

Chapter 3745-14: Nitrogen Oxides - Budget Trading Program

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3745-14-01 **General provisions.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" section at the end of this rule.]

(A) This chapter establishes the provisions and requirements to implement a NOx budget trading program in the state of Ohio as a means of control and reduction of NOx emissions. The director authorizes the administrator to assist the director in implementing the state NOx budget trading program as a participant in the federal NOx budget trading program by carrying out the functions set forth for the administrator in this chapter.

(B) Definitions.

(1) Except as otherwise provided in this rule, the definitions in rule 3745-15-01 of the Administrative Code shall apply to this chapter.

(2) As used in this rule and in rules 3745-14-02 to 3745-14-10 of the Administrative Code (pertaining to NOx budget trading program):

(a) "Account certificate of representation" means the completed and signed submission required by rule 3745-14-02 of the Administrative Code for certifying the designation of a NOx authorized account representative, for a NOx budget source or a group of identified NOx budget sources, who is authorized to represent the owners and operators of such source or sources and of the NOx budget units at such source or sources with regard to matters under the NOx budget trading program.

(b) "Account number" means the identification number given by the administrator to each NOx allowance tracking system account.

(c) "Acid Rain emissions limitation" means, as defined in 40 C.F.R. 72.2, a limitation on emissions of sulfur dioxide or NOx under the acid rain program under Title IV of the Clean Air Act.

(d) "Administrator" means the administrator of the United States environmental protection agency or the administrator's duly authorized representative.

(e) "Allocate" or "allocation" means the determination by the director of the number of NOx allowances to be initially credited to a NOx budget unit or an allocation set-aside.

(f) "ASTM" means the "American Society for Testing and Materials," 100 Barr Harbor Drive, West Conshohocken, Pennsylvania.

- (g) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under rule 3745-14-08 of the Administrative Code, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by rule 3745-14-08 of the Administrative Code.
- (h) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium, excluding CO boilers associated with combusting CO from fluidized catalytic crackers at petroleum refineries.
- (i) "Btu" means British thermal unit.
- (j) "Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401, et seq., as amended by Pub. L. no. 101-549 (November 15, 1990).
- (k) "Combined cycle system" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.
- (l) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.
- (m) "Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in paragraph (C)(2) or (D) of this rule or rule 3745-14-09 of the Administrative Code, for a unit that is a NO_x budget unit under paragraph (C)(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 paragraph (C)(2) or (D) of this rule or rule 3745-14-09 of the Administrative Code, for a unit that is not a NO_x budget unit under paragraph (C)(1) of this rule on the date the unit commences commercial operation, the date the unit becomes a NO_x budget unit under paragraph (C)(1) of this rule shall be the unit's date of commencement of commercial operation.
- (n) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber. Except as provided in paragraph (C)(2) or (D) of this rule or rule 3745-14-09 of the Administrative Code, for a unit that is a NO_x

budget unit under paragraph (C)(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 paragraph (C)(2) or (D) of this rule or rule 3745-14-09 of the Administrative Code, for a unit that is not a NOx budget unit under paragraph (C)(1) of this rule on the date of commencement of operation, the date the unit becomes a NOx budget unit under paragraph (C)(1) of this rule shall be the unit's date of commencement of operation.

- (o) "Common stack" means a single flue through which emissions from two or more units are exhausted.
- (p) "Compliance account" means a NOx allowance tracking system account, established by the administrator for a NOx budget unit under rule 3745-14-06 of the Administrative Code in which the NOx allowance allocations for the unit are initially recorded and in which are held NOx allowances available for use by the unit for a control period for the purpose of meeting the unit's NOx budget emission limitation.
- (q) "Continuous emission monitoring system" or "CEMS" means the equipment required under rule 3745-14-08 of the Administrative Code to sample, analyze, measure, and provide, by readings taken at least once every fifteen minutes (using an automated data acquisition and handling system (DAHS)), a permanent record of NOx emissions, stack gas volumetric flow rate or stack gas moisture content (as applicable), in a manner consistent with rule 3745-14-08 of the Administrative Code. The following are the principal types of continuous emission monitoring systems required under rule 3745-14-08 of the Administrative Code and 40 C.F.R. part 75:
 - (i) A flow monitoring system, consisting of a stack flow rate monitor and an automated DAHS. A flow monitoring system provides a permanent, continuous record of stack gas volumetric flow rate, in units of standard cubic feet per hour (scfh).
 - (ii) A NOx concentration monitoring system, consisting of a NOx pollutant concentration monitor and an automated DAHS. A NOx concentration monitoring system provides a permanent, continuous record of NOx emissions in units of parts per million (ppm).
 - (iii) A NOx emission rate (or NOx-diluent) monitoring system, consisting of a NOx pollutant concentration monitor, a diluent gas (carbon dioxide or oxygen) monitor, and an automated DAHS. A NOx concentration monitoring system provides a permanent, continuous record of: NOx concentration in units of parts per million (ppm), diluent gas concentration in units of percent carbon dioxide or oxygen, and NOx emission rate in units of pounds per million British thermal units (lb/mmBtu).

- (iv) A moisture monitoring system, as defined in 40 C.F.R. 75.11(b)(2). A moisture monitoring system provides a permanent, continuous record of the stack gas moisture content, in units of percent water.
- (r) "Control period" means the period beginning May first of a year and ending on September thirtieth of the same year, inclusive.
- (s) "Director" means the director of the Ohio environmental protection agency.
- (t) "Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.
- (u) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Administrator by the NOx authorized account representative and as determined by the Administrator in accordance with rule 3745-14-08 of the Administrative Code.
- (v) "Energy efficiency/renewable energy project" means any project that, during the control period, reduces end-use demand for electricity, including demand-side management practices, or displace electrical energy utilization through the use of wind power, solar power, biomass or landfill methane generation.
- (w) "Energy information administration" means the energy information administration of the United States department of energy.
- (x) "Excess emissions" means any tonnage of NOx emitted by a NOx budget unit during a control period that exceeds the NOx budget emissions limitation for the unit.
- (y) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.
- (z) "Fossil fuel-fired" means, with regard to a unit:
 - (i) For units that commenced operation before January 1, 1996, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty per cent of the annual heat input, on a Btu basis, during 1995, or, if a unit had no heat input in 1995, during the last year of operation of the unit prior to 1995;
 - (ii) For units that commenced operation on or after January 1, 1996 and before January 1, 1997, the combustion of fossil fuel, alone or in

combination with any other fuel, where fossil fuel actually combusted comprises more than fifty per cent of the annual heat input, on a Btu basis, during 1996; or

(iii) For units that commence operation on or after January 1, 1997:

(a) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty per cent of the annual heat input, on a Btu basis, during any year; or

(b) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than fifty per cent 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.

(aa) "General account" means a NO_x allowance tracking system account, established under rule 3745-14-06 of the Administrative Code, that is not a compliance account or an overdraft account.

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

(cc) "Heat input" means the product (in mmBtu/time) of the gross calorific value of the fuel (in mmBtu/lb) and the fuel feed rate into a combustion device (in pounds of fuel/time), as measured, recorded, and reported to the director by the NO_x authorized account representative and as determined by the director in accordance with rule 3745-14-08 of the Administrative Code, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(dd) "Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hours) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hours) during which the unit combusts the fuel.

(ee) "Innovative technology project" means any project utilizing technology that has not been adequately demonstrated in practice, but that would have a substantial likelihood of reducing NO_x emissions compared to current practices. An innovative technology project could include technology to decrease electrical energy or fuel use either in stationary or mobile sources.

(ff) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and

pays its proportional amount of such unit's total costs, pursuant to a contract:

- (i) For the life of the unit; or
 - (ii) For a cumulative term of no less than thirty years, including contracts that permit an election for early termination; or
 - (iii) For a period equal to or greater than twenty-five years or seventy per cent 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.
- (gg) "Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.
- (hh) "Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use Appendix D of 40 C.F.R. part 75 to report heat input, this value must be calculated, in accordance with 40 C.F.R. part 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 must be reported, in accordance with 40 C.F.R. part 75, using the maximum potential flow rate and either the maximum carbon dioxide concentration (in per cent carbon dioxide) or the minimum oxygen concentration (in per cent oxygen).
- (ii) "Maximum potential NO_x emission rate" means the emission rate of NO_x (in lb/mmBtu) calculated in accordance with Section 3 of Appendix F of 40 C.F.R. part 75, using the maximum potential concentration of NO_x as defined in Section 2 of Appendix A of 40 C.F.R. part 75, and either the maximum oxygen concentration (in per cent oxygen) or the minimum carbon dioxide concentration (in per cent carbon dioxide), under all operating conditions of the unit except for unit start up, shutdown, and upsets.
- (jj) "Maximum rated hourly heat input" means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.
- (kk) "mmBtu" means million Btu.
- (ll) "MWe" means megawatt electrical.
- (mm) "Monitoring system" means any monitoring system that meets the requirements of rule 3745-14-08 of the Administrative Code, including a

continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

- (nn) "Most stringent state or federal NO_x emissions limitation" means the lowest NO_x emission limitation (in lb/mmBtu) that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.
- (oo) "Nameplate capacity" means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States department of energy standards.
- (pp) "Non-Title V permit" means a federally enforceable permit administered by the director pursuant to the Clean Air Act and regulatory authority under the Clean Air Act, other than Title V of the Clean Air Act and Chapter 3745-77 of the Administrative Code.
- (qq) "NO_x" means all oxides of nitrogen which are determined to be ozone precursors, including, but not limited to, nitrogen oxide and nitrogen dioxide, but excluding nitrous oxide.
- (rr) "NO_x allowance" means a limited authorization by the director or the Administrator under the NO_x budget trading program to emit up to one ton of NO_x during the control period of the specified year or of any year thereafter, except as provided under paragraph (E)(6) of rule 3745-14-06 of the Administrative Code. No provision of the NO_x budget trading program, the NO_x budget permit application, the NO_x budget permit, or an exemption under paragraph (C)(2)(a) or (D) of this rule and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization, which does not constitute a property right. For purposes of this chapter, except paragraph (B), (C) or (D) of rule 3745-14-05 of the Administrative Code or paragraph (I) of rule 3745-14-09 of the Administrative Code, "NO_x allowance" also includes an authorization to emit up to one ton of NO_x during the control period of the specified year or of any year thereafter by the state or the Administrator in accordance with a state NO_x budget trading program established, and approved and administered by the Administrator, pursuant to 40 C.F.R. 51.121 or in accordance with the NO_x budget trading program established by the Administrator in accordance with 40 C.F.R. 52.34.
- (ss) "NO_x allowance deduction" or "deduct NO_x allowances" means the permanent withdrawal of NO_x allowances by the administrator from a NO_x allowance tracking system compliance account or overdraft account to account for the number of tons of NO_x emissions from a NO_x budget unit for a control period, determined in accordance with rules 3745-14-06 and 3745-14-08 of the Administrative Code, or for any other allowance surrender obligation under this chapter.

- (tt) "NOx allowances held" or "hold NOx allowances" means the NOx allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with rule 3745-14-06 of the Administrative Code, in a NOx allowance tracking system account.
- (uu) "NOx allowance tracking system" means the system by which the administrator records allocations, deductions, and transfers of NOx allowances under the NOx budget trading program.
- (vv) "NOx allowance tracking system account" means an account in the NOx allowance tracking system established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of NOx allowances.
- (ww) "NOx allowance transfer deadline" means midnight of November thirtieth or, if November thirtieth is not a business day, midnight of the first business day thereafter and is the deadline by which NOx allowances may be submitted for recordation in a NOx budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NOx budget emissions limitation for the control period immediately preceding such deadline.
- (xx) "NOx authorized account representative" means, for a NOx budget source or NOx budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NOx budget units at the source, in accordance with rule 3745-14-02 of the Administrative Code, to represent and legally bind each owner and operator in matters pertaining to the NOx budget trading program or, for a general account, the natural person who is authorized, in accordance with rule 3745-14-06 of the Administrative Code, to transfer or otherwise dispose of NOx allowances held in the general account.
- (yy) "NOx budget emissions limitation" means, for a NOx budget unit, the tonnage equivalent of the NOx allowances available for compliance deduction for the unit under paragraphs (E)(1), (E)(2), (E)(5) and (E)(6) of rule 3745-14-06 of the Administrative Code in a control period adjusted by deductions of such NOx allowances to account for actual heat input under paragraph (C)(5) of rule 3745-14-05 of the Administrative Code for the control period, or to account for excess emissions for a prior control period under paragraph (E)(4) of rule 3745-14-06 of the Administrative Code, or to account for withdrawal from the NOx budget trading program or for a change in regulatory status, of a NOx budget opt-in unit under paragraph (G) or (H) of rule 3745-14-09 of the Administrative Code.
- (zz) "NOx budget opt-in permit" means a NOx budget permit covering a NOx budget opt-in unit.

- (aaa) "NOx budget opt-in unit" means a unit that has been elected to become a NOx budget unit under the NOx budget trading program and whose NOx budget opt-in permit has been issued and is in effect under rule 3745-14-09 of the Administrative Code.
- (bbb) "NOx budget permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the director, including any permit revisions, specifying the NOx budget trading program requirements applicable to a NOx budget source, to each NOx budget unit at the NOx budget source, and to the owners and operators and the NOx authorized account representative of the NOx budget source and each NOx budget unit.
- (ccc) "NOx budget source" means a source that includes one or more NOx budget units.
- (ddd) "NOx budget trading program" means a multi-state NOx air pollution control and emission reduction program approved and administered by the Administrator pursuant to 40 C.F.R. 51.121 or established by the Administrator pursuant to 40 C.F.R. 52.34, as a means of mitigating the interstate transport of ozone and NOx.
- (eee) "NOx budget unit" means a unit that is subject to the NOx emissions limitation under paragraph (C) of this rule or paragraph (A) of rule 3745-14-09 of the Administrative Code.
- (fff) "Operating" means, with regard to a unit under paragraph (C)(1)(d)(ii) of rule 3745-14-03 or paragraph (A) of rule 3745-14-09 of the Administrative Code, having documented heat input for more than eight hundred seventy-six hours in the six months immediately preceding the submission of an application for an initial NOx budget permit under paragraph (D)(1) of rule 3745-14-09 of the Administrative Code. The unit's documented heat input shall be determined in accordance with 40 C.F.R. part 75 if the unit was otherwise subject to the requirements of 40 C.F.R. part 75 during that six-month period or shall be based on the best available data reported to the director for the unit if the unit was not otherwise subject to the requirements of 40 C.F.R. part 75 during that six-month period.
- (ggg) "Operator" means any person who operates, controls, or supervises a NOx budget unit, a NOx budget source, or unit for which an application for a NOx budget opt-in permit under paragraph (D) of rule 3745-14-09 of the Administrative Code is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.
- (hhh) "Opt-in" means to be elected to become a NOx budget unit under the NOx budget trading program through a final, effective NOx budget opt-in permit under rule 3745-14-09 of the Administrative Code.

- (iii) "Overdraft account" means the NOx allowance tracking system account, established by the administrator under rule 3745-14-06 of the Administrative Code, for each NOx budget source where there are two or more NOx budget units.
- (jjj) "Owner" means any of the following persons:
 - (i) Any holder of any portion of the legal or equitable title in a NOx budget unit or in a unit for which an application for a NOx budget opt-in permit under paragraph (D) of rule 3745-14-09 of the Administrative Code submitted and not denied or withdrawn; or
 - (ii) Any holder of a leasehold interest in a NOx budget unit or in a unit for which an application for a NOx budget opt-in permit under paragraph (D) of rule 3745-14-09 of the Administrative Code is submitted and not denied or withdrawn; or
 - (iii) Any purchaser of power from a NOx budget unit or from a unit for which an application for a NOx budget opt-in permit under paragraph (D) of rule 3745-14-09 of the Administrative Code is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement (however, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NOx budget unit or the unit for which an application for a NOx budget opt-in permit under paragraph (D) of rule 3745-14-09 of the Administrative Code is submitted and not denied or withdrawn); or
 - (iv) With respect to any general account, any person who has an ownership interest with respect to the NOx allowances held in the general account and who is subject to the binding agreement for the NOx authorized account representative to represent that person's ownership interest with respect to the NOx allowances.
- (kkk) "Per cent monitor data availability" means, for purposes of paragraph (D)(1) of rule 3745-14-05 and paragraph (E)(2) of rule 3745-14-09 of the Administrative Code, total unit operating hours for which quality-assured data were recorded in accordance with rule 3745-14-08 of the Administrative Code in a control period divided by the total number of unit operating hours in the control period, and multiplied by one hundred per cent.
- (lll) "Potential electrical output capacity" means thirty three per cent of a unit's maximum design heat input.

- (mmm) "Receive" or "receipt of" means, 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.
- (nnn) "Recordation," "record," or "recorded" means, with regard to NOx allowances, the movement of NOx allowances by the administrator from one NOx allowance tracking system account to another, for purposes of allocation, transfer, or deduction.
- (ooo) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in Appendix A of 40 C.F.R. part 60.
- (ppp) "Serial number" means, when referring to NOx allowances, the unique identification number assigned to each NOx allowance by the administrator, under paragraph (D)(3) of rule 3745-14-06 of the Administrative Code.
- (qqq) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the Clean Air Act. For purposes of section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.
- (rrr) "State" means one of the forty-eight contiguous states or a portion thereof or the District of Columbia that is subject to a NOx budget trading program under section 110(c) or section 126 of the Clean Air Act.
- (sss) "State trading program budget" means the total number of NOx tons apportioned to all NOx budget units in the state, in accordance with the NOx budget trading program, for use in a given control period.
- (ttt) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:
- (i) In person;
 - (ii) By United States postal service; or
 - (iii) 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.

- (uuu) "Title V operating permit" means a permit issued under Chapter 3745-77 of the Administrative Code.
- (vvv) "Title V operating permit regulations" means Chapters 3745-77 and 3745-78 of the Administrative Code.
- (www) "Ton" or "tonnage" means any "short ton" (i.e., two thousand pounds). For the purpose of determining compliance with the NO_x budget emissions limitation, total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with rule 3745-14-08 of the Administrative Code, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.
- (xxx) "Unit" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.
- (yyy) "Unit operating day" means a calendar day in which a unit combusts any fuel.
- (zzz) "Unit operating hour" or "hour of unit operation" means any hour (or fraction of an hour) during which a unit combusts any fuel.
- (aaaa) "Utilization" means the heat input (expressed in mmBtu/time) for a unit. The unit's total heat input for the control period in each year shall be determined in accordance with 40 C.F.R. part 75 if the NO_x budget unit was otherwise subject to the requirements of 40 C.F.R. part 75 for the year, or shall 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 C.F.R. part 75 for the year.
- (3) As used in rule 3745-14-11 of the Administrative Code (pertaining to NO_x budget program requirements for portland cement manufacturing):
- (a) "Clinker" means the product of a portland cement kiln from which finished cement is manufactured by milling and grinding.
 - (b) "Long dry kiln" means a kiln fourteen feet or larger in diameter, four hundred feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is dry.
 - (c) "Long wet kiln" means a kiln fourteen feet or larger in diameter, four hundred feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is a slurry.

