

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 335 Department or Agency Environmental Management
Rule No. 335-3-8-.24
Rule Title: CAIR NOx Opt-in Units

 New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

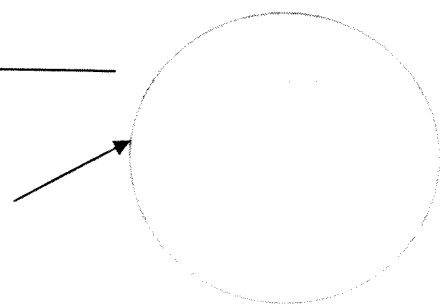
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Mandy Elliott

Date September 20, 2011



**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME:

Department of Environmental Management

RULE NO. & TITLE:

335-3-8-.05 NO_x Budget Trading Program (Repeal/New)
335-3-8-.06 Authorized Account Representative for NO_x Budget
Sources (Repeal/New)
335-3-8-.07 Permits (Repeal)
335-3-8-.08 Compliance Certification (Repeal)
335-3-8-.09 NO_x Allowance Allocations (Repeal)
335-3-8-.10 NO_x Allowance Tracking System (Repeal)
335-3-8-.11 NO_x Allowance Transfers (Repeal)
335-3-8-.12 Monitoring and Reporting (Repeal)
335-3-8-.13 Individual Unit Opt Ins (Repeal)
335-3-8-.14 New Combustion Sources (Repeal/New)
335-3-8-.15 Standards for New Combined Cycle Electric
Generating Units (Repeal/New)
335-3-8-.16 CAIR NO_x Annual Trading Program (Repeal)
335-3-8-.17 CAIR Designated Representative for CAIR NO_x
Sources (Repeal)
335-3-8-.18 CAIR Permits (Repeal)
335-3-8-.20 CAIR NO_x Allowance Allocations (Repeal)
335-3-8-.21 CAIR NO_x Allowance Tracking System (Repeal)
335-3-8-.22 CAIR NO_x Allowance Transfers (Repeal)
335-3-8-.23 CAIR Monitoring and Reporting (Repeal)
335-3-8-.24 CAIR NO_x Opt-in Units (Repeal)
335-3-8-.25 CAIR NO_x Ozone Season Trading Program (Repeal)
335-3-8-.26 CAIR Designated Representative for CAIR NO_x
Ozone Season Sources (Repeal)
335-3-8-.27 CAIR NO_x Ozone Season Permits (Repeal)
335-3-8-.29 CAIR NO_x Ozone Season Allowance Allocations
(Repeal)
335-3-8-.30 CAIR NO_x Ozone Season Allowance Tracking
System (Repeal)
335-3-8-.31 CAIR NO_x Ozone Season Allowance Transfers
(Repeal)
335-3-8-.32 CAIR NO_x Ozone Season Monitoring and Reporting
(Repeal)
335-3-8-.33 CAIR NO_x Ozone Season Opt-in Units (Repeal)

INTENDED ACTION: Revise Division 3 of the ADEM Administrative Code with the deletion of Rules 335-3-8-.05 (NO_x Budget Trading Program); 335-3-8-.06 (Authorized Account Representative for NO_x Budget Sources); 335-3-8-.07 (Permits); 335-3-8-.08 (Compliance Certification); 335-3-8-.09 (NO_x Allowance Allocations); 335-3-8-.10 (NO_x Allowance Tracking

