

## SUBPART 244-9

### CAIR NO<sub>x</sub> OPT-IN UNITS

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#### Historical Note

Subpart (§§ 244-9.1 — 244-9.9) filed Sept. 19, 2007 eff. 30 days after filing.

#### § 244-9.1 Applicability.

A CAIR NO<sub>x</sub> opt-in unit must be a unit that:

- (a) is located in the State;
- (b) is not a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part and is not covered by a retired unit exemption under section 244-1.5 of this Part 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 permit under Part 201 of this Title; and
- (e) vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of Subpart 244-8 of this Part.

#### Historical Note

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

#### § 244-9.2 General.

(a) Except as otherwise provided in sections 244-1.1 through 244-1.4, 244-1.6 through 244-1.8 of this Part, and Subparts 244-2, and 244-3, and Subparts 244-6 through 244-8 of this Part, a CAIR NO<sub>x</sub> opt-in unit shall be treated as a CAIR NO<sub>x</sub> unit for purposes of applying such sections and Subparts.

(b) Solely for purposes of applying, as provided in this Subpart, the requirements of Subpart 244-8 of this Part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this Subpart, such unit shall be treated as a CAIR NO<sub>x</sub> unit before issuance of a CAIR opt-in permit for such unit.

#### Historical Note

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#### § 244-9.3 CAIR designated representative.

Any CAIR NO<sub>x</sub> opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this Subpart, located at the same source as one or more CAIR NO<sub>x</sub> units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO<sub>x</sub> units.

#### Historical Note

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 244-9.4 Applying for CAIR opt-in permit.**

The CAIR designated representative of a unit meeting the requirements for a CAIR NO<sub>x</sub> opt-in unit in section 244-9.1 of this Subpart may apply for an initial CAIR opt-in permit at any time, except as provided under section 244-9.7(f) and (g) of this Subpart, and, in order to apply, must submit the following:

- (a) a complete CAIR permit application under section 244-3.3 of this Part;
- (b) a certification, in a format specified by the department, that the unit:
  - (1) is not a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part and is not covered by a retired unit exemption under section 244-1.5 of this Part that is in effect;
  - (2) is not covered by a retired unit exemption under 40 CFR 72.8 that is in effect;
  - (3) vents all of its emissions to a stack; and
  - (4) has documented heat input for more than 876 hours during the six months immediately preceding submission of the CAIR permit application under section 244-3.3 of this Part;
- (c) a monitoring plan in accordance with Subpart 244-8 of this Part;
- (d) a complete certificate of representation under section 244-2.4 of this Part consistent with section 244-9.3 of this Subpart, if no CAIR designated representative has been previously designated for the source that includes the unit; and
- (e) a statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR NO<sub>x</sub> allowances under section 244-9.9(b) or (c) of this Subpart (subject to the conditions in sections 244-9.5[h] and 244-9.7[g] of this Subpart). If allocation under section 244-9.9(c) of this Subpart is requested, this statement shall include a statement that the owners and operators of the unit intend to re-power the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 244-9.5 Opt-in process.**

The department will issue or deny a CAIR opt-in permit for a unit for which an application for a CAIR opt-in permit under section 244-9.4 of this Subpart 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 application for a CAIR opt-in permit under section 244-9.4 of this Subpart. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO<sub>x</sub> emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with Subpart 244-8 of this Part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) *Monitoring and reporting.*

(1) (i) If the department and the administrator determine that the monitoring plan is sufficient under subdivision (a) of this section, the owner or operator shall monitor and report the NO<sub>x</sub> emissions rate and the heat input of the unit and all other applicable parameters, in accordance with Subpart 244-8 of this Part, starting on the date of certification of the appropriate monitoring systems under Subpart 244-8 of this Part and continuing until a CAIR opt-in permit is denied under subdivision (f) of this section or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO<sub>x</sub> Annual Trading Program in accordance with section 244-9.7 of this Subpart.

(ii) The monitoring and reporting under subparagraph (i) of this paragraph shall include the entire control period immediately before the date on which the unit enters the CAIR NO<sub>x</sub> Annual Trading Program under subdivision (g) of this section, during which period monitoring system availability must not be less than 90 percent under Subpart 244-8 of this Part and

the unit must be in full compliance with any applicable State or Federal emissions or emissions-related requirements.

(2) To the extent the NO<sub>x</sub> emissions rate and the heat input of the unit are monitored and reported in accordance with Subpart 244-8 of this Part for one or more control periods, in addition to the control period under subparagraph (1)(ii) of this subdivision, during which control periods monitoring system availability is not less than 90 percent under Subpart 244-8 of this Part 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 three years before the unit enters the CAIR NO<sub>x</sub> Annual Trading Program under subdivision (g) of this section, such information shall be used as provided in subdivisions (c) and (d) of this section.

