipated of the start of the first run, and the names of the persons and/or testing company that will conduct the tests.

2. A complete description of each sampling train to be used, including type of media used in determining gas stream components, type of probe lining, type of filter media, and probe cleaning method and solvent to be used (if test procedure requires probe cleaning).

3. A sketch or sketches showing sampling point locations and their relative positions to the nearest upstream and downstream gas flow disturbances.

(6) Emission Monitoring. For any affected engine or NO_X emitting replacement device that operates during a control period from which demonstrable and enforceable NO_X emission reductions are to be achieved, the person subject to this Rule shall conduct emission monitoring in accordance with one of the following:

(a) Conduct emission testing on that affected engine or NO_X emitting replacement device at least once during each control period, or at least once during the six-month period preceding the first day of the control period. Emission testing shall be conducted in accordance with EPA Reference Method 7E or 20, as appropriate, found at Appendix A of 40 CFR 60 or an alternative EPA-approved method approved by the Director. Notification of emission testing shall be made in accordance with the requirements of subparagraph (5)(c);

(b) Install and operate during each control period a continuous emission monitoring system that complies with Part 60 or Part 75 of the Code of Federal Regulations; or

(c) Implement a parametric emission monitoring system based upon actual emission testing and correlations with operating parameters. The installation, implementation, and use of any parametric emission monitoring system must be approved by the Director in writing prior to

implementation.

(7) Recordkeeping and Reporting.

(a) The person subject to this Rule shall maintain records of the following for each affected engine or replacement device from which demonstrable and enforceable NO_X emission reductions are to be achieved during each control period:

1. Identification and location of each affected engine or replacement device;

2. Calendar date of record;

3. Number of hours operated during the control period;

4. Type and quantity of fuel used during the control period

5. Date and results of each emissions-related inspection and a summary of any emissions-related corrective maintenance, if taken;

6. The results of all emission tests; and

7. Additional information described in any compliance plan pursuant to paragraph (4) or parametric emission monitoring system approved pursuant to subparagraph (6)(c).

(b) Records required by subparagraph (a) above shall be maintained at the facility at which the affected engine or replacement device is located for a period of five (5) calendar years from the date of generation of each record. The records shall be made available for inspection upon request.

(c) The person subject to this Rule shall submit a report of the results of each emission test conducted in accordance with paragraph (5) or subparagraph (6)(a) to the Director within 30 days of the completion of the actual test, unless an extension of time is specifically approved by the Director.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-16, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: February 27, 2006.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	FEB 23, 2005	DEC 28, 2005	70 FR 76694

335-3-8-.05 NO_X Budget Trading Program

(1) Purpose. Rules 335-3-8-.05 through 335-3-8-.13 establish general provisions and the applicability, permitting, allowance, excess emissions, monitoring, and opt-in provisions for the NO_X Budget Trading Program for Alabama's State Implementation Plan as a means of mitigating the interstate transport of ozone and nitrogen oxides pursuant to 40 CFR, § 51.121 and 51.122. The State authorizes the Administrator to assist the State in implementing the NO_X Budget Trading Program by carrying out the functions set forth for the Administrator in such requirements.

(a) The provisions of Rules 335-3-8-.05 through 335-3-8-.13 shall not apply to the control period beginning in 2009 and any control period thereafter.

(2) Definitions. For the purpose of Rules 335-3-8-.05 through 335-3-8-.13, the following definitions apply:

(a) "Account Certificate of Representation" means the completed and signed submission required by Rule 335-3-8-.06 for certifying the designation of a NO_X authorized account representative for a NO_X Budget source or a group of identified NO_X Budget sources who is authorized to represent the owners and operators of such source or sources and of the NO_X Budget units at such source or sources with regard to matters under the NO_X Budget Trading Program.

(b) "Account Number" means the identification number given by the Administrator to each NO_X Allowance Tracking System account.

(c) "Acid Rain Emissions Limitation" means, as defined in 40 CFR, § 72.2 and incorporated by reference in ADEM Admin. Code R. 335-3-18-.01, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the CAA.

(d) "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

(e) "Allocate or Allocation" means the determination by the Department or the Administrator of the number of NO_X allowances to be initially credited to a NO_X Budget unit.

(f) "Automated Data Acquisition and Handling System or DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under Rule 335-3-8-.12, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a

continuous record of the measured parameters in the measurement units required by Rule 335-3-8-.12.

(g) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(h) "CAA" means the CAA, 42 U.S.C. 7401, et seq., as amended by Pub. L. No. 101-549

(November 15, 1990).

(i) "Cogeneration Combined Cycle System" means a combined cycle system that has equipment used to produce electricity and forms the useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes through the sequential use of energy.

(j) "Combined Cycle System" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(k) "Combustion Turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(l) "Commence Commercial Operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in paragraph (5) of this Rule, for a unit that is a NO_X Budget unit under paragraph (4) of this Rule on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or re-powered. Except as provided in paragraph (5) of this Rule or Rule 335-3-8-.13, for a unit that is not a NO_X Budget unit under paragraph (4) of this Rule on the date the unit commences commercial operation, the date the unit becomes a NO_X Budget unit under paragraph (4) of this Rule shall be the unit's date of commencement of commercial operation.

(m) "Commence Operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in paragraph (5) of this Rule, for a unit that is a NO_X Budget unit under paragraph (4) of this Rule on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in paragraph (5) of this Rule or Rule 335-3-8-.13, for a unit that is not a NO_X Budget unit under paragraph (4) of this Rule on the date of commencement of operation, the date the unit becomes a NO_X Budget unit under paragraph (4) of this Rule shall be the unit's date of commencement of operation.

(n) "Common Stack" means a single flue through which emissions from two or more units are exhausted.

(o) "Compliance Account" means a NO_X Allowance Tracking System account, established by the Administrator for a NO_X Budget unit under Rule 335-3-8-.10, in which the NO_X allowance allocations for the unit are initially recorded and in which are held NO_X allowances available for use by the unit for a control period for the purpose of meeting the unit's NO_X Budget emissions limitation.

(p) "Compliance Certification" means a submission to the Department or the Administrator, as appropriate, that is required under Rule 335-3-8-.08 to report a NO_X

Budget source's or a NO_X Budget unit's compliance or noncompliance with this Rule and that is

signed by the NO_X authorized account representative in accordance with Rule 335-3-8-.06.

(q) "Continuous Emission Monitoring System or CEMS" means the equipment required under Rule 335-3-8-.12 to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters,

permanent record of nitrogen oxides emissions, expressed in tons per hour for nitrogen oxides. The following systems are component parts included, consistent with 40 CFR 75, in a continuous emission monitoring system:

1. Flow monitor;

2. Nitrogen oxides pollutant concentration monitors;

3. Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required by Rule 335-3-8-.12;

4. A continuous moisture monitor when such monitoring is required by Rule 335-3-8-.12; and

5. An automated data acquisition and handling system.

(r) "Control Period" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(s) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Department and the Administrator by the NO_X authorized account representative and as determined by the Administrator in accordance with Rule 335-3-8-.12.

(t) "Energy Information Administration" means the Energy Information Administration of the United States Department of Energy.

(u) "Excess Emissions" means any tonnage of nitrogen oxides emitted by a NO_X Budget unit during a control period that exceeds the NO_X Budget emissions limitation for the unit.

(v) "Fossil Fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material. Fossil fuel-fired means, with regard to a unit:

1. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year starting in 1995 or, if a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995; or

2. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year; provided that the unit shall be "fossil fuel-fired" as of the date, during such year, on which the unit begins combusting fossil fuel.

(w) "General Account" means a NO_X Allowance Tracking System account, established under Rule 335-3-8-.10, that is not a compliance account or an overdraft account.

(x) "Generator" means a device that produces electricity.

(y) "Heat Input" means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time), as measured, recorded, and reported to the Administrator by the NO_X authorized account representative and as

determined by the Department and the Administrator in accordance with Rule 335-3-8-.12, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(z) "Life-of-the-Unit, Firm Power Contractual Arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;

2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

3. For a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(aa) "Maximum Design Heat Input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(bb) "Maximum Potential Hourly Heat Input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use Appendix D of 40 CFR 75 to report heat input, this value should be calculated, in accordance with 40 CFR 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR 75, using the maximum potential flowrate and either the maximum carbon dioxide concentration (in percent CO_2) or the minimum oxygen concentration (in percent O_2).

(cc) "Maximum Potential NO_X Emission Rate" means the emission rate of nitrogen oxides (in lb/mmBtu) calculated in accordance with paragraph 3 of Appendix F of 40 CFR 75, using the maximum potential nitrogen oxides concentration as defined in paragraph 2 of Appendix A of 40 CFR 75, and either the maximum oxygen concentration (in percent O_2) or the minimum carbon dioxide concentration (in percent CO_2), under all operating conditions of the unit except for unit start up, shutdown, and upsets.

(dd) "Maximum Rated Hourly Heat Input" means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

(ee) "Monitoring System" means any monitoring system that meets the requirements of Rule 335-3-8-.12, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

(ff) "Most Stringent State or Federal NO_X Emissions Limitation" means, with regard to a NO_X Budget opt-in source, the lowest NO_X emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under State or Federal law, regardless of the averaging period to which the emissions limitation applies.

(gg) "Nameplate Capacity" means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(hh) "Non-title V Permit" shall have the same meaning as either an "Air Permit" issued pursuant to the rules in Chapter 335-3-14 or "Synthetic Minor Operating Permit" defined in Chapter 335-3-15.

(ii) "NO_X Allowance" means an authorization by the Department or the Administrator under a NO_X Budget Trading Program established, and approved by the Administrator pursuant to 40 CFR, § 51.121 or § 52.34 to emit up to one ton of nitrogen oxides during the control period of the specified year or of any year thereafter, except as provided under Rule 335-3-8-.10(6)(b).

(jj) "NO_X Allowance Deduction or Deduct NO_X Allowances" means the permanent withdrawal of NO_X allowances by the Administrator from a NO_X Allowance Tracking System compliance account or overdraft account to account for the number of tons of NO_X emissions from a NO_X Budget unit for a control period, determined in accordance with Rule 335-3-8-.12, or for any other allowance surrender obligation under Rules 335-3-8-.05 through 335-3-8-.13.

(kk) "NO_X Allowances Held or Hold NO_X Allowances" means the NO_X allowances recorded by the Administrator, or submitted to the Administrator for recordation, in accordance with Rules 335-3-8-.10 and 335-3-8-.11, in a NO_X Allowance Tracking System account.

(ll) "NO_X Allowance Tracking System" means the system by which the Administrator records allocations, deductions, and transfers of NO_X allowances under the NO_X Budget Trading Program.

(mm) "NO_X Allowance Tracking System Account" means an account in the NO_X Allowance Tracking System established by the Administrator for purposes of recording the allocation, holding, transferring, or deducting of NO_X allowances.

(nn) "NO_X Allowance Transfer Deadline" means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO_X allowances may be submitted for recordation in a NO_X Budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NO_X

Budget emissions limitation for the control period immediately preceding such deadline.

(oo) "NO_X Authorized Account Representative" means, for a NO_X Budget source or NO_X Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_X Budget units at the source, in accordance with Rule 335-3-8-.06, to represent and legally bind each owner and operator in matters pertaining to the NO_X Budget Trading Program or, for a general account, the natural person who is authorized, in accordance with Rule 335-3-8-.10, to transfer or otherwise dispose of NO_X allowances held in the general account.

(pp) "NO_X Budget Emissions Limitation" means, for a NO_X Budget unit, the tonnage equivalent of the NO_X allowances available for compliance deduction for the unit under Rule 335-3-8-.10(5)(a), (b), (e), and (f) in a control period adjusted by deductions of such NO_X allowances to account for excess emissions for a prior control period under Rule 335-3-8-.10(5)(d) or, for a NO_X Budget opt-in source, to account for withdrawal from the NO_X Budget Program under Rule 335-3-8-.13(7), or for a change in regulatory status for a NO_X Budget opt-in source under Rule 335-3-8-.13(8).

(qq) "NO_X Budget Opt-in Permit" means a NO_X Budget permit covering a NO_X Budget opt-in source.

(rr) "NO_X Budget Opt-in Source" means a unit that elects to become a NO_X Budget unit under the NO_X Budget Trading Program and whose NO_X Budget opt-in permit has been issued and is in effect under Rule 335-3-8-.13.

(ss) "NO_X Budget Permit" means the legally binding and enforceable written document, or portion of such document, issued by the Department under Rules 335-3-8-.05 through 335-3-8-.13, including any permit revisions, specifying the NO_X Budget Trading Program requirements applicable to a NO_X Budget source, to each NO_X Budget unit at the NO_X Budget

source, and to the owners and operators and the NO_X authorized account representative of the NO_X Budget source and each NO_X Budget unit.

(tt) "NO_X Budget Source" means a source that includes one or more NO_X Budget units.

(uu) "NO_X Budget Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program established pursuant to 40 CFR § 51.121, as a means of mitigating the Interstate transport of ozone and nitrogen oxides, an ozone precursor.

(vv) "NO_X Budget Unit" means a unit that is subject to the NO_X Budget Trading Program emissions limitation under paragraph (4) of this Rule or Rule 335-3-8-.13.

(ww) "Operating" means, with regard to a unit under Rules 335-3-8-.07(3)(d)2. and 335-3-8-.13(1), having documented heat input for more than 876 hours in the 6 months immediately preceding the submission of an application for an initial NO_X Budget permit under Rule 335-3-8-.13(4)(a).

(xx) "Operator" means any person who operates, controls, or supervises a NO_X Budget unit, a

NO_X Budget source, or unit for which an application for a NO_X Budget opt-in permit under Rule 335-3-8-.13(4) is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(yy) "Opt-in" means to elect to become a NO_X Budget unit under the NO_X Budget Trading Program through a final, effective NO_X Budget opt-in permit under Rule 335-3-8-.13.

(zz) "Overdraft Account" means the NO_X Allowance Tracking System account, established by the Administrator under Rule 335-3-8-.10, for each NO_X Budget source where there are two or more NO_X Budget units.

(aaa) "Owner" means any of the following persons:

1. Any holder of any portion of the legal or equitable title in a NO_X Budget unit or in a unit for which an application for a NO_X Budget opt-in permit under Rule 335-3-8-.13(4) is submitted and not denied or withdrawn; or

2. Any holder of a leasehold interest in a NO_X Budget unit or in a unit for which an application for a NO_X Budget opt-in permit under Rule 335-3-8-.13(4) is submitted and not denied or withdrawn; or

3. Any purchaser of power from a NO_X Budget unit or from a unit for which an application for a NO_X Budget opt-in permit under Rule 335-3-8-.13(4) is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_X Budget unit or the unit for which an application for a NO_X Budget opt-in permit under Rule 335-3-8-.13(4) is submitted and not denied or withdrawn; or

4. With respect to any general account, any person who has an ownership interest with respect to NO_X allowances held in the general account and who is subject to the binding agreement for the NO_X authorized account representative to represent that person's ownership interest with respect to NO_X allowances.

(bbb) "Department" means the Alabama Department of Environmental Management authorized by the Administrator to issue or revise permits to meet the requirements of the NO_X Budget Trading Program in accordance with Rule 335-3-8-.07.

(ccc) "Receive or Receipt of" means, when referring to the Department or the Administrator, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the Department or the Administrator in the regular course of business.

(ddd) "Recordation, Record, or Recorded" means, with regard to NO_X allowances, the movement of NO_X allowances by the Administrator from one NO_X Allowance Tracking System account to another, for purposes of allocation, transfer, or deduction.

(eee) "Reference Method" means any direct test method of sampling and analyzing for an air pollutant or diluent as specified in 40 CFR 60, Appendix A [incorporated by reference in ADEM Admin. Code R. 335-3-10-.03(1)].

(fff) "Serial Number" means, when referring to NO_X allowances, the unique identification number assigned to each NO_X allowance by the Administrator, under Rule 335-3-8-.10(4)(c).

(ggg) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of paragraph 502(c) of the CAA, a "source", including a "source" with multiple units, shall be considered a single "facility".

(hhh) "State" means the State of Alabama, the Environmental Management Commission, and the Commission's representatives.

(iii) "State Trading Program Budget" means the total number of NO_X tons apportioned to all NO_X Budget units in the State, in accordance with the NO_X Budget Trading Program, for use in a given control period.

(jjj) "Submit or Serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;

2. By United States Postal Service; or

3. By other means of dispatch or transmission and delivery.

(i) Compliance with any "submission", "service", or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(kkk) "Title V Operating Permit" means a "Major Source Operating Permit" as defined and issued under Chapter 335-3-16. Title V operating permit regulations means the Major Source Operating Permits regulations in Chapter 335-3-16 that the Administrator has approved or issued as meeting the requirements of Title V of the CAA and 40 CFR 70 or 71.

(lll) "Ton or Tonnage" means any "short ton" (i.e., 2,000 pounds). For the purpose of determining compliance with the NO_X Budget emissions limitation, total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with Rule 335-3-8-.12, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

(mmm) "Unit" means a fossil fuel-fired stationary boiler, combustion turbine, combined cycle system, or cogeneration combined cycle system.

(nnn) "Unit Load" means the total (i.e., gross) output of a unit in any control period (or other specified time period) produced by combusting a given heat input of fuel, expressed in terms of:

1. The total electrical generation (MWe) produced by the unit, including generation for use within the plant; or

2. In the case of a unit that uses heat input for purposes other than electrical generation, the total steam produced by the unit, including steam for use by the unit.

(ooo) "Unit Operating Day" means a calendar day in which a unit combusts any fuel.

(ppp) "Unit Operating Hour or Hour of Unit Operation" means any hour (or fraction of an hour) during which a unit combusts any fuel.

(qqq) "Utilization" means the heat input (expressed in mmBtu/time) for a unit. The unit's total heat input for the control period in each year will be determined in accordance with 40 CFR 75 if the NO_X Budget unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this Rule are defined as follows:

(a) Btu--British thermal unit.

(b) hr--hour.

(c) Kwh--kilowatt hour.

(d) lb--pounds.

(e) mmBtu--million Btu.

(f) MWe--megawatt electrical.

(g) ton--2000 pounds.

(h) CO_2--carbon dioxide.

(i) NO_X--nitrogen oxides.

(j) O_2--oxygen.

(4) Applicability.

(a) The following units in the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker,

and Winston shall be NO_X Budget units, and any source that includes one or more such units

shall be a NO_X Budget source, subject to the requirements of this Rule:

1. Any unit that any time on or after January 1, 1995, serves a generator with a nameplate capacity greater than 25 MWe and sells any amount of electricity; or,

2. Any unit that is not a unit under subparagraph (a)1. of this paragraph and that has a maximum design heat input greater than 250 mmBtu/hr.

(5) Retired Unit Exemption.

(a) This paragraph applies to any NO_X Budget unit, other than a NO_X Budget opt-in source, that is permanently retired.

(b) Any NO_X Budget unit, other than a NO_X Budget opt-in source, that is permanently retired shall be exempt from the NO_X Budget Trading Program, except for the provisions of this paragraph, paragraphs (2), (3), (4), and (7) of this Rule and Rules 335-3-8-.09, 335-3-8-.10, and 335-3-8-.11 of this Division.

1. The exemption under subparagraph (b) of this paragraph shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NO_X authorized account representative (authorized in accordance with Rule 335-3-8-.06) shall submit a statement to the Department. A copy of the statement shall be submitted to the Administrator. The statement shall state (in a format prescribed by the Department) that the unit is permanently retired and will comply with the requirements of subparagraph (c) of this paragraph. After receipt of the notice under this subparagraph, the Department will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under subparagraphs (b) and (c) of this paragraph.

(c) Special provisions.

1. A unit exempt under this paragraph shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

2. The owners and operators of the unit will be allocated allowances in accordance with Rule 335-3-8-.09(m). For each control period for which the retired unit has remaining, one or more NO_X allowances, the owners and operators of the unit shall specify a general account, in which the Administrator will record such NO_X allowances.

3. A unit exempt under this paragraph and located at a source that is required, or but for this exemption would be required, to have a major source (Title V) operating permit shall not resume operation unless the NO_X authorized account representative of the source submits a complete NO_X Budget permit application under Rule 335-3-8-.07(3) for the unit not less than 18 months (or such lesser time provided under the Department's major source operating permits regulations for final action on a permit application) prior to the later of May 31, 2004 or the date on which the unit is to first resume operation.

4. A unit exempt under this paragraph and located at a source that is required, or but for this exemption would be required, to have a synthetic minor operating permit shall not resume

operation unless the NO_X authorized account representative of the source submits a complete NO_X Budget permit application under Rule 335-3-8-.07(3) for the unit not less than 18 months (or such lesser time provided under the Department's synthetic minor operating permits regulations for final action on a permit application) prior to the later of May 31, 2004 or the date on which the unit is to first resume operation.

5. The owners and operators and, to the extent applicable, the NO_X authorized account representative of a unit exempt under this paragraph shall comply with the requirements

of the NO_X Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

6. A unit that is exempt under this paragraph is not eligible to be a NO_X Budget opt-in source under Rule 335-3-8-.13.

7. For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this paragraph shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Department or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

8. Loss of exemption.

(i) On the earlier of the following dates, a unit exempt under subparagraph (b) of this paragraph shall lose its exemption:

(I) The date on which the NO_X authorized account representative submits a NO_X Budget permit application under subparagraph (c)2. of this paragraph; or

(II) The date on which the NO_X authorized account representative is required under subparagraphs (c)3. and (c)4. of this paragraph to submit a NO_X Budget permit application.

(ii) For the purpose of applying monitoring requirements under Rule 335-3-8-.12, a unit that loses its exemption under this paragraph shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

(6) Standard Requirements.

(a) Permit Requirements.

1. The NO_X authorized account representative of each NO_X Budget source required to have an enforceable permit and each NO_X Budget unit required to have an enforceable permit at the source shall:

(i) Submit to the Department a complete NO_X Budget permit application under Rule 335-3-8-.07(3) in accordance with the deadlines specified in Rules 335-3-8-.07(2)(b), (c) and (d);

(ii) Submit in a timely manner any supplemental information that the Department determines is necessary in order to review a NO_X Budget permit application and issue or deny a NO_X Budget permit.

2. The owners and operators of each NO_X Budget source required to have an enforceable permit and each NO_X Budget unit required to have an enforceable permit at the source shall have a NO_X Budget permit issued by the Department and operate the unit in compliance with such NO_X Budget permit.

3. The owners and operators of a NO_X Budget source that are not otherwise required to have an enforceable permit are not required to submit a NO_X Budget

permit application, and to have a NO_X Budget permit, under Rule 335-3-8-.07 for such NO_X Budget source.

(b) Monitoring requirements.

1. The owners and operators and, to the extent applicable, the NO_X authorized account representative of each NO_X Budget source and each NO_X Budget unit at the source shall comply with the monitoring requirements of Rule 335-3-8-.12.

2. The emissions measurements recorded and reported in accordance with Rule 335-3-8-.12 shall be used to determine compliance by the unit with the NO_X emissions limitation under subparagraph (c) below.

(c) Nitrogen Oxides requirements.

1. The owners and operators of each NO_X Budget source and each NO_X Budget unit at the source shall hold NO_X allowances available for compliance deductions under Rule 335-3-8-.10(5)(a), (b), (e), or (f), as of the NO_X allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount not less than the total NO_X emissions for the control period from the unit, as determined in accordance with Rule 335-3-8-.12, plus any amount necessary to account for excess emissions for a prior control period under Rule 335-3-8-.10(5)(d) or, for a NO_X Budget opt-in source, to account for withdrawal from the NO_X Budget Program under Rule 335-3-8-.13(7), or for a change in regulatory status for a NO_X Budget opt-in source under Rule 335-3-8-.13(8).

2. Each ton of nitrogen oxides emitted in excess of the NO_X Budget emissions limitation shall constitute a separate violation of this Division, the CAA, and applicable State law.

3. A NO_X Budget unit shall be subject to the requirements under subparagraph (c)1. of this paragraph starting on the later of May 31, 2004 or the date on which the unit commences operation.

4. NO_X allowances shall be held in, deducted from, or transferred among NO_X Allowance Tracking System accounts in accordance with Rules 335-3-8-.09, 335-3-8-.10, 335-3-8-.11, and 335-3-8-.13 of this Division.

5. A NO_X allowance shall not be deducted, in order to comply with the requirements under subparagraph (c)1. of this paragraph, for a control period in a year prior to the year for which the NO_X allowance was allocated.

6. A NO_X allowance allocated by the Department or the Administrator under the NO_X Budget Trading Program is a limited authorization to emit one ton of nitrogen oxides in accordance with the NO_X Budget Trading Program. No provision of the NO_X Budget Trading Program, the NO_X Budget permit application, the NO_X Budget permit, or an exemption under paragraph (5) of this Rule and no provision of law shall be construed to limit the authority of the United States or the State to terminate or limit such authorization.

7. A NO_X allowance allocated by the Department or the Administrator under the NO_X Budget Trading Program does not constitute a property right.

8. Upon recordation by the Administrator under Rules 335-3-8-.10, 335-3-8-.11, or 335-3-8-.13, every allocation, transfer, or deduction of a NO_X allowance to or from a NO_X Budget unit's compliance account or the overdraft account of the source where the unit is located is deemed to amend automatically, and become a part of, any NO_X budget permit of the NO_X budget unit by operation of law without further review.

(d) Excess emissions requirements.

1. The owners and operators of a NO_X Budget unit that has excess emissions in any control period shall:

(i) Surrender the NO_X allowances required for deduction under Rule 335-3-8-.10(5)(d)1.; and

(ii) Pay any fine, penalty, or assessment or comply with any other remedy imposed under 335-3-8-.10(5)(d)3.

(e) Recordkeeping and Reporting requirements.

1. Unless otherwise provided, the owners and operators of the NO_X Budget source and each NO_X Budget unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the Department or the Administrator.

(i) The account certificate of representation for the NO_X authorized account representative for the source and each NO_X Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with Rule 335-3-8-.06(4); provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NO_X authorized account representative.

(ii) All emissions monitoring information, in accordance with Rule 335-3-8-.12; provided that to the extent that Rule 335-3-8-.12 provides for a 3-year period for recordkeeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_X Budget Trading Program.

(iv) Copies of all documents used to complete a NO_X Budget permit application and any other submission under the NO_X Budget Trading Program or to demonstrate compliance with the requirements of the NO_X Budget Trading Program.

2. The NO_X authorized account representative of a NO_X Budget source and each NO_X Budget unit at the source shall submit the reports and compliance certifications required under the NO_X Budget Trading Program, including those under Rules 335-3-8-.08, 335-3-8-.12, or 335-3-8-.13.

(f) Liability.

1. Any person who knowingly violates any requirement or prohibition of the NO_X Budget Trading Program, a NO_X Budget permit, or an exemption under paragraph (5) of this Rule shall be subject to enforcement pursuant to applicable State or Federal law.

2. Any person who knowingly makes a false material statement in any record, submission, or report under the NO_X Budget Trading Program shall be subject to criminal enforcement pursuant to the applicable State or Federal law.

3. No permit revision shall excuse any violation of the requirements of the NO_X Budget Trading Program that occurs prior to the date that the revision takes effect.

4. Each NO_X Budget source and each NO_X Budget unit shall meet the requirements of the NO_X Budget Trading Program.

5. Any provision of the NO_X Budget Trading Program that applies to a NO_X Budget source (including a provision applicable to the NO_X authorized account representative of a NO_X Budget source) shall also apply to the owners and operators of such source and of the NO_X Budget units at the source.

6. Any provision of the NO_X Budget Trading Program that applies to a NO_X Budget unit (including a provision applicable to the NO_X authorized account representative of a NO_X budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack under Rule 335-3-8-.12, the owners and operators and the NO_X authorized account representative of one NO_X Budget unit shall not be liable for any violation by any other NO_X Budget unit of which they are not owners or operators or the NO_X authorized account representative and that is located at a source of which they are not owners or operators or the NO_X authorized account representative.

(g) Effect on other authorities. No provision of the NO_X Budget Trading Program, a NO_X Budget permit application, a NO_X Budget permit, or an exemption under paragraph (5) of this Rule shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_X authorized account representative of a NO_X Budget source or NO_X Budget unit from compliance with any other provision of the applicable, approved State Implementation Plan, an enforceable permit, or the CAA.

(7) Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the NO_X Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NO_X Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the NO_X Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended: July 11, 2006; April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.06 Authorized Account Representative for NO_X Budget Sources

(1) Authorization and responsibilities of the NO_X authorized account representative.

(a) Except as provided under paragraph (2) below, each NO_X Budget source, including all NO_X Budget units at the source, shall have one and only one NO_X authorized account representative, with regard to all matters under the NO_X Budget Trading Program concerning the source or any NO_X Budget unit at the source.

(b) The NO_X authorized account representative of the NO_X Budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_X Budget units at the source.

(c) Upon receipt by the Administrator of a complete account certificate of representation under paragraph (4) of this Rule, the NO_X authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_X Budget source represented and each NO_X Budget unit at the source in all matters pertaining to the NO_X Budget Trading Program, not withstanding any agreement between the NO_X authorized account representative and such owners and operators. The owners and operators shall be bound

by any decision or order issued to the NO_X authorized account representative by the Department, the Administrator, or a court regarding the source or unit.

(d) No NO_X Budget permit shall be issued, and no NO_X Allowance Tracking System account shall be established for a NO_X Budget unit at a source, until the Administrator has received a complete account certificate of representation under paragraph (4) of this Rule for a NO_X authorized account representative of the source and the NO_X Budget units at the source.

(e) Each submission under the NO_X Budget Trading Program shall be submitted, signed, and certified by the NO_X authorized account representative for each NO_X Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NO_X authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the NO_X Budget sources or NO_X Budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

1. The Department and the Administrator will accept or act on a submission made on behalf of

owner or operators of a NO_X Budget source or a NO_X Budget unit only if the submission has been made, signed, and certified in accordance with subparagraph (e) of this paragraph.

(2) Alternate NO_X authorized account representative.

(a) An account certificate of representation may designate one and only one alternate NO_X authorized account representative who may act on behalf of the NO_X authorized account representative. The agreement by which the alternate NO_X authorized account representative is selected shall include a procedure for authorizing the alternate NO_X authorized account representative to act in lieu of the NO_X authorized account representative.

(b) Upon receipt by the Administrator of a complete account certificate of representation under paragraph (4) of this Rule, any representation, action, inaction, or submission by the alternate NO_X authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_X authorized account representative.

(c) Except in this paragraph and paragraphs (1)(a), (3), and (4) of this Rule, and Rule 335-3-8-.10(2), whenever the term "NO_X authorized account representative" is used in Rules 335-3-8-.05 through 335-3-8-.13, the term shall be construed to include the alternate NO_X authorized account representative.

(3) Changing the NO_X authorized account representative and the alternate NO_X account representative; changes in owners and operators.

(a) Changing the NO_X authorized account representative. The NO_X authorized account representative may be changed at any time upon receipt by the Administrator of a superseding complete account certificate of representation under paragraph (4) of this Rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_X authorized account representative prior to the time and date when the Administrator receives the superseding account certificate of representation shall be binding on the new NO_X authorized account representative and the owners and operators of the NO_X Budget source and the NO_X Budget units at the source.

(b) Changing the alternate NO_X authorized account representative. The alternate NO_X authorized account representative may be changed at any time upon receipt by the Administrator of a

superseding complete account certificate of representation under paragraph (4) of this Rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_X authorized account representative prior to the time and date when the

Administrator receives the superseding account certificate of representation shall be binding on the new alternate NO_X authorized account representative and the owners and operators of the NO_X Budget source and the NO_X Budget units at the source.

(c) Changes in the owners and operators.

1. In the event a new owner or operator of a NO_X Budget source or a NO_X Budget unit is not

included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_X authorized account representative and any alternate NO_X authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Department or the Administrator, as if the new owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a NO_X Budget source or a NO_X Budget unit, including the addition of a new owner or operator, the NO_X authorized account representative or alternate NO_X authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

(4) Account certificate of representation.

(a) A complete account certificate of representation for a NO_X authorized account representative or an alternate NO_X authorized account representative shall include the following elements in a format prescribed by the Administrator:

1. Identification of the NO_X Budget source and each NO_X Budget unit at the source for which the account certificate of representation is submitted.

2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_X authorized account representative and any alternate NO_X authorized account representative.

3. A list of the owners and operators of the NO_X Budget source and of each NO_X Budget unit at the source.

4. The following certification statement by the NO_X authorized account representative and any alternate NO_X authorized account representative: "I certify that I was selected as the NO_X authorized account representative or alternate NO_X authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO_X Budget source and each NO_X Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_X Budget Trading Program on behalf of the owners and operators of the NO_X Budget source and of each NO_X Budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department, the Administrator, or a court regarding the source or unit."

5. The signature of the NO_X authorized account representative and any alternate NO_X authorized account representative and the dates signed.

(b) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or the Administrator. Neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(5) Objections concerning the NO_X authorized account representative.

(a) Once a complete account certificate of representation under paragraph (4) of this Rule has been submitted and received, the Department and the Administrator will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under paragraph (4) of this Rule is received by the Administrator.

(b) Except as provided in subparagraph (3)(a) or (b) of this Rule, no objection or other communication submitted to the Department or the Administrator concerning the authorization, or any representation, action, inaction, or submission of the NO_X authorized account representative shall affect any representation, action, inaction, or submission of the NO_X authorized account representative or the finality of any decision or order by the Department or the Administrator under the NO_X Budget Trading Program.

(c) Neither the Department nor the Administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_X authorized account representative, including private legal disputes concerning the proceeds of NO_X allowance transfers.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended: Effective Date: October 31, 2007

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	JUL 16, 2001	66 FR 36919

335-3-8-.07 Permits

(1) General NO_X Budget trading program permit requirements.

(a) For each NO_X Budget source required to have an enforceable permit, such permit shall include a NO_X Budget permit administered by the Department. Any requirements of the NO_X Budget permit shall be considered federally enforceable.

1. For NO_X Budget sources required to have a major source operating permit, the NO_X Budget portion of the major source operating permit shall be administered in accordance with the Department's major source operating permits regulations promulgated under Chapter 335-3-16, except as provided otherwise by this Rule or Rule 335-3-8-.13. The applicable provisions of such major source operating permits regulations shall include, but are not limited to, those provisions addressing operating permit applications, operating permit application shield, operating permit duration, operating permit shield,

operating permit issuance, operating permit revision and reopening, public participation, State review, and review by the Administrator.

2. For NO_X Budget sources required to have a non-title V permit, the NO_X Budget portion of the permit shall be administered in accordance with Chapter 335-3-14 or 335-3-15, except as provided otherwise by this Rule or Rule 335-3-8-.13. The applicable provisions of such permit regulations may include, but are not limited to, provisions addressing permit applications, permit issuance, permit revision and reopening, public participation, and review by the Administrator.

(b) Each NO_X Budget permit (including a draft or proposed NO_X Budget permit, if applicable) shall contain all applicable NO_X Budget Trading Program requirements and shall be a complete and segregable portion of the permit under subparagraph (a) of this paragraph.

(2) Submission of NO_X Budget permit applications.

(a) Duty to apply. The NO_X authorized account representative of any NO_X Budget source required to have an enforceable permit shall submit to the Department a complete NO_X Budget permit application under paragraph (3) of this Rule by the applicable deadline in subparagraph (b) or (c) below.

(b) For NO_X Budget sources required to have a major source operating permit:

1. For any source, with one or more NO_X Budget units under Rule 335-3-8-.05(4) that commenced operation before January 1, 2001, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under paragraph (3) of this Rule covering

such NO_X Budget units to the Department at least 18 months (or such lesser time provided under Chapter 335-3-16 for final action on a permit application) before May 31, 2004.

2. For any source, with any NO_X Budget unit under Rule 335-3-8-.05(4) that commences operation on or after January 1, 2001, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under paragraph (3) of this Rule covering such NO_X Budget unit to the Department at least 18 months (or such lesser time provided under Chapter 335-3-16 for final action on a permit application) before the later of May 31, 2004 or the date on which the NO_X Budget unit commences operation.

(c) For NO_X Budget sources required to have a non-title V permit:

1. For any source, with one or more NO_X Budget units under Rule 335-3-8-.05(4) that commenced operation before January 1, 2001, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under paragraph (3) of this Rule covering such NO_X Budget units to the Department at least 18 months (or such lesser time provided under the Department's permit regulations in Chapter 335-3-14 or 335-3-15 for final action on a permit application) before May 31, 2004.

2. For any source, with any NO_X Budget unit under Rule 335-3-8-.05(4) that commenced operation on or after January 1, 2001, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under paragraph (3) of this Rule covering such NO_X Budget unit to the Department at least 18 months (or such lesser time provided under the Department's permit regulations in Chapter 335-3-14 or Chapter 335-3-15 for final action on a permit application) before the later of May 31, 2004 or the date on which the NO_X Budget unit commences operation.

(d) Duty to reapply. For a NO_X Budget source required to have a major source operating permit, the NO_X authorized account representative shall submit a complete NO_X Budget permit application under paragraph (3) of this Rule for the NO_X Budget source covering the NO_X Budget units at the source in accordance with the Department's major source operating permits regulations in Chapter 335-3-16 addressing operating permit renewal.

(3) Information requirements for NO_X Budget permit applications. A complete NO_X Budget permit application shall include the following elements concerning the NO_X Budget source for which the application is submitted, in a format prescribed by the Department:

(a) Identification of the NO_X Budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration, if applicable;

(b) Identification of each NO_X Budget unit at the NO_X Budget source and whether it is a NO_X budget unit under Rules 335-3-8-.05(4) or 335-3-8-.13;

(c) The standard requirements under Rule 335-3-8-.05(6); and

(d) For each NO_X Budget opt-in unit at the NO_X Budget source, the following certification statements by the NO_X authorized account representative:

1. "I certify that each unit for which this permit application is submitted under Rule 335-3-8-.13 is not a NO_X Budget unit under Rule 335-3-8-.05(4) and is not covered by a retired unit exemption under Rule 335-3-8-.05(5) that is in effect."

2. If the application is for an initial NO_X Budget opt-in permit, "I certify that each unit for which this permit application is submitted under Rule 335-3-8-.13 is currently operating, as that term is defined under Rule 335-3-8-.05(2)."

(4) NO_X Budget permit contents.

(a) Each NO_X Budget permit (including any draft or proposed NO_X Budget permit, if applicable) will contain, in a format prescribed by the Department, all elements required for a complete NO_X Budget permit application under paragraph (3) of this Rule.

(b) Each NO_X Budget permit is deemed to incorporate automatically the definitions of terms under Rule 335-3-8-.05(2) and, upon recordation by the Administrator under Rules 335-3-8-.10, 335-3-8-.11, or 335-3-8-.13 of this Division, every allocation, transfer, or deduction of a NO_X allowance to or from the compliance accounts of the NO_X Budget units covered by the permit or the overdraft account of the NO_X Budget source covered by the permit.

(5) Effective date of initial NO_X Budget permit. The initial NO_X Budget permit covering a NO_X Budget unit for which a complete NO_X Budget permit application is timely submitted under subparagraph (2)(b) or 2(c) of this Rule shall become effective by the later of:

(a) May 31, 2004;

(b) May 1 of the year in which the NO_X Budget unit commences operation, if the unit commences operation on or before May 1 of that year;

(c) The date on which the NO_X Budget unit commences operation, if the unit commences operation during a control period; or

(d) May 1 of the year following the year in which the NO_X Budget unit commences operation, if the unit commences operation on or after October 1 of the year.

(6) NO_X Budget permit revisions.

(a) For a NO_X Budget source with a major source operating permit, except as provided in subparagraph (4)(b) of this Rule, the Department will revise the NO_X Budget permit, as necessary, in accordance with the Department's major source operating permits regulations in Chapter 335-3-16 addressing permit revisions.

(b) For a NO_X Budget source with a non-title V permit, except as provided in subparagraph (4)(b) of this Rule, the Department will revise the NO_X Budget permit, as necessary, in accordance with the Department's permit regulations in Chapter 335-3-14 or 335-3-15, as applicable.

Author: Ronald W. Gore

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-16, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919

335-3-8-.07 TR NOx Annual Trading Program- Purpose and Definitions.

(1) Purpose. Rules 335-3-8-.07 through 335-3-8-.38 set forth the general, designated representative, allowance, and monitoring provisions for the Transport Rule (TR) NOx Annual Trading Program under section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(2) Definitions. For the purpose of rules 335-3-8-.07 through 335-3-8-.38, the definitions listed in 40 CFR §97 .402, Subpart AAAAA as of July 1, 2015, will apply.

(a) "Department" shall mean the Alabama Department of Environmental Management.

(b) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.07 substitute:

1. Adem Administrative Coder. 335-3-8-.08 for 40 CFR §97.404.

2. Adem Administrative Code r. 335-3-8-.08(l)(b)2.(iil and (iii) for 40 CFR §§97 .404(b)(2)(i)(B) and (ii).

3. Adem Administrative Coder. 335-3-8-.09 for 40 CFR §97.405.

4. Adem Administrative Coder. 335-3-8-.13(1) for 40 CFR §97.410(a).

5. Adem Administrative Coder. 335-3-8-.13(2) for 40 CFR §97.410(b).

6. Adem Administrative Coder. 335-3-8-.14 for 40 CFR §97.411.

7. Adem Administrative Code r. 335-3-8-.14 for 40 CFR §97 .412.

8. Adem Administrative Coder. 335-3-16-.01 for 40 CFR §70.2.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this rule and in rules 335-3-8-.07 through 335-3-8-.38 are defined as follows:

(a) Btu - British thermal unit.

(b) C02- carbon dioxide

(c) H2O - water

(d) hr- hour

(e) kW- kilowatt electrical

(f) kWh - kilowatt hour

(g) lb - pound

(h) mmBtu - million Btu

(i) MWe- megawatt electrical

(j) MWh - megawatt hour

(k) NOx - nitrogen oxides

(1) 02 - oxygen

(m) ppm - parts per million

(n) scfh- standard cubic feet per hour

(o) S02- sulfur dioxide

(p) yr- year

(4) Aooeal Procedures. The appeal procedures for decisions of the Administrator under the TR NOx Annual Trading Program are set forth in 40 CFR 78.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.08 Compliance Certification

(1) Compliance certification report.

(a) Applicability and deadline. For each control period in which one or more NO_X Budget units at a source are subject to the NO_X Budget emissions limitation, the NO_X authorized account representative of the source shall submit to the Department and the Administrator by November 30 of that year, a compliance certification report for each source covering all such units.

