

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management
Rule No. 335-3-8-.20
Rule Title: CAIR NOx Allowance Allocations

 New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

 NO

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

 YES

Is there another, less restrictive method of regulation available that could adequately protect the public?

 NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

 NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

 NO

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

 YES

Does the proposed rule have an economic impact?

 NO

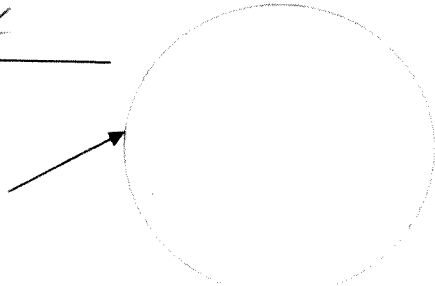
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

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

Signature of certifying officer *Nancy Elliott*

Date September 20, 2011



**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION**

NOTICE OF INTENDED ACTION

AGENCY NAME:

Department of Environmental Management

RULE NO. & TITLE:

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

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

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

SUBSTANCE OF PROPOSED ACTION:

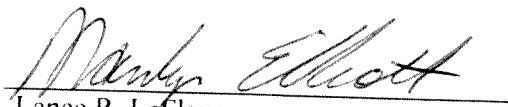
Revisions to the Division 3 Code are being proposed to delete Rules 335-3-8-.05; 335-3-8-.06; 335-3-8-.07; 335-3-8-.08; 335-3-8-.09; 335-3-8-.10; 335-3-8-.11; 335-3-8-.12; 335-3-8-.13; 335-3-8-.14; 335-3-8-.15; 335-3-8-.16; 335-3-8-.17; 335-3-8-.18; 335-3-8-.20; 335-3-8-.21; 335-3-8-.22; 335-3-8-.23;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

TIME, PLACE, MANNER OF PRESENTING VIEWS:

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

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

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


Lance R. LeFleur
Director

335-3-8-.20 REPEAL CAIR NO_x Allowance Allocations-Reserved.

~~(1) State Annual Trading Program Budget. The State trading budget for annual allocations of CAIR NO_x Annual allowances for the control periods in 2009 through 2014 is 69,020 tons and in 2015 and thereafter is 57,517 tons.~~

~~(2) Timing Requirements for NO_x Allowance Allocations.~~

~~(a) By October 31, 2006, the Department will submit to the Administrator, in a format prescribed by the administrator, the NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2009, 2010, and 2011.~~

~~(b) By October 31, 2008, the Department will submit to the Administrator, in a format prescribed by the administrator, the NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2012, 2013, and 2014.~~

~~(c) By October 31, 2011 and October 31 of every third year thereafter (i.e. 2014, 2017, etc.), the Department will submit to the Administrator, in a format prescribed by the administrator, the NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the three years that are four, five, and six years, respectively, after the year of the applicable deadline for submission under this subparagraph.~~

~~(3) NO_x Allowance Allocations.~~

~~(a) Definitions. For the purpose of this rule, the following definitions apply:~~

~~1. Baseline CAIR NO_x Unit. A CAIR NO_x unit that either:~~

~~(i) Commenced operation on or before January 1, 2004; or~~

~~(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before August 1, 2005.~~

~~2. Replacement CAIR NO_x Unit.~~

~~(i) A CAIR NO_x unit, which replaces at the same facility, a Baseline CAIR NO_x unit with the same or greater maximum design heat input capacity; or~~

~~(ii) The portion of a CAIR NO_x unit, which replaces at the same facility, a Baseline CAIR NO_x unit with the same or less maximum design heat input capacity.~~

~~3. New CAIR NO_x Unit.~~

~~(i) A CAIR NO_x unit that does not meet the definition of either Baseline CAIR NO_x Unit as defined in subparagraph (3)(a)1. of this paragraph or~~

~~Replacement CAIR NO_x Unit as defined in subparagraph (3)(a)2.(ii) of this paragraph; or~~

~~(ii) The portion of a CAIR NO_x unit that does not meet the definition of either Baseline CAIR NO_x Unit or Replacement CAIR NO_x Unit as defined in subparagraph (3)(a)1. and (3)(a)2. of this paragraph.~~

~~(b) Determination of Heat Input.~~

~~1. The heat input (in mmBtu) used for calculating CAIR NO_x allowance allocations under subparagraph (2)(a) of this rule will be:~~

~~(i) For a Baseline CAIR NO_x unit that commenced operation on or before January 1, 2002 the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2000, 2001, 2002, 2003 and 2004; or~~