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

(1) if the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for only one control period, in accordance with paragraph (b)(1) of this section, the unit's total heat input (in mmBtu) for the control period; or

(2) if the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under subparagraph (b)(1)(ii) and paragraph (b)(2) of this section.

(d) *Baseline NO<sub>x</sub> emission rate.* The unit's baseline NO<sub>x</sub> emission rate shall equal:

(1) if the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for only one control period, in accordance with paragraph (b)(1) of this section, the unit's NO<sub>x</sub> emissions rate (in lb/mmBtu) for the control period;

(2) if the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit does not have add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate (in lb/mmBtu) for the control periods under subparagraph (b)(1)(ii) and paragraph (b)(2) of this section; or

(3) if the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit has add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO<sub>x</sub> emission controls.

(e) *Issuance of CAIR opt-in permit.* After calculating the baseline heat input and the baseline NO<sub>x</sub> emissions rate for the unit under subdivisions (c) and (d) of this section and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO<sub>x</sub> opt-in unit in section 244-9.1 of this Subpart and meets the elements certified in section 244-9.4(a)(2) of this Subpart, 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<sub>x</sub> opt-in unit unless the source already has a compliance account.

(f) *Issuance of denial of CAIR opt-in permit.* Notwithstanding subdivisions (a) through (e) of this section, 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<sub>x</sub> opt-in unit in section 244-9.1 of this Subpart or meets the elements certified in section 244-9.4(a)(2) of this Subpart, the department will issue a denial of a CAIR opt-in permit for the unit.

(g) *Date of entry into CAIR NO<sub>x</sub> Annual Trading Program.* A unit for which a CAIR opt-in permit is issued by the department shall become a CAIR NO<sub>x</sub> opt-in unit, and a CAIR NO<sub>x</sub> unit, as of the later of January 1, 2009 or January 1st of the first control period during which such CAIR opt-in permit is issued.

(h) *Re-powered CAIR NO<sub>x</sub> 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<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under section 244-9.9(c) of this Subpart and such unit is re-powered after its date of entry into the CAIR NO<sub>x</sub> Annual Trading Program under subdivision (g) of this section, the re-powered unit shall be treated as a CAIR NO<sub>x</sub> opt-in unit replacing the original CAIR NO<sub>x</sub> opt-in unit, as of the date of start-up of the re-powered unit's combustion chamber.

(2) Notwithstanding subdivisions (c) and (d) of this section, as of the date of start-up under paragraph (1) of this subdivision, the re-powered 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<sub>x</sub> emission rate as the original CAIR NO<sub>x</sub> opt-in unit, and the original CAIR NO<sub>x</sub> opt-in unit shall no longer be treated as a CAIR NO<sub>x</sub> opt-in unit or a CAIR NO<sub>x</sub> unit.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 244-9.6 CAIR opt-in permit contents.**

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

- (1) all elements required for a complete CAIR permit application under section 244-3.3 of this Part;
- (2) the certification in section 244-9.4(a)(2) of this Subpart;
- (3) the unit's baseline heat input under section 244-9.5(c) of this Subpart;
- (4) the unit's baseline NO<sub>x</sub> emission rate under section 244-9.5(d) of this Subpart;
- (5) a statement whether the unit is to be allocated CAIR NO<sub>x</sub> allowances under section 244-9.9(b) or (c) of this Subpart (subject to the conditions in sections 244-9.5[h] and 244-9.7[g]) of this Subpart;
- (6) a statement that the unit may withdraw from the CAIR NO<sub>x</sub> Annual Trading Program only in accordance with section 244-9.7 of this Subpart; and
- (7) a statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of section 244-9.8 of this Subpart.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under section 244-1.2 of this Part and, upon recordation by the administrator under Subpart 244-6, 244-7, or 244-9 of this Part or this Subpart, every allocation, transfer, or deduction of CAIR NO<sub>x</sub> allowances to or from the compliance account of the source that includes a CAIR NO<sub>x</sub> 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 permitting authority, in the CAIR permit for the source where the CAIR NO<sub>x</sub> opt-in unit is located.

**Historical Note**

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**§ 244-9.7 Withdrawal from CAIR NO<sub>x</sub> Ozone Season Trading Program.**

Except as provided under subdivision (g) of this section, a CAIR NO<sub>x</sub> opt-in unit may withdraw from the CAIR NO<sub>x</sub> Annual Trading Program, but only if the department issues a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> opt-in unit in accordance with subdivision (d) of this section.

