10 CSR 10-6.360 Control of NO_x Emissions From Electric Generating Units and Non-Electric Generating Boilers

(1) Applicability.

(A) This rulemaking shall apply throughout Bollinger, Butler, Cape Girardeau, Carter, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Lewis, Lincoln, Madison, Marion, Mississippi, Montgomery, New Madrid, Oregon, Pemiscot, Perry, Pike, Ralls, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Warren, Washington and Wayne counties and the City of St. Louis.

(B) The following units shall be NO_x budget units, and any source that includes one (1) or more such units shall be a NO_x budget source, subject to the requirements of this rule:

1. Electric generating units that serve a generator with a nameplate capacity greater than twenty-five megawatts (25 MW) and—

A. For non-cogeneration units—

(I) Commenced operation before January 1, 1997, and served a generator producing electricity for sale under a firm contract to the electric grid during 1995 or 1996; or

(II) Commenced operation in 1997 or 1998 and served a generator producing electricity for sale under a firm contract to the electric grid during 1997 or 1998; or

(III) Commenced operation on or after January 1, 1999, and served or serves at any time a generator producing electricity for sale; and

B. For cogeneration units—

(I) Commenced operation before January 1, 1997, and failed to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for 1995 or 1996 under the Acid Rain Program; or

(II) Commenced operation in 1997 or 1998 and failed to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for 1997 or 1998 under the Acid Rain Program; or

(III) Commenced operation on or after January 1, 1999, and failed or fails to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for any year under the Acid Rain Program; and

2. Non-electric generating boilers, combined cycle systems, and combustion turbines that have a maximum design heat input greater than two hundred fifty (250) million British thermal units per hour (mmBtu/hr) and—

A. For non-cogeneration units—

(I) Commenced operations before January 1, 1997, and did not serve a generator producing electricity for sale under a firm contract to the electric grid during 1995 or 1996; or

(II) Commenced operations in 1997 or 1998 and did not serve a generator producing electricity for sale under a firm contract to the electric grid during 1997 or 1998; or

(III) Commenced operation on or after January 1, 1999, and:

(a) At no time served or serves a generator producing electricity for sale; or

(b) At any time served or serves a generator with a nameplate capacity of twenty-five (25) MW or less producing electricity for sale, and with the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit; and

B. For cogeneration units—

(I) Commenced operation before January 1, 1997, and qualified as an unaffected unit under 40 CFR 72.6(b)(4) for 1995 or 1996 under the Acid Rain Program; or

(II) Commenced operation in 1997 or 1998 and qualified as an unaffected unit under 40 CFR 72.6(b)(4) for 1997 or 1998 under the Acid Rain Program; or

(III) Commenced operation on or after January 1, 1999, and qualified or qualifies as an unaffected unit under 40 CFR 72.6(b)(4) for each year under the Acid Rain Program.

(C) Exemptions. The director shall provide the administrator written notice of the issuance of any permit under subsection (3)(C) of this rule and, upon request, a copy of the permit. Notwithstanding subsection (1)(A) of this rule, a unit shall not be a NO_x budget unit if the unit has a federally enforceable permit that:

1. Restricts the unit to burning only natural gas or fuel oil;

2. Restricts the unit’s operating hours to the number calculated by dividing twenty-five (25) tons of potential mass emissions by the unit’s maximum potential hourly NO_x mass emissions;

3. Requires that the unit’s maximum potential NO_x mass emissions be calculated by multiplying the unit’s maximum rated hourly heat input by the highest default NO_x emission rate applicable to the unit under 40 CFR 75.19(c), Table LM-2;

4. Requires that the owner or operator of the unit shall retain at the source that includes the unit, for five (5) years, records demonstrating that the operating hours restriction, the fuel use restriction, and the other requirements of the permit related to these restrictions were met; and

5. Requires that the owner or operator of the unit shall report the unit’s hours of operation (treating any partial hour of operation as a whole hour of operation) during each control period to the director by November 1 of each year for which the unit is subject to the federally enforceable permit.

(D) Loss of Exemption. If, for any control period, the unit does not comply with the fuel use restriction under paragraph (1)(C)1. of this rule or the operating hours restriction under paragraphs (1)(C)2. and 3. of this rule, or the fuel use or the operating hour restrictions are removed from the unit’s federally enforceable permit or otherwise becomes no longer applicable, the unit shall be a NO_x budget unit, subject to the requirements of this rule. Such unit shall be treated as commencing operation and, for a unit under paragraph (1)(B)1. of this rule, commencing commercial operation on September 30 of the control period for which the fuel use restriction or the operating hours restriction is no longer applicable or during which the unit does not comply with the fuel use restriction or the operating hours restriction.

(E) Retired Unit Exemption. This subsection applies to any NO_x budget unit that is permanently retired.

1. Standard provisions.

A. Any NO_x budget unit that is permanently retired shall be exempt from the NO_x budget trading program, except for the provision of subsection (1)(E), sections (1) and (2), subsections (3)(E), (3)(F) and (3)(G) of this rule.

B. The exemption under subparagraph (1)(E)1.A. of this rule shall become effective the day on which the unit is permanently retired. Within thirty (30) days of permanent retirement, the NO_x authorized account representative shall submit a statement to the director. A copy of the statement shall be submitted to the administrator. The statement shall state that the unit is permanently retired and will comply with the requirements of paragraph (1)(E)2. of this rule.

C. After receipt of the notice under subparagraph (1)(E)1.B. of this rule, the director will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under subparagraph (1)(E)1.A. and paragraph (1)(E)2. of this rule.

2. Special provisions.

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

B. The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under this section 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.

C. *Reserved*

D. For a period of five (5) years from the date the records are created, the owners and operators of a unit exempt under this section shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The five (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 director or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

E. A unit exempt under subsection (1)(E) of this rule and located at a source that is required, except for this exemption, would be required to have a Title V or a non-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 for the unit not less than eighteen (18) months prior to the later of May 1, 2007 or the date on which the unit is to first resume operation.

3. Loss of exemption. For the purpose of applying monitoring requirements under section (4) of this rule, a unit that loses its exemption under subsection (1)(E) of this rule shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation. On the earlier of the following dates, a unit exempt under subsection (1)(E) of this rule shall lose its exemption:

A. The date on which the NO_x authorized account representative submits a NO_x budget permit application under subparagraph (1)(E)2.E. of this rule; or

B. The date on which the NO_x authorized account representative is required under subparagraph (1)(E)2.E. of this rule to submit a NO_x budget permit application.

(F) Compliance with this rule shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the Air Conservation Law and rules or any other requirements under local, state or federal law. Specifically, compliance with this rule shall not violate the permit conditions previously established under 10 CSR 10-6.060 or 10 CSR 10-6.065.

(G) Computation of Time.

1. 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.

2. 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.

3. 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.

(H) The requirements of sections (3), (4) and (5) of this rule will not apply to the control period beginning in 2009 and any control period therafter.

(2) Definitions.

(A) Account certificate of representation—The completed and signed submission required by subsection (3)(B) of this rule 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—The identification number given by the administrator to each NO_x allowance tracking system account.

(C) Acid rain emissions limitation—As defined in 40 CFR 72.2, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the Clean Air Act.

(D) Administrator—The administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

(E) Affiliate—Any person including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated electrical corporation.

(F) Allocate or allocation—The determination by the director or the administrator of the number of NO_x allowances to be initially credited to a NO_x budget unit or an allocation set-aside.

(G) Automated data acquisition and handling system (DAHS)—That component of the continuous emissions monitoring system (CEMS), or other emissions monitoring system approved for use under section (4) of this rule, 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 in this rule.

(H) Boiler—An enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(I) CAA—The Clean Air Act, 42 U.S.C. 7401, as amended by Pub. L. No. 101-595 (November 15, 1990).

(J) Combined cycle system—A system comprised of one (1) 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—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—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 subsection (1)(E) of this rule, for a unit that is a NO_x budget unit under section (1) 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 repowered. Except as provided in subsections (1)(E) or (3)(H) of this rule, for a unit that is not a NO_x budget unit under section (1) of this rule on the date the unit commences commercial operation, the date the unit becomes a NO_x budget unit under section (1) of this rule shall be the unit's date of commencement of commercial operation.

(M) Commence operation—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 subsection (1)(E) of this rule, for a unit that is a NO_x budget unit under section (1) 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 subsection (1)(E) of this rule or subsection (3)(H) of this rule, for a unit that is not a NO_x budget unit under section (1) of this rule on the date of commencement of operation, the date the unit becomes a NO_x budget unit under section (1) of this rule shall be the unit's date of commencement of operation.