- (d) "Low-NOx burners" means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel-rich zones for initial combustion.
 - (e) "Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.
 - (f) "Mid-kiln system firing" means the secondary firing in kilns by injecting solid fuel at an intermediate point in the kiln system using a specially designed feed injection mechanism for the purpose of decreasing NOx emissions through:
 - (i) Burning part of the fuel at a lower temperature; and
 - (ii) Reducing conditions at the solid fuel injection point that may destroy some of the NOx formed upstream in the kiln burning zone.
 - (g) "Portland cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.
 - (h) "Portland cement kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to heat, calcine and fuse raw materials, including limestone and clay, to produce portland cement clinker.
 - (i) "Precalciner kiln" means a kiln system where the feed to the kiln is preheated in cyclone chambers which utilize a second burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.
 - (j) "Preheater kiln" means a kiln system where the feed to the kiln is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.
 - (k) "Shutdown" means the cessation of operation of a portland cement kiln for any purpose.
 - (l) "Startup" means the setting in operation of a portland cement kiln for any purpose.
- (4) As used in rule 3745-14-12 of the Administrative Code (pertaining to NOx budget program requirements for stationary internal combustion engines):
- (a) "Affected engine" means any stationary internal combustion engine that is a large NOx SIP call engine, or other stationary internal combustion engine

that is subject to NO_x control under a compliance plan established pursuant to paragraph (B) of rule 3745-14-12 of the Administrative Code.

- (b) “Engine seasonal NO_x 2007 tonnage reduction” means the year 2007 control period NO_x emissions reductions value for a large NO_x SIP call engine which is calculated as the difference between the 2007 base NO_x emissions and the 2007 budget NO_x emissions contained in the NO_x SIP call engine inventory. The total engine seasonal NO_x 2007 tonnage reduction for all large NO_x SIP call engines in Ohio is 2730 tons.
- (c) “Facility seasonal NO_x 2007 tonnage reduction” means the total of the engine seasonal NO_x 2007 tonnage reductions attributable to all of an owner/operator’s large NO_x SIP call engines.
- (d) “Large NO_x SIP call engine” means a stationary internal combustion engine identified and designated as “large” in the NO_x SIP call engine inventory as emitting more than one ton of NO_x emissions per average control period day in 1995.
- (e) “NO_x SIP call engine inventory” means the inventory of internal combustion engines compiled by U.S. EPA as part of the NO_x SIP call rule, including the Federal Register notice entitled “Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone,” and the adjustment of the 2007 budget NO_x control efficiency to eighty-two per cent for large gas-fired engines discussed in the Federal Register notice entitled “Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules.”
- (f) “Past NO_x emission rate” means the emission rate of an affected engine in grams per brake horsepower-hour (g/bhp-hr) as determined by performance testing consistent with the requirements of 40 C.F.R. part 60, Appendix A. Where such performance test data are not available, the appropriate past NO_x emission rate shall be evaluated and approved or denied by the director on a case-by-case basis using, for example, appropriate emission factors or data from the NO_x SIP call engine inventory. For large NO_x SIP call engines, the past NO_x emission rate is the uncontrolled emission rate.
- (g) “Projected operating hours” means the projected actual number of hours of operation per control period for an affected engine.
- (h) “Projected NO_x emission rate” means the projected emission rate in g/bhp-hr after installation of controls on an affected engine.
- (i) “Stationary internal combustion engine” means any internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and remains at a single site at a building, structure,

facility, or installation for more than twelve consecutive months. Any engine (or engines) that replaces an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period.

(C) Applicability.

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

(a) For EGUs:

(i) For units, other than cogeneration units, that commenced operation before January 1, 1997, a unit serving during 1995 or 1996 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid;

(ii) For units, other than cogeneration units, that commenced operation on or after January 1, 1997 and before January 1, 1999, a unit serving during 1997 or 1998 a generator that had a nameplate capacity greater than 25 MWe and produced electricity for sale under a firm contract to the electric grid; and

(iii) For units, other than cogeneration units, that commence operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

(iv) For cogeneration units:

(a) For units commencing operation before January 1, 1997, a unit serving during 1995 or 1996 a generator with a nameplate capacity greater than 25 MWe and failing to qualify as an unaffected unit under 40 C.F.R. 72.6(b)(4) for 1995 or 1996 under the "Acid Rain Program;"

(b) For units commencing operation in 1997 or 1998, a unit serving during 1997 or 1998 a generator with a nameplate capacity greater than 25 MWe and failing to qualify as an unaffected unit under 40 C.F.R. 72.6(b)(4) for 1997 or 1998 under the "Acid Rain Program;"

(c) For units commencing operation on or after January 1, 1999, a unit serving at any time a generator with a nameplate capacity greater than 25 MWe and failing to qualify as an unaffected unit under 40 C.F.R. 72.6(b)(4) under the "Acid Rain Program" for any year.

(b) For non-EGUs:

- (i) For units, other than cogeneration units, that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid;
- (ii) For units, other than cogeneration units, that commenced operation on or after January 1, 1997 and before January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid;
- (iii) For units, other than cogeneration units, that commence operation on or after January 1, 1999, a unit with a maximum design heat input greater than 250 mmBtu/hr that:
 - (a) At no time serves a generator producing electricity for sale; or
 - (b) At any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five MWe or less and has the potential to use no more than fifty per cent of the potential electrical output capacity of the unit.

(iv) For cogeneration units:

- (a) For units commencing operation before January 1, 1997, a unit with a maximum design heat input greater than 250 mmBtu/hr and qualifying as an unaffected unit under 40 C.F.R. 72.6(b)(4) under the "Acid Rain Program" for 1995 and 1996;
- (b) For units commencing operation in 1997 or 1998, a unit with a maximum design heat input greater than 250 mmBtu/hr and qualifying as an unaffected unit under 40 C.F.R. 72.6(b)(4) under the "Acid Rain Program" for 1997 and 1998;
- (c) For units commencing on or after January 1, 1999, a unit with a maximum design heat input greater than 250 mmBtu/hr and qualifying as an unaffected unit under 40 C.F.R. 72.6(b)(4) under the "Acid Rain Program" for each year.

(2) The following units shall be exempt from the requirements of the NO_x budget trading program:

- (a) A unit under paragraph (C)(1) of this rule that has a federally enforceable permit that includes a NO_x emission limitation restricting NO_x emissions during a control period to twenty-five tons or less and restricts the unit to

burning only natural gas or fuel oil during a control period in 2004 or later and that includes the special provisions in paragraph (C)(2)(d) of this rule shall be exempt from the requirements of the NO_x budget trading program, except for the provisions of this paragraph, paragraphs (B), (C)(1) and (F) of this rule and rules 3745-14-05 to 3745-14-07 of the Administrative Code. The NO_x emission limitation under this paragraph shall restrict NO_x emissions during the control period by one of the following methods:

- (i) A restriction on unit operating hours calculated by dividing the federally enforceable emission limitation, in tons, determined in accordance with paragraph (C)(2)(a) of this rule, by the unit's maximum potential hourly NO_x mass emissions, which shall equal the unit's maximum rated hourly heat input multiplied by the highest default NO_x emission rate applicable to the unit under 40 C.F.R. 75.19(c), Table LM-2; or
 - (ii) A restriction on unit fuel usage calculated by dividing the federally enforceable emission limitation, in tons, determined in accordance with paragraph (C)(2)(a) of this rule, by the product of the heat value of the fuel to be used multiplied by the default NO_x emission rate for the fuel to be used as specified in 40 C.F.R. 75.19(c), Table LM-2.
- (b) The exemption under paragraph (C)(2)(a) of this rule shall become effective as follows:
- (i) The exemption shall become effective on the date on which the NO_x emission limitation and the special provisions in the permit under paragraph (C)(2)(a) of this rule become final; or
 - (ii) If the NO_x emission limitation and the special provisions in the permit under paragraph (C)(2)(a) of this rule become final during a control period and after the first date on which the unit operates during such control period, then the exemption shall become effective on May first of such control period, provided that such NO_x emission limitation and the special provisions apply to the unit as of such first date of operation. If such NO_x emission limitation and special provisions do not apply to the unit as of such first date of operation, then the exemption under paragraph (C)(2)(a) of this rule shall become effective on October first of the year during which such NO_x emission limitation and the special provisions become final.
- (c) The director shall provide the Administrator written notice of the issuance of any permit under paragraph (C)(2)(a) of this rule and, upon request, a copy of the permit.
- (d) The following special provisions apply to units exempt under paragraph (C)(2)(a) of this rule.

- (i) A unit exempt under paragraph (C)(2)(a) of this rule shall comply with the restriction on unit operating hours and fuel use described in paragraph (C)(2)(a) of this rule during the control period in each year.
- (ii) NO_x allowances shall be allocated to the unit in accordance with paragraphs (B)(1) to (B)(3) and (C)(1) to (C)(3) of rule 3745-14-05 of the Administrative Code. For each control period for which the unit is allocated NO_x allowances under this paragraph:
 - (a) The owners and operators of the unit must specify a general account, in which the administrator will record the NO_x allowances; and
 - (b) After the administrator records a NO_x allowance allocation under paragraphs (B)(1) to (B)(3) and (C)(1) to (C)(3) of rule 3745-14-05 of the Administrative Code, the administrator will deduct, from the general account under paragraph (C)(2)(d)(ii)(a) of this rule, NO_x allowances that are allocated for the same or a prior control period as the NO_x allowances allocated to the unit under paragraphs (B)(1) to (B)(3) and (C)(1) to (C)(3) of rule 3745-14-05 of the Administrative Code and that equal the NO_x emission limitation (in tons of NO_x) on which the unit's exemption under paragraph (C)(2)(a) of this rule is based. The NO_x authorized account representative shall ensure that such general account contains the NO_x allowances necessary for completion of such deduction.
- (iii) A unit exempt under paragraph (C)(2)(a) of this rule shall report hours of unit operation or fuel usage during the control period in each year to the director by November first of that year.
- (iv) For a period of five years from the date the records are created, the owners and operators of a unit exempt under paragraph (C)(2)(a) of this rule shall retain, at the source that includes the unit, records demonstrating that the conditions of the federally enforceable permit under paragraph (C)(2)(a) of this rule were met, including the restrictions on unit operating hours and fuel usage. The five-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 met the restriction on unit operating hours and fuel use.
- (v) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under paragraph (C)(2)(a) of this rule 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.

(vi) On the earlier of the following dates, a unit exempt under paragraph (C)(2)(a) of this rule shall lose its exemption:

(a) The date on which the restriction on unit operating hours and fuel use described in paragraph (C)(2)(a) of this rule is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable to any control period starting in 2004; or

(b) The first date on which the unit fails to comply, or with regard to which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on unit operating hours and fuel use described in paragraph (C)(2)(a) of this rule during any control period starting in 2004.

(vii) A unit that loses its exemption in accordance with paragraph (C)(2)(d)(vi) of this rule shall be subject to the requirements of this chapter. For the purpose of applying permitting requirements under rule 3745-14-03 of the Administrative Code, allocating allowances under rule 3745-14-05 of the Administrative Code, and applying monitoring requirements under rule 3745-14-08 of the Administrative Code, the unit shall be treated as commencing operation and, if the unit is covered by paragraph (C)(1)(a) of this rule, commencing commercial operation on the date the unit loses its exemption.

(viii) A unit that is exempt under paragraph (C)(2)(a) of this rule is not eligible to be a NO_x budget opt-unit under rule 3745-14-09 of the Administrative Code.

(D) Retired unit exemption.

(1) This rule applies to any NO_x budget unit, other than a NO_x budget opt-in unit, that is permanently retired.

(2) Standard provisions.

(a) Any NO_x budget unit, other than a NO_x budget opt-in unit, that is permanently retired shall be exempt from the NO_x budget trading program, except for the provisions of this rule and rules 3745-14-05 to 3745-14-07 of the Administrative Code.

(b) The exemption under paragraph (D)(2)(a) of this rule shall become effective the day on which the unit is permanently retired. Within thirty days of permanent retirement, the NO_x authorized account representative of the unit shall submit a statement to the director. A copy of the statement shall be submitted to the administrator. The statement shall state (in a format prescribed by the director) that the unit is permanently retired and will comply with the requirements of paragraph (D)(3) of this rule.

- (c) After receipt of the statement under paragraph (D)(2)(b) of this rule, the director shall amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (D)(2)(a) and (D)(3) of this rule.

(3) Special provisions.

- (a) A unit exempt under paragraph (D) of this rule shall not emit any NO_x, starting on the date that the exemption takes effect.
- (b) The director shall allocate NO_x allowances under rule 3745-14-05 of the Administrative Code to a unit exempt under paragraph (D) of this rule. For each control period for which the unit is allocated one or more NO_x allowances, the owners and operators of the unit shall specify a general account, in which the administrator will record such NO_x allowances.
- (c) For a period of five years from the date the records are created, the owners and operators of a unit exempt under paragraph (D) of this rule shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The five-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.
- (d) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under this rule 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.
- (e) Returning retired units to service.
 - (i) A unit exempt under paragraph (D) of this rule and located at a source that is required, or but for this exemption would be required, to have a 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 twelve months before the later of May 1, 2004 or the date on which the unit resumes operation.
 - (ii) A unit exempt under paragraph (D) of this rule and located at a source that is required, or but for this exemption would be required, to have a non-Title V 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 twelve months before the later of May 1, 2004 or the date on which the unit is to first resume operation.

- (f) On the earlier of the following dates, a unit exempt under paragraph (D) of this rule shall lose its exemption:
 - (i) The date on which the NOx authorized account representative submits a NOx budget permit application under paragraph (D)(3)(e) of this rule;
 - (ii) The date on which the NOx authorized account representative is required under paragraph (D)(3)(e) of this rule to submit a NOx budget permit application; or
 - (iii) The date on which the unit resumes operation, if the unit is not required to submit a NOx budget permit application.
- (g) For the purpose of applying monitoring requirements under rule 3745-14-08 of the Administrative Code, a unit that loses its exemption under paragraph (D) 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.
- (h) A unit that is exempt under paragraph (D) of this rule is not eligible to be a NOx budget opt-in unit under rule 3745-14-09 of the Administrative Code.

(E) Standard requirements.

(1) Permit requirements.

- (a) The NOx authorized account representative of each NOx budget unit or NOx budget source required to have a federally enforceable permit for the unit or source shall:
 - (i) Submit to the director a complete NOx budget permit application in accordance with the deadlines specified in paragraphs (B)(2) and (B)(3) of rule 3745-14-03 of the Administrative Code;
 - (ii) Submit in a timely manner any supplemental information that the director determines is necessary in order to review a NOx budget permit application and issue or deny a NOx budget permit.
- (b) The owners and operators of each NOx budget unit or source required to have a federally enforceable permit shall have a NOx budget permit issued by the director and operate the unit in compliance with such NOx budget permit.
- (c) The owners and operators of a NOx budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NOx budget permit application, and to have a NOx budget permit for such NOx budget source.

(2) Monitoring requirements.

- (a) The owners and operators and, to the extent applicable, the NOx authorized account representative of each NOx budget source and each NOx budget unit at the source shall comply with the monitoring requirements of rule 3745-14-08 of the Administrative Code.
 - (b) The emissions measurements recorded and reported in accordance with rule 3745-14-08 of the Administrative Code shall be used to determine compliance by the unit with the NOx budget emissions limitation under paragraph (E)(3) of this rule.
- (3) NOx allowances.
- (a) The owners and operators of each NOx budget source and each NOx budget unit at the source shall hold NOx allowances available for compliance deductions under paragraph (E) of rule 3745-14-06 of the Administrative Code, as of the NOx allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount not less than the total NOx emissions for the control period from the unit, as determined in accordance with rule 3745-14-08 of the Administrative Code, plus any amount necessary to account for actual utilization under paragraph (C)(5) of rule 3745-14-05 of the Administrative Code for the control period.
 - (b) Each ton of NOx emitted in excess of the NOx budget emissions limitation shall constitute a separate violation of this chapter, the Clean Air Act, and applicable Ohio law.
 - (c) A NOx budget unit shall be subject to the requirements under paragraph (E)(3)(a) of this rule starting on the later of May 31, 2004 or the date on which the unit commences operation.
 - (d) NOx allowances shall be held in, deducted from, or transferred among NOx allowance tracking system accounts in accordance with rules 3745-14-05, 3745-14-06, 3745-14-07 and 3745-14-09 of the Administrative Code.
 - (e) A NOx allowance shall not be deducted, in order to comply with the requirements under paragraph (E)(3)(a) of this rule, for a control period in a year prior to the year for which the NOx allowance was allocated.
 - (f) A NOx allowance allocated by the director under the NOx budget trading program is a limited authorization to emit one ton of NOx in accordance with the NOx budget trading program. No provision of the NOx budget trading program, the NOx budget permit application, the NOx budget permit, or an exemption under paragraph (C)(2) or (D) of this rule and no provision of law shall be construed to limit the authority of the United States or the state of Ohio to terminate or limit such authorization.