(b) Contents of report. The NO_X authorized account representative shall include in the compliance certification report under subparagraph (a) of this paragraph the following elements, in a format prescribed by the Administrator, concerning each unit at the source and subject to the NO_X Budget emissions limitation for the control period covered by the report:

1. Identification of each NO_X Budget unit;

2. The serial numbers of the NO_X allowances that are to be deducted from each unit's compliance account under Rule 335-3-8-.10(5) for the control period;

3. For units sharing a common stack and having NO_X emissions that are not monitored separately or apportioned in accordance with Rule 335-3-8-.12, the percentage of allowances that is to be deducted from each unit's compliance account under Rule 335-3-8-.10(5)(e); and

4. The compliance certification under subparagraph (c) of this paragraph.

(c) Compliance certification. In the compliance certification report under subparagraph (a) above, the NO_X authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO_X Budget units at the source in compliance with the NO_X Budget Trading Program, whether

each NO_X Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO_X Budget Trading Program applicable to the unit, including:

1. Whether the unit was operated in compliance with the NO_X Budget emissions limitation;

2. Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NO_X emissions to the unit, in accordance with Rule 335-3-8-.12;

3. Whether all the NO_X emissions from the unit, or a group of units (including the unit) using a

common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with Rule 335-3-8-.12. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report re-submissions has been made;

4. Whether the facts that form the basis for certification under Rule 335-3-8-.12 of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under Rule 335-3-8-.12, if any, has changed; and

5. If a change is required to be reported under subparagraph (c)4. of this paragraph, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor re-certification.

(2) Department's and Administrator's action on compliance certifications.

(a) The Department or the Administrator may review and conduct independent audits concerning any compliance certification or any other submission under the NO_X Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(b) The Administrator may deduct NO_X allowances from or transfer NO_X allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under subparagraph (a) of this paragraph.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919

335-3-8-.08 TR NOx Annual Trading Program - Applicability.

(1) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph:

1. The following units in the State of Alabama shall be TR NOx Annual units, and any source that includes one or more such units shall be a TR NOx Annual source, subject to the requirements of rules 335-3-8-.07 through 335-3-8-.38: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, on or after January 1, 2005, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under subparagraph (a) 1. of this paragraph, is not a TR NOx Annual unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a TR NOx Annual unit as provided in subparagraph (a) 1. of this paragraph on the first date on which it both combusts fossil fuel and serves such generator.

(b) Any unit in the State that otherwise is a TR NOx Annual unit under subparagraph (a) of this paragraph and that meets the requirements set forth in subparagraphs (b)l.(i) and (ii) or (b)2.(i) and (ii) of this paragraph shall not be TR NOx Annual units:

1. Any unit:

(i) Qualifying as a cogeneration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

Iii) Not supplying in 2005 or any calendar year thereafter more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(iii) If, after qualifying under subparagraphs (b) l.(i) and (ii) of this paragraph as not being a TR NOx Annual unit, a unit subsequently no longer meets all the requirements of subparagraphs (b) l.(i) and (ii) of this paragraph, the unit shall become a TR NOx Annual unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subparagraph (b) l.(ii) of this paragraph. The unit shall thereafter continue to

be a TR NOx Annual unit.

2. Any unit:

(i) Qualifying as a solid waste incineration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a solid waste incineration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) With an average annual fuel consumption of fossil fuel for the first 3 consecutive calendar years of operation starting no earlier than 2005 of less than 20 percent (on a Btu basis) and an average annual fuel consumption of fossil fuel for any 3 consecutive calendar years thereafter of less than 20 percent (on a Btu basis).

(iii) If. after qualifying under subparagraphs (b)2(i) and (ii) of this paragraph as not being a TR NOx Annual unit, a unit subsequently no longer meets all the requirements of subparagraphs (b)2(i) and (ii) of this paragraph, the unit shall become a TR NOx Annual unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 2005 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more. The unit shall thereafter continue to be a TR NOx Annual unit.

(c) A certifying official of an owner or operator of any unit or other equipment may submit a petition (including any supporting documents) to the Administrator at any time for a determination concerning the applicability, under subparagraphs (a) and (b) of this paragraph to the unit or other equipment. The certifying official of an owner or operator of any unit or other equipment shall submit a copy of the petition (including any supporting documents) to the Department.

1. Petition content. The petition shall be in writing and include the identification of the unit or other equipment and the relevant facts about the unit or other equipment. The petition and any other documents provided to the Department and the Administrator in connection with the petition shall include the following certification statement, signed by the certifying official: " I am authorized to make this submission on behalf of the owners and operators of the unit or other equipment for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all it attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. Response. The Administrator will issue a written response to the petition and may request supplemental information determined by the Administrator to be relevant to such petition. The Administrator's determination concerning the applicability, under subparagraphs (l)(a) and (b) of this rule, of the TR NOx Annual Trading Program to the unit or other equipment shall be binding

on Alabama, the Department, and any other State or permitting authority unless the Administrator determines that the petition contained significant, relevant errors or omissions.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

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335-3-8-.09 NO_X Allowance Allocations

(1) State Trading Program Budget. The State trading program budget allocated by the Department under paragraph (3) of this Rule for a control period will equal the total number of tons of NOX emissions apportioned to the NOX Budget units under Rule 335-3-8-.05(4) in the State for the control period, as determined by the applicable, approved State Implementation Plan.

(2) Timing Requirements for NOX Allowance Allocations.

(a) By April 6, 2001, the Department will submit to the Administrator the NOX allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in 2004, 2005, and 2006.

(b) By April 1, 2004 and April 1 of every third year thereafter (i.e. 2007, 2010, 2013, etc.), the Department will submit to the Administrator the NOX allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in the three years that are three, four, and five years, respectively, after the year of the applicable deadline for submission under this subparagraph (b). If the Department fails to submit to the Administrator the NOx allowance allocations in accordance with this subparagraph (b), the Administrator will allocate, for the applicable control periods, the same number of NOx allowances as were allocated for the preceding control periods.

(3) NOX Allowance Allocations.

(a) Definitions. For the purpose of this Rule, the following definitions apply:

1. Baseline NOX Budget Unit. A NOX Budget unit that either:

(i) Commenced operation on or before May 1, 1999; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before October 2, 2000.

2. Replacement NOX Budget Unit.

(i) A NOx Budget unit, which replaces at the same facility, a Baseline NOx budget unit with the same or less design heat input capacity; or

(ii) The portion of a NOX Budget unit, which replaces at the same facility, a Baseline NOX Budget unit with the same or less design heat input capacity.

3. New NOX Budget Unit.

(i) A NOX Budget unit that does not meet the definition of either Baseline NOX Budget Unit or Replacement NOX Budget Unit as defined in (3)(a)1. and (3)(a)2. of this Rule; or

(ii) The portion of a NOX Budget unit that does not meet the definition of either Baseline NOX Budget Unit or Replacement NOX Budget Unit as defined in (3)(a)1. and (3)(a)2. of this Rule.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating NOX allowance allocations under subparagraph (2)(a) of this Rule will be:

(i) For a baseline NOX Budget unit that commenced operation on or before May 1, 1999, the average of the two highest amounts of the unit's heat input for the control periods in 1997, 1998, and 1999; or

(ii) For a baseline NOX Budget unit that did not commence operation on or before May 1, 1999 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before October 2, 2000, the expected actual ozone season heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating NOX allowance allocations under subparagraph (2)(b) of this Rule that are to be submitted to the Administrator on April 1, 2004 will be:

(i) For a baseline or replacement NOX Budget unit that commenced operation on or before May 1, 2001, the average of the two highest amounts of the unit's heat input for the control periods in 2001, 2002, and 2003; or

(ii) For a baseline or replacement NOX Budget unit that did not commence operation on or before May 1, 2001 but did commence operation on or before May 1, 2002, the average heat input for the control periods in 2002 and 2003; or

(iii) For a baseline or replacement NOX Budget unit that did not commence operation on or before May 1, 2002 but did commence operation on or before May 1, 2003, the heat input for the control period in 2003; or

(iv) For a replacement NOX Budget unit that did not commence operation on or before May 1, 2003, the average of the two highest amounts of the heat inputs for the control periods in 2001, 2002, and 2003 for the baseline NOX Budget unit that it replaced.

(v) For a new NOX Budget unit that commenced operation on or before May 1, 2003, the average of the two highest amounts of the unit's heat input for the control periods in 2001, 2002, and 2003; or

(vi) For a new NOX Budget unit that did not commence operation on or before May 1, 2003, the expected actual ozone season heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating NOX allowance allocations under

subparagraph (2)(b) of this Rule that are to be submitted to the Administrator on April 1, 2007 and all subsequent years will be:

(i) For a baseline NOX Budget unit, the average of the two highest amounts of the unit's heat input for the three most recent control periods (e.g. allocations calculated for submission to the Administrator on April 1, 2007 will be based on ozone season heat inputs from 2004, 2005, and 2006); or

(ii) For a replacement NOX Budget unit, if the average of the two highest amounts of the unit's heat input for the three most recent control periods is less than or equal to the average of the two highest amounts of the ozone season heat inputs of the baseline NOX Budget unit that it replaced during the last three control periods that it operated, the unit's calculated average ozone season heat input will be used; or

(iii) For a replacement NOX Budget unit, if the average of the two highest amounts of the unit's heat input for the three most recent control periods is greater than the average of the two highest amounts of the ozone season heat

inputs of the baseline NOX Budget unit that it replaced during the last three control periods that it operated, the average of the two highest amounts of the ozone season heat inputs of the baseline NOX Budget unit that it replaced during the last three control periods that it operated will be used; or

(iv) For a new NOX Budget unit that commenced operation prior to or during the most recent control period, the average of the two highest amounts of the unit's heat input for the three most recent control periods; or

(v) For a new NOX Budget unit that did not commence operation prior to or during the most recent control period, the expected actual ozone season heat input based on actual utilization data of similar sources.

4. The unit's total heat input for the control period in each year specified under subparagraph (a) of this paragraph will be determined in accordance with 40 CFR 75 if the NOX Budget unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time NOX allowances are initially allocated to baseline NOX Budget units under subparagraph (e)1. of this paragraph, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time NOX allowances are allocated under subparagraph (2)(b) of this Rule and shall equal the sum of the Baseline Allowances for all baseline NOX Budget units that have not retired in accordance with Rule 335-3-8-.05(5).

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time

NOX allowances are allocated under subparagraph (2)(b) of this Rule and shall equal the sum of the Baseline Allowances for all NOX Budget units that have retired in accordance with Rule 335-3-8-.05(5).

(d) Adjustment Ratios. To ensure that the total number of NOX allowances allocated under paragraph (3) of this Rule equals the number of tons of NOX emissions in the State trading program budget, the following ratios may be applied to the calculated NOX allowance allocations as appropriate.

1. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of NOX allowances in the Baseline Allowance Pool divided by the total number of NOX allowances calculated for baseline NOX Budget units for a control period prior to any adjustments.

2. Alternate Baseline Adjustment Ratio. If there are no New NOX Budget Units for which allocations must be calculated, the Alternate Baseline Adjustment Ratio is the total number of tons of NOX emissions in the State trading program budget divided by the total number of NOX allowances calculated for baseline and replacement NOX Budget units for a control period prior to any adjustments.

(e) Calculation of NOX Allowances for Baseline NOX Budget Units.

1. For each control period under subparagraph (2)(a) of this Rule, the Department will allocate NOX allowances to all baseline NOX Budget units in accordance with the following procedures:

(i) The Department will allocate NOX allowances to each NOX Budget unit under Rule 335-3-8-.05(4)(a)1. in an amount equaling 0.15 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. of this paragraph, multiplied by the ratio of the total number of tons of NO_X emissions in the State trading program budget divided by the total number of NO_X allowances calculated for baseline NO_X Budget units for a control period prior to any adjustments, and then rounded to the nearest whole NOX allowance as appropriate.

(ii) The Department will allocate NOX allowances to each NOX Budget unit under Rule 335-3-8-.05(4)(a)2. in an amount equaling 0.17 lb/mmBtu or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. of this paragraph, multiplied by the ratio of the total number of tons of NO_X emissions in the State trading program budget divided by the total number of NO_X allowances calculated for baseline NO_X Budget units for a control period prior to any adjustments, and then rounded to the nearest whole NOX allowance as appropriate.

2. For each control period under subparagraph (2)(b) of this Rule, the Department will allocate NOX allowances to all baseline NOX Budget units in accordance with the following procedures:

(i) The Department will allocate NOX allowances to each NOX Budget unit under Rule 335-3-8-.05(4)(a)1. in an amount equaling 0.15 lb/mmBtu or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_X Budget units have been identified at the time allocations are calculated, the Alternate Baseline

Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances may be further adjusted in accordance with subparagraph (h) of this paragraph where necessary.

(ii) The Department will allocate NOX allowances to each NOX Budget unit under Rule 335-3-8-.05(4)(a)2. in an amount equaling 0.17 lb/mmBtu or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_X Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances may be further adjusted in accordance with subparagraph (h) of this paragraph where necessary.

(f) Calculation of NOX Allowances for Replacement NOX Budget Units. For each control period under subparagraph (2)(b) of this Rule, after calculating NOX allowances for all baseline NOX Budget units that have not retired in accordance with Rule 335-3-8-.05(5), the Department will allocate NOX allowances from the Retired Unit Allowance Pool to all replacement NOX Budget units in accordance with the following procedures:

1. For each replacement NOX Budget unit under Rule 335-3-8-.05(4)(a)1. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the

heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_X Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances may be further adjusted in accordance with subparagraph (i) of this paragraph where necessary.

2. For each replacement NOX Budget unit under Rule 335-3-8-.05(4)(a)2. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio or, if no new NO_X Budget units have been identified at the time allocations are calculated, the Alternate Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances may be further adjusted in accordance with subparagraph (i) of this paragraph where necessary.

(g) Calculation of NOX Allowances for New NOX Budget Units. For each control period under subparagraph (2)(b) of this Rule, after calculating NOX allowances for all baseline NOX Budget units that have not retired in accordance with Rule 335-3-8-.05(5) and calculating NOX allowances for all replacement NOX Budget Units, the Department will allocate NOX

allowances remaining in the Retired Unit Allowance Pool to all new NOX Budget units in accordance with the following procedures:

1. For each new NOX Budget unit under Rule 335-3-8-.05(4)(a)1. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances may be further adjusted in accordance with subparagraph (j) of this paragraph where necessary.

2. For each new NOX Budget unit under Rule 335-3-8-.05(4)(a)2. that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(b) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)2. or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances may be further adjusted in accordance with subparagraph (j) of this paragraph where necessary.

(h) Adjustment of Baseline NOx Allowance Allocations. If NOX allowances remain in the Retired Unit Allowance Pool after allocations are made to all replacement and new NOX Budget units in accordance with subparagraphs (f) and (g) of this paragraph, these NOx allowances will be allocated on a pro rata basis to the baseline NOX Budget units for the applicable control periods.

(i) Adjustment of Replacement NOx Allowance Allocations. If the total number of calculated NOX allowances allocated to all replacement NOX Budget units under subparagraph (f) of this paragraph exceeds the number of NOX allowances in the Retired Unit Allowance Pool, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NOX allowances in the Retired Unit Allowance Pool divided by the total number of NOX allowance allocations to all replacement NOX Budget units under subparagraph (f) of this paragraph so that the number of NOX allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NOX allowance allocations will be rounded to the nearest ton, as appropriate.

(j) Adjustment of New NOx Allowance Allocations. If the total number of calculated NOX allowances allocated to all new NOX Budget units under subparagraph (f) of this paragraph exceeds the number of NOX allowances remaining in the Retired Unit Allowance Pool after allocation to replacement NOX Budget units, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NOX allowances remaining in the Retired Unit Allowance Pool after allocation to replacement NOX Budget units divided by the total number of NOX allowance allocations to new replacement NOX Budget units under subparagraph (f) of this paragraph so that the total number of NOX allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NOX allowance allocations will be rounded to the nearest ton, as

appropriate.

(k) NOX allowances allocated to baseline NOX Budget units based on heat inputs determined in accordance with subparagraph (b)1.(ii) of this paragraph shall not be banked, as described under Rule 335-3-8-.10(6), or transferred, as described under Rule 335-3-8-.11, by the NOX Budget unit to which the NOX allowances were allocated if the unit does not commence operation prior to or during the control period for which NOX allowances were allocated. The NOX allowances will be transferred by the Department pro rata to baseline NOX Budget units that were allocated NOX allowances in accordance with subparagraphs (b)1.(i) of this paragraph. By November 1 of the same year, the Department shall notify the Administrator of the appropriate NOX allowance transfers.

(l) NOX allowances allocated to new NOX Budget units based on heat inputs determined in accordance with subparagraphs (b)2.(vi) or (b)3.(v) of this paragraph shall not be banked, as described under Rule 335-3-8-.10(6), or transferred, as described under Rule 335-3-8-.11, by the NOX Budget unit to which the NOX allowances were allocated if the unit does not commence operation prior to or during the control period for which NOX allowances were allocated. The NOX allowances will be transferred by the Department pro rata to NOX Budget units that were allocated NOX allowances in accordance with subparagraphs (b)2.(i) through (v) or (b)3.(i) through (iv) of this paragraph. By November 1 of the same year, the Department shall notify the Administrator of the appropriate NOX allowance transfers.

(m) NOX allowances will not be allocated to NOX Budget units that retire under 335-3-8-.05(5) prior to the date NOX allowance allocations are submitted to the Administrator under subparagraphs (2)(a) or (2)(b).

(n) The total NOX allowances allocated for any control period in accordance with subparagraphs 335-3-8-.09(3)(e), (f), and (g) shall not exceed the State Trading Program Budget as determined by the applicable, approved State Implementation Plan.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.09 TR NOx Annual Trading Program- Retired Unit Exemption.

(1) Any TR NOx Annual unit that is permanently retired shall be exempt from 40 CFR §§97.406(b) and (c)(l), rule 335-3-8-.27, and rules 335-3-8-.33 through 335-3-8-.38.

(a) The exemption under paragraph (1) of this rule shall become effective the day on which the TR NOx Annual unit is permanently retired. Within 30 days of the unit's permanent retirement, the designated representative shall submit a statement to the Administrator. The statement shall state, in a format prescribed by the Administrator, that the unit was permanently retired on a specified date and will comply with the requirements of paragraph (2) of this rule. The designated representative shall submit a copy of the statement to the Department.

(2) Special provisions.

(a) A unit exempt under paragraph (1) of this rule shall not emit any NOx, starting on the date that the exemption takes effect.

(b) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (1) of this rule shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(c) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under paragraph (1) of this rule shall comply with the requirements of the TR NOx Annual Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(d) A unit exempt under paragraph (1) of this rule shall lose its exemption on the first date on which the unit resumes operation. Such unit shall be treated. for purposes of applying allocation, monitoring, reporting, and recordkeeping requirements under the TR NOx Annual Trading Program, as a unit that commences commercial operation on the first date on which the unit resumes operation.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.10 NO_X Allowance Tracking System

(1) NO_X Allowance Tracking System accounts.

(a) Nature and function of compliance accounts and overdraft accounts. Consistent with subparagraph (2)(a) of this Rule, the Administrator will establish one compliance account for each NO_X Budget unit and one overdraft account for each source with two or more NO_X Budget units. Allocations of NO_X allowances pursuant to Rule 335-3-8-.09 or Rule 335-3-8-.13(9) and deductions or transfers of NO_X allowances pursuant to Rules 335-3-8-.08(2), 335-3-8-.10(7), 335-3-8-.11, or 335-3-8-.13 will be recorded in the compliance accounts or overdraft accounts in accordance with this Rule.

(b) Nature and function of general accounts. Consistent with paragraph (2) of this Rule, the Administrator will establish, upon request, a general account for any person. Transfers of allowances pursuant to Rule 335-3-8-.11 will be recorded in the general account in accordance with this Rule.

(2) Establishment of accounts.

(a) Compliance accounts and overdraft accounts. Upon receipt of a complete account certificate of representation under Rule 335-3-8-.06(4), the Administrator will establish:

1. A compliance account for each NO_X Budget unit for which the account certificate of representation was submitted; and

2. An overdraft account for each source for which the account certificate of representation was submitted and that has two or more NO_X Budget units.

(b) General accounts.

1. Any person may apply to open a general account for the purpose of holding and transferring allowances. A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(i) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_X authorized account representative and any alternate NO_X authorized account representative;

(ii) The NO_X authorized account representative, organization name and type of organization;

(iii) A list of all persons subject to a binding agreement for the NO_X authorized account

representative or any alternate NO_X authorized account representative to represent their ownership interest with respect to the allowances held in the general account;

(iv) The following certification statement by the NO_X authorized account representative and any alternate NO_X authorized account representative: "I certify that I was selected as the NO_X authorized account representative or the NO_X alternate authorized account representative, as applicable, by an agreement that is binding on all

persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_X Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."

(v) The signature of the NO_X authorized account representative and any alternate NO_X authorized account representative and the dates signed.

(vi) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department nor the Administrator. Neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

2. Upon receipt by the Administrator of a complete application for a general account under subparagraph (b)1. of this paragraph:

(i) The Administrator will establish a general account for the person or persons for whom the application is submitted.

(ii) The NO_X authorized account representative and any alternate NO_X authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_X allowances held in the general account in all matters pertaining to the NO_X Budget Trading Program, not withstanding any agreement between the NO_X authorized account representative or any alternate NO_X authorized account representative and such person. Any such person shall be bound by any order or decision issued to the NO_X authorized account representative or any alternate NO_X authorized account representative by the Administrator or a court regarding the general account.

(iii) Each submission concerning the general account shall be submitted, signed, and certified by the NO_X authorized account representative or any alternate NO_X authorized account representative for the persons having an ownership interest with respect to NO_X allowances held in the general account. Each such submission shall include the following certification statement by the NO_X authorized account representative or any alternate NO_X authorized account representative any: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO_X allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements

and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iv) The Administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subparagraph (b)2.(iii) of this paragraph above.

3. An application for a general account may designate one and only one NO_X authorized account representative and one and only one alternate NO_X authorized account representative who may act on behalf of the NO_X authorized account representative. The agreement by which the alternate NO_X authorized account representative is selected shall

include a procedure for authorizing the alternate NO_X authorized account representative to act in lieu of the NO_X authorized account representative.

(i) Upon receipt by the Administrator of a complete application for a general account under subparagraph (b)1. of this paragraph, any representation, action, inaction, or submission by any alternate NO_X authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_X authorized account representative.

4. Changing the NOx authorized account representative and the alternate NO_X authorized account representative; changes in ownership interest.

(i) Changing the NOx authorized account representative. The NO_X authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under subparagraph (b)1. of this paragraph. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO_X authorized account representative prior to the time and date when the Administrator receives the superseding application for a general account shall be binding on the new NO_X authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(ii) Changing the alternate NO_X authorized account representative. The alternate NO_X authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under subparagraph (b)1. of this paragraph. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO_X authorized account representative prior to the time and date when the Administrator receives the superseding application for a general account shall be binding on the new alternate NO_X authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(iii) Changes in ownership interest.

(I) In the event a new person having an ownership interest with respect to NO_X allowances in the general account is not included in the list of such persons in the account certificate of representation, such new person shall be deemed to be subject to and bound by the account

certificate of representation, the representation, actions, inactions, and submissions of the NO_X authorized account representative and any alternate NO_X authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Administrator, as if the new person were included in such list.

(II) Within 30 days following any change in the persons having an ownership interest with respect to NO_X allowances in the general account, including the addition of persons, the NO_X authorized account representative or any alternate NO_X authorized account representative shall submit a revision to the application for a general account amending the list of

persons having an ownership interest with respect to the NO_X allowances in the general account to include the change.

5. Once a complete application for a general account under subparagraph (b)1. of this paragraph has been submitted and received, the Administrator will rely on the application unless and until a superseding complete application for a general account under subparagraph (b)1. of this paragraph is received by the Administrator.

(i) Except as provided in subparagraph (b)4. of this paragraph, no objection or other communication submitted to the Administrator concerning the authorization, or any representation, action, inaction, or submission of the NO_X authorized account representative or any alternate NO_X authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NO_X authorized account representative or any alternate NO_X authorized account representative or the finality of any decision or order by the Administrator under the NO_X Budget Trading Program.

(ii) The Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO_X authorized account representative or any alternate NO_X authorized account representative for a general account, including private legal disputes concerning the proceeds of NO_X allowance transfers.

(c) Account identification. The Administrator will assign a unique identifying number to each account established under subparagraph (a) or (b) of this paragraph.

(3) NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.

(a) Following the establishment of a NO_X Allowance Tracking System account, all submissions to the Administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO_X allowances in the account, shall be made only by the NO_X authorized account representative for the account.

(b) Authorized account representative identification. The Administrator will assign a unique identifying number to each NO_X authorized account representative.

(4) Recordation of NO_X allowance allocations.

(a) Upon approval of this Regional NO_X State Implementation Plan by the Administrator, the Administrator will record in the unit's compliance account NO_X allowances allocated to a NO_X

Budget unit pursuant to Rule 335-3-8-.09(2)(a), and in accordance with Rule 335-3-8-.09(3) for the control periods in 2004, 2005, and 2006. Pursuant to subparagraph (d) of this paragraph, the year designated within each NO_X allowance's serial number shall determine the first control period in which the NO_X allowance is available for deduction for compliance.

(b) By May 1, 2004 and May 1 of every third year thereafter, the Administrator will record in the unit's compliance account all NO_X allowances allocated to a NO_X Budget unit pursuant to Rule 335-3-8-.09(2)(b), and in accordance with Rule 335-3-8-.09(3) for the control periods in the three years after the last year for which NO_X allowances were previously recorded. Pursuant to subparagraph (d) of this paragraph, the year designated within each NO_X allowance's serial number shall determine the first control period in which the NO_X allowance is available for deduction for compliance.

(c) For NO_X allowances allocated to a NO_X Budget opt-in unit under Rule 335-3-8-.13(9)(a), the Administrator will record the NO_X allowances in the unit's compliance account by May 1 of the control period for which the NO_X allowances were allocated.

(d) Serial numbers for allocated NO_X allowances. When allocating NO_X allowances to a NO_X Budget unit and recording them in an account, the Administrator will assign each NO_X allowance a unique identification number that will include digits identifying the year for which the NO_X allowance is allocated.

(5) Compliance.

(a) NO_X allowance transfer deadline. The NO_X allowances are available to be deducted for compliance with a unit's NO_X Budget emissions limitation for a control period in a given year only if the NO_X allowances:

1. Were allocated for a control period in a prior year or the same year; and,

2. Are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO_X allowance transfer deadline for that control period or are transferred into the compliance account or overdraft account by a NO_X allowance transfer correctly submitted for recordation under Rule 335-3-8-.11(1) by the NO_X allowance transfer deadline for that control period.

(b) Deductions for compliance.

1. Following the recordation, in accordance with Rule 335-3-8-.11(2), of NO_X allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO_X allowance transfer deadline for a control period, the Administrator will deduct NO_X allowances available under subparagraph (a) of this paragraph to cover the unit's NO_X emissions (as determined in accordance with Rule 335-3-8-.12) for the control period:

(i) From the compliance account; and,

(ii) Only if no more NO_X allowances available under subparagraph (a) of this paragraph remain

in the compliance account, from the overdraft account. In deducting allowances for units at the source from the overdraft account, the Administrator will begin with the unit having the compliance account with the lowest NO_X Allowance Tracking System account number and end with the unit having the compliance account with the highest NO_X Allowance Tracking System account number (with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters).

2. The Administrator will deduct NO_X allowances first under subparagraph (b)1.(i) of this paragraph and then under paragraph (b)1.(ii) of this paragraph:

(i) Until the number of NO_X allowances deducted for the control period equals the number of tons of NO_X emissions, determined in accordance with Rule 335-3-8-.12, from the unit for the control period for which compliance is being determined, or

(ii) Until no more NO_X allowances available under subparagraph (a) of this paragraph remain in the respective account.

(c) Identification of NO_X allowances by serial number. The NO_X authorized account representative for each compliance account may identify by serial number the NO_X

allowances to be deducted from the unit's compliance account under subparagraphs (b), (d), or (e) of this paragraph. Such identification shall be made in the compliance certification report submitted in accordance with Rule 335-3-8-.08(1).

1. First-in, first-out. The Administrator will deduct NO_X allowances for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_X allowances by serial number under subparagraph (c) of this paragraph, or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Those NO_X allowances that were allocated for the control period to the unit under Rules 335-3-8-.09 or 335-3-8-.13;

(ii) Those NO_X allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to Rule 335-3-8-.11, in order of their date of recordation;

(iii) Those NO_X allowances that were allocated for a prior control period to the unit under Rules 335-3-8-.09 or 335-3-8-.13; and

(iv) Those NO_X allowances that were allocated for a prior control period to any unit and transferred and recorded in the account pursuant to Rule 335-3-8-.11, in order of their date of recordation.

(d) Deductions for excess emissions.

1. After making the deductions for compliance under subparagraph (b) of this paragraph, the Administrator will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO_X allowances, allocated for a control period after

the control period in which the unit has excess emissions, equal to three times the number of the unit's excess emissions. The Administrator will deduct, for excess emissions for the 2008 control period, either NO_X Budget trading program allowances allocated for the 2009 control period or CAIR NO_X Ozone Season allowances allocated for the 2009 control period.

2. If the compliance account or overdraft account does not contain sufficient NO_X allowances, the Administrator will deduct the required number of NO_X allowances, regardless of the control period for which they were allocated, whenever NO_X allowances are recorded in either account.

3. Any allowance deduction required under subparagraph (d) of this paragraph shall not affect the liability of the owners and operators of the NO_X Budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or applicable State law. The following guidelines will be followed in assessing fines, penalties or other obligations:

(i) For purposes of determining the number of days of violation, if a NO_X Budget unit has excess emissions for a control period, each day in the control period (153 days) constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(ii) Each ton of excess emissions is a separate violation.

(e) Deductions for units sharing a common stack. In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with Rule 335-3-8-.12:

1. The NO_X authorized account representative of the units may identify the percentage of NO_X allowances to be deducted from each such unit's compliance account to cover the unit's share of NO_X emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with Rule 335-3-8-.08(1).

2. Notwithstanding subparagraph (b)2.(i) of this paragraph, the Administrator will deduct NO_X allowances for each such unit until the number of NO_X allowances deducted equals the unit's identified percentage (under subparagraph (e)1. of this paragraph) of the number of tons of NO_X emissions, as determined in accordance with Rule 335-3-8-.12, from the common stack for the control period for which compliance is being determined or, if no percentage is identified, an equal percentage for each such unit.

(f) The Administrator will record in the appropriate compliance account or overdraft account all deductions from such an account pursuant to subparagraphs (b), (d), or (e) of this paragraph.

(6) Banking.

(a) NO_X allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account, as follows:

1. Any NO_X allowance that is held in a compliance account, an overdraft account, or a general account will remain in such account unless and until the NO_X allowance is deducted or

transferred under Rules 335-3-8-.08(2), 335-3-8-.10(5) and (6), 335-3-8-.11, or 335-3-8-.13.

2. The Administrator will designate, as a "banked" NO_X allowance, any NO_X allowance that remains in a compliance account, an overdraft account, or a general account after the Administrator has made all deductions for a given control period from the compliance account or overdraft account pursuant to paragraph (5) of this Rule (except deductions pursuant to subparagraph (5)(d)2. above) and that was allocated for that control period or a control period in a prior year.

(b) Each year starting in 2005, after the Administrator has completed the designation of banked NO_X allowances under subparagraph (a)2. of this paragraph and before May 1 of the year, the Administrator will determine the extent to which banked NO_X allowances may be used for compliance in the control period for the current year, as follows:

1. The Administrator will determine the total number of banked NO_X allowances held in compliance accounts, overdraft accounts, or general accounts.

2. If the total number of banked NO_X allowances determined, under subparagraph (b)1. of this paragraph, to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to 10% of the sum of the State trading program budgets for the control period for the States in which NO_X Budget units are located, any banked NO_X allowance may be deducted for compliance in accordance with paragraph (5) of this Rule.

3. If the total number of banked NO_X allowances determined, under subparagraph (b)1. of this paragraph, to be held in compliance accounts, overdraft accounts, or general accounts exceeds 10% of the sum of the State trading program budgets for the control period for the States in which NO_X

Budget units are located, any banked allowance may be deducted for compliance in accordance with paragraph (5) of this Rule, except as follows:

(i) The Administrator will determine the following ratio: 0.10 multiplied by the sum of the State trading program budgets for the control period for the States in which NO_X Budget units are located and divided by the total number of banked NO_X allowances determined, under subparagraph (b)1. of this paragraph, to be held in compliance accounts, overdraft accounts, or general accounts.

(ii) The Administrator will multiply the number of banked NO_X allowances in each compliance account or overdraft account by the ratio determined in subparagraph (i) above. The resulting product is the number of banked NO_X allowances in the account that may be deducted for compliance in accordance with paragraph (5) of this Rule. Any banked NO_X allowances in excess of the resulting product may be deducted for compliance in accordance with paragraph (5) of this Rule, except that, if such NO_X allowances are used to make a deduction, two such NO_X allowances must be deducted for each deduction of one NO_X allowance required under paragraph (5) of this Rule.

(c) For any NO_X Budget unit that reduces its NO_X emission rate in the 2001, 2002 or 2003 control period, the owner or operator of the unit may request early reduction credits, and the

Department may allocate NO_X allowances by May 1, 2004 to the unit in accordance with the following requirements.

1. Each NO_X Budget unit for which the owner or operator requests any early reduction credits under subparagraph (c)4. of this paragraph shall monitor NO_X emissions in accordance with Rule 335-3-8-.12 starting May 1 of the control period prior to the first control period for which such early reduction credits are requested and during each control period for which the early reduction credits are requested. The unit's monitoring system availability shall be not less than 90 percent, and the unit must be in compliance with any applicable State or Federal emissions or emissions-related requirements, during the control period prior to the first control period for which such early reduction credits are requested. Early reduction credits may only be requested for emissions reductions that are not required by Alabama's State Implementation Plan or the Clean Air Act.

2. NO_X emission rate and heat input under subparagraphs (c)3. through 5. of this paragraph shall be determined in accordance with Rule 335-3-8-.12.

3. Each NO_X Budget unit for which the owner or operator requests any early reduction credits under subparagraph (c)4. of this paragraph shall reduce its NO_X emission rate, for each control period for which early reduction credits are requested, to below the lesser of the NO_X emission rate required under 40 CFR 76, including emission averaging under 40 CFR 76.11, or ADEM Admin. Code R. 335-3-8-.03.

4. The NO_X authorized account representative of a NO_X Budget unit that meets the requirements of subparagraphs (c)1. and 3. of this paragraph may submit to the Department a request for early reduction credits for the unit based on NO_X emission rate reductions made by the unit in the control period for 2001, 2002 or 2003 in accordance with subparagraph (c)3. of this paragraph.

(i) Except as provided in subparagraph (c)4.(ii) below, in the early reduction credit request, the NO_X authorized account representative may request early reduction credits for such control period in an amount equal to the unit's heat input for such control period multiplied by the difference between the following:

(I) The unit's actual average NO_X emission rate in the ozone control period prior to the first ozone control period for which early reduction credits are requested; and,

(II) The unit's NO_X emission rate for the ozone control period in which the early reductions occurred, divided by 2000 lb/ton, and rounded to the nearest ton.

(ii) In the early reduction credit request for units subject to ADEM Admin. Code R. 335-3-8-.03, the NO_X authorized account representative may request early reduction credits for 2003 in an amount equal to the difference between the allowable NO_X emission rate per million BTU of heat input and the actual seasonal NO_X emission rate multiplied by the total heat input of the subject units in the 2003 ozone control period.

(iii) The early reduction credit request must be submitted, in a format specified by the Department, by October 31 of the year in which the NO_X emission rate reductions on which the

request is based are made or such later date approved by the Department.

5. The Department will allocate NO_X allowances to NO_X Budget units meeting the requirements of subparagraphs (c)1. and 3. of this paragraph and covered by early reduction requests meeting the requirements of subparagraph (c)4.(ii) of this paragraph, in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the Department will accept the request only if the requirements of subparagraphs (c)1., (c)3., and (c)4.(ii) of this paragraph as well as subparagraphs 335-3-8-.10(7)(b), (c), and (d) are met and, if the request is accepted, will make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirements of subparagraphs (c)2. and 4. of this paragraph.

(ii) If the State's compliance supplement pool has an amount of NO_X allowances not less than the number of early reduction credits in all accepted early reduction credit requests for 2001 through 2003 (as adjusted under subparagraph (c)5.(i) of this paragraph), the Department will allocate to each NO_X Budget unit covered by such accepted requests one allowance for each early reduction credit requested (as adjusted under subparagraph (c)5.(i) of this paragraph).

(iii) If the State's compliance supplement pool has a smaller amount of NO_X allowances than the number of early reduction credits in all accepted early reduction credit requests for 2001 through 2003 (as adjusted under subparagraph (c)5.(i) of this paragraph), the Department will allocate NO_X allowances to each NO_X Budget unit covered by such accepted requests according to the following formula:

Unit's allocated early reduction credits = [(Unit's adjusted early reduction credits) / (Total adjusted early reduction credits requested by all units)] x (Available NO_X allowances from the State's compliance supplement pool) where:

"Unit's adjusted early reduction credits" is the number of early reduction credits for the unit for 2001 through 2003 in accepted early reduction credit requests, as adjusted under subparagraph (c)5.(i) of this paragraph.

"Total adjusted early reduction credits requested by all units" is the number of early reduction credits for all units for 2001 through 2003 in

accepted early reduction credit requests, as adjusted under subparagraph (c)5.(i) of this paragraph.

"Available NO_X allowances from the State's compliance supplement pool" is the number of NO_X allowances in the State's compliance supplement pool and available for early reduction credits for 2001 through 2003.

6. By May 1, 2004, the Department will submit to the Administrator the allocations of NO_X allowances determined under subparagraph (c)5. of this paragraph. The Administrator will record such allocations to the extent that they are consistent with the requirements of subparagraphs (c)1. through 5. of this paragraph.

7. NO_X allowances recorded under subparagraph (c)6. of this paragraph may be deducted for compliance under paragraph (5) of this Rule for the control periods in 2004 or 2005. Notwithstanding subparagraph (a) of this paragraph, the Administrator will deduct as retired any NO_X allowance that is recorded under subparagraph (c)6. of this paragraph and is not deducted for compliance in accordance with paragraph (5) of this Rule for the control period in 2004 or 2005.

8. NO_X allowances recorded under subparagraph (c)6. of this paragraph are treated as banked allowances in 2005 for the purposes of subparagraphs (a) and (b) of this paragraph.

(7) Compliance Supplement Pool. The total number of allowances under the Compliance Supplement Pool will be determined upon promulgation of EPA's Phase II rules. The Department may issue the compliance supplement pool to NO_X Budget units that implement emissions reductions during the ozone season beyond all applicable requirements in years prior to 2004 according to the following provisions:

(a) The Department shall complete the issuance process by no later than May 31, 2004.

(b) The emissions reduction may not be required by the Alabama SIP or be otherwise required by the CAA.

(c) The emissions reduction must be verified by the source as actually having occurred from May 1 through and including September 30 in any year in 2001 through 2003.

(d) Emissions reductions implemented by sources serving electric generators with a nameplate capacity greater than 25 MWe, or boilers, combustion turbines or combined cycle units with a maximum design heat input greater than 250 mmBTU/hr, must be quantified in accordance with Rule 335-3-8-.12.

(e) The compliance supplement pool credits shall be available for the control periods of 2004 and 2005.

(f) Sources that receive credit according to the provisions of this Rule, may trade the credit to other sources or persons in a NO_X Budget Trading Program established, and approved by the Administrator pursuant to 40 CFR, § 51.121, or the Federal NO_X Budget Trading Program promulgated under 40 CFR 97, pursuant to 40 CFR § 52.34.

(g) Notwithstanding other provisions regarding the distribution of allowances from the compliance supplement pool, operators of NOx Budget sources may receive allowances from the compliance supplement pool only to the extent that the total number of allowances issued to such operators does not exceed 40% of the total number of NOx allowances issued to that operator from the initial allowance allocation of all sources controlled by that operator.

(8) Account error. The Administrator may, at his or her sole discretion and on his or her own motion, correct any error in any NO_X Allowance Tracking System account. Within 10 business days of making such correction, the Administrator will notify the NO_X authorized account representative for the account.

(9) Closing of general accounts.

(a) The NO_X authorized account representative of a general account may instruct the Administrator to close the account by submitting a statement requesting deletion of the account from the NO_X Allowance Tracking System and by correctly submitting for recordation under Rule 335-3-8-.11(1) an allowance transfer of all NO_X allowances in the account to one or more other NO_X Allowance Tracking System accounts.

(b) If a general account shows no activity for a period of a year or more and does not contain any NO_X allowances, the Administrator may notify the NO_X authorized account representative for the account that the account will be closed and deleted from the NO_X Allowance Tracking System following 20 business days after the notice is sent. The account will be closed after the 20-day period unless before the end of the 20-day period the Administrator receives a correctly submitted transfer of NO_X allowances into the account under Rule 335-3-8-.11(1) or a statement submitted by the NO_X authorized account representative demonstrating to the satisfaction of the Administrator good cause as to why the account should not be closed.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended: Effective: October 3, 2003, April 3, 2003 October 31, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	JUL 16, 2001	66 FR 36919
1st Revision	AUG 27, 2002	DEC 12, 2002	67 FR 76316
2nd Revision	MAR 13, 2003	APR 24, 2003	68 FR 20075
3rd Revision	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.10 TR NOx Annual Trading Program.

(1) General. The Environmental Protection Agency's Standard Requirements for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.406, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.10 substitute:

(a) Adem Administrative Coder. 335-3-16-.13(3) for 40 CFR §70.7(e)(2).

(b) Adem Administrative Code r. 335-3-16-.13(3)(a)2. for 40 CFR §70.7(e)(2)(i)(B).

(c) Adem Administrative Coder. 335-3-8-.14 for 40 CFR §§97.4ll(a)(2) and (b).

(d) Adem Administrative Coder. 335-3-8-.14 for 40 CFR §97.412.

(e) Adem Administrative Coder. 335-3-8-.09 for 40 CFR §97.405.

(f) Adem Administrative Coder. 335-3-8-.13(1) for 40 CFR §97.410(a).

(g) Adem Administrative Coder. 335-3-8-.13(2) for 40 CFR §97.410(b).

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.11 NO_X Allowance Transfers

(1) Submission of NO_X allowance transfers. The NO_X authorized account representative seeking recordation of a NO_X allowance transfer shall submit the transfer to the Administrator. To be considered correctly submitted, the NO_X allowance transfer shall include the following elements in a format specified by the Administrator:

(a) The numbers identifying both the transferor and transferee accounts;

(b) A specification by serial number of each NO_X allowance to be transferred; and

transferor account and the date signed.