(N) Common stack—A single flue through which emissions from two (2) or more units are exhausted.

(O) Compliance account—NO_x allowance tracking system account, established by the administrator for a NO_x budget unit under subsection (3)(F) of this rule, 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 emissions limitation.

(P) Compliance certification—A submission to the director or the administrator, that is required under subsection (3)(D) of this rule to report a NO_x budget source's or a NO_x budget unit's compliance or noncompliance with this part and that is signed by the NO_x authorized account representative in accordance with subsection (3)(B) of this rule.

(Q) Continuous emissions monitoring system (CEMS)—The equipment required under section (4) of this rule to sample, analyze, measure, and provide, by readings taken at least once every fifteen (15) minutes of the measured parameters, a 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 emissions 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 section (4) of this rule;

4. A continuous moisture monitor when such monitoring is required by section (4) of this rule; and

5. An automated data acquisition and handling system.

(R) Control period—The period beginning May 1 of a calendar year and ending on September 30 of the same calendar year.

(S) Emissions—Air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the NO_x authorized account representative and as determined by the administrator in accordance with section (4) of this rule.

(T) Energy Information Administration—The Energy Information Administration of the United States Department of Energy.

(U) Fossil fuel—Natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(V) Fossil fuel-fired—With regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel—

1. Actually combusted comprises more than fifty percent (50%) 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. Is projected to comprise more than fifty percent (50%) 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—A NO_x allowance tracking system account, established under subsection (3)(F) of this rule, that is not a compliance account or an overdraft account.

(X) Generator—A device that produces electricity.

(Y) Heat input—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 administrator in accordance with section (4) of this rule, 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—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 thirty (30) years, including contracts that permit an election for early termination; or

3. For a period equal to or greater than twenty-five (25) years or seventy percent (70%) 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—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—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 flow rate 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—The NO_x emission rate of nitrogen oxides (in lb/mmBtu) calculated in accordance with section 3 of Appendix F of 40 CFR 75, using the maximum potential nitrogen oxides concentration as defined in section 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—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—Any monitoring system that meets the requirements of section (4) of this rule, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

(FF) Nameplate capacity—The maximum electrical generating output (in MW) 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.

(GG) Non-Title V permit—A federally enforceable permit administered by the director pursuant to the CAA and regulatory authority under the CAA, other than Title V of the CAA and 40 CFR 70 or 40 CFR 71.

(HH) NO_x allowance—An authorization by the department or the administrator under the NO_x budget trading program to emit up to one (1) ton of nitrogen oxides during the control period of the specified year or of any year thereafter.

(II) NO_x allowance deduction or deduct NO_x allowances—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 emissions from a NO_x budget unit for a control period, determined in accordance with section (4) of this rule, or for any other NO_x allowance surrender obligation under this part.

(JJ) NO_x allowances held or hold NO_x allowances—The NO_x allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with subsections (3)(F) and (G) of this rule, in a NO_x allowance tracking system account.

(KK) NO_x allowance tracking system—The system by which the administrator records allocations, deductions, and transfers of NO_x allowances under the NO_x budget trading program.

(LL) NO_x allowance tracking system account—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.

(MM) NO_x allowance transfer deadline—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.

(NN) NO_x authorized account representative—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 subsection (3)(B) of this rule, 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 subsection (3)(F) of this rule, to transfer or otherwise dispose of NO_x allowances held in the general account.

(OO) NO_x budget emissions limitation—For a NO_x budget unit, the tonnage equivalent of the NO_x allowances available for compliance deduction for the unit and for a control period under subparagraph (3)(F)5.A. or B. of this rule for the control period or to account for excess emissions for a prior control period under subparagraph (3)(F)5.D. of this rule or to account for withdrawal from the NO_x budget program.

(PP) NO_x budget permit—The legally binding and federally enforceable written document, or portion of such document, issued by the director, 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.

(QQ) NO_x budget source—A source that includes one (1) or more NO_x budget units.

(RR) NO_x budget trading program—A multi-state nitrogen oxides air pollution control and emission reduction program established in accordance with this rule and pursuant to 40 CFR 51.121, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(SS) NO_x budget unit—A unit that is subject to the NO_x budget trading program emissions limitation under section (1) or paragraph (3)(H)1. of this rule.

(TT) Operating—With regard to a unit under part (3)(C)3.D.(II) and paragraph (3)(H)1. of this rule, having documented heat input for more than eight hundred seventy-six (876) hours in the six (6) months immediately preceding the submission of an application for an initial NO_x budget permit under subparagraph (3)(H)4.A. of this rule.

(UU) Operator—Any person who operates, controls, or supervises a NO_x budget unit, or a NO_x budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(VV) Overdraft account—The NO_x allowance tracking system account, established by the administrator under subsection (3)(F) of this rule, for each NO_x budget source where there are two (2) or more NO_x budget units.

(WW) Owner—Any of the following persons:

1. Any holder of any portion of the legal or equitable title in a NO_x budget unit;

2. Any holder of a leasehold interest in a NO_x budget unit;

3. Any purchaser of power from a NO_x budget unit 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

4. With respect to any general account, any person who has an ownership interest with respect to the 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.

(XX) Receive or receipt of—When referring to the director 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 director or the administrator in the regular course of business.

(YY) Recordation, record, or recorded—With regard to NO_x allowances, the movement of NO_x allowances by the administrator from one (1) NO_x allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

(ZZ) Reference method—Any direct test method of sampling and analyzing for an air pollutant as specified in Appendix A of 40 CFR 60.

(AAA) Serial number—When referring to NO_x allowances, the unique identification number assigned to each NO_x allowance by the administrator, under subparagraph (3)(F)4.C. of this rule.

(BBB) Source—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 section 502(c) of the CAA, a "source," including a "source" with multiple units, shall be considered a single "facility."

(CCC) State—One (1) of the forty-eight (48) contiguous states and the District of Columbia specified in 40 CFR 51.121, or any non-federal authority in or including such states or the District of Columbia (including local agencies, and statewide agencies) or any eligible Indian tribe in an area of such state or the District of Columbia, that adopts a NO_x budget trading program pursuant to 40 CFR 51.121. To the extent a state incorporates by reference the provisions of this part, the term "state" shall mean the incorporating state. The term "state" shall have its conventional meaning where such meaning is clear from the context.

(DDD) State trading program NO_x budget—The total number of tons apportioned to all NO_x budget units in a given state, in accordance with the NO_x budget trading program, for use in a given control period.

(EEE) Submit or serve—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," "service," or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(FFF) Title V operating permit—A permit issued under Title V of the CAA and 40 CFR 70 or 40 CFR 71.

(GGG) Title V operating permit regulations—The regulations that the administrator has approved or issued as meeting the requirements of Title V of the CAA and 40 CFR 70 or 40 CFR 71.

(HHH) Ton or tonnage—Any "short ton" (i.e., two thousand (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 section (4) of this rule, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one (1) ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

(III) Unit—a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

(JJJ) Unit load—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 (MW) 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 pressure (psia) produced by the unit, including steam for use by the unit.

(KKK) Unit operating day—A calendar day in which a unit combusts any fuel.

(LLL) Unit operating hour or hour of unit operation—Any hour or fraction of an hour during which a unit combusts fuel.

(MMM) Utilization—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 for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(NNN) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Standard Requirements.

1. Permit requirements.

A. The NO_x authorized account representative of each NO_x budget source required to have a federally enforceable permit and each NO_x budget unit required to have a federally enforceable permit at the source shall:

(I) Submit to the director a complete NO_x budget permit application under paragraph (3)(C)3. of this rule in accordance with the deadlines specified in subparagraphs (3)(C)2.B. and C. of this rule; and

(II) Submit in a timely manner any supplemental information that the director determines is necessary in order to review a NO_x budget permit application and issue or deny a NO_x budget permit.

B. The owners and operators of each NO_x budget source required to have a federally enforceable permit and each NO_x budget unit required to have a federally enforceable permit at the source shall have a NO_x budget permit issued by the director and operate the unit in compliance with such NO_x budget permit.

C. The owners and operators of a NO_x budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_x budget permit application, and to have a NO_x budget permit, under subsection (3)(C) of this rule for such NO_x budget source.

2. Monitoring requirements.

A. 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 section (4) of this rule.

B. The emissions measurements recorded and reported in accordance with section (4) of this rule shall be used to determine compliance by the unit with the NO_x budget emissions limitation under paragraph (3)(A)3. of this rule.

3. Nitrogen oxides requirements.

A. 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 paragraph (3)(F)5. of this rule, 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 emissions for the control period from the unit, as determined in accordance with section (4) of this rule.

