

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- (C) A unit for which an application for a NOx budget opt-in permit is submitted and not denied or withdrawn, or a NOx budget opt-in unit, located at the same source as one or more NOx budget units, shall have the same NOx authorized account representative as such NOx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 NOx budget opt-in permit. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NOx 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 NOx 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 NOx budget unit prior to issuance of a NOx 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 NOx emissions rate shall be calculated as the unit's total NOx emissions (in pounds) for the control period divided by the units baseline heat rate.
  - (4) After calculating the baseline heat input and the baseline NOx emissions rate for the unit under paragraph (E)(3) of this rule, the director shall issue a draft NOx 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 NOx budget opt-in permit for the unit, the director determines that the unit does not qualify as a NOx budget opt-in unit under paragraph (A) of this rule, the director shall issue a draft denial of a NOx budget opt-in permit for the unit in accordance with paragraph (A) of rule 3745-14-03 of the Administrative Code.
  - (6) A NOx authorized account representative of a unit may withdraw its application for a NOx budget opt-in permit under paragraph (D) of this rule at any time prior to the issuance of the final NOx budget opt-in permit. Once the application for a NOx budget opt-in permit is withdrawn, a NOx authorized

account representative wanting to reapply shall submit a new application for a NOx budget permit under paragraph (D) of this rule.

- (7) The effective date of the initial NOx budget opt-in permit shall be May first of the first control period starting after the issuance of the initial NOx 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 NO<sub>x</sub> authorized account representative shall ensure that the compliance account of the NO<sub>x</sub> budget unit under paragraph (H)(2)(a) of this rule, or the overdraft account of the NO<sub>x</sub> budget source where the unit is located, includes the NO<sub>x</sub> 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 NO<sub>x</sub> allowances, the administrator shall deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in either account.
- (i) For every control period during which the NO<sub>x</sub> budget permit revised under paragraph (H)(2)(a) of this rule is effective, the NO<sub>x</sub> budget unit under paragraph (H)(2)(a) of this rule shall be treated, solely for purposes of NO<sub>x</sub> 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 NO<sub>x</sub> budget permit revision under paragraph (H)(2)(a) of this rule and shall be allocated NO<sub>x</sub> 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 NO<sub>x</sub> budget permit revision under paragraph (H)(2)(a) of this rule is during a control period, the following number of NO<sub>x</sub> allowances shall be allocated, under paragraph (C) of rule 3745-14-05 of the Administrative Code, to the NO<sub>x</sub> budget unit under paragraph (H)(2)(a) of this rule for the control period: the number of NO<sub>x</sub> allowances otherwise allocated to the NO<sub>x</sub> 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 NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget opt-in unit does not renew its NO<sub>x</sub> budget opt-in permit under paragraph (D)(2) of this rule, the administrator shall deduct from the NO<sub>x</sub> budget opt-in units compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located, NO<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as any NO<sub>x</sub> allowances allocated to the NO<sub>x</sub> budget opt-in unit under paragraph (I) of this rule for any control period after the last control period for which the NO<sub>x</sub> budget opt-in permit is effective. The NO<sub>x</sub> authorized account representative shall ensure that the NO<sub>x</sub> budget opt-in source's compliance account or the overdraft account of the NO<sub>x</sub> budget source where the NO<sub>x</sub> budget opt-in unit is located includes the NO<sub>x</sub> allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO<sub>x</sub> 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 NO<sub>x</sub> allowances to the NO<sub>x</sub> 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 NO<sub>x</sub> budget opt-in units baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined pursuant to paragraph (E)(3) of this rule; or
  - (ii) The most stringent state or federal NO<sub>x</sub> emissions limitation applicable to the NO<sub>x</sub> budget opt-in unit during the control period.

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