~~(ii) For a Baseline CAIR NO_x unit that did not commence operation on or before January 1, 2002 but did commence operation on or before January 1, 2003, the average heat input for the control periods, in which the unit operated, in 2003 and 2004; or~~

~~(iii) For a Baseline CAIR NO_x unit that did not commence operation on or before January 1, 2003 but did commence operation on or before January 1, 2004, the heat input for the control period in 2004; or~~

~~(iv) For a Baseline CAIR NO_x unit that did not commence operation on or before January 1, 2004 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before August 1, 2005, the expected actual annual heat input based on actual utilization data of similar sources.~~

~~(v) For a Replacement CAIR NO_x unit that did not commence operation on or before January 1, 2004, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the baseline unit operated, in 2000, 2001, 2002, 2003 and 2004 for the baseline CAIR NO_x unit that it replaced.~~

~~(vi) For a New CAIR NO_x unit that did not commence operation on or before January 1, 2004, the expected actual annual heat input based on actual utilization data of similar sources.~~

~~2. The heat input (in mmBtu) used for calculating CAIR NO_x allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by October 31, 2008 will be:~~

~~(i) For a Baseline or Replacement CAIR NO_x unit that commenced operation on or before January 1, 2006 the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2003, 2004, 2005, 2006, and 2007; or~~

~~(ii) For a Baseline or Replacement CAIR NO_x unit that did not commence operation on or before January 1, 2005 but did commence operation on or before January 1, 2006, the average heat input for the control periods, in which the unit operated, in 2006 and 2007; or~~

~~(iii) For a Baseline or Replacement CAIR NO_x unit that did not commence operation on or before January 1, 2006 but did commence operation on or before January 1, 2007, the heat input for the control period in 2007; or~~

~~(iv) For a Replacement CAIR NO_x unit that did not commence operation on or before January 1, 2007, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the baseline unit operated, in 2003, 2004, 2005, 2006 and 2007 for the baseline CAIR NO_x unit that it replaced.~~

~~(v) For a New CAIR NO_x unit that commenced operation on or before January 1, 2007, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2003, 2004, 2005, 2006 and 2007; or~~

~~(vi) For a New CAIR NO_x unit that did not commence operation on or before January 1, 2007, the expected actual annual heat input based on actual utilization data of similar sources.~~

3. The heat input (in mmBtu) used for calculating CAIR NO_x allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by October 31, 2011 and all subsequent allocation years will be:

~~(i) For a Baseline CAIR NO_x unit, the average of the three highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods (e.g. allocations calculated for submission to the Administrator on October 31, 2011 will be based on annual heat inputs from 2006, 2007, 2008, 2009 and 2010); or~~

~~(ii) For a Replacement CAIR NO_x unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods (e.g. allocations calculated for submission to the Administrator on October 31, 2011 will be based on annual heat inputs from 2006, 2007, 2008, 2009 and 2010); or~~

~~(iii) For a Replacement CAIR NO_x unit that did not commence operation on or before January 1 of the most recent control period, the average of the three (or less, if applicable) highest amounts of the heat inputs for the control periods, in which the unit operated, in 2006, 2007, 2008, 2009 and 2010 for the baseline CAIR NO_x unit that it replaced.~~

~~(iv) For a New CAIR NO_x unit that commenced operation prior to January 1 of the most recent control period, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods; or~~

~~(v) For a New CAIR NO_x unit that did not commence operation prior to January 1 of the most recent control period, the expected actual annual heat input based on actual utilization data of similar sources.~~

~~4. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the CAIR NO_x unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.~~

~~(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time CAIR NO_x allowances are initially allocated to baseline CAIR NO_x units under subparagraph (e)1. of this paragraph, each unit's allocation will become that unit's "Baseline Allowance". This value will be used to calculate the following:~~

~~1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time CAIR NO_x allowances are allocated under paragraph (2) of this rule and shall equal the State Annual Trading Program Budget minus the total of the Baseline Allowances for all baseline CAIR NO_x units that have retired in accordance with rule 335 3 8 .16(5).~~

~~2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time CAIR NO_x allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all CAIR NO_x units that have retired in accordance with rule 335 3 8 .16(5).~~

~~(d) Adjustment Ratios. To ensure that the total number of CAIR NO_x allowances allocated under paragraph (3) of this rule equals the number of tons of CAIR NO_x emissions in the State trading program budget, the following ratios will be applied to the calculated CAIR NO_x allowance allocations:~~