B. Each ton of nitrogen oxides emitted in excess of the NO_x budget emissions limitation shall constitute a separate violation of this rule, the CAA, and applicable state law.

C. A NO_x budget unit shall be subject to the requirements under subparagraph (3)(A)3.A. of this rule starting on the later of May 1, 2007 or the date on which the unit commences operation.

D. NO_x allowances shall be held in, deducted from, or transferred among NO_x allowance tracking system accounts in accordance with subsections (3)(E), (F), (G), and (H) of this rule.

E. A NO_x allowance shall not be deducted, in order to comply with the requirements under subparagraph (3)(A)3.A. of this rule, for a control period in a year prior to the year for which the NO_x allowance was allocated.

F. A NO_x allowance allocated by the director or the administrator under the NO_x budget trading program is a limited authorization to emit one (1) 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 subsection (1)(E) 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.

G. A NO_x allowance allocated by the director or the administrator under the NO_x budget trading program does not constitute a property right.

H. Upon recordation by the administrator under subsections (3)(F), (G), or (H) of this rule, 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 any further review.

4. Excess emissions requirements. The owners and operators of a NO_x budget unit that has excess emissions in any control period shall:

A. Surrender the NO_x allowances required for deduction under part (3)(F)5.D.(I) of this rule; and

B. Pay any fine, penalty, or assessment or comply with any other remedy imposed under part (3)(F)5.D.(III) of this rule.

5. Record keeping and reporting requirements.

A. 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 five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the director 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 paragraph (3)(B)4.; provided that the certificate and documents shall be retained on-site at the source beyond such five (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 section (4) of this rule; provided that to the extent that section (4) of this rule provides for a three (3)-year period for record keeping, the three (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.

B. 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 subsections (3)(D), (3)(H), or section (4) of this rule.

6. Liability.

A. 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 subsection (1)(E) of this rule shall be subject to enforcement pursuant to applicable state or federal law.

B. 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.

C. 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.

D. Each NO_x budget source and each NO_x budget unit shall meet the requirements of the NO_x budget trading program.

E. 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.

F. 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 section (4) of this rule, 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.

7. 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 subsection (1)(E) 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, a federally enforceable permit, or the CAA.

(B) NO_x Authorized Account Representative for NO_x Budget Sources.

1. Responsibilities of the NO_x authorized account representative.

A. Except as provided under paragraph (3)(B)2. of this rule, each NO_x budget source, including all NO_x budget units at the source, shall have one (1) and only one (1) 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 (3)(B)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 director, 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 (3)(B)4. of this rule for a NO_x authorized account representative of the source and the NO_x budget units at the source.

E. NO_x budget trading program submissions.

(I) 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.”

(II) The director 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 part (3)(B)1.E.(I) of this rule.

2. Alternate NO_x authorized account representative.

A. An account certificate of representation may designate one (1) and only one (1) 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 (3)(B)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 paragraphs (3)(B)2. through 4., (3)(F)2. and subparagraph (3)(B)1.A. of this rule, whenever the term "NO_x authorized account representative" is used in this part, 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 authorized account representative; changes in the 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 (3)(B)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 (3)(B)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.

(I) 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 director or the administrator, as if the new owner or operator were included in such list.

(II) Within thirty (30) days following any change in the owners or 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:

(I) 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.

(II) 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.

(III) A list of the owners and operators of the NO_x budget source and of each NO_x budget unit at the source.

(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 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 director, the administrator, or a court regarding the source or unit."

(V) 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 director or the administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the director or the administrator. Neither the director 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 (3)(B)4. of this rule has been submitted and received, the director and the administrator will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under paragraph (3)(B)4. of this rule is received by the administrator.

B. Except as provided in subparagraph (3)(B)3.A. or B. of this rule, no objection or other communication submitted to the director 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 director or the administrator under the NO_x budget trading program.

C. Neither the director 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.

(C) NO_x Budget Permits.

1. General NO_x budget trading program permit requirements.

A. For each NO_x budget source required to have a federally enforceable permit, such permit shall include a NO_x budget permit administered by the director.

(I) For NO_x budget sources required to have a Title V operating permit, the NO_x budget portion of the Title V permit shall be administered in accordance with the director's Title V operating permits regulations promulgated under 40 CFR 70 or 71, except as provided otherwise by subsection (3)(C) or (H) of this rule.

(II) For NO_x budget sources required to have a non-Title V permit, the NO_x budget portion of the non-Title V permit shall be administered in accordance with the director's regulations promulgated to administer non-Title V permits, except as provided otherwise by subsection (3)(C) or (H) of this rule.

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 (3)(C)1.A. of this rule.

2. Submission of NO_x budget permit applications.

A. The NO_x authorized account representative of any NO_x budget source required to have a federally enforceable permit shall submit to the director a complete NO_x budget permit application under paragraph (3)(C)3. of this rule by the applicable deadline in subparagraph (3)(C)3.B. of this rule.

B. Application time.

(I) For NO_x budget sources required to have a Title V operating permit:

(a) For any source, with one (1) or more NO_x budget units under section (1) of this rule that commence operation before January 1, 2006, the NO_x authorized account representative shall submit a complete NO_x budget permit application under paragraph (3)(C)3. of this rule covering such NO_x budget units to the director at least eighteen (18) months (or such lesser time provided under the director's Title V operating permits regulations for final action on a permit application) before May 1, 2007.

(b) For any source, with any NO_x budget unit under section (1) of this rule that commences operation on or after January 1, 2006, the NO_x authorized account representative shall submit a complete NO_x budget permit application under paragraph (3)(C)3. of this rule covering such NO_x budget unit to the director at least eighteen (18) months (or such lesser time provided under the director's Title V operating permits regulations for final action on a permit application) before the later of May 1, 2007 or the date on which the NO_x budget unit commences operation.

(II) For NO_x budget sources required to have a non-Title V permit:

(a) For any source, with one (1) or more NO_x budget units under section (1) of this rule that commence operation before January 1, 2006, the NO_x authorized account representative shall submit a complete NO_x budget permit application under paragraph (3)(C)3. of this rule covering such NO_x budget units to the director at least eighteen (18) months (or such lesser time provided under the director's non-Title V permits regulations for final action on a permit application) before May 1, 2007.

(b) For any source, with any NO_x budget unit under section (1) of this rule that commences operation on or after January 1, 2006, the NO_x authorized account representative shall submit a complete NO_x budget permit application under paragraph (3)(C)3. of this rule covering such NO_x budget unit to the director at least eighteen (18) months (or such lesser time provided under the director's non-Title V permits regulations for final action on a permit application) before the later of May 1, 2007 or the date on which the NO_x budget unit commences operation.

C. Duty to reapply.

(I) For a NO_x budget source required to have a Title V operating permit, the NO_x authorized account representative shall submit a complete NO_x budget permit application under paragraph (3)(C)3. of this rule for the NO_x budget source covering the NO_x budget units at the source in accordance with the director's Title V operating permits regulations addressing operating permit renewal.

(II) For a NO_x budget source required to have a non-Title V permit, the NO_x authorized account representative shall submit a complete NO_x budget permit application under paragraph (3)(C)3. of this rule for the NO_x budget source covering the NO_x budget units at the source in accordance with the director's non-Title V permits regulations addressing 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 director:

A. Identification of the NO_x budget source, including plant name and the Office of Regulatory Information Systems (ORIS) 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 section (1) of this rule or under subsection (3)(H) of this rule; and

C. The standard requirements under subsection (3)(A) of this rule.

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 director, all elements required for a complete NO_x budget permit application under paragraph (3)(C)3. of this rule as approved or adjusted by the director.

B. Each NO_x budget permit is deemed to incorporate automatically the definitions of terms under section (2) of this rule and, upon recordation by the administrator under subsections (3)(F), (G), or (H) of this rule, 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 (3)(C)2.B.of this rule shall become effective by the later of:

A. May 1, 2007;

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 Title V operating permit, except as provided in subparagraph (3)(C)4.B. of this rule, the director will revise the NO_x budget permit, as necessary, in accordance with the director's Title V operating permits regulations addressing permit revisions.

B. For a NO_x budget source with a non-Title V permit, except as provided in subparagraph (3)(C)4.B. of this rule, the director will revise the NO_x budget permit, as necessary, in accordance with the director's non-Title V permits regulations addressing permit revisions.

(D) Compliance Certification.

1. Compliance certification report.

A. For each control period in which one (1) 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 director and the administrator by November 30 of that year, a compliance certification report for each source covering all such units.