(a) *Requesting withdrawal.* In order to withdraw a CAIR NO<sub>x</sub> opt-in unit from the CAIR NO<sub>x</sub> Annual Trading Program, the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit shall submit to the department a request to withdraw effective as of midnight of December 31st of a specified calendar year, which date must be at least four years after December 31st of the year of entry into the CAIR NO<sub>x</sub> Annual Trading Program under section 244-9.5(g) of this Subpart. 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<sub>x</sub> opt-in unit covered by a request under subdivision (a) of this section may withdraw from the CAIR NO<sub>x</sub> Annual Trading Program and

the CAIR opt-in permit may be terminated under subdivision (e) of this section, 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<sub>x</sub> opt-in unit must meet the requirement to hold CAIR NO<sub>x</sub> allowances under section 244-1.6(c) of this Part and cannot have any excess emissions.

(2) After the requirement for withdrawal under paragraph (1) of this subdivision is met, the administrator will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit CAIR NO<sub>x</sub> allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under section 244-9.9 of this Subpart for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO<sub>x</sub> units at the source, the administrator will close the compliance account, and the owners and operators of the CAIR NO<sub>x</sub> opt-in unit may submit a CAIR NO<sub>x</sub> allowance transfer for any remaining CAIR NO<sub>x</sub> allowances to another CAIR NO<sub>x</sub> Allowance Tracking System in accordance with Subpart 244-7 of this Part.

(c) *Notification.* (1) After the requirements for withdrawal under subdivisions (a) and (b) of this section are met (including deduction of the full amount of CAIR NO<sub>x</sub> allowances required), the department will issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> opt-in unit as of midnight on December 31st of the calendar year for which the withdrawal was requested.

(2) If the requirements for withdrawal under subdivisions (a) and (b) of this section are not met, the department will issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit that the CAIR NO<sub>x</sub> opt-in unit's request to withdraw is denied. Such CAIR NO<sub>x</sub> opt-in unit shall continue to be a CAIR NO<sub>x</sub> opt-in unit.

(d) *Permit amendment.* After the department issues a notification under paragraph (c)(1) of this section that the requirements for withdrawal have been met, the department will revise the CAIR permit covering the CAIR NO<sub>x</sub> opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under paragraph (c)(1) of this section. The unit shall continue to be a CAIR NO<sub>x</sub> opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO<sub>x</sub> Annual Trading Program concerning any control periods for which the unit is a CAIR NO<sub>x</sub> 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<sub>x</sub> opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions (a) and (b) of this section.

(f) *Ability to reapply to the CAIR NO<sub>x</sub> Annual Trading Program.* Once a CAIR NO<sub>x</sub> opt-in unit withdraws from the CAIR NO<sub>x</sub> Annual Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under section 244-9.4 of this Subpart for such CAIR NO<sub>x</sub> opt-in unit before the date that is four 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 section 244-9.5 of the Subpart.

(g) *Inability to withdraw.* Notwithstanding subdivisions (a) through (f) of this section, a CAIR NO<sub>x</sub> opt-in unit shall not be eligible to withdraw from the CAIR NO<sub>x</sub> Annual Trading Program if the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit requests, and the department issues a CAIR NO<sub>x</sub> opt-in permit providing for, allocation to the CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under section 244-9.9(c) of this Subpart.

#### Historical Note

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### § 244-9.8 Change in regulatory status.

(a) *Notification.* If a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part, then the CAIR designated representative shall notify in writing the depart-

ment and the administrator of such change in the CAIR NO<sub>x</sub> opt-in unit's regulatory status, within 30 days of such change.

(b) *Department's and administrator's actions.* (1) If a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part, the department will revise the CAIR NO<sub>x</sub> opt-in unit's CAIR NO<sub>x</sub> permit to meet the requirements of a CAIR permit under section 244-3.4 of this Part, and remove the CAIR opt-in permit provisions as of the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part.

(2) (i) The administrator will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit that becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part, CAIR NO<sub>x</sub> allowances equal in amount to and allocated for the same or a prior control period as:

(a) any CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under section 244-9.9 of this Subpart for any control period after the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part; and

(b) if the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part is not December 31st, the CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under section 244-9.9 of this Subpart for the control period that includes the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(ii) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit that becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part contains the CAIR NO<sub>x</sub> allowances necessary for completion of the deduction under subparagraph (i) of this paragraph.

(3) (i) For every control period after the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part, the CAIR NO<sub>x</sub> opt-in unit will be allocated CAIR NO<sub>x</sub> allowances under section 244-5.3 of this Part.

