

(C) Rounded to the nearest whole allowance as appropriate.

[70 FR 25382, May 12, 2005, as amended at 71 FR 25396, Apr. 28, 2006; 71 FR 74794, Dec. 13, 2006]

**§ 96.388 CAIR NO<sub>x</sub> Ozone Season allowance allocations to CAIR NO<sub>x</sub> Ozone Season opt-in units.**

(a) *Timing requirements.* (1) When the CAIR opt-in permit is issued under § 96.384(e), the permitting authority will allocate CAIR NO<sub>x</sub> Ozone Season allowances to the CAIR NO<sub>x</sub> Ozone Season opt-in unit, and submit to the Administrator the allocation for the control period in which a CAIR NO<sub>x</sub> Ozone Season opt-in unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g), in accordance with paragraph (b) or (c) of this section.

(2) By no later than July 31 of the control period after the control period in which a CAIR NO<sub>x</sub> Ozone Season opt-in unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g) and July 31 of each year thereafter, the permitting authority will allocate CAIR NO<sub>x</sub> Ozone Season allowances to the CAIR NO<sub>x</sub> Ozone Season opt-in unit, and submit to the Administrator the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO<sub>x</sub> Ozone Season opt-in unit, in accordance with paragraph (b) or (c) of this section.

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

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

(i) The CAIR NO<sub>x</sub> Ozone Season opt-in unit's baseline heat input determined under § 96.384(c); or

(ii) The CAIR NO<sub>x</sub> Ozone Season opt-in unit's heat input, as determined in accordance with subpart HHHH of this part, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO<sub>x</sub> Ozone Season

opt-in unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g).

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

(i) The CAIR NO<sub>x</sub> Ozone Season opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under § 96.384(d) and multiplied by 70 percent; or

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

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

(c) Notwithstanding paragraph (b) of this section and if the CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit" (based on a demonstration of the intent to repower stated under § 96.383(a)(5)) providing for, allocation to a CAIR NO<sub>x</sub> Ozone Season opt-in unit of CAIR NO<sub>x</sub> Ozone Season allowances under this paragraph (subject to the conditions in §§ 96.384(h) and 96.386(g)), the permitting authority will allocate to the CAIR NO<sub>x</sub> Ozone Season opt-in unit as follows:

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

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

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

(A) The CAIR NO<sub>x</sub> Ozone Season opt-in unit's baseline NO<sub>x</sub> emissions rate

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(in lb/mmBtu) determined under § 96.384(d); or

(B) The most stringent State or Federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> Ozone Season opt-in unit at any time during the control period in which the CAIR NO<sub>x</sub> Ozone Season opt-in unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g).

(iii) The permitting authority will allocate CAIR NO<sub>x</sub> Ozone Season allowances to the CAIR NO<sub>x</sub> Ozone Season opt-in unit in an amount equaling the heat input under paragraph (c)(1)(i) of this section, multiplied by the NO<sub>x</sub> emission rate under paragraph (c)(1)(ii) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(2) For each control period in 2015 and thereafter for which the CAIR NO<sub>x</sub> Ozone Season opt-in unit is to be allocated CAIR NO<sub>x</sub> Ozone Season allowances,

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

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

(A) 0.15 lb/mmBtu;

(B) The CAIR NO<sub>x</sub> Ozone Season opt-in unit's baseline NO<sub>x</sub> emissions rate (in lb/mmBtu) determined under § 96.384(d); or

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

(iii) The permitting authority will allocate CAIR NO<sub>x</sub> Ozone Season allowances to the CAIR NO<sub>x</sub> Ozone Season opt-in unit in an amount equaling the heat input under paragraph (c)(2)(i) of this section, multiplied by the NO<sub>x</sub> emission rate under paragraph (c)(2)(ii) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole allowance as appropriate.

(d) *Recordation.* (1) The Administrator will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> Ozone Season opt-in unit, the CAIR NO<sub>x</sub> Ozone Season allowances allocated by the permitting authority to the CAIR NO<sub>x</sub> Ozone Season opt-in unit under paragraph (a)(1) of this section.

(2) By September 1, of the control period in which a CAIR NO<sub>x</sub> Ozone Season opt-in unit enters the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 96.384(g), and September 1 of each year thereafter, the Administrator will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> Ozone Season opt-in unit, the CAIR NO<sub>x</sub> Ozone Season allowances allocated by the permitting authority to the CAIR NO<sub>x</sub> Ozone Season opt-in unit under paragraph (a)(2) of this section.

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