- (g) A NOx allowance allocated by the director under the NOx budget trading program does not constitute a property right.
 - (h) Upon recordation by the administrator under rules 3745-14-06 and 3745-14-07 of the Administrative Code, every allocation, transfer, or deduction of a NOx allowance to or from a NOx 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 NOx budget permit of the NOx budget unit by operation of law without any further review.
- (4) The owners and operators of a NOx budget unit that has excess emissions in any control period shall:
- (a) Surrender the NOx allowances required for deduction under paragraph (E)(4)(a) of rule 3745-14-06 of the Administrative Code; and
 - (b) Pay any fine, penalty, or assessment or comply with any other remedy imposed under paragraph (E)(4)(c) of rule 3745-14-06 of the Administrative Code.
- (5) Record keeping and reporting requirements.
- (a) Unless otherwise provided, the owners and operators of a NOx budget source and each NOx budget unit at the source shall keep on site at the source, or at a central location in Ohio for unattended sources, each of the following documents for a period of five years from the date the document is created: (This period may be extended for cause, at any time prior to the end of five years, in writing by the director or the administrator. Records for unattended sources retained at a central location shall be available immediately at the central location upon the request of the director or administrator and within three days following receipt of a written request from the director or administrator.)
 - (i) The account certificate of representation for the NOx authorized account representative for the source and each NOx 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 (D) of rule 3745-14-02 of the Administrative Code, provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NOx authorized account representative;
 - (ii) All emissions monitoring information, in accordance with rule 3745-14-08 of the Administrative Code;

- (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NOx budget trading program; and
 - (iv) Copies of all documents used to complete a NOx budget permit application and any other submission under the NOx budget trading program or to demonstrate compliance with the requirements of the NOx budget trading program.
 - (b) The NOx authorized account representative of a NOx budget source and each NOx budget unit at the source shall submit the reports and compliance certifications required under the NOx budget trading program, including those under rules 3745-14-04, 3745-14-08 and 3745-14-09 of the Administrative Code.
- (6) Liability.
- (a) Any person who knowingly violates any requirement or prohibition of the NOx budget trading program, a NOx budget permit, or an exemption under paragraph (C)(2) or (D) of this rule shall be subject to enforcement pursuant to applicable state and federal law.
 - (b) Any person who knowingly makes a false material statement in any record, submission, or report under the NOx budget trading program shall be subject to criminal enforcement pursuant to applicable state and federal law.
 - (c) No permit revision shall excuse any violation of the requirements of the NOx budget trading program that occurs prior to the date that the revision takes effect.
 - (d) Each NOx budget source and each NOx budget unit shall meet the requirements of the NOx budget trading program.
 - (e) Any provision of the NOx budget trading program that applies to a NOx budget source (including a provision applicable to the NOx authorized account representative of a NOx budget source) shall also apply to the owners and operators of such source and of the NOx budget units at the source.
 - (f) Any provision of the NOx budget trading program that applies to a NOx budget unit (including a provision applicable to the NOx authorized account representative of a NOx budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack under rule 3745-14-08 of the Administrative Code, the owners and operators and the NOx authorized account representative of one NOx budget unit shall not be liable for any violation by any other NOx budget unit of which they are not owners or operators or the NOx authorized account representative and that is located at a source of

which they are not owners or operators or the NOx authorized account representative.

- (7) No provision of the NOx budget trading program, a NOx budget permit application, a NOx budget permit, or an exemption under paragraph (C)(2) or (D) of this rule shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NOx authorized account representative of a NOx budget source or NOx budget unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(F) Computation of time.

- (1) Unless otherwise stated, any time period scheduled, under the NOx 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 NOx 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 NOx budget trading program, except for the control period defined in paragraph (B)(2)(r) of this rule, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(G) Incorporation by reference. This chapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new dates.

- (1) Availability. The materials incorporated by reference are available as follows:
 - (a) Clean Air Act as defined in this rule. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act as amended in 1990 is also available in electronic format at www.epa.gov/oar/caa/. A copy of the Act is also available for inspection and copying at most public libraries and "The State Library of Ohio."
 - (b) Code of Federal Regulations. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also

available in electronic format at www.access.gpo.gov/nara/cfr/. The CFR compilations are also available for inspection and copying at most Ohio public libraries and "The State Library of Ohio."

- (c) Ohio EPA weekly review. Information and copies may be obtained by writing to: "Ohio EPA Legal Department, 122 S. Front Street, Columbus, Ohio, 43125." The full text of the Ohio EPA Weekly Review is also available in electronic format at www.epa.state.oh.us/legal/pubnote.html/. The Ohio EPA Weekly Review compilations are also available for inspection and copying at most Ohio public libraries and "The State Library of Ohio."
- (d) Federal Registrar. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." Text of the Federal Register is also available in electronic format at www.gpoaccess.gov/fr/index.html. The Federal Register is also available for inspection and copying at most Ohio public libraries and "The State Library of Ohio."
- (e) American Society for Testing Materials (ASTM). Information and copies may be obtained by writing to: "ASTM International, 100 Bar Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19426-2959." These documents are available for purchase at www.astm.org. ASTM documents are also generally available at local public libraries and "The State Library of Ohio."

(2) Incorporated materials.

- (a) 40 CFR 52.34; "Action on petitions submitted under section 126 relating to emissions of nitrogen oxides;" 64 FR 28318, May 25, 1999, as amended at 64 FR 33961, June 24, 1999; 65 FR 2042, Jan. 13, 2000; 65 FR 2726, Jan. 18, 2000.
- (b) 40 CFR 51.121; "Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen;" 63 FR 57491, Oct. 27, 1998, as amended at 63 FR 71225, Dec. 24, 1998; 64 FR 26305, May 14, 1999; 65 FR 11230, Mar. 2, 2000; 65 FR 56251, Sept. 18, 2000.
- (c) 40 CFR Part 60, Appendix A; "Test Methods 1 through 29;" as published in the July 1, 2003 Code of Federal Regulations.
- (d) 40 CFR 72.2; "Definitions;" 58 FR 3650, Jan. 11, 1993, as amended at 58 FR 15647, Mar. 23, 1993; 58 FR 33770, June 21, 1993; 58 FR 40747, July 30, 1993; 60 FR 17111, Apr. 4, 1995; 60 FR 18468, Apr. 11, 1995; 60 FR 26514, May 17, 1995; 62 FR 55475, Oct. 24, 1997; 63 FR 57498, Oct. 27, 1998; 63 FR 68404, Dec. 11, 1998; 64 FR 25842, May 13, 1999; 64 FR

28586, May 26, 1999; 67 FR 40420, June 12, 2002; 67 FR 53504, Aug. 16, 2002.

- (e) 40 CFR Part 75; “Continuous Emission Monitoring;” as published in the July 1, 2003 Code of Federal Regulations.
- (f) 40 CFR 75.19; “Optional SO₂, NO_X, and CO₂ emissions calculation for low mass emissions (LME) units;” 63 FR 57500, Oct. 27, 1998, as amended at 64 FR 28592, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40424, 40425, June 12, 2002; 67 FR 53504, Aug. 16, 2002.
- (g) 40 CFR Part 75, Appendix A; “Specifications and Test Procedures;” 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26541-26546, 26569-26570, May 17, 1995; 61 FR 25582, May 22, 1996; 61 FR 59162, Nov. 20, 1996; 63 FR 57512, Oct. 27, 1998; 64 FR 28631-28643, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40448, 40449, 40452, 40453, 40455, June 12, 2002; 67 FR 53505, Aug. 16, 2002.
- (h) 40 CFR Part 75, Appendix D; “Optional SO₂ Emissions Data Protocol for Gas-Fired and Oil-Fired Units;” 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26548, 26551, May 17, 1995; 61 FR 25585, May 22, 1996; 61 FR 59166, Nov. 20, 1996; 63 FR 57513, Oct. 27, 1998; 64 FR 28652-28663, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40460, 40472, June 12, 2002; 67 FR 53505, Aug. 16, 2002.
- (i) 40 CFR Part 75, Appendix F; “Conversion Procedures;” 58 FR 3701, Jan. 11, 1993; Redesignated and amended at 60 FR 26553-26556, 26571, May 17, 1995; 61 FR 25585, May 22, 1996; 61 FR 59166, Nov. 20, 1996; 63 FR 57513, Oct. 27, 1998; 64 FR 28666-28671, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40474, 40475, June 12, 2002; 67 FR 53505, Aug. 16, 2002.
- (j) Clean Air Act, as amended November 15, 1990, 42 U.S.C. 7401 et seq.
- (k) Clean Air Act, “TITLE IV - ACID DEPOSITION CONTROL;” July 14, 1955, ch. 360, title IV, Sec. 401 through 416, as added Pub. L. 101-549, title IV, Secs. 401-416, Nov. 15, 1990, 104 Stat. 2584, 2585, 2589, 2592, 2605, 2613, 2616, 2619, 2621, 2623, 2624, 2625, 2626.
- (l) “Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone;” 65FR11222 to 65FR11231, March 2, 2000.
- (m) “Interstate Ozone Transport: Response to Court Decisions on the NO_X SIP Call, NO_X SIP Call Technical Amendments, and Section 126 Rules;” 69FR21603 to 69 FR21648, April 21, 2004.

- (n) ASTM D6522-00; “Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers;” undated.

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CERTIFIED ELECTRONICALLY

Certification

04/27/2005

Date

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Prior Effective Dates: 5/25/04

3745-14-02 **The NOx authorized account representative.**

(A) Duties of the NOx authorized account representative.

- (1) Except as provided under paragraph (B) of this rule, each NOx budget source, including all NOx budget units at the source, shall have one and only one NOx authorized account representative, with regard to all matters under the NOx budget trading program concerning the source or any NOx budget unit at the source.
- (2) The NOx authorized account representative of the NOx budget source shall be selected by an agreement binding on the owners and operators of the source and all NOx budget units at the source.
- (3) Upon receipt by the administrator of a complete account certificate of representation under paragraph (D) of this rule, the NOx 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 NOx budget source represented and each NOx budget unit at the source in all matters pertaining to the NOx budget trading program, notwithstanding any agreement between the NOx authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NOx authorized account representative by the director, the administrator, or a court regarding the source or unit.
- (4) No NOx budget permit shall be issued, and no NOx allowance tracking system account shall be established for a NOx budget unit at a source, until the administrator has received a complete account certificate of representation under paragraph (D) of this rule for a NOx authorized account representative of the source and the NOx budget units at the source.
- (5) NOx budget trading program submissions
 - (a) Each submission under the NOx budget trading program shall be submitted, signed, and certified by the NOx authorized account representative for each NOx budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NOx authorized account representative:

"I am authorized to make this submission on behalf of the owners and operators of the NOx budget sources or NOx 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."

- (b) The director and the administrator shall accept or act on a submission made on behalf of owner or operators of a NOx budget source or a NOx budget unit only if the submission has been made, signed, and certified in accordance with paragraph (A)(5)(a) of this rule.

(B) The alternate NOx authorized account representative.

- (1) An account certificate of representation may designate one and only one alternate NOx authorized account representative who may act on behalf of the NOx authorized account representative. The agreement by which the alternate NOx authorized account representative is selected shall include a procedure for authorizing the alternate NOx authorized account representative to act in lieu of the NOx authorized account representative.
- (2) Upon receipt by the administrator of a complete account certificate of representation under paragraph (D) of this rule, any representation, action, inaction, or submission by the alternate NOx authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NOx authorized account representative.
- (3) Except in paragraphs (A)(1), (C) and (D) of this rule and paragraph (B) of rule 3745-14-06 of the Administrative Code, whenever the term "NOx authorized account representative" is used in this part, the term shall be construed to include the alternate NOx authorized account representative.

(C) Changing the NOx authorized account representative and the alternate NOx authorized account representative; changes in the owners and operators.

- (1) The NOx authorized account representative may be changed at any time upon receipt by the administrator of a superseding complete account certificate of representation. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NOx 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 NOx authorized account representative and the owners and operators of the NOx budget source and the NOx budget units at the source.
- (2) The alternate NOx authorized account representative may be changed at any time upon receipt by the administrator of a superseding complete account certificate of representation. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NOx 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 NOx authorized account representative and the owners and operators of the NOx budget source and the NOx budget units at the source.

(3) Changes in the owners and operators.

- (a) In the event a new owner or operator of a NOx budget source or a NOx 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 NOx authorized account representative and any alternate NOx 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.
- (b) Within thirty days following any change in the owners and operators of a NOx budget source or a NOx budget unit, including the addition of a new owner or operator, the NOx authorized account representative or alternate NOx authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

(D) Account certificate of representation.

- (1) A complete account certificate of representation for a NOx authorized account representative or an alternate NOx authorized account representative shall include the following elements in a format prescribed by the Administrator:
 - (a) Identification of the NOx budget source and each NOx budget unit at the source for which the account certificate of representation is submitted;
 - (b) The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NOx authorized account representative and any alternate NOx authorized account representative;
 - (c) A list of the owners and operators of the NOx budget source and of each NOx budget unit at the source;
 - (d) The following certification statement by the NOx authorized account representative and any alternate NOx authorized account representative:

"I certify that I was selected as the NOx authorized account representative or alternate NOx authorized account representative, as applicable, by an agreement binding on the owners and operators of the NOx budget source and each NOx budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NOx budget trading program on behalf of the owners and operators of the NOx budget source and of each NOx 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."

- (e) The signature of the NOx authorized account representative and any alternate NOx authorized account representative and the dates signed.
- (2) 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.
- (E) Objections concerning the NOx authorized account representative.
- (1) Once a complete account certificate of representation has been submitted and received, the director and the administrator shall rely on the account certificate of representation unless and until a superseding complete account certificate of representation is received by the administrator.
 - (2) Except as provided in paragraphs (C)(1) and (C)(2) 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 NOx authorized account representative shall affect any representation, action, inaction, or submission of the NOx authorized account representative or the finality of any decision or order by the director or the administrator under the NOx budget trading program.
 - (3) Neither the director nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NOx authorized account representative, including private legal disputes concerning the proceeds of NOx allowance transfers.

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R.C. 119.032 Review dates: 03/31/2005

CERTIFIED ELECTRONICALLY

Certification

07/08/2002

Date

Promulgated Under: 119.03
Statutory Authority: 3704.03(E)
Rule Amplifies: 3704.03(A), (D), and (E)
Prior Effective Dates: June 21, 1994

3745-14-03 **The NOx budget permit.**

(A) General NOx budget trading program permit requirements.

- (1) For each NOx budget source required to have a federally enforceable operating permit, such permit shall include a NOx budget permit administered by the director.
 - (a) For NOx budget sources required to have a Title V operating permit, the NOx budget portion of the Title V permit shall be administered in accordance with Chapter 3745-77 of the Administrative Code except as provided otherwise by this rule or rule 3745-14-09 of the Administrative Code.
 - (b) For NOx budget sources required to have a non-Title V operating permit, the NOx budget portion of the non-Title V operating permit shall be administered in accordance with Chapter 3745-35 of the Administrative Code, except as provided otherwise by this rule or rule 3745-14-09 of the Administrative Code.
- (2) Each NOx budget permit (including a draft or proposed NOx budget permit, if applicable) shall contain all applicable NOx budget trading program requirements and shall be a complete and segregable portion of the permit required under paragraph (A)(1) of this rule.

(B) Submission of NOx budget permit applications.

- (1) The NOx authorized account representative of any NOx budget source required to have a federally enforceable operating permit shall submit to the director a complete NOx budget permit application by the applicable deadline in paragraph (B)(2) of this rule.
- (2) Application time.
 - (a) For NOx budget sources required to have a Title V operating permit:
 - (i) For any source, with one or more NOx budget units that commence operation before January 1, 2000, the NOx authorized account representative shall submit a complete NOx budget permit application covering such NOx budget units to the director before May 1, 2003;
 - (ii) For any source, with one or more NOx budget units that commence operation on or after January 1, 2000, the NOx authorized account representative shall submit a complete NOx budget permit application covering such NOx budget unit to the director at least twelve months

before the later of May 1, 2004 or the date on which the NOx budget unit commences operation.

(b) For NOx budget sources required to have a non-Title V operating permit:

- (i) For any source, with one or more NOx budget units that commence operation before January 1, 2000, the NOx authorized account representative shall submit a complete NOx budget permit application covering such NOx budget units to the director before May 1, 2003;
- (ii) For any source, with any NOx budget unit that commences operation on or after January 1, 2000, the NOx authorized account representative shall submit a complete NOx budget permit application covering such NOx budget unit to the director at least twelve months before the later of May 1, 2004 or the date on which the NOx budget unit commences operation.

(3) Duty to reapply.

- (a) For a NOx budget source required to have a Title V operating permit, the NOx authorized account representative shall submit a complete NOx budget permit renewal application for the NOx budget source covering the NOx budget units at the source in accordance with Chapter 3745-77 of the Administrative Code.
- (b) For a NOx budget source required to have a non-Title V permit, the NOx authorized account representative shall submit a complete NOx budget permit application for the NOx budget source covering the NOx budget units at the source in accordance with rule 3745-35-02 of the Administrative Code.

(C) Information requirements for NOx budget permit applications.

- (1) A complete NOx budget permit application shall include the following elements concerning the NOx budget source for which the application is submitted, in a format prescribed by the director:
 - (a) Identification of the NOx budget source, including plant name and the ORIS (office of regulatory information systems) or facility code assigned to the source by the United States energy information administration, or a facility code assigned to the source by the administrator;
 - (b) Identification of each NOx budget unit at the NOx budget source and whether it is a NOx budget unit under paragraph (C)(1) of rule 3745-14-01 or rule 3745-14-09 of the Administrative Code;
 - (c) The standard requirements under paragraph (E) of rule 3745-14-01 of the Administrative Code; and

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

(i) "I certify that each unit for which this permit application is submitted under rule 3745-14-09 of the Administrative Code is not a NOx budget unit under paragraph (C)(1) of rule 3745-14-01 of the Administrative Code and is not covered by an exemption under paragraph (C)(2) or (D) of rule 3745-14-01 of the Administrative Code that is in effect."

(ii) If the application is for an initial NOx budget opt-in permit,

"I certify that each unit for which this permit application is submitted under rule 3745-14-09 of the Administrative Code is currently operating, as that term is defined under paragraph (B)(2) of rule 3745-14-01 of the Administrative Code."

(D) NOx budget permit contents.

- (1) Each NOx budget permit (including any draft or proposed NOx budget permit, if applicable) shall contain, in a format prescribed by the director, all elements required for a complete NOx budget permit application under paragraph (C) of this rule.
- (2) Each NOx budget permit is deemed to incorporate automatically the definitions of terms under paragraph (B) of rule 3745-14-01 of the Administrative Code and, upon recordation by the Administrator, in accordance with rules 3745-14-06 and 3745-14-07 of the Administrative Code, every allocation, transfer, or deduction of a NOx allowance to or from the compliance accounts of the NOx budget units covered by the permit or the overdraft account of the NOx budget source covered by the permit.

(E) NOx budget permit revisions.

- (1) For a NOx budget source with a Title V operating permit, except as provided in paragraph (D)(2) of this rule, the director shall revise the NOx budget permit, as necessary, in accordance with rule 3745-77-08 of the Administrative Code.
- (2) For a NOx budget source with a non-Title V operating permit, except as provided in paragraph (D)(2) of this rule, the director shall revise the NOx budget permit, as necessary, in accordance with rule 3745-35-02 of the Administrative Code.

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3745-14-04 **Compliance certification.**

(A) The compliance certification report.