(2) EPA recordation.

(a) Within 5 business days of receiving a NO_X allowance transfer, except as provided in subparagraph (b) of this paragraph, the Administrator will record a NO_X allowance transfer by moving each NO_X allowance from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is correctly submitted under paragraph (1) of this Rule;

2. The transferor account includes each NO_X allowance identified by serial number in the transfer; and

3. The transfer meets all other requirements of this Rule.

(b) A NO_X allowance transfer that is submitted for recordation following the NO_X allowance transfer deadline and that includes any NO_X allowances allocated for a control period prior to or the same as the control period to which the NO_X allowance transfer deadline applies will not be recorded until after completion of the process of recordation of NO_X allowance allocations in Rule 335-3-8-.10(4)(b).

(c) Where a NO_X allowance transfer submitted for recordation fails to meet the requirements of subparagraph (a) of this paragraph, the Administrator will not record such transfer.

(3) Notification.

(a) Notification of recordation. Within 5 business days of recordation of a NO_X allowance transfer under Rule 335-3-8-.11(2), the Administrator will notify each party to the transfer.

Notice will be given to the NO_X authorized account representatives of both the transferor and transferee accounts.

(b) Notification of non-recordation. Within 10 business days of receipt of a NO_X allowance transfer that fails to meet the requirements of Rule 335-3-8-.11(2)(a), the Administrator will notify the NO_X authorized account representatives of both accounts subject to the transfer of:

1. A decision not to record the transfer, and,

2. The reasons for such non-recordation.

(c) Nothing in this Rule shall preclude the submission of a NO_X allowance transfer for recordation following notification of non-recordation.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919

335-3-8-.11 TR NOx Annual Trading Program - Computation of Time.

(1) General. The Environmental Protection Agency Regulations governing Computation of Time under the TR NOx Annual Trading Program, are incorporated by reference as they exist in 40 CFR §97.407, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11,22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.12 Monitoring and Reporting

(1) General requirements. The owners and operators, and to the extent applicable, the NO_X authorized account representative of a NO_X Budget unit, shall comply with the monitoring and reporting requirements as provided in this Rule and in 40 CFR 75, Subpart H. For purposes of complying with such requirements, the definitions in Rule 335-3-8-.05(2) and in 40 CFR, § 72.2 shall apply, and the terms "affected unit", "designated representative", and "continuous emission monitoring system" (or "CEMS") in 40 CFR 75 shall be replaced by the terms "NO_X Budget unit", "NO_X authorized account representative", and "continuous emission monitoring system" (or "CEMS"), respectively, as defined in Rule 335-3-8-.05(2).

(a) Requirements for installation, certification, and data accounting. The owner or operator of each NO_X Budget unit must meet the following requirements. These provisions also apply to a unit

for which an application for a NO_X Budget opt-in permit is submitted and not denied or withdrawn, as provided in Rule 335-3-8-.13:

1. Install all monitoring systems required under this Rule for monitoring NO_X mass. This includes all systems required to monitor NO_X emission rate, NO_X concentration, heat input, and flow, in accordance with 40 CFR, §§ 75.72 and 75.75.

2. Install all monitoring systems for monitoring heat input, if required under paragraph (7) of this Rule for developing NO_X allowance allocations.

3. Successfully complete all certification tests required under paragraph (2) of this Rule and meet all other provisions of this Rule and 40 CFR 75 applicable to the monitoring systems under subparagraphs (a)1. and 2. of this paragraph.

4. Record, and report data from the monitoring systems under subparagraphs (a)1. and 2. of this paragraph.

(b) Compliance dates. The owner or operator must meet the requirements of subparagraphs (a)1. through (a)3. of this paragraph on or before the following dates and must record and report data on and after the following dates:

1. NO_X Budget units for which the owner or operator intends to apply for early reduction credits under Rule 335-3-8-.10(6)(c), must comply with the requirements of this Rule by May 1 of the control period prior to the control period for which such early reduction credits are requested.

2. Except for NO_X Budget units under subparagraph (b)1. above, NO_X Budget units under Rule 335-3-8-.05(4) that commence operation before January 1, 2002, must comply with the requirements of this Rule by May 1, 2003.

3. NO_X Budget units under Rule 335-3-8-.05(4) that commence operation on or after January 1, 2002 and that report on an annual basis under subparagraph (5)(b) of this Rule must comply with the requirements of this Rule by the later of the following dates:

(i) May 1, 2003; or

(ii) The earlier of:

(I) 180 days after the date on which the unit commences operation or,

(II) For units under Rule 335-3-8-.05(4)(a)1., 90 days after the date on which the unit commences commercial operation.

4. NO_X Budget units under Rule 335-3-8-.05(4) that commence operation on or after January 1, 2002 and that report on a control season basis under subparagraph (5)(b) of this Rule must comply with the requirements of this Rule by the later of the following dates:

(i) The earlier of:

(I) 180 days after the date on which the unit commences operation or,

(II) For units under Rule 335-3-8-.05(4)(a)1., 90 days after the date on which the unit commences commercial operation.

(ii) However, if the applicable deadline under subparagraph (b)4.(i) of this paragraph does not occur during a control period, May 1 immediately following the date determined in accordance with subparagraph (b)4.(i) of this paragraph.

5. For a NO_X Budget unit with a new stack or flue for which construction is completed after the applicable deadline under subparagraphs (b)1., (b)2. or (b)3. of this paragraph or Rule 335-3-8-.13:

(i) 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue;

(ii) However, if the unit reports on a control season basis under subparagraph (5)(d) of this Rule and the applicable deadline under subparagraph (b)5.(i) of this paragraph does not occur during the control period, May 1 immediately following the applicable deadline in subparagraph (b)5.(i) of this paragraph.

6. For a unit for which an application for a NO_X Budget opt-in permit is submitted and not denied or withdrawn, the compliance dates specified under Rule 335-3-8-.13.

(c) Reporting data prior to initial certification.

1. The owner or operator of a NO_X Budget unit that misses the certification deadline under subparagraph (b)1. is not eligible to apply for early reduction credits. The owner or operator of the unit becomes subject to the certification deadline under subparagraph (b)2. of this paragraph.

2. The owner or operator of a NO_X Budget unit under subparagraphs (b)3. or (b)4. of this paragraph must determine, record and report NO_X mass, heat input rate (if required for purposes of allocations) and any other values required to determine NO_X mass emissions (e.g. NO_X emission rate and heat input or NO_X concentration and stack flow) using the provisions of 40 CFR, § 75.70(g), from the date and hour that the unit starts operating until the date and hour on which the continuous emission monitoring system, excepted monitoring system under Appendix D or E of Part 75, or excepted monitoring methodology under § 75.19 is provisionally certified.

(d) Prohibitions.

1. No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under 40 CFR, § 75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with paragraph (6) of this Rule.

2. No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under 40 CFR, § 75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged, NO_X emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this Rule and 40 CFR 75, except as provided for in § 75.74.

3. No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under 40 CFR, § 75.72(b)(2)(ii) shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_X mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this Rule and 40 CFR 75 except as provided for in § 75.74.

4. No owner or operator of a NO_X Budget unit or a non-NO_X Budget unit monitored under 40 CFR, § 75.72(b)(2)(ii) shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this Rule, except under any one of the following circumstances:

(i) During the period that the unit is covered by a retired unit exemption under Rule 335-3-8-.05(5) that is in effect;

(ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this Rule and 40 CFR 75, by the Department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) The NO_X authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subparagraph (2)(b)2. below.

(2) Initial certification and recertification procedures.

(a) The owner or operator of a NO_X Budget unit that is subject to an Acid Rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR 75, except that:

1. If, prior to January 1, 1998, the Administrator approved a petition under 40 CFR, § 75.17(a) or (b) for apportioning the NO_X emission rate measured in a common stack or a petition under 40 CFR, § 75.66 for an alternative to a requirement in 40 CFR, § 75.17, the NO_X authorized account representative shall resubmit the petition to the Administrator under subparagraph (6)(a) of this Rule to determine if the approval applies under the NO_X Budget Trading Program.

2. For any additional CEMS required under the common stack provisions in 40 CFR, § 75.72, or for any NO_X concentration CEMS used under the provisions of 40 CFR, § 75.71(a)(2), the owner or operator shall meet the requirements of subparagraph (b) of this paragraph.

(b) The owner or operator of a NO_X Budget unit that is not subject to an Acid Rain emissions limitation shall comply with the following initial certification and recertification procedures, except that the owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR, § 75.19 shall also meet the requirements of subparagraph (c) of this paragraph and the owner or operator of a unit that qualifies to use an alternative monitoring system under Subpart E of 40 CFR 75 shall also meet the requirements of subparagraph (d) of this paragraph. The owner or operator of a NO_X Budget unit that is subject to an Acid Rain emissions limitation, but requires additional CEMS under the common stack provisions in 40 CFR, § 75.72, or that uses a NO_X concentration CEMS under 40 CFR, § 75.71(a)(2) also shall comply with the following initial certification and recertification procedures.

1. Requirements for initial certification. The owner or operator shall ensure that each monitoring system required by 40 CFR 75, Subpart H (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR, § 75.20. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in subparagraph (1)(b) of this Rule. In addition, whenever the owner or operator installs a monitoring system in order

to meet the requirements of this part in a location where no such monitoring system was previously installed, initial certification according to 40 CFR, § 75.20 is required.

2. Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that the Administrator or the Department determines significantly affects the ability of the system to accurately measure or record NO_X mass emissions or heat input rate or to meet the requirements of 40 CFR, § 75.21 or 40 CFR 75, Appendix B, the owner or operator shall recertify the monitoring system according to 40 CFR, § 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that the Administrator or the Department determines to significantly change the stack flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring

system according to 40 CFR, § 75.20(b). Examples of changes which require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.

3. Certification approval process for initial certifications and recertification.

(i) Notification of certification. The NO_X authorized account representative shall submit to the Department, and the appropriate EPA Regional Office, a written notice of the dates of certification in accordance with paragraph (4) of this Rule.

(ii) Certification application. The NO_X authorized account representative shall submit to the Department a certification application for each monitoring system required under 40 CFR 75, Subpart H. A complete certification application shall include the information specified in 40 CFR 75, Subpart H.

(iii) Except for units using the low mass emission excepted methodology under 40 CFR, § 75.19, the provisional certification date for a monitor shall be determined using the procedures set forth in 40 CFR, § 75.20(a)(3). A provisionally certified monitor may be used under the NO_X Budget Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under subparagraph (b)3.(ii) of this paragraph. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department.

(iv) Certification application formal approval process. The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subparagraph (b)3.(ii) of this paragraph. In the event the Department does not issue such a notice within such 120-day period, each monitoring system which meets the applicable performance requirements of 40 CFR 75 and is included in the certification application will be deemed certified for use under the NO_X Budget Trading Program.

(I) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75, then the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(II) Incomplete application notice. A certification application will be considered complete when all of the applicable information required to be submitted under subparagraph (b)3.(ii) of this paragraph has been received by the Department. If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the NO_X authorized account representative must submit the additional information required to complete the certification application. If the NO_X authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under subparagraph (b)3.(iv)(III) of this paragraph.

(III) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this part, or if the certification application is incomplete and the requirement for disapproval under subparagraph (b)3.(iv)(II) of this paragraph has been met, the Department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subparagraph (b)3.(v) of this paragraph for each monitoring system or component thereof which is disapproved for initial certification.

(IV) Audit decertification. The Department may issue a notice of disapproval of the certification status of a monitor in accordance with subparagraph (3)(b) of this Rule.

(v) Procedures for loss of certification. If the Department issues a notice of disapproval of a certification application under subparagraph(b)3.(iv)(III) of this paragraph or a notice of disapproval of certification status under subparagraph (b)3.(iv)(IV) of this paragraph, then:

(I) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data specified under § 75.20(a)(4)(iii), § 75.20(b)(5), § 75.20(h)(4), or § 75.21(e) and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i):

I. For units that the owner or operator intends to monitor or monitors for NO_X emission rate and heat input rate or intends to determine or determines NO_X mass emissions using the low mass emission excepted methodology under 40 CFR, § 75.19, the maximum potential NO_X emission rate and the maximum potential hourly heat input of the unit;

II. For units that the owner or operator intends to monitor or monitors for NO_X mass emissions using a NO_X pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_X and the maximum potential

flow rate of the unit under Section 2.1 of Appendix A of 40 CFR 75;

(II) The NO_X authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (b)3.(i) and (ii) of this paragraph; and

(III) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(c) Initial certification and recertification procedures for low mass emission units using the excepted methodologies under 40 CFR, § 75.19. The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under 40 CFR, § 75.19 and not subject to an Acid Rain emissions limitation shall meet the applicable general operating requirements of 40 CFR, § 75.10, and the applicable requirements of 40 CFR, § 75.19. The owner or operator of such a unit shall also meet the applicable certification and recertification procedures of subparagraph (b) of this Rule, except that the excepted methodology shall be deemed

provisionally certified for use under the NO_X Budget Trading Program as of the following dates:

1. For a unit that does not have monitoring equipment initially certified or recertified for the NO_X Budget Trading Program as of the date on which the NO_X authorized account representative submits the certification application under § 75.19 for the unit, starting on the date of such submission until the completion of the period for the Department's review.

2. For a unit that has monitoring equipment initially certified or recertified for the NO_X Budget Trading Program as of the date on which the NO_X authorized account representative submits the certification application under § 75.19 for the unit, and that reports data on an annual basis under Rule 335-3-8-.12(5)(d), starting January 1 of the year after the year of such submission until the completion of the period for the Department's review.

3. For a unit that has monitoring equipment initially certified or recertified for the NO_X Budget Trading Program as of the date on which the NO_X authorized account representative submits the certification application under § 75.19 for the unit, and that reports data on a control season basis under Rule 335-3-8-.12(5)(d), starting May 1 of the control period after the year of such submission until the completion of the period for the Department's review.

(d) Certification/recertification procedures for alternative monitoring systems. The NO_X authorized account representative representing the owner or operator of each unit applying to monitor using an alternative monitoring system approved by the Administrator and, if applicable, the Department under 40 CFR 75, Subpart E shall apply for certification to the Department prior to use of the system under the NO_X Trading Program. The NO_X authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in subparagraph (b) of this paragraph. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subparagraph (b)3. of this paragraph and 40 CFR, § 75.20(f).

(3) Out of control periods.

(a) Whenever any monitoring system fails to meet the quality assurance requirements of 40 CFR 75, Appendix B, data shall be substituted using the applicable procedures in Subpart D, Appendix D, or Appendix E of 40 CFR 75.

(b) Audit decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under paragraph (2) of this Rule or the applicable provisions 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department will issue a notice of disapproval of the certification status of such system or component. For the purposes of this subparagraph, an audit shall be either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the

revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in paragraph (2) of this Rule for each disapproved system.

(4) Notifications. The NO_X authorized account representative for a NO_X Budget unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR, § 75.61, except that if the unit is not subject to an Acid Rain emissions limitation, the notification is only required to be sent to the Department.

(5) Recordkeeping and reporting.

(a) General provisions.

1. The NO_X authorized account representative shall comply with all recordkeeping and reporting requirements in this paragraph and with the requirements of Rule 335-3-8-.06(1)(e).

2. If the NO_X authorized account representative for a NO_X Budget unit subject to an Acid Rain Emission limitation who signed and certified any submission that is made under Subpart F or G of 40 CFR 75 and which includes data and information required under this Rule or 40 CFR 75, Subpart H is not the same person as the designated representative or the alternative designated representative for the unit under 40 CFR 72, the submission must also be signed by the designated representative or the alternative designated representative.

(b) Monitoring plans.

1. The owner or operator of a unit subject to an Acid Rain emissions limitation shall comply with requirements of 40 CFR, § 75.62, except that the monitoring plan shall also include all of the information required by 40 CFR 75, Subpart H.

2. The owner or operator of a unit that is not subject to an Acid Rain emissions limitation shall comply with requirements of 40 CFR, § 75.62, except that the monitoring plan is only required to include the information required by 40 CFR 75, Subpart H.

(c) Certification applications. The NO_X authorized account representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under paragraph (2) of this Rule including the information required under 40 CFR 75, Subpart H.

(d) Quarterly reports. The NO_X authorized account representative shall submit quarterly reports, as follows:

1. If a unit is subject to an Acid Rain emission limitation or if the owner or operator of the NO_X budget unit chooses to meet the annual reporting requirements of this Rule, the NO_X authorized account representative shall submit a quarterly report for each calendar quarter beginning with:

(i) For units that elect to comply with the early reduction credit provisions under Rule 335-3-8-.10(6)(c), the calendar quarter that includes the date of initial provisional certification under

subparagraphs (2)(b)3.(iii) or (2)(c) of this Rule. Data should be recorded and reported from the date and hour corresponding to the date and hour of provisional certification;

(ii) For units commencing operation prior to May 1, 2002 that are not required to certify monitors by the date under subparagraph (1)(b)1. of this Rule, the earlier of the calendar quarter that includes the date of initial provisional certification under subparagraph (2)(b)3.(iii) or (2)(c) of this Rule or, if the certification tests are not completed by May 1, 2003, the partial calendar quarter from May 1, 2003 through June 30, 2003. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2003; or

(iii) For a unit that commences operation on or after May 1, 2002, the calendar quarter in which the unit commences operation, data shall be reported from the date and hour corresponding to when the unit commenced operation.

2. If a NO_X budget unit is not subject to an Acid Rain emission limitation, then the NO_X authorized account representative shall either:

(i) Meet all of the requirements of 40 CFR 75 related to monitoring and reporting NO_X mass emissions during the entire year and meet the reporting deadlines specified in subparagraph (d)1. of this paragraph; or

(ii) Submit quarterly reports only for the periods from the earlier of May 1 or the date and hour that the owner or operator successfully completes all of the recertification tests required under 40 CFR, § 75.74(d)(3) through September 30 of each year in accordance with the provisions of 40 CFR, § 75.74(c)(6). The NO_X authorized account representative shall submit a quarterly report for each calendar quarter, beginning with:

(I) For units that elect to comply with the early reduction credit provisions under Rule 335-3-8-.10(6)(c), the calendar quarter that includes the date of initial provisional certification under subparagraphs (2)(b)3.(iii) or (2)(c) of this Rule. Data should be recorded and reported from the date and hour corresponding to the date and hour of provisional certification;

(II) For units commencing operation prior to May 1, 2002 that are not required to certify monitors by the date under subparagraph (1)(b)1. of this Rule, the earlier of the calendar quarter that includes the date of initial provisional certification under subparagraph (2)(b)3.(iii) or (2)(c) of this Rule, or if the certification tests are not completed by May 1, 2003, the partial calendar quarter from May 1, 2003 through June 30, 2003. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, 2003; or

(III) For units that commence operation on or after May 1, 2002 during the control period, the calendar quarter in which the unit commences

operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation; or

(IV) For units that commence operation on or after May 1, 2002 and before May 1 of the year in

which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subparagraph (2)(b)3.(iii) or (2)(c) of this Rule or, if the certification tests are not completed by May 1 of the year in which the unit commences operation, May 1 of the year in which the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(V) For units that commence operation on or after May 1, 2002 and after September 30 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subparagraph (2)(b)3.(iii) or (2)(c) of this Rule or, if the certification tests are not completed by May 1 of the year after the unit commences operation, May 1 of the year after the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

3. The NO_X authorized account representative shall submit each quarterly report to the Administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75 and 40 CFR, § 75.64.

(i) For units subject to an Acid Rain Emissions limitation, quarterly reports shall include all of the data and information required in 40 CFR 75, Subpart H for each NO_X Budget unit (or group of units using a common stack) as well as information required in 40 CFR 75, Subpart G.

(ii) For units not subject to an Acid Rain Emissions limitation, quarterly reports are only required to include all of the data and information required in 40 CFR 75, Subpart H for each NO_X Budget unit (or group of units using a common stack).

4. Compliance certification. The NO_X authorized account representative shall submit to the Administrator a compliance certification 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 shall state that:

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

(ii) For a unit with add-on NO_X emission controls and for all hours where 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 monitoring plan and the substitute values do not systematically underestimate NO_X emissions; and

(iii) For a unit that is reporting on a control period basis under subparagraph (d) of this paragraph, the NO_X emission rate and NO_X concentration values substituted for missing data under 40 CFR 75, Subpart D are calculated using only values from a control period and do not systematically underestimate NO_X emissions.

(6) Petitions.

(a) The NO_X authorized account representative of a NO_X Budget unit that is subject to an Acid

Rain emissions limitation may submit a petition under 40 CFR, § 75.66 to the Administrator requesting approval to apply an alternative to any requirement of this Rule.

1. Application of an alternative to any requirement of this Rule is in accordance with this Rule only to the extent that the petition is approved by the Administrator, in consultation with the Department.

2. Notwithstanding subparagraph (a)1. of this paragraph, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR, § 75.72, the petition is governed by subparagraph (b) of this paragraph.

(b) The NO_X authorized account representative of a NO_X Budget unit that is not subject to an Acid Rain emissions limitation may submit a petition under 40 CFR, § 75.66 to the Department and the Administrator requesting approval to apply an alternative to any requirement of this Rule.

1. The NO_X authorized account representative of a NO_X Budget unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR, § 75.66 to the Department and the Administrator requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR, § 75.72 or a NO_X concentration CEMS used under 40 CFR, § 75.71(a)(2).

2. Application of an alternative to any requirement of this Rule is in accordance with this Rule only to the extent the petition under subparagraph (b) of this paragraph is approved by both the Department and the Administrator.

(7) Additional requirements to provide heat input data for allocations purposes.

(a) The owner or operator of a unit that elects to monitor and report NO_X mass emissions using a NO_X concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR 75.

(b) The owner or operator of a unit that elects to monitor and report NO_X mass emissions using a NO_X concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR 75 for any source that is applying for early reduction credits under Rule 335-3-8-.10(6).

(8) Alabama emission reporting requirements for NO_X Budget Units.

(a) The owner or operator of a NO_X budget unit under Rule 335-3-8-.05(4) shall submit NO_X ozone season emissions data as follows:

1. Annual reporting. For each NO_X budget unit, beginning with emission year 2004 and every year thereafter, by March 31st of the calendar year following the emission year being reported, the data specified in 40 CFR, §§ 51.122(c)(1) and (2) must be submitted to the Department.

2. Triennial reporting. For each NO_X budget unit, beginning with emission year 2005 and every

third year thereafter, by March 31st of the calendar year following the emission year being reported, the data specified in 40 CFR, § 51.122(c)(3) must be submitted to the Department.

3. Year 2003 reporting. For each NO_X budget unit, by March 31, 2004, the data specified in 40 CFR, § 51.122(c)(3) must be submitted to the Department.

4. Year 2007 reporting. For each NO_X budget unit, by March 31, 2008, the data specified in 40 CFR, § 51.122(c)(3) must be submitted to the Department.

(b) The data required under subparagraph (a) of this paragraph shall be submitted electronically to the Department in a format prescribed and provided by the Department.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-14, 22-28-19, and 22-28-20.
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Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919

335-3-8-.12 Administrative Appeal Procedures.

(1) The appeal procedures for decisions of the Administrator under rules 335-3-8-.07 through 335-3-8-.38 are set forth in 40 CFR 78.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.13 Individual Unit Opt-ins

(1) Applicability. A unit that is in the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston, is not a NO_X Budget unit under Rule 335-3-8-.05(4)(a), vents all of its emissions to a stack, and is operating, may qualify, under this Rule, to become a NO_X Budget opt-in source. A unit that is a NO_X Budget unit, is covered by a retired unit exemption under Rule 335-3-8-.05(5) that is in effect, or is not operating is not eligible to become a NO_X Budget opt-in source.

(2) General. Except otherwise as provided in this Rule, a NO_X Budget opt-in source shall be treated as a NO_X Budget unit for purposes of applying Rules 335-3-8-.05 through 335-3-8-.08 and 335-3-8-.10 through 335-3-8-.13.

(3) NO_X authorized account representative. A unit for which an application for a NO_X Budget opt-in permit is submitted and not denied or withdrawn, or a NO_X Budget opt-in source, located at the same source as one or more NO_X Budget units, shall have the same NO_X authorized account representative as such NO_X Budget units.

(4) Applying for NO_X Budget opt-in permit.

(a) Applying for initial NO_X Budget opt-in permit. In order to apply for an initial NO_X Budget opt-in permit, the NO_X authorized account representative of a unit qualified under paragraph (1) of this Rule may submit to the Department at any time, except as provided under paragraph (7)(g) of this Rule:

1. A complete NO_X Budget permit application under Rule 335-3-8-.07(3);

2. A monitoring plan submitted in accordance with Rule 335-3-8-.12; and

3. A complete account certificate of representation under Rule 335-3-8-.06(4), if no NO_X authorized account representative has been previously designated for the unit.

(b) Duty to reapply. The NO_X authorized account representative of a NO_X Budget opt-in source shall submit a complete NO_X Budget permit application under Rule 335-3-8-.07(3) to renew the NO_X Budget opt-in permit in accordance with Rule 335-3-8-.07(2)(d) and, if applicable, an updated monitoring plan in accordance with Rule 335-3-8-.12.

(5) Opt-in process. The Department will issue or deny a NO_X Budget opt-in permit for a unit for

which an initial application for a NO_X Budget opt-in permit under paragraph (4) above is submitted, in accordance with Rule 335-3-8-.07(1) and the following:

(a) Interim review of monitoring plan. The Department will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_X Budget opt-in permit under paragraph (4) above. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_X emissions rate and heat input of the unit are monitored and reported in accordance with Rule 335-3-8-.12. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(b) If the Department determines that the unit's monitoring plan is sufficient under subparagraph (a) of this paragraph and after completion of monitoring system certification under Rule 335-3-8-.12, the NO_X emissions rate and the heat input of the unit shall be monitored and reported in accordance with Rule 335-3-8-.12 for one full control period during which monitoring system availability is not less than 90 percent and during which the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a "NO_X Budget unit" prior to issuance of a NO_X Budget opt-in permit covering the unit.

(c) Based on the information monitored and reported under subparagraph (b) of this paragraph above, the unit's baseline heat rate shall be calculated as the unit's total heat input (in mmBtu) for the control period and the unit's baseline NO_X emissions rate shall be calculated as the unit's total NO_X emissions (in lb) for the control period divided by the unit's baseline heat rate.

(d) After calculating the baseline heat input and the baseline NO_X emissions rate for the unit under subparagraph (c) of this paragraph, the Department will serve a draft NO_X Budget opt-in permit on the NO_X authorized account representative of the unit.

(e) Confirmation of intention to opt-in. Within 20 days after the issuance of the draft NO_X Budget opt-in permit, the NO_X authorized account representative of the unit must submit to the Department a confirmation of the intention to opt-in the unit or a withdrawal of the application for a NO_X Budget opt-in permit under paragraph (4) above. The Department will treat the failure to make a timely submission as a withdrawal of the NO_X Budget opt-in permit application.

(f) Issuance of draft NO_X Budget opt-in permit. If the NO_X authorized account representative confirms the intention to opt-in the unit under subparagraph (e) of this paragraph, the Department will issue the draft NO_X Budget opt-in permit in accordance with Rule 335-3-8-.07(1).

(g) Notwithstanding subparagraphs (a) through (f) of this paragraph, if at any time before issuance of a draft NO_X Budget opt-in permit for the unit, the Department determines that the unit does not qualify as a NO_X Budget opt-in source under paragraph (1) of this Rule, the Department will issue a draft denial of a NO_X Budget opt-in permit for the unit in accordance with Rule 335-3-8-.07(1).

(h) Withdrawal of application for NO_X Budget opt-in permit. A NO_X authorized account representative of a unit may withdraw its application for a NO_X Budget opt-in permit under

paragraph (4) of this Rule at any time prior to the issuance of the final NO_X Budget opt-in permit. Once the application for a NO_X Budget opt-in permit is withdrawn, a NO_X authorized account representative wanting to reapply must submit a new application for a NO_X Budget permit under paragraph (4) of this Rule.

(i) Effective date. The effective date of the initial NO_X Budget opt-in permit shall be May 1, with the exception of the year 2004 in which case the date would be May 31, of the first control period starting after the issuance of the initial NO_X Budget opt-in permit by the Department. The unit shall be a NO_X Budget opt-in source and a NO_X Budget unit as of the effective date of the initial NO_X Budget opt-in permit.

(6) NO_X Budget opt-in permit contents.

(a) Each NO_X Budget opt-in permit (including any draft or proposed NO_X Budget opt-in permit, if applicable) will contain all elements required for a complete NO_X Budget opt-in permit application under Rule 335-3-8-.07(3).

(b) Each NO_X Budget opt-in permit is deemed to incorporate automatically the definitions of terms under Rule 335-3-8-.05(2) and, upon recordation by the Administrator under Rules 335-3-8-.10, 335-3-8-.11, or 335-3-8-.13, every allocation, transfer, or deduction of NO_X allowances to or from the compliance accounts of each NO_X Budget opt-in source covered by the NO_X Budget opt-in permit or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located.

(7) Withdrawal from NO_X Budget Trading Program.

(a) Requesting withdrawal. To withdraw from the NO_X Budget Trading Program, the NO_X authorized account representative of a NO_X Budget opt-in source shall submit to the Department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.

(b) Conditions for withdrawal. Before a NO_X Budget opt-in source covered by a request under subparagraph (a) of this paragraph may withdraw from the NO_X Budget Trading Program and the NO_X Budget opt-in permit may be terminated under subparagraph (e) of this paragraph, the following conditions must be met:

1. For the control period immediately before the withdrawal is to be effective, the NO_X authorized account representative must submit or must have submitted to the Department an annual compliance certification report in accordance with Rule 335-3-8-.08(1).

2. If the NO_X Budget opt-in source has excess emissions for the control period immediately before the withdrawal is to be effective, the Administrator will deduct or has deducted from the NO_X Budget opt-in source's compliance account, or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located, the full amount required under Rule 335-3-8-.10(5)(d) for the control period.

3. After the requirements for withdrawal under subparagraphs (b)1. and 2. of this paragraph are

met, the Administrator will deduct from the NO_X Budget opt-in source's compliance account, or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located, NO_X allowances equal in number to and allocated for the same or a prior control period as any NO_X allowances allocated to that source under paragraph (9) of this Rule for any control period for which the withdrawal is to be effective. The Administrator will close the NO_X Budget opt-in source's compliance account and will

establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_X Budget opt-in source. The NO_X authorized account representative for the NO_X Budget opt-in source shall become the NO_X authorized account representative for the general account.

(c) A NO_X Budget opt-in source that withdraws from the NO_X Budget Trading Program shall comply with all requirements under the NO_X Budget Trading Program concerning all years for which such NO_X Budget opt-in source was a NO_X Budget opt-in source, even if such requirements arise or must be complied with after the withdrawal takes effect.

(d) Notification.

1. After the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are met (including deduction of the full amount of NO_X allowances required), the Department will issue a notification to the NO_X authorized account representative of the NO_X Budget opt-in source of the acceptance of the withdrawal of the NO_X Budget opt-in source as of a specified effective date that is after such requirements have been met and that is prior to May 1 or after September 30.

2. If the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are not met, the Department will issue a notification to the NO_X authorized account representative of the NO_X Budget opt-in source that the NO_X Budget opt-in source's request to withdraw is denied. If the NO_X Budget opt-in source's request to withdraw is denied, the NO_X Budget opt-in source shall remain subject to the requirements for a NO_X Budget opt-in source.

(e) Permit amendment. After the Department issues a notification under subparagraph (d)1. of this paragraph that the requirements for withdrawal have been met, the Department will revise the NO_X Budget permit covering the NO_X Budget opt-in source to terminate the NO_X Budget opt-in permit as of the effective date specified under subparagraph (d)1. of this paragraph. A NO_X Budget opt-in source shall continue to be a NO_X Budget opt-in source until the effective date of the termination.

(f) Reapplication upon failure to meet conditions of withdrawal. If the Department denies the NO_X Budget opt-in source's request to withdraw, the NO_X authorized account representative may submit another request to withdraw in accordance with subparagraphs (a) and (b) of this paragraph.

(g) Ability to return to the NO_X Budget Trading Program. Once a NO_X Budget opt-in source withdraws from the NO_X Budget Trading Program and its NO_X Budget opt-in permit is terminated under this paragraph, the NO_X authority account representative may not submit another application for a NO_X Budget opt-in permit under paragraph (4) of this Rule for the unit

prior to the date that is 4 years after the date on which the terminated NO_X Budget opt-in permit became effective.

(8) Change in regulatory status.

(a) Notification. When a NO_X Budget opt-in source becomes a NO_X Budget unit under Rule 335-3-8-.05(4)(a), the NO_X authorized account representative shall notify in writing the Department and the Administrator of such change in the NO_X Budget opt-in source's regulatory status, within 30 days of such change.

(b) Department's and Administrator's action.

1. When the NO_X Budget opt-in source becomes a NO_X Budget unit under Rule 335-3-8-.05(4), the Department will revise the NO_X Budget opt-in source's NO_X Budget opt-in permit to meet the requirements of a NO_X Budget permit under Rule 335-3-8-.07(4) as of an effective date that is the date on which such NO_X Budget opt-in source becomes a NO_X Budget unit under Rule 335-3-8-.05(4).

(i) The Administrator will deduct from the compliance account for the NO_X Budget unit under subparagraph (b)1. of this paragraph, or the overdraft account of the NO_X Budget source where the unit is located, NO_X allowances equal in number to and allocated for the same or a prior control period as follows:

(I) Any NO_X allowances allocated to the NO_X Budget unit (as a NO_X Budget opt-in source) under paragraph (9) of this Rule for any control period after the last control period during which the unit's NO_X Budget opt-in permit was effective; and

(II) If the effective date of the NO_X Budget permit revision under subparagraph (b)1. of this paragraph is during a control period, the NO_X allowances allocated to the NO_X Budget unit (as a NO_X Budget opt-in source) under paragraph (9) of this Rule for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under subparagraph (b)1. of this paragraph, divided by the total number of days in the control period.

(ii) The NO_X authorized account representative shall ensure that the compliance account of the NO_X Budget unit under subparagraph (b)1. of this paragraph, or the overdraft account of the NO_X Budget source where the unit is located, includes the NO_X allowances necessary for completion of the deduction under subparagraph (b)1.(i) of this paragraph. If the compliance account or overdraft account does not contain sufficient NO_X allowances, the Administrator will deduct the required number of NO_X allowances, regardless of the control period for which they were allocated, whenever NO_X allowances are recorded in either account.

(iii) For every control period during which the NO_X Budget permit revised under subparagraph (b)1. of this paragraph is effective, the NO_X Budget unit under subparagraph (b)1. of this paragraph will be treated, solely for purposes of NO_X allowance allocations under Rule 335-3-8-.09(3), as a unit that commenced operation on the effective date of the NO_X Budget permit revision under subparagraph (b)1. of this paragraph and will be allocated NO_X allowances under Rule 335-3-8-.09(3).

(iv) Notwithstanding subparagraph (b)1.(iii) above, if the effective date of the NO_X Budget permit revision under subparagraph (b)1. of this paragraph is during a control period, the following number of NO_X allowances will be allocated to the NO_X Budget unit under subparagraph (b)1. of this paragraph under Rule 335-3-8-.09 for the control period: the number of NO_X allowances otherwise allocated to the NO_X Budget unit under Rule 335-3-8-.09 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under subparagraph (b)1. of this paragraph, divided by the total number of days in the control period.

2. When the NO_X authorized account representative of a NO_X Budget opt-in source does not renew its NO_X Budget opt-in permit under subparagraph (4)(b) of this Rule, the Administrator will deduct from the NO_X Budget opt-in unit's compliance account, or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located, NO_X allowances equal in number to and allocated for the same or a prior control period as any NO_X allowances

allocated to the NO_X Budget opt-in source under paragraph (9) of this Rule for any control period after the last control period for which the NO_X Budget opt-in permit is effective. The NO_X authorized account representative shall ensure that the NO_X Budget opt-in source's compliance account or the overdraft account of the NO_X Budget source where the NO_X Budget opt-in source is located includes the NO_X allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO_X allowances, the Administrator will deduct the required number of NO_X allowances, regardless of the control period for which they were allocated, whenever NO_X allowances are recorded in either account.

(i) After the deduction under subparagraph (b)2. of this paragraph is completed, the Administrator will close the NO_X Budget opt-in source's compliance account. If any NO_X allowances remain in the compliance account after completion of such deduction and any deduction under Rule 335-3-8-.10(5), the Administrator will close the NO_X Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_X Budget opt-in source. The NO_X authorized account representative for the NO_X Budget opt-in source shall become the NO_X authorized account representative for the general account.

(9) NO_X allowance allocations to opt-in units.

(a) NO_X allowance allocation.

1. By December 31 immediately before the first control period for which the NO_X Budget opt-in permit is effective, the Department will allocate NO_X allowances to the NO_X Budget opt-in source and submit to the Administrator the allocation for the control period in accordance with subparagraph (b) of this paragraph.

2. By no later than December 31, after the first control period for which the NO_X Budget opt-in permit is in effect, and December 31 of each year thereafter, the Department will allocate NO_X allowances to the NO_X Budget opt-in source, and submit to the Administrator allocations for the next control period, in accordance with subparagraph (b) of this paragraph.

(b) For each control period for which the NO_X Budget opt-in source has an approved NO_X Budget opt-in permit, the NO_X Budget opt-in source will be allocated NO_X allowances in accordance with the following procedures:

1. The heat input (in mmBtu) used for calculating NO_X allowance allocations will be the lesser of:

(i) The NO_X Budget opt-in source's baseline heat input determined pursuant to subparagraph (5)(c) of this Rule; or

(ii) The NO_X Budget opt-in source's heat input, as determined in accordance with Rule 335-3-8-.12, for the control period in the year prior to the year of the control period for which the NO_X allocations are being calculated.

2. The Department will allocate NO_X allowances to the NO_X Budget opt-in source in an amount equaling the heat input (in mmBtu) determined under subparagraph (b)1. of this paragraph multiplied by the lesser of:

(i) The NO_X Budget opt-in source's baseline NO_X emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(c) of this Rule; or

(ii) The most stringent State or Federal NO_X emissions limitation applicable to the NO_X Budget opt-in source during the control period.

Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: April 6, 2001.
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919

335-3-8-.13 NOx Annual Trading Budgets and Variability Limits.

(1) The State NOx Annual trading budgets for allocations of TR NOx Annual allowances for the control periods in 2017 and thereafter is 71,962 tons.

(2) The State NOx annual variability limit for the State NOx Annual trading budgets for the control periods in 2017 and thereafter is 12,953 tons.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.14 New Combustion Sources

(1) No person shall cause or permit emissions of nitrogen oxides from a new gas-fired boiler with a capacity of 250 million BTU/hr or more in excess of 0.20 pounds per million BTU of heat input per hour.

(2) No person shall cause or permit emissions of nitrogen oxides from a new oil-fired boiler with a capacity of 250 million BTU/hr or more in excess of 0.30 pounds per million BTU of heat input per hour.

(3) No person shall cause or permit emission of nitrogen oxides from a new coal-fired boiler with a capacity of 250 million BTU per hour or more in excess of 0.7 pounds per million BTU of heat input per hour.

(4) For purposes of this Rule, the total heat input from all similar fuel combustion units at a plant or premises shall be used for determining the maximum allowable emission of nitrogen oxides that passes through a stack or stacks.

Author: James W. Cooper and John E. Daniel
Statutory Authority: Code of Alabama 1975, §§22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: January 18, 1972.
Amended: April 6, 2001.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg		MAR 19, 1990	55 FR 10062

335-3-8-.14 TR NOx Annual Allowance Allocations.

(1) State Annual Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) NOx Annual allowances for the control periods 2017 and thereafter is 71,962 tons.

(2) Timing Requirements for NOx Allowance Allocations.

(a) By June 1, 2016, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2017 and 2018.

(b) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(c) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(d) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) NOx Allowance Allocations.

(a) Definitions. For the purpose of this rule, the following definitions apply:

1. Baseline TR NOx Unit. A TR NOx unit that either:

(i) Commenced operation on or before January 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014.

2. New TR NOx Unit. A TR NOx unit that does not meet the definition of a Baseline TR NOx Unit as defined in subparagraph (3)(a) 1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2016 will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2010, 2011, 2012, 2013, and 2014; or

(ii) For a Baseline TR NOx unit that did not commence operation on or before January 1, 2014, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR NOx unit, the expected actual annual heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2017 will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR NOx unit that did not commence operation on or before January 1, 2015, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR NOx unit that commenced operation on or before January 1, 2015, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2014 and 2015.

(iv) For a New TR NOx unit that did not commence operation on or before January 1, 2015, the expected actual annual heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2018 will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2012, 2013, 2014, 2015, and 2016.

(ii) For a New TR NOx unit that commenced operation on or before Januarv 1 2016, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated m 2014, 2015, and 2016.

(iii) For a New TR NOx unit that did not commence operation on or before January 1, 2016, the expected actual annual heat input based on actual utilization data of similar sources.

4. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(d) of this rule that are to be submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input. in which the unit operated for the five most recent control periods available prior to the deadline submission year.

(ii) For a New TR NOx unit that commenced operation prior to January 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New TR NOx unit that did not commence operation prior to Januarv 1 of the most recent control period available prior to the submission year, the expected actual annual heat input based on actual utilization data of similar sources.

5. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR NOx unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) annual NOx allowances are initially allocated to baseline TR NOx units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR annual NOx allowances are allocated under paragraph (2) of this rule and shall equal the State Annual Trading Program Budget minus the total of the Baseline Allowances for all baseline TR NOx units that have retired in accordance with Rule 335-3-8-.09.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR NOx allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR NOx units that have retired in accordance with Rule 335-3-8-.09.

(d) Adjustment Ratios. To ensure that the total number of TR NOx allowances allocated under paragraph (3) of this rule equals the number of tons of TR NOx emissions in the State trading

program budget, the following ratios may be applied to the calculated TR NOx allowance allocations, as appropriate.

1. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of TR NOx allowances in the Baseline Allowance Pool, divided by the total number ofTR NOx allowances calculated for Baseline TR NOx units for a control period prior to any adjustments.

(e) Maximum Historic Emission Cap. The maximum historic emission cap is identified by using an 8 year historic emission period for each TR NOx unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under paragraph (3)(b) of this rule. The maximum historic emission cap is the maximum NOx emissions (in tons) that occurred during any control period during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR NOx unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(f) Calculation of TR NOx Allowances for Baseline TR NOx Units.