B. The NO_x authorized account representative shall include in the compliance certification report under subparagraph (3)(D)1.A. of this rule 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:

(I) Identification of each NO_x budget unit;

(II) At the NO_x authorized account representative's option, the serial numbers of the NO_x allowances that are to be deducted from each unit's compliance account under paragraph (3)(F)5. of this rule for the control period;

(III) At the NO_x authorized account representative's option, for units sharing a common stack and having emissions that are not monitored separately or apportioned in accordance with section (4) of this rule, the percentage of NO_x allowances that is to be deducted from each unit's compliance account under subparagraph (3)(F)5.E. of this rule; and

(IV) The compliance certification under subparagraph (3)(D)1.C. of this rule.

C. In the compliance certification report under subparagraph (3)(D)1.A. of this rule, 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:

(I) Whether the unit was operated in compliance with the NO_x budget emissions limitation;

(II) 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 emissions to the unit, in accordance with section (4) of this rule;

(III) Whether all the 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 section (4) of this rule. 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 resubmissions have been made;

(IV) Whether the facts that form the basis for certification under section (4) of this rule 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 section (4) of this rule, if any, has changed; and

(V) If a change is required to be reported under part (3)(D)1.C.(IV) of this rule, 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 recertification.

2. Director's and administrator's action on compliance certifications.

A. The director 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 (3)(D)2.A. of this rule.

(E) NO_x Allowance Allocations.

1. The state trading program NO_x budget allocated by the director under paragraphs (3)(E)2. and (3)(E)3. of this rule for a control period will equal the total number of tons of emissions apportioned to the NO_x budget units in Missouri for the control period, as determined by the applicable, approved state implementation plan.

2. The following NO_x budget units shall be allocated NO_x allowances for each control period in accordance with Table I of paragraph (3)(E)2.

Table I

NO_x Budget Unit	**Unit**	**Percentage of 1995 Heat Input**	**NO_x Allowances by Unit**
Associated Electric Cooperative—New Madrid	1	8.49	1126
Associated Electric Cooperative—New Madrid	2	8.91	1182
Ameren—Howard Bend	1	0.02	3
Ameren—Labadie	1	8.64	1146
Ameren—Labadie	2	9.52	1263

Ameren—Labadie	3	10.92	1449
Ameren—Labadie	4	10.09	1339
Ameren—Meramec	1	0.86	114
Ameren—Meramec	2	0.66	88
Ameren—Meramec	3	1.14	152
Ameren—Meramec	4	2.11	280
Ameren—Meramec	5	0.04	5
Ameren—Rush Island	1	10.59	1405
Ameren—Rush Island	2	10.52	1395
Ameren—Sioux	1	6.10	809
Ameren—Sioux	2	5.47	726
Ameren—Viaduct	1	0.03	4
City of Sikeston	1	5.88	780
Energy efficiency and renewable generation projects set-aside			134

3. The following existing non-EGU boilers shall be allocated NOx allowances for each control period in accordance with Table II of paragraph (3)(E)3.

Table II

Non-EGUs Boilers	**Unit**	**NO_x Limitation per Unit Tons Per Ozone Season**
Anheuser Busch	6	14
Trigen Ashley Street Station Boiler	5	9
Trigen Ashley Street Station Boiler	6	36

4. Any unit subject to subsection (1)(B) other than those listed in Tables I and II of this subsection will not be allocated NO_x budget allowances under this rule.

5. *Reserved*

6. Any person seeking set aside NO_x allowances for energy efficiency and renewable generation projects shall meet the requirements of paragraph (3)(E)6. of this rule.

A. The purpose for establishing these set-asides is to allocate NO_x allowances to serve as incentives for saving or generating electricity through the implementation of energy efficiency and renewable generation projects as defined in this section.

(I) Each energy efficiency and renewable generation set-aside shall contain the number of NO_x allowances as provided in Table I of this subsection.

(II) Awards of NO_x allowances will be available only to eligible energy efficiency or renewable generation projects that—

(a) Commence operation after September 1, 2005;

(b) Reduce electricity use, generate electricity from renewable resources or provide combined heat and power benefits during the period of May 1 through September 30, 2006, or subsequent control periods; and

(c) In an application submitted by November 30 of each year, include adequate documentation of these energy savings, renewable energy generation or combined heat and power benefits.

(III) Projects will be awarded NO_x allowances denominated for the control period following the control period during which the qualifying project activities took place. For example, sponsors of project activities that take place during the 2006 control period will receive NO_x allowances denominated for the 2007 control period.

(IV) Projects may qualify for awards from the set-aside for up to five (5) consecutive control periods.

(V) Department actions on applications for awards from the set-aside. The department shall act upon applications as follows:

(a) By March 1 preceding the control period for which NO_x allowances are requested, the department shall take the following actions:

I. For each application, the department shall determine whether the project is eligible and the application is complete and shall notify the applicant of its determination.

II. For the eligible and complete applications, the department shall calculate the total number of NO_x allowances which the projects are qualified to receive, not to exceed the total number of NO_x allowances allocated to the set-aside as provided in Table I of this subsection, and shall award said NO_x allowances to eligible energy efficiency or renewable generation projects.

(b) If the number of NO_x allowances awarded is fewer than NO_x allowances allocated to the set-aside as provided in Table I of this subsection, the department shall transfer surplus NO_x allowances to the accounts of the electric utilities listed in Table I of this subsection on a pro rata basis in the same proportion as allocations to NO_x budget units set forth in Table I of this subsection.

(c) If the number of NO_x allowances claimed for award is more than NO_x allowances allocated to the set-aside as provided in Table I of this subsection, the department shall determine awards based on each applicant’s position in an eligible projects queue that will be established by the department.

B. Project eligibility. Allocations from the energy efficiency and renewable generation set-aside may be requested by any entity, including an electric utility listed in Table I of this subsection or its affiliate, that implements and demonstrates eligible projects as defined in this subparagraph.

(I) Eligibility requirements. The department shall establish requirements for project eligibility and shall determine which projects are eligible to receive awards from the set-aside.

(II) Only the following shall be eligible for awards from the set-aside:

(a) Energy efficiency projects resulting in reduced or more efficient electricity use through the voluntary modification of maintenance and operating procedures in a building or facility or the voluntary installation, replacement, or modification of equipment, fixtures, or materials in a building or facility.

I. Energy efficiency projects may be directed toward or located within buildings or facilities owned, leased, operated or controlled by an electric utility listed in Table I of this subsection or its affiliate. Eligibility requirements for these projects shall be the same as for any other energy efficiency project.

II. Energy efficiency projects may include demand side programs that result in reduced or more efficient electricity use;

(b) Renewable generation projects, including electric generation from wind, photovoltaic systems, biogas, geothermal and hydropower projects. Renewable generation projects do not include nuclear power projects. Eligible biogas projects include projects to generate electricity from methane gas captured from sanitary landfills, wastewater treatment plants, sewage treatment plants or agricultural livestock waste treatment systems. Eligible hydropower projects are restricted to systems—

I. That are certified by the Low Impact Hydropower Institute;

II. That employ a head of ten feet (10') or less; or

III. Employing a head greater than ten feet (10') that make use of a dam that existed prior to the effective date of this rule;

(c) Renewable biomass generation projects including projects in which one (1) or more biomass fuels is fired separately or co-fired with one (1) or more fossil fuels to generate electricity. Biomass includes wood and wood waste, energy crops such as switchgrass and agricultural wastes such as crop and animal waste. Electric generation from combustion of municipal solid waste is not included; and

(d) Combined heat and power projects that use integrated technologies, including cogeneration, which convert fuel to electric, thermal, and mechanical energy for on-site or local use. In the case of electricity generation combined heat and power can include export of power to the local electric utility transmission grid. The thermal energy from combined heat and power systems can be created and used in the form of steam, hot or chilled water for process, space heating or cooling, or other applications. To be eligible, the combined heat and power installation must meet or exceed technology-specific efficiency thresholds that will be established by the department.

(III) Additional eligibility requirements shall include the following:

(a) NO_x authorized account representative must be designated for the project on forms provided by the department;

(b) Only projects that are not required by federal government regulation and that are not and will not be used to generate compliance or permitting credits otherwise in the SIP are eligible to receive NO_x allowances from the set-aside;

(c) Only projects that equal at least one (1) ton of NO_x emissions, using conventional arithmetic rounding, are eligible to receive NO_x allowances from the set-aside. Multiple projects may be aggregated into a single NO_x allowance allocation request to equal one (1) or more tons of NO_x emissions;

(d) Only projects that commence operation after September 1, 2005 are eligible to receive NO_x allowances from the set-aside;

(e) Location of the project:

I. Renewable generation projects and renewable biomass generation projects, as defined in subpart (3)(E)6.B.(II)(C) of this rule located anywhere in the state of Missouri are eligible if the generation facility meets all other eligibility requirements and—

a. The facility is owned, leased, operated or controlled by an electric utility listed in Table I of this subsection or an affiliate and generates electricity that is primarily intended to be marketed or distributed to end users who are included in the utility’s native load or who are located in the Missouri SIP region; or

b. The facility supplies power through a power purchase contract to an electric utility listed in Table I of this subsection or an affiliate and the power purchased is primarily intended to be marketed or distributed to end users who are included in the utility’s native load or who are located in the Missouri SIP region.