- (1) For each control period in which one or more NOx budget units at a source are subject to the NOx budget emissions limitation, the NOx authorized account representative of the source shall submit to the director and the administrator, by November thirtieth of that year, a compliance certification report for each source covering all such units.
- (2) The NOx authorized account representative shall include in the compliance certification report under paragraph (A)(1) of this rule the following elements, in a format prescribed by the administrator, concerning each unit at the source and subject to the NOx budget emissions limitation for the control period covered by the report:
 - (a) Identification of each NOx budget unit;
 - (b) At the NOx authorized account representative's option, the serial numbers of the NOx allowances that are to be deducted from each unit's compliance account under paragraph (E) of rule 3745-14-06 of the Administrative Code for the control period;
 - (c) At the NOx authorized account representative's option, for units sharing a common stack and having NOx emissions that are not monitored separately or apportioned in accordance with rule 3745-14-08 of the Administrative Code, the percentage of allowances that is to be deducted from each unit's compliance account under paragraph (E)(5) of rule 3745-14-06 of the Administrative Code; and
 - (d) The compliance certification under paragraph (A)(3) of this rule.
- (3) In the compliance certification report under paragraph (A)(1) of this rule, the NOx authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NOx budget units at the source in compliance with the NOx budget trading program, whether each NOx 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 NOx budget trading program applicable to the unit, including all the following:
 - (a) Whether the unit was operated in compliance with the NOx budget emissions limitation;
 - (b) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all

information necessary to attribute NO_x emissions to the unit, in accordance with rule 3745-14-08 of the Administrative Code;

- (c) Whether all the NO_x emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with rule 3745-14-08 of the Administrative Code, and 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;
- (d) Whether the facts that form the basis for certification under rule 3745-14-08 of the Administrative Code of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under rule 3745-14-08 of the Administrative Code, if any, have changed.
- (e) If a change is required to be reported under paragraph (A)(3)(d) 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.

(B) Director's or administrator's action on compliance certifications.

- (1) The director or 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.
- (2) 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 paragraph (B)(1) of this rule.

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3745-14-05 **NOx allowance allocations.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" section at the end of rule 3745-14-01 of the Administrative Code.]

(A) The state trading program budget allocated by the director under paragraph (C) of this rule for a control period shall equal the total number of tons of NOx emissions apportioned to the NOx budget units in Ohio for the control period, as determined by the applicable, approved state implementation plan, less the sum of the NOx emission limitations (in tons) for each unit exempt under paragraph (C)(2) of rule 3745-14-01 of the Administrative Code that is not allocated any NOx allowances under paragraph (C)(2) or (C)(3) of this rule for the control period and whose NOx emission limitation is not included in the current calculations under paragraph (C)(4)(e)(ii)(b) of this rule for the control period. (Ohio's trading program budget is 49,460 NOx allowances: 45,432 for units under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code, and 4,028 for units under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code.)

(B) Timing requirements for NOx allowance allocations.

- (1) The NOx allowance allocations, determined in accordance with paragraphs (C)(1) to (C)(3) of this rule, for the control periods in 2004 through 2007 are set forth in appendices A and B of this rule.
- (2) By April 1, 2005, the director shall submit to the administrator the NOx allowance allocations, determined in accordance with paragraphs (C)(1) to (C)(3) of this rule, for the control periods in 2008 through 2012.
- (3) By April 1, 2010, by April 1 of 2015, and thereafter by April first of the year that is five years after the last year for which NOx allowance allocations are determined, the director shall submit to the administrator the NOx allowance allocations determined in accordance with paragraphs (C)(1) to (C)(3) of this rule, for the control periods in the years that are three, four, five, six and seven years after the applicable deadline under this paragraph.
- (4) By April 1, 2004 and April first of each year thereafter, the director shall submit to the administrator the NOx allowance allocations determined in accordance with paragraph (C)(4) of this rule, for the control period in the year of the applicable deadline under this paragraph.
- (5) If the director fails to submit to the administrator the NOx allowance allocations in accordance with paragraphs (B)(1) to (B)(3) of this rule, the administrator shall allocate, for the applicable control period, the same number of NOx allowances to NOx budget units as were allocated to the NOx budget units for the preceding control period.

- (6) The director shall make available to the public each determination of NO_x allowance allocations under this rule according to the following procedures:
- (a) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located and in the "Ohio EPA Weekly Review"; to persons on a mailing list developed by the director, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;
 - (b) The notice shall identify the names and addresses of the affected facilities; the NO_x allowances to be assigned to each NO_x budget unit at each facility; the name and address of the director; and the name, address, and telephone number of a person from whom interested persons may obtain additional information;
 - (c) The director shall provide at least thirty days for public comment;
 - (d) The director shall keep a record of the commenters and also of the issues raised during the public participation process and such records shall be available to the public.

(C) NO_x allowance allocations.

- (1) Heat inputs used to calculate NO_x allowance allocations.
- (a) The heat input (in mmBtu) used for calculating NO_x allowance allocations for each NO_x budget unit under paragraph (C)(1) of rule 3745-14-01 of the Administrative Code shall be:
 - (i) For a NO_x allowance allocation under paragraph (B)(1) of this rule:
 - (a) For a unit under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code, the average of the two highest amounts of the unit's heat input for the control periods in 1995 through 1998;
or
 - (b) For a unit under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code, the control period in 1995 or, if the director determines that reasonably reliable data are available for control periods in 1996 through 1998, the average of the two highest amounts of the unit's heat input for the control periods in 1995 through 1998.
 - (ii) For a NO_x allowance allocation under paragraphs (B)(2) and (B)(3) of this rule, the average of the unit's two highest control period heat input in the years that are four, five, six, seven and eight years before the first year for which the allocation is being calculated;

- (iii) For a NOx allowance allocation under paragraphs (B)(2) and (B)(3) of this rule, if a NOx budget unit does not have five years of control period heat input, the following shall apply:
 - (a) For a NOx budget unit with more than two years of control period heat input data the average of the two highest control period heat input;
 - (b) For a NOx budget unit with only two years of control period heat input data, the average of the control period heat input for those two years; or
 - (c) For a NOx budget unit with one year of control period heat input data, the heat input for that control period.
- (b) The unit's heat input for the control period in each year specified in paragraph (C)(1)(a) of this rule shall be determined in accordance with 40 C.F.R. part 75. Notwithstanding the first sentence of this paragraph (C)(1)(b) of this rule:
 - (i) For a NOx allowance allocation under paragraph (B) of this rule, such heat input shall be determined using the best available data reported to the director for the unit if the unit was not otherwise subject to the requirements of 40 C.F.R. Part 75 for the control period;
 - (ii) For a NOx allowance allocation under paragraph (B)(2) or (B)(3) of this rule for a unit exempt under paragraph (C)(2) of rule 3745-14-01 of the Administrative Code, such heat input shall be treated as zero if the unit is exempt under paragraph (C)(2) of rule 3745-14-01 of the Administrative Code during the control period.
- (2) For each group of control periods specified in paragraphs (B)(1) to (B)(3) of this rule, the director shall allocate, to all NOx budget units under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code that commenced operation before May 1, 1997 for allocations under paragraph (B)(1) of this rule; May 1, 2003 for allocations under paragraph (B)(2) of this rule; and May first of the year five years before the first year for which the allocation under paragraph (B)(3) of this rule is being calculated, a total number of NOx allowances equal to ninety five per cent in 2004 and 2005, and ninety three per cent in all subsequent years, of the portion of the state trading program budget under paragraph (A) of this rule covering such units. The director shall allocate allowances in accordance with the following procedures:
 - (a) The director shall allocate NOx allowances to each NOx budget unit under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code for each control period in an amount equaling the lesser of 0.15 lb/mmBtu or the unit's most stringent state or federal NOx emission limitation multiplied by

the heat input determined under paragraph (C)(1) of this rule, divided by 2000 lb/ton, rounded to the nearest whole NO_x allowance as appropriate.

- (b) If the initial total number of NO_x allowances allocated to all NO_x budget units under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code for a control period under paragraph (C)(2)(a) of this rule does not equal ninety-five per cent in 2004 and 2005, and ninety three per cent in all subsequent years, of the state trading program budget under paragraph (A) of this rule covering such units, the director shall adjust the total number of NO_x allowances allocated to all such NO_x budget units for the control period under paragraph (C)(2)(a) of this rule so that the total number of NO_x allowances allocated equals ninety five per cent in 2004 and 2005, and ninety three per cent in all subsequent years, of such portion of the state trading program budget. This adjustment shall be made by multiplying each unit's allocation by ninety five per cent in 2004 and 2005, and ninety three per cent in all subsequent years, of such portion of the state trading program budget under paragraph (A) of this rule, dividing by the total number of NO_x allowances allocated under paragraph (C)(2)(a) of this rule for the control period, and rounding to the nearest whole number of NO_x allowances as appropriate.
- (3) For each group of control periods under paragraphs (B)(1) to (B)(3) of this rule, the director shall allocate to all NO_x budget units under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code that commenced operation before May 1, 1997 for allocations under paragraph (B)(1) of this rule; May 1, 2003 for allocations under paragraph (B)(2) of this rule, and May first of the year five years before the first year for which the allocation under paragraph (B)(3) of this rule is being calculated, a total number of NO_x allowances equal to ninety-five per cent of portion of the state trading program budget under paragraph (A) of this rule covering such units. The director shall allocate allowances in accordance with the following procedures:
- (a) The director shall allocate NO_x allowances to each NO_x budget unit under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code for each control period in an amount equaling the lesser of 0.17 lb/mmBtu or the unit's most stringent state or federal NO_x emission limitation multiplied by the heat input determined under paragraph (C)(1) of this rule, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO_x allowances as appropriate.
- (b) If the initial total number of NO_x allowances allocated to all NO_x budget units under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code for a control period under paragraph (C)(3)(a) of this rule does not equal ninety-five per cent of the portion of the state trading program budget under paragraph (A) of this rule covering such units, the director shall adjust the total number of NO_x allowances allocated to all such NO_x budget units for the control period under paragraph (C)(1)(a) of this rule so that the total number of NO_x allowances allocated equals ninety-five per cent of the

portion of the state trading program budget under paragraph (A) of this rule covering such units. This adjustment shall be made by multiplying each unit's allocation by ninety-five per cent of the portion of the state trading program budget under paragraph (A) of this rule covering such units, dividing by the total number of NOx allowances allocated under paragraph (C)(3)(a) of this rule, and rounding to the nearest whole NOx allowance as appropriate.

- (c) The director shall allocate NOx allowances to emissions unit B002 at WCI steel (premise number 0278000463) for each control period in an amount equaling 0.10 lb/mmBtu multiplied by the heat input determined under paragraph (C)(1) of this rule, divided by 2,000 lb/ton, and rounded to the nearest whole number of NOx allowances as appropriate.
- (4) For each control period under paragraph (B)(4) of this rule, the director shall allocate NOx allowances to NOx budget units under paragraph (C)(1) of rule 3745-14-01 of the Administrative Code that commence operation, or are projected to commence operation, on or after the following dates: May 1, 1997, for control periods under paragraph (B)(1) of this rule; May 1, 2003, for control periods under paragraph (B)(2) of this rule; and May first of the year five years before the beginning of the group of five years that includes the control period, for control periods under paragraph (B)(3) of this rule. The director shall make the allocations under this paragraph (C)(4) of this rule in accordance with the following procedures:
- (a) The director shall establish a new source set-aside for each control period. Each new source set-aside shall be allocated NOx allowances equal to five per cent of the total state trading program budget under paragraph (A) of this rule, rounded to the nearest whole number of NOx allowances as appropriate.
 - (b) The NOx authorized account representative of a NOx budget unit specified in paragraph (C)(4) of this rule may submit to the director a request, in a format specified by the director, to be allocated NOx allowances for the control period. The NOx allowance allocation request shall be submitted to the director on or after the date on which the director issues a permit to construct the unit and by January first before the control period for which the NOx allowances are requested.
 - (c) In a NOx allowance allocation request under paragraph (C)(4)(b) of this rule, the NOx authorized account representative for a NOx budget unit under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code may request for a control period NOx allowances in an amount that does not exceed the lesser of:
 - (i) 0.15 lb/mmBtu multiplied by the unit's maximum design heat input, multiplied by the lesser of three thousand six hundred seventy two hours or the number of hours remaining in the control period starting

with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NOx allowances as appropriate; or

- (ii) The unit's most stringent state or federal NOx emission limitation multiplied by the unit's maximum design heat input, multiplied by the lesser of three thousand six hundred seventy two hours or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NOx allowances as appropriate.
- (d) In a NOx allowance allocation request under paragraph (C)(4)(b) of this rule, the NOx authorized account representative for a NOx budget unit under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code may request for the control period NOx allowances in an amount that does not exceed the lesser of:
- (i) 0.17 lb/mmBtu multiplied by the unit's maximum design heat input, multiplied by the lesser of three thousand six hundred seventy two hours or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NOx allowances as appropriate; or
 - (ii) The unit's most stringent state or federal NOx emission limitation multiplied by the unit's maximum design heat input, multiplied by the lesser of three thousand six hundred seventy two hours or the number of hours remaining in the control period starting with the day in the control period on which the unit commences operation or is projected to commence operation, divided by 2,000 lb/ton, and rounded to the nearest whole number of NOx allowances as appropriate.
- (e) The director shall review each NOx allowance allocation request submitted in accordance with paragraph (C)(4)(b) of this rule and shall allocate NOx allowances pursuant to such request as follows:
- (i) Upon receipt of the NOx allowance allocation request, the director shall make any necessary adjustments to the request to ensure that the requirements of paragraphs (C)(4), (C)(4)(b), (C)(4)(c), and (C)(4)(d) of this rule are met.
 - (ii) The director shall determine the following amounts:
 - (a) The sum of the NOx allowances requested (as adjusted under paragraph (C)(4)(e)(i) of this rule) in all NOx allowance allocation

requests under paragraph (C)(4)(b) of this rule for the control period; and

- (b) For units exempt under paragraph (C)(2) of rule 3745-14-01 of the Administrative Code that commenced operation, or are projected to commence operation, on or after May 1, 1997, for control periods under paragraph (B)(1) of this rule; May 1, 2003, for control periods under paragraph (B)(2) of this rule; and May first of the year five years before beginning of the group of five years that includes the control period for control periods under paragraph (B)(3) of this rule, the sum of the NOx emission limitations (in tons of NOx) on which each unit's exemption under paragraph (C)(2) of rule 3745-14-01 of the Administrative Code is based.
- (iii) If the number of NOx allowances in the new source set-aside, under paragraph (C)(4)(a) of this rule, for the control period less the amount under paragraph (C)(4)(e)(ii)(b) of this rule is not less than the amount determined under paragraph (C)(4)(e)(ii)(a) of this rule, the director shall allocate the amount of the NOx allowances requested (as adjusted under paragraph (C)(4)(e)(i) of this rule) to the NOx budget unit for which the allocation request was submitted.
- (iv) If the number of NOx allowances in the new source set-aside, under paragraph (C)(4)(a) of this rule, for the control period less the amount under paragraph (C)(4)(e)(ii)(b) of this rule is less than the amount determined under paragraph (C)(4)(e)(ii)(a) of this rule, the director shall allocate, to the NOx budget unit for which the allocation request was submitted, the amount of NOx allowances requested (as adjusted under paragraph (C)(4)(e)(i) of this rule) multiplied by the number of NOx allowances in the new source set-aside for the control period less the amount determined under paragraph (C)(4)(e)(ii)(b) of this rule, divided by the amount determined under paragraph (C)(4)(e)(ii)(a) of this rule, and rounded to the nearest whole number of NOx allowances as appropriate.
- (f) By April first of the year for which the request for allocations from the new unit allocation set-aside was made under paragraph (C)(4)(b) of this rule, the director shall take appropriate action under paragraph (C)(4)(e) of this rule and notify the NOx authorized account representative that submitted the request and the administrator of the number of NOx allowances allocated for the control period to the NOx budget unit.
- (5) For a NOx budget unit that is allocated NOx allowances under paragraph (C)(4) of this rule for a control period, the administrator shall deduct NOx allowances under paragraph (E)(2) or (E)(5) of rule 3745-14-06 of the Administrative Code to account for the actual utilization of the unit during the control period. The administrator shall calculate the number of NOx allowances to be deducted

to account for the unit's actual utilization using the following formulas and rounding to the nearest whole NO_x allowance as appropriate, provided that the number of NO_x allowances to be deducted shall be zero if the number calculated is less than zero:

- (a) NO_x allowances deducted for actual utilization for units under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code equals the unit's NO_x allowances allocated for the control period minus the unit's actual control period utilization multiplied by the lesser of 0.15 lb/mmBtu or the unit's most stringent state or federal NO_x emission limitation, divided by 2000 lb/ton, rounded to the nearest whole NO_x allowance as appropriate.
- (b) NO_x allowances deducted for actual utilization for units under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code equals the unit's NO_x allowances allocated for the control period minus the unit's actual control period utilization multiplied by the lesser of 0.17 lb/mmBtu or the unit's most stringent state or federal NO_x emission limitation, divided by 2000 lb/ton, rounded to the nearest whole NO_x allowance as appropriate.

Where:

"Unit's NO_x allowances allocated for control period" is the number of NO_x allowances allocated to the unit for the control period under paragraph (C)(4) of this rule; and

"Unit's actual control period utilization" is the utilization (in mmBtu), as defined in paragraph (B) of rule 3745-14-01 of the Administrative Code, of the unit during the control period.

- (6) After making the deductions for compliance under paragraph (E)(2), (E)(5) or (E)(6) of rule 3745-14-06 of the Administrative Code for a control period, the administrator shall notify the director whether any NO_x allowances remain in the new unit allocation set-aside for the control period. The director shall allocate any such NO_x allowances to the NO_x budget units in the state using the following formula and rounding to the nearest whole NO_x allowance as appropriate:

$$\text{(Unit's share of NO}_x\text{ allowances remaining in the new unit allocation set-aside)} \\ = \text{(total NO}_x\text{ allowances remaining in new unit allocation set-aside) } \times \text{(unit's NO}_x\text{ allowance allocation) } / \text{(state trading program budget excluding the new unit allocation set-aside)}$$

Where:

"Total NO_x allowances remaining in new unit allocation set-aside" is the total number of NO_x allowances remaining in the new unit allocation set-aside for the control period;

"Unit's NOx allowance allocation" is the number of NOx allowances allocated under paragraph (C)(2) or (C)(3) of this rule to the unit for the control period to which the new unit allocation set-aside applies; and

"State trading program budget excluding new unit allocation set-aside" is the state's trading program budget under paragraph (A) of this rule for the control period to which the new unit allocation set-aside applies multiplied by ninety-five per cent rounded to the nearest whole NOx allowance as appropriate.