1. For each control period under paragraph (2) of this rule, the Department will allocate TR NOx allowances from the Baseline Allowance Pool to all baseline TR NOx units in accordance with the following procedures:

(i) The Department will allocate TR NOx allowances to each TR NOx unit under Rule 335-3-8-.08(l)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the baseline allowance pool. If a TR NOx unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation will equal the maximum historic emission cap for that TR NOx unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to baseline TR NOx units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR NOx allocation value is rounded to the nearest whole ton.

(g) Calculation of NOx Allowances for New TR NOx Units. For each control period under paragraph (2) of this rule, after calculating NOx allowances for all baseline TR NOx units that have not retired in accordance with Rule 335-3-8-.09, the Department will allocate NOx allowances in the Retired Unit Allowance Pool to all new TR NOx units, in accordance with the following procedures:

1. For each new TR NOx unit under Rule 335-3-8-.08(l)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under

paragraph (2) of this rule, the number of TR NOx allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all new TR NOx units, determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a new TR NOx unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation equals the maximum historic emission cap for that TR NOx unit.

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to new TR NOx units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR NOx allocation value is rounded to the nearest whole ton.

(h) Adjustment of Baseline NOx Allowance Allocations. If TR NOx allowances remain in the Retired Unit Allowance Pool after allocations are made to all new TR NOx units in accordance with subparagraph (g) of this paragraph, these NOx allowances will be allocated on a pro rata basis to the baseline TR NOx units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(i) NOx allowances allocated to baseline TR NOx units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NOx allowances were allocated. If the unit does not commence operations, the NOx allowances will be transferred by the Department pro rata to Baseline TR NOx units that were allocated NOx allowances in accordance with subparagraph (b)l.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NOx allowance transfers.

1. NOx allowances allocated to new TR NOx units based on heat inputs determined in accordance with subparagraphs (b) l.(iii), (b)2.(iv), (b)3.(iii). Or (b)4.fiii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NOx allowances were allocated. If the unit does not commence operation, the NOx allowances will be transferred by the Department pro rata to Baseline TR NOx units that were allocated NOx allowances in accordance with subparagraphs (b) l.(i) and (ii), (b)2.(i) and (ii), (b)3.(i). or (b)4.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NOx allowance transfers.

2. NOx allowances will not be allocated to TR NOx units that retire under Rule 335-3-8-.09 prior to the date NOx allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this rule.

3. The total NOx allowances allocated for any control period in accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State NOx Annual Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(j) Units Incorrectly Allocated TR NOx Annual Allowances. The procedures for addressing units that were incorrectly allocated TR NOx Annual allowances are incorporated by reference as they exist in 40 CFR §97 .411 (c), Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

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335-3-8-.15 Reserved.

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.16 CAIR NO_X Annual Budget Trading Program

(1) Purpose. Rules 335-3-8-.16 through 335-3-8-.24 establish general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Clean Air Interstate Rule (CAIR) NO_X Annual Trading Program for Alabama's State Implementation Plan, under section 110 of the Clean Air Act and 40 CFR § 51.123, as a means of mitigating interstate transport of fine particulates and nitrogen oxides. The State authorizes the Administrator to assist the State in implementing the CAIR NO_X Annual Trading Program by carrying out the functions set forth for the Administrator in such requirements.

(2) Definitions. For the purpose of Rules 335-3-8-.16 through 335-3-8-.24, the following definitions apply:

(a) "Account number" means the identification number given by the Administrator to each CAIR NO_X Allowance Tracking System account.

(b) "Acid Rain emissions limitation" means, as defined in 40 CFR § 72.2 and incorporated by reference in ADEM Admin. Code R. 335-3-18-.01, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the CAA.

(c) "Acid Rain Program" means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under Title IV of the CAA and 40 CFR 72 through 78.

(d) "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

(e) "Allocate or allocation" means the determination by the Department of the amount of CAIR NO_X allowances to be initially credited to a CAIR NO_X unit under Rule 335-3-8-.20 or 335-3-8-.24(9), or the determination by the Administrator or other permitting authority of the amount of CAIR NO_X allowances to be initially credited to a CAIR NO_X unit, new-unit set aside, or other entity.

(f) "Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period and is the deadline by which a CAIR NO_X allowance transfer must be submitted for recordation in a CAIR NO_X source's compliance account in order to be used to meet the source's CAIR NO_X emissions limitation for such control period in accordance with Rule 335-3-8-.21(5).

(g) "Alternate CAIR designated representative" means, for a CAIR NO_X source and each CAIR NO_X unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Rules 335-3-8-.17 and 335-3-8-.24, to

act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO_X Annual Trading Program. If the CAIR NO_X source is also a CAIR SO_2 source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO_2 Trading Program. If the CAIR NO_X source is also a CAIR NO_X Ozone Season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_X Ozone Season Trading Program. If the CAIR NO_X source is also subject to the Acid Rain Program, then this natural person shall be the same person as the alternate designated representative under the Acid Rain Program. If the CAIR NO_X source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg Budget Trading Program.

(h) "Automated data acquisition and handling system or DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under Rule 335-3-8-.23, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Rule 335-3-8-.23.

(i) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(j) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

(k) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Rules 335-3-8-.17, 335-3-8-.21, and 335-3-8-.24, to transfer and otherwise dispose of CAIR NO_X allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(l) "CAIR designated representative" means, for a CAIR NO_X source and each CAIR NO_X unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Rules 335-3-8-.17 and 335-3-8-.24, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_X Annual Trading Program. If the CAIR NO_X source is also a CAIR SO_2 source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO_2 Trading Program. If the CAIR NO_X source is also a CAIR NO_X Ozone Season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_X Ozone Season Trading Program. If the CAIR NO_X source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program. If the CAIR NO_X source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the Hg designated representative under the Hg Budget Trading Program.

(m) "CAIR NO_X allowance" means a limited authorization issued by the Department under Rules 335-3-8-.20 or 335-3-8-.24(9) or issued by the Administrator or other permitting authority

under provisions of a State Implementation Plan that are approved under 40 CFR § 51.123(o)(1) or (2) or (p), or under 40 CFR 97, Subpart EE or § 97.188, to emit one ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_X Program. An authorization to emit nitrogen oxides that is not issued under provisions of Rules 335-3-8-.16 through 335-3-8-.24 or other provisions of a State Implementation Plan that are approved under 40 CFR § 51.123(o)(1) or (2) or (p) or 40 CFR 97, Subpart EE or § 97.188, shall not be a CAIR NO_X allowance.

(n) "CAIR NO_X allowance deduction or deduct CAIR NO_X allowances" means the permanent withdrawal of CAIR NO_X allowances by the Administrator from a compliance account, e.g., in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO_X units at a CAIR NO_X source for a control period, determined in accordance with Rule 335-3-8-.23, or to account for excess emissions.

(o) "CAIR NO_X Allowance Tracking System" means the system by which the Administrator records allocations, deductions, and transfers of CAIR NO_X allowances under the CAIR NO_X Annual Trading Program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(p) "CAIR NO_X Allowance Tracking System account" means an account in the CAIR NO_X Allowance Tracking System established by the Administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR NO_X allowances.

(q) "CAIR NO_X allowances held or hold CAIR NO_X allowances" means the CAIR NO_X allowances recorded by the Administrator, or submitted to the Administrator for recordation, in accordance with Rules 335-3-8-.21, 335-3-8-.22 and 335-3-8-.24, in a CAIR NO_X Allowance Tracking System account.

(r) "CAIR NO_X Annual Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the Administrator in accordance with subparts AA through II of 40 CFR 96 and 40 CFR § 51.123(o)(1) or (2) or established by the Administrator in accordance with 40 CFR 97, Subparts AA through II and 40 CFR § 51.123(p) and § 52.35, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(s) "CAIR NO_X emissions limitation" means, for a CAIR NO_X source, the tonnage equivalent, in NO_X emissions in a control period, of the CAIR NO_X allowances available for deduction for the source under Rule 335-3-8-.21(5)(a) and (b) for the control period.

(t) "CAIR NO_X Ozone Season source" means a source that is subject to the CAIR NO_X Ozone Season Trading Program.

(u) "CAIR NO_X Ozone Season Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the Administrator in accordance with subparts AAAA through IIII of 40 CFR 96 and 40 CFR § 51.123(aa)(1) or (2) (and (bb)(1)), (bb)(2), or (dd) or established by the Administrator in accordance with Subparts AAAA through IIII of 40 CFR 97 and 40 CFR §§ 51.123(ee) and 52.35, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(v) "CAIR NO_X source" means a source that includes one or more CAIR NO_X units.

(w) "CAIR NO_X unit" means a unit that is subject to the CAIR NO_X Annual Trading Program under paragraph (4) of this Rule and, except for purposes of paragraph (5) of this Rule and Rule 335-3-8-.20, a CAIR NO_X opt-in unit under Rule 335-3-8-.24.

(x) "CAIR permit" means the legally binding and federally enforceable written document issued by the Department under Rule 335-3-8-.18, including any permit revisions, specifying the CAIR NO_X Annual Trading Program requirements applicable to a CAIR NO_X source, to each CAIR NO_X unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.

(y) "CAIR SO_2 source" means a source that is subject to the CAIR SO_2 Trading Program.

(z) "CAIR SO_2 Trading Program" means a multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the Administrator in accordance with subparts AAA through III of 40 CFR 96 and 40 CFR § 51.124(o)(1) or (2) or established by the Administrator in accordance with Subparts AAA through III of 40 CFR 97 and 40 CFR §§ 51.124(r) and 52.36, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(aa) "Clean Air Act or CAA" means the Clean Air Act, 42 U.S.C. 7401, et seq.

(bb) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(cc) "Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

(dd) "Coal-fired" means:

1. Except for purposes of Rule 335-3-8-.20, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or

2. For purposes of Rule 335-3-8-.20, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

(ee) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity –

(i) For a topping-cycle cogeneration unit,

(I) Useful thermal energy not less than 5 percent of total energy output; and

(II) Useful power that, when added to one-half of useful thermal energy produced, is not less then 42.5 percent of total energy input, if useful thermal energy produced is 15 percent or more of total energy output, or not less than 45 percent of total energy input, if useful thermal energy produced is less than 15 percent of total energy output.

(ii) For a bottoming-cycle cogeneration unit, useful power not less than 45 percent of total energy input.

(ff) "Combustion turbine" means:

1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

2. If the enclosed device under subparagraph 1. of this definition is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.

(gg) "Commence commercial operation" means, with regard to a unit:

1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in paragraph (5) of this Rule and Rule 335-3-8-.24(5)(h).

(i) For a unit that is a CAIR NO_X unit under paragraph (4) of this Rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph 1. of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO_X unit under paragraph (4) of this Rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph 1. of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subparagraph 1. or 2. of this definition as appropriate.

2. Notwithstanding subparagraph 1. of this definition and except as provided in paragraph (5) of this Rule, for a unit that is not a CAIR NO_X unit under paragraph (4) of this Rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph 1. of this

definition, the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_X unit under paragraph (4) of this Rule.

(i) For a unit with a date for commencement of commercial operation as defined in subparagraph 2. of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of

commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in subparagraph 2. of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subparagraph 1. or 2. of this definition as appropriate.

(hh) "Commence operation" means:

1. To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in Rule 335-3-8-.24(5)(h).

2. For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in subparagraph 1. of this definition, such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

3. For a unit that is replaced by a unit at the same source (e.g., repowered) after the date the unit commences operation as defined in subparagraph 1. of this definition, such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subparagraph 1., 2., or 3. of this definition as appropriate, except as provided in Rule 335-3-8-.24(5)(h).

(ii) "Common stack" means a single flue through which emissions from 2 or more units are exhausted.

(jj) "Compliance account" means a CAIR NO_X Allowance Tracking System account, established by the Administrator for a CAIR NO_X source under Rule 335-3-8-.21 or 335-3-8-.24, in which any CAIR NO_X allowance allocations for the CAIR NO_X units at the source are initially recorded and in which are held any CAIR NO_X allowances available for use for a control period in order to meet the source's CAIR NO_X emissions limitation in accordance with Rule 335-3-8-.21(5).

(kk) "Continuous emission monitoring system or CEMS" means the equipment required under Rule 335-3-8-.23 to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes [using an automated data acquisition and handling system (DAHS)], a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR 75. The following systems are the principal types of continuous emission monitoring systems required under Rule 335-3-8-.23:

1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

2. A nitrogen oxides concentration monitoring system, consisting of a NO_X pollutant concentration monitor and an automated data acquisition and handling

system and providing a permanent, continuous record of NO_X emissions, in parts per million (ppm);

3. A nitrogen oxides emission rate (or NO_X-diluent) monitoring system, consisting of a NO_X pollutant concentration monitor, a diluent gas (CO_2 or O_2) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_X concentration, in parts per million (ppm), diluent gas concentration, in percent CO_2 or O_2, and NO_X emission rate, in pounds per million British thermal units (lb/mmBtu);

4. A moisture monitoring system, as defined in 40 CFR § 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H_2O;

5. A carbon dioxide monitoring system, consisting of a CO_2 pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO_2 emissions, in percent CO_2; and

6. An oxygen monitoring system, consisting of an O_2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O_2, in percent O_2.

(ll) "Control period" means the period beginning January 1 of a calendar year, except as provided in subparagraph (6)(c)2. of this Rule, and ending on December 31 of the same year, inclusive.

(mm) "Department" means the Alabama Department of Environmental Management authorized by the Administrator to issue or revise permits to meet the requirements of the CAIR NO_X Annual Trading Program in accordance with Rule 335-3-8-.18.

(nn) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Administrator by the CAIR designated representative and as determined by the Administrator in accordance with Rule 335-3-8-.23.

(oo) "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO_X units at a CAIR NO_X source during a control period that exceeds the CAIR NO_X emissions limitation for the source.

(pp) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(qq) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(rr) "Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum by-products used as

a fuel whether in a liquid, solid, or gaseous state.

(ss) "General account" means a CAIR NO_X Allowance Tracking System account, established under Rule 335-3-8-.21, that is not a compliance account.

(tt) "Generator" means a device that produces electricity.

(uu) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

(vv) "Heat input" means, with regard to a specified period of time, the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded, and reported to the Administrator by the CAIR designated representative and determined by the Administrator in accordance with Rule 335-3-8-.23 and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(ww) "Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hr) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

(xx) "Hg Budget Trading Program" means a multi-state Hg air pollution control and emission reduction program approved and administered by the Administrator in accordance with 40 CFR 60, Subpart HHHH and 40 CFR § 60.24(h)(6), or established by the Administrator under section 111 of the Clean Air Act, as a means of reducing national Hg emissions.

(yy) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;

2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

3. For a period no less than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(zz) "Maximum design heat input" means the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(aaa) "Monitoring system" means any monitoring system that meets the requirements of Rule 335-3-8-.23, including a continuous emissions monitoring system, an alternative monitoring

system, or an excepted monitoring system under 40 CFR 75.

(bbb) "Most stringent State or Federal NO_X emissions limitation" means, with regard to a unit, the lowest NO_X emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under State or Federal law, regardless of the averaging period to which the emissions limitation applies.

(ccc) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as of such completion as specified by the person conducting the physical change.

(ddd) "Oil-fired" means, for purposes of Rule 335-3-8-.20, combusting fuel oil for more than 15.0 percent of the annual heat input in a specified year and not qualifying as coal-fired.

(eee) "Operator" means any person who operates, controls, or supervises a CAIR NO_X unit or a CAIR NO_X source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(fff) "Owner" means any of the following persons:

1. With regard to a CAIR NO_X source or a CAIR NO_X unit at a source, respectively:

(i) Any holder of any portion of the legal or equitable title in a CAIR NO_X unit at the source or the CAIR NO_X unit;

(ii) Any holder of a leasehold interest in a CAIR NO_X unit at the source or the CAIR NO_X unit; or

(iii) Any purchaser of power from a CAIR NO_X unit at the source or the CAIR NO_X unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such CAIR NO_X unit; or

2. With regard to any general account, any person who has an ownership interest with respect to the CAIR NO_X allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NO_X allowances.

(ggg) "Potential electrical output capacity" means 33 percent of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

(hhh) "Receive or receipt of" means, when referring to the Department or the Administrator, to

come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official log, or by a notation made on the document, information, or correspondence, by the Department or the Administrator in the regular course of business.

(iii) "Recordation, record, or recorded" means, with regard to CAIR NO_X allowances, the movement of CAIR NO_X allowances by the Administrator into or between CAIR NO_X Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction.

(jjj) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR § 75.22 [incorporated by reference in ADEM Admin. Code R. 335-3-10-.03(1)].

(kkk) "Replacement, replace, or replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(lll) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

1. Atmospheric or pressurized fluidized bed combustion;

2. Integrated gasification combined cycle;

3. Magnetohydrodynamics;

4. Direct and indirect coal-fired turbines;

5. Integrated gasification fuel cells; or

6. As determined by the Administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subparagraphs 1. through 5. of this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

(mmm) "Serial number" means, for a CAIR NO_X allowance, the unique identification number assigned to each CAIR NO_X allowance by the Administrator.

(nnn) "Sequential use of energy" means:

1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(ooo) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in section 129(g)(1) of the Clean Air Act.

(ppp) "Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of section 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

(qqq) "State" means

1. The State of Alabama, the Environmental Management Commission, and the Commission's representatives; or

2. One of the States or the District of Columbia that adopts the CAIR NO_X Annual Trading Program pursuant to 40 CFR § 51.123(o)(1) or (2).

(rrr) "State Annual Trading Program Budget" means the total number of NOx tons apportioned to all CAIR NOx units in Alabama, in accordance with the CAIR NOx Annual Trading Program, for use in a given control period.

(sss) "Submit or serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;

2. By United States Postal Service; or

3. By other means of dispatch or transmission and delivery. Compliance with any "submission" or "service" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(ttt) "Title V operating permit" means a "Major Source Operating Permit" as defined and issued under Chapter 335-3-16.

(uuu) "Title V operating permit regulations" means the "Major Source Operating Permits" regulations in Chapter 335-3-16 that the Administrator has approved as meeting the requirements of Title V of the Clean Air Act and 40 CFR 70 or 71.

(vvv) "Ton" means 2,000 pounds. For the purpose of determining compliance with the CAIR NO_X emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Rule 335-3-8-.23, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.

(www) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the

reject heat from the electricity production is then used to provide useful thermal energy.

(xxx) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(yyy) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(zzz) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

(aaaa) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(bbbb) "Unit operating hour or hour of unit operation" means an hour in which a unit combusts any fuel.

(cccc) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

(dddd) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;

2. Used in a heating application (e.g., space heating or domestic hot water heating); or

3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

(eeee) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this Rule and in Rules 335-3-8-.17 through 335-3-8-.24 are defined as follows:

(a) Btu—British thermal unit.

(b) CO_2—carbon dioxide.

(c) H_2O—water.

(d) Hg—mercury.

(e) hr—hour.

(f) kW—kilowatt electrical.

(g) kWh—kilowatt hour.

(h) lb—pound.

(i) mmBtu—million Btu.

(j) MWe—megawatt electrical.

(k) MWh—megawatt hour.

(l) NO_X—nitrogen oxides.

(m) O_2—oxygen.

(n) ppm—parts per million.

(o) scfh—standard cubic feet per hour.

(p) SO_2—sulfur dioxide.

(q) yr—year.

(4) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph:

1. The following units in the State of Alabama shall be CAIR NO_X units, and any source that includes one or more such units shall be a CAIR NO_X source, subject to the requirements of Rules 335-3-8-.17 through 335-3-8-.23: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under subparagraph (a)1. of this paragraph, is not a CAIR NO_X unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR NO_X unit as provided in subparagraph (a)1. of this paragraph on the first date on which it both combusts fossil fuel and serves such generator.

(b) The units in the State that meet the requirements set forth in subparagraph (b)1. or (b)2. of this paragraph shall not be CAIR NO_X units:

1. Any unit that is a CAIR NO_X unit under subparagraph (a)1. or 2, of this paragraph:

(i) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(ii) Not serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in

any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(iii) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subparagraphs (b)1.(i) and (ii) of this paragraph for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_X unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subparagraph (b)1.(ii) of this paragraph.

2. Any unit that is a CAIR NO_X unit under subparagraph (a)1. or 2. of this paragraph commencing operation before January 1, 1985:

(i) Qualifying as a solid waste incineration unit; and

(ii) With an average annual fuel consumption of non-fossil fuel for 1985 – 1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(iii) Any unit that is a CAIR NO_X unit under subparagraph (a)1. or 2. of this paragraph commencing operation on or after January 1, 1985:

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for the first 3 calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(iv) If a unit qualifies as a solid waste incineration unit and meets the requirements of subparagraph (b)2.(i), (ii), or (iii) of this paragraph for at least 3 consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_X unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.

(5) Retired unit exemption.

(a) Any CAIR NO_X unit that is permanently retired and is not a CAIR NO_X opt-in unit under Rule 335-3-8-.24 shall be exempt from the CAIR NO_X Annual Trading Program, except for the provisions of this paragraph, paragraphs (2), (3), (4), (7) and (8), subparagraphs (6)(c)4. through 7. of this Rule, and Rules 335-3-8-.17 and 335-3-8-.20 through 335-3-8-.22.

1. The exemption under subparagraph (a) of this paragraph shall become effective the day on which the CAIR NO_X unit is permanently retired. Within 30 days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the Department otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of

the statement to the Administrator. The statement shall state, in a format prescribed by the Department, that the unit was permanently retired on a specific date and will comply with the requirements of subparagraph (b) of this paragraph.

2. After receipt of the statement under subparagraph (a)1. of this paragraph, the Department will amend any permit under Rule 335-3-8-.18 covering the source at which the unit is located to add the provisions and requirements of the exemption under subparagraphs (a) and (b) of this paragraph.

(b) Special provisions.

1. A unit exempt under subparagraph (a) of this paragraph shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

2. The Department will assign CAIR NO_X allowances to the Retired Unit Allowance Pool under Rule 335-3-8-.20(3)(c)2. for a unit exempt under subparagraph (a) of this paragraph.

3. For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under subparagraph (a) of this paragraph shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the Department or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

4. The owners and operators and, to the extent applicable, the CAIR designated representative of a unit exempt under subparagraph (a) of this paragraph shall comply with the requirements of the CAIR NO_X Annual Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

5. A unit exempt under subparagraph (a) of this paragraph and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit or other federally enforceable permit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under Rule 335-3-8-.18(3) for the unit not less than 18 months (or such lesser time provided under the Department's major source operating permit regulations for final action on a permit application) before the later of January 1, 2009 or the date on which the unit resumes operation.

6. Loss of exemption.

(i) On the earlier of the following dates, a unit exempt under subparagraph (a) of this paragraph shall lose its exemption:

(I) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subparagraph (b)5. of this paragraph;

(II) The date on which the CAIR designated representative is required under subparagraph (b)5. of this paragraph to submit a CAIR permit application for the unit; or

(III) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

7. For the purpose of applying monitoring, reporting, and recordkeeping requirements under Rule 335-3-8-.23, a unit that loses its exemption under subparagraph (a) of this paragraph shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(6) Standard Requirements.

(a) Permit Requirements.

1. The CAIR designated representative of each CAIR NO_X source required to have a Title V operating permit or other federally enforceable permit and each CAIR NO_X unit required to have a Title V operating permit or other federally enforceable permit at the source shall:

(i) Submit to the Department a complete CAIR permit application under Rule 335-3-8-.18(3) in accordance with the deadlines specified in Rule 335-3-8-.18(2); and

(ii) Submit in a timely manner any supplemental information that the Department determines is necessary in order to review a CAIR permit application and issue or deny a CAIR permit.

2. The owners and operators of each CAIR NO_X source required to have a Title V operating permit or other federally enforceable permit and each CAIR NO_X unit required to have a Title V operating permit or other federally enforceable permit at the source shall have a CAIR permit issued by the Department under Rule 335-3-8-.18 for the source and operate the source and the unit in compliance with such CAIR permit.

3. Except as provided in Rule 335-3-8-.24, the owners and operators of a CAIR NO_X source that is not otherwise required to have a Title V operating permit or other federally enforceable permit and each CAIR NO_X unit that is not otherwise required to have a Title V operating permit or other federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under Rule 335-3-8-.18 for such CAIR NO_X source and such CAIR NO_X unit.

(b) Monitoring, reporting, and recordkeeping requirements.

1. The owners and operators, and the CAIR designated representative, of each CAIR NO_X source and each CAIR NO_X unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of Rule 335-3-8-.23.

2. The emissions measurements recorded and reported in accordance with Rule 335-3-8-.23 shall be used to determine compliance by each CAIR NO_X source with the CAIR NO_X emissions limitation under subparagraph (c) below.

(c) Nitrogen oxides emission requirements.

1. As of the allowance transfer deadline for a control period, the owners and operators of each

CAIR NO_X source and each CAIR NO_X unit at the source shall hold, in the source's compliance account, CAIR NO_X allowances available for compliance deductions for the control period under Rule 335-3-8-.21(5)(a) in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_X units at the source, as determined in accordance with Rule 335-3-8-.23.

2. A CAIR NO_X unit shall be subject to the requirements under subparagraph (c)1. of this paragraph for the control period starting on the later of January 1, 2009 or the deadline for meeting the unit's monitor certification requirements under Rule 335-3-8-.23(1)(b)1., 2., or 5. and for each control period thereafter.

3. A CAIR NO_X allowance shall not be deducted, for compliance with the requirements under subparagraph (c)1. of this paragraph, for a control period in a calendar year before the year for which the CAIR NO_X allowance was allocated.

4. CAIR NO_X allowances shall be held in, deducted from, or transferred into or among CAIR NO_X Allowance Tracking System accounts in accordance with Rules 335-3-8-.21, 335-3-8-.22, and 335-3-8-.24.

5. A CAIR NO_X allowance is a limited authorization to emit one ton of nitrogen oxides in accordance with the CAIR NO_X Annual Trading Program. No provision of the CAIR NO_X Annual Trading Program, the CAIR permit application, the CAIR permit, or an exemption under paragraph (5) of this Rule and no provision of law shall be construed to limit the authority of the State or the United States to terminate or limit such authorization.

6. A CAIR NO_X allowance does not constitute a property right.

7. Upon recordation by the Administrator under Rules 335-3-8-.20, 335-3-8-.21, 335-3-8-.22 or 335-3-8-.24, every allocation, transfer, or deduction of a CAIR NO_X allowance to or from a CAIR NO_X source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) Excess emissions requirements. If a CAIR NO_X source emits nitrogen oxides during any control period in excess of the CAIR NO_X emissions limitation, then:

1. The owners and operators of the source and each CAIR NO_X unit at the source shall surrender the CAIR NO_X allowances required for deduction under Rule 335-3-8-.21(5)(d)1. and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Rule 335-3-8-.21(5)(d)2.; and

2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this Rule, the Clean Air Act, and applicable State law.

(e) Recordkeeping and reporting requirements.

1. Unless otherwise provided, the owners and operators of the CAIR NO_X source and each CAIR NO_X unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for

cause, at any time before the end of 5 years, in writing by the Department or the Administrator.

(i) The certificate of representation under Rule 335-3-8-.17(4) for the CAIR designated representative for the source and each CAIR NO_X unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new certificate of representation under Rule 335-3-8-.17(4) changing the CAIR designated representative.

(ii) All emissions monitoring information, in accordance with Rule 335-3-8-.23, provided that to the extent that Rule 335-3-8-.23 provides for a 3-year period for recordkeeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO_X Annual Trading Program.

(iv) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO_X Annual Trading Program or to demonstrate compliance with the requirements of the CAIR NO_X Annual Trading Program.

2. The CAIR designated representative of a CAIR NO_X source and each CAIR NO_X unit at the source shall submit the reports required under the CAIR NO_X Annual Trading Program, including those under Rule 335-3-8-.23.

(f) Liability.

1. Each CAIR NO_X source and each CAIR NO_X unit shall meet the requirements of the CAIR NO_X Annual Trading Program.

2. Any provision of the CAIR NO_X Annual Trading Program that applies to a CAIR NO_X source or the CAIR designated representative of a CAIR NO_X source shall also apply to the owners and operators of such source and of the CAIR NO_X units at the source.

3. Any provision of the CAIR NO_X Annual Trading Program that applies to a CAIR NO_X unit or the CAIR designated representative of a CAIR NO_X unit shall also apply to the owners and operators of such unit.

(g) Effect on other authorities. No provision of the CAIR NO_X Annual Trading Program, a CAIR permit application, a CAIR permit, or an exemption under Rule 335-3-8-.16(5) shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO_X source or CAIR NO_X unit from compliance with any other provision of the applicable, approved State Implementation Plan, a federally enforceable permit, or the Clean Air Act.

(7) Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the CAIR NO_X Annual Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event

occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR NO_X Annual Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO_X Annual Trading Program, falls on a weekend or a State or Federal holiday, including those designated as a holiday by the President or the Congress of the United States, or the Governor of Alabama, or as prescribed in Code of Alabama (1975), § 1-3-8, the time period shall be extended to the next business day.

(8) Appeal Procedures. The appeal procedures for decisions of the Administrator under the CAIR NO_X Annual Trading Program are set forth in 40 CFR 78.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007, October 31, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 12, 2001	July 16, 2001	66 FR 36919
1st REV	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.16 Authorization of Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing the Authorization of Designated Representative and Alternate Designated Representative for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.413, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.17 CAIR Designated Representative for CAIR NO_X Sources

(1) Authorization and responsibilities of CAIR designated representative.

(a) Except as provided under paragraph (2) below, each CAIR NO_X source, including all CAIR NO_X units at the source, shall have one and only one CAIR designated representative, with regard to all matters under the CAIR NO_X Annual Trading Program concerning the source or any CAIR NO_X unit at the source.

(b) The CAIR designated representative of the CAIR NO_X source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_X units at the source and shall act in accordance with the certification statement in subparagraph (4)(a)4.(iv) of this Rule.

(c) Upon receipt by the Administrator of a complete certificate of representation under paragraph (4) of this Rule, the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_X source represented and each CAIR NO_X unit at the source in all matters pertaining to the CAIR NO_X Annual Trading Program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the Department, the Administrator, or a court regarding the source or unit.

(d) No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO_X Allowance Tracking System account will be established for a CAIR NO_X unit at a source, until the Administrator has received a complete certificate of representation under paragraph (4) of this Rule for a CAIR designated representative of the source and the CAIR NO_X units at the source.

(e) Each submission under the CAIR NO_X Annual Trading Program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO_X source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on

behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and

information or omitting required statements and information, including the possibility of fine or imprisonment."

1. The Department and the Administrator will accept or act on a submission made on behalf of owner or operators of a CAIR NO_X source or a CAIR NO_X unit only if the submission has been made, signed, and certified in accordance with subparagraph (e) of this paragraph.

(2) Alternate CAIR designated representative.

(a) A certificate of representation under paragraph (4) of this Rule may designate one and only one alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.

(b) Upon receipt by the Administrator of a complete certificate of representation under paragraph (4) of this Rule, any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.

(c) Except in this paragraph and subparagraphs (1)(a) and (d) and paragraphs (3), (4) and (6) of this Rule, and Rules 335-3-8-.16(2), 335-3-8-.21(2), and 335-3-8-.24(3), whenever the term "CAIR designated representative" is used in Rules 335-3-6-.16 through 335-3-8-.24, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

(3) Changing CAIR designated representative and alternate CAIR designated representative; changes in owners and operators.

(a) Changing CAIR designated representative. The CAIR designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation under paragraph (4) of this Rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO_X source and the CAIR NO_X units at the source.

(b) Changing alternate CAIR designated representative. The alternate CAIR designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation under paragraph (4) of this Rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR NO_X source and the CAIR NO_X units at the source.

(c) Changes in owners and operators.

1. In the event an owner or operator of a CAIR NO_X source or a CAIR NO_X unit is not included in the list of owners and operators in the certificate of representation under paragraph (4) of this Rule, such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the Department, the Administrator, or a court, as if the owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a CAIR NO_X source or a CAIR NO_X unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under paragraph (4) of this Rule amending the list of owners and operators to include the change.

(4) Certificate of representation.

(a) A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the Administrator:

1. Identification of the CAIR NO_X source, and each CAIR NO_X unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR designated representative and any alternate CAIR designated representative.

3. A list of the owners and operators of the CAIR NO_X source and of each CAIR NO_X unit at the source.

4. The following certification statements by the CAIR designated representative and any alternate CAIR designated representative:

(i) "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO_X unit at the source."

(ii) "I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_X Annual Trading Program on behalf of the owners and operators of the source and of each CAIR NO_X unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

(iii) "I certify that the owners and operators of the source and of each CAIR NO_X unit at the source shall be bound by any order issued to me by the Administrator, the Department, or a court regarding the source or unit."

(iv) "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a

CAIR NO_X unit, or where a utility or industrial customer purchases power from a CAIR NO_X unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_X unit at the source; and CAIR NO_X allowances and proceeds of transactions involving CAIR NO_X allowances will be deemed to be held or distributed in proportion to each

holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_X allowances by contract, CAIR NO_X allowances and proceeds of transactions involving CAIR NO_X allowances will be deemed to be held or distributed in accordance with the contract."

5. The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed.

(b) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the Department or the Administrator. Neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(5) Objections concerning CAIR designated representative.

(a) Once a complete certificate of representation under paragraph (4) of this Rule has been submitted and received, the Department and the Administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under paragraph (4) of this Rule is received by the Administrator.

(b) Except as provided in subparagraphs (3)(a) or (b) of this Rule, no objection or other communication submitted to the Department or the Administrator concerning the authorization, or any representation, action, inaction, or submission, of the CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the Department or the Administrator under the CAIR NO_X Annual Trading Program.

(c) Neither the Department nor the Administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR designated representative, including private legal disputes concerning the proceeds of CAIR NO_X allowance transfers.

(6) Delegation by CAIR designated representative and alternate CAIR designated representative.

(a) A CAIR designated representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under this Rule.

(b) An alternate CAIR designated representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or

required under this Rule.

(c) In order to delegate authority to make an electronic submission to the Administrator in accordance with subparagraph (a) or (b) of this paragraph, the CAIR designated representative or alternate CAIR designated representative, as appropriate, must submit to the Administrator a notice of delegation, in a format prescribed by the Administrator that includes the following elements:

1. The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such CAIR designated representative or alternate CAIR designated representative;

2. The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an "agent");

3. For each such natural person, a list of the type or types of electronic submissions under subparagraph (a) or (b) of this paragraph for which authority is delegated to him or her; and

4. The following certification statements by such CAIR designated representative or alternate CAIR designated representative:

(i) "I agree that any electronic submission to the Administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 40 CFR 96.115(d) shall be deemed to be an electronic submission by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under 40 CFR 96.115(d), I agree to maintain an e-mail account and to notify the Administrator immediately of any change in my e-mail address unless all delegation of authority by me under 40 CFR 96.115 is terminated."

(d) A notice of delegation submitted under subparagraph (c) of this paragraph shall be effective, with regard to the CAIR designated representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the Administrator and until receipt by the Administrator of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(e) Any electronic submission covered by the certification in subparagraph (c)4.(i) of this paragraph and made in accordance with a notice of delegation effective under subparagraph (d) of this paragraph shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-

28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: October 31, 2007
Amended:

	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.17 Responsibilities of Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing the Responsibilities of Designated Representative and Alternate Designated Representative for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.414, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.18 CAIR Permits

(1) General CAIR Annual Trading Program permit requirements.

(a) For each CAIR NO_X source required to have a Title V operating permit or required, under Rule 335-3-8-.24, to have a Title V operating permit or other federally enforceable permit, such permit shall include a CAIR permit administered by the Department. Any requirements of the CAIR permit shall be considered federally enforceable.

1. For CAIR NO_X sources required to have a Title V operating permit, the CAIR portion of the Title V operating permit shall be administered in accordance with the procedures under Chapter 335-3-16, except as provided otherwise by this Rule, Rule 335-3-8-.16, or Rule 335-3-8-.24. The applicable provisions of such requirements shall include, but are not limited to, those provisions addressing operating permit applications, operating permit application shield, operating permit duration, operating permit shield, operating permit issuance, operating permit revision and reopening, public participation, State review, and review by the Administrator.

(b) Each CAIR permit shall contain, with regard to the CAIR NO_X source and the CAIR NO_X units at the source covered by the CAIR permit, all applicable CAIR NO_X Annual Trading Program, CAIR NO_X Ozone Season Trading Program, and CAIR SO_2 Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or other federally enforceable permit under subparagraph (a) of this paragraph.

(2) Submission of CAIR permit applications.

(a) Duty to apply. The CAIR designated representative of any CAIR NO_X source required to have a Title V operating permit or other federally enforceable permit shall submit to the Department a complete CAIR permit application under paragraph (3) of this Rule for the source covering each CAIR NO_X unit at the source at least 18 months (or such lesser time provided under the Department's permit regulations in Rule 335-3-16 for final action on a permit application) before the later of January 1, 2009 or the date on which the CAIR NO_X unit commences commercial operation, except as provided in Rule 335-3-8-.24(4)(a).

(b) Duty to Reapply. For a CAIR NO_X source required to have a Title V operating permit, the CAIR designated representative shall submit a complete CAIR permit application under paragraph (3) of this Rule for the source covering each CAIR NO_X unit at the source to renew the CAIR permit in accordance with the Department's Title V operating permits regulations in Chapter 335-3-16 addressing operating permit renewal, except as provided in Rule 335-3-8-

.24(4)(b).

(3) Information requirements for CAIR permit applications. A complete CAIR permit application shall include the following elements concerning the CAIR NO_X source for which the application is submitted, in a format prescribed by the Department:

(a) Identification of the CAIR NO_X source;

(b) Identification of each CAIR NO_X unit at the CAIR NO_X source; and

(c) The standard requirements under Rule 335-3-8-.16(6).

(4) CAIR permit contents and term.

(a) Each CAIR permit will contain, in a format prescribed by the Department, all elements required for a complete CAIR permit application under paragraph (3) of this Rule.

(b) Each CAIR permit is deemed to incorporate automatically the definitions of terms under Rule 335-3-8-.16(2) and, upon recordation by the Administrator under Rules 335-3-8-.20, 335-3-8-.21, 335-3-8-.22, or 335-3-8-.24, every allocation, transfer, or deduction of a CAIR NO_X allowance to or from the compliance account of the CAIR NO_X source covered by the permit.

(c) The term of the CAIR permit will be set by the Department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_X source's Title V operating permit or other federally enforceable permit as applicable.

(5) CAIR permit revisions. Except as provided in subparagraph (4)(b) of this Rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's Title V operating permits regulations in Chapter 335-3-16 addressing permit revisions, as applicable.

(a) For a CAIR NO_X source with a non-Title V permit, except as provided in subparagraph (4)(b) of this Rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's permit regulations in Chapter 335-3-14 or 335-3-15, as applicable.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-16, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.18 Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source.

(1) General. The Environmental Protection Agency Regulations governing Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.415, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.19 Reserved. Certificate of Representation.

(1) General. The Environmental Protection Agency Regulations governing Certificate of Representation, are incorporated by reference as they exist in 40 CFR §97.416, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.20 CAIR NO_X Allowance Allocations

(1) State Annual Trading Program Budget. The State trading budget for annual allocations of CAIR NO_X Annual allowances for the control periods in 2009 through 2014 is 69,020 tons and in 2015 and thereafter is 57,517 tons.

(2) Timing Requirements for NO_X Allowance Allocations.

(a) By October 31, 2006, the Department will submit to the Administrator, in a format prescribed by the administrator, the NOX allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in 2009, 2010, and 2011.

(b) By October 31, 2008, the Department will submit to the Administrator, in a format prescribed by the administrator, the NOX allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in 2012, 2013, and 2014.

(c) By October 31, 2011 and October 31 of every third year thereafter (i.e. 2014, 2017, etc.), the Department will submit to the Administrator, in a format prescribed by the administrator, the NOX allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in the three years that are four, five, and six years, respectively, after the year of the applicable deadline for submission under this subparagraph. (3) NOX Allowance Allocations.

(a) Definitions. For the purpose of this Rule, the following definitions apply:

1. Baseline CAIR NOX Unit. A CAIR NOX unit that either:

(i) Commenced operation on or before January 1, 2004; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before August 1, 2005.

2. Replacement CAIR NOX Unit.

(i) A CAIR NO_X unit, which replaces at the same facility, a Baseline CAIR NOx unit with the same or greater maximum design heat input capacity; or

(ii) The portion of a CAIR NOX unit, which replaces at the same facility, a Baseline CAIR NOX unit with the same or less maximum design heat input capacity.

3. New CAIR NOX Unit.

(i) A CAIR NOx unit that does not meet the definition of either Baseline CAIR NOX Unit as defined in subparagraph (3)(a)1. of this paragraph or Replacement CAIR NOX Unit as defined in subparagraph (3)(a)2.(ii) of this paragraph; or

(ii) The portion of a CAIR NOX unit that does not meet the definition of either Baseline CAIR NOX Unit or Replacement CAIR NOX Unit as defined in subparagraph (3)(a)1. and (3)(a)2. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating CAIR NOX allowance allocations under subparagraph (2)(a) of this Rule will be:

(i) For a Baseline CAIR NOX unit that commenced operation on or before January 1, 2002 the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2000, 2001, 2002, 2003 and 2004; or

(ii) For a Baseline CAIR NOX unit that did not commence operation on or before January 1, 2002 but did commence operation on or before January 1, 2003, the average heat input for the control periods, in which the unit operated, in 2003 and 2004; or

(iii) For a Baseline CAIR NOX unit that did not commence operation on or before January 1, 2003 but did commence operation on or before January 1, 2004, the heat input for the control period in 2004; or

(iv) For a Baseline CAIR NOX unit that did not commence operation on or before January 1, 2004 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before August 1, 2005, the expected actual annual heat input based on actual utilization data of similar sources.

(v) For a Replacement CAIR NOX unit that did not commence operation on or before January 1, 2004, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the baseline unit operated, in 2000, 2001, 2002, 2003 and 2004 for the baseline CAIR NOX unit that it replaced.

(vi) For a New CAIR NOX unit that did not commence operation on or before January 1, 2004, the expected actual annual heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating CAIR NOX allowance allocations under subparagraph (2)(b) of this Rule that are to be submitted to the Administrator by October 31, 2008 will be:

(i) For a Baseline or Replacement CAIR NOX unit that commenced operation on or before January 1, 2006 the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2003, 2004, 2005, 2006, and 2007; or

(ii) For a Baseline or Replacement CAIR NOX unit that did not commence operation on or before January 1, 2005 but did commence operation on or before January 1, 2006, the average heat input for the control periods, in which the unit operated, in 2006 and 2007; or

(iii) For a Baseline or Replacement CAIR NOX unit that did not commence operation on or before January 1, 2006 but did commence operation on or before January 1, 2007, the heat input for the control period in 2007; or

(iv) For a Replacement CAIR NOX unit that did not commence operation on or before January 1, 2007, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the baseline unit operated, in 2003, 2004, 2005, 2006 and 2007 for the baseline CAIR NOX unit that it replaced.