II. Energy efficiency projects and combined heat and power projects, as defined in subpart (3)(E)6.B.(II)(d) of this rule, must be located in the area described in subsection (1)(A) of this rule to be eligible to receive NO_x allowances from the set-aside.

(IV) Pre-application eligibility review. Project sponsors may request a pre-application eligibility review preceding project activities that will serve as the basis for an application for awards from the set-aside. The review will cover eligibility requirements that can be determined prior to receipt of a complete application for awards. The request for early eligibility review must be submitted on forms provided by the department.

(V) Eligibility for any project may be claimed by only one (1) entity. The department shall determine procedures to be followed if multiple claims of eligibility for the same project are received.

C. Applications and calculations of awards. To qualify for an award of NO_x allowances from the set-aside an applicant must meet the following requirements:

(I) The project must be eligible as provided in paragraph (3)(E)6. of this rule;

(II) A complete application must be received by the last business day of November following the period of May 1 through September 30 during which the eligible project activities occurred. The application shall—

(a) Be prepared on forms provided by the department and must be submitted by the project's NO_x authorized account representative;

(b) Be submitted with certification by a professional engineer attesting that information and calculations submitted in the application are complete and accurate.

I. The department shall have the right to require verification of data and calculations that are presented in an application as a condition for awarding NO_x allowances to the applicant; and

II. Verification may include site visits by agents of the department;

(c) Demonstrate electricity savings or renewable generation and calculate the NO_x allowance award requested using methods that adhere to measurement and verification standards approved by the department; and

(d) If the applicant intends to reapply in subsequent years, the application must indicate the stream of benefits that is expected in subsequent years;

(III) The department shall determine methods for calculating awards of NO_x allowances based upon the following principles:

(a) NO_x allowances awarded to end-use electrical energy efficiency projects shall be calculated as the number of megawatt hours (MWh) of electricity saved during a control period multiplied by an emissions factor of 1.5 pounds of NO_x per MWh appropriately converted and rounded to tons using conventional arithmetic rounding. The department shall provide a factor to adjust the calculation of electricity saved to account for transmission and distribution line losses;

(b) NO_x allowances awarded to renewable generation projects from wind, photovoltaic systems, biogas, geothermal and hydropower projects shall be calculated as the number of kilowatt hours of electricity generated during a control period multiplied by an emissions factor of 1.5 pounds of NO_x per MWh appropriately converted and rounded to tons using conventional arithmetic rounding;

(c) NO_x allowances awarded to renewable biomass generation projects shall be calculated based on net NO_x emission reductions, appropriately converted and rounded to tons using conventional arithmetic rounding where—

I. Net NO_x emissions shall be calculated as the number of kilowatt hours of electricity generated during a control period multiplied by an emissions factor of 1.5 pounds of NO_x per MWh, minus the tons of NO_x emitted by the renewable generating project during the control period; and

II. When biomass is co-fired with other fuels, its share of electric generation and NO_x emissions shall be calculated based on its share of the total heat content of all fuels used in the co-firing process; and

(d) The department shall determine methods for calculating NO_x allowances for combined heat and power projects; and

(IV) A project’s NO_x authorized account representative may reapply for set-aside awards for up to five (5) consecutive control periods by meeting the following requirements:

(a) Reapplication must be received by the last business day of November following the last day of the control period during which the energy efficiency and renewable electric generation activities took place;

(b) The reapplication must be prepared on forms provided by the department and must be submitted by the project’s NO_x authorized account representative; and

(c) The application must be submitted with certification by a professional engineer attesting that information and calculations submitted in the application are complete and accurate.

(F) 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 (3)(F)2.A. of this rule, the administrator will establish one (1) compliance account for each NO_x budget unit and one (1) overdraft account for each source with one (1) or more NO_x budget units. Allocations of NO_x allowances pursuant to subsection (3)(E) or paragraph (3)(H)9. of this rule and deductions or transfers of NO_x allowances pursuant to paragraphs (3)(D)2., (3)(F)5., (3)(F)7., subsection (3)(G), or subsection (3)(H) of this rule will be recorded in the compliance accounts or overdraft accounts in accordance with subsection (3)(F) of this rule.

B. Nature and function of general accounts. Consistent with subparagraph (3)(F)2.B. of this rule, the administrator will establish, upon request, a general account for any person. Transfers of NO_x allowances pursuant to subsection (3)(G) of this rule will be recorded in the general account in accordance with subsection (3)(F) of this rule.

2. Establishment of accounts.

A. Compliance accounts and overdraft accounts. Upon receipt of a complete account certificate of representation under paragraph (3)(B)4. of this rule, the administrator will establish—

(I) A compliance account for each NO_x budget unit for which the account certificate of representation was submitted; and

(II) An overdraft account for each source for which the account certificate of representation was submitted and that has two (2) or more NO_x budget units.

B. General accounts.

(I) Any person may apply to open a general account for the purpose of holding and transferring NO_x 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:

(a) 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;

(b) At the option of the NO_x authorized account representative, organization name and type of organization;

(c) 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 NO_x allowances held in the general account;

(d) 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 alternate NO_x authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to 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 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";

(e) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed; and

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

(II) Upon receipt by the administrator of a complete application for a general account under part (3)(F)2.B.(I) of this rule:

(a) The administrator will establish a general account for the person or persons for whom the application is submitted;

(b) 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, notwithstanding 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;

(c) 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: “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”; and

(d) 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 subpart (3)(F)2.B.(II)(c) of this rule.

(III) NO_x authorized account representative for general accounts.

(a) An application for a general account may designate one (1) and only one (1) NO_x authorized account representative and one (1) and only one (1) 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 application for a general account under part (3)(F)2.B.(I) of this rule, 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.

(IV) Changes in account representatives for general accounts; changes in owners and operators.

(a) 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 part (3)(F)2.B.(I) 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 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 NO_x allowances in the general account.

(b) 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 part (3)(F)2.B.(I) 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 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 NO_x allowances in the general account.

(c) Changes in the owners and operators.

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 thirty (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.

(V) Objections concerning the NO_x authorized account representative for a general account.

(a) Once a complete application for a general account under part (3)(F)2.B.(I) of this rule has been submitted and received, the administrator will rely on the application unless and until a superseding complete application for a general account under part (3)(F)2.B.(I) of this rule is received by the administrator.

(b) Except as provided in part (3)(F)2.B.(IV) of this rule, 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.

(c) 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 subparagraphs (3)(F)2.A. or B. of this rule.

3. 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. NO_x 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. The administrator will record the NO_x allowances for 2007 and 2008 in the NO_x budget units' compliance accounts and the allocation set-asides, as allocated under subsection (3)(E) of this rule.

B. Each year, after the administrator has made all deductions from a NO_x budget unit's compliance account and the overdraft account pursuant to paragraph (3)(F)5. of this rule, the administrator will record NO_x allowances, as allocated to the unit under subsection (3)(E) of this rule or under part (3)(H)9.A.(II) of this rule, in the compliance account for the year after the last year for which NO_x allowances were previously allocated to the compliance account. Each year, the administrator will also record NO_x allowances, as allocated under subsection (3)(E) of this rule, in the allocation set-aside for the year after the last year for which NO_x allowances were previously allocated to an allocation set-aside.

C. Serial numbers for allocated NO_x allowances. When allocating NO_x allowances to 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—

(I) Were allocated for a control period in a prior year or the same year; and

(II) 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 paragraph (3)(G)1. of this rule by the NO_x allowance transfer deadline for that control period.

B. Deductions for compliance.

(I) Following the recordation, in accordance with paragraph (3)(G)2. of this rule, 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 (3)(F)5.A. of this rule to cover the unit's emissions (as determined in accordance with section (4) of this rule) for the control period—

(a) From the compliance account; and

(b) Only if no more NO_x allowances available under subparagraph (3)(F)5.A. of this rule remain in the compliance account, from the overdraft account. In deducting NO_x 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).