- (7) Notwithstanding paragraph (C)(6) of this rule, the director shall not allocate the total amount of NOx allowances remaining in the new unit allocation set-aside from the 2005 control period to existing NOx budget units in the state. Of the total of two thousand two hundred twenty-seven new unit set aside allowances from the 2005 control period that are available for allocation, the director shall allocate one thousand nine hundred eighty-seven allowances to existing NOx budget units and withhold two hundred forty allowances for permanent retirement. (This reduction is necessary to off-set emission increases associated with the termination of the automobile inspection maintenance program ("E-Check") in the Cincinnati and Dayton areas).
- (8) The director shall establish an allocation set-aside for each control period beginning in 2006 for energy efficiency/renewable energy projects. Each energy efficiency/renewable energy project set-aside shall be allocated NOx allowances equal to one per cent of the tons of NOx emissions in the state trading program budget under paragraph (A) of this rule as applicable to units identified by paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code, rounded to the nearest whole NOx allowance as appropriate.
 - (a) Applicants may submit a proposal to the director for an energy efficiency/renewable energy project and request allocations from the energy efficiency/renewable energy project set-aside for energy reductions obtained as a result of the project. The director shall review proposals based on criteria determined by the director, and notify applicants of approved projects. Proposals must contain the following:
 - (i) A detailed description of the project; and
 - (ii) An estimate of the number of allocations that will be requested.
 - (b) To receive allocations for the energy efficiency/renewable energy projects approved by the director, the applicant must submit a completed project report that verifies that the project was completed as proposed and that proposed energy reductions were obtained.
 - (c) Upon verification of the project's success, the director shall award the required allocations to the applicant.

- (d) Allocations shall be awarded on an annual basis and for no more than five consecutive years for each approved energy efficiency/renewable energy project.
- (9) The director shall establish an allocation set-aside for each control period beginning in 2006 for innovative technology projects. Each innovative technology project set-aside shall be allocated NOx allowances equal to one per cent of the tons of NOx emissions in the state trading program budget under paragraph (A) of this rule as applicable to units identified by paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code, rounded to the nearest whole NOx allowance as appropriate.
- (a) Applicants may submit a proposal to the director for an innovative technology project and request allocations from the innovative technology project set-aside for NOx reductions or energy reductions obtained. The director shall review proposals based on criteria determined by the director, and notify applicants of approved projects. Proposals must contain the following:
 - (i) A detailed description of the project; and
 - (ii) An estimate of the number of allocations that will be requested.
 - (b) To receive allocations for the innovative technology projects approved by the director, the applicant shall submit a completed project report that verifies that the project was completed as proposed and that proposed NOx reductions or energy reductions were obtained.
 - (c) Upon verification of the project's success, the director shall award the required allocations to the applicant.
 - (d) Allocations shall be awarded on an annual basis and for no more than five consecutive years for each approved innovative technology project.
- (10) Allowances remaining at the end of each year in the energy efficiency/renewable energy allocation set-aside or in the innovative technology project allocation set-aside, shall be allocated to NOx budget units under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code in the following year, prorated on the basis of each unit's previous year allocations.
- (D) Early reduction credit. The owner or operator of a NOx budget unit may request early reduction credit for NOx emission rate reductions made in the unit during the 2001, 2002 or 2003 control periods. The director may allocate NOx allowances, to be used in 2004 and 2005, to the unit in accordance with the following requirements:
- (1) Each NOx budget unit for which the owner or operator requests any early reduction credit under this rule shall monitor and report NOx emissions in

accordance with rule 3745-14-08 of the Administrative Code starting in the 2000 control period and for each control period for which such early reduction credit is requested. The unit's per cent monitor data availability shall be not less than ninety per cent during the 2000 control period, and the unit shall be in compliance with any applicable state or federal emission control requirements during 2000 through 2003.

- (2) The NO_x emission rate and heat input under paragraphs (D)(3) and (D)(4) of this rule shall be determined in accordance with rule 3745-14-08 of the Administrative Code.
- (3) Each NO_x budget unit for which the owner or operator requests early reduction credit under paragraph (D)(4) of this rule shall reduce its NO_x emission rate for each control period for which early reduction credit is requested to less than eighty per cent of the unit's NO_x emission rate in the 2000 control period. Early reduction credits shall not be earned for NO_x reductions required under the state implementation plan or otherwise required under any provision of the Clean Air Act.
- (4) The NO_x authorized account representative of a NO_x budget unit that meets the requirements of paragraphs (D)(1) and (D)(3) of this rule may submit to the director a request for early reduction credit based on NO_x emission rate reductions for the unit in any or all of the control periods in 2001, 2002 or 2003.
 - (a) The NO_x authorized account representative may request early reduction credit for NO_x reductions made in the 2001, 2002 or 2003 control periods in the amount equal to the following: the unit's heat input for such control period multiplied by the difference between the unit's NO_x emission rate (in lb/mmBtu) during the 2000 control period and the NO_x emission rate (in lb/mmBtu) for each control period for which early reduction credits are requested, divided by 2000 lbs/ton and rounded to the nearest whole number of tons as appropriate.
 - (b) Requests for early reduction credit for reductions made in 2001 and 2002 shall be submitted, in a format specified by the director, by February 1, 2003; and for reductions made in 2003, by February 1, 2004.
- (5) The director shall allocate NO_x allowances, to NO_x budget units meeting the requirements of paragraphs (D)(1) to (D)(3) of this rule and covered by early reduction credit requests meeting the requirements of paragraph (D)(4)(b) of this rule, in accordance with the following procedures:
 - (a) Upon receipt of such early reduction credit requests, the director shall make any necessary adjustments to the request to ensure that the amount of the early reduction credit requested meets the requirement of paragraphs (D)(1) to (D)(4) of this rule.

- (b) If the combined number of early reduction credit in all accepted early reduction credit requests for 2001 and 2002 is not greater than eleven thousand one hundred fifty one, and the early reduction credit in all accepted early reduction credit requests for 2003 is not greater than eleven thousand one hundred fifty, the director shall allocate to each NOx budget unit covered by such accepted requests one allowance for each early reduction credit requested.
- (c) If the combined number of early reduction credit in all accepted early reduction credit requests for 2001 and 2002 is greater than eleven thousand one hundred fifty one, or the early reduction credit in all accepted early reduction credit requests for 2003 is greater than eleven thousand one hundred fifty, the director shall allocate NOx allowances to each NOx budget unit covered by such requests according to the following formula and rounded to the nearest whole number of NOx allowances as appropriate:

$$(\text{unit's allocated early reduction credit}) = (\text{unit's adjusted early reduction credit}) \times (A) / (\text{total adjusted early reduction credit requested by all units})$$

Where:

A = 11,151 for early reduction credit request made for early reductions made in 2001 and 2002; and 11,150 for early reduction credit requests for early reductions made in 2003;

"Unit's adjusted early reduction credit" means the number of early reduction credit for the unit for the combined years 2001 and 2002, or 2003 in accepted early reduction credit requests, as adjusted under paragraph (D)(5)(a) of this rule;

"Total adjusted early reduction credit requested by all units" means the number of early reduction credit for all units for the combined years 2001 and 2002, or 2003 in accepted early reduction credit requests, as adjusted under paragraph (D)(5)(a) of this rule.

- (6) The director shall notify the NOx authorized account representatives who requested early reduction credit according to paragraph (D)(4) of this rule the amount of early reduction credit the administrator will record as NOx allowances for early reductions made during the control periods in 2001, 2002 and 2003 by the following dates:
- (a) April 1, 2003, for NOx emission rate reductions made during the 2001 and 2002 control periods; and
- (b) April 1, 2004, for NOx emission rate reductions made during the 2003 control period.

- (7) The director shall submit to the administrator the NO_x allowance allocations determined in accordance with paragraph (D)(5) of this rule by the following dates:
- (a) By May 1, 2003, for NO_x emission reductions made during the 2001 and 2002 control periods;
 - (b) By May 1, 2004, for NO_x emission reductions made during the 2003 control period.
- (8) NO_x allowances recorded under paragraph (D)(7) of this rule may be deducted for compliance under paragraph (E) of rule 3745-14-06 of the Administrative Code for the control periods in 2004 and 2005. Notwithstanding paragraph (F)(1)(a) of rule 3745-14-06 of the Administrative Code, the administrator shall deduct, as retired, any NO_x allowance that is recorded under paragraph (D)(7) of this rule and is not deducted for compliance in accordance with paragraph (E) of rule 3745-14-06 of the Administrative Code for the control periods in 2004 and 2005.
- (9) NO_x allowances recorded under paragraph (D)(7) of this rule are treated as banked allowances in 2004 and 2005 for the purposes of paragraph (F)(1)(b) of rule 3745-14-06 of the Administrative Code.
- (10) The total number of NO_x allowances available for early reduction credit shall be twenty two thousand three hundred one. Of this amount, eleven thousand one hundred fifty one NO_x allowances shall be available as early reduction credit for reductions made in the control periods in 2001 and 2002, and eleven thousand one hundred fifty NO_x allowances shall be available as early reduction credit for reductions made in the control period in 2003. NO_x allowances available for reductions made in the 2001 and 2002 control periods that are not allocated by the director in accordance with paragraph (D)(5) of this rule shall be available for reductions made during the control period in 2003. NO_x allowances available for reductions made in the 2001, 2002 and 2003 control periods that are not allocated or recorded by the director in accordance with paragraph (D)(5) of this rule shall be retired.

Effective: 07/17/2006

R.C. 119.032 review dates: 03/31/2005

CERTIFIED ELECTRONICALLY
Certification

07/07/2006
Date

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Rule Amplifies: 3704.03(A) and (E)
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3745-14-05 Appendix A
Annual NOx allowance allocations to regulated electrical generating units for each year
from 2004 through 2007

Plant	Plant ID	Point ID	NOx allocations	
			2004 and 2005	2006 and 2007
Ashtabula	2835	7	333	326
Ashtabula	2835	8	70	69
Ashtabula	2835	9	66	65
Ashtabula	2835	10	75	73
Ashtabula	2835	11	80	78
Avon Lake	2836	9	41	40
Avon Lake	2836	10	139	136
Avon Lake	2836	12	1,040	1,018
Avon Lake	2836	CT10	3	3
Bay Shore	2878	1	208	204
Bay Shore	2878	2	229	224
Bay Shore	2878	3	213	209
Bay Shore	2878	4	330	323
Cardinal	2828	1	1,030	1,008
Cardinal	2828	2	1,083	1,060
Cardinal	2828	3	1,079	1,056
Conesville	2840	1	214	209
Conesville	2840	2	203	199
Conesville	2840	3	212	208
Conesville	2840	4	1,119	1,095
Conesville	2840	5	731	716
Conesville	2840	6	736	721
Dicks Creek	2831	1	7	7
Eastlake	2837	1	214	209
Eastlake	2837	2	230	225
Eastlake	2837	3	251	246
Eastlake	2837	4	371	363
Eastlake	2837	5	974	953
Eastlake	2837	6	1	1
Edge Water	2857	13	65	64
Edge Water	2857	A	1	1
Edge Water	2857	B	1	1
Frank M. Tait	2847	GT1	23	23
Frank M.Tait	2847	GT2	25	24
General J. M. Gavin	8102	1	2,744	2,686
General J. M. Gavin	8102	2	2,981	2,918
Hamilton	2917	9	110	108
J. M. Stuart	2850	1	1,054	1,032
J. M. Stuart	2850	2	1,228	1,202
J. M. Stuart	2850	3	1,074	1,051

J. M. Stuart	2850	4	1,106	1,083
Killen Station	6031	2	1,706	1,670
Kyger Creek	2876	1	471	461
Kyger Creek	2876	2	471	461
Kyger Creek	2876	3	478	468
Kyger Creek	2876	4	465	455
Kyger Creek	2876	5	455	445
Lake Shore	2838	18	195	191
Mad River	2860	A	2	2
Mad River	2860	B	2	2
Miami Fort	2832	5-1	35	34
Miami Fort	2832	5-2	35	34
Miami Fort	2832	6	398	390
Miami Fort	2832	7	1,044	1,022
Miami Fort	2832	8	1,015	994
Miami Fort	2832	CT2	1	1
Muskingum River	2872	1	309	302
Muskingum River	2872	2	316	309
Muskingum River	2872	3	347	340
Muskingum River	2872	4	349	342
Muskingum River	2872	5	1,105	1,082
Niles	2861	1	212	208
Niles	2861	2	160	157
Niles	2861	A	2	2
O. H. Hutchings	2848	H-1	24	23
O. H. Hutchings	2848	H-2	37	36
O. H. Hutchings	2848	H-3	64	63
O. H. Hutchings	2848	H-4	68	67
O. H. Hutchings	2848	H-5	62	61
O. H. Hutchings	2848	H-6	69	68
O. H. Hutchings	2848	H-7	1	1
Picway	2843	9	141	138
R. E. Burger	2864	1	0	0
R. E. Burger	2864	2	0	0
R. E. Burger	2864	3	0	0
R. E. Burger	2864	4	0	0
R. E. Burger	2864	5	14	14
R. E. Burger	2864	6	13	13
R. E. Burger	2864	7	337	330
R. E. Burger	2864	8	274	268
Richard Gorsuch	7286	1	146	143
Richard Gorsuch	7286	2	138	135
Richard Gorsuch	7286	3	144	141
Richard Gorsuch	7286	4	146	143
W. H. Sammis	2866	1	402	394
W. H. Sammis	2866	2	418	409
W. H. Sammis	2866	3	400	392
W. H. Sammis	2866	4	415	406
W. H. Sammis	2866	5	631	618
W. H. Sammis	2866	6	1,221	1,195
W. H. Sammis	2866	7	1,259	1,232
W. H. Zimmer	6019	1	2,918	2,857
Walter C. Beckjord	2830	1	167	163
Walter C. Beckjord	2830	2	198	194

Walter C. Beckjord	2830	3	281	275
Walter C. Beckjord	2830	4	347	340
Walter C. Beckjord	2830	5	481	471
Walter C. Beckjord	2830	6	850	832
Walter C. Beckjord	2830	CT1	3	3
Walter C. Beckjord	2830	CT2	3	3
Walter C. Beckjord	2830	CT3	4	4
Walter C. Beckjord d	2830	CT4	2	2
West Lorain	2869	1A	0	0
West Lorain	2869	1B	0	0
Woodsdale	7158	-GT1	30	29
Woodsdale	7158	-GT2	30	29
Woodsdale	7158	-GT3	39	38
Woodsdale	7158	-GT4	37	36
Woodsdale	7158	-GT5	40	39
Woodsdale	7158	-GT6	39	38
Total			43,160	42,251

3745-14-05 Appendix B

Annual NOx allowance allocations for the ozone season in years 2004 through 2007 for regulated non-EGUs

Plant	County	Plant ID	Point ID	NOx allocation
AK Steel	Butler	1409010006	P009	66
AK Steel	Butler	1409010006	P010	66
AK Steel	Butler	1409010006	P011	66
AK Steel	Butler	1409010006	P012	66
Biomass Energy	Lawrence	0744000009	B003	106
Biomass Energy	Lawrence	0744000009	B004	106
Biomass Energy	Lawrence	0744000009	B007	106
BP Oil, Toledo Refinery	Lucas	0448020007	B004	39
BP Oil, Toledo Refinery	Lucas	0448020007	B020	101
Cargill	Montgomery	0857041124	B004	131
Cargill	Montgomery	0857041124	B006	1
Cognis	Hamilton	1431070035	B027	206
Goodyear Tire & Rubber	Summit	1677010193	B101	100
Goodyear Tire & Rubber	Summit	1677010193	B102	106
LTV Steel Company	Cuyahoga	1318001613	B001	137
LTV Steel Company	Cuyahoga	1318001613	B002	148
LTV Steel Company	Cuyahoga	1318001613	B003	157
LTV Steel Company	Cuyahoga	1318001613	B004	156
LTV Steel Company	Cuyahoga	1318001613	B007	153
LTV Steel Company	Cuyahoga	1318001613	B905	14
Mead	Ross	0671010028	B001	182
Mead	Ross	0671010028	B002	205
Mead	Ross	0671010028	B003	248
New Boston Coke Corp.	Scioto	0773010004	B008	20
New Boston Coke Corp.	Scioto	0773010004	B009	15
Premcor Refinery	Allen	0302020012	B026	16
Procter & Gamble	Hamilton	1431390903	B021	71
Procter & Gamble	Hamilton	1431390903	B022	292
Republic Engineered Steels	Lorain	0247080229	B013	157
Smart Papers	Butler	1409040212	B010	264
Sun Oil, Toledo Refinery	Lucas	0448010246	B044	47
W CI Steel	Trumbull	0278000463	B001	111
W CI Steel	Trumbull	0278000463	B002	29
W CI Steel	Trumbull	0278000463	B004	140
Total				3,828

3745-14-06 **The NOx allowance tracking system.**

(A) NOx allowance tracking system accounts.

- (1) Consistent with paragraph (B)(1) of this rule, the administrator shall establish one compliance account for each NOx budget unit and one overdraft account for each source with two or more NOx budget units. Allocations of NOx allowances pursuant to rule 3745-14-05 or 3745-14-09 of the Administrative Code and deductions or transfers of NOx allowances pursuant to paragraphs (E) and (G) of this rule, paragraph (B) of rule 3745-14-04, and rules 3745-14-07 and 3745-14-09 of the Administrative Code shall be recorded in the compliance accounts or overdraft accounts in accordance with this rule.
- (2) Consistent with paragraph (B)(2) of this rule, the administrator shall establish, upon request, a general account for any person. Transfers of allowances pursuant to rule 3745-14-07 of the Administrative Code shall be recorded in the general account in accordance with this rule.

(B) Establishment of accounts.

- (1) Upon receipt of a complete account certificate of representation, the administrator shall establish:
 - (a) A compliance account for each NOx budget unit for which the account certificate of representation was submitted; and
 - (b) An overdraft account for each source for which the account certificate of representation was submitted and that has two or more NOx budget units.

(2) General accounts.

- (a) Any person may apply to open a general account for the purpose of holding and transferring allowances. An application for a general account may designate one and only one NOx authorized account representative and one and only one alternate NOx authorized account representative who may act on behalf of the NOx authorized account representative. The agreement by which the alternate NOx authorized account representative is selected shall include a procedure for authorizing the alternate NOx authorized account representative to act in lieu of the NOx authorized account representative. A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:
 - (i) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NOx authorized account

representative and any alternate NOx authorized account representative;

- (ii) At the option of the NOx authorized account representative, organization name and type of organization;
- (iii) A list of all persons subject to a binding agreement for the NOx authorized account representative or any alternate NOx authorized account representative to represent their ownership interest with respect to the allowances held in the general account;
- (iv) The following certification statement by the NOx authorized account representative and any alternate NOx authorized account representative:

"I certify that I was selected as the NOx authorized account representative or the NOx alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to NOx allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NOx budget trading program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."

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

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.