System); 335-3-8-.11 (NO_x Allowance Transfers); 335-3-8-.12 (Monitoring and Reporting); 335-3-8-.13 (Individual Unit Opt Ins); 335-3-8-.16 (CAIR NO_x Annual Trading Program); 335-3-8-.17 (CAIR Designated Representative for CAIR NO_x Sources); 335-3-8-.18 (CAIR Permits); Rule 335-3-8-.20 (CAIR NO_x Allowance Allocations); 335-3-8-.21 (CAIR NO_x Allowance Tracking System); Rule 335-3-8-.22 (CAIR NO_x Allowance Transfers); 335-3-8-.23 (CAIR Monitoring and Reporting); Rule 335-3-8-.24 (CAIR NO_x Opt-in Units); 335-3-8-.25 (CAIR NO_x Ozone Season Trading Program); Rule 335-3-8-.26 (CAIR Designated Representative for CAIR NO_x Ozone Season Sources); Rule 335-3-8-.27 (CAIR NO_x Ozone Season Permits); Rule 335-3-8-.29 (CAIR NO_x Ozone Season Allowance Allocations); 335-3-8-.30 (CAIR NO_x Ozone Season Allowance Tracking System); Rule 335-3-8-.31 (CAIR NO_x Ozone Season Allowance Transfers); 335-3-8-.32 (CAIR NO_x Ozone Season Monitoring and Reporting); and 335-3-8-.33 (CAIR NO_x Ozone Season Opt-in Units). Rules 334-3-8-.14 (New Combustion Sources) and 334-3-8-.15 (Standards for New Combined Cycle Electric Generating Units) are being relocated to 335-3-8-.05 and 335-3-8-.06; respectively.

SUBSTANCE OF PROPOSED ACTION:

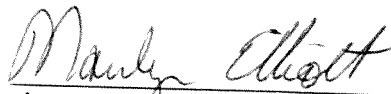
Revisions to the Division 3 Code are being proposed to delete Rules 335-3-8-.05; 335-3-8-.06; 335-3-8-.07; 335-3-8-.08; 335-3-8-.09; 335-3-8-.10; 335-3-8-.11; 335-3-8-.12; 335-3-8-.13; 335-3-8-.14; 335-3-8-.15; 335-3-8-.16; 335-3-8-.17; 335-3-8-.18; 335-3-8-.20; 335-3-8-.21; 335-3-8-.22; 335-3-8-.23; 335-3-8-.24; 335-3-8-.25; 335-3-8-.26; 335-3-8-.27; 335-3-8-.29; 335-3-8-.30; 335-3-8-.31; 335-3-8-.32; and 335-3-8-.33 in order to be consistent with Federal Rules. Rules 334-3-8-.14 (New Combustion Sources); and 334-3-8-.15 (Standards for New Combined Cycle Electric Generating Units) are being relocated to 335-3-8-.05 and 335-3-8-.06; respectively.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Comments may be submitted in writing or orally at a public hearing to be held 10:00 a.m., November 9, 2011, in the ADEM Hearing Room, 1400 Coliseum Blvd., Montgomery, Alabama 36110.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: November 10, 2011.

CONTACT PERSON AT AGENCY: Chris Howard (334) 271-7878



Lance R. LeFleur
Director

335-3-8-.24 REPEAL CAIR NO_x Opt in Units. Reserved.

- ~~(1) Applicability. A CAIR NO_x opt in unit must be a unit that:~~
- ~~(a) Is located in the State;~~
 - ~~(b) Is not a CAIR NO_x unit under rule 335-3-8-.16(4) and is not covered by a retired unit exemption under rule 335-3-8-.16(5) that is in effect;~~
 - ~~(c) Is not covered by a retired unit exemption under 40 CFR § 72.8 that is in effect;~~
 - ~~(d) Has or is required or qualified to have a Title V operating permit or other federally enforceable permit; and~~
 - ~~(e) Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of rule 335-3-8-.23.~~

~~(2) General.~~

~~(a) Except as otherwise provided in rules 335-3-8-.16(1) through (4), (6) and (7), and rule 335-3-8-.17 through 335-3-8-.18 and 335-3-8-.21 through 335-3-8-.24, a CAIR NO_x opt in unit shall be treated as a CAIR NO_x unit for purposes of applying rules 335-3-8-.16 through 335-3-8-.18 and 335-3-8-.21 through 335-3-8-.24.~~

~~(b) Solely for purposes of applying, as provided in this rule, the requirements of rule 335-3-8-.23 to a unit for which a CAIR opt in permit application is submitted and not withdrawn and a CAIR opt in permit is not yet issued or denied under this rule, such unit shall be treated as a CAIR NO_x unit before issuance of a CAIR opt in permit for such unit.~~