(II) The administrator will deduct NO_x allowances first under subpart (3)(F)5.B.(I)(a) of this rule and then under subpart (3)(F)5.B.(I)(b) of this rule—

(a) Until the number of NO_x allowances deducted for the control period equals the number of tons of emissions, determined in accordance with section (4) of this rule, from the unit for the control period for which compliance is being determined; or

(b) Until no more NO_x allowances available under subparagraph (3)(F)5.A. of this rule remain in the respective account.

C. Identification of NO_x allowances.

(I) 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 subparagraph (3)(F)5.B., D., or E. of this rule. Such identification shall be made in the compliance certification report submitted in accordance with paragraph (3)(D)1. of this rule.

(II) 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 part (3)(F)5.C.(I) of this rule, or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(a) Those NO_x allowances that were allocated for the control period to the unit under subsection (3)(E) or (H) of this rule;

(b) Those NO_x allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to subsection (3)(G) of this rule, in order of their date of recordation;

(c) Those NO_x allowances that were allocated for a prior control period to the unit under subsection (3)(E) or (H) of this rule; and

(d) Those NO_x allowances that were allocated for a prior control period to any unit and transferred and recorded in the account pursuant to subsection (3)(G) of this rule, in order of their date of recordation.

D. Deductions for excess emissions.

(I) After making the deductions for compliance under subparagraph (3)(F)5.B. of this rule, 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 (3) times the number of the unit's excess emissions.

(II) 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) Any NO_x allowance deduction required under subparagraph (3)(F)5.D. of this rule 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:

(a) 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 (one hundred fifty-three (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; and

(b) 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 section (4) of this rule—

(I) 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 emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with paragraph (3)(D)1. of this rule; and

(II) Notwithstanding subpart (3)(F)5.B.(II)(a) of this rule, 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 part (3)(F)5.E.(I) of this rule) of the number of tons of emissions, as determined in accordance with section (4) of this rule, 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 subparagraph (3)(F)5.B., D., or E. of this rule.

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:

(I) 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 paragraphs (3)(D)2., (3)(F)5., (3)(F)7., subsection (3)(G), or subsection (3)(H) of this rule.

(II) 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 (3)(F)5. of this rule and that was allocated for that control period or a control period in a prior year.

B. Each year starting in 2008, after the administrator has completed the designation of banked NO_x allowances under part (3)(F)6.A.(II) of this rule 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:

(I) The administrator will determine the total number of banked NO_x allowances held in compliance accounts, overdraft accounts, or general accounts.

(II) If the total number of banked NO_x allowances determined, under part (3)(F)6.B.(I) of this rule, to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to ten percent (10%) of the sum of the state trading program NO_x 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 (3)(F)5. of this rule.

(III) If the total number of banked NO_x allowances determined, under part (3)(F)6.B.(I) of this rule, to be held in compliance accounts, overdraft accounts, or general accounts exceeds ten percent (10%) of the sum of the state trading program NO_x 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 (3)(F)5. of this rule, except as follows:

(a) The administrator will determine the following ratio: 0.10 multiplied by the sum of the state trading program NO_x 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 part (3)(F)6.B.(I) of this rule, to be held in compliance accounts, overdraft accounts, or general accounts.

(b) The administrator will multiply the number of banked NO_x allowances in each compliance account or overdraft account. The resulting product is the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with paragraph (3)(F)5. of this rule. Any banked NO_x allowances in excess of the resulting product may be deducted for compliance in accordance with paragraph (3)(F)5. of this rule, except that, if such NO_x allowances are used to make a deduction, two (2) such NO_x allowances must be deducted for each deduction of one (1) NO_x allowance required under paragraph (3)(F)5. of this rule.

C. Any NO_x budget unit may reduce its NO_x emission rate in the 2002 through the 2006 control period, the owner or operator of the unit may request early reduction credits, and the permitting authority may allocate NO_x allowances in 2007 to the unit in accordance with the following requirements:

(I) Each NO_x budget unit for which the owner or operator requests any early reduction credits under part (3)(F)6.C.(IV) of this rule shall monitor emissions in accordance with section (4) of this rule starting prior to the first control period for which ERCs are requested and for each control period for which such early reduction credits are requested. The unit’s monitoring system availability shall be not less than ninety percent (90%) during the applicable control period, and the unit must be in compliance with any applicable state or federal emissions or emissions-related requirements;

(II) NO_x emission rate and heat input under part (3)(F)6.C.(III) through (V) of this rule shall be determined in accordance with section (4) of this rule;

(III) Each NO_x budget unit for which the owner or operator requests any early reduction credits under part (3)(F)6.C.(IV) of this rule shall reduce its NO_x emission rate, for each control period for which early reduction credits are requested, to:

(a) Less than 0.25 lb/mmBtu in the years 2002 and 2003;

(b) Less than 0.25 lb/mmBtu in the years 2004 and 2005 for sources located in an area listed in subsection (1)(A) other than the City of St. Louis and the counties of Franklin, Jefferson, and St. Louis; or

(c) Less than 0.18 lb/mmBtu in the years 2004 through 2006 for sources located in the City of St. Louis and the counties of Franklin, Jefferson, and St. Louis.

(d) The calculation of early reduction credits in any year from 2002 through 2006 must be below any applicable limitation, which is more stringent than the requirements of subparts (a) through (c) of this part.

(IV) The NO_x authorized account representative of a NO_x budget unit that meets the requirements of part (3)(F)6.C.(I) and (III) of this rule may submit to the director 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 2002 or 2006 in accordance with part (3)(F)6.C.(III) of this rule.

(a) 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 applicable NO_x emission rate in part (3)(F)6.C.(III) of this rule and the unit's NO_x emission rate rounded to the nearest ton.

(b) The early reduction credit request must be submitted, in a format specified by the director, 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 permitting authority;

(V) The director will allocate NO_x allowances, to NO_x budget units meeting the requirements of part (3)(F)6.C.(I) and (III) of this rule and covered by early reduction requests meeting the requirements of subpart (3)(F)6.C.(IV)(b) of this rule, in accordance with the following procedures:

(a) Upon receipt of each early reduction credit request, the director will accept the request only if the requirements of parts (3)(F)6.C.(I), (III), and subpart (3)(F)6.C.(IV)(b) of this rule 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 requirement of parts (3)(F)6.C.(II) and (IV) of this rule;

(b) The director will allocate not more than five thousand six hundred thirty (5,630) ERCs over the period from 2002 through 2006, as follows:

I. The director will allocate not more than one half (1/2) of the total ERCs in the years 2002 and 2003;

II. The director will allocate not more than one half (1/2) of the total ERCs in the years 2004 and 2005; and

III. The director will allocate any remaining allowances during the year 2006;

(c) If the number of ERC allowances requested for a reduction achieved in a given control period from 2002 through 2006 is less than the number of ERCs to be distributed in accordance with the requirements of part (b) of this subparagraph, the director will allocate to each budget EGU one (1) allowance for each accepted ERC requested; and

(d) If the number of ERC allowances requested for a reduction achieved in a given control period from 2002 through 2006 is greater than the number of ERCs to be distributed in accordance with the requirements of part (b) of this subparagraph, the director will allocate to each budget EGU allowances for accepted requests on a pro rata basis;

(VI) The director will submit to the administrator the allocations of NO_x allowances determined under part (3)(F)6.C.(V) of this rule by the dates listed in subparts (a) and (b) of this part. The administrator will record such allocations to the extent that they are consistent with the requirements of parts (3)(F)6.C.(I) through (V) of this rule:

(a) For the years 2002 and 2003, the director will submit NO_x allowances on or before April 1, 2006;

(b) For the years 2004 through 2006, the director will submit NO_x allowances on or before April 1, 2007;

(VII) NO_x allowances recorded under part (3)(F)6.C.(VI) of this rule may be deducted for compliance under paragraph (3)(F)5. of this rule for the control periods in 2007 or 2008. Notwithstanding subparagraph (3)(F)6.A. of this rule, the administrator will deduct as retired any NO_x allowance that is recorded under part (3)(F)6.C.(VI) of this rule and is not deducted for compliance in accordance with paragraph (3)(F)5. of this rule for the control period in 2007 or 2008; and

(VIII) NO_x allowances recorded under part (3)(F)6.C.(VI) of this rule are not treated as banked NO_x allowances in 2007, and are treated as banked allowances in 2008, for the purposes of subparagraphs (3)(A)3., (3)(A)4. and (3)(A)5. of this rule.

7. 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 ten (10) business days of making such correction, the administrator will notify the NO_x authorized account representative for the account.