~~1. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of CAIR NO_x allowances in the Baseline Allowance Pool divided by the total number of CAIR NO_x allowances calculated for Baseline CAIR NO_x units for a control period prior to any adjustments.~~

~~(e) Calculation of CAIR NO_x Allowances for Baseline CAIR NO_x Units.~~

~~1. For each control period under subparagraph (2)(a) and (b) of this rule, the Department will allocate CAIR NO_x allowances to all baseline CAIR NO_x units in accordance with the following procedures:~~

~~(i) The Department will allocate CAIR NO_x allowances to each CAIR NO_x unit under rule 335 3 8 .16(4)(a) in an amount equaling 0.15 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or (b)2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO_x allowance as appropriate. These NO_x allowances will be further adjusted in accordance with subparagraph (h) of this~~

~~paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_x allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_x rate will be used for allocation purposes.~~

~~2. For each control period under subparagraph (2)(c) of this rule, the Department will allocate NO_x allowances to all baseline CAIR NO_x units in accordance with the following procedures:~~

~~(i) The Department will allocate NO_x allowances to each CAIR NO_x unit under rule 335-3-8-16(4)(a) in an amount equaling 0.125 lb/mmBtu or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances will be further adjusted in accordance with subparagraph (h) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_x allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_x rate will be used for allocation purposes.~~

~~(f) Calculation of NO_x Allowances for Replacement CAIR NO_x units. For each control period under subparagraph (2)(a), (b), or (c) of this rule, after calculating NO_x allowances for all Baseline CAIR NO_x units that have not retired in accordance with rule 335-3-8-16(5), the Department will allocate NO_x allowances from the Retired Unit Allowance Pool to all Replacement CAIR NO_x units in accordance with the following procedures:~~

~~1. For each Replacement CAIR NO_x unit under rule 335-3-8-16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a) or (b) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or 2. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_x allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_x rate will be used for allocation purposes.~~

~~2. For each Replacement CAIR NO_x unit under rule 335-3-8-16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(c) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances will be further adjusted in accordance with subparagraph (i) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_x allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_x rate will be used for allocation purposes.~~

~~(g) Calculation of NO_x Allowances for New CAIR NO_x Units. For each control period under subparagraph (2)(a), (b), or (c) of this rule, after calculating NO_x allowances for all baseline CAIR NO_x units that have not retired in accordance with rule 335-3-8-16(5) and calculating NO_x allowances for all replacement CAIR NO_x Units, the Department will allocate NO_x allowances remaining in the Retired Unit Allowance Pool to all new CAIR NO_x units in accordance with the following procedures:~~

~~1. For each new CAIR NO_x unit under rule 335-3-8-16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(a) or (b) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO_x limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1. or 2. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_x allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_x rate will be used for allocation purposes.~~

~~2. For each new CAIR NO_x unit under rule 335-3-8-16(4)(a) that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before August 1 of the year allocations are to be submitted to the Administrator under subparagraph (2)(c) of this rule, the number of NO_x allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NO_x limit~~

~~(expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole NO_x allowance as appropriate. These NO_x allowances will be further adjusted in accordance with subparagraph (j) of this paragraph. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO_x allowances may be calculated based on actual operating data during the same control periods as determined for the contributing heat inputs in subparagraph (3)(b) of this paragraph. If the division of operating data is not provided as requested by the Department, the unit's lowest permitted NO_x rate will be used for allocation purposes.~~

~~(h) Adjustment of Baseline NO_x Allowance Allocations. If NO_x allowances remain in the Retired Unit Allowance Pool after allocations are made to all replacement and new CAIR NO_x units in accordance with subparagraphs (f) and (g) of this paragraph, these NO_x allowances will be allocated on a pro rata basis to the baseline CAIR NO_x units for the applicable control periods.~~

~~(i) Adjustment of Replacement NO_x Allowance Allocations. If the total number of calculated NO_x allowances allocated to all replacement CAIR NO_x units under subparagraph (f) of this paragraph exceeds the number of NO_x allowances in the Retired Unit Allowance Pool, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NO_x allowances in the Retired Unit Allowance Pool divided by the total number of NO_x allowance allocations to all replacement CAIR NO_x units under subparagraph (f) of this paragraph so that the number of NO_x allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NO_x allowance allocations will be rounded to the nearest ton, as appropriate.~~