~~(3) CAIR designated representative. Any CAIR NO_x opt in unit, and any unit for which a CAIR opt in permit application is submitted and not withdrawn and a CAIR opt in permit is not yet issued or denied under this rule, located at the same source as one or more CAIR NO_x units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO_x units.~~

~~(4) Applying for CAIR opt in permit.~~

~~(a) Applying for initial CAIR opt in permit. The CAIR designated representative of a unit meeting the requirements for a CAIR NO_x opt in unit in paragraph (1) of this rule may apply for an initial CAIR opt in permit at any time, except as provided under subparagraphs (7)(f) and (g) of this rule, and, in order to apply, must submit the following:~~

- ~~1. A complete CAIR permit application under rule 335-3-8-.18(3);~~
- ~~2. A certification, in a format specified by the Department, that the unit:~~

~~(i) Is not a CAIR NO_x unit under rule 335 3 8 .16(4) and is not covered by a retired unit exemption under rule 335 3 8 .16(5) that is in effect;~~

~~(ii) Is not covered by a retired unit exemption under 40 CFR § 72.8 that is in effect;~~

~~(iii) Vents all of its emissions to a stack, and~~

~~(iv) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under rule 335 3 8 .18(3);~~

~~3. A monitoring plan in accordance with rule 335 3 8 .23;~~

~~4. A complete certificate of representation under rule 335 3 8 .17(4) consistent with paragraph (3) of this rule, if no CAIR designated representative has been previously designated for the source that includes the unit; and~~

~~5. A statement, in a format specified by the Department, whether the CAIR designated representative requests that the unit be allocated CAIR NO_x allowances under subparagraph (9)(b) or (c) of this rule (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this rule). If allocation under subparagraph (9)(c) of this rule is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.~~

~~(b) Duty to reapply.~~

~~1. The CAIR designated representative of a CAIR NO_x opt in unit shall submit a complete CAIR permit application under rule 335 3 8 .18(3) to renew the CAIR opt in unit permit in accordance with rule 335 3 8 .18(2)(b).~~

~~2. Unless the Department issues a notification of acceptance of withdrawal of the CAIR NO_x opt in unit from the CAIR NO_x Annual Trading Program in accordance with paragraph (7) of this rule, the CAIR NO_x opt in unit shall remain subject to the requirements for a CAIR NO_x opt in unit, even if the CAIR designated representative for the CAIR NO_x opt in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt in permit under subparagraph (b)1 of this paragraph.~~

~~(5) Opt in process. The Department will issue or deny a CAIR opt in permit for a unit for which an initial application for a CAIR opt in permit under paragraph (4) above is submitted in accordance with the following:~~

~~(a) Interim review of monitoring plan. The Department and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt in permit under paragraph (4) of this rule. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit and all other applicable~~

~~parameters are monitored and reported in accordance with rule 338 3 8 .23. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.~~

~~(b) Monitoring and reporting.~~

~~1. If the Department and the Administrator determine that the monitoring plan is sufficient under subparagraph (a) of this paragraph, the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit and all other applicable parameters, in accordance with rule 335 3 8 .23, starting on the date of certification of the appropriate monitoring systems under rule 335 3 8 .23 and continuing until a CAIR opt in permit is denied under subparagraph (f) of this paragraph or, if a CAIR opt in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x Annual Trading Program in accordance with paragraph (7) of this rule.~~

~~2. The monitoring and reporting under subparagraph (b)1. of this paragraph shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x Annual Trading Program under subparagraph (g) of this paragraph, during which period monitoring system availability must not be less than 90 percent under rule 335 3 8 .23 and the unit must be in full compliance with any applicable State or Federal emissions or emissions related requirements.~~

~~3. To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with rule 335 3 8 .23 for one or more control periods, in addition to the control period under subparagraph (b)2. of this paragraph, during which control periods monitoring system availability is not less than 90 percent under rule 335 3 8 .23 and the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements and which control periods begin not more than 3 years before the unit enters the CAIR NO_x Annual Trading Program under subparagraph (g) of this paragraph, such information shall be used as provided in subparagraphs (c) and (d) of this paragraph.~~