- (b) Upon receipt by the administrator of a complete application for a general account under paragraph (B)(2)(a) of this rule:
 - (i) The administrator shall establish a general account for the person or persons for whom the application is submitted.
 - (ii) The NOx authorized account representative and any alternate NOx 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 NOx allowances held in the general account in all matters pertaining to the NOx budget trading program, notwithstanding

any agreement between the NOx authorized account representative or any alternate NOx authorized account representative and such person. Any such person shall be bound by any order or decision issued to the NOx authorized account representative or any alternate NOx authorized account representative by the administrator or a court regarding the general account.

- (iii) Any representation, action, inaction or submission by an alternate NOx authorized account representative shall be deemed to be a representation, action, inaction or submission by the NOx authorized account representative.
- (iv) Each submission concerning the general account shall be submitted, signed, and certified by the NOx authorized account representative or any alternate NOx authorized account representative for the persons having an ownership interest with respect to NOx allowances held in the general account. Each such submission shall include the following certification statement by the NOx authorized account representative or any alternate NOx authorized account representative:

"I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NOx 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."

- (v) The administrator shall accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with paragraph (B)(2)(b)(iv) of this rule.
- (c) Change of NOx authorized account representative or alternate NOx authorized account representative.
- (i) The NOx 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 paragraph (B)(2)(b) of this rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NOx 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 NOx authorized account representative and the

persons with an ownership interest with respect to the allowances in the general account.

- (ii) The alternate NOx 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 paragraph (B)(2)(b) of this rule. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NOx 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 NOx authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(d) Change in owners.

- (i) In the event a new person having an ownership interest with respect to NOx 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 NOx authorized account representative and any alternate NOx 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 days following any change in the persons having an ownership interest with respect to NOx allowances in the general account, including the addition of persons, the NOx authorized account representative or any alternate NOx 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 NOx allowances in the general account to include the change.

(e) Administrator's reliance on general account application.

- (i) Once a complete application for a general account has been submitted and received, the administrator shall rely on the application unless and until a superseding complete application for a general account is received by the administrator.
- (ii) Except as provided in paragraph (B)(2)(d) of this rule, no objection or other communication submitted to the administrator concerning the authorization, or any representation, action, inaction, or submission of the NOx authorized account representative or any alternate NOx authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NOx authorized account representative or any alternate NOx authorized account

representative or the finality of any decision or order by the administrator under the NOx budget trading program.

- (iii) The administrator shall not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NOx authorized account representative or any alternate NOx authorized account representative for a general account, including private legal disputes concerning the proceeds of NOx allowance transfers.
 - (3) The administrator shall assign a unique identifying number to each account established under paragraph (B)(1) or (B)(2) of this rule.
- (C) NOx allowance tracking system responsibilities of the NOx authorized account representative.
- (1) Following the establishment of a NOx 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 NOx allowances in the account, shall be made only by the NOx authorized account representative for the account.
 - (2) The administrator shall assign a unique identifying number to each NOx authorized account representative.
- (D) Recording NOx allowance allocations.
- (1) The administrator shall record the NOx allowances for 2004 in the NOx budget units' compliance accounts and the allocation set-asides, as allocated under rule 3745-14-05 of this chapter. The administrator shall also record the NOx allowances allocated under paragraph (I)(1)(a) of rule 3745-14-09 of the Administrative Code for each NOx budget opt-in unit in its compliance account.
 - (2) Each year, after the administrator has made all deductions from a NOx budget unit's compliance account and the overdraft account pursuant to paragraph (E) of rule 3745-14-06 of the Administrative Code, the administrator shall record NOx allowances, as allocated to the unit under rule 3745-14-05 of the Administrative Code or paragraph (I)(1)(b) of rule 3745-14-09 of the Administrative Code, in the compliance account for the year after the last year for which allowances were previously allocated to the compliance account. Each year, the administrator shall also record NOx allowances, as allocated under rule 3745-14-05 of the Administrative Code, in the allocation set-aside for the year after the last year for which allowances were previously allocated to an allocation set-aside.
 - (3) When allocating NOx allowances to and recording them in an account, the administrator shall assign each NOx allowance a unique identification number

that shall include digits identifying the year for which the NOx allowance is allocated.

(E) Compliance.

(1) The NOx allowances are available to be deducted for compliance with a unit's NOx budget emissions limitation for a control period in a given year only if the NOx allowances:

- (a) Were allocated for a control period in a prior year or the same year; and
- (b) Are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NOx allowance transfer deadline for that control period or are transferred into the compliance account or overdraft account by a NOx allowance transfer correctly submitted for recording under paragraph (A) of rule 3745-14-07 of the Administrative Code by the NOx allowance transfer deadline for that control period.

(2) Deductions for compliance.

(a) Following the recording, in accordance with paragraph (B) of rule 3745-14-07 of the Administrative Code, of NOx allowance transfers submitted for recording in the unit's compliance account or the overdraft account of the source where the unit is located by the NOx allowance transfer deadline for a control period, the administrator shall deduct NOx allowances available under paragraph (E)(1) of this rule to cover the unit's NOx emissions, as determined in accordance with rule 3745-14-08 of the Administrative Code, or to account for actual utilization under paragraph (C)(5) of rule 3745-14-05 of the Administrative Code, for the control period as follows:

- (i) From the compliance account; and
 - (ii) Only if no more NOx allowances available under paragraph (E)(1) of this rule remain in the compliance account, from the overdraft account. [In deducting allowances for units at the source from the overdraft account, the administrator shall begin with the unit having the compliance account with the lowest NOx allowance tracking system account number and end with the unit having the compliance account with the highest NOx allowance tracking system account number. Account numbers shall be sorted beginning with the leftmost character and ending with the rightmost character and the letter characters assigned values in alphabetical order and less than all numeric characters.]
- (b) The administrator shall deduct NOx allowances first under paragraph (E)(2)(a)(i) of this rule and then under paragraph (E)(2)(a)(ii) of this rule:

- (i) Until the number of NOx allowances deducted for the control period equals the number of tons of NOx emissions, determined in accordance with rule 3745-14-08 of the Administrative Code, from the unit for the control period for which compliance is being determined, plus the number of NOx allowances required for deduction to account for actual utilization under paragraph (C)(5) of rule 3745-14-05 of the Administrative Code for the control period; or
- (ii) Until no more NOx allowances available under paragraph (E)(1) of this rule remain in the respective account.

(3) Identification of NOx allowances by serial number.

- (a) The NOx authorized account representative for each compliance account may identify by serial number the NOx allowances to be deducted from the unit's compliance account under paragraph (E)(2), (E)(4), (E)(5) or (E)(6) of this rule. Such identification shall be made in the compliance certification report submitted in accordance with paragraph (A) of rule 3745-14-04 of the Administrative Code.
- (b) The administrator shall deduct NOx allowances for a control period from the compliance account, in the absence of an identification or in the case of a partial identification of NOx allowances by serial number under paragraph (E)(3)(a) of this rule, or the overdraft account on a first-in-first-out accounting basis in the following order:
 - (i) Those NOx allowances that were allocated for the control period to the unit under rule 3745-14-05 or 3745-14-09 of the Administrative Code;
 - (ii) Those NOx allowances that were allocated for the control period to any unit and transferred and recorded in the account pursuant to rule 3745-14-07 of the Administrative Code, in order of their recorded date;
 - (iii) Those NOx allowances that were allocated for a prior control period to the unit under rule 3745-14-05 or 3745-14-09 of the Administrative Code; and
 - (iv) Those NOx allowances that were allocated for a prior control period to any unit and transferred and recorded in the account pursuant to rule 3745-14-07 of the Administrative Code, in order of their recorded date.

(4) Deductions for excess emissions.

- (a) After making the deductions for compliance under paragraph (E)(2) of this rule, the administrator shall deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NOx allowances, allocated for a control period after the control period in

which the unit has excess emissions, equal to three times the number of the unit's excess emissions.

- (b) If the compliance account or overdraft account does not contain sufficient NOx allowances, the administrator shall deduct the required number of NOx allowances (i.e., three times the number of the unit's excess emissions) regardless of the control period for which they were allocated whenever NOx allowances are recorded in either account.
- (c) Any allowance deduction required under paragraph (E)(4)(a) or (E)(4)(b) of this rule shall not affect the liability of the owners and operators of the NOx 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 Clean Air Act or applicable state law. The following guidelines shall be followed in assessing fines, penalties or other obligations:
 - (i) For purposes of determining the number of days of violation, if a NOx budget unit has excess emissions for a control period, each day in the control period constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered;
 - (ii) Each ton of excess emissions is a separate violation.
- (5) In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with rule 3745-14-08 of the Administrative Code:
 - (a) The NOx authorized account representative of the units may identify the percentage of NOx allowances to be deducted from each such unit's compliance account to cover the unit's share of NOx emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with paragraph (A) of rule 3745-14-04 of the Administrative Code.
 - (b) Notwithstanding paragraph (E)(2)(b)(i) of this rule, the administrator shall deduct NOx allowances for each such unit until the number of NOx allowances deducted equals the unit's identified percentage, under paragraph (E)(5)(a) of this rule, of the number of tons of NOx emissions, as determined in accordance with rule 3745-14-08 of the Administrative Code, 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, plus the number of allowances required for deduction to account for actual utilization under paragraph (C)(5) of rule 3745-14-05 of the Administrative Code for the control period.
- (6) Each year starting in 2005, after the administrator has completed the designation of banked NOx allowances under paragraph (F)(1)(b) of this rule and before

May 1 of the year, the administrator shall determine the extent to which banked NOx allowances otherwise available under paragraph (E)(1) of this rule are available for compliance in the control period for the current year, as follows:

- (a) The administrator shall determine the total number of banked NOx allowances held in compliance accounts, overdraft accounts, or general accounts.
 - (b) If the total number of banked NOx allowances determined to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to ten per cent of the sum of the state trading program budgets for the control period, any banked NOx allowance may be deducted for compliance in accordance with paragraphs (E)(1) to (E)(5) of this rule.
 - (c) If the total number of banked NOx allowances determined to be held in compliance accounts, overdraft accounts, or general accounts exceeds ten per cent of the sum of the state trading program budgets for the control period, any banked allowance may be deducted for compliance in accordance with paragraphs (E)(1) to (E)(5) of this rule, except as follows:
 - (i) The administrator shall determine the following ratio: 0.10 multiplied by the sum of the state trading program budgets for the control period divided by the total number of banked NOx allowances determined to be held in compliance accounts, overdraft accounts, or general accounts.
 - (ii) The administrator shall multiply the number of banked NOx allowances in each compliance account or overdraft account by the ratio determined under paragraph (E)(6)(c)(i) of this rule. The resulting product is the number of banked NOx allowances in the account that may be deducted for compliance in accordance with paragraphs (E)(1) to (E)(5) of this rule. Any banked NOx allowances in excess of the resulting product may be deducted for compliance in accordance with paragraphs (E)(1) to (E)(5) of this rule, except that, if such NOx allowances are used to make a deduction under paragraphs (E)(2) to (E)(5) of this rule, two (rather than one) such NOx allowances shall authorize one ton of NOx emissions during the control period and must be deducted for each deduction of one NOx allowance required under paragraph (E)(2) to (E)(5) of this rule.
- (7) The administrator shall record in the appropriate compliance account or overdraft account all deductions from such an account pursuant to paragraphs (E)(2), (E)(4), (E)(5) and (E)(6) of this rule.

(F) Banking.

- (1) NOx allowances shall be banked for future use or transfer in a compliance account, an overdraft account, or a general account, as follows:

- (a) Any NOx allowance that is held in a compliance account, an overdraft account, or a general account shall remain in such account unless and until the NOx allowance is deducted or transferred pursuant to paragraphs (E) and (G) of this rule, paragraph (B) of rule 3745-14-04, and rules 3745-14-07 and 3745-14-09 of the Administrative Code.
 - (b) The administrator shall designate, as a "banked" NOx allowance, any NOx 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 (E) of this rule (except deductions pursuant to paragraph (E)(4)(b) of this rule) and that were allocated for that control period or a control period in a prior year.
- (G) The administrator may, at his or her sole discretion and on his or her own motion, correct any error in any NOx allowance tracking system account. Within ten business days of making such correction, the administrator shall notify the NOx authorized account representative for the account.
- (H) Closing of general accounts.
- (1) The NOx 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 NOx allowance tracking system and by correctly submitting for recording, under paragraph (A) of rule 3745-14-07 of the Administrative Code, an allowance transfer of all NOx allowances in the account to one or more other NOx allowance tracking system accounts.
 - (2) If a general account shows no activity for a period of a year or more and does not contain any NOx allowances, the administrator shall notify the NOx authorized account representative for the account that the account will be closed and deleted from the NOx allowance tracking system following twenty business days after the notice is sent. The account shall be closed after the twenty-day period unless, before the end of the twenty-day period, the administrator receives a correctly submitted transfer of NOx allowances into the account under paragraph (A) of rule 3745-14-07 of the Administrative Code or a statement submitted by the NOx authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

Effective: 11/24/2003

R.C. 119.032 review dates: 03/31/2005

CERTIFIED ELECTRONICALLY

Certification

11/12/2003

Date

Promulgated Under: 119.03
Statutory Authority: 3704.03(E)
Rule Amplifies: 3704.03(A), (D) and (E)
Prior Effective Dates: 7/18/2002

3745-14-07 **NOx allowance transfers.**

(A) Submission of NOx allowance transfers.

- (1) The NOx authorized account representatives seeking recording of a NOx allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the NOx 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 NOx allowance to be transferred; and
 - (c) The printed name and signature of the NOx authorized account representative of the transferor account and the date signed.

(B) Recordation of NOx allowance transfer requests.

- (1) Within five business days of receiving a NOx allowance transfer, except as provided in paragraph (B)(2) of this rule, the administrator shall record a NOx allowance transfer by moving each NOx allowance from the transferor account to the transferee account as specified by the request, provided that:
 - (a) The transfer is correctly submitted under paragraph (A) of this rule; and
 - (b) The transferor account includes each NOx allowance identified by serial number in the transfer.
- (2) A NOx allowance transfer that is submitted for recording following the NOx allowance transfer deadline and that includes any NOx allowances allocated for a control period prior to or the same as the control period to which the NOx allowance transfer deadline applies shall not be recorded until after completion of the process of recording of NOx allowance allocations in paragraph (D) of rule 3745-14-06 of the Administrative Code.
- (3) Where a NOx allowance transfer submitted for recording fails to meet the requirements of paragraph (B)(1) of this rule, the administrator shall not record such transfer.

(C) Notification of transfers recorded.

- (1) Within five business days of recording a NOx allowance transfer under paragraph (B) of this rule, the administrator shall notify the NOx authorized account representative of both the transferor and transferee accounts.

- (2) Within ten business days of receipt of a NOx allowance transfer that fails to meet the requirements of paragraph (B)(1) of this rule, the administrator shall notify the NOx authorized account representatives of both accounts subject to the transfer of:
 - (a) A decision not to record the transfer, and
 - (b) The reasons for not recording the transfer.
- (3) Nothing in this rule shall preclude the re-submission of a NOx allowance transfer for recording that failed to meet the requirements of paragraph (B)(1) of this rule upon a previous submission.

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3745-14-08 **Monitoring and reporting.**

(A) General requirements.

- (1) The owners and operators, and to the extent applicable, the NOx authorized account representative of a NOx budget unit, shall comply with the monitoring and reporting requirements as provided in this rule and in subpart H of 40 C.F.R. part 75. For purposes of complying with such requirements, the definitions in paragraph (B) of rule 3745-14-01 of the Administrative Code and in 40 C.F.R. 72.2 shall apply, and the terms "affected unit," "designated representative," and "continuous emission monitoring system" (or "CEMS") in 40 C.F.R. part 75 shall be replaced by the terms "NOx budget unit," "NOx authorized account representative," and "continuous emission monitoring system" (or "CEMS"), respectively, as defined in paragraph (B) of rule 3745-14-01 of the Administrative Code.
- (2) The owner or operator of each NOx budget unit and each unit for which an application for a NOx budget opt-in permit is submitted and not denied or withdrawn, as provided in rule 3745-14-09 of the Administrative Code, shall meet the following requirements:
 - (a) Install all monitoring systems required under this rule for monitoring NOx mass emissions; (This includes all systems required to monitor NOx emission rate, NOx concentration, heat input rate, and stack flow rate, in accordance with 40 C.F.R. 75.71 and 75.72.)
 - (b) Install all monitoring systems for monitoring heat input rate;
 - (c) Successfully complete all certification tests required under paragraph (B) of this rule and meet all other requirements of this rule and 40 C.F.R. part 75 applicable to the monitoring systems under paragraphs (A)(2)(a) and (A)(2)(b) of this rule; and
 - (d) Record, report and quality assure the data from the monitoring systems required under paragraphs (A)(2)(a) and (A)(2)(b) of this rule.
- (3) The owner or operator shall meet the certification and other requirements of paragraphs (A)(2)(a) to (A)(2)(c) of this rule on or before the following dates. The owner or operator shall record, report and quality-assure the data from the monitoring systems under paragraphs (A)(2)(a) and (A)(2)(b) of this rule on and after the following dates:
 - (a) For the owner or operator of a NOx budget unit for which the owner or operator intends to apply for early reduction credit under paragraph (D) of rule 3745-14-05 of the Administrative Code, by May 1, 2000;

- (b) For the owner or operator of a NOx budget unit under paragraph (C)(1) of rule 3745-14-01 of the Administrative Code that commences operation before January 1, 2003, and that is not subject to or does not meet the deadline under paragraph (A)(3)(a) of this rule, by May 1, 2003;
- (c) For the owner or operator of a NOx budget unit under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code that commences operation on or after January 1, 2003 and that reports on an annual basis under paragraph (E)(4) of this rule, by the later of the following dates:
 - (i) May 1, 2003; or
 - (ii) Ninety days after the date on which the unit commences commercial operation.
- (d) For the owner or operator of a NOx budget unit under paragraph (C)(1)(a) of rule 3745-14-01 of the Administrative Code that commences operation on or after January 1, 2003 and that reports on a control period basis under paragraph (E)(4)(b)(i) of this rule, by no later than ninety days after the date on which the unit commences commercial operation, provided that this date is during a control period; (If this date does not occur during a control period, the applicable deadline is May first immediately following this date.)
- (e) For the owner or operator of a NOx budget unit under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code that commences operation on or after January 1, 2003 and that reports on an annual basis under paragraph (E)(4) of this rule, by the later of the following dates:
 - (i) May 1, 2003; or
 - (ii) One hundred and eighty days after the date on which the unit commences operation.
- (f) For the owner or operator of a NOx budget unit under paragraph (C)(1)(b) of rule 3745-14-01 of the Administrative Code that commences operation on or after January 1, 2003 and that reports on a control period basis under paragraph (E)(4)(b)(ii) of this rule, by one hundred and eighty days after the date on which the unit commences operation, provided that this date is during a control period; (If this date does not occur during a control period, the applicable deadline is May first immediately following this date.)
- (g) For the owner or operator of a NOx budget unit that has a new stack or flue for which construction is completed after the applicable deadline under paragraph (A)(3)(a), (A)(3)(b), (A)(3)(c), (A)(3)(d), (A)(3)(e) or (A)(3)(f) of this rule or rule 3745-14-09 of the Administrative Code and that reports on an annual basis under paragraph (E)(4) of this rule, by ninety days after

the date on which emissions first exit to the atmosphere through the new stack or flue;

- (h) For the owner or operator of a NOx budget unit that has a new stack or flue for which construction is completed after the applicable deadline under paragraph (A)(3)(a), (A)(3)(b), (A)(3)(c), (A)(3)(d), (A)(3)(e) or (A)(3)(f) of this rule or rule 3745-14-09 of this chapter and that reports on a control period basis under paragraph (E)(4)(b)(ii) of this rule, by ninety days after the date on which emissions first exit to the atmosphere through the new stack or flue, provided that this date is during a control period; (If this date does not occur during a control period, the applicable deadline is May 1 immediately following this date.)
- (i) For the owner or operator of a unit for which an application for a NOx budget opt-in unit is submitted and not denied or withdrawn, by the date specified under rule 3745-14-09 of this chapter.