(v) For a New CAIR NOX unit that commenced operation on or before January 1, 2007, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2003, 2004, 2005, 2006 and 2007; or

(vi) For a New CAIR NOX unit that did not commence operation on or before January 1, 2007, the expected actual annual heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating CAIR NOX allowance allocations under subparagraph (2)(c) of this Rule that are to be submitted to the Administrator by October 31, 2011 and all subsequent allocation years will be:

(i) For a Baseline CAIR NOX unit, the average of the three highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods (e.g. allocations calculated for submission to the Administrator on October 31, 2011 will be based on annual heat inputs from 2006, 2007, 2008, 2009 and 2010); or

(ii) For a Replacement CAIR NOX unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods (e.g. allocations calculated for submission to the Administrator on October 31, 2011 will be based on annual heat inputs from 2006, 2007, 2008, 2009 and 2010); or

(iii) For a Replacement CAIR NOX unit that did not commence operation on or before January 1 of the most recent control period, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the unit operated, in 2006, 2007, 2008, 2009 and 2010 for the baseline CAIR NOX unit that it replaced.

(iv) For a New CAIR NOX unit that commenced operation prior to January 1 of the most recent control period, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods; or

(iv) For a New CAIR NOX unit that did not commence operation prior to January 1 of the most recent control period, the expected actual annual heat input based on actual utilization data of similar sources.

4. The unit's total heat input for the control period in each year specified under subparagraph (b)

of this paragraph will be determined in accordance with 40 CFR 75 if the CAIR NOX unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time CAIR NOX allowances are initially allocated to baseline CAIR NOX units under subparagraph (e)1. of this paragraph, each unit's allocation will be permanently recorded by the Department as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time CAIR NOX allowances are allocated under paragraph (2) of this Rule and shall equal the State Annual Trading Program Budget minus the total of the Baseline Allowances for all baseline CAIR NOX units that have retired in accordance with Rule 335-3-8-.16(5).

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time CAIR NOX allowances are allocated under paragraph (2) of this Rule and shall equal the sum of the Baseline Allowances for all CAIR NOX units that have retired in accordance with Rule 335-3-8-.16(5).

(d) Adjustment Ratios. To ensure that the total number of CAIR NOX allowances allocated under paragraph (3) of this Rule equals the number of tons of CAIR NOX emissions in the State trading program budget, the following ratios will be applied to the calculated CAIR NOX allowance allocations.

1. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of CAIR NOX allowances in the Baseline Allowance Pool divided by the total number of CAIR NOX allowances calculated for Baseline CAIR NOX units for a control period prior to any adjustments.

(e) Calculation of CAIR NOX Allowances for Baseline CAIR NOX Units.

1. For each control period under subparagraph (2)(a) and (b) of this Rule, the Department will allocate CAIR NOX allowances to all baseline CAIR NOX units in accordance with the following procedures:

(i) The Department will allocate CAIR NOX allowances to each CAIR NOX unit under Rule 335-3-8-.16(4)(a) in an amount equaling 0.15 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or (b)2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NOX allowance as appropriate. These NOX allowances will be further adjusted in accordance with subparagraph (h) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NOX allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NOX rate will be used for allocation purposes.

2. For each control period under subparagraph (2)(c) of this Rule, the Department will allocate NOX allowances to all baseline CAIR NOX units in accordance with the following procedures:

(i) The Department will allocate NOX allowances to each CAIR NOX unit under Rule 335-3-8-.16(4)(a) in an amount equaling 0.125 lb/mmBtu or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances will be further adjusted in accordance with subparagraph (h) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NOx allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(f) Calculation of NOX Allowances for Replacement CAIR NOX units. For each control period under subparagraph (2)(a), (b), or (c) of this Rule, after calculating NOX allowances for all Baseline CAIR NOX units that have not retired in accordance with Rule 335-3-8-.16(5), the Department will allocate NOX allowances from the Retired Unit Allowance Pool to all Replacement CAIR NOX units in accordance with the following procedures:

1. For each Replacement CAIR NOX unit under Rule 335-3-8-.16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a) or (b) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or 2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

2. For each Replacement CAIR NOX unit under Rule 335-3-8-.16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(c) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control

periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NOx rate will be used for allocation purposes.

(g) Calculation of NOX Allowances for New CAIR NOX Units. For each control period under subparagraph (2)(a), (b), or (c) of this Rule, after calculating NOX allowances for all baseline CAIR NOX units that have not retired in accordance with Rule 335-3-8-.16(5) and calculating NOX allowances for all replacement CAIR NOX Units, the Department will allocate NOX allowances remaining in the Retired Unit Allowance Pool to all new CAIR NOX units in accordance with the following procedures:

1. For each new CAIR NOX unit under Rule 335-3-8-.16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a) or (b) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or 2. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

2. For each new CAIR NOX unit under Rule 335-3-8-.16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(c) of this Rule, the number of NOX allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NOX limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NOX allowance as appropriate. These NOX allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NOx allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NOx rate will be used for allocation purposes.

(h) Adjustment of Baseline NO_X Allowance Allocations. If NOX allowances remain in the Retired Unit Allowance Pool after allocations are made to all replacement and new CAIR NOX units in accordance with subparagraphs (f) and (g) of this paragraph, these NOx allowances will be allocated on a pro rata basis to the baseline CAIR NOX units for the applicable control periods.

(i) Adjustment of Replacement NO_X Allowance Allocations. If the total number of calculated NOX allowances allocated to all replacement CAIR NOX units under subparagraph (f) of this paragraph exceeds the number of NOX allowances in the Retired Unit Allowance Pool, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NOX allowances in the Retired Unit Allowance Pool divided by the total number of NOX allowance allocations to all replacement CAIR NOX units under subparagraph (f) of this paragraph so that the number of NOX allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NOX allowance allocations will be rounded to the nearest ton, as appropriate.

(j) Adjustment of New NO_X Allowance Allocations. If the total number of calculated NOX allowances allocated to all new CAIR NOX units under subparagraph (g) of this paragraph exceeds the number of NOX allowances remaining in the Retired Unit Allowance Pool after allocation to replacement NOX units, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NOX allowances remaining in the Retired Unit Allowance Pool after allocation to replacement CAIR NOX units divided by the total number of NOX allowance allocations to new CAIR NOX units under subparagraph (g) of this paragraph so that the total number of NOX allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NOX allowance allocations will be rounded to the nearest ton, as appropriate.

(k) NOX allowances allocated to baseline CAIR NOX units based on heat inputs determined in accordance with subparagraph (b)1.(iv) of this paragraph will be held in the Department's general account until the unit commences operation, prior to the control period for which NOX allowances were allocated or by October 31 of the year for which allowances are being allocated. If the unit does not commence operations, the NOX allowances will be transferred by the Department pro rata to Baseline CAIR NOX units that were allocated NOX allowances in accordance with subparagraphs (b)1.(i), (ii), or (iii) of this paragraph. By October 31 of the year for which allowances are being allocated, the Department shall notify the Administrator of the appropriate NOX allowance transfers.

(l) NO_X allowances allocated to Replacement CAIR NO_X units based on heat inputs determined in accordance with subparagraphs (b)1.(v), (b)2.(iv), or (b)3.(iii) of this paragraph will be held in the Department's general account until the unit commences operation, prior to the control period for which NO_X allowances were allocated or by October 31 of the year for which the allowances were allocated. If the unit does not commence operations, the NO_X allowances will be transferred by the Department pro rata to Baseline CAIR NO_X units that were allocated NO_X allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii), or (b)3.(i) of this paragraph. By October 31 of the year for which the allowances were allocated, the Department shall notify the Administrator of the appropriate NO_X allowance transfers.

(m) NOX allowances allocated to new CAIR NOX units based on heat inputs determined in accordance with subparagraphs (b)1.(vi), (b)2.(vi), or (b)3.(iv) of this paragraph will be held in the Department's general account until the unit commences operation, prior to the control period for which NOX allowances were allocated or by October 31 of the year for which allowances are being allocated. If the unit does not commence operations, the NOX allowances will be transferred by the Department pro rata to Baseline CAIR NOX units that were allocated NOX allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii) or (b)3.(i) through (iii) of this paragraph. By October 31 of the year for which allowances are being

allocated, the Department shall notify the Administrator of the appropriate NOX allowance transfers.

(n) NOX allowances will not be allocated to CAIR NOX units that retire under 335-3-8-.16(5) prior to the date NOX allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), or (c) of this Rule.

(o) The total NOX allowances allocated for any control period in accordance with subparagraphs (3)(e), (f), and (g) of this paragraph shall not exceed the State Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(4) Compliance Supplement Pool. In addition to the CAIR NO_X allowances allocated under paragraph (3) of this Rule, the Department may allocate for the control period in 2009 up to 10,166 CAIR NO_X allowances from the Compliance Supplement Pool to CAIR NO_X units.

(a) For any CAIR NO_X unit that achieves actual NO_X emission reductions in 2007 and 2008 that are not necessary to comply with any State or federal emissions limitation applicable during such years, the CAIR designated representative of the unit may request early reduction credits, and allocation of CAIR NO_X allowances from the compliance supplement pool under paragraph (4) of this Rule for such early reduction credits, in accordance with the following:

1. Each CAIR NO_X unit for which the owner or operator requests any early reduction credits under subparagraph (a)4. of this paragraph shall monitor NO_X emissions in accordance with Rule 335-3-8-.23 starting January 1 of the control period prior to the first control period for which such early reduction credits are requested and during each control period for which the early reduction credits are requested. The unit's monitoring system availability shall be not less than 90 percent, and the unit must be in compliance with any applicable State or Federal emissions or emissions-related requirements, during the control period prior to the first control period for which such early reduction credits are requested. Early reduction credits may only be requested for emissions reductions that are not required by Alabama's State Implementation Plan or the Clean Air Act.

2. The NO_X emission rate and heat input under subparagraphs (a)3. through 4. of this paragraph shall be determined in accordance with Rule 335-3-8-.23.

3. Each CAIR NO_X unit for which the owner or operator requests any early reduction credits under subparagraph (a)4. of this paragraph shall reduce its NO_X emission rate, for each control period for which early reduction credits are requested, to below the lesser of any State or Federal requirement or the NO_X emission rate required under 40 CFR 76, including emission averaging under 40 CFR 76.11.

4. The CAIR designated representative of a CAIR NO_X unit that meets the requirements of subparagraphs (a)1. and 3. of this paragraph may submit to the Department a request for early reduction credits for the unit based on NO_X emission rate reductions made by the unit in the control period for 2007 or 2008 in accordance with subparagraph (a)3. of this paragraph.

(i) Except as provided in subparagraph (a)4.(ii) below, in the early reduction credit request, the CAIR designated representative may request early reduction credits for such control period in an

amount equal to the unit's heat input for such control period multiplied by the difference between the following:

(I) The unit's actual average NO_X emission rate in the control period prior to the first control period for which early reduction credits are requested; and,

(II) The unit's NO_X emission rate for the control period in which the early reductions occurred, divided by 2000 lb/ton, and rounded to the nearest ton.

(ii) The CAIR designated representative of such CAIR NO_X unit shall submit to the Department by May 1, 2009 a request, in a format specified by the Department, for allocation of an amount of CAIR NO_X allowances from the compliance supplement pool not exceeding the sum of the amounts (in tons) of the unit's NO_X emission reductions in 2007 and 2008 that are not necessary to comply with any State or federal emissions limitation applicable during such years, determined in accordance with Rule 335-3-8-.23. NO_X Budget Sources, or sources applicable under Rule 335-3-8-.05(4), may earn Early Reduction Credits only for reductions outside of the ozone season (May 1 – September 30). Sources which are not NO_X Budget Sources, may earn Early Reduction Credits at any time during 2007 and 2008.

5. Notwithstanding other provisions regarding the distribution of allowances from the compliance supplement pool, operators of CAIR NO_X sources may receive allowances from the compliance supplement pool only to the extent that the total number of allowances issued to such operators does not exceed 15% of the total number of NO_X allowances issued to that operator from the initial allowance allocation of all sources controlled by that operator.

(i) Any allowance remaining in the compliance supplement pool after the distribution under subparagraph (b) of this paragraph will be allocated on a pro rata basis to operators of CAIR NO_X units with emissions reductions for which allowances were not issued under subparagraph (b) of this paragraph.

(b) The Department will review each request under subparagraph (a) of this paragraph submitted by May 1, 2009 and will allocate CAIR NO_X allowances for the control period in 2009 to CAIR NO_X units in the State and covered by such request as follows:

1. Upon receipt of each such request, the Department will make any necessary adjustments to the request to ensure that the amount of the CAIR NO_X allowances requested meets the requirements of subparagraph (a) of this paragraph.

2. If the State's compliance supplement pool has an amount of CAIR NO_X allowances not less than the total amount of CAIR NO_X allowances in all such requests (as adjusted under subparagraph (b)1. of this paragraph), the Department will allocate to each CAIR NO_X unit covered by such requests the amount of CAIR NO_X allowances requested [as adjusted under subparagraph (b)1. of this paragraph].

3. If the State's compliance supplement pool has a smaller amount of CAIR NO_X allowances than the total amount of CAIR NO_X allowances in all such requests [as adjusted under subparagraph (b)1. of this paragraph], the Department will allocate CAIR NO_X allowances to each CAIR NO_X unit covered by such requests according to the following formula and rounding

to the nearest whole allowance as appropriate:

Unit's allocation = Unit's adjusted allocation × (State's compliance supplement pool ÷ Total adjusted allocations for all units)

Where:

"Unit's allocation" is the amount of CAIR NO_X allowances allocated to the unit from the State's compliance supplement pool.

"Unit's adjusted allocation" is the amount of CAIR NO_X allowances requested for the unit under subparagraph (a) of this paragraph, as adjusted under subparagraph (b)1. of this paragraph.

"State's compliance supplement pool" is the amount of CAIR NO_X allowances in the State's compliance supplement pool.

"Total adjusted allocations for all units" is the sum of the amounts of allocations requested for all units under subparagraph (a) of this paragraph, as adjusted under subparagraph (b)1. of this paragraph.

4. By November 30, 2009, the Department will determine, and submit to the Administrator, the allocations under paragraph (b)2. or 3. of this paragraph.

5. By January 1, 2010, the Administrator will record the allocations under subparagraph (b)4. of this paragraph.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
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335-3-8-.20 Concerning Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing Objections Concerning Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.417, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.20 substitute:
(a) Only in 40 CFR §97.417(c) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.21 CAIR NO_X Allowance Tracking System

(1) Reserved.

(2) Establishment of accounts.

(a) Compliance accounts. Except as provided in Rule 335-3-8-.24(5)(e), upon receipt of a complete certificate of representation under Rule 335-3-8-.17(4), the Administrator will establish a compliance account for the CAIR NO_X source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) General accounts.

1. Application for general account.

(i) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_X allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.

(ii) A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(I) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative;

(II) Organization name and type of organization, if applicable;

(III) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO_X allowances held in the general account;

(IV) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR

authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_X allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_X Annual Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."

(V) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.

(iii) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the application for a general account shall not be submitted to the Department or the Administrator. Neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

2. Authorization of CAIR authorized account representative or alternate CAIR authorized account representative.

(i) Upon receipt by the Administrator of a complete application for a general account under subparagraph (b)1. of this paragraph:

(I) The Administrator will establish a general account for the person or persons for whom the application is submitted.

(II) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO_X allowances held in the general account in all matters pertaining to the CAIR NO_X Annual Trading Program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the Administrator or a court regarding the general account.

(III) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(ii) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO_X allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO_X allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based

on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iii) The Administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subparagraph (b)2.(ii) of this paragraph.

3. Changing CAIR authorized account representative and alternate CAIR authorized account representative; changes in persons with ownership interest.

(i) The CAIR authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under subparagraph (b)1. of this paragraph. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the Administrator receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_X allowances in the general account.

(ii) The alternate CAIR authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under subparagraph (b)1. of this paragraph. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the Administrator receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_X allowances in the general account.

(iii) In the event a person having an ownership interest with respect to CAIR NO_X allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the Administrator or a court, as if the person were included in such list.

(I) Within 30 days following any change in the persons having an ownership interest with respect to CAIR NO_X allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR NO_X allowances in the general account to include the change.

4. Objections concerning CAIR authorized account representative or alternate CAIR authorized account representative.

(i) Once a complete application for a general account under subparagraph (b)1. of this paragraph has been submitted and received, the Administrator will rely on the application unless and until a superseding complete application for a general account under subparagraph (b)1. of this paragraph is received by the Administrator.

(ii) Except as provided in subparagraph (b)3.(i) or (ii) of this paragraph, no objection or other communication submitted to the Administrator concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the Administrator under the CAIR NO_X Annual Trading Program.

(iii) The Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO_X allowance transfers.

5. Delegation by CAIR authorized account representative and alternate CAIR authorized account representative.

(i) A CAIR authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under Rules 335-3-8-.21 and 335-3-8-.22.

(ii) An alternate CAIR authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under Rules 335-3-8-.21 and 335-3-8-.22.

(iii) In order to delegate authority to make an electronic submission to the Administrator in accordance with subparagraph (b)5.(i) or (ii) of this paragraph, the CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate, must submit to the Administrator a notice of delegation, in a format prescribed by the Administrator, that includes the following elements:

(I) The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such CAIR authorized account representative or alternate CAIR authorized account representative;

(II) The name, address, e-mail address, telephone number, and, facsimile transmission number (if any) of each such natural person (referred to as an "agent");

(III) For each such natural person, a list of the type or types of electronic submissions under subparagraph (b)5.(i) or (ii) of this paragraph for which authority is delegated to him or her;

(IV) The following certification statement by such CAIR authorized account representative or alternate CAIR authorized account representative: "I agree that any electronic submission to the Administrator that is by an agent identified in this notice of delegation and of a type listed for

such agent in this notice of delegation and that is made when I am a CAIR authorized account representative or alternate CAIR authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 40 CFR 96.151(b)(5)(iv) shall be deemed to be an electronic submission by me."; and

(V) The following certification statement by such CAIR authorized account representative or alternate CAIR authorized account representative: "Until this notice of delegation is superseded by another notice of delegation under 40 CFR 96.151 (b)(5)(iv), I agree to maintain an e-mail account and to notify the Administrator immediately of any change in my e-mail address unless all delegation of authority by me under 40 CFR 96.151 (b)(5) is terminated."

(iv) A notice of delegation submitted under subparagraph (b)5.(iii) of this paragraph shall be effective, with regard to the CAIR authorized account representative or alternate CAIR authorized account representative identified in such notice, upon receipt of such notice by the Administrator and until receipt by the Administrator of a superseding notice of delegation submitted by such CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(v) Any electronic submission covered by the certification in subparagraph (b)5.(iii)(IV) of this paragraph and made in accordance with a notice of delegation effective under subparagraph (b)5.(iv) of this paragraph shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

(c) Account identification. The Administrator will assign a unique identifying number to each account established under subparagraph (a) or (b) of this paragraph.

(3) Responsibilities of CAIR authorized account representative. Following the establishment of a CAIR NO_X Allowance Tracking System account, all submissions to the Administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO_X allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(4) Recordation of CAIR NO_X allowance allocations.

(a) By September 30, 2007, The Administrator will record in the CAIR NO_X source's compliance account the CAIR NO_X allowances allocated for the CAIR NO_X units at the source, as submitted by the Department in accordance with Rule 335-3-8-.20(2)(a), for the control periods in 2009, 2010, and 2011.

(b) By December 1, 2008 and December 1 of every third year thereafter, the Administrator will record in the CAIR NO_X source's compliance account the CAIR NO_X allowances allocated for the CAIR NO_X units at the source, as submitted by the Department in accordance with Rule 335-3-8-.20(2)(b) and (c), for the control periods in the three years after the last year for which NOx allowances were previously recorded.

(c) Serial numbers for allocated CAIR NO_X allowances. When recording the allocation of

CAIR NO_X allowances for a CAIR NO_X unit in a compliance account, the Administrator will assign each CAIR NO_X allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO_X allowance is allocated.

(5) Compliance with CAIR NO_X emissions limitation.

(a) Allowance transfer deadline. The CAIR NO_X allowances are available to be deducted for compliance with a source's CAIR NO_X emissions limitation for a control period in a given calendar year only if the CAIR NO_X allowances:

1. Were allocated for the control period in the year or a prior year; and

2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_X allowance transfer correctly submitted for recordation under Rule 335-3-8-.22(1) and (2) by the allowance transfer deadline for the control period.

(b) Deductions for compliance.

1. Following the recordation, in accordance with Rule 335-3-8-.22(2), of CAIR NO_X allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the Administrator will deduct from the compliance account CAIR NO_X allowances available under subparagraph (a) of this paragraph in order to determine whether the source meets the CAIR NO_X emissions limitation for the control period, as follows:

(i) Until the amount of CAIR NO_X allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with Rule 335-3-8-.23, from all CAIR NO_X units at the source for the control period; or

(ii) If there are insufficient CAIR NO_X allowances to complete the deductions in subparagraph (b)1. of this paragraph, until no more CAIR NO_X allowances available under subparagraph (a) of this paragraph remain in the compliance account.

(c) Identification of CAIR NO_X allowances by serial number.

1. The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO_X allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subparagraph (b) or (d) of this paragraph. Such request shall be submitted to the Administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the Administrator, the identification of the CAIR NO_X source and the appropriate serial numbers.

2. First-in, first-out. The Administrator will deduct CAIR NO_X allowances under subparagraph (b) or (d) of this paragraph from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_X allowances by serial number under subparagraph (c)1. of this paragraph, on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Any CAIR NO_X allowances that were allocated to the units at the source, in the order of recordation; and then

(ii) Any CAIR NO_X allowances that were allocated to any entity and transferred and recorded in the compliance account pursuant to Rule 335-3-8-.22, in the order of recordation.

(d) Deductions for excess emissions.

1. After making the deductions for compliance under subparagraph (b) of this paragraph for a control period in a calendar year in which the CAIR NO_X source has excess emissions, the Administrator will deduct from the source's compliance account an amount of CAIR NO_X allowances, allocated for the control period in the immediately following calendar year, equal to three times the number of tons of the source's excess emissions.

2. Any allowance deduction required under subparagraph (d)1. of this paragraph shall not affect the liability of the owners and operators of the CAIR NO_X source or the CAIR NO_X units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable State law.

(e) Recordation of deductions. The Administrator will record in the appropriate compliance account all deductions from such an account under subparagraph (b) and (d) of this paragraph and Rule 335-3-8-.24.

(f) Administrator's action on submissions.

1. The Administrator may review and conduct independent audits concerning any submission under the CAIR NO_X Annual Trading Program and make appropriate adjustments of the information in the submissions.

2. The Administrator may deduct CAIR NO_X allowances from or transfer CAIR NO_X allowances to a source's compliance account based on the information in the submissions, as adjusted under subparagraph (f)1. of this paragraph, and record such deductions and transfers.

(6) Banking.

(a) CAIR NO_X allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subparagraph (b) of this paragraph.

(b) Any CAIR NO_X allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR NO_X allowance is deducted or transferred under paragraphs (5) or (7) of this Rule, or Rule 335-3-8-.22 or 335-3-8-.24.

(7) Account error. The Administrator may, at his or her sole discretion and on his or her own motion, correct any error in any CAIR NO_X Allowance Tracking System account. Within 10 business days of making such correction, the Administrator will notify the CAIR authorized account representative for the account.

(8) Closing of general accounts.

(a) The CAIR authorized account representative of a general account may submit to the Administrator a request to close the account, which shall include a correctly submitted allowance transfer under Rule 335-3-8-.22(1) and (2) for any CAIR NO_X allowances in the account to one or more other CAIR NO_X Allowance Tracking System accounts.

(b) If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR NO_X allowances, the Administrator may notify the CAIR authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20 day period unless, before the end of the 20-day period, the Administrator receives a correctly submitted transfer of CAIR NO_X allowances into the account under Rule 335-3-8-.22(1) and (2) or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the Administrator good cause as to why the account should not be closed.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
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335-3-8-.21 Delegation by Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing Delegation by Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97 .418, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22. 22-22A-5, 22-22A-6, and 22-22A-8.

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335-3-8-.22 Reserved.

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	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.23 CAIR Monitoring and Reporting

(1) General Requirements. The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO_X unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this Rule and in 40 CFR 75, subpart H. For purposes of complying with such requirements, the definitions in Rule 335-3-8-.16(2) and in 40 CFR § 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system" (or "CEMS") in 40 CFR 75 shall be deemed to refer to the terms "CAIR NO_X unit," "CAIR designated representative," and "continuous emission monitoring system" (or "CEMS") respectively, as defined in Rule 335-3-8-.16(2). The owner or operator of a unit that is not a CAIR NO_X unit but that is monitored under 40 CFR § 75.72(b)(2)(ii) shall comply with the same monitoring, recordkeeping, and reporting requirements as a CAIR NO_X unit.

(a) Requirements for installation, certification, and data accounting. The owner or operator of each CAIR NO_X unit shall:

1. Install all monitoring systems required under this Rule for monitoring NO_X mass emissions and individual unit heat input [including all systems required to monitor NO_X emission rate, NO_X concentration, stack gas moisture content, stack gas flow rate, CO_2 or O_2 concentration, and fuel flow rate, as applicable, in accordance with 40 CFR §§ 75.71 and 75.72];

2. Successfully complete all certification tests required under paragraph (2) of this Rule and meet all other requirements of this Rule and 40 CFR 75 applicable to the monitoring systems under subparagraph (a)1. of this paragraph; and

3. Record, report, and quality-assure the data from the monitoring systems under subparagraph (a)1. of this paragraph.

(b) Compliance deadlines. Except as provided in subparagraph (e) of this paragraph, the owner or operator shall meet the monitoring system certification and other requirements of subparagraphs (a)1. and 2. of this paragraph on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subparagraph (a)1. of this paragraph on and after the following dates.

1. For the owner or operator of a CAIR NO_X unit that commences commercial operation before July 1, 2007, by January 1, 2008.

2. For the owner or operator of a CAIR NO_X unit that commences commercial operation on or after July 1, 2007, by the later of the following dates:

(i) January 1, 2008; or

(ii) 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

3. For the owner or operator of a CAIR NO_X unit for which construction of a new stack or flue or installation of add-on NO_X emission controls is completed after the applicable deadline under subparagraph (b)1., 2., 4., or 5. of this paragraph, by 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_X emissions controls.

4. Notwithstanding the dates in subparagraphs (b)1. and 2. of this paragraph, for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.24, by the date specified in Rule 335-3-8-.24(5)(b).

5. Notwithstanding the dates in subparagraphs (b)1. and 2. of this paragraph, for the owner or operator of a CAIR NO_X opt-in unit under Rule 335-3-8-.24, by the date on which the CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program as provided in Rule 335-3-8-.24(5)(g).

(c) Reporting data. The owner or operator of a CAIR NO_X unit that does not meet the applicable compliance date set forth in subparagraph (b) of this Rule for any monitoring system under subparagraph (a)1. of this Rule shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for NO_X concentration, NO_X emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_X mass emissions and heat input in accordance with 40 CFR § 75.31(b)(2) or (c)(3), under Section 2.4 of Appendix D to 40 CFR 75, or under Section 2.5 of Appendix E to 40 CFR 75, as applicable.

(d) Prohibitions.

1. No owner or operator of a CAIR NO_X unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this Rule without having obtained prior written approval in accordance with paragraph (6) of this Rule.

2. No owner or operator of a CAIR NO_X unit shall operate the unit so as to discharge, or allow to be discharged, NO_X emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this Rule and 40 CFR 75.

3. No owner or operator of a CAIR NO_X unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_X mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this Rule and 40

CFR 75.

4. No owner or operator of a CAIR NO_X unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this Rule, except under any one of the following circumstances:

(i) During the period that the unit is covered by an exemption under Rule 335-3-8-.16(5) that is in effect;

(ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this Rule and 40 CFR 75, by the Department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subparagraph (2)(d)3.(i) below.

(e) Long-term cold storage. The owner or operator of a CAIR NO_X unit is subject to the applicable provisions of 40 CFR 75 concerning units in long-term cold storage.

(2) Initial certification and recertification procedures.

(a) The owner or operator of a CAIR NO_X unit shall be exempt from the initial certification requirements of this Rule for a monitoring system under subparagraph (1)(a)1. above if the following conditions are met:

1. The monitoring system has been previously certified in accordance with 40 CFR 75; and

2. The applicable quality-assurance and quality-control requirements of 40 CFR § 75.21 and Appendix B, Appendix D, and Appendix E to 40 CFR 75 are fully met for the certified monitoring system described in subparagraph (a)1. of this paragraph.

(b) The recertification provisions of this paragraph shall apply to a monitoring system under subparagraph (1)(a)1. of this Rule exempt from initial certification requirements under subparagraph (a) of this paragraph.

(c) If the Administrator has previously approved a petition under 40 CFR § 75.17(a) or (b) for apportioning the NO_X emission rate measured in a common stack or a petition under 40 CFR § 75.66 for an alternative to a requirement in 40 CFR § 75.12 or § 75.17, the CAIR designated representative shall resubmit the petition to the Administrator under subparagraph (6)(a) of this Rule to determine whether the approval applies under the CAIR NO_X Annual Trading Program.

(d) Except as provided in subparagraph (a) of this paragraph, the owner or operator of a CAIR NO_X unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (i.e., a continuous emission monitoring system and an excepted monitoring system under Appendices D and E to 40 CFR 75) under subparagraph (1)(a)1. of this Rule. The owner or operator of a unit that qualifies to use the low mass emissions excepted

monitoring methodology under 40 CFR § 75.19 or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E shall comply with the procedures in subparagraph (e) or (f) of this paragraph respectively.

1. Requirements for initial certification. The owner or operator shall ensure that each continuous monitoring system under subparagraph (1)(a)1. of this Rule (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR § 75.20 by the applicable deadline in subparagraph (1)(b) of this Rule. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this Rule in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR § 75.20 is required.

2. Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subparagraph (1)(a)1. of this Rule that may significantly affect the ability of the system to accurately measure or record NO_X mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR § 75.21 or 40 CFR 75, Appendix B, the owner or operator shall recertify the monitoring system in accordance with 40 CFR § 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR § 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO_X monitoring system under 40 CFR 75, Appendix E, under subparagraph (1)(a)1. of this Rule are subject to the recertification requirements in 40 CFR § 75.20(g)(6).

3. Approval process for initial certification and recertification. Subparagraphs (d)3.(i) through (iv) of this paragraph apply to both initial certification and recertification of a continuous monitoring system under subparagraph (1)(a)1. of this Rule. For recertifications, replace the words "certification" and "initial certification" with the word "recertification", replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR §§ 75.20(b)(5) and (g)(7) in lieu of the procedures in subparagraph (d)3.(v) of this paragraph.

(i) Notification of certification. The CAIR designated representative shall submit to the Department, the appropriate EPA Regional Office, and the Administrator written notice of the dates of certification testing, in accordance with paragraph (4) of this Rule.

(ii) Certification application. The CAIR designated representative shall submit to the Department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR § 75.63.

(iii) Provisional certification date. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR § 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR NO_X Annual Trading Program for a period not

to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system under subparagraph (d)3.(ii) of this paragraph. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the Department.

(iv) Certification application approval process. The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subparagraph (d)3.(ii) of this paragraph. In the event the Department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75 and is included in the certification application will be deemed certified for use under the CAIR NO_X Annual Trading Program.

(I) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75, then the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(II) Incomplete application notice. If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under subparagraph (d)3.(iv)(III) of this paragraph. The 120-day review period shall not begin before receipt of a complete certification application.

(III) Disapproval notice. If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75 or if the certification application is incomplete and the requirement for disapproval under subparagraph (d)3.(iv)(II) of this paragraph is met, then the Department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification [as defined under 40 CFR § 75.20(a)(3)]. The owner or operator shall follow the procedures for loss of certification in subparagraph (d)3.(v) of this paragraph for each monitoring system that is disapproved for initial certification.

(IV) Audit decertification. The Department or, for a CAIR NO_X opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.24, the Administrator may issue a notice of disapproval of the certification status of a monitor in accordance with subparagraph (3)(b) of this Rule.

(v) Procedures for loss of certification. If the Department or the Administrator issues a notice of disapproval of a certification application under subparagraph (d)3.(iv)(III) of this paragraph or a notice of disapproval of certification status under subparagraph (d)3.(iv)(IV) of this paragraph,

then:

(I) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR § 75.20(a)(4)(iii), § 75.20(g)(7), or § 75.21(e) and continuing until the applicable date and hour specified under 40 CFR § 75.20(a)(5)(i) or (g)(7):

I. For a disapproved NO_X emission rate (i.e., NO_X-diluent) system, the maximum potential NO_X emission rate, as defined in 40 CFR § 72.2.

II. For a disapproved NO_X pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_X and the maximum potential flow rate, as defined in Sections 2.1.2.1 and 2.1.4.1 of 40 CFR 75, Appendix A.

III. For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO_2 concentration or the minimum potential O_2 concentration (as applicable), as defined in Sections 2.1.5, 2.1.3.1, and 2.1.3.2 of 40 CFR 75, Appendix A.

IV. For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in Section 2.4.2.1 of Appendix D to 40 CFR 75.

V. For a disapproved excepted NO_X monitoring system under Appendix E to 40 CFR 75, the fuel-specific maximum potential NO_X emission rate, as defined in 40 CFR § 72.2.

(II) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (d)3.(i) and (ii) of this paragraph.

(III) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's or the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(e) Initial certification and recertification procedures for units using the low mass emission excepted methodology under 40 CFR § 75.19. The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR § 75.19 shall meet the applicable certification and recertification requirements in 40 CFR §§ 75.19(a)(2) and 75.20(h). If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR § 75.20(g).

(f) Certification/recertification procedures for alternative monitoring systems. The CAIR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the Administrator and, if applicable, the Department under 40 CFR 75, Subpart E shall comply with the applicable notification and application procedures of 40 CFR § 75.20(f).

(3) Out of control periods.

(a) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75, data shall be substituted using the applicable missing data procedures in Subpart D or Subpart H of, or Appendix D or Appendix E to, 40 CFR 75.

(b) Audit decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under paragraph (2) of this Rule or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department or, for a CAIR NO_X opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.24, the Administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subparagraph, an audit shall be either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department or the Administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in paragraph (2) of this Rule for each disapproved monitoring system.

(4) Notifications. The CAIR designated representative for a CAIR NO_X unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR § 75.61.

(5) Recordkeeping and reporting.

(a) General provisions. The CAIR designated representative shall comply with all recordkeeping and reporting requirements in this paragraph, the applicable recordkeeping and reporting requirements under 40 CFR § 75.73, and the requirements of Rule 335-3-8-.17(1)(e).

(b) Monitoring Plans. The owner or operator of a CAIR NO_X unit shall comply with requirements of 40 CFR § 75.73(c) and (e) and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.24, 335-3-8-.24(4), and 335-3-8-.24(5)(a).

(c) Certification Applications. The CAIR designated representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under paragraph (2) of this Rule, including the information required under 40 CFR § 75.63.

(d) Quarterly reports. The CAIR designated representative shall submit quarterly reports, as follows:

1. The CAIR designated representative shall report the NO_X mass emissions data and heat input data for the CAIR NO_X unit, in an electronic quarterly report in a format prescribed by the Administrator, for each calendar quarter beginning with:

(i) For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2008 through March 31, 2008;

(ii) For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subparagraph (1)(b) of this Rule, unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering January 1, 2008 through March 31, 2008;

(iii) Notwithstanding subparagraphs (d)1.(i) and (ii) of this paragraph, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.24, the calendar quarter corresponding to the date specified in Rule 335-3-8-.24(5)(b); and

(iv) Notwithstanding subparagraphs (d)1.(i) and (ii) of this paragraph, for a CAIR NO_X opt-in unit under Rule 335-3-8-.24, the calendar quarter corresponding to the date on which the CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program as provided in Rule 335-3-8-.24(5)(g).

2. The CAIR designated representative shall submit each quarterly report to the Administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR § 75.73(f).

3. For CAIR NO_X units that are also subject to an Acid Rain emissions limitation or the CAIR NO_X Ozone Season Trading Program, CAIR SO_2 Trading Program, or Hg Budget Trading Program, quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through I as applicable, in addition to the NO_X mass emission data, heat input data, and other information required by this Rule.

(e) Compliance certification. The CAIR designated representative shall submit to the Administrator a compliance certification (in a format prescribed by the Administrator) 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 shall state that:

1. The monitoring data submitted were recorded in accordance with the applicable requirements of this Rule and 40 CFR 75, including the quality assurance procedures and specifications; and

2. For a unit with add-on NO_X 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/quality control program under Appendix B to 40 CFR 75 and the substitute data values do not systematically underestimate NO_X emissions.

(6) Petitions.

(a) Except as provided in subparagraph (b)1. of this paragraph, the CAIR designated representative of a CAIR NO_X unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR § 75.66 to the Administrator requesting approval to apply an alternative to any requirement of this Rule. Application of an alternative to any requirement of this Rule is in accordance with this Rule only to the extent that the petition is approved in writing by the Administrator, in consultation with the Department.

(b) The CAIR designated representative of a CAIR NO_X unit that is not subject to an Acid Rain emissions limitation may submit a petition under 40 CFR § 75.66 to the Department and the Administrator requesting approval to apply an alternative to any requirement of this Rule. Application of an alternative to any requirement of this Rule is in accordance with this Rule only to the extent that the petition is approved in writing by both the Department and the Administrator.

1. The CAIR designated representative of a CAIR NO_X unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR § 75.66 to the Department and the Administrator requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR § 75.72. Application of an alternative to any such requirement is in accordance with this Rule only to the extent that the petition is approved in writing by both the Department and the Administrator.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-14, 22-28-19, and 22-28-20.
History: Effective Date: July 11, 2006.
Amended: XXXXXX, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.23 Establishment of Compliance Accounts, Assurance Accounts, and General Accounts.

(1) General. The Environmental Protection Agency Regulations governing Establishment of Compliance Accounts, Assurance Accounts, and General Accounts, are incorporated by reference as they exist in 40 CFR §97.420, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.23 substitute:
(a) Only in 40 CFR §97.420(c)(4)(iii) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.24 CAIR NO_X Opt-in Units

(1) Applicability. A CAIR NO_X opt-in unit must be a unit that:

(a) Is located in the State;

(b) Is not a CAIR NO_X unit under Rule 335-3-8-.16(4) and is not covered by a retired unit exemption under Rule 335-3-8-.16(5) that is in effect;

(c) Is not covered by a retired unit exemption under 40 CFR § 72.8 that is in effect;

(d) Has or is required or qualified to have a Title V operating permit or other federally enforceable permit; and

(e) Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Rule 335-3-8-.23.

(2) General.

(a) Except as otherwise provided in Rules 335-3-8-.16(1) through (4),(6)and (7), and Rule 335-3-8-.17 through 335-3-8-.18 and 335-3-8-.21 through 335-3-8-.24, a CAIR NO_X opt-in unit shall be treated as a CAIR NO_X unit for purposes of applying Rules 335-3-8-.16 through 335-3-8-.18 and 335-3-8-.21 through 335-3-8-.24.

(b) Solely for purposes of applying, as provided in this Rule, the requirements of Rule 335-3-8-.23 to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this Rule, such unit shall be treated as a CAIR NO_X unit before issuance of a CAIR opt-in permit for such unit.

(3) CAIR designated representative. Any CAIR NO_X opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this Rule, located at the same source as one or more CAIR NO_X units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO_X units.

(4) Applying for CAIR opt-in permit.

(a) Applying for initial CAIR opt-in permit. The CAIR designated representative of a unit meeting the requirements for a CAIR NO_X opt-in unit in paragraph (1) of this Rule may apply for an initial CAIR opt-in permit at any time, except as provided under subparagraphs (7)(f) and (g) of this Rule, and, in order to apply, must submit the following:

1. A complete CAIR permit application under Rule 335-3-8-.18(3);

2. A certification, in a format specified by the Department, that the unit:

(i) Is not a CAIR NO_X unit under Rule 335-3-8-.16(4) and is not covered by a retired unit exemption under Rule 335-3-8-.16(5) that is in effect;

(ii) Is not covered by a retired unit exemption under 40 CFR § 72.8 that is in effect;

(iii) Vents all of its emissions to a stack, and

(iv) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under Rule 335-3-8-.18(3);

3. A monitoring plan in accordance with Rule 335-3-8-.23;

4. A complete certificate of representation under Rule 335-3-8-.17(4) consistent with paragraph (3) of this Rule, if no CAIR designated representative has been previously designated for the source that includes the unit; and

5. A statement, in a format specified by the Department, whether the CAIR designated representative requests that the unit be allocated CAIR NO_X allowances under subparagraph (9)(b) or (c) of this Rule (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this Rule). If allocation under subparagraph (9)(c) of this Rule is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

(b) Duty to reapply.

1. The CAIR designated representative of a CAIR NO_X opt-in unit shall submit a complete CAIR permit application under Rule 335-3-8-.18(3) to renew the CAIR opt-in unit permit in accordance with Rule 335-3-8-.18(2)(b).

2. Unless the Department issues a notification of acceptance of withdrawal of the CAIR NO_X opt-in unit from the CAIR NO_X Annual Trading Program in accordance with paragraph (7) of this Rule, the CAIR NO_X opt-in unit shall remain subject to the requirements for a CAIR NO_X opt-in unit, even if the CAIR designated representative for the CAIR NO_X opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under subparagraph (b)1 of this paragraph.

(5) Opt-in process. The Department will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under paragraph (4) above is submitted in

accordance with the following:

(a) Interim review of monitoring plan. The Department and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under paragraph (4) of this Rule. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_X emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with Rule 338-3-8-.23. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) Monitoring and reporting.

1. If the Department and the Administrator determine that the monitoring plan is sufficient under subparagraph (a) of this paragraph, the owner or operator shall monitor and report the NO_X emissions rate and the heat input of the unit and all other applicable parameters, in accordance with Rule 335-3-8-.23, starting on the date of certification of the appropriate monitoring systems under Rule 335-3-8-.23 and continuing until a CAIR opt-in permit is denied under subparagraph (f) of this paragraph or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_X Annual Trading Program in accordance with paragraph (7) of this Rule.

2. The monitoring and reporting under subparagraph (b)1. of this paragraph shall include the entire control period immediately before the date on which the unit enters the CAIR NO_X Annual Trading Program under subparagraph (g) of this paragraph, during which period monitoring system availability must not be less than 90 percent under Rule 335-3-8-.23 and the unit must be in full compliance with any applicable State or Federal emissions or emissions-related requirements.