~~(c) Baseline heat input. The unit's baseline heat input shall equal:~~

~~1. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subparagraph (b)1. or 2. of this rule, the unit's total heat input (in mmBtu) for the control period; or~~

~~2. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1., 2. and 3. of this paragraph, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subparagraphs (b)2. and (b)3. of this rule.~~

~~(d) Baseline NO_x emission rate. The unit's baseline NO_x emission rate shall equal:~~

~~1. If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with subparagraphs (b)1. and 2. of this paragraph, the unit's NO_x emissions rate (in lb/mmBtu) for the control period;~~

~~2. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1., 2. and 3. of this paragraph, and the unit does not have add on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for the control periods under subparagraphs (b)2. and (b)3. of this paragraph; or~~

~~3. If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with subparagraphs (b)1., 2. and 3. of this paragraph, and the unit has add on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for such control periods during which the unit has add on NO_x emission controls.~~

~~(e) Issuance of CAIR opt in permit. After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subparagraphs (c) and (d) of this paragraph and if the Department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_x opt in unit in paragraph (1) of this rule and meets the elements certified in subparagraph (4)(a)2. of this rule, the Department will issue a CAIR opt in permit. The Department will provide a copy of the CAIR opt in permit to the Administrator, who will then establish a compliance account for the source that includes the CAIR NO_x opt in unit unless the source already has a compliance account.~~

~~(f) Issuance of denial of CAIR opt in permit. Notwithstanding subparagraphs (a) through (e) of this paragraph, if at any time before issuance of a CAIR opt in permit for the unit, the Department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_x opt in unit in paragraph (1) of this rule or meets the elements certified in subparagraph (4)(a)2., the Department will issue a denial of a CAIR opt in permit for the unit.~~

~~(g) Date of entry into CAIR NO_x Annual Trading Program. A unit for which an initial CAIR opt in permit is issued by the Department shall become a CAIR NO_x opt in unit, and a CAIR NO_x unit, as of the later of January 1, 2009 or January 1 of the first control period during which such CAIR opt in permit is issued.~~

~~(h) Repowered CAIR NO_x opt in unit.~~

~~1. If the CAIR designated representative requests, and the Department issues a CAIR opt in permit providing for, allocation to a CAIR NO_x opt in unit of CAIR NO_x allowances under subparagraph (9)(c) of this rule and such unit is repowered after its date of entry into the CAIR NO_x Annual Trading Program~~

~~under subparagraph (g) of this paragraph, the repowered unit shall be treated as a CAIR NO_x opt in unit replacing the original CAIR NO_x opt in unit, as of the date of start up of the repowered unit's combustion chamber.~~

~~2. Notwithstanding subparagraphs (c) and (d) of this paragraph, as of the date of start up under subparagraph (h)1. of this paragraph, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_x emission rate as the original CAIR NO_x opt in unit, and the original CAIR NO_x opt in unit shall no longer be treated as a CAIR NO_x opt in unit or a CAIR NO_x unit.~~

~~(6) CAIR opt in permit contents.~~

~~(a) Each CAIR opt in permit will contain:~~

~~1. All elements required for a complete CAIR permit application under rule 335 3 8 .18(3);~~

~~2. The certification in subparagraph (4)(a)2. of this rule;~~

~~3. The unit's baseline heat input under subparagraph (5)(c) of this rule;~~

~~4. The unit's baseline NO_x emission rate under subparagraph (5)(d) of this rule;~~

~~5. A statement whether the unit is to be allocated CAIR NO_x allowances under subparagraph (9)(b) or (c) of this rule (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this rule);~~

~~6. A statement that the unit may withdraw from the CAIR NO_x Annual Trading Program only in accordance with paragraph (7) of this rule; and~~

~~7. A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of paragraph (8) of this rule.~~

~~(b) Each CAIR opt in permit is deemed to incorporate automatically the definitions of terms under rule 335 3 8 .16(2) and, upon recordation by the Administrator under rules 335 3 8 .21, 335 3 8 .22 or 335 3 8 .24, every allocation, transfer, or deduction of CAIR NO_x allowances to or from the compliance account of the source that includes a CAIR NO_x opt in unit covered by the CAIR opt in permit.~~