(ii) Notwithstanding subparagraph (i) of this paragraph if the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part is not January 1st, the following amount of CAIR NO<sub>x</sub> allowances will be allocated to the CAIR NO<sub>x</sub> opt-in unit (as a CAIR NO<sub>x</sub> unit) under section 244-5.3 of this Part for the control period that includes the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 243-1.4 of this Part:

(a) the amount of CAIR NO<sub>x</sub> allowances otherwise allocated to the CAIR NO<sub>x</sub> opt-in unit (as a CAIR NO<sub>x</sub> unit) under section 244-5.3 of this Part for the control period multiplied by;

(b) the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 244-1.4 of this Part, divided by the total number of days in the control period; and

(c) rounded to the nearest whole allowance as appropriate.

#### Historical Note

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### § 244-9.9 NO<sub>x</sub> allowance allocations to CAIR NO<sub>x</sub> opt-in units.

(a) *Timing requirements.* (1) When the CAIR opt-in permit is issued under section 244-9.5(e) of this Subpart, the department will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit, and submit to the administrator the allocation for the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under section 244-9.5(g) of this Subpart, in accordance with subdivision (b) or (c) of this section.

(2) By no later than October 31st of the control period after the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under section 244-9.5(g) of this Subpart and October 31st of each year thereafter, the department will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> 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<sub>x</sub> opt-in unit, in accordance with subdivision (b) or (c) of this section.

(b) *Calculation of allocation.* For each control period for which a CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances, the department will allocate in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating the CAIR NO<sub>x</sub> allowance allocation will be the lesser of:

(i) the CAIR NO<sub>x</sub> opt-in unit's baseline heat input determined under section 244-9.5(c) of this Subpart; or

(ii) the CAIR NO<sub>x</sub> opt-in unit's heat input, as determined in accordance with Subpart 244-8 of this Subpart, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under section 244-9.5(g) of this Subpart.

(2) The NO<sub>x</sub> emission rate (in lb/mmBtu) used for calculating CAIR NO<sub>x</sub> allowance allocations will be the lesser of:

(i) the CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under section 244-9.5(d) of this Subpart and multiplied by 70 percent; or

(ii) the most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> allowances are to be allocated.

(3) The department will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under paragraph (1) of this subdivision, multiplied by the NO<sub>x</sub> emission rate under paragraph (2) of this subdivision, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(c) Notwithstanding subdivision (b) of this section and if the CAIR designated representative requests, and the department issues a CAIR opt-in permit (based on a demonstration of the intent to re-power stated under section 244-9.4[a][5] of this Subpart providing for, allocation to a CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under this subdivision (subject to the conditions in sections 244-9.5[h] and 244-9.7[g]), the department will allocate to the CAIR NO<sub>x</sub> opt-in unit as follows:

(1) For each control period in 2009 through 2014 for which the CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances:

(i) The heat input (in mmBtu) used for calculating CAIR NO<sub>x</sub> allowance allocations will be determined as described in paragraph (b)(1) of this section.

(ii) The NO<sub>x</sub> emission rate (in lb/mmBtu) used for calculating CAIR NO<sub>x</sub> allowance allocations will be the lesser of:

(a) the CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under section 244-9.5(d) of this Subpart; or

(b) the most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period in which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under section 244-9.5(g) of this Subpart.

(iii) The department will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under subparagraph (i) of this paragraph, multiplied by the NO<sub>x</sub> emission rate under subparagraph (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<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances:
- (i) The heat input (in mmBtu) used for calculating the CAIR NO<sub>x</sub> allowance allocations will be determined as described in paragraph (b)(1) of this section.
  - (ii) The NO<sub>x</sub> emission rate (in lb/mmBtu) used for calculating the CAIR NO<sub>x</sub> allowance allocation will be the lesser of:
    - (a) 0.15 lb/mmBtu;
    - (b) the CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under section 244-9.5(d) of this Subpart; or
    - (c) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> allowances are to be allocated.
  - (iii) The department will allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under subparagraph (i) of this paragraph, multiplied by the NO<sub>x</sub> emission rate under subparagraph (ii) of this subparagraph, 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<sub>x</sub> opt-in unit, the CAIR NO<sub>x</sub> allowances allocated by the department to the CAIR NO<sub>x</sub> opt-in unit under paragraph (a)(1) of this section.
- (2) By December 1st of the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> Annual Trading Program under section 244-9.5(g) of this Subpart, and December 1st of each year thereafter, the administrator will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit, the CAIR NO<sub>x</sub> allowances allocated by the department to the CAIR NO<sub>x</sub> opt-in unit under paragraph (a)(2) of this section.

**Historical Note**

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