8. 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 paragraph (3)(G)1. of this rule a NO_x allowance transfer of all NO_x allowances in the account to one (1) 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 twenty (20) business days after the notice is sent. The account will be closed after the twenty (20)-day period unless before the end of the twenty (20)-day period the administrator receives a correctly submitted transfer of NO_x allowances into the account under paragraph (3)(G)1. of this rule 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.

(G) NO_x Allowance Transfers.

1. Submission of NO_x allowance transfers. The NO_x authorized account representatives 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

C. The printed name and signature of the NO_x authorized account representative of the transferor account and the date signed.

2. EPA recordation.

A. Within five (5) business days of receiving a NO_x allowance transfer, except as provided in subparagraph (3)(G)2.B. of this rule, 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—

(I) The transfer is correctly submitted under paragraph (3)(G)1. of this rule;

(II) The transferor account includes each NO_x allowance identified by serial number in the transfer; and

(III) 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 subparagraph (3)(F)4.B. of this rule.

C. Where a NO_x allowance transfer submitted for recordation fails to meet the requirements of subparagraph (3)(G)2.A. of this rule, the administrator will not record such transfer.

3. Notification.

A. Notification of recordation. Within five (5) business days of recordation of a NO_x allowance transfer under paragraph (3)(G)2. of this rule, 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 ten (10) business days of receipt of a NO_x allowance transfer that fails to meet the requirements of subparagraph (3)(G)2.A. of this rule, the administrator will notify the NO_x authorized account representatives of both accounts subject to the transfer of—

(I) A decision not to record the transfer; and

(II) The reasons for such non-recordation.

C. Nothing in this section shall preclude the submission of a NO_x allowance transfer for recordation following notification of non-recordation.

(H) *Reserved*

(4) Reporting and Record Keeping.

(A) 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 subpart H of 40 CFR part 75. For purposes of complying with such requirements, the definitions in section (2) of this rule 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 section (2) of this rule.

1. Requirements for installation, certification, and data accounting. The owner or operator of each NO_x budget unit must meet the following requirements:

A. Install all monitoring systems required under section (4) for monitoring mass. This includes all systems required to monitor NO_x emission rate, concentration, heat input, and flow, in accordance with 40 CFR 75.72 and 75.76;

B. Install all monitoring systems for monitoring heat input, if required under subsection (4)(G) of this rule for developing NO_x allowance allocations;

C. Successfully complete all certification tests required under subsection (4)(B) of this rule and meet all other provisions of this rule and 40 CFR 75 applicable to the monitoring systems under subparagraphs (4)(A)1.A. and B. of this rule; and

D. Record, and report data from the monitoring systems under subparagraphs (4)(A)1.A. and B. of this rule.

2. Compliance dates. The owner or operator must meet the requirements of subparagraphs (4)(A)1.A. through C. of this rule on or before the following dates and must record and report data on and after the following dates:

A. NO_x budget units for which the owner or operator intends to apply for early reduction credits under subparagraph (3)(F)6.C. of this rule must comply with the requirements of section (4) of this rule by May 1, 2006;

B. Except for NO_x budget units under subparagraphs (4)(A)2.A. of this rule, NO_x budget units under section (1) of this rule that commence operation before January 1, 2006, must comply with the requirements of section (4) of this rule by May 1, 2006;

NO_x budget units under section (1) of this rule that commence operation on or after January 1, 2006 and that report on an annual basis under paragraph (4)(E)4. of this rule must comply with the requirements of section (4) of this rule by the later of the following dates:

(I) May 1, 2006; or

(II) The earlier of:

(a) One hundred eighty (180) days after the date on which the unit commences operation; or
(b) For units under paragraph (1)(B)1. of this rule, ninety (90) days after the date on which the unit commences commercial operation;

D. NO_x budget units under section (1) of this rule that commence operation on or after January 1, 2006 and that report on a control season basis under paragraph (4)(E)4. of this rule must comply with the requirements of section (4) of this rule by the later of the following dates:

(I) The earlier of:

(a) One hundred eighty (180) days after the date on which the unit commences operation; or

(b) For units under paragraph (1)(B)1. of this rule, ninety (90) days after the date on which the unit commences commercial operation;

(II) However, if the applicable deadline under part (4)(A)2.D.(I) of this rule does not occur during a control period, May 1, immediately following the date determined in accordance with part (4)(A)2.D.(I) of this rule;

E. For a NO_x budget unit with a new stack or flue for which construction is completed after the applicable deadline under subparagraphs (4)(A)2.A., B., or C. or subsection (3)(H) of this rule:

(I) Ninety (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 paragraph (4)(E)4. of this rule and the applicable deadline under part (4)(A)2.E.(I) of this rule does not occur during the control period, May 1 immediately following the applicable deadline in part (4)(A)2.E.(I) of this rule.

3. Reporting data prior to initial certification.

A. The owner or operator of a NO_x budget unit that misses the certification deadline under subparagraph (4)(A)2.A. of this rule is not eligible to apply for early reduction credits. The owner or operator of the unit becomes subject to the certification deadline under subparagraph (4)(A)2.B. of this rule.

B. The owner or operator of a NO_x budget unit under subparagraph (4)(A)2.C. or D. of this rule must determine, record and report mass, heat input (if required for purposes of allocations) and any other values required to determine mass (e.g. NO_x emission rate and heat input or concentration and stack flow) using the provisions of 40 CFR 75.70(g), from the date and hour that the unit starts operating until all required certification tests are successfully completed.

4. Prohibitions.

A. 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 subsection (4)(F) of this rule.

B. 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, emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of section (4) of this rule and 40 CFR 75 except as provided for in 40 CFR 75.74.

C. 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 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 section (4) of this rule and 40 CFR 75 except as provided for in 40 CFR 75.74.

D. 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 section (4) of this rule, except under any one (1) of the following circumstances:

(I) During the period that the unit is covered by a retired unit exemption under subsection (1)(E) of this rule 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 section (4) and 40 CFR 75, by the director 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 (4)(B)2.B. of this rule.

(B) Initial Certification and Recertification Procedures.

1. 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:

A. If, prior to January 1, 2005, 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 paragraph (4)(F)1. of this rule to determine if the approval applies under the NO_x budget trading program.

B. For any additional CEMS required under the common stack provisions in 40 CFR 75.72, or for any concentration CEMS used under the provisions of 40 CFR 75.71(a)(2), the owner or operator shall meet the requirements of paragraph (4)(B)2. of this rule.

2. 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 paragraph (4)(B)3. of this rule 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 paragraph (4)(B)4. of this rule. 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 concentration CEMS under 40 CFR 75.71(a)(2) also shall comply with the following initial certification and recertification procedures.

A. Requirements for initial certification. The owner or operator shall ensure that each monitoring system required by subpart H of 40 CFR 75 (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 paragraph (4)(A)2. of this rule. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this rule in a location where no such monitoring system was previously installed, initial certification according to 40 CFR 75.20 is required.

B. Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that the administrator or the director determines significantly affects the ability of the system to accurately measure or record mass emissions or heat input or to meet the requirements of 40 CFR 75.21 or Appendix B to 40 CFR 75, 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 director determines to significantly change the 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, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.

C. Certification approval process for initial certifications and recertification.

(I) Notification of certification. The NO_x authorized account representative shall submit to the appropriate EPA regional office and the permitting authority a written notice of the dates of certification in accordance with subsection (4)(D) of this rule.

(II) Certification application. The NO_x authorized account representative shall submit to the director a certification application for each monitoring system required under subpart H of 40 CFR 75. A complete certification application shall include the information specified in subpart H of 40 CFR 75.

(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 one hundred twenty (120) days after receipt by the director of the complete certification application for the monitoring system or component thereof under part (4)(B)2.C.(II) of this rule. 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 director does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of receipt of the complete certification application by the director.

(IV) Certification application formal approval process. The director will issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under part (4)(B)2.C.(II) of this rule. In the event the permitting authority does not issue such a notice within such one hundred twenty (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.

(a) 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 director will issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(b) Incomplete application notice. A certification application will be considered complete when all of the applicable information required to be submitted under part (4)(B)2.C.(II) of this rule has been received by the director. If the certification application is not complete, then the director 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 director may issue a notice of disapproval under subpart (4)(B)2.C.(IV)(c) of this rule.

(c) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this rule, or if the certification application is incomplete and the requirement for disapproval under subpart (4)(B)2.C.(IV)(b) of this rule has been met, the director 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 director 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 part (4)(B)2.C.(V) of this rule for each monitoring system or component thereof which is disapproved for initial certification.

(d) Audit decertification. The director may issue a notice of disapproval of the certification status of a monitor in accordance with paragraph (4)(C)2. of this rule.