(4) Reporting data prior to initial certification.

The owner or operator of a NOx budget unit under paragraph (A)(3)(c), (A)(3)(d), (A)(3)(e) or (A)(3)(f) of this rule shall determine, record and report NOx mass emissions, heat input rate, and any other values required to determine NOx mass emissions (e.g., NOx emission rate and heat input rate, or NOx concentration and stack flow rate) in accordance with 40 C.F.R. 75.70(g), from the date and hour that the unit starts operating until the date and hour on which the continuous emission monitoring system, excepted monitoring system under Appendix D or E of 40 C.F.R. part 75, or excepted monitoring methodology under 40 C.F.R. 75.19, is provisionally certified.

(5) Prohibitions.

- (a) No owner or operator of a NOx budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with paragraph (F) of this rule.
- (b) No owner or operator of a NOx budget unit shall operate the unit so as to discharge, or allow to be discharged, NOx emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this rule and 40 C.F.R. part 75 except as provided for in 40 C.F.R. 75.74.
- (c) No owner or operator of a NOx budget unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NOx mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or

maintenance is performed in accordance with the applicable provisions of this rule and 40 C.F.R. part 75 except as provided for in 40 C.F.R. 75.74.

- (d) No owner or operator of a NO_x budget unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system, except under any one of the following circumstances:
 - (i) During the period that the unit is covered by an exemption under paragraphs (C)(2) and (D) of rule 3745-14-01 of the Administrative Code that is in effect;
 - (ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved by the director, in accordance with the applicable provisions of this rule and 40 C.F.R. part 75, 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 for the retired or discontinued monitoring system in accordance with paragraph (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 C.F.R. part 75, except that:
 - (a) If, prior to January 1, 1998, the administrator approved a petition under 40 C.F.R. 75.17(a) or (b) for apportioning the NO_x emission rate measured in a common stack or a petition under 40 C.F.R. 75.66 for an alternative to a requirement in 40 C.F.R. 75.17, the NO_x authorized account representative shall resubmit the petition, under paragraph (F)(1) of this rule, to the administrator 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 C.F.R. 75.72, or for any NO_x concentration CEMS used under the provisions of 40 C.F.R. 75.71(a)(2), the owner or operator shall meet the requirements of paragraph (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. The owner or operator of such a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 C.F.R. 75.19 or that qualifies to use an alternative monitoring system under subpart E

of 40 C.F.R. part 75 shall comply with the following procedures, as modified by paragraph (B)(3) or (B)(4) of this rule. The owner or operator of a NO_x budget unit that is subject to an acid rain emissions limitation and that requires additional CEMS under the common stack provisions in 40 C.F.R. 75.72 or uses a NO_x concentration CEMS under 40 C.F.R. 75.71(a)(2) shall comply with the following procedures.

- (a) The owner or operator shall ensure that each monitoring system required by subpart H of 40 C.F.R. part 75 (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 C.F.R. 75.20 by the applicable deadline in paragraph (A)(3) of this rule. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this chapter in a location where no such monitoring system was previously installed, initial certification according to 40 C.F.R. 75.20 is required.
- (b) Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the requirements of 40 C.F.R. 75.21 or Appendix B to 40 C.F.R. part 75, the owner or operator shall recertify the monitoring system in accordance with 40 C.F.R. 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system in accordance with 40 C.F.R. 75.20(b). Examples of changes that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.
- (c) Certification approval process for initial certifications and recertification.
 - (i) The NO_x authorized account representative shall submit to the administrator, the U.S. EPA region 5 office, and the director a written notice of the dates of certification in accordance with paragraph (D) of this rule.
 - (ii) The NO_x authorized account representative shall submit to the administrator, the U.S. EPA region 5 office, and director a certification application for each monitoring system required under subpart H of 40 C.F.R. part 75. A complete certification application shall include the information specified in subpart H of 40 C.F.R. part 75.
 - (iii) Except for units using the low mass emission excepted methodology under 40 C.F.R. 75.19, the provisional certification date for a monitor shall be determined in accordance with 40 C.F.R. 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 days after receipt by the director of the complete certification application for the monitoring system or component thereof under paragraph (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 C.F.R. part 75, shall 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 days of receipt of the complete certification application by the director.

(iv) The director shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty days of receipt of the complete certification application under paragraph (B)(2)(c)(ii) of this rule. In the event the director does not issue such a notice within such one-hundred-twenty-day period, each monitoring system that meets the applicable performance requirements of 40 C.F.R. part 75 and is included in the certification application shall be deemed certified for use under the NO_x budget trading program.

(a) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 C.F.R. part 75, then the director shall issue a written notice of approval of the certification application within one hundred twenty days of receipt.

(b) A certification application shall be considered complete when all of the applicable information required to be submitted under paragraph (B)(2)(c)(ii) of this rule has been received by the director. If the certification application is not complete, then the director shall issue a written notice of incompleteness that sets a reasonable date by which the NO_x authorized account representative shall 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 paragraph (B)(2)(c)(iv)(c) of this rule. The one-hundred-twenty-day review period shall not begin prior to receipt of a complete certification application.

(c) If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this chapter, or if the certification application is incomplete and the requirement for disapproval under paragraph (B)(2)(c)(iv)(b) of this rule has been met, then the director shall 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 [as defined under 40 C.F.R. 75.20(a)(3)]. The owner or operator shall follow the procedures for loss of certification in paragraph (B)(2)(c)(v) of this rule for each monitoring system or component thereof which is disapproved for initial certification.

- (d) The director may issue a notice of disapproval of the certification status of a monitor in accordance with paragraph (C)(2) of this rule.
- (v) If the director issues a notice of disapproval of a certification application under paragraph (B)(2)(c)(iv)(c) of this rule or a notice of disapproval of certification status under paragraph (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 specified under 40 C.F.R. 75.20(a)(4)(iii), 40 C.F.R. 75.20(b)(5), 40 C.F.R. 75.20(h)(4) or 40 C.F.R. 75.21(e) and continuing until the date and hour specified under 40 C.F.R. 75.20(a)(5)(i):
 - (i) For units that the owner or operator intends to monitor or monitors for NO_x emission rate and heat input or intends to determine or determines NO_x mass emissions using the low mass emission excepted methodology under 40 C.F.R. 75.19, the maximum potential NO_x emission rate and the maximum potential hourly heat input of the unit;
 - (ii) For units that the owner or operator intends to monitor or monitors for NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_x and the maximum potential flow rate of the unit under section 2 of Appendix A of 40 C.F.R. part 75.
 - (b) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with paragraphs (B)(2)(c)(i) and (B)(2)(c)(ii) of this rule;
 - (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 unit operating days after the date of issuance of the notice of disapproval.

- (3) The owner or operator of a gas fired or oil fired unit using the low mass emissions excepted methodology under 40 C.F.R. 75.19 and not subject to an acid rain emission limitation shall meet the applicable general operating requirements of 40 C.F.R. 75.10 and the applicable requirements of 40 C.F.R. 75.19. The owner or operator of such a unit shall also meet the applicable certification and recertification procedures of paragraph (B)(2) of this rule, except that the excepted methodology shall be deemed provisionally certified for use under the NOx budget trading program as of the following dates:
 - (a) For a unit that does not have monitoring equipment initially certified or recertified for the NOx budget trading program as of the date on which the NOx authorized account representative submits the certification application under 40 C.F.R. 75.19 for the unit, starting on the date of such submissions until the completion of the period for the director's review;
 - (b) For a unit that has monitoring equipment initially certified or recertified for the NOx budget trading program as of the date on which the NOx authorized account representative submits the certification application under 40 C.F.R. 75.19 for the unit and that reports data on an annual basis under paragraph (E)(4) of this rule, starting January first of the year after the year of such submission until the completion of the period for the director's review;
 - (c) For a unit that has monitoring equipment initially certified or recertified for the NOx budget trading program as of the date on which the NOx authorized account representative submits the certification application under 40 C.F.R. 75.19 for the unit and that reports on a control period basis under paragraph (E)(4) of this rule, starting May first of the control period after the year of such submission until the completion of the period for the director's review.
- (4) The NOx authorized account representative of each unit not subject to an acid rain emissions limitation for which the owner or operator intends to use an alternative monitoring system approved by the administrator under subpart E of 40 C.F.R. part 75, shall comply with the applicable certification procedures in paragraph (B)(2) of this rule before using the system under the NOx budget trading program. The NOx authorized account representative shall also comply with the applicable recertification procedures in paragraph (B)(2)(c) of this rule. The requirements of 40 C.F.R. 75.20(f) shall apply to such alternative monitoring system.

(C) Out of control periods.

- (1) Whenever any monitoring system fails to meet the quality assurance or data validation requirements of 40 C.F.R. part 75, data shall be substituted using the applicable procedures in subpart D, Appendix D, or Appendix E of 40 C.F.R. part 75.

- (2) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under paragraph (B) of this rule or the applicable provisions of 40 C.F.R. part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the director shall 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 director 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 for the system or component.
- (D) The NO_x authorized account representative for a NO_x budget unit shall submit written notice of certification and recertification test dates to the director and the administrator in accordance with 40 C.F.R. 75.61, except that if a unit is not subject to an acid rain emission limitation, 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 rule and with the requirements of paragraph (A)(5) of rule 3745-14-02 of the Administrative Code.
 - (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 C.F.R. part 75 and which includes data and information required under this rule or subpart H of 40 C.F.R. part 75 is not the same person as the designated representative or the alternative designated representative for the unit under 40 C.F.R. part 72, then the submission shall 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 the requirements of 40 C.F.R. 75.62, except that the monitoring plan shall also include all of the information required by subpart H of 40 C.F.R. part 75.

- (b) The owner or operator of a unit that is not subject to an acid rain emissions limitation shall comply with the requirements of 40 C.F.R. 75.62, except that the monitoring plan is only required to include the information required by subpart H of 40 C.F.R. part 75.
- (3) The NO_x authorized account representative shall submit an application to the administrator, U.S. EPA region 5 office, and the director within forty-five days after completing all initial certification or recertification tests required under paragraph (B) of this rule including the information required under subpart H of 40 C.F.R. part 75.
- (4) 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 this rule, the NO_x authorized account representative shall submit a quarterly report for each calendar quarter beginning with:
 - (i) For a unit for which the owner or operator intends to apply or applies for the early reduction credit under paragraph (D) of rule 3745-14-05 of the Administrative Code, the calendar quarter that includes the date of initial provisional certification under paragraph (B)(2)(c)(iii) or (B)(3) of this rule. Data shall be reported from the date and hour corresponding to the date and hour of provisional certification; or
 - (ii) For a unit that commences operation on or before May 1, 2003 and that is not subject to paragraph (E)(4)(a)(i) of this rule, the earlier of the calendar quarter that includes the date of initial provisional certification under paragraph (B)(2)(c)(iii) or (B)(3) of this rule or, if the certification tests are not completed by May 1, 2003, the calendar quarter covering May 1, 2003 through June 30, 2003. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2003; or
 - (iii) For a unit that commences operation after May 1, 2003, 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 C.F.R. part 75 related to monitoring and reporting NO_x mass emissions during the entire year and meet the reporting deadlines specified in paragraph (E)(4)(a) of this rule; or

- (ii) Submit quarterly reports covering the period May first through September thirtieth of each year and including the data described in 40 C.F.R. 75.74(c)(6). The NO_x authorized account representative shall submit such quarterly reports, beginning with:
 - (a) For a unit for which the owner or operator intends to apply or applies for early reduction credit under paragraph (D) of rule 3745-14-05 of the Administrative Code, the calendar quarter that includes the date of initial provisional certification under paragraph (B)(2)(c)(iii) or (B)(3) of this rule. Data shall be recorded and reported from the date and hour corresponding to the date and hour of provisional certification; or
 - (b) For a unit that commences operation on or before May 1, 2003 and that is not subject to paragraph (E)(4)(b)(i) of this rule, the calendar quarter covering May first through June thirtieth, 2003. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of initial certification under paragraph (B)(2)(c)(iii) or (B)(3) of this rule or the first hour of May 1, 2003; or
 - (c) For a unit that commences operation after May 1, 2003 and during a 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 commences operation; or
 - (d) For a unit that commences operation after May 1, 2003 and not during a control period, the calendar quarter covering the first control period after the unit commences operation. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of initial provisional certification under paragraph (B)(2)(c)(iii) or (B)(3) of this rule or the first hour of May first of the first control period after the unit commences operation.
- (c) The NO_x authorized account representative shall submit each quarterly report to the Administrator within thirty 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 C.F.R. part 75 and 40 C.F.R. 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 C.F.R. part 75 for each NO_x budget unit (or group of units using a common stack) and the data and information required in subpart G of 40 C.F.R. part 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 C.F.R. part 75 for each NO_x budget unit (or group of units using a common stack).
- (d) 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 compliance certification shall state that:
 - (i) The monitoring data submitted were recorded in accordance with the applicable requirements of this rule and 40 C.F.R. part 75, including the quality assurance procedures and specifications;
 - (ii) For a unit with add-on NO_x emission controls and for all hours where data are substituted in accordance with 40 C.F.R. 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under Appendix B of 40 C.F.R. part 75 and the substitute values do not systematically underestimate NO_x emissions; and
 - (iii) For a unit that is reporting on a control period basis under paragraph (E)(4)(d)(ii) of this rule, the NO_x emission rate and NO_x concentration values substituted for missing data under subpart D of 40 C.F.R. part 75 are calculated using only values from a control period and do not systematically underestimate NO_x emissions.

(F) Petitions.

- (1) The NO_x authorized account representative of a NO_x budget unit that is subject to an acid rain emission limitation may submit a petition under 40 C.F.R. 75.66 to the administrator requesting approval to apply an alternative to any requirement of this rule.
 - (a) Application of an alternative to any requirement of this rule shall be in accordance with this rule only to the extent that the petition is approved by the administrator in consultation with the director.
 - (b) Notwithstanding paragraph (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 C.F.R. 75.72, the petition shall be governed by paragraph (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 emission limitation may submit a petition under 40 C.F.R. 75.66 to the director and the administrator requesting approval to apply an alternative to any requirement of this rule.

- (a) The NO_x authorized account representative of a NO_x budget unit that is subject to an acid rain emission limitation may submit a petition under 40 C.F.R. 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 C.F.R. 75.72 or a NO_x concentration CEMS used under 40 C.F.R. 75.71(a)(2).
- (b) Application of an alternative to any requirement of this rule shall be in accordance with this rule only to the extent the petition under paragraph (F)(2) of this rule is approved by both the director and the administrator.

(G) Additional requirements to provide heat input data for allocation purposes.

The owner or operator of a NO_x budget unit that monitors and reports NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input rate at the unit level using the procedures set forth in 40 C.F.R. part 75.

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CERTIFIED ELECTRONICALLY
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07/08/2002
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3745-14-09 **NOx budget opt-in units.**

- (A) A unit that is not a NOx budget unit under paragraph (C) of rule 3745-14-01 of the Administrative Code, vents all of its emissions to a stack, and is operating, may qualify, under this rule, to become a NOx budget opt-in unit. A unit that is a NOx budget unit under paragraph (C) of rule 3745-14-01 of the Administrative Code, is covered by a retired unit exemption under paragraph (D) of rule 3745-14-01 of the Administrative Code that is in effect, or is not operating is not eligible to become a NOx budget opt-in unit.
- (B) Except as otherwise provided in this chapter, a NOx budget opt-in unit shall be treated as a NOx budget unit for purposes of applying rules 3745-14-01 to 3745-14-08 and 3745-14-10 of the Administrative Code.
- (C) A unit for which an application for a NOx budget opt-in permit is submitted and not denied or withdrawn, or a NOx budget opt-in unit, located at the same source as one or more NOx budget units, shall have the same NOx authorized account representative as such NOx budget units.
- (D) Applying for a NOx budget opt-in permit.
 - (1) In order to apply for an initial NOx budget opt-in permit, the NOx authorized account representative of a unit qualified under paragraph (A) of this rule may submit the following to the director at any time, except as provided under paragraph (G)(7) of this rule:
 - (a) A complete NOx budget permit application under paragraph (C) of rule 3745-14-03 of the Administrative Code;
 - (b) A monitoring plan submitted in accordance with paragraph (E)(2) of rule 3745-14-08 of the Administrative Code; and
 - (c) A complete account certificate of representation under paragraph (D) of rule 3745-14-02 of the Administrative Code, if no NOx authorized account representative has been previously designated for the unit.
 - (2) The NOx authorized account representative of a NOx budget opt-in unit shall submit a complete NOx budget permit application under paragraph (C) of rule 3745-14-03 of the Administrative Code to renew the NOx budget opt-in permit in accordance with paragraph (B)(3) of rule 3745-14-03 of the Administrative Code and, if applicable, an updated monitoring plan in accordance with rule 3745-14-08 of the Administrative Code.
- (E) The director shall issue or deny a NOx budget opt-in permit for a unit for which an initial application for a NOx budget opt-in permit is submitted, in accordance with paragraph (A) of rule 3745-14-03 of the Administrative Code and the following:

- (1) The director shall determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x budget opt-in permit. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit are monitored and reported in accordance with rule 3745-14-08 of the Administrative Code. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.
- (2) If the director determines that the unit's monitoring plan is sufficient under paragraph (E)(1) of this rule and after completion of monitoring system certification under rule 3745-14-08 of the Administrative Code, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with rule 3745-14-08 of the Administrative Code for one full control period during which per cent monitor data availability is not less than ninety per cent and during which the unit is in full compliance with any applicable state or federal emissions or emission-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a NO_x budget unit prior to issuance of a NO_x budget opt-in permit covering the unit.
- (3) Based on the information monitored and reported under paragraph (E)(2) of this rule, the units baseline heat rate shall be calculated as the unit's total heat input (in mmBtu) for the control period and the units baseline NO_x emissions rate shall be calculated as the unit's total NO_x emissions (in pounds) for the control period divided by the units baseline heat rate.
- (4) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under paragraph (E)(3) of this rule, the director shall issue a draft NO_x budget opt-in permit for the unit in accordance with paragraph (A) of rule 3745-14-03 of the Administrative Code.
- (5) Notwithstanding paragraphs (E)(1) to (E)(4) of this rule, if at any time before issuance of a draft NO_x budget opt-in permit for the unit, the director determines that the unit does not qualify as a NO_x budget opt-in unit under paragraph (A) of this rule, the director shall issue a draft denial of a NO_x budget opt-in permit for the unit in accordance with paragraph (A) of rule 3745-14-03 of the Administrative Code.
- (6) A NO_x authorized account representative of a unit may withdraw its application for a NO_x budget opt-in permit under paragraph (D) of this rule at any time prior to the issuance of the final NO_x budget opt-in permit. Once the application for a NO_x budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to reapply shall submit a new application for a NO_x budget permit under paragraph (D) of this rule.
- (7) The effective date of the initial NO_x budget opt-in permit shall be May first of the first control period starting after the issuance of the initial NO_x budget opt-in

permit by the director. The unit shall be a NOx budget opt-in unit and a NOx budget unit as of the effective date of the initial NOx budget opt-in permit.