~~(c) The CAIR opt in permit shall be included, in a format specified by the Department, in the CAIR permit for the source where the CAIR NO_x opt in unit is located and in a Title V operating permit or other federally enforceable permit for the source.~~

~~(7) Withdrawal from CAIR NO_x Annual Trading Program. Except as provided under subparagraph (g) of this paragraph, a CAIR NO_x opt in unit may withdraw from the CAIR NO_x Annual Trading Program, but only if the~~

~~Department issues a notification to the CAIR designated representative of the CAIR NO_x opt in unit of the acceptance of the withdrawal of the CAIR NO_x opt in unit in accordance with subparagraph (d) of this paragraph.~~

~~(a) Requesting withdrawal. In order to withdraw a CAIR NO_x opt in unit from the CAIR NO_x Annual Trading Program, the CAIR designated representative of the CAIR NO_x opt in unit shall submit to the Department a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least 4 years after December 31 of the year of entry into the CAIR NO_x Annual Trading Program under subparagraph (5)(g). The request must be submitted no later than 90 days before the requested effective date of withdrawal.~~

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

~~1. For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x opt in unit must meet the requirement to hold CAIR NO_x allowances under rule 335-3-8-16(6)(c) and cannot have any excess emissions.~~

~~2. After the requirement for withdrawal under subparagraph (b)1. of this paragraph is met, the Administrator will deduct from the compliance account of the source that includes the CAIR NO_x opt in unit CAIR NO_x allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO_x allowances allocated to the CAIR NO_x opt in unit under paragraph (9) of this rule for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO_x units at the source, the Administrator will close the compliance account, and the owners and operators of the CAIR NO_x opt in unit may submit a CAIR NO_x allowance transfer for any remaining CAIR NO_x allowances to another CAIR NO_x Allowance Tracking System in accordance with rule 335-3-8-22.~~

~~(c) Notification.~~

~~1. After the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are met (including deduction of the full amount of CAIR NO_x allowances required), the Department will issue a notification to the CAIR designated representative of the CAIR NO_x opt in unit of the acceptance of the withdrawal of the CAIR NO_x opt in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.~~

~~2. If the requirements for withdrawal under subparagraphs (a) and (b) of this paragraph are not met, the Department will issue a notification to the CAIR designated representative of the CAIR NO_x opt in unit that the CAIR NO_x opt in unit's request to withdraw is denied. Such CAIR NO_x opt in unit shall continue to be a CAIR NO_x opt in unit.~~

~~(d) Permit amendment. After the Department issues a notification under subparagraph (c)1. of this paragraph that the requirements for withdrawal have been met, the Department will revise the CAIR permit covering the CAIR NO_x opt in unit to terminate the CAIR opt in permit for such unit as of the effective date specified under subparagraph (c)1. of this paragraph. The unit shall continue to be a CAIR NO_x opt in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO_x Annual Trading Program concerning any control periods for which the unit is a CAIR NO_x opt in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.~~

~~(e) Reapplication upon failure to meet conditions of withdrawal. If the Department denies the CAIR NO_x opt in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subparagraphs (a) and (b) of this paragraph.~~

~~(f) Ability to reapply to the CAIR NO_x Annual Trading Program. Once a CAIR NO_x opt in unit withdraws from the CAIR NO_x Annual Trading Program and its CAIR opt in permit is terminated under this rule, the CAIR designated representative may not submit another application for a CAIR opt in permit under paragraph (4) of this rule for such CAIR NO_x opt in unit before the date that is 4 years after the date on which the withdrawal became effective. Such new application for a CAIR opt in permit will be treated as an initial application for a CAIR opt in permit under paragraph (5) of this rule.~~

~~(g) Inability to withdraw. Notwithstanding subparagraphs (a) through (f) of this paragraph, a CAIR NO_x opt in unit shall not be eligible to withdraw from the CAIR NO_x Annual Trading Program if the CAIR designated representative of the CAIR NO_x opt in unit requests, and the Department issues a CAIR NO_x opt in permit providing for, allocation to the CAIR NO_x opt in unit of CAIR NO_x allowances under subparagraph (9)(c) of this rule.~~