(V) Procedures for loss of certification. If the permitting authority issues a notice of disapproval of a certification application under subpart (4)(B)2.C.(IV)(c) of this rule or a notice of disapproval of certification status under subpart (4)(B)2.C.(IV)(d) of this rule, then—

(a) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i):

I. For units using or intending to monitor for NO_x emission rate and heat input or for units 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; and

II. For units intending to monitor for mass emissions using a pollutant concentration monitor and a flow monitor, the maximum potential concentration of and the maximum potential flow rate of the unit under section 2.1 of Appendix A of 40 CFR 75;

(b) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with parts (4)(B)2.C.(I) and (II) of this rule; and

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

3. 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 shall meet the applicable general operating requirements of 40 CFR 75.10, the applicable requirements of 40 CFR 75.19, and the applicable certification requirements of subsection (4)(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:

A. For units that are reporting on an annual basis under paragraph (4)(E)4. of this rule—

(I) For a unit that commenced operation before its compliance deadline under paragraph (4)(B)2. of this rule, from January 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the director review; or

(II) For a unit that commenced operation after its compliance deadline under paragraph (4)(B)2. of this rule, the date of submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for director review; or

B. For units that are reporting on a control period basis under part (4)(E)2.C.(II) of this rule:

(I) For a unit that commenced operation before its compliance deadline under paragraph (4)(B)2. of this rule, where the certification application is submitted before May 1, from May 1 of the year of the submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the director review;

(II) For a unit that commenced operation before its compliance deadline under paragraph (4)(B)2. of this rule, where the certification application is submitted after May 1, from May 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the director review; or

(III) For a unit that commences operation after its compliance deadline under paragraph (4)(B)2. of this rule, where the unit commences operation before May 1, from May 1 of the year that the unit commenced operation, until the completion of the period for the director’s review; or

(IV) For a unit that has not operated after its compliance deadline under paragraph (4)(B)2. of this rule, where the certification application is submitted after May 1, but before October 1, from the date of submission of a certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the director’s review.

4. 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 director under subpart E of 40 CFR 75 shall apply for certification to the permitting authority prior to use of the system under the trading program. The NO_x authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in paragraph (4)(B)2. of this rule. 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 (4)(B)2.C. of this rule and 40 CFR 75.20(f).

(C) Out of Control Periods.

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

2. 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 subsection (4)(B) 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 director will issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the administrator. By issuing the notice of disapproval, the director 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 subsection (4)(B) of this rule for each disapproved system.

(D) Notifications. The NO_x authorized account representative for a NO_x budget unit shall submit written notice to the permitting authority 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 director.

(E) Record Keeping and Reporting.

1. General provisions.

A. The NO_x authorized account representative shall comply with all record keeping and reporting requirements in this section and with the requirements of subparagraph (3)(B)1.E. of this rule.

B. 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 section (4) of this rule or subpart H of 40 CFR 75 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.

2. Monitoring plans.

A. 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 subpart H of 40 CFR 75.

B. 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 subpart H of 40 CFR 75.

3. Certification applications. The NO_x authorized account representative shall submit an application to the permitting authority within forty-five (45) days after completing all initial certification or recertification tests required under subsection (4)(B) of this rule including the information required under subpart H of 40 CFR 75.

4. Quarterly reports. The NO_x authorized account representative shall submit quarterly reports, as follows:

A. 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 section (4) 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 paragraph (3)(F)6. of this rule, the calendar quarter that includes the date of initial provisional certification under part (4)(B)2.C.(III) of this rule. Data shall be reported from the date and hour corresponding to the date and hour of provisional certification;

(II) For units commencing operation prior to May 1, 2006 that are not required to certify monitors by May 1, 2005 under subparagraph (4)(A)2.A. of this rule, the earlier of the calendar quarter that includes the date of initial provisional certification under part (4)(B)2.C.(III) of this rule or, if the certification tests are not completed by May 1, 2006, the partial calendar quarter from May 1, 2006 through June 30, 2006. 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, 2006; or

(III) For a unit that commences operation after May 1, 2006, 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.

B. 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 mass emissions during the entire year and meet the reporting deadlines specified in subparagraph (4)(E)4.A. of this rule; 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(b). The NO_x authorized account representative shall submit a quarterly report for each calendar quarter, beginning with:

(a) For units that elect to comply with the early reduction credit provisions under paragraph (3)(F)6. of this rule, the calendar quarter that includes the date of initial provisional certification under part (4)(B)2.C.(III) of this rule. Data shall be reported from the date and hour corresponding to the date and hour of provisional certification;

(b) For units commencing operation prior to May 1, 2006 that are not required to certify monitors by May 1, 2005 under subparagraph (4)(A)2.A. of this rule, the earlier of the calendar quarter that includes the date of initial provisional certification under part (4)(B)2.C.(III) of this rule, or if the certification tests are not completed by May 1, 2006, the partial calendar quarter from May 1, 2006 through June 30, 2006. 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, 2006;

(c) For units that commence operation after May 1, 2006 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;

(d) For units that commence operation after May 1, 2006 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 part (4)(B)2.C.(III) 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; or

(e) For units that commence operation after May 1, 2006 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 part (4)(B)2.C.(III) 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.

C. The NO_x authorized account representative shall submit each quarterly report to the administrator within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in subpart H of 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 subpart H of 40 CFR 75 for each NO_x budget unit (or group of units using a common stack) as well as information required in subpart G of 40 CFR 75.

(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 subpart H of 40 CFR 75 for each NO_x budget unit (or group of units using a common stack).

D. 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;

(II) For a unit with add-on 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 emissions; and

(III) For a unit that is reporting on a control period basis under paragraph (4)(E)4. of this rule, the NO_x emission rate and concentration values substituted for missing data under subpart D of 40 CFR 75 are calculated using only values from a control period and do not systematically underestimate emissions.

(F) Petitions.

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 administrator requesting approval to apply an alternative to any requirement of section (4) of this rule.

A. Application of an alternative to any requirement of section (4) of this rule is in accordance with section (4) of this rule only to the extent that the petition is approved by the administrator, in consultation with the permitting authority.

B. Notwithstanding subparagraph (4)(F)1.A. of this rule, 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 paragraph (4)(F)2. of this rule.

2. 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 director and the administrator requesting approval to apply an alternative to any requirement of section (4) of this rule.

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 director 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 concentration CEMS used under 40 CFR 75.71(a)(2).

B. Application of an alternative to any requirement of section (4) of this rule is in accordance with section (4) of this rule only to the extent the petition under paragraph (4)(F)2. of this rule is approved by both the permitting authority and the administrator.

(G) Additional Requirements to Provide Heat Input Data for Allocations Purposes.

1. The owner or operator of a unit that elects to monitor and report mass emissions using a 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 located in a state developing source allocations based upon heat input.

2. The owner or operator of a unit that monitors and reports mass emissions using a 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 paragraph (3)(F)6. of this rule.

(H) Record Keeping and Reporting Maintenance.

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 five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the director or the administrator.

A. 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 paragraph (3)(B)4.; provided that the certificate and documents shall be retained on-site at the source beyond such five (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.

B. All emissions monitoring information, in accordance with section (4) of this rule; provided that to the extent that section (4) of this rule provides for a three (3)-year period for record keeping, the three (3)-year period shall apply.

C. Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_x budget trading program.

D. 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 subsections (3)(D), (3)(H), or section (4) of this rule.

(5) Test Methods. (Not Applicable)

10 CSR 10-6.360

EPA Rulemakings

CFR:	40 C.F.R. 52.1320(c)
FRM:	73 FR 17890 (04/02/2008)
PRM:	73 FR 17939 (04/02/2008)
State Submission:	05/18/2007
State Final:	10 C.S.R. 10-6 (04/30/2008); effective 05/30/2007
APDB File:	MO-269; No. EPA-R07-OAR-2008-0100
Description:	This revision removes the provisions of this rule after the 2009 compliance year.

CFR:	40 C.F.R. 52.1320(c)
FRM:	71 FR 46860 (08/15/2006)
PRM:	71 FR 32291 (06/05/2006)
State Submission:	11/03/2005
State Final:	10 C.S.R. 10-6; effective 10/30/2005
APDB File:	MO-173; EPA-R07-OAR-2006-0467
Description:	This new rule reduces emissions of oxides of nitrogen (NO_x) to ensure compliance with the federal NO_x control plan to reduce the transport of air pollutants. The rule establishes an emission budget for large electric generating units and non-electric generating boilers. The evidence supporting the need for this rulemaking per section 536.016, RSMo, is the EPA NO_x SIP Call dated April 21, 2004.

Difference Between the State and EPA-Approved Regulation

None.