(F) NOx budget opt-in permit contents.

- (1) Each NOx budget opt-in permit shall contain all elements required under paragraph (C) of rule 3745-14-03 of the Administrative Code.
- (2) Each NOx budget opt-in permit is deemed to incorporate automatically the definitions of terms under paragraph (B) of rule 3745-14-01 of the Administrative Code and, upon recordation by the Administrator, under this rule and rule 3745-14-06 of the Administrative Code, every allocation, transfer, or deduction of NOx allowances to or from the compliance accounts of each NOx budget opt-in unit covered by the NOx budget opt-in permit or the overdraft account of the NOx budget source where the NOx budget opt-in unit is located.

(G) Withdrawal of opt-in units from NOx budget trading program.

- (1) To withdraw from the NOx budget trading program, the NOx authorized account representative of a NOx budget opt-in unit shall submit to the director a request to withdraw effective as of a specified date prior to May first or after September thirtieth. The submission shall be made no later than ninety days prior to the requested effective date of withdrawal.
- (2) Before a NOx budget opt-in unit covered by a request under paragraph (G)(1) of this rule may withdraw from the NOx budget trading program and the NOx budget opt-in permit may be terminated under paragraph (G)(5) of this rule, the following conditions shall be met:
 - (a) For the control period immediately before the withdrawal is to be effective, the NOx authorized account representative shall submit or shall have submitted to the director an annual compliance certification report in accordance with paragraph (A) of rule 3745-14-04 of the Administrative Code.
 - (b) If the NOx budget opt-in unit has excess emissions for the control period immediately before the withdrawal is to be effective, the Administrator shall deduct from the NOx budget opt-in unit's compliance account, or the overdraft account of the NOx budget source where the NOx budget opt-in unit is located, the full amount required under paragraph (E)(4) of rule 3745-14-06 of the Administrative Code for the control period.
 - (c) After the requirements for withdrawal under paragraphs (G)(2)(a) and (G)(2)(b) of this rule are met, the administrator shall deduct from the NOx budget opt-in unit's compliance account, or the overdraft account of the NOx budget source where the NOx budget opt-in unit is located, NOx allowances equal in number to and allocated for the same or a prior control period as any NOx allowances allocated to that source under paragraph (I)

of this rule for any control period for which the withdrawal is to be effective. The administrator shall close the NOx budget opt-in units compliance account and shall establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NOx budget opt-in unit. The NOx authorized account representative for the NOx budget opt-in unit shall become the NOx authorized account representative for the general account.

- (3) A NOx budget opt-in unit that withdraws from the NOx budget trading program shall comply with all requirements under the NOx budget trading program concerning all years for which such NOx budget opt-in unit was a NOx budget opt-in unit, even if such requirements arise or shall be complied with after the withdrawal takes effect.
- (4) Notification.
 - (a) After the requirements for withdrawal under paragraphs (G)(1), (G)(2) and (G)(3) of this rule are met, the director shall issue a notification to the NOx authorized account representative of the NOx budget opt-in unit of the acceptance of the withdrawal of the NOx budget opt-in unit as of a specified effective date that is after such requirements have been met and that is prior to May first or after September thirtieth.
 - (b) If the requirements for withdrawal under paragraphs (G)(1), (G)(2) and (G)(3) of this rule are not met, the director shall issue a notification to the NOx authorized account representative of the NOx budget opt-in unit that the NOx budget opt-in units request to withdraw is denied. If the NOx budget opt-in units request to withdraw is denied, the NOx budget opt-in unit shall remain subject to the requirements for a NOx budget opt-in unit.
- (5) After the director issues a notification under paragraph (G)(4)(a) of this rule that the requirements for withdrawal have been met, the director shall revise the NOx budget permit covering the NOx budget opt-in unit to terminate the NOx budget opt-in permit as of the effective date specified under paragraph (G)(4)(a) of this rule. A NOx budget opt-in unit shall continue to be a NOx budget opt-in unit until the effective date of the termination.
- (6) If the director denies the NOx budget opt-in unit's request to withdraw, the NOx authorized account representative may submit another request to withdraw in accordance with paragraphs (G)(1) and (G)(2) of this rule.
- (7) Once a NOx budget opt-in unit withdraws from the NOx budget trading program and its NOx budget opt-in permit is terminated under this rule, the NOx authorized account representative may not submit another application for a NOx budget opt-in permit under paragraph (D) of this rule for the unit prior to the date that is two years after the date on which the terminated NOx budget opt-in permit became effective.

(H) Change in regulatory status of NOx budget opt-in units.

- (1) When a NOx budget opt-in unit becomes a NOx budget unit under paragraph (C) of rule 3745-14-01 of the Administrative Code, the NOx authorized account representative shall notify in writing the director and the administrator of such change in the NOx budget opt-in units regulatory status, within thirty days of such change.
- (2) Director's and administrator's action.
 - (a) When the NOx budget opt-in unit becomes a NOx budget unit, the director shall revise the NOx budget opt-in unit's NOx budget opt-in permit to meet the requirements of a NOx budget permit under paragraph (D) of rule 3745-14-03 of the Administrative Code as of an effective date that is the date on which such NOx budget opt-in unit becomes a NOx budget unit.
 - (b) The administrator shall deduct from the compliance account for the NOx budget unit under paragraph (H)(2)(a) of this rule, or the overdraft account of the NOx budget source where the unit is located, NOx allowances equal in number to and allocated for the same or a prior control period as:
 - (i) Any NOx allowances allocated to the NOx budget unit (as a NOx budget opt-in unit) under paragraph (I) of this rule for any control period after the last control period during which the unit's NOx budget opt-in permit was effective; and
 - (ii) If the effective date of the NOx budget permit revision under paragraph (H)(2)(a) of this rule is during a control period, the NOx allowances allocated to the NOx budget unit (as a NOx budget opt-in unit) under paragraph (I) of this rule for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (H)(2)(a) of this rule, divided by the total number of days in the control period.
 - (c) The NOx authorized account representative shall ensure that the compliance account of the NOx budget unit under paragraph (H)(2)(a) of this rule, or the overdraft account of the NOx budget source where the unit is located, includes the NOx allowances necessary for completion of the deduction under paragraph (H)(2)(b) of this rule. If the compliance account or overdraft account does not contain sufficient NOx allowances, the administrator shall deduct the required number of NOx allowances, regardless of the control period for which they were allocated, whenever NOx allowances are recorded in either account.
 - (i) For every control period during which the NOx budget permit revised under paragraph (H)(2)(a) of this rule is effective, the NOx budget unit under paragraph (H)(2)(a) of this rule shall be treated, solely for purposes of NOx allowance allocations under paragraph (C) of rule

3745-14-05 of the Administrative Code, as a unit that commenced operation on the effective date of the NOx budget permit revision under paragraph (H)(2)(a) of this rule and shall be allocated NOx allowances under paragraph (C) of rule 3745-14-05 of the Administrative Code.

- (ii) Notwithstanding paragraph (H)(2)(c)(i) of this rule, if the effective date of the NOx budget permit revision under paragraph (H)(2)(a) of this rule is during a control period, the following number of NOx allowances shall be allocated, under paragraph (C) of rule 3745-14-05 of the Administrative Code, to the NOx budget unit under paragraph (H)(2)(a) of this rule for the control period: the number of NOx allowances otherwise allocated to the NOx budget unit under paragraph (C) of rule 3745-14-05 of the Administrative Code for the control period multiplied by the ratio of the number of days in the control period, starting with the effective date of the permit revision under paragraph (H)(2)(a) of this rule, divided by the total number of days in the control period.
- (d) When the NOx authorized account representative of a NOx budget opt-in unit does not renew its NOx budget opt-in permit under paragraph (D)(2) of this rule, the administrator shall deduct from the NOx budget opt-in units compliance account, or the overdraft account of the NOx budget source where the NOx budget opt-in unit is located, NOx allowances equal in number to and allocated for the same or a prior control period as any NOx allowances allocated to the NOx budget opt-in unit under paragraph (I) of this rule for any control period after the last control period for which the NOx budget opt-in permit is effective. The NOx authorized account representative shall ensure that the NOx budget opt-in source's compliance account or the overdraft account of the NOx budget source where the NOx budget opt-in unit is located includes the NOx allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NOx allowances, the administrator shall deduct the required number of NOx allowances, regardless of the control period for which they were allocated, whenever NOx allowances are recorded in either account.
- (e) After the deduction under paragraph (H)(2)(d) of this rule is completed, the administrator shall close the NOx budget opt-in units compliance account. If any NOx allowances remain in the compliance account after completion of such deduction and any deduction under paragraph (E) of rule 3745-14-06 of the Administrative Code, the administrator shall close the NOx budget opt-in unit's compliance account and shall establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NOx budget opt-in unit. The NOx authorized account representative for the NOx budget opt-in unit shall become the NOx authorized account representative for the general account.

(I) NOx allowance allocations to opt-in units.

- (1) NOx allowance allocation.
 - (a) By April first immediately before the first control period for which the NOx budget opt-in permit is effective, the director shall allocate NOx allowances to the NOx budget opt-in unit and submit to the administrator the allocation for the control period in accordance with paragraph (I)(2) of this rule.
 - (b) By no later than April first, after the first control period for which the NOx budget opt-in permit is in effect, and April first of each year thereafter, the director shall allocate NOx allowances to the NOx budget opt-in unit, and submit to the administrator allocations for the next control period, in accordance with paragraph (I)(2) of this rule.
- (2) For each control period for which the NOx budget opt-in unit has an approved NOx budget opt-in permit, the NOx budget opt-in unit shall be allocated NOx allowances in accordance with the following procedures:
 - (a) The heat input (in mmBtu) used for calculating NOx allowance allocations shall be the lesser of:
 - (i) The NOx budget opt-in unit's baseline heat input determined pursuant to paragraph (E)(3) of this rule; or
 - (ii) The NOx budget opt-in unit's heat input, as determined in accordance with rule 3745-14-08 of the Administrative Code, for the control period in the year prior to the year of the control period for which the NOx allocations are being calculated.
 - (b) The director shall allocate NOx allowances to the NOx budget opt-in unit in an amount equaling the heat input (in mmBtu) determined under paragraph (I)(2)(a) of this rule multiplied by the lesser of:
 - (i) The NOx budget opt-in units baseline NOx emissions rate (in lb/mmBtu) determined pursuant to paragraph (E)(3) of this rule; or
 - (ii) The most stringent state or federal NOx emissions limitation applicable to the NOx budget opt-in unit during the control period.

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3745-14-10 **Alternative compliance plans.**

Nothing in this chapter shall prohibit the owner or operator of a NO_x budget unit from participating in future programs under federal rules that allow for multi-pollutant reductions in place of the requirements of the rules of this chapter.

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3745-14-11 **Portland cement kilns.**

- (A) The requirements of this rule shall apply only to following types of portland cement kilns with process rates of at least that indicated below:
 - (1) For long dry kilns, 12 tons per hour;
 - (2) For long wet kilns, 10 tons per hour;
 - (3) For preheater kilns, 16 tons per hour; and
 - (4) For precalciner and preheater/precalciner kilns, 22 tons per hour.

- (B) After April 30, 2004, an owner or operator of any portland cement kiln subject to this rule shall not operate the kiln during May first through September thirtieth unless the kiln has installed and operates during May first through September thirtieth with low-NOx burners, mid-kiln system firing, or alternative control techniques, subject to approval by the administrator, that achieve at least the same emissions decreases as low-NOx burners or mid-kiln system firing.

- (C) Reporting, monitoring and record keeping requirements.
 - (1) Any owner or operator subject to the requirements of paragraph (B) of this rule shall comply with the following requirements:
 - (a) By May 1, 2004, submit to the director and administrator the identification number and type of each unit subject to the rule, the name and address of the plant where the unit is located, and the name and telephone number of the person responsible for demonstrating the compliance of the unit with this rule; and
 - (b) Submit a report documenting for each unit the total NOx emissions from May first through September thirtieth of each year to the director and administrator by October thirty-first of each year, beginning in 2004.
 - (2) Any owner or operator of a unit subject to paragraph (B) of this rule shall complete an initial performance test and subsequent annual testing consistent with the requirements of 40 C.F.R. Part 60, Appendix A, Methods 1, 2, 3 and 4, and Method 7, 7A, 7C, 7C, or 7E.
 - (3) Any owner or operator of a unit subject to paragraph (B) of this rule shall produce and maintain records which shall include, but are not limited to:
 - (a) The emissions, in pounds of NOx per ton of clinker produced from each affected cement kiln;

- (b) The date, time and duration of any startup, shutdown or malfunction in the operation of any of the cement kilns or the emissions monitoring equipment;
 - (c) The results of any performance testing; and
 - (d) Daily cement kiln production records.
- (4) All records required to be produced or maintained shall be retained on site for a minimum of two years and be made available to the director or administrator upon request.
- (D) The requirements of this rule shall not apply to the following periods of operation:
- (1) Start-up and shutdown periods and periods of malfunction, not to exceed thirty-six consecutive hours; and
 - (2) Regularly scheduled maintenance activities.

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3745-14-12 Stationary internal combustion engines.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the "Incorporation by Reference" section at the end of rule 3745-14-01 of the Administrative Code.]

(A) The requirements of this rule apply to the owner or operator of any large NO_x SIP call engine.

(B) Compliance plan.

(1) After May 1, 2007, an owner or operator of a large NO_x SIP call engine shall not operate the engine in the 2007 control period or any subsequent year's control period unless the owner or operator complies with the requirements of a compliance plan which meets the provisions listed below.

(a) The compliance plan shall be approved by the director.

(b) The compliance plan shall demonstrate enforceable emission reductions from one or more stationary internal combustion engines equal to or greater than the facility seasonal NO_x 2007 tonnage reduction.

(c) The compliance plan may cover some or all engines at an individual facility or at several facilities or at all facilities in Ohio that are in control of the same owner/operator.

(d) The compliance plan shall be submitted to the director by May 1, 2006.

(e) The compliance plan may include credit for decreases in NO_x emissions from large NO_x SIP call engines in Ohio due to NO_x control equipment. Credit may also be included for decreases in NO_x emissions from other engines in Ohio due to NO_x control equipment not reflected in the 2007 base NO_x emissions in the NO_x SIP call engine inventory.

(f) The compliance plan shall include the following items:

(i) List of engines subject to the plan, including the engine's manufacturer, model, facility location address, and facility identification number;

(ii) The projected control period hours of operation for each engine and supporting documentation;

(iii) A description of the NO_x emissions control installed, or to be installed, on each engine and documentation to support the projected NO_x emission rates;

- (iv) The past and projected NO_x emission rates for each affected engine in g/bhp-hr;
 - (v) A numerical demonstration that the emission reductions obtained from all engines included under the plan will be equivalent to or greater than the owner/operator's facility seasonal NO_x 2007 tonnage reduction, based on the difference between the past NO_x emission rate and the projected NO_x emission rate multiplied by the projected operating hours for each affected engine, and taking into account any credit under paragraph (B)(1)(e) of this rule; and
 - (vi) Provisions for monitoring, reporting and recordkeeping for each affected engine.
- (2) The projected NO_x emission rate in g/bhp-hr for each affected engine shall be included in a federally enforceable permit.
- (C) Any owner or operator subject to the requirements of paragraph (B) of this rule shall comply with the following requirements:
- (1) Monitoring requirements:
 - (a) Complete an initial performance test consistent with the requirements of 40 C.F.R. part 60, Appendix A, following installation of emission controls required to achieve the emission rate limit specified in paragraph (B)(2) of this rule.
 - (b) Perform periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of a source's compliance with the emission rate limit specified in paragraph (B)(2) of this rule. Such periodic monitoring may include either:
 - (i) Performance tests consistent with the requirements of 40 C.F.R. part 60, Appendix A, or portable monitors using ASTM D6522-00;
 - (ii) A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance that each engine's emissions are consistent with the requirements of paragraph (B)(2) of this rule;
 - (iii) A predictive emissions measurement system that relies on automated data collection from instruments; or
 - (iv) A continuous emission monitoring system that complies with 40 C.F.R. part 60 or 75.
 - (2) Record keeping requirements:

- (a) Maintain all records necessary to demonstrate compliance with the requirements of this rule for a period of two calendar years at the plant at which the subject engine is located. The records shall be made available to the director and administrator upon request.
- (b) For each engine subject to the requirements of this rule, the owner or operator shall maintain records of:
 - (i) Identification and location of each engine subject to the requirements of this rule:
 - (ii) Calendar date of record:
 - (iii) The number of hours the unit is operated during each control period compared to the projected operating hours:
 - (iv) Type and quantity of fuel used: and
 - (v) The results of all compliance tests.
- (3) Reporting requirements.

Any owner or operator subject to the requirements of this rule shall submit results of all compliance tests to the director.

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