3. To the extent the NO_X emissions rate and the heat input of the unit are monitored and reported in accordance with Rule 335-3-8-.23 for one or more control periods, in addition to the control period under subparagraph (b)2. of this paragraph, during which control periods monitoring system availability is not less than 90 percent under Rule 335-3-8-.23 and the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements and which control periods begin not more than 3 years before the unit enters the CAIR NO_X Annual Trading Program under subparagraph (g) of this paragraph, such information shall be used as provided in subparagraphs (c) and (d) of this paragraph.

(c) Baseline heat input. The unit's baseline heat input shall equal:

1. If the unit's NO_X emissions rate and heat input are monitored and reported for only one control period, in accordance with subparagraph (b)1. or 2. of this Rule, the unit's total heat input (in mmBtu) for the control period; or

2. If the unit's NO_X emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1., 2. and 3. of this paragraph, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subparagraphs (b)2. and (b)3. of this Rule.

(d) Baseline NO_X emission rate. The unit's baseline NO_X emission rate shall equal:

1. If the unit's NO_X emissions rate and heat input are monitored and reported for only one control period, in accordance with subparagraphs (b)1. and 2. of this paragraph, the unit's NO_X emissions rate (in lb/mmBtu) for the control period;

2. If the unit's NO_X emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1., 2. and 3. of this paragraph, and the unit does not have add-on NO_X emission controls during any such control periods, the average of the amounts of the unit's NO_X emissions rate (in lb/mmBtu) for the control periods under subparagraphs (b)2. and (b)3. of this paragraph; or

3. If the unit's NO_X emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1., 2. and 3. of this paragraph, and the unit has add-on NO_X emission controls during any such control periods, the average of the amounts of the unit's NO_X emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO_X emission controls.

(e) Issuance of CAIR opt-in permit. After calculating the baseline heat input and the baseline NO_X emissions rate for the unit under subparagraphs (c) and (d) of this paragraph and if the Department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_X opt-in unit in paragraph (1) of this Rule and meets the elements certified in subparagraph (4)(a)2. of this Rule, the Department will issue a CAIR opt-in permit. The Department will provide a copy of the CAIR opt-in permit to the Administrator, who will then establish a compliance account for the source that includes the CAIR NO_X opt-in unit unless the source already has a compliance account.

(f) Issuance of denial of CAIR opt-in permit. Notwithstanding subparagraphs (a) through (e) of this paragraph, if at any time before issuance of a CAIR opt-in permit for the unit, the Department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_X opt-in unit in paragraph (1) of this Rule or meets the elements certified in subparagraph (4)(a)2., the Department will issue a denial of a CAIR opt-in permit for the unit.

(g) Date of entry into CAIR NO_X Annual Trading Program. A unit for which an initial CAIR opt-in permit is issued by the Department shall become a CAIR NO_X opt-in unit, and a CAIR NO_X unit, as of the later of January 1, 2009 or January 1 of the first control period during which such CAIR opt-in permit is issued.

(h) Repowered CAIR NO_X opt-in unit.

1. If the CAIR designated representative requests, and the Department issues a CAIR opt-in permit providing for, allocation to a CAIR NO_X opt-in unit of CAIR NO_X allowances under subparagraph (9)(c) of this Rule and such unit is repowered after its date of entry into the CAIR NO_X Annual Trading Program under subparagraph (g) of this paragraph, the repowered unit shall be treated as a CAIR NO_X opt-in unit replacing the original CAIR NO_X opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

2. Notwithstanding subparagraphs (c) and (d) of this paragraph, as of the date of start-up under subparagraph (h)1. of this paragraph, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_X emission rate as the original CAIR NO_X opt-in unit, and the original CAIR NO_X opt-in unit shall no longer be treated as a CAIR NO_X opt-in unit or a CAIR NO_X unit.

(6) CAIR opt-in permit contents.

(a) Each CAIR opt-in permit will contain:

1. All elements required for a complete CAIR permit application under Rule 335-3-8-.18(3);

2. The certification in subparagraph (4)(a)2. of this Rule;

3. The unit's baseline heat input under subparagraph (5)(c) of this Rule;

4. The unit's baseline NO_X emission rate under subparagraph (5)(d) of this Rule;

5. A statement whether the unit is to be allocated CAIR NO_X allowances under subparagraph (9)(b) or (c) of this Rule (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this Rule);

6. A statement that the unit may withdraw from the CAIR NO_X Annual Trading Program only in accordance with paragraph (7) of this Rule; and

7. A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of paragraph (8) of this Rule.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under Rule 335-3-8-.16(2) and, upon recordation by the Administrator under Rules 335-3-8-.21, 335-3-8-.22 or 335-3-8-.24, every allocation, transfer, or deduction of CAIR NO_X allowances to or from the compliance account of the source that includes a CAIR NO_X opt-in unit covered by the CAIR opt-in permit.

(c) The CAIR opt-in permit shall be included, in a format specified by the Department, in the CAIR permit for the source where the CAIR NO_X opt-in unit is located and in a Title V operating permit or other federally enforceable permit for the source.

(7) Withdrawal from CAIR NO_X Annual Trading Program. Except as provided under subparagraph (g) of this paragraph, a CAIR NO_X opt-in unit may withdraw from the CAIR NO_X Annual Trading Program, but only if the Department issues a notification to the CAIR designated representative of the CAIR NO_X opt-in unit of the acceptance of the withdrawal of the CAIR NO_X opt-in unit in accordance with subparagraph (d) of this paragraph.

(a) Requesting withdrawal. In order to withdraw a CAIR NO_X opt-in unit from the CAIR NO_X Annual Trading Program, the CAIR designated representative of the CAIR NO_X opt-in unit shall submit to the Department a request to withdraw effective as of midnight of December 31 of a

specified calendar year, which date must be at least 4 years after December 31 of the year of entry into the CAIR NO_X Annual Trading Program under subparagraph (5)(g). The request must be submitted no later than 90 days before the requested effective date of withdrawal.

(b) Conditions for withdrawal. Before a CAIR NO_X opt-in unit covered by a request under subparagraph (a) of this paragraph may withdraw from the CAIR NO_X Annual Trading Program and the CAIR opt-in permit may be terminated under subparagraph (e) of this paragraph, the following conditions must be met:

1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_X opt-in unit must meet the requirement to hold CAIR NO_X allowances under Rule 335-3-8-.16(6)(c) and cannot have any excess emissions.

2. After the requirement for withdrawal under subparagraph (b)1. of this paragraph is met, the Administrator will deduct from the compliance account of the source that includes the CAIR NO_X opt-in unit CAIR NO_X allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO_X allowances allocated to the CAIR NO_X opt-in unit under paragraph (9) of this Rule for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_X units at the source, the Administrator will close the compliance account, and the owners and operators of the CAIR NO_X opt-in unit may submit a CAIR NO_X allowance transfer for any remaining CAIR NO_X allowances to another CAIR NO_X Allowance Tracking System in accordance with Rule 335-3-8-.22.

(c) Notification.

1. After the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are met (including deduction of the full amount of CAIR NO_X allowances required), the Department will issue a notification to the CAIR designated representative of the CAIR NO_X opt-in unit of the acceptance of the withdrawal of the CAIR NO_X opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

2. If the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are not met, the Department will issue a notification to the CAIR designated representative of the CAIR NO_X opt-in unit that the CAIR NO_X opt-in unit's request to withdraw is denied. Such CAIR NO_X opt-in unit shall continue to be a CAIR NO_X opt-in unit.

(d) Permit amendment. After the Department issues a notification under subparagraph (c)1. of this paragraph that the requirements for withdrawal have been met, the Department will revise the CAIR permit covering the CAIR NO_X opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subparagraph (c)1. of this paragraph. The unit shall continue to be a CAIR NO_X opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_X Annual Trading Program concerning any control periods for which the unit is a CAIR NO_X opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(e) Reapplication upon failure to meet conditions of withdrawal. If the Department denies the CAIR NO_X opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subparagraphs (a) and (b) of this paragraph.

(f) Ability to reapply to the CAIR NO_X Annual Trading Program. Once a CAIR NO_X opt-in unit withdraws from the CAIR NO_X Annual Trading Program and its CAIR opt-in permit is terminated under this Rule, the CAIR designated representative may not submit another application for a CAIR opt-in permit under paragraph (4) of this Rule for such CAIR NO_X opt-in unit before the date that is 4 years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under paragraph (5) of this Rule.

(g) Inability to withdraw. Notwithstanding subparagraphs (a) through (f) of this paragraph, a CAIR NO_X opt-in unit shall not be eligible to withdraw from the CAIR NO_X Annual Trading Program if the CAIR designated representative of the CAIR NO_X opt-in unit requests, and the Department issues a CAIR NO_X opt-in permit providing for, allocation to the CAIR NO_X opt-in unit of CAIR NO_X allowances under subparagraph (9)(c) of this Rule.

(8) Change in regulatory status.

(a) Notification. If a CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4), then the CAIR designated representative shall notify in writing the Department and the Administrator of such change in the CAIR NO_X opt-in unit's regulatory status, within 30 days of such change.

(b) Department's and Administrator's actions.

1. If a CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4), the Department will revise the CAIR NO_X opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under Rule 335-3-8-.18(4), and remove the CAIR opt-in permit provisions, as of the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4).

2. The Administrator will deduct from the compliance account of the source that includes the CAIR NO_X opt-in unit that becomes a CAIR NO_X unit under Rule 335-3-8-.16(4), CAIR NO_X allowances equal in amount to and allocated for the same or a prior control period as:

(i) Any CAIR NO_X allowances allocated to the CAIR NO_X opt-in unit under paragraph (9) of this Rule for any control period after the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4); and

(ii) If the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4) is not December 31, the CAIR NO_X allowances allocated to the CAIR NO_X opt-in unit under paragraph (9) of this Rule for the control period that includes the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4), multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4) divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

3. The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO_X opt-in unit that becomes a CAIR NO_X unit under Rule 335-3-8-.16(4) contains the CAIR NO_X allowances necessary for completion of the deduction under

subparagraph (b)2. of this paragraph.

4. For every control period after the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4), the CAIR NO_X opt-in unit will be allocated CAIR NO_X allowances under Rule 335-3-8-.20(3).

(i) If the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4) is not December 31, the following amount of CAIR NO_X allowances will be allocated to the CAIR NO_X opt-in unit (as a CAIR NO_X unit) under Rule 335-3-8-.20(3) for the control period that includes the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4):

(I) The amount of CAIR NO_X allowances otherwise allocated to the CAIR NO_X opt-in unit (as a CAIR NO_X unit) under Rule 335-3-8-.20(3) for the control period multiplied by;

(II) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO_X opt-in unit becomes a CAIR NO_X unit under Rule 335-3-8-.16(4), divided by the total number of days in the control period; and

(III) Rounded to the nearest whole allowance as appropriate.

(9) CAIR NO_X allowance allocations to CAIR NO_X opt-in units.

(a) Timing requirements.

1. When the CAIR NO_X opt-in permit is issued under subparagraph (5)(e) of this Rule, the Department will allocate CAIR NO_X allowances to the CAIR NO_X opt-in unit, and submit to the Administrator the allocation for the control period in which a CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program under subparagraph (5)(g) of this Rule, in accordance with subparagraph (b) or (c) of this paragraph.

2. By no later than October 31 of the control period after the control period in which a CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program under subparagraph (5)(g) and October 31 of each year thereafter, the Department will allocate CAIR NO_X allowances to the CAIR NO_X opt-in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_X opt-in unit, in accordance with subparagraph (b) or (c) of this paragraph.

(b) Calculation of allocation. For each control period for which a CAIR NO_X opt-in unit is to be allocated CAIR NO_X allowances, the Department will allocate in accordance with the following procedures:

1. The heat input (in mmBtu) used for calculating the CAIR NO_X allowance allocation will be the lesser of:

(i) The CAIR NO_X opt-in unit's baseline heat input determined pursuant to subparagraph (5)(c) of this Rule; or

(ii) The CAIR NO_X opt-in unit's heat input, as determined in accordance with Rule 335-3-8-.23, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program under subparagraph (5)(g) of this Rule.

2. The NO_X emission rate (in lb/mmBtu) used for calculating CAIR NO_X allowance allocations will be the lesser of:

(i) The CAIR NO_X opt-in unit's baseline NO_X emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(d) and multiplied by 70 percent; or

(ii) The most stringent State or Federal NO_X emissions limitation applicable to the CAIR NO_X opt-in unit at any time during the control period for which CAIR NO_X allowances are to be allocated.

3. The Department will allocate CAIR NO_X allowances to the CAIR NO_X opt-in unit in an amount equaling the heat input under subparagraph (b)1. of this paragraph, multiplied by the NO_X emission rate under subparagraph (b)2. of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(c) Notwithstanding subparagraph (b) of this paragraph and if the CAIR designated representative requests, and the Department issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under paragraph (4)(a)5. of this Rule) providing for, allocation to a CAIR NO_X opt-in unit of CAIR NO_X allowances under this paragraph (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this Rule), the Department will allocate to the CAIR NO_X opt-in unit as follows:

1. For each control period in 2009 through 2014 for which the CAIR NO_X opt-in unit is to be allocated CAIR NO_X allowances,

(i) The heat input (in mmBtu) used for calculating CAIR NO_X allowance allocations will be determined as described in subparagraph (b)1. of this Rule.

(ii) The NO_X emission rate (in lb/mmBtu) used for calculating CAIR NO_X allowance allocations will be the lesser of:

(I) The CAIR NO_X opt-in unit's baseline NO_X emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(d) of this Rule; or

(II) The most stringent State or Federal NO_X emissions limitation applicable to the CAIR NO_X opt-in unit at any time during the control period in which the CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program under subparagraph (5)(g) of this Rule.

(iii) The Department will allocate CAIR NO_X allowances to the CAIR NO_X opt-in unit in an amount equaling the heat input under subparagraph (c)1.(i) of this paragraph, multiplied by the NO_X emission rate under subparagraph (c)1.(ii) of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

2. For each control period in 2015 and thereafter for which the CAIR NO_X opt-in unit is to be allocated CAIR NO_X allowances,

(i) The heat input (in mmBtu) used for calculating the CAIR NO_X allowance allocations will be determined as described in subparagraph (b)1. of this paragraph.

(ii) The NO_X emission rate (in lb/mmBtu) used for calculating the CAIR NO_X allowance allocation will be the lesser of:

(I) 0.15 lb/mmBtu;

(II) The CAIR NO_X opt-in unit's baseline NO_X emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(d) of this Rule; or

(III) The most stringent State or Federal NO_X emissions limitation applicable to the CAIR NO_X opt-in unit at any time during the control period for which CAIR NO_X allowances are to be allocated.

(iii) The Department will allocate CAIR NO_X allowances to the CAIR NO_X opt-in unit in an amount equaling the heat input under subparagraph (c)2.(i) of this paragraph, multiplied by the NO_X emission rate under subparagraph (c)2.(ii) of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(d) Recordation.

1. The Administrator will record, in the compliance account of the source that includes the CAIR NO_X opt-in unit, the CAIR NO_X allowances allocated by the Department to the CAIR NO_X opt-in unit under subparagraph (a)1. of this paragraph.

2. By December 1 of the control period in which a CAIR NO_X opt-in unit enters the CAIR NO_X Annual Trading Program under subparagraph (5)(g) of this Rule and December 1 of each year thereafter, the Administrator will record, in the compliance account of the source that includes the CAIR NO_X opt-in unit, the CAIR NO_X allowances allocated by the Department to the CAIR NO_X opt-in unit under subparagraph (a)2. of this paragraph.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: XXXXXX, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.24 Recordation of TR NOx Annual Allowance Allocations and Auction Results.

(1) General. The Environmental Protection Agency Regulations governing Recordation of TR NOx Annual Allowance Allocations and Auction Results, are incorporated by reference as they exist in 40 CFR §97 .421, Subpart AAAAA as of July 1, 2015, except for the provisions found in 40 CFR §§97.421(a), (b), (h), and (i). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.25 CAIR NO_X Ozone Season Trading Program

(1) Purpose. This Rule and Rules 335-3-8-.26 through 335-3-8-.33 establish general provisions and the designated representative, permitting, allowance, monitoring, and opt-in provisions for the Clean Air Interstate Rule (CAIR) NO_X Ozone Season Trading Program for Alabama's State Implementation Program, under section 110 of the Clean Air Act and 40 CFR § 51.123, as a means of mitigating interstate transport of ozone and nitrogen oxides. The State authorizes the Administrator to assist the State in implementing the CAIR NO_X Ozone Season Trading Program by carrying out the functions set forth for the Administrator in such requirements.

(2) Definitions. For the purpose of Rules 335-3-8-.25 through 335-3-8-.33, the following definitions apply:

(a) "Account Number" means the identification number given by the Administrator to each CAIR NO_X Ozone Season Allowance Tracking System account.

(b) "Acid Rain Emissions Limitation" means, as defined in 40 CFR § 72.2 and incorporated by reference in ADEM Admin. Code R. 335-3-18-.01, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the CAA.

(c) "Acid Rain Program" means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under Title IV of the CAA and 40 CFR 72 through 78.

(d) "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

(e) "Allocate or Allocation" means, with regard to CAIR NO_X Ozone Season allowances, the determination by the Department of the amount of such CAIR NO_X Ozone Season allowances to be initially credited to a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25 or 338-3-8-.33(9), or the determination by the Administrator or other permitting authority of the amount of CAIR NO_X allowances to be initially credited to a CAIR NO_X unit, new-unit set aside, or other entity.

(f) "Allowance Transfer Deadline" means, for a control period, midnight of November 30 (if it is a business day), or midnight of the first business day thereafter (if November 30 is not a

business day), immediately following the control period and is the deadline by which a CAIR NO_X Ozone Season allowance transfer must be submitted for recordation in a CAIR NO_X Ozone Season source's compliance account in order to be used to meet the source's CAIR NO_X Ozone Season emissions limitation for such control period in accordance with Rule 335-3-8-.30(5).

(g) "Alternate CAIR Designated Representative" means, for a CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source in accordance with Rules 335-3-8-.26 and 335-3-8-.33, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO_X Ozone Season Trading Program. If the CAIR NO_X Ozone Season source is also a CAIR NO_X source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_X Annual Trading Program. If the CAIR NO_X Ozone Season source is also a CAIR SO_2 source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO_2 Trading Program. If the CAIR NO_X Ozone Season source is also subject to the Acid Rain Program, then this natural person shall be the same person as the alternate designated representative under the Acid Rain Program. If the CAIR NO_X Ozone Season source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg Budget Trading Program.

(h) "Automated Data Acquisition and Handling System or DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under Rule 335-3-8-.32, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Rule 335-3-8-.32.

(i) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(j) "Bottoming-Cycle Cogeneration Unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

(k) "CAIR Authorized Account Representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with Rules 335-3-8-.26, 335-3-8-.30 and 335-3-8-.33, to transfer and otherwise dispose of CAIR NO_X Ozone Season allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(l) "CAIR Designated Representative" means, for a CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with Rules 335-3-8-.26 and 335-3-8-.33, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_X Ozone Season Trading Program. If the CAIR NO_X Ozone Season source is also a CAIR NO_X source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_X Annual Trading Program. If the CAIR NO_X Ozone Season

source is also a CAIR SO_2 source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO_2 Trading Program. If the CAIR NO_X Ozone Season source is also subject to the Acid Rain Program, then this natural person shall be the same person as the designated representative under the Acid Rain Program. If the CAIR NO_X Ozone Season source is also subject to the Hg Budget Trading Program, then this natural person shall be the same person as the Hg designated representative under the Hg Budget Trading Program.

(m) "CAIR NO_X Annual Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the Administrator in accordance with subparts AA through II of 40 CFR 96 and 40 CFR § 51.123(o)(1) or (2) or established by the Administrator in accordance with subparts AA through II of 40 CFR 97 and 40 CFR §§ 51.123(p) and 52.35, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(n) "CAIR NO_X Ozone Season Allowance" means a limited authorization issued by the Department under Rules 335-3-8-.29 or 335-3-8-.33(9) or issued by the Administrator or other permitting authority under provisions of a State Implementation Plan that are approved under 40 CFR §51.123 (aa)(1) or (2) (and (bb)(1)), (bb)(2), (dd), or (ee), or under 40 CFR 97, Subpart EEEE or § 97.388, to emit one ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_X Ozone Season Trading Program or a limited authorization issued by the Department for a control period during 2003 through 2008 under the NO_X Budget Trading Program to emit one ton of nitrogen oxides during a control period, provided that the provision in 40 CFR § 51.121(b)(2)(ii)(E) shall not be used in applying this definition and the limited authorization shall not have been used to meet the allowance-holding requirement under the NO_X Budget Trading Program. An authorization to emit nitrogen oxides that is not issued under provisions of Rules 335-3-8-.25 through 335-3-8-.33 or other provisions of a State Implementation Plan that are approved under 40 CFR § 51.123(aa)(1) or (2) [and (bb)(1)], (bb)(2), (dd), or (ee) or 40 CFR 97, Subpart EEEE or § 97.388 or under the NO_X Budget Trading Program as described in the prior sentence shall not be a CAIR NO_X Ozone Season allowance.

(o) "CAIR NO_X Ozone Season Allowance Deduction or Deduct CAIR NO_X Ozone Season Allowances" means the permanent withdrawal of CAIR NO_X Ozone Season allowances by the Administrator from a compliance account, e.g., in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO_X Ozone Season units at a CAIR NO_X Ozone Season source for a control period, determined in accordance with Rule 335-3-8-.32, or to account for excess emissions.

(p) "CAIR NO_X Ozone Season Allowance Tracking System" means the system by which the Administrator records allocations, deductions, and transfers of CAIR NO_X Ozone Season allowances under the CAIR NO_X Ozone Season Trading Program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(q) "CAIR NO_X Ozone Season Allowance Tracking System Account" means an account in the CAIR NO_X Ozone Season Allowance Tracking System established by the Administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR NO_X Ozone

Season allowances.

(r) "CAIR NO_X Ozone Season Allowances Held or Hold CAIR NO_X Ozone Season Allowances" means the CAIR NO_X Ozone Season allowances recorded by the Administrator, or submitted to the Administrator for recordation, in accordance with Rules 335-3-8-.30, 335-3-8-.31, and 335-3-8-.33, in a CAIR NO_X Ozone Season Allowance Tracking System account.

(s) "CAIR NO_X Ozone Season Emissions Limitation" means, for a CAIR NO_X Ozone Season source, the tonnage equivalent, in NO_X emissions in a control period, of the CAIR NO_X Ozone Season allowances available for deduction for the source under Rule 335-3-8-.30(5)a) and (b) for a control period.

(t) "CAIR NO_X Ozone Season Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the Administrator in accordance with subparts AAAA through IIII of 40 CFR 96 and 40 CFR § 51.123(aa)(1) or (2) (and (bb)(1)), (bb)(2) or (dd) or established by the Administrator in accordance with subparts AAAA through IIII of 40 CFR 97 and 40 CFR §§ 51.123(ee) and 52.35, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(u) "CAIR NO_X Ozone Season Source" means a source that includes one or more CAIR NO_X Ozone Season units.

(v) "CAIR NO_X Ozone Season Unit" means a unit that is subject to the CAIR NO_X Ozone Season Trading Program under paragraph (4) of this Rule and, except for purposes of paragraph (5) of this Rule and Rule 335-3-8-.29, a CAIR NO_X Ozone Season opt-in unit under Rule 335-3-8-.33.

(w) "CAIR NO_X Source" means a source that is subject to the CAIR NO_X Annual Trading Program.

(x) "CAIR Permit" means the legally binding and federally enforceable written document issued by the Department under Rule 335-3-8-.27, including any permit revisions, specifying the CAIR NO_X Ozone Season Trading Program requirements applicable to a CAIR NO_X Ozone Season source, to each CAIR NO_X Ozone Season unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.

(y) "CAIR SO_2 Source" means a source that is subject to the CAIR SO_2 Trading Program.

(z) "CAIR SO_2 Trading Program" means a multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the Administrator in accordance with subparts AAA through III of 40 CFR 96 and 40 CFR § 51.124(o)(1) or (2) or established by the Administrator in accordance with subparts AAA through III of 40 CFR 97 and 40 CFR §§ 51.124(r) and 52.36, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(aa) "Clean Air Act or CAA" means the Clean Air Act, 42 U.S.C. 7401, et seq.

(bb) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(cc) "Coal-Derived Fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

(dd) "Coal-Fired" means:

1. Except for purposes of Rule 335-3-8-.29, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or

2. For purposes of Rule 335-3-8-.29, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

(ee) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

1. Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

2. Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity –

(i) For a topping-cycle cogeneration unit,

(I) Useful thermal energy not less than 5 percent of total energy output; and

(II) Useful power that, when added to one-half of useful thermal energy produced, is not less then 42.5 percent of total energy input, if useful thermal energy produced is 15 percent or more of total energy output, or not less than 45 percent of total energy input, if useful thermal energy produced is less than 15 percent of total energy output.

(ii) For a bottoming-cycle cogeneration unit, useful power not less than 45 percent of total energy input.

(ff) "Combustion Turbine" means:

1. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

2. If the enclosed device under subparagraph 1. of this definition is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.

(gg) "Commence Commercial Operation" means, with regard to a unit:

1. To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in paragraph (5) of this Rule and Rule 335-3-8-.33(5)(h).

(i) For a unit that is a CAIR NO_X Ozone Season unit under paragraph (4) of this Rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in

subparagraph 1. of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO_X Ozone Season unit under paragraph (4) of this Rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph 1. of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subparagraphs 1. or 2. of this definition as appropriate.

2. Notwithstanding subparagraph 1. of this definition and except as provided in paragraph (5) of this Rule, for a unit that is not a CAIR NO_X Ozone Season unit under paragraph (4) of this Rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph 1. of this definition, the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_X Ozone Season unit under paragraph (4) of this Rule.

(i) For a unit with a date for commencement of commercial operation as defined in subparagraph 2. of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of commercial operation of the unit, which shall be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in subparagraph 2. of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit’s date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in subparagraph 1. or 2. of this definition as appropriate.

3. Notwithstanding subparagraphs 1. and 2. of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit’s date of commencement of commercial operation.

(hh) "Commence Operation" means:

1. To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in Rule 335-3-8-.33(5)(h).

(i) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in subparagraph 1. of this definition, such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is replaced by a unit at the same source (e.g., repowered) after the date the unit commences operation as defined in subparagraph 1. of this definition, such date shall remain

the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subparagraph 1., 2., or 3. of this definition as appropriate, except as provided in Rule 335-3-8-.33(5)(h).

2. Notwithstanding subparagraph 1. of this definition, and solely for purposes of Rule 335-3-8-.32, for a unit that is not a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii) on the later of November 15, 1990 or the date the unit commences operation as defined in subparagraph 1. of this definition and that subsequently becomes such a CAIR NO_X Ozone Season unit, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii).

(i) For a unit with a date of commencement of operation as defined in subparagraph 2. of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of operation as defined in subparagraph 2. of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in subparagraph 1. or 2. of this definition as appropriate.

(ii) "Common Stack" means a single flue through which emissions from 2 or more units are exhausted.

(jj) "Compliance Account" means a CAIR NO_X Ozone Season Allowance Tracking System account, established by the Administrator for a CAIR NO_X Ozone Season source under Rule 335-3-8-.30 or 335-3-8-.33, in which any CAIR NO_X Ozone Season allowance allocations for the CAIR NO_X Ozone Season units at the source are initially recorded and in which are held any CAIR NO_X Ozone Season allowances available for use for a control period in order to meet the source's CAIR NO_X Ozone Season emissions limitation in accordance with Rule 335-3-8-.30(5).

(kk) "Continuous Emission Monitoring System or CEMS" means the equipment required under Rule 335-3-8-.32 to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR 75. The following systems are the principal types of continuous emission monitoring systems required under Rule 335-3-8-.32:

1. A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

2. A nitrogen oxides concentration monitoring system, consisting of a NO_X pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO_X emissions, in parts per million (ppm);

3. A nitrogen oxides emission rate (or NO_X-diluent) monitoring system, consisting of a NO_X pollutant concentration monitor, a diluent gas (CO_2 or O_2) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_X concentration, in parts per million (ppm), diluent gas concentration, in percent CO_2 or O_2, and NO_X emission rate, in pounds per million British thermal units (lb/mmBtu);

4. A moisture monitoring system, as defined in 40 CFR § 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H_2O;

5. A carbon dioxide monitoring system, consisting of a CO_2 pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO_2 emissions, in percent CO_2; and

6. An oxygen monitoring system, consisting of an O_2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O_2, in percent O_2.

(ll) "Control Period or Ozone Season" means the period beginning May 1 of a calendar year, except as provided in paragraph (6)(c)2. of this Rule, and ending on September 30 of the same year, inclusive.

(mm) "Department" means the Alabama Department of Environmental Management, authorized by the Administrator to issue or revise permits to meet the requirements of the CAIR NO_X Ozone Season Trading Program in accordance with Rule 335-3-8-.27.

(nn) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Administrator by the CAIR designated representative and as determined by the Administrator in accordance with Rule 335-3-8-.32.

(oo) "Excess Emissions" means any ton of nitrogen oxides emitted by the CAIR NO_X Ozone Season units at a CAIR NO_X Ozone Season source during a control period that exceeds the CAIR NO_X Ozone Season emissions limitation for the source.

(pp) "Fossil Fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(qq) "Fossil-Fuel-Fired" means, with regard to an electric generating unit (EGU) under paragraph (4)(a)1.(i), combusting any amount of fossil fuel in any calendar year.

With regard to a non-EGU, under paragraph (4)(a)1.(ii), fossil-fuel-fired means:

1. The combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year starting in 1995 or, if a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995; or

2. The combustion of fossil fuel, alone or in combination with any other fuel, where the fossil

fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year; provided that the unit shall be "fossil-fuel-fired" as of the date, during such year, on which the unit begins combusting fossil fuel.

(rr) "Fuel Oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid, or gaseous state.

(ss) "General Account" means a CAIR NO_X Ozone Season Allowance Tracking System account, established under Rule 335-3-8-.30, that is not a compliance account.

(tt) "Generator" means a device that produces electricity.

(uu) "Gross Electrical Output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

(vv) "Heat Input" means, with regard to a specified period of time, the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded, and reported to the Administrator by the CAIR designated representative and determined by the Administrator in accordance with Rule 335-3-8-.32 and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(ww) "Heat Input Rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hr) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

(xx) "Hg Budget Trading Program" means a multi-state Hg air pollution control and emission reduction program approved and administered by the Administrator in accordance with 40 CFR 60, Subpart HHHH and 40 CFR § 60.24(h)(6), or established by the Administrator under section 111 of the Clean Air Act, as a means of reducing national Hg emissions.

(yy) "Life-of-the-Unit, Firm Power Contractual Arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

1. For the life of the unit;

2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

3. For a period no less than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(zz) "Maximum Design Heat Input" means the maximum amount of fuel per hour (in Btu/hr) that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(aaa) "Monitoring System" means any monitoring system that meets the requirements of Rule 335-3-8-.32, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75.

(bbb) "Most Stringent State or Federal NO_X Emissions Limitation" means, with regard to a unit, the lowest NO_X emissions limitation (in terms of lb/mmBtu) that is applicable to the unit under State or Federal law, regardless of the averaging period to which the emissions limitation applies.

(ccc) "Nameplate Capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as of such completion as specified by the person conducting the physical change.

(ddd) "NO_X Budget Trading Program" means a multi-state nitrogen oxides air pollution control and emission reduction program established pursuant to 40 CFR § 51.121(p), as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(eee) "Oil-Fired" means, for purposes of Rule 335-3-8-.29, combusting fuel oil for more than 15.0 percent of the annual heat input in a specified year and not qualifying as coal-fired.

(fff) "Operator" means any person who operates, controls, or supervises a CAIR NO_X Ozone Season unit or a CAIR NO_X Ozone Season source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(ggg) "Owner" means any of the following persons:

1. With regard to a CAIR NO_X Ozone Season source or a CAIR NO_X Ozone Season unit at a source, respectively:

(i) Any holder of any portion of the legal or equitable title in a CAIR NO_X Ozone Season unit at the source or the CAIR NO_X Ozone Season unit;

(ii) Any holder of a leasehold interest in a CAIR NO_X Ozone Season unit at the source or the CAIR NO_X Ozone Season unit; or

(iii) Any purchaser of power from a CAIR NO_X Ozone Season unit at the source or the CAIR NO_X Ozone Season unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are

not based (either directly or indirectly) on the revenues or income from such CAIR NO_X Ozone Season unit; or

2. With regard to any general account, any person who has an ownership interest with respect to the CAIR NO_X Ozone Season allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NO_X Ozone Season allowances.

(hhh) "Potential Electrical Output Capacity" means 33 percent of a unit's maximum design heat input, divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

(iii) "Receive or Receipt of" means, when referring to the Department or the Administrator, to come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official log, or by a notation made on the document, information, or correspondence, by the Department or the Administrator in the regular course of business.

(jjj) "Recordation", "Record", or "Recorded" means, with regard to CAIR NO_X Ozone Season allowances, the movement of CAIR NO_X Ozone Season allowances by the Administrator into or between CAIR NO_X Ozone Season Allowance Tracking System accounts, for purposes of allocation, transfer, or deduction.

(kkk) "Reference Method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR § 75.22 [incorporated by reference in ADEM Admin. Code R. 335-3-10-.03(1)].

(lll) "Replacement, replace, or replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(mmm) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

1. Atmospheric or pressurized fluidized bed combustion;

2. Integrated gasification combined cycle;

3. Magnetohydrodynamics;

4. Direct and indirect coal-fired turbines;

5. Integrated gasification fuel cells; or

6. As determined by the Administrator in consultation with the Secretary of Energy, a derivative of one or more of the technologies under subparagraphs 1. through 5. of this definition and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction

relative to the performance of technology in widespread commercial use as of January 1, 2005.

(nnn) "Serial Number" means, for a CAIR NO_X Ozone Season allowance, the unique identification number assigned to each CAIR NO_X Ozone Season allowance by the Administrator.

(ooo) "Sequential Use of Energy" means:

1. For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

2. For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(ppp) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in section 129(g)(1) of the Clean Air Act.

(qqq) "Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of section 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

(rrr) "State" means

1. The State of Alabama, the Environmental Management Commission, and the Commission's representatives.

2. One of the States or the District of Columbia that adopts the CAIR NO_X Annual Trading Program pursuant to 40 CFR § 51.123(o)(1) or (2).

(sss) "State Ozone Season Trading Program Budget" means the total number of NO_X tons apportioned to all CAIR NO_X Ozone Season units in the State, in accordance with the CAIR NO_X Ozone Season Trading Program, for use in a given control period.

(ttt) "Submit or Serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;

2. By United States Postal Service; or

3. By other means of dispatch or transmission and delivery. Compliance with any "submission" or "service" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(uuu) "Title V Operating Permit" means a "Major Source Operating Permit" as defined and issued under Chapter 335-3-16.

(vvv) "Title V Operating Permit Regulations" means the "Major Source Operating Permit" regulations in Chapter 335-3-16 that the Administrator has approved as meeting the requirements of Title V of the Clean Air Act and 40 CFR 70 or 71.

(www) "Ton" means 2,000 pounds. For the purpose of determining compliance with the CAIR NO_X Ozone Season emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with Rule 335-3-8-.32, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.

(xxx) "Topping-Cycle Cogeneration" unit means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(yyy) "Total Energy Input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(zzz) "Total Energy Output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(aaaa) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

(bbbb) "Unit Operating Day" means a calendar day in which a unit combusts any fuel.

(cccc) "Unit Operating Hour or Hour of Unit Operation" means an hour in which a unit combusts any fuel.

(dddd) "Useful Power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

(eeee) "Useful Thermal Energy" means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;

2. Used in a heating application (e.g., space heating or domestic hot water heating); or

3. Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

(ffff) "Utility Power Distribution System" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

(3) Measurements, abbreviations, and acronyms. Measurements, abbreviations, and acronyms

used in this Rule and Rules 335-3-8-.26 through 335-3-8-.33 are defined as follows:

(a) Btu—British thermal unit

(b) CO_2—carbon dioxide

(c) H_2O—water

(d) Hg—mercury

(e) hr—hour

(f) kW—kilowatt electrical

(g) kWh—kilowatt hour

(h) lb—pound

(i) mmBtu—million Btu

(j) MWe—megawatt electrical

(k) MWh—megawatt hour

(l) NO_X—nitrogen oxides

(m) O_2—oxygen

(n) ppm—parts per million

(o) scfh—standard cubic feet per hour

(p) SO_2—sulfur dioxide

(q) yr—year

(4) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph:

1. The following units in the State of Alabama shall be CAIR NO_X Ozone Season units, and any source that includes one or more such units shall be a CAIR NO_X Ozone Season source, subject to the requirements of this Rule and Rules 335-3-8-.26 through 335-3-8-.32:

(i) Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for

sale shall be a CAIR NO_X EGU unit.

(ii) The following units in the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston shall be CAIR NO_X non-EGU units, and any source that includes one or more such units shall be a CAIR NO_X non-EGU source, subject to the requirements of this Rule:

(I) Any unit that is not a unit under subparagraph (a)1.(i) and that any time on or after January 1, 1995, serves a generator with a nameplate capacity greater than 25 MWe and sells any amount of electricity; or,

(II) Any unit that is not a unit under subparagraph (a)1.(i) of this paragraph and that has a maximum design heat input greater than 250 mmBtu/hr.

2. If a stationary boiler or stationary combustion turbine that, under subparagraph (a)1.(i) of this paragraph, is not a CAIR NO_X Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR NO_X Ozone Season EGU unit as provided in subparagraph (a)1.(i) of this paragraph on the first date on which it both combusts fossil fuel and serves such generator.

(b) The units in the State that meet the requirements set forth in subparagraph (b)1. or (b)2. of this paragraph shall not be CAIR NO_X Ozone Season units:

1. Any unit that is a CAIR NO_X Ozone Season unit under subparagraph (a)1.(i) or 2. of this paragraph:

(i) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(ii) Not serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(iii) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_X Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subparagraph (b)1.(ii) of this paragraph.

2. Any unit that is a CAIR NO_X Ozone Season unit under subparagraph (a)1. or 2. of this paragraph commencing operation:

(i) Before January 1, 1985:

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for 1985–1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(ii) On or after January 1, 1985:

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for the first 3 calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(iii) If a unit qualifies as a solid waste incineration unit and meets the requirements of subparagraph (b)2.(i) or (ii) of this paragraph for at least 3 consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_X Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.

(5) Retired Unit Exemption.

(a) Any CAIR NO_X Ozone Season unit that is permanently retired and is not a CAIR NO_X Ozone Season opt-in unit shall be exempt from the CAIR NO_X Ozone Season Trading Program, except for the provisions of this paragraph, paragraphs (2), (3), (4), (7) and (8), subparagraphs (6)(c)4. through 7. of this Rule, and Rules 335-3-8-.26 and 335-3-8-.29 through 335-3-8-.31.

1. The exemption under subparagraph (a) of this paragraph shall become effective the day on which the CAIR NO_X Ozone Season unit is permanently retired. Within 30 days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the Department otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the Administrator. The statement shall state, in a format prescribed by the Department, that the unit was permanently retired on a specific date and will comply with the requirements of subparagraph (b) of this paragraph.

2. After receipt of the statement under subparagraph (a)1. of this paragraph, the Department will amend any permit under Rule 335-3-8-.27 covering the source at which the unit is located to add the provisions and requirements of the exemption under subparagraphs (a) and (b) of this paragraph.

(b) Special provisions.

1. A unit exempt under subparagraph (a) of this paragraph shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

2. The Department will assign CAIR NO_X Ozone Season allowances to the Retired Unit

Allowance Pool under Rule 335-3-8-.29(3)(c)2. for a unit exempt under subparagraph (a) of this paragraph.

3. For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under subparagraph (a) of this paragraph shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the Department or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

4. The owners and operators and, to the extent applicable, the CAIR designated representative of a unit exempt under subparagraph (a) of this paragraph shall comply with the requirements of the CAIR NO_X Ozone Season Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

5. A unit exempt under subparagraph (a) of this paragraph and located at a source that is required, or but for this exemption would be required, to have a Title V operating permit or other federally enforceable permit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under Rule 335-3-8-.27(3) for the unit not less than 18 months [or such lesser time provided under the Department's major source operating permit regulations for final action on a permit application] before the later of January 1, 2009 or the date on which the unit resumes operation.

6. Loss of exemption.

(i) On the earlier of the following dates, a unit exempt under subparagraph (a) of this paragraph shall lose its exemption:

(I) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subparagraph (b)5. or (b)6. of this paragraph;

(II) The date on which the CAIR designated representative is required under subparagraph (b)5. of this paragraph to submit a CAIR permit application for the unit; or

(III) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

7. For the purpose of applying monitoring, reporting, and recordkeeping requirements under Rule 335-3-8-.32, a unit that loses its exemption under subparagraph (a) of this paragraph shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(6) Standard requirements.

(a) Permit Requirements.

1. The CAIR designated representative of each CAIR NO_X Ozone Season source required to

have a Title V operating permit or other federally enforceable permit and each CAIR NO_X Ozone Season unit required to have a Title V operating permit or other federally enforceable permit at the source shall:

(i) Submit to the Department a complete CAIR permit application under Rule 335-3-8-.27(3) in accordance with the deadlines specified in Rule 335-3-8-.27(2); and

(ii) Submit in a timely manner any supplemental information that the Department determines is necessary in order to review a CAIR permit application and issue or deny a CAIR permit.

2. The owners and operators of each CAIR NO_X Ozone Season source required to have a Title V operating permit or synthetic minor operating permit and each CAIR NO_X Ozone Season unit required to have a Title V operating permit or other federally enforceable permit at the source shall have a CAIR permit issued by the Department under Rule 335-3-8-.27 for the source and operate the source and the unit in compliance with such CAIR permit.

3. Except as provided in Rule 335-3-8-.33, the owners and operators of a CAIR NO_X Ozone Season source that is not otherwise required to have a Title V operating permit or other federally enforceable permit and each CAIR NO_X Ozone Season unit that is not otherwise required to have a Title V operating permit or other federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under Rule 335-3-8-.27 for such CAIR NO_X Ozone Season source and such CAIR NO_X Ozone Season unit.

(b) Monitoring, reporting, and recordkeeping requirements.

1. The owners and operators, and the CAIR designated representative, of each CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of Rule 335-3-8-.32.

2. The emissions measurements recorded and reported in accordance with Rule 335-3-8-.32 shall be used to determine compliance by each CAIR NO_X Ozone Season source with the CAIR NO_X Ozone Season emissions limitation under subparagraph (c) of this paragraph.