~~(8) Change in regulatory status.~~

~~(a) Notification. If a CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4), then the CAIR designated representative shall notify in writing the Department and the Administrator of such change in the CAIR NO_x opt in unit's regulatory status, within 30 days of such change.~~

~~(b) Department's and Administrator's actions.~~

~~1. If a CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4), the Department will revise the CAIR NO_x opt in unit's CAIR opt in permit to meet the requirements of a CAIR permit under rule 335 3 8 .18(4), and remove the CAIR opt in permit provisions, as of the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4).~~

~~2. The Administrator will deduct from the compliance account of the source that includes the CAIR NO_x opt in unit that becomes a CAIR NO_x unit~~

~~under rule 335 3 8 .16(4), CAIR NO_x allowances equal in amount to and allocated for the same or a prior control period as:~~

~~(i) Any CAIR NO_x allowances allocated to the CAIR NO_x opt in unit under paragraph (9) of this rule for any control period after the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4); and~~

~~(ii) If the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4) is not December 31, the CAIR NO_x allowances allocated to the CAIR NO_x opt in unit under paragraph (9) of this rule for the control period that includes the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4), multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4) divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.~~

~~3. The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO_x opt in unit that becomes a CAIR NO_x unit under rule 335 3 8 .16(4) contains the CAIR NO_x allowances necessary for completion of the deduction under subparagraph (b)2. of this paragraph.~~

~~4. For every control period after the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4), the CAIR NO_x opt in unit will be allocated CAIR NO_x allowances under rule 335 3 8 .20(3).~~

~~(i) If the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4) is not December 31, the following amount of CAIR NO_x allowances will be allocated to the CAIR NO_x opt in unit (as a CAIR NO_x unit) under rule 335 3 8 .20(3) for the control period that includes the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4):~~

~~(I) The amount of CAIR NO_x allowances otherwise allocated to the CAIR NO_x opt in unit (as a CAIR NO_x unit) under rule 335 3 8 .20(3) for the control period multiplied by;~~

~~(II) The ratio of the number of days, in the control period, starting with the date on which the CAIR NO_x opt in unit becomes a CAIR NO_x unit under rule 335 3 8 .16(4), divided by the total number of days in the control period; and~~

~~(III) Rounded to the nearest whole allowance as appropriate.~~

~~(9) CAIR NO_x allowance allocations to CAIR NO_x opt in units.~~

~~(a) Timing requirements.~~

~~1. When the CAIR NO_x opt in permit is issued under subparagraph (5)(e) of this rule, the Department will allocate CAIR NO_x allowances to the CAIR NO_x opt in unit, and submit to the Administrator the allocation for the control period in which a CAIR NO_x opt in unit enters the CAIR NO_x Annual Trading Program under subparagraph (5)(g) of this rule, in accordance with subparagraph (b) or (c) of this paragraph.~~

~~2. By no later than October 31 of the control period after the control period in which a CAIR NO_x opt in unit enters the CAIR NO_x Annual Trading Program under subparagraph (5)(g) and October 31 of each year thereafter, the Department will allocate CAIR NO_x allowances to the CAIR NO_x opt in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO_x opt in unit, in accordance with subparagraph (b) or (c) of this paragraph.~~

~~(b) Calculation of allocation. For each control period for which a CAIR NO_x opt in unit is to be allocated CAIR NO_x allowances, the Department will allocate in accordance with the following procedures:~~

~~1. The heat input (in mmBtu) used for calculating the CAIR NO_x allowance allocation will be the lesser of:~~

~~(i) The CAIR NO_x opt in unit's baseline heat input determined pursuant to subparagraph (5)(c) of this rule; or~~

~~(ii) The CAIR NO_x opt in unit's heat input, as determined in accordance with rule 335 3 8 .23, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO_x opt in unit enters the CAIR NO_x Annual Trading Program under subparagraph (5)(g) of this rule.~~

~~2. The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x allowance allocations will be the lesser of:~~