~~(j) Adjustment of New NO_x Allowance Allocations. If the total number of calculated NO_x allowances allocated to all new CAIR NO_x units under subparagraph (g) of this paragraph exceeds the number of NO_x allowances remaining in the Retired Unit Allowance Pool after allocation to replacement NO_x units, each unit's allocation will be further adjusted by multiplying by the ratio of the number of NO_x allowances remaining in the Retired Unit Allowance Pool after allocation to replacement CAIR NO_x units divided by the total number of NO_x allowance allocations to new CAIR NO_x units under subparagraph (g) of this paragraph so that the total number of NO_x allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted NO_x allowance allocations will be rounded to the nearest ton, as appropriate.~~

~~(k) NO_x allowances allocated to baseline CAIR NO_x units based on heat inputs determined in accordance with subparagraph (b)1.(iv) of this paragraph will be held in the Department's general account until the unit commences operation, but no later than October 31 of the year for which the CAIR NO_x allowances are being allocated. If the unit does not commence operations, the NO_x allowances will be transferred by the Department pro rata to Baseline CAIR NO_x units that were allocated NO_x allowances in accordance with subparagraphs (b)1.(i), (ii), or (iii) of this paragraph. By October 31 of the year~~

~~for which allowances are being allocated, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.~~

~~(l) NO_x allowances allocated to Replacement CAIR NO_x units based on heat inputs determined in accordance with subparagraphs (b)1.(v), (b)2.(iv), or (b)3.(iii) of this paragraph will be held in the Department's general account until the unit commences operation, but no later than October 31 of the year for which the CAIR NO_x allowances are being allocated. If the unit does not commence operations, the NO_x allowances will be transferred by the Department pro rata to Baseline CAIR NO_x units that were allocated NO_x allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii), or (b)3.(i) of this paragraph. By October 31 of the year for which the allowances were allocated, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.~~

~~(m) NO_x allowances allocated to new CAIR NO_x units based on heat inputs determined in accordance with subparagraphs (b)1.(vi), (b)2.(vi), or (b)3.(v) of this paragraph will be held in the Department's general account until the unit commences operation, but no later than October 31 of the year for which the CAIR NO_x allowances are being allocated. If the unit does not commence operations, the NO_x allowances will be transferred by the Department pro rata to Baseline CAIR NO_x units that were allocated NO_x allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii) or (b)3.(i) through (iii) of this paragraph. By October 31 of the year for which allowances are being allocated, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.~~

~~(n) NO_x allowances will not be allocated to CAIR NO_x units that retire under 335-3-8-16(5) prior to the date NO_x allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), or (c) of this rule.~~

~~(o) The total NO_x allowances allocated for any control period in accordance with subparagraphs (3)(e), (f), and (g) of this paragraph shall not exceed the State Trading Program Budget as determined by the applicable, approved State Implementation Plan.~~

~~(4) Compliance Supplement Pool. In addition to the CAIR NO_x allowances allocated under paragraph (3) of this rule, the Department may allocate for the control period in 2009 up to 10,166 CAIR NO_x allowances from the Compliance Supplement Pool to CAIR NO_x units.~~

~~(a) For any CAIR NO_x unit that achieves actual NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any State or federal emissions limitation applicable during such years, the CAIR designated representative of the unit may request early reduction credits, and allocation of CAIR NO_x allowances from the compliance supplement pool under paragraph (4) of this rule for such early reduction credits, in accordance with the following:—~~

~~1. Each CAIR NO_x unit for which the owner or operator requests any early reduction credits under subparagraph (a)4. of this paragraph shall monitor NO_x emissions in accordance with rule 335-3-8-.23 starting January 1 of the control period prior to the first control period for which such early reduction credits are requested and during each control period for which the early reduction credits are requested. The unit's monitoring system availability shall be not less than 90 percent, and the unit must be in compliance with any applicable State or Federal emissions or emissions related requirements, during the control period prior to the first control period for which such early reduction credits are requested. Early reduction credits may only be requested for emissions reductions that are not required by Alabama's State Implementation Plan or the Clean Air Act.~~

~~2. The NO_x emission rate and heat input under subparagraphs (a)3. through 4. of this paragraph shall be determined in accordance with rule 335-3-8-.23.~~

~~3. Each CAIR NO_x unit for which the owner or operator requests any early reduction credits under subparagraph (a)4. of this paragraph shall reduce its NO_x emission rate, for each control period for which early reduction credits are requested, to below the lesser of any State or Federal requirement or the NO_x emission rate required under 40 CFR 76, including emission averaging under 40 CFR 76.11.~~