(c) Nitrogen oxides ozone season emission requirements.

1. As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit at the source shall hold, in the source's compliance account, CAIR NO_X Ozone Season allowances available for compliance deductions for the control period under Rule 335-3-8-.30(5)(a) in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_X Ozone Season units at the source, as determined in accordance with Rule 335-3-8-.32.

2. A CAIR NO_X Ozone Season unit shall be subject to the requirements under subparagraph (c)1. of this paragraph for the control period starting on the later of May 1, 2009 or the deadline for meeting the unit's monitor certification requirements under Rule 335-3-8-.32(1)(b)1., 2., 3., or 7. and for each control period thereafter.

3. A CAIR NO_X Ozone Season allowance shall not be deducted, for compliance with the

requirements under subparagraph (c)1. of this paragraph, for a control period in a calendar year before the year for which the CAIR NO_X Ozone Season allowance was allocated.

4. CAIR NO_X Ozone Season allowances shall be held in, deducted from, or transferred into or among CAIR NO_X Ozone Season Allowance Tracking System accounts in accordance with Rules 335-3-8-.30, 335-3-8-.31, and 335-3-8-.33.

5. A CAIR NO_X Ozone Season allowance is a limited authorization to emit one ton of nitrogen oxides in accordance with the CAIR NO_X Ozone Season Trading Program. No provision of the CAIR NO_X Ozone Season Trading Program, the CAIR permit application, the CAIR permit, or an exemption under paragraph (5) of this Rule and no provision of law shall be construed to limit the authority of the State or the United States to terminate or limit such authorization.

6. A CAIR NO_X Ozone Season allowance does not constitute a property right.

7. Upon recordation by the Administrator under Rule 335-3-8-.30, 335-3-8-.31, or 335-3-8-.33, every allocation, transfer, or deduction of a CAIR NO_X Ozone Season allowance to or from a CAIR NO_X Ozone Season source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) Excess emissions requirements. If a CAIR NO_X Ozone Season source emits nitrogen oxides during any control period in excess of the CAIR NO_X Ozone Season emissions limitation, then:

1. The owners and operators of the source and each CAIR NO_X Ozone Season unit at the source shall surrender the CAIR NO_X Ozone Season allowances required for deduction under Rule 335-3-8-.30(5)(d)1. and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under Rule 335-3-8-.30(5)(d)2.; and

2. Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this Rule, the Clean Air Act, and applicable State law.

(e) Recordkeeping and reporting requirements.

1. Unless otherwise provided, the owners and operators of the CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time before the end of 5 years, in writing by the Department or the Administrator.

(i) The certificate of representation under Rule 335-3-8-.26(4) for the CAIR designated representative for the source and each CAIR NO_X Ozone Season unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new certificate of representation under Rule 335-3-8-.26(4) changing the CAIR designated representative.

(ii) All emissions monitoring information, in accordance with Rule 335-3-8-.32, provided that to the extent that Rule 335-3-8-.32 provides for a 3-year period for recordkeeping, the 3-year period

shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO_X Ozone Season Trading Program.

(iv) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO_X Ozone Season Trading Program or to demonstrate compliance with the requirements of the CAIR NO_X Ozone Season Trading Program.

2. The CAIR designated representative of a CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit at the source shall submit the reports required under the CAIR NO_X Ozone Season Trading Program, including those under Rule 335-3-8-.32.

(f) Liability.

1. Each CAIR NO_X Ozone Season source and each CAIR NO_X Ozone Season unit shall meet the requirements of the CAIR NO_X Ozone Season Trading Program.

2. Any provision of the CAIR NO_X Ozone Season Trading Program that applies to a CAIR NO_X Ozone Season source or the CAIR designated representative of a CAIR NO_X Ozone Season source shall also apply to the owners and operators of such source and of the CAIR NO_X Ozone Season units at the source.

3. Any provision of the CAIR NO_X Ozone Season Trading Program that applies to a CAIR NO_X Ozone Season unit or the CAIR designated representative of a CAIR NO_X Ozone Season unit shall also apply to the owners and operators of such unit.

(g) Effect on other authorities. No provision of the CAIR NO_X Ozone Season Trading Program, a CAIR permit application, a CAIR permit, or an exemption under paragraph (5) of this Rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO_X Ozone Season source or CAIR NO_X Ozone Season unit from compliance with any other provision of the applicable, approved State Implementation Plan, a federally enforceable permit, or the Clean Air Act.

(7) Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the CAIR NO_X Ozone Season Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR NO_X Ozone Season Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO_X Ozone Season Trading Program, falls on a weekend or a State or Federal holiday, including those designated as a holiday by the President or the Congress of the United States, or the Governor of Alabama, or as prescribed in Code of Alabama (1975), § 1-3-8, the time period shall be extended

to the next business day.

(8) Appeal Procedures. The appeal procedures for decisions of the Administrator under the CAIR NO_X Ozone Season Trading Program are set forth in 40 CFR 78.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.25 Submission of TR NOx Annual Allowance Transfers.

(1) General. The Environmental Protection Agency Regulations governing Submission of TR NOx Annual Allowance Transfers, are incorporated by reference as they exist in 40 CFR §97.422, Subpart AAAAA as of July 1, 20 15. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11,22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.26 CAIR Designated Representative for CAIR NO_X Ozone Season Sources

(1) Authorization and responsibilities of CAIR designated representative.

(a) Except as provided under paragraph (2) below, each CAIR NO_X Ozone Season source, including all CAIR NO_X Ozone Season units at the source, shall have one and only one CAIR designated representative, with regard to all matters under the CAIR NO_X Ozone Season Trading Program concerning the source or any CAIR NO_X Ozone Season unit at the source.

(b) The CAIR designated representative of the CAIR NO_X Ozone Season source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO_X Ozone Season units at the source and shall act in accordance with the certification statement in subparagraph (4)(a)4.(iv) of this Rule.

(c) Upon receipt by the Administrator of a complete certificate of representation under paragraph (4) of this Rule, the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO_X Ozone Season source represented and each CAIR NO_X Ozone Season unit at the source in all matters pertaining to the CAIR NO_X Ozone Season Trading Program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the Department, the Administrator, or a court regarding the source or unit.

(d) No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO_X Ozone Season Allowance Tracking System account will be established for a CAIR NO_X Ozone Season unit at a source, until the Administrator has received a complete certificate of representation under paragraph (4) of this Rule for a CAIR designated representative of the source and the CAIR NO_X Ozone Season units at the source.

(e) Each submission under the CAIR NO_X Ozone Season Trading Program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO_X Ozone Season source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining

the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

1. The Department and the Administrator will accept or act on a submission made on behalf of owner or operators of a CAIR NO_X Ozone Season source or a CAIR NO_X Ozone Season unit only if the submission has been made, signed, and certified in accordance with subparagraph (e) of this paragraph.

(2) Alternate CAIR designated representative.

(a) A certificate of representation under paragraph (4) of this Rule may designate one and only one alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.

(b) Upon receipt by the Administrator of a complete certificate of representation under paragraph (4) of this Rule, any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.

(c) Except in this paragraph and subparagraphs (1)(a) and (d) and paragraphs (3), (4) and (6) of this Rule, and Rules 335-3-8-.25(2), 335-3-8-.30(2), and 335-3-8-.33(3) whenever the term "CAIR designated representative" is used in Rules 335-3-8-.25 through 335-3-8-.33, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

(3) Changing CAIR designated representative and alternate CAIR designated representative; changes in owners and operators.

(a) Changing CAIR designated representative. The CAIR designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation under paragraph (4) of this Rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO_X Ozone Season source and the CAIR NO_X Ozone Season units at the source.

(b) Changing alternate CAIR designated representative. The alternate CAIR designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation under paragraph (4) of this Rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR NO_X Ozone Season source and the

CAIR NO_X Ozone Season units at the source.

(c) Changes in owners and operators.

1. In the event an owner or operator of a CAIR NO_X Ozone Season source or a CAIR NO_X Ozone Season unit is not included in the list of owners and operators in the certificate of representation under paragraph (4) of this Rule, such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the Department, the Administrator, or a court, as if the owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a CAIR NO_X Ozone Season source, a CAIR NO_X Ozone Season unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under paragraph (4) of this Rule amending the list of owners and operators to include the change.

(4) Certificate of representation.

(a) A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the Administrator:

1. Identification of the CAIR NO_X Ozone Season source, and each CAIR NO_X Ozone Season unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

2. The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR designated representative and any alternate CAIR designated representative.

3. A list of the owners and operators of the CAIR NO_X Ozone Season source and of each CAIR NO_X Ozone Season unit at the source.

4. The following certification statements by the CAIR designated representative and any alternate CAIR designated representative:

(i) "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO_X Ozone Season unit at the source."

(ii) "I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_X Ozone Season Trading Program on behalf of the owners and operators of the source and of each CAIR NO_X Ozone Season unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

(iii) "I certify that the owners and operators of the source and of each CAIR NO_X Ozone Season

unit at the source shall be bound by any order issued to me by the Administrator, the Department, or a court regarding the source or unit."

(iv) "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO_X Ozone Season unit, or where a utility or industrial customer purchases power from a CAIR NO_X Ozone Season unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO_X Ozone Season unit at the source; and CAIR NO_X Ozone Season allowances and proceeds of transactions involving CAIR NO_X Ozone Season allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO_X Ozone Season allowances by contract, CAIR NO_X Ozone Season allowances and proceeds of transactions involving CAIR NO_X Ozone Season allowances will be deemed to be held or distributed in accordance with the contract."

5. The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed.

(b) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the certificate of representation shall not be submitted to the Department or the Administrator. Neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(5) Objections concerning CAIR designated representative.

(a) Once a complete certificate of representation under paragraph (4) of this Rule has been submitted and received, the Department and the Administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under paragraph (4) of this Rule is received by the Administrator.

(b) Except as provided in subparagraphs (3)(a) or (b) of this Rule, no objection or other communication submitted to the Department or the Administrator concerning the authorization, or any representation, action, inaction, or submission, of the CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the Department or the Administrator under the CAIR NO_X Ozone Season Trading Program.

(c) Neither the Department nor the Administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR designated representative, including private legal disputes concerning the proceeds of CAIR NO_X Ozone Season allowance transfers.

(6) Delegation by CAIR designated representative and alternate CAIR designated representative.

(a) A CAIR designated representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under

this Rule.

(b) An alternate CAIR designated representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under this Rule.

(c) In order to delegate authority to make an electronic submission to the Administrator in accordance with subparagraph (a) or (b) of this paragraph, the CAIR designated representative or alternate CAIR designated representative, as appropriate, must submit to the Administrator a notice of delegation, in a format prescribed by the Administrator, that includes the following elements:

(1) The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such CAIR designated representative or alternate CAIR designated representative;

(2) The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of each such natural person (referred to as an ‘‘agent’’);

(3) For each such natural person, a list of the type or types of electronic submissions under subparagraph (a) or (b) of this paragraph for which authority is delegated to him or her; and

(4) The following certification statements by such CAIR designated representative or alternate CAIR designated representative:

(i) "I agree that any electronic submission to the Administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 40 CFR 96.315(d) shall be deemed to be an electronic submission by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under 40 CFR 96.315(d), I agree to maintain an e-mail account and to notify the Administrator immediately of any change in my e-mail address unless all delegation of authority by me under 40 CFR 96.315 is terminated."

(d) A notice of delegation submitted under subparagraph (c) of this paragraph shall be effective, with regard to the CAIR designated representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the Administrator and until receipt by the Administrator of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(e) Any electronic submission covered by the certification in subparagraph (c)4.(i) of this paragraph and made in accordance with a notice of delegation effective under subparagraph (d) of this paragraph shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
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Amended: April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.26 Recordation of TR NOx Annual Allowance Transfers.

(1) General. The Environmental Protection Agency Regulations governing, Recordation of TR NOx Annual Allowance Transfers are incorporated by reference as they exist in 40 CFR §97.423, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.27 CAIR NO_X Ozone Season Permits

(1) General CAIR NO_X Ozone Season Trading Program permit requirements.

(a) For each CAIR NO_X Ozone Season source required to have a Title V operating permit, or required, under Rule 335-3-8-.33, to have a Title V operating permit or other federally enforceable permit, such permit shall include a CAIR permit administered by the Department. Any requirements of the CAIR permit shall be considered federally enforceable.

1. For CAIR NO_X Ozone Season sources required to have a Title V operating permit, the CAIR portion of the Title V operating permit shall be administered in accordance with the procedures under Chapter 335-3-16, except as provided otherwise by this Rule, Rule 335-3-8-.25, or Rule 335-3-8-.33. The applicable provisions of such requirements shall include, but are not limited to, those provisions addressing operating permit applications, operating permit application shield, operating permit duration, operating permit shield, operating permit issuance, operating permit revision and reopening, public participation, State review, and review by the Administrator.

(b) Each CAIR permit shall contain, with regard to the CAIR NO_X Ozone Season source and the CAIR NO_X Ozone Season units at the source covered by the CAIR permit, all applicable CAIR NO_X Ozone Season Trading Program, CAIR NO_X Annual Trading Program, and CAIR SO_2 Trading Program requirements and shall be a complete and separable portion of the Title V operating permit or other federally enforceable permit under subparagraph (1)(a) of this paragraph.

(2) Submission of CAIR permit applications.

(a) Duty to apply. The CAIR designated representative of any CAIR NO_X Ozone Season source required to have a Title V operating permit or other federally enforceable permit shall submit to the Department a complete CAIR permit application under paragraph (3) of this Rule for the source covering each CAIR NO_X Ozone Season unit at the source at least 18 months [or such lesser time provided under the Department's permit regulations in Rule 335-3-16 for final action on a permit application] before the later of January 1, 2009 or the date on which the CAIR NO_X Ozone Season unit commences commercial operation, except as provided in Rule 335-3-8-.33(4)(a).

(b) Duty to Reapply. For a CAIR NO_X Ozone Season source required to have a Title V

operating permit, the CAIR designated representative shall submit a complete CAIR permit application under paragraph (3) of this Rule for the source covering each CAIR NO_X Ozone Season unit at the source to renew the CAIR permit in accordance with the Department's Title V operating permits regulations in Chapter 335-3-16 addressing operating permit renewal, except as provided in Rule 335-3-8-.33(4)(b).

(3) Information requirements for CAIR permit applications. A complete CAIR permit application shall include the following elements concerning the CAIR NO_X Ozone Season source for which the application is submitted, in a format prescribed by the Department:

(a) Identification of the CAIR NO_X Ozone Season source;

(b) Identification of each CAIR NO_X Ozone Season unit at the CAIR NO_X Ozone Season source; and

(c) The standard requirements under Rule 335-3-8-.25(6).

(4) CAIR permit contents and term.

(a) Each CAIR permit will contain, in a format prescribed by the Department, all elements required for a complete CAIR permit application under paragraph (3) of this Rule.

(b) Each CAIR permit is deemed to incorporate automatically the definitions of terms under Rule 335-3-8-.25(2) and, upon recordation by the Administrator under Rule 335-3-8-.30, 335-3-8-.31, or 335-3-8-.33, every allocation, transfer, or deduction of a CAIR NO_X Ozone Season allowance to or from the compliance account of the CAIR NO_X Ozone Season source covered by the permit.

(c) The term of the CAIR permit will be set by the Department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO_X Ozone Season source's Title V operating permit as applicable.

(5) CAIR permit revisions. Except as provided in subparagraph (4)(b) of this Rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's Title V operating permits regulations in Chapter 335-3-16 addressing permit revisions, as applicable.

(a) For a CAIR NOx Ozone Season source with a non-Title V permit, except as provided in subparagraph (4)(b) of this Rule, the Department will revise the CAIR permit, as necessary, in accordance with the Department's permit regulations in Chapter 335-3-16, as applicable.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-16, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007.

Date Submitted to EPA	Date Approved by EPA	Federal Register

Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.27 Compliance with TR NOX Annual Emissions Limitation.

(1) General. The Environmental Protection Agency Regulations governing Compliance with TR NOx Annual Emissions Limitation, are incorporated by reference as they exist in 40 CFR §97.424, Subpart AAAAA as of July 1, 20 15. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.28 Compliance with TR NOx Annual Assurance Provisions.

(1) General. The Environmental Protection Agency Regulations governing Compliance with TR NOx Annual Assurance Provisions, are incorporated by reference as they exist in 40 CFR §97.425, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
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335-3-8-.29 CAIR NO_X Ozone Season Allowance Allocations

(1) State Ozone Season Trading Program Budget. The State trading budget for annual allocations of CAIR NO_X Ozone Season allowances for the control periods in 2009 through 2014 is 34,510 tons and in 2015 and thereafter is 29,146 tons.

(2) Timing Requirements for CAIR NO_X Ozone Season Allowance Allocations.

(a) By October 31, 2006, the Department will submit to the Administrator, in a format prescribed by the Administrator, the CAIR NO_X Ozone Season allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in 2009, 2010, and 2011.

1. For the 2009 control period submitted to the Administrator, only the difference between the CAIR NO_X Ozone Season allowance allocations and the 2009 NOx Budget Trading Program allowance allocations will be submitted.

(b) By October 31, 2008, the Department will submit to the Administrator, in a format prescribed by the Administrator, the CAIR NO_X Ozone Season allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in 2012, 2013, and 2014.

(c) By October 31, 2011 and October 31 of every third year thereafter (i.e. 2015, 2018, etc.), the Department will submit to the Administrator, in a format prescribed by the Administrator, the CAIR NO_X Ozone Season allowance allocations, in accordance with paragraph (3) of this Rule, for the control periods in the three years that are four, five, and six years, respectively, after the year of the applicable deadline for submission under this subparagraph.

(3) CAIR NO_X Ozone Season Allowance Allocations.

(a) Definitions. For the purpose of this Rule, the following definitions apply:

1. Baseline CAIR NO_X Ozone Season Unit. A CAIR NO_X Ozone Season unit that either:

(i) Commenced operation on or before May 1, 2004; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete

by the Department in writing on or before August 1, 2005.

2. Replacement CAIR NO_X Ozone Season Unit.

(i) A CAIR NO_X Ozone Season unit, which replaces at the same facility, a Baseline CAIR NO_X Ozone Season unit with the same or greater maximum design heat input capacity; or

(ii) The portion of a CAIR NO_X Ozone Season unit, which replaces at the same facility, a Baseline CAIR NO_X Ozone Season unit with the same or less maximum design heat input capacity.

3. New CAIR NO_X Ozone Season Unit.

(i) A CAIR NO_X Ozone Season unit that does not meet the definition of either Baseline CAIR NO_X Ozone Season Unit as defined in subparagraph (3)(a)1. of this paragraph or Replacement CAIR NO_X Ozone Season Unit as defined in subparagraph (3)(a)2. of this paragraph; or

(ii) The portion of a CAIR NO_X Ozone Season unit that does not meet the definition of either Baseline CAIR NO_X Ozone Season Unit or Replacement CAIR NO_X Ozone Season Unit as defined in subparagraph (3)(a)1. and (3)(a)2. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating CAIR NO_X Ozone Season allowance allocations under subparagraph (2)(a) of this Rule will be:

(i) For a Baseline CAIR NO_X Ozone Season unit that commenced operation on or before May 1, 2002 the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2000, 2001, 2002, 2003 and 2004; or

(ii) For a Baseline CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2002 but did commence operation on or before May 1, 2003, the average heat input for the control periods, in which the unit operated, in 2003 and 2004; or

(iii) For a Baseline CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2003 but did commence operation on or before May 1, 2004, the heat input for the control period in 2004; or

(iv) For a Baseline CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2004 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before August 1, 2005, the expected actual ozone season heat input based on actual utilization data of similar sources.

(v) For a Replacement CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2004, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the baseline unit operated, in 2000, 2001, 2002, 2003 and 2004 for the baseline CAIR NO_X Ozone Season unit that it replaced.

(vi) For a New CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2004, the expected actual ozone season heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating CAIR NO_X Ozone Season allowance allocations under subparagraph (2)(b) of this Rule that are to be submitted to the Administrator by October 31, 2008 will be:

(i) For a Baseline or Replacement CAIR NO_X Ozone Season unit that commenced operation on or before May 1, 2005 the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2003, 2004, 2005, 2006 and 2007; or

(ii) For a Baseline or Replacement CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2005 but did commence operation on or before May 1, 2006, the average heat input for the control periods, in which the unit operated, in 2006 and 2007; or

(iii) For a Baseline or Replacement CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2006 but did commence operation on or before May 1, 2007, the heat input for the control period in 2007; or

(iv) For a Replacement CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2007, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the baseline unit operated, in 2003, 2004, 2005, 2006 and 2007 for the baseline CAIR NO_X Ozone Season unit that it replaced.

(v) For a New CAIR NO_X Ozone Season unit that commenced operation on or before May 1, 2007, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2003, 2004, 2005, 2006 and 2007; or

(vi) For a New CAIR NO_X Ozone Season unit that did not commence operation on or before May 1, 2007, the expected actual ozone season heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating CAIR NO_X Ozone Season allowance allocations under subparagraph (2)(c) of this Rule that are to be submitted to the Administrator by October 31, 2011 and all subsequent allocation years will be:

(i) For a Baseline CAIR NO_X Ozone Season unit, the average of the three highest (or less, if applicable) amounts of the unit's heat input, in which the unit operated, for the five most recent control periods [e.g. allocations calculated for submission to the Administrator on October 31, 2011 will be based on ozone season heat inputs from 2006, 2007, 2008, 2009 and 2010]; or

(ii) For a Replacement CAIR NO_X Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods [e.g. allocations calculated for submission to the Administrator on October 31, 2011 will be based on ozone season heat inputs from 2006, 2007, 2008, 2009 and 2010]; or

(iii) For a Replacement CAIR NO_X Ozone Season unit that did not commence operation on or before May 1 of the most recent control period, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the unit operated, in 2006, 2007, 2008, 2009 and 2010 for the baseline CAIR NO_X Ozone Season unit that it replaced.

(iv) For a New CAIR NO_X Ozone Season unit that commenced operation prior to May 1 of the most recent control period, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods; or

(v) For a New CAIR NO_X Ozone Season unit that did not commence operation prior to May 1 of the most recent control period, the expected actual ozone season heat input based on actual utilization data of similar sources.

4. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the CAIR NO_X Ozone Season unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time CAIR NO_X Ozone Season allowances are initially allocated to baseline CAIR NO_X Ozone Season units under subparagraph (e)1. of this paragraph, each unit's allocation will be permanently recorded by the Department as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time CAIR NO_X Ozone Season allowances are allocated under paragraph (2) of this Rule and shall equal the State Ozone Season Trading Program Budget minus the total of the Baseline Allowances for all baseline CAIR NO_X Ozone Season units that have retired in accordance with Rule 335-3-8-.25(5).

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time CAIR NO_X Ozone Season allowances are allocated under paragraph (2) of this Rule and shall equal the sum of the Baseline Allowances for all CAIR NO_X Ozone Season units that have retired in accordance with Rule 335-3-8-.25(5).

(i) For the 2009 control period, the Retired Unit Allowance Pool shall equal the sum of the difference between the CAIR Baseline Allowances for those CAIR NO_X Ozone Season units that were allocated allowances under the NO_X Budget Trading Program, and that have retired in accordance with Rule 335-3-8-.25(5) and the 2009 allowance allocation under the NO_X Budget Trading Program for those CAIR NO_X Ozone Season units. The Department will allocate the same number of CAIR Ozone Season allowances to the CAIR NO_X Ozone Season source as calculated under the NO_X Budget Trading Program for the 2009 control period to prevent sources from returning previously allocated allowances.

(d) Adjustment Ratios. To ensure that the total number of CAIR NO_X Ozone Season allowances allocated under this paragraph equals the number of tons of CAIR NO_X Ozone Season emissions in the State trading program budget, the following ratios may be applied to the calculated CAIR

NO_X Ozone Season allowance allocations as appropriate.

1. 2009 Adjustment. For the 2009 control period, if a CAIR NO_X Ozone Season source that was allocated allowances under the NO_X Budget Trading Program is calculated to be allocated fewer allowances under subparagraph (3)(e)1. of this paragraph, the following adjustment shall be made:

(i) The Department will allocate the same number of CAIR Ozone Season allowances to the CAIR NO_X Ozone Season source as calculated under the NO_X Budget Trading Program to prevent sources from returning previously allocated allowances.

(ii) The Baseline Allowance Pool shall be adjusted by subtracting the total number of allowances in subparagraph (3)(d)1.(i) above. All other sources shall be allocated allowances according to subparagraph (3)(e)1. of this paragraph.

2. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of CAIR NO_X Ozone Season allowances in the Baseline Allowance Pool divided by the total number of CAIR NO_X Ozone Season allowances calculated for Baseline CAIR NO_X Ozone Season units for a control period prior to any adjustments.

(e) Calculation of CAIR NO_X Ozone Season Allowances for Baseline CAIR NO_X Ozone Season Units.

1. For each control period under subparagraph (2)(a) and (b) of this Rule, the Department will allocate CAIR NO_X Ozone Season allowances to all Baseline CAIR NO_X Ozone Season units in accordance with the following procedures:

(i) The Department will allocate CAIR NO_X Ozone Season allowances to each CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(i) or (ii)(I) in an amount equaling 0.15 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or (b)2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(ii) The Department will allocate CAIR NO_X Ozone Season allowances to each CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(II) in an amount equaling 0.17 lb/mmBtu or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or (b)2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided

as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

2. For each control period under subparagraph (2)(c) of this Rule, the Department will allocate CAIR NO_X Ozone Season allowances to all baseline CAIR NO_X Ozone Season units in accordance with the following procedures:

(i) The Department will allocate CAIR NO_X Ozone Season allowances to each CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(i) in an amount equaling 0.125 lb/mmBtu or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. These CAIR NO_X Ozone Season allowances may be further adjusted in accordance with subparagraph (h) of this paragraph where necessary. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(ii) The Department will allocate CAIR NO_X Ozone Season allowances to each CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(I) in an amount equaling 0.15 lb/mmBtu or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(iii) The Department will allocate CAIR NO_X Ozone Season allowances to each CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(II) in an amount equaling 0.17 lb/mmBtu or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(f) Calculation of CAIR NO_X Ozone Season Allowances for Replacement CAIR NO_X Ozone Season units. For each control period under subparagraph (2)(a), (b), or (c) of this Rule, after calculating CAIR NO_X Ozone Season allowances for all Baseline CAIR NO_X Ozone Season units that have not retired in accordance with Rule 335-3-8-.25(5), the Department will allocate CAIR NO_X Ozone Season allowances from the Retired Unit Allowance Pool to all Replacement

CAIR NO_X Ozone Season units in accordance with the following procedures:

1. For each Replacement CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(i) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a) or (b) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or 2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NO_X allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

2. For each replacement CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(i) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(c) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NO_X allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

3. For each Replacement CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(I) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a), (b), or (c) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of

this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

4. For each Replacement CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(II). that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a), (b), or (c) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(g) Calculation of CAIR NO_X Ozone Season Allowances for New CAIR NO_X Ozone Season units. For each control period under subparagraph (2)(a), (b), or (c) of this Rule, after calculating CAIR NO_X Ozone Season allowances for all Baseline CAIR NO_X Ozone Season units that have not retired in accordance with Rule 335-3-8-.25(5) and calculating CAIR NO_X Ozone Season allowances for all Replacement CAIR NO_X Ozone Season units, the Department will allocate CAIR NO_X Ozone Season allowances remaining in the Retired Unit Allowance Pool to all New CAIR NO_X Ozone Season units in accordance with the following procedures:

1. For each new CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(i) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a) or (b) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or 2. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

2. For each new CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(i) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(c) of this Rule, the number of CAIR NO_X Ozone Season

allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NO_X allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

3. For each New CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(I) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a), (b), or (c) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

4. For each New CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4)(a)1.(ii)(II) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a), (b), or (c) of this Rule, the number of CAIR NO_X Ozone Season allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NO_X limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole CAIR NO_X Ozone Season allowance as appropriate. These CAIR NO_X Ozone Season allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_X allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_X rate will be used for allocation purposes.

(h) Adjustment of Baseline CAIR NO_X Ozone Season Allowance Allocations. If CAIR NO_X Ozone Season allowances remain in the Retired Unit Allowance Pool after allocations are made to all Replacement and New CAIR NO_X Ozone Season units in accordance with subparagraphs

(f) and (g) of this paragraph, these CAIR NO_X Ozone Season allowances will be allocated on a pro rata basis to the Baseline CAIR NO_X Ozone Season units for the applicable control periods.

(i) Adjustment of Replacement CAIR NO_X Ozone Season Allowance Allocations. If the total number of calculated CAIR NO_X Ozone Season allowances allocated to all Replacement CAIR NO_X Ozone Season units under subparagraph (f) of this paragraph exceeds the number of CAIR NO_X Ozone Season allowances in the Retired Unit Allowance Pool, each unit's allocation will be further adjusted by multiplying by the ratio of the number of CAIR NO_X Ozone Season allowances in the Retired Unit Allowance Pool divided by the total number of CAIR NO_X Ozone Season allowance allocations to all Replacement units under subparagraph (f) of this paragraph so that the number of CAIR NO_X Ozone Season allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted CAIR NO_X Ozone Season allowance allocations will be rounded to the nearest ton, as appropriate.

(j) Adjustment of New CAIR NO_X Ozone Season Allowance Allocations. If the total number of calculated CAIR NO_X Ozone Season allowances allocated to all New CAIR NO_X Ozone Season units under subparagraph (g) of this paragraph exceeds the number of CAIR NO_X Ozone Season allowances remaining in the Retired Unit Allowance Pool after allocation to Replacement CAIR NO_X Ozone Season units, each unit's allocation will be further adjusted by multiplying by the ratio of the number of CAIR NO_X Ozone Season allowances remaining in the Retired Unit Allowance Pool after allocation to Replacement CAIR NO_X Ozone Season units divided by the total number of CAIR NO_X Ozone Season allowance allocations to New CAIR NO_X Ozone Season units under subparagraph (g) of this paragraph so that the total number of CAIR NO_X Ozone Season allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted CAIR NO_X Ozone Season allowance allocations will be rounded to the nearest ton, as appropriate.

(k) CAIR NO_X Ozone Season allowances allocated to Baseline CAIR NO_X Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(iv) of this paragraph will be held in the Department's general account until the unit commences operation, prior to the control period for which CAIR NO_X Ozone Season allowances were allocated or by July 31 of the year for which the allocation is being made. If the unit does not commence operations, the CAIR NO_X Ozone Season allowances will be transferred by the Department pro rata to Baseline CAIR NO_X Ozone Season units that were allocated CAIR NO_X Ozone Season allowances in accordance with subparagraphs (b)1.(i), (ii), or (iii) of this paragraph. By July 31 of the year for which the allocation is being made, the Department shall notify the Administrator of the appropriate CAIR NO_X Ozone Season allowance transfers.

(l) CAIR NO_X Ozone Season allowances allocated to Replacement CAIR NO_X Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(v), (b)2.(iv), or (b)3.(iii) of this paragraph will be held in the Department's general account until the unit commences operation, prior to the control period for which CAIR NO_X Ozone Season allowances were allocated or by July 31 of the year for which the allowances were allocated. If the unit does not commence operations, the CAIR NO_X Ozone Season allowances will be transferred by the Department pro rata to Baseline CAIR NO_X Ozone Season units that were allocated CAIR NO_X Ozone Season allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii), or (b)3.(i) of this paragraph. By July 31 of the year for which

the allowances were allocated, the Department shall notify the Administrator of the appropriate CAIR NO_X Ozone Season allowance transfers.

(m) CAIR NO_X Ozone Season allowances allocated to New CAIR NO_X Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(vi), (b)2.(vi), or (b)3.(iv) of this paragraph will be held in the Department's general account until the unit commences operation, prior to the control period for which CAIR NO_X Ozone Season allowances were allocated or by July 31 of the year for which the allowances were allocated. If the unit does not commence operations, the CAIR NO_X Ozone Season allowances will be transferred by the Department pro rata to Baseline CAIR NO_X Ozone Season units that were allocated CAIR NO_X Ozone Season allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii), or (b)3.(i) of this paragraph. By July 31 of the year for which the allowances were allocated, the Department shall notify the Administrator of the appropriate CAIR NO_X Ozone Season allowance transfers.

(n) CAIR NO_X Ozone Season allowances will not be allocated to CAIR NO_X Ozone Season units that retire under 335-3-8-.25(5) prior to the date CAIR NO_X Ozone Season allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), or (c) of this Rule.

(o) The total CAIR NO_X Ozone Season allowances allocated for any control period in accordance with subparagraphs (3)(e), (f), and (g) of this paragraph shall not exceed the State Trading Program Budget as determined by the applicable, approved State Implementation Plan.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.29 Banking.

(1) General. The Environmental Protection Agency Regulations governing Banking for TR NOx Annual Allowance, are incorporated by reference as they exist in 40 CFR §97.426, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.29 substitute:

(a) Adem Administrative Coder. 335-3-8-.14(3)(j) for 40 CFR §97.411(c).

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.30 CAIR NO_X Ozone Season Allowance Tracking System

(1) Reserved.

(2) Establishment of accounts.

(a) Compliance accounts. Except as provided in Rule 335-3-8-.33(5)(e), upon receipt of a complete certificate of representation under Rule 335-3-8-.26(4), the Administrator will establish a compliance account for the CAIR NO_X Ozone Season source for which the certificate of representation was submitted, unless the source already has a compliance account.

(b) General accounts.

1. Application for general account.

(i) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO_X Ozone Season allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.

(ii) A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(I) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative;

(II) Organization name and type of organization, if applicable;

(III) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO_X Ozone Season allowances held in the general

account;

(IV) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO_X Ozone Season allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO_X Ozone Season Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."

(V) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.

(iii) Unless otherwise required by the Department or the Administrator, documents of agreement referred to in the application for a general account shall not be submitted to the Department or the Administrator. Neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

2. Authorization of CAIR authorized account representative or alternate CAIR authorized account representative.

(i) Upon receipt by the Administrator of a complete application for a general account under subparagraph (b)1. of this paragraph:

(I) The Administrator will establish a general account for the person or persons for whom the application is submitted.

(II) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO_X Ozone Season allowances held in the general account in all matters pertaining to the CAIR NO_X Ozone Season Trading Program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the Administrator or a court regarding the general account.

(III) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(ii) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO_X Ozone Season allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate

CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO_X Ozone Season allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iii) The Administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subparagraph (b)2.(ii) of this paragraph.

3. Changing CAIR authorized account representative and alternate CAIR authorized account representative; changes in persons with ownership interest.

(i) The CAIR authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under subparagraph (b)1. of this paragraph. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the Administrator receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_X Ozone Season allowances in the general account.

(ii) The alternate CAIR authorized account representative for a general account may be changed at any time upon receipt by the Administrator of a superseding complete application for a general account under subparagraph (b)1. of this paragraph. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the Administrator receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO_X Ozone Season allowances in the general account.

(iii) In the event a person having an ownership interest with respect to CAIR NO_X Ozone Season allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the Administrator or a court, as if the person were included in such list.

(I) Within 30 days following any change in the persons having an ownership interest with respect to CAIR NO_X Ozone Season allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR authorized account representative shall submit a revision to the application for a general account amending

the list of persons having an ownership interest with respect to the CAIR NO_X Ozone Season allowances in the general account to include the change.

4. Objections concerning CAIR authorized account representative or alternate CAIR authorized account representative.

(i) Once a complete application for a general account under subparagraph (b)1. of this paragraph has been submitted and received, the Administrator will rely on the application unless and until a superseding complete application for a general account under subparagraph (b)1. of this paragraph is received by the Administrator.

(ii) Except as provided in subparagraph (b)3.(i) or (ii) of this paragraph, no objection or other communication submitted to the Administrator concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the Administrator under the CAIR NO_X Ozone Season Trading Program.

(iii) The Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO_X Ozone Season allowance transfers.

5. Delegation by CAIR authorized account representative and alternate CAIR authorized account representative.

(i) A CAIR authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under Rules 335-3-8-.30 and 338-3-8-.31.

(ii) An alternate CAIR authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Administrator provided for or required under Rules 335-3-8-.30 and338-3-8-.31.

(iii) In order to delegate authority to make an electronic submission to the Administrator in accordance with subparagraph (b)5.(i) or (ii) of this paragraph, the CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate, must submit to the Administrator a notice of delegation, in a format prescribed by the Administrator, that includes the following elements:

(I) The name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such CAIR authorized account representative or alternate CAIR authorized account representative;

(II) The name, address, e-mail address, telephone number, and, facsimile transmission number (if any) of each such natural person (referred to as an "agent");

(III) For each such natural person, a list of the type or types of electronic submissions under subparagraph (b)5.(i) or (ii) of this paragraph for which authority is delegated to him or her;

(IV) The following certification statement by such CAIR authorized account representative or alternate CAIR authorized account representative: "I agree that any electronic submission to the Administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR authorized account representative or alternate CAIR authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 40 CFR 96.351(b)(5)(iv) shall be deemed to be an electronic submission by me."; and

(V) The following certification statement by such CAIR authorized account representative or alternate CAIR authorized account representative: "Until this notice of delegation is superseded by another notice of delegation under 40 CFR 96.351(b)(5)(iv), I agree to maintain an email account and to notify the Administrator immediately of any change in my e-mail address unless all delegation of authority by me under 40 CFR 96.351(b)(5) is terminated."

(iv) A notice of delegation submitted under subparagraph (b)5.(iii) of this paragraph shall be effective, with regard to the CAIR authorized account representative or alternate CAIR authorized account representative identified in such notice, upon receipt of such notice by the Administrator and until receipt by the Administrator of a superseding notice of delegation submitted by such CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(v) Any electronic submission covered by the certification in subparagraph (b)5.(iii)(IV) of this paragraph and made in accordance with a notice of delegation effective under subparagraph (b)5.(iv) of this paragraph shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

(c) Account identification. The Administrator will assign a unique identifying number to each account established under subparagraph (a) or (b) of this paragraph.

(3) Responsibilities of CAIR authorized account representative. Following the establishment of a CAIR NO_X Ozone Season Allowance Tracking System account, all submissions to the Administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO_X Ozone Season allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(4) Recordation of CAIR NO_X Ozone Season allowance allocations.

(a) By September 30, 2007, the Administrator will record in the CAIR NO_X Ozone Season source's compliance account the CAIR NO_X Ozone Season allowances allocated for the CAIR NO_X Ozone Season units at the source, as submitted by the Department in accordance with Rule 335-3-8-.29(2)(a), for the control periods in 2009, 2010, and 2011.

(b) By December 1, 2008 and December 1 of every third year thereafter, the Administrator will

record in the source's compliance account the CAIR NO_X Ozone Season allowances allocated for the CAIR NO_X Ozone Season units at the source, as submitted by the Department in accordance with Rule 335-3-8-.29(2)(b) and (c), for the control periods in the three years after the last year for which NO_X Ozone Season allowances were previously recorded.

(c) By September 1, 2009 and September 1 of every year thereafter, the Administrator will record in the source's compliance account the CAIR NO_X Ozone Season allowances allocated for the CAIR NO_X Ozone Season units at the source, as submitted by the Department in accordance with Rule 335-3-8-.29(l) and (m), for the control period in the year of the applicable deadline for recordation under this subparagraph.

(d) Serial numbers for allocated CAIR NO_X Ozone Season allowances. When recording the allocation of CAIR NO_X Ozone Season allowances for a CAIR NO_X Ozone Season unit in a compliance account, the Administrator will assign each CAIR NO_X Ozone Season allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR NO_X Ozone Season allowance is allocated.

(5) Compliance with CAIR NO_X emissions limitation.

(a) Allowance transfer deadline. The CAIR NO_X Ozone Season allowances are available to be deducted for compliance with a source's CAIR NO_X Ozone Season emissions limitation for a control period in a given calendar year only if the CAIR NO_X Ozone Season allowances:

1. Were allocated for the control period in the year or a prior year; and

2. Are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO_X Ozone Season allowance transfer correctly submitted for recordation under Rule 335-3-8-.31(1) and (2) by the allowance transfer deadline for the control period.

(b) Deductions for compliance.

1. Following the recordation, in accordance with Rule 335-3-8-.31(2), of CAIR NO_X Ozone Season allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the Administrator will deduct from the compliance account CAIR NO_X Ozone Season allowances available under subparagraph (a) of this paragraph in order to determine whether the source meets the CAIR NO_X Ozone Season emissions limitation for the control period, as follows:

(i) Until the amount of CAIR NO_X Ozone Season allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with Rule 335-3-8-.32, from all CAIR NO_X Ozone Season units at the source for the control period; or

(ii) If there are insufficient CAIR NO_X Ozone Season allowances to complete the deductions in subparagraph (b)1.(i) of this paragraph, until no more CAIR NO_X Ozone Season allowances available under subparagraph (a) of this paragraph remain in the compliance account.

(c) Identification of CAIR NO_X Ozone Season allowances by serial number.

1. The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO_X Ozone Season allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subparagraph (b) or (d) of this paragraph. Such request shall be submitted to the Administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the Administrator, the identification of the CAIR NO_X Ozone Season source and the appropriate serial numbers.

2. First-in, first-out. The Administrator will deduct CAIR NO_X Ozone Season allowances under subparagraph (b) or (d) of this paragraph from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO_X Ozone Season allowances by serial number under subparagraph (c)1. of this paragraph, on a first-in, first-out (FIFO) accounting basis in the following order:

(i) Any CAIR NO_X Ozone Season allowances that were allocated to the units at the source, in the order of recordation; and then

(ii) Any CAIR NO_X Ozone Season allowances that were allocated to any entity and transferred and recorded in the compliance account pursuant to Rule 335-3-8-.31, in the order of recordation.

(d) Deductions for excess emissions.

1. After making the deductions for compliance under subparagraph (b) of this paragraph for a control period in a calendar year in which the CAIR NO_X Ozone Season source has excess emissions, the Administrator will deduct from the source's compliance account an amount of CAIR NO_X Ozone Season allowances, allocated for the control period in the immediately following calendar year, equal to 3 times the number of tons of the source's excess emissions.

2. Any allowance deduction required under subparagraph (d)1. of this paragraph shall not affect the liability of the owners and operators of the CAIR NO_X Ozone Season source or the CAIR NO_X Ozone Season units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable State law.

(e) Recordation of deductions. The Administrator will record in the appropriate compliance account all deductions from such an account under subparagraph (b) and (d) of this paragraph and Rule 335-3-8-.33.

(f) Administrator's action on submissions.

1. The Administrator may review and conduct independent audits concerning any submission under the CAIR NO_X Ozone Season Trading Program and make appropriate adjustments of the information in the submissions.