~~(i) The CAIR NO_x opt in unit's baseline NO_x emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(d) and multiplied by 70 percent; or~~

~~(ii) The most stringent State or Federal NO_x emissions limitation applicable to the CAIR NO_x opt in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.~~

~~3. The Department will allocate CAIR NO_x allowances to the CAIR NO_x opt in unit in an amount equaling the heat input under subparagraph (b)1. of this paragraph, multiplied by the NO_x emission rate under subparagraph (b)2. of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.~~

~~(c) Notwithstanding subparagraph (b) of this paragraph and if the CAIR designated representative requests, and the Department issues a CAIR opt in permit (based on a demonstration of the intent to repower stated under~~

~~paragraph (4)(a)5. of this rule) providing for, allocation to a CAIR NO_x opt in unit of CAIR NO_x allowances under this paragraph (subject to the conditions in subparagraphs (5)(h) and (7)(g) of this rule), the Department will allocate to the CAIR NO_x opt in unit as follows:~~

~~1. For each control period in 2009 through 2014 for which the CAIR NO_x opt in unit is to be allocated CAIR NO_x allowances,~~

~~(i) The heat input (in mmBtu) used for calculating CAIR NO_x allowance allocations will be determined as described in subparagraph (b)1. of this rule.~~

~~(ii) The NO_x emission rate (in lb/mmBtu) used for calculating CAIR NO_x allowance allocations will be the lesser of:~~

~~(I) The CAIR NO_x opt in unit's baseline NO_x emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(d) of this rule; or~~

~~(II) The most stringent State or Federal NO_x emissions limitation applicable to the CAIR NO_x opt in unit at any time during the control period in which the CAIR NO_x opt in unit enters the CAIR NO_x Annual Trading Program under subparagraph (5)(g) of this rule.~~

~~(iii) The Department will allocate CAIR NO_x allowances to the CAIR NO_x opt in unit in an amount equaling the heat input under subparagraph (c)1.(i) of this paragraph, multiplied by the NO_x emission rate under subparagraph (c)1.(ii) of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.~~

~~2. For each control period in 2015 and thereafter for which the CAIR NO_x opt in unit is to be allocated CAIR NO_x allowances,~~

~~(i) The heat input (in mmBtu) used for calculating the CAIR NO_x allowance allocations will be determined as described in subparagraph (b)1. of this paragraph.~~

~~(ii) The NO_x emission rate (in lb/mmBtu) used for calculating the CAIR NO_x allowance allocation will be the lesser of:~~

~~(I) 0.15 lb/mmBtu;~~

~~(II) The CAIR NO_x opt in unit's baseline NO_x emissions rate (in lb/mmBtu) determined pursuant to subparagraph (5)(d) of this rule; or~~

~~(III) The most stringent State or Federal NO_x emissions limitation applicable to the CAIR NO_x opt in unit at any time during the control period for which CAIR NO_x allowances are to be allocated.~~

~~(iii) The Department will allocate CAIR NO_x allowances to the CAIR NO_x opt in unit in an amount equaling the heat input under subparagraph (c)2.(i) of this paragraph, multiplied by the NO_x emission rate under subparagraph~~

~~(c)2.(ii) of this paragraph, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.~~

~~(d) Recordation.~~

~~1. The Administrator will record, in the compliance account of the source that includes the CAIR NO_x opt in unit, the CAIR NO_x allowances allocated by the Department to the CAIR NO_x opt in unit under subparagraph (a)1. of this paragraph.~~

~~2. By December 1 of the control period in which a CAIR NO_x opt in unit enters the CAIR NO_x Annual Trading Program under subparagraph (5)(g) of this rule and December 1 of each year thereafter, the Administrator will record, in the compliance account of the source that includes the CAIR NO_x opt in unit, the CAIR NO_x allowances allocated by the Department to the CAIR NO_x opt in unit under subparagraph (a)2. of this paragraph.~~

~~**Author:** Ronald W. Gore.~~

~~**Statutory Authority:** Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.~~

~~**History:** Effective Date: July 11, 2006.~~

~~**Amended:** April 3, 2007.~~