~~4. The CAIR designated representative of a CAIR NO_x unit that meets the requirements of subparagraphs (a)1. and 3. of this paragraph may submit to the Department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the control period for 2007 or 2008 in accordance with subparagraph (a)3. of this paragraph.~~

~~(i) Except as provided in subparagraph (a)4.(ii) below, in the early reduction credit request, the CAIR designated representative may request early reduction credits for such control period in an amount equal to the unit's heat input for such control period multiplied by the difference between the following:~~

~~(I) The unit's actual average NO_x emission rate in the control period prior to the first control period for which early reduction credits are requested; and,~~

~~(II) The unit's NO_x emission rate for the control period in which the early reductions occurred, divided by 2000 lb/ton, and rounded to the nearest ton.~~

~~(ii) The CAIR designated representative of such CAIR NO_x unit shall submit to the Department by May 1, 2009 a request, in a format specified by the Department, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the sum of the amounts (in tons) of the unit's NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any State or federal emissions limitation applicable during such years, determined in accordance with rule 335-3-8-.23. NO_x Budget Sources, or sources applicable under rule 335-3-8-.05(4), may earn Early Reduction~~

~~Credits only for reductions outside of the ozone season (May 1—September 30). Sources which are not NO_x Budget Sources, may earn Early Reduction Credits at any time during 2007 and 2008.~~

~~5. Notwithstanding other provisions regarding the distribution of allowances from the compliance supplement pool, operators of CAIR NO_x sources may receive allowances from the compliance supplement pool only to the extent that the total number of allowances issued to such operators does not exceed 15% of the total number of NO_x allowances issued to that operator from the initial allowance allocation of all sources controlled by that operator.~~

~~(i) Any allowance remaining in the compliance supplement pool after distribution under subparagraph (b)2. of this paragraph will be allocated on a pro rata basis to operators of CAIR NO_x units that, because of the limitation in subparagraph (a)5. of this paragraph, did not receive all allocations requested under subparagraph (a)4. of this paragraph. No unit shall be issued more allowances than requested under subparagraph (a)4. of this paragraph.~~

~~(b) The Department will review each request under subparagraph (a) of this paragraph submitted by May 1, 2009 and will allocate CAIR NO_x allowances for the control period in 2009 to CAIR NO_x units in the State and covered by such request as follows:~~

~~1. Upon receipt of each such request, the Department will make any necessary adjustments to the request to ensure that the amount of the CAIR NO_x allowances requested meets the requirements of subparagraph (a) of this paragraph.~~

~~2. If the State's compliance supplement pool has an amount of CAIR NO_x allowances not less than the total amount of CAIR NO_x allowances in all such requests (as adjusted under subparagraph (b)1. of this paragraph), the Department will allocate to each CAIR NO_x unit covered by such requests the amount of CAIR NO_x allowances requested [as adjusted under subparagraph (b)1. of this paragraph].~~

~~3. If the State's compliance supplement pool has a smaller amount of CAIR NO_x allowances than the total amount of CAIR NO_x allowances in all such requests [as adjusted under subparagraph (b)1. of this paragraph], the Department will allocate CAIR NO_x allowances to each CAIR NO_x unit covered by such requests according to the following formula and rounding to the nearest whole allowance as appropriate:~~

~~Unit's allocation = Unit's adjusted allocation × (State's compliance supplement pool ÷ Total adjusted allocations for all units)~~

~~Where:~~

~~"Unit's allocation" is the amount of CAIR NO_x allowances allocated to the unit from the State's compliance supplement pool.~~

~~"Unit's adjusted allocation" is the amount of CAIR NO_x allowances requested for the unit under subparagraph (a) of this paragraph, as adjusted under subparagraph (b)1. of this paragraph.~~

~~"State's compliance supplement pool" is the amount of CAIR NO_x allowances in the State's compliance supplement pool.~~

~~"Total adjusted allocations for all units" is the sum of the amounts of allocations requested for all units under subparagraph (a) of this paragraph, as adjusted under subparagraph (b)1. of this paragraph.~~

~~4. By November 30, 2009, the Department will determine, and submit to the Administrator, the allocations under paragraph (b)2. or 3. of this paragraph.~~

~~5. By January 1, 2010, the Administrator will record the allocations under subparagraph (b)4. of this paragraph.~~

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

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

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

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