2. The Administrator may deduct CAIR NO_X Ozone Season allowances from or transfer CAIR NO_X Ozone Season allowances to a source's compliance account based on the information in the submissions, as adjusted under subparagraph (f)1. of this paragraph, and record such deductions

and transfers.

(6) Banking.

(a) CAIR NO_X Ozone Season allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subparagraph (b) of this paragraph.

(b) Any CAIR NO_X Ozone Season allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR NO_X Ozone Season allowance is deducted or transferred under paragraphs (5) or (7) of this Rule, or Rule 335-3-8-.31 or 335-3-8-.33.

(7) Account error. The Administrator may, at his or her sole discretion and on his or her own motion, correct any error in any CAIR NO_X Ozone Season Allowance Tracking System account. Within 10 business days of making such correction, the Administrator will notify the CAIR authorized account representative for the account.

(8) Closing of general accounts.

(a) The CAIR authorized account representative of a general account may submit to the Administrator a request to close the account, which shall include a correctly submitted allowance transfer under Rule 335-3-8-.31(1) and (2) for any CAIR NO_X Ozone Season allowances in the account to one or more other CAIR NO_X Ozone Season Allowance Tracking System accounts.

(b) If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR NO_X Ozone Season allowances, the Administrator may notify the CAIR authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the Administrator receives a correctly submitted transfer of CAIR NO_X Ozone Season allowances into the account under Rule 335-3-8-.31(1) and (2) or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the Administrator good cause as to why the account should not be closed.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.30 Account Error.

(1) General. The Environmental Protection Agency Regulations governing Account Error, are incorporated by reference as they exist in 40 CFR §97.427, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.31 Administrator's Action on Submissions.

(1) General. The Environmental Protection Agency Regulations governing Administrator's Action on Submissions, are incorporated by reference as they exist in 40 CFR §97.428, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.32 CAIR NO_X Ozone Season Monitoring and Reporting

(1) General Requirements. The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO_X Ozone Season unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this Rule and in 40 CFR 75, Subpart H. For purposes of complying with such requirements, the definitions in Rule 335-3-8-.25(2) and in 40 CFR § 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system" (or "CEMS") in 40 CFR 75 shall be deemed to refer to the terms "CAIR NO_X Ozone Season unit," "CAIR designated representative," and "continuous emission monitoring system" (or "CEMS") respectively, as defined in Rule 335-3-8-.25(2). The owner or operator of a unit that is not a CAIR NO_X Ozone Season unit but that is monitored under 40 CFR § 75.72(b)(2)(ii) shall comply with the same monitoring, recordkeeping, and reporting requirements as a CAIR NO_X Ozone Season unit.

(a) Requirements for installation, certification, and data accounting. The owner or operator of each CAIR NO_X Ozone Season unit shall:

1. Install all monitoring systems required under this Rule for monitoring NO_X mass emissions and individual unit heat input [including all systems required to monitor NO_X emission rate, NO_X concentration, stack gas moisture content, stack gas flow rate, CO_2 or O_2 concentration, and fuel flow rate, as applicable, in accordance with 40 CFR §§ 75.71 and 75.72];

2. Successfully complete all certification tests required under paragraph (2) of this Rule and meet all other requirements of this Rule and 40 CFR 75 applicable to the monitoring systems under subparagraph (a)1. of this paragraph; and

3. Record, report, and quality-assure the data from the monitoring systems under subparagraph (a)1. of this paragraph.

(b) Compliance deadlines. Except as provided in subparagraph (e) of this paragraph, the owner or operator shall meet the monitoring system certification and other requirements of subparagraphs (a)1. and 2. of this paragraph on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subparagraph (a)1. of this paragraph on and after the following dates.

1. For the owner or operator of a CAIR NO_X Ozone Season unit that commences commercial operation before July 1, 2007, by May 1, 2008.

2. For the owner or operator of a CAIR NO_X Ozone Season unit that commences commercial operation on or after July 1, 2007 and that reports on an annual basis under subparagraph (5)(d) of this Rule, by the later of the following dates:

(i) 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation; or

(ii) May 1, 2008.

3. For the owner or operator of a CAIR NO_X Ozone Season unit that commences commercial operation on or after July 1, 2007 and that reports on a control period basis under subparagraph (5)(d)2.(ii), by the later of the following dates:

(i) 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation; or

(ii) If the compliance date under subparagraph (b)3.(i) of this paragraph is not during a control period, May 1 immediately following the compliance date under subparagraph (b)3.(i) of this paragraph.

4. For the owner or operator of a CAIR NO_X Ozone Season unit for which construction of a new stack or flue or installation of add-on NO_X emission controls is completed after the applicable deadline under subparagraphs (b)1., 2., 6., or 7. of this paragraph and that reports on an annual basis under subparagraph (5)(d) of this Rule, by 90 unit operating days or 180 calendar days, whichever occurs first, 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 CAIR NO_X Ozone Season unit for which construction of a new stack or flue or installation of add-on NO_X emission controls is completed after the applicable deadline under subparagraphs (b)1., 3., 6., or 7. of this paragraph and that reports on a control period basis under subparagraph (5)(d)2.(ii), by the later of the following dates:

(i) 90 unit operating days or 180 calendar days, whichever occurs first, 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) If the compliance date under subparagraph (b)5.(i) of this paragraph is not during a control period, May 1 immediately following the compliance date under subparagraph (b)5.(i) of this paragraph.

6. Notwithstanding the dates in subparagraphs (b)1., 2., and 3. of this paragraph, for the owner or operator of a unit for which a CAIR NO_X Ozone Season opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.33, by the date specified in Rule 335-3-8-.33(5)(b).

7. Notwithstanding the dates in subparagraphs (b)1., 2., and 3. of this paragraph, for the owner or operator of a CAIR NO_X Ozone Season opt-in unit under Rule 335-3-8-.33, by the date on which the CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program as provided in Rule 335-3-8-.33(5)(g).

(c) Reporting data. The owner or operator of a CAIR NO_X Ozone Season unit that does not meet the applicable compliance date set forth in paragraph (b) of this paragraph for any monitoring system under subparagraph (a)1. of this paragraph shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for NO_X concentration, NO_X emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO_X mass emissions and heat input in accordance with 40 CFR § 75.31(b)(2) or (c)(3), section 2.4 of Appendix D to 40 CFR 75, or section 2.5 of Appendix E to 40 CFR 75, as applicable.

(d) Prohibitions.

1. No owner or operator of a CAIR NO_X Ozone Season unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this Rule without having obtained prior written approval in accordance with paragraph (6) of this Rule.

2. No owner or operator of a CAIR NO_X Ozone Season unit shall operate the unit so as to discharge, or allow to be discharged, NO_X emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this Rule and 40 CFR 75.

3. No owner or operator of a CAIR NO_X Ozone Season unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_X mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this Rule and 40 CFR 75.

4. No owner or operator of a CAIR NO_X Ozone Season unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this Rule, except under any one of the following circumstances:

(i) During the period that the unit is covered by an exemption under Rule 335-3-8-.25(5) that is in effect;

(ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this Rule and 40 CFR 75, by the Department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subparagraph (2)(d)3.(i).

(e) Long-term cold storage. The owner or operator of a CAIR NO_X Ozone Season unit is subject to the applicable provisions of 40 CFR 75 concerning units in long-term cold storage.

(2) Initial certification and recertification procedures.

(a) The owner or operator of a CAIR NO_X Ozone Season unit shall be exempt from the initial certification requirements of this paragraph for a monitoring system under subparagraph (1)(a)1. of this Rule if the following conditions are met:

1. The monitoring system has been previously certified in accordance with 40 CFR 75; and

2. The applicable quality-assurance and quality-control requirements of 40 CFR § 75.21 and Appendix B, Appendix D, and Appendix E to 40 CFR 75 are fully met for the certified monitoring system described in subparagraph (a)1. of this paragraph.

(b) The recertification provisions of this paragraph shall apply to a monitoring system under subparagraph (1)(a)1. of this Rule exempt from initial certification requirements under subparagraph (a) of this paragraph.

(c) If the Administrator has previously approved a petition under 40 CFR § 75.17(a) or (b) for apportioning the NO_X emission rate measured in a common stack or a petition under 40 CFR § 75.66 for an alternative to a requirement in 40 CFR § 75.12 or 40 CFR § 75.17, the CAIR designated representative shall resubmit the petition to the Administrator under subparagraph (6)(a) of this Rule to determine whether the approval applies under the CAIR NO_X Ozone Season Trading Program.

(d) Except as provided in subparagraph (a) of this paragraph, the owner or operator of a CAIR NO_X Ozone Season unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (i.e., a continuous emission monitoring system and an excepted monitoring system under appendices D and E to 40 CFR 75) under subparagraph (1)(a)1. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR § 75.19 or that qualifies to use an alternative monitoring system under Subpart E of 40 CFR 75 shall comply with the procedures in subparagraph (e) or (f) of this paragraph respectively.

1. Requirements for initial certification. The owner or operator shall ensure that each continuous monitoring system under subparagraph (1)(a)1. of this Rule (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR § 75.20 by the applicable deadline in subparagraph (1)(b) of this Rule. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this Rule in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR § 75.20 is required.

2. Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subparagraph (1)(a)1. of this Rule that may significantly affect the ability of the system to accurately measure or record NO_X mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR § 75.21 or 40 CFR 75, Appendix B, the

owner or operator shall recertify the monitoring system in accordance with 40 CFR § 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR § 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter systems, and any excepted NO_X monitoring system under 40 CFR 75, Appendix E, under subparagraph (1)(a)1. of this Rule are subject to the recertification requirements in 40 CFR § 75.20(g)(6).

3. Approval process for initial certification and recertification. Subparagraphs (d)3.(i) through (iv) of this paragraph apply to both initial certification and recertification of a continuous monitoring system under subparagraph (1)(a)1. of this Rule. For recertifications, replace the words "certification" and "initial certification" with the word "recertification", replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR §§ 75.20(b)(5) and (g)(7) in lieu of the procedures in subparagraph (d)3.(v) of this paragraph.

(i) Notification of certification. The CAIR designated representative shall submit to the Department, the appropriate EPA Regional Office, and the Administrator written notice of the dates of certification testing, in accordance with paragraph (4) of this Rule.

(ii) Certification application. The CAIR designated representative shall submit to the Department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR § 75.63.

(iii) Provisional certification date. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR § 75.20(a)(3). A provisionally certified monitoring system may be used under the CAIR NO_X Ozone Season Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system under subparagraph (d)3.(ii) of this paragraph. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the Department.

(iv) Certification application approval process. The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subparagraph (d)3.(ii) of this paragraph. In the event the Department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75 and is included in the certification application will be deemed certified for use under the CAIR NO_X Ozone Season Trading Program.

(I) Approval notice. If the certification application is complete and shows that each monitoring

system meets the applicable performance requirements of 40 CFR 75, then the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(II) Incomplete application notice. If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under subparagraph (d)3.(iv)(III) of this paragraph. The 120-day review period shall not begin before receipt of a complete certification application.

(III) Disapproval notice. If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75 or if the certification application is incomplete and the requirement for disapproval under subparagraph (d)3.(iv)(II) of this paragraph is met, then the Department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification [as defined under 40 CFR § 75.20(a)(3)]. The owner or operator shall follow the procedures for loss of certification in subparagraph (d)3.(v) of this paragraph for each monitoring system that is disapproved for initial certification.

(IV) Audit decertification. The Department or, for a CAIR NO_X Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.33, the Administrator may issue a notice of disapproval of the certification status of a monitor in accordance with subparagraph (3)(b) of this Rule.

(v) Procedures for loss of certification. If the Department or the Administrator issues a notice of disapproval of a certification application under subparagraph (d)3.(iv)(III) of this paragraph or a notice of disapproval of certification status under subparagraph (d)3.(iv)(IV) of this paragraph, then:

(I) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR § 75.20(a)(4)(iii), 40 CFR § 75.20(g)(7), or 40 CFR § 75.21(e) and continuing until the applicable date and hour specified under 40 CFR § 75.20(a)(5)(i) or (g)(7):

I. For a disapproved NO_X emission rate (i.e., NO_X-diluent) system, the maximum potential NO_X emission rate, as defined in 40 CFR § 72.2.

II. For a disapproved NO_X pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO_X and the maximum potential flow rate, as defined in Sections 2.1.2.1 and 2.1.4.1 of 40 CFR 75, Appendix A.

III. For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO_2 concentration or the minimum potential O_2 concentration (as applicable), as

defined in Sections 2.1.5, 2.1.3.1, and 2.1.3.2 of 40 CFR 75, Appendix A.

IV. For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in Section 2.4.2.1 of 40 CFR 75, Appendix D.

V. For a disapproved excepted NO_X monitoring system under 40 CFR 75, Appendix E, the fuel-specific maximum potential NO_X emission rate, as defined in 40 CFR § 72.2.

(II) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (d)3.(i) and (ii) of this paragraph.

(III) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's or the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(e) Initial certification and recertification procedures for units using the low mass emission excepted methodology under 40 CFR § 75.19. The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR § 75.19 shall meet the applicable certification and recertification requirements in 40 CFR §§ 75.19(a)(2) and 75.20(h). If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR § 75.20(g).

(f) Certification/recertification procedures for alternative monitoring systems. The CAIR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the Administrator and, if applicable, the Department under 40 CFR 75, Subpart E shall comply with the applicable notification and application procedures of 40 CFR § 75.20(f).

(3) Out of control periods.

(a) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75, data shall be substituted using the applicable missing data procedures in Subpart D or Subpart H of, or Appendix D or Appendix E to, 40 CFR 75.

(b) Audit decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under paragraph (2) of this Rule or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department or, for a CAIR NO_X Ozone Season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.33, the Administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the

Department or the Administrator. By issuing the notice of disapproval, the Department or the Administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in paragraph (2) of this Rule for each disapproved monitoring system.

(4) Notifications. The CAIR designated representative for a CAIR NO_X Ozone Season unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR § 75.61.

(5) Recordkeeping and reporting.

(a) General provisions. The CAIR designated representative shall comply with all recordkeeping and reporting requirements in this paragraph, the applicable recordkeeping and reporting requirements under 40 CFR § 75.73, and the requirements of Rule 335-3-8-.26(1)(e).

(b) Monitoring Plans. The owner or operator of a CAIR NO_X Ozone Season unit shall comply with requirements of 40 CFR § 75.73(c) and (e) and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.33 and Rules 335-3-8-.33(4) and (5)(a).

(c) Certification Applications. The CAIR designated representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under paragraph (2) of this Rule, including the information required under 40 CFR § 75.63.

(d) Quarterly reports. The CAIR designated representative shall submit quarterly reports, as follows:

1. If the CAIR NO_X Ozone Season unit is subject to an Acid Rain emissions limitation or a CAIR NO_X emissions limitation or if the owner or operator of such unit chooses to report on an annual basis under this Rule, the CAIR designated representative shall meet the requirements of 40 CFR 75, Subpart H (concerning monitoring of NO_X mass emissions) for such unit for the entire year and shall report the NO_X mass emissions data and heat input data for such unit, in an electronic quarterly report in a format prescribed by the Administrator, for each calendar quarter beginning with:

(i) For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008 through June 30, 2008;

(ii) For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subparagraph (1)(b) of this Rule, unless that quarter is the third or fourth quarter of 2007 or the first quarter of 2008, in which case reporting shall commence in the quarter covering May 1, 2008 through June 30, 2008;

(iii) Notwithstanding subparagraphs (d)1.(i) and (ii) of this paragraph, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.33, the calendar quarter corresponding to the date specified in Rule 335-3-8-.33(5)(b); and

(iv) Notwithstanding subparagraphs (d)1.(i) and (ii) of this paragraph, for a CAIR NO_X Ozone Season opt-in unit under Rule 335-3-8-.33, the calendar quarter corresponding to the date on which the CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program as provided in Rule 335-3-8-.33(5)(g).

2. If the CAIR NO_X Ozone Season unit is not subject to an Acid Rain emissions limitation or a CAIR NO_X emissions limitation, then the CAIR designated representative shall either:

(i) Meet the requirements of 40 CFR 75, Subpart H (concerning monitoring of NO_X mass emissions) for such unit for the entire year and report the NO_X mass emissions data and heat input data for such unit in accordance with subparagraph (d)1., of this paragraph; or

(ii) Meet the requirements of 40 CFR 75, Subpart H for the control period [including the requirements in 40 CFR § 75.74(c)] and report NO_X mass emissions data and heat input data [including the data described in 40 CFR § 75.74(c)(6)] for such unit only for the control period of each year and report, in an electronic quarterly report in a format prescribed by the Administrator, for each calendar quarter beginning with:

(I) For a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008 through June 30, 2008;

(II) For a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subparagraph (1)(b), unless that date is not during a control period, in which case reporting shall commence in the quarter that includes May 1 through June 30 of the first control period after such date;

(III) Notwithstanding subparagraphs (d)2.(ii)(I) and 2.(ii)(II) of this paragraph, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Rule 335-3-8-.33, the calendar quarter corresponding to the date specified in Rule 335-3-8-.33(5)(b); and

(IV) Notwithstanding subparagraphs (d)2.(ii)(I) and 2.(ii)(II) of this paragraph, for a CAIR NO_X Ozone Season opt-in unit under Rule 335-3-8-.33, the calendar quarter corresponding to the date on which the CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program as provided in Rule 335-3-8-.33(5)(g).

3. The CAIR designated representative shall submit each quarterly report to the Administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR § 75.73(f).

4. For CAIR NO_X Ozone Season units that are also subject to an Acid Rain emissions limitation or the CAIR NO_X Annual Trading Program, CAIR SO_2 Trading Program, or Hg Budget Trading

Program, quarterly reports shall include the applicable data and information required by Subparts F through I of 40 CFR 75 as applicable, in addition to the NO_X mass emission data, heat input data, and other information required by this Rule.

(e) Compliance certification. The CAIR designated representative shall submit to the Administrator a compliance certification (in a format prescribed by the Administrator) 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 shall state that:

1. The monitoring data submitted were recorded in accordance with the applicable requirements of this Rule and 40 CFR 75, including the quality assurance procedures and specifications;

2. For a unit with add-on NO_X 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/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 control period basis under subparagraph (d)2.(ii) of this paragraph, the NO_X emission rate and NO_X concentration values substituted for missing data under 40 CFR 75, Subpart D are calculated using only values from a control period and do not systematically underestimate NO_X emissions.

(6) Petitions.

(a) Except as provided in subparagraph (b)2. of this paragraph, the CAIR designated representative of a CAIR NO_X Ozone Season unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR § 75.66 to the Administrator requesting approval to apply an alternative to any requirement of this Rule. Application of an alternative to any requirement of this Rule is in accordance with this Rule only to the extent that the petition is approved in writing by the Administrator, in consultation with the Department.

(b) The CAIR designated representative of a CAIR NO_X Ozone Season unit that is not subject to an Acid Rain emissions limitation may submit a petition under 40 CFR § 75.66 to the Department and the Administrator requesting approval to apply an alternative to any requirement of this Rule. Application of an alternative to any requirement of this Rule is in accordance with this Rule only to the extent that the petition is approved in writing by both the Department and the Administrator.

1. The CAIR designated representative of a CAIR NO_X Ozone Season unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR § 75.66 to the Department and the Administrator requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR § 75.72. Application of an alternative to any such requirement is in accordance with this Rule only to the extent that the petition is approved in writing by both the Department and the Administrator.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-14, 22-28-19, and 22-28-20.
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335-3-8-.33 CAIR NO_X Ozone Season Opt-in Units

(1) Applicability. A CAIR NO_X Ozone Season opt-in unit must be a unit that:

(a) Is located in the State;

(b) Is not a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4) and is not covered by a retired unit exemption under Rule 335-3-8-.25(5) that is in effect;

(c) Is not covered by a retired unit exemption under 40 CFR § 72.8 that is in effect;

(d) Has or is required or qualified to have a Title V operating permit or other federally enforceable permit; and

(e) Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Rule 335-3-8-.32.

(2) General.

(a) Except as otherwise provided in Rules 335-3-8-.25(1) through (4), (6)and (7), and Rule 335-3-8-.26 and 335-3-8-.27 and 335-3-8-.30 through 335-3-8-.32, a CAIR NO_X Ozone Season opt-in unit shall be treated as a CAIR NO_X Ozone Season unit for purposes of applying Rules 335-3-8-.25 through 335-3-8-.27 and 335-3-8-.30 through 335-3-8-.32.

(b) Solely for purposes of applying, as provided in this Rule, the requirements of Rule 335-3-8-.32 to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this Rule, such unit shall be treated as a CAIR NO_X Ozone Season unit before issuance of a CAIR opt-in permit for such unit.

(3) CAIR designated representative. Any CAIR NO_X Ozone Season opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this Rule, located at the same source as one or more CAIR NO_X Ozone Season units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO_X Ozone Season units.

(4) Applying for CAIR opt-in permit.

(a) Applying for initial CAIR opt-in permit. The CAIR designated representative of a unit

meeting the requirements for a CAIR NO_X Ozone Season opt-in unit in paragraph (1) of this Rule may apply for an initial CAIR opt-in permit at any time, except as provided under subparagraphs (7)(f) and (g) of this Rule, and, in order to apply, must submit the following:

1. A complete CAIR permit application under Rule 335-3-8-.27(3);

2. A certification, in a format specified by the Department, that the unit:

(i) Is not a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4) and is not covered by a retired unit exemption under Rule 335-3-8-.25(5) that is in effect;

(ii) Is not covered by a retired unit exemption under 40 CFR § 72.8 that is in effect;

(iii) Vents all of its emissions to a stack; and

(iv) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under Rule 335-3-8-.27(3);

3. A monitoring plan in accordance with Rule 335-3-8-.32;

4. A complete certificate of representation under Rule 335-3-8-.26(4) consistent with paragraph (3) of this Rule, if no CAIR designated representative has been previously designated for the source that includes the unit; and

5. A statement, in a format specified by the Department, whether the CAIR designated representative requests that the unit be allocated CAIR NO_X Ozone Season allowances under subparagraph (9)(b) or (c) of this Rule [subject to the conditions in subparagraphs(5)(h) and (7)(g)]. If allocation under subparagraph (9)(c) of this Rule is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

(b) Duty to reapply.

1. The CAIR designated representative of a CAIR NO_X Ozone Season opt-in unit shall submit a complete CAIR permit application under Rule 335-3-8-.27(3) to renew the CAIR opt-in unit permit in accordance with Rule 335-3-8-.27(2)(b).

2. Unless the Department issues a notification of acceptance of withdrawal of the CAIR NO_X Ozone Season opt-in unit from the CAIR NO_X Ozone Season Trading Program in accordance with Rule 335-3-8-.24(7) or the unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), the CAIR NO_X Ozone Season opt-in unit shall remain subject to the requirements for a CAIR NO_X Ozone Season opt-in unit, even if the CAIR designated representative for the CAIR NO_X opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under subparagraph (b)1. of this paragraph.

(5) Opt-in process. The Department will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under paragraph (4) of this Rule is submitted in

accordance with the following:

(a) Interim review of monitoring plan. The Department and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under paragraph (4) of this Rule. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_X emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with Rule 335-3-8-.32. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) Monitoring and reporting.

1. If the Department and the Administrator determine that the monitoring plan is sufficient under subparagraph (a) of this paragraph, the owner or operator shall monitor and report the NO_X emissions rate and the heat input of the unit and all other applicable parameters, in accordance with Rule 335-3-8-.32, starting on the date of certification of the appropriate monitoring systems under Rule 335-3-8-.32 and continuing until a CAIR opt-in permit is denied under subparagraph(5)(f) of this Rule or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_X Ozone Season Trading Program in accordance with paragraph (7) of this Rule.

(i) The monitoring and reporting under subparagraph (b)1. of this paragraph shall include the entire control period immediately before the date on which the unit enters the CAIR NO_X Ozone Season Trading Program under paragraph (5)(g)of this Rule, during which period monitoring system availability must not be less than 90 percent under Rule 335-3-8-.32 and the unit must be in full compliance with any applicable State or Federal emissions or emissions-related requirements.

2. To the extent the NO_X emissions rate and the heat input of the unit are monitored and reported in accordance with Rule 335-3-8-.32 for one or more control periods, in addition to the control period under subparagraph (b)1.(i) of this paragraph, during which control periods monitoring system availability is not less than 90 percent under Rule 335-3-8-.32 and the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements and which control periods begin not more than 3 years before the unit enters the CAIR NO_X Ozone Season Trading Program under paragraph (5)(g) of this Rule, such information shall be used as provided in subparagraphs (c) and (d) of this paragraph.

(c) Baseline heat input. The unit's baseline heat input shall equal:

1. If the unit's NO_X emissions rate and heat input are monitored and reported for only one control period, in accordance with subparagraph (b)1. of this paragraph, the unit's total heat input (in mmBtu) for the control period; or

2. If the unit's NO_X emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1. and 2. of this paragraph, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subparagraphs (b)1.(i) and (b)2. of this paragraph.

(d) Baseline NO_X emission rate. The unit's baseline NO_X emission rate shall equal:

1. If the unit's NO_X emissions rate and heat input are monitored and reported for only one control period, in accordance with subparagraph (b)1. of this paragraph, the unit's NO_X emissions rate (in lb/mmBtu) for the control period;

2. If the unit's NO_X emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1. and 2. of this paragraph, and the unit does not have add-on NO_X emission controls during any such control periods, the average of the amounts of the unit's NO_X emissions rate (in lb/mmBtu) for the control periods under subparagraphs (b)1.(i) and (b)2. of this paragraph; or

3. If the unit's NO_X emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1. and 2. of this paragraph, and the unit has add-on NO_X emission controls during any such control periods, the average of the amounts of the unit's NO_X emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO_X emission controls.

(e) Issuance of CAIR opt-in permit. After calculating the baseline heat input and the baseline NO_X emissions rate for the unit under subparagraphs (c) and (d) of this paragraph and if the Department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_X Ozone Season opt-in unit in paragraph (1) of this Rule and meets the elements certified in subparagraph (4)(a)2. of this Rule, the Department will issue a CAIR opt-in permit. The Department will provide a copy of the CAIR opt-in permit to the Administrator, who will then establish a compliance account for the source that includes the CAIR NO_X Ozone Season opt-in unit unless the source already has a compliance account.

(f) Issuance of denial of CAIR opt-in permit. Notwithstanding subparagraphs (a) through (e) of this paragraph, if at any time before issuance of a CAIR opt-in permit for the unit, the Department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_X Ozone Season opt-in unit in paragraph (1) of this Rule or meets the elements certified in subparagraph (4)(a)2. of this Rule, the Department will issue a denial of a CAIR opt-in permit for the unit.

(g) Date of entry into CAIR NO_X Ozone Season Trading Program. A unit for which an initial CAIR opt-in permit is issued by the Department shall become a CAIR NO_X Ozone Season opt-in unit, and a CAIR NO_X Ozone Season unit, as of the later of May 1, 2009 or May 1 of the first control period during which such CAIR opt-in permit is issued.

(h) Repowered CAIR NO_X Ozone Season opt-in unit.

1. If the CAIR designated representative requests, and the Department issues a CAIR opt-in permit providing for, allocation to a CAIR NO_X Ozone Season opt-in unit of CAIR NO_X Ozone Season allowances under subparagraph (9)(c) of this Rule and such unit is repowered after its date of entry into the CAIR NO_X Ozone Season Trading Program under subparagraph (g) of this paragraph, the repowered unit shall be treated as a CAIR NO_X Ozone Season opt-in unit replacing the original CAIR NO_X Ozone Season opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

2. Notwithstanding subparagraphs (c) and (d) of this paragraph, as of the date of start-up under subparagraph (h)1. of this paragraph, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_X emission rate as the original CAIR NO_X Ozone Season opt-in unit, and the original CAIR NO_X Ozone Season opt-in unit shall no longer be treated as a CAIR NO_X Ozone Season opt-in unit or a CAIR NO_X Ozone Season unit.

(6) CAIR opt-in permit contents.

(a) Each CAIR opt-in permit will contain:

1. All elements required for a complete CAIR permit application under Rule 335-3-8-.27(3);

2. The certification in subparagraph (4)(a)2. of this Rule;

3. The unit's baseline heat input under subparagraph (5)(c) of this Rule;

4. The unit's baseline NO_X emission rate under subparagraph (5)(d) of this Rule;

5. A statement whether the unit is to be allocated CAIR NO_X Ozone Season allowances under subparagraph (9)(b) or (c) of this Rule (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this Rule);

6. A statement that the unit may withdraw from the CAIR NO_X Ozone Season Trading Program only in accordance with paragraph (7) of this Rule; and

7. A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of paragraph (8) of this Rule.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under Rule 335-3-8-.25(2) and, upon recordation by the Administrator under Rule 335-3-8-.30, 335-3-8-.31, or 335-3-8-.33, every allocation, transfer, or deduction of CAIR NO_X Ozone Season allowances to or from the compliance account of the source that includes a CAIR NO_X Ozone Season opt-in unit covered by the CAIR opt-in permit.

(c) The CAIR opt-in permit shall be included, in a format specified by the Department, in the CAIR permit for the source where the CAIR NO_X Ozone Season opt-in unit is located and in a Title V operating permit or other federally enforceable permit for the source.

(7) Withdrawal from CAIR NO_X Ozone Season Trading Program. Except as provided under subparagraph (g) of this paragraph, a CAIR NO_X Ozone Season opt-in unit may withdraw from the CAIR NO_X Ozone Season Trading Program, but only if the Department issues a notification to the CAIR designated representative of the CAIR NO_X Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR NO_X Ozone Season opt-in unit in accordance with subparagraph (d) of this paragraph.

(a) Requesting withdrawal. In order to withdraw a CAIR NO_X Ozone Season opt-in unit from the CAIR NO_X Ozone Season Trading Program, the CAIR designated

representative of the CAIR NO_X Ozone Season opt-in unit shall submit to the Department a request to withdraw effective as of midnight of September 30 of a specified calendar year, which date must be at least 4 years after September 30 of the year of entry into the CAIR NO_X Ozone Season Trading Program under subparagraph (5)(g) of this Rule. The request must be submitted no later than 90 days before the requested effective date of withdrawal.

(b) Conditions for withdrawal. Before a CAIR NO_X Ozone Season opt-in unit covered by a request under subparagraph (a) of this paragraph may withdraw from the CAIR NO_X Ozone Season Trading Program and the CAIR opt-in permit may be terminated under subparagraph (e) of this paragraph, the following conditions must be met:

1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_X Ozone Season opt-in unit must meet the requirement to hold CAIR NO_X Ozone Season allowances under Rule 335-3-8-.25(6)(c) and cannot have any excess emissions.

2. After the requirement for withdrawal under subparagraph (b)1. of this paragraph is met, the Administrator will deduct from the compliance account of the source that includes the CAIR NO_X Ozone Season opt-in unit CAIR NO_X Ozone Season allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO_X Ozone Season allowances allocated to the CAIR NO_X Ozone Season opt-in unit under paragraph (9) of this Rule for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_X Ozone Season units at the source, the Administrator will close the compliance account, and the owners and operators of the CAIR NO_X Ozone Season opt-in unit may submit a CAIR NO_X Ozone Season allowance transfer for any remaining CAIR NO_X Ozone Season allowances to another CAIR NO_X Ozone Season Allowance Tracking System in accordance with Rule 335-3-8-.31.

(c) Notification.

1. After the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are met (including deduction of the full amount of CAIR NO_X Ozone Season allowances required), the Department will issue a notification to the CAIR designated representative of the CAIR NO_X Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR NO_X Ozone Season opt-in unit as of midnight on September 30 of the calendar year for which the withdrawal was requested.

2. If the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are not met, the Department will issue a notification to the CAIR designated representative of the CAIR NO_X Ozone Season opt-in unit that the CAIR NO_X Ozone Season opt-in unit's request to withdraw is denied. Such CAIR NO_X Ozone Season opt-in unit shall continue to be a CAIR NO_X Ozone Season opt-in unit.

(d) Permit amendment. After the Department issues a notification under subparagraph (c)1. of this paragraph that the requirements for withdrawal have been met, the Department will revise the CAIR permit covering the CAIR NO_X Ozone Season opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subparagraph (c)1. of this

paragraph. The unit shall continue to be a CAIR NO_X Ozone Season opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_X Ozone Season Trading Program concerning any control periods for which the unit is a CAIR NO_X Ozone Season opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(e) Reapplication upon failure to meet conditions of withdrawal. If the Department denies the CAIR NO_X Ozone Season opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subparagraphs (a) and (b) of this paragraph.

(f) Ability to reapply to the CAIR NO_X Ozone Season Trading Program. Once a CAIR NO_X Ozone Season opt-in unit withdraws from the CAIR NO_X Ozone Season Trading Program and its CAIR opt-in permit is terminated under this paragraph, the CAIR designated representative may not submit another application for a CAIR opt-in permit under paragraph (4) of this Rule for such CAIR NO_X Ozone Season opt-in unit before the date that is 4 years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under paragraph (5) of this Rule.

(g) Inability to withdraw. Notwithstanding subparagraphs (a) through (f) of this paragraph, a CAIR NO_X Ozone Season opt-in unit shall not be eligible to withdraw from the CAIR NO_X Ozone Season Trading Program if the CAIR designated representative of the CAIR NO_X Ozone Season opt-in unit requests, and the Department issues a CAIR opt-in permit providing for, allocation to the CAIR NO_X Ozone Season opt-in unit of CAIR NO_X Ozone Season allowances under subparagraph (9)(c) of this Rule.

(8) Change in regulatory status.

(a) Notification. If a CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), then the CAIR designated representative shall notify in writing the Department and the Administrator of such change in the CAIR NO_X Ozone Season opt-in unit's regulatory status, within 30 days of such change.

(b) Department's and Administrator's actions.

1. If a CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), the Department will revise the CAIR NO_X Ozone Season opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under Rule 335-3-8-.27(4), and remove the CAIR opt-in permit provision, as of the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4).

2. The Administrator will deduct from the compliance account of the source that includes the CAIR NO_X Ozone Season opt-in unit that becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), CAIR NO_X Ozone Season allowances equal in amount to and allocated for the same or a prior control period as:

(i) Any CAIR NO_X Ozone Season allowances allocated to the CAIR NO_X Ozone Season opt-in unit under paragraph (9) of this Rule for any control period after the date on which the CAIR

NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4); and

(ii) If the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4) is not September 30, the CAIR NO_X Ozone Season allowances allocated to the CAIR NO_X Ozone Season opt-in unit under paragraph (9) of this Rule for the control period that includes the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4) divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

3. The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO_X Ozone Season opt-in unit that becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4) contains the CAIR NO_X Ozone Season allowances necessary for completion of the deduction under subparagraph (b)2. of this paragraph.

4. For every control period after the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), the CAIR NO_X Ozone Season opt-in unit will be allocated CAIR NO_X Ozone Season allowances under Rule 335-3-8-.29(3).

(i) If the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4) is not September 30, the following amount of CAIR NO_X Ozone Season allowances will be allocated to the CAIR NO_X Ozone Season opt-in unit (as a CAIR NO_X Ozone Season unit) under Rule 335-3-8-.29(3) for the control period that includes the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4):

(I) The amount of CAIR NO_X Ozone Season allowances otherwise allocated to the CAIR NO_X Ozone Season opt-in unit (as a CAIR NO_X Ozone Season unit) under Rule 335-3-8-.29(3) for the control period multiplied by;

(II) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO_X Ozone Season opt-in unit becomes a CAIR NO_X Ozone Season unit under Rule 335-3-8-.25(4), divided by the total number of days in the control period; and

(III) Rounded to the nearest whole allowance as appropriate.

(9) CAIR NO_X Ozone Season allowance allocations to CAIR NO_X Ozone Season opt-in units.

(a) Timing requirements.

1. When the CAIR opt-in permit is issued under subparagraph (5)(e) of this Rule, the Department will allocate CAIR NO_X Ozone Season allowances to the CAIR NO_X Ozone Season opt-in unit, and submit to the Administrator the allocation for the control period in which a CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program under

subparagraph (5)(g) of this Rule, in accordance with subparagraph (b) or (c) of this paragraph.

2. By no later than July 31 of the control period after the control period in which a CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program under subparagraph (5)(g) of this Rule and July 31 of each year thereafter, the Department will allocate CAIR NO_X Ozone Season allowances to the CAIR NO_X Ozone Season opt-in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_X Ozone Season opt-in unit, in accordance with subparagraph (b)or (c) of this paragraph.

(b) Calculation of allocation. For each control period for which a CAIR NO_X Ozone Season opt-in unit is to be allocated CAIR NO_X Ozone Season allowances, the Department will allocate in accordance with the following procedures:

1. The heat input (in mmBtu) used for calculating the CAIR NO_X Ozone Season allowance allocation will be the lesser of:

(i) The CAIR NO_X Ozone Season opt-in unit's baseline heat input determined under subparagraph (5)(c) of this Rule; or

(ii) The CAIR NO_X Ozone Season opt-in unit's heat input, as determined in accordance with Rule 335-3-8-.32, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program under subparagraph (5)(g) of this Rule.

2. The NO_X emission rate (in lb/mmBtu) used for calculating CAIR NO_X Ozone Season allowance allocations will be the lesser of:

(i) The CAIR NO_X Ozone Season opt-in unit's baseline NO_X emissions rate (in lb/mmBtu) determined under subparagraph (5)(d) of this Rule and multiplied by 70 percent; or

(ii) The most stringent State or Federal NO_X emissions limitation applicable to the CAIR NO_X Ozone Season opt-in unit at any time during the control period for which CAIR NO_X Ozone Season allowances are to be allocated.

3. The Department will allocate CAIR NO_X Ozone Season allowances to the CAIR NO_X Ozone Season opt-in unit in an amount equaling the heat input under subparagraph (b)1. of this paragraph, multiplied by the NO_X emission rate under subparagraph (b)2. of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(c) Notwithstanding subparagraph (b) of this paragraph and if the CAIR designated representative requests, and the Department issues a CAIR opt-in permit (based on a demonstration of the intent to repower stated under paragraph (4)(a)5. of this Rule) providing for, allocation to a CAIR NO_X Ozone Season opt-in unit of CAIR NO_X Ozone Season allowances under this paragraph (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this Rule), the Department will allocate to the CAIR NO_X Ozone Season opt-in unit as follows:

1. For each control period in 2009 through 2014 for which the CAIR NO_X Ozone Season opt-in

unit is to be allocated CAIR NO_X Ozone Season allowances,

(i) The heat input (in mmBtu) used for calculating CAIR NO_X Ozone Season allowance allocations will be determined as described in subparagraph (b)1. of this paragraph.

(ii) The NO_X emission rate (in lb/mmBtu) used for calculating CAIR NOX Ozone Season allowance allocations will be the lesser of:

(I) The CAIR NO_X Ozone Season opt-in unit's baseline NO_X emissions rate (in lb/mmBtu) determined under subparagraph (5)(d) of this Rule; or

(II) The most stringent State or Federal NO_X emissions limitation applicable to the CAIR NO_X Ozone Season opt-in unit at any time during the control period in which the CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program under subparagraph (5)(g) of this Rule.

(iii) The Department will allocate CAIR NO_X Ozone Season allowances to the CAIR NO_X Ozone Season opt-in unit in an amount equaling the heat input under subparagraph (c)1.(i) of this paragraph, multiplied by the NO_X emission rate under subparagraph (c)1.(ii) of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

2. For each control period in 2015 and thereafter for which the CAIR NO_X Ozone Season opt-in unit is to be allocated CAIR NO_X Ozone Season allowances,

(i) The heat input (in mmBtu) used for calculating the CAIR NO_X Ozone Season allowance allocations will be determined as described in subparagraph (b)1. of this paragraph.

(ii) The NO_X emission rate (in lb/mmBtu) used for calculating the CAIR NO_X Ozone Season allowance allocation will be the lesser of:

(I) 0.15 lb/mmBtu;

(II) The CAIR NO_X Ozone Season opt-in unit's baseline NO_X emissions rate (in lb/mmBtu) determined under subparagraph (5)(d) of this Rule; or

(III) The most stringent State or Federal NO_X emissions limitation applicable to the CAIR NO_X Ozone Season opt-in unit at any time during the control period for which CAIR NO_X Ozone Season allowances are to be allocated.

(iii) The Department will allocate CAIR NO_X Ozone Season allowances to the CAIR NO_X Ozone Season opt-in unit in an amount equaling the heat input under subparagraph (c)2.(i) of this paragraph, multiplied by the NO_X emission rate under subparagraph (c)2.(ii) of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(d) Recordation.

1. The Administrator will record, in the compliance account of the source that includes the CAIR NO_X Ozone Season opt-in unit, the CAIR NO_X Ozone Season allowances allocated by the

Department to the CAIR NO_X Ozone Season opt-in unit under subparagraph (a)1. of this paragraph.

2. By September 1 of the control period in which a CAIR NO_X Ozone Season opt-in unit enters the CAIR NO_X Ozone Season Trading Program under subparagraph (5)(g) of this Rule, and September 1 of each year thereafter, the Administrator will record, in the compliance account of the source that includes the CAIR NO_X Ozone Season opt-in unit, the CAIR NO_X Ozone Season allowances allocated by the Department to the CAIR NO_X Ozone Season opt-in unit under subparagraph (a)2. of this paragraph.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: July 11, 2006.
Amended: April 3, 2007.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	MAR 07, 2007	OCT 01, 2007	72 FR 55659

335-3-8-.33 General Monitoring, Recordkeeping, and Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governmg General Monitoring, Recordkeeping, and Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97 .430, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.33 substitute:

(a) Adem Administrative Coder. 335-3-8-.09 for 40 CFR §97.405.

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.34 Initial Monitoring System Certification and Recertification Procedures

(1) General. The Environmental Protection Agency Regulations governing Initial Monitoring System Certification and Recertification Procedures, are incorporated by reference as they exist in 40 CFR §97.431. Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.34 substitute:

(a) In §97.43l(d)(3)(i) insert", the Department" after "Office."

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11. 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.35 Monitoring System Out-of-Control Periods.

(1) General. The Environmental Protection Agency Regulations governing Monitoring System Out-of-Control Periods, are incorporated by reference as they exist in 40 CFR §97.432, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.36 Notifications Concerning Monitoring.

(1) General. The Environmental Protection Agency Regulations governing Notifications Concerning Monitoring, are incorporated by reference as they exist in 40 CFR §97.433, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.37 Recordkeeping and Reporting.

(1) General. The Environmental Protection Agency Regulations governing Recordkeeping and Reporting, are incorporated by reference as they exist in 40 CFR §97.434, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869

335-3-8-.38 Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governing Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.435, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015.

	Date Submitted to EPA	Date Approved by EPA	Federal Register
Original Reg	OCT 26, 2015	AUG 31, 2016	81 FR 59869