

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control 335 Department or Agency Environmental Management  
Rule No. 335-3-8-.29  
Rule Title: CAIR NOx Ozone Season Allowance Allocations

New  Amend  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

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Does the proposed rule have an economic impact?

NO

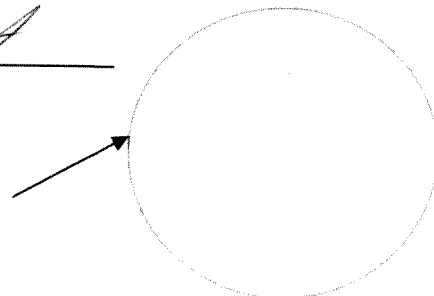
If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of section 41-22-23, Code of Alabama 1975.

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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<sub>x</sub> Budget Trading Program (Repeal/New)  
335-3-8-.06 Authorized Account Representative for NO<sub>x</sub> Budget  
Sources (Repeal/New)  
335-3-8-.07 Permits (Repeal)  
335-3-8-.08 Compliance Certification (Repeal)  
335-3-8-.09 NO<sub>x</sub> Allowance Allocations (Repeal)  
335-3-8-.10 NO<sub>x</sub> Allowance Tracking System (Repeal)  
335-3-8-.11 NO<sub>x</sub> 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<sub>x</sub> Annual Trading Program (Repeal)  
335-3-8-.17 CAIR Designated Representative for CAIR NO<sub>x</sub>  
Sources (Repeal)  
335-3-8-.18 CAIR Permits (Repeal)  
335-3-8-.20 CAIR NO<sub>x</sub> Allowance Allocations (Repeal)  
335-3-8-.21 CAIR NO<sub>x</sub> Allowance Tracking System (Repeal)  
335-3-8-.22 CAIR NO<sub>x</sub> Allowance Transfers (Repeal)  
335-3-8-.23 CAIR Monitoring and Reporting (Repeal)  
335-3-8-.24 CAIR NO<sub>x</sub> Opt-in Units (Repeal)  
335-3-8-.25 CAIR NO<sub>x</sub> Ozone Season Trading Program (Repeal)  
335-3-8-.26 CAIR Designated Representative for CAIR NO<sub>x</sub>  
Ozone Season Sources (Repeal)  
335-3-8-.27 CAIR NO<sub>x</sub> Ozone Season Permits (Repeal)  
335-3-8-.29 CAIR NO<sub>x</sub> Ozone Season Allowance Allocations  
(Repeal)  
335-3-8-.30 CAIR NO<sub>x</sub> Ozone Season Allowance Tracking  
System (Repeal)  
335-3-8-.31 CAIR NO<sub>x</sub> Ozone Season Allowance Transfers  
(Repeal)  
335-3-8-.32 CAIR NO<sub>x</sub> Ozone Season Monitoring and Reporting  
(Repeal)  
335-3-8-.33 CAIR NO<sub>x</sub> 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<sub>x</sub> Budget Trading Program); 335-3-8-.06 (Authorized Account Representative for NO<sub>x</sub> Budget Sources); 335-3-8-.07 (Permits); 335-3-8-.08 (Compliance Certification); 335-3-8-.09 (NO<sub>x</sub> Allowance Allocations); 335-3-8-.10 (NO<sub>x</sub> Allowance Tracking

System); 335-3-8-.11 (NO<sub>x</sub> Allowance Transfers); 335-3-8-.12 (Monitoring and Reporting); 335-3-8-.13 (Individual Unit Opt Ins); 335-3-8-.16 (CAIR NO<sub>x</sub> Annual Trading Program); 335-3-8-.17 (CAIR Designated Representative for CAIR NO<sub>x</sub> Sources); 335-3-8-.18 (CAIR Permits); Rule 335-3-8-.20 (CAIR NO<sub>x</sub> Allowance Allocations); 335-3-8-.21 (CAIR NO<sub>x</sub> Allowance Tracking System); Rule 335-3-8-.22 (CAIR NO<sub>x</sub> Allowance Transfers); 335-3-8-.23 (CAIR Monitoring and Reporting); Rule 335-3-8-.24 (CAIR NO<sub>x</sub> Opt-in Units); 335-3-8-.25 (CAIR NO<sub>x</sub> Ozone Season Trading Program); Rule 335-3-8-.26 (CAIR Designated Representative for CAIR NO<sub>x</sub> Ozone Season Sources); Rule 335-3-8-.27 (CAIR NO<sub>x</sub> Ozone Season Permits); Rule 335-3-8-.29 (CAIR NO<sub>x</sub> Ozone Season Allowance Allocations); 335-3-8-.30 (CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System); Rule 335-3-8-.31 (CAIR NO<sub>x</sub> Ozone Season Allowance Transfers); 335-3-8-.32 (CAIR NO<sub>x</sub> Ozone Season Monitoring and Reporting); and 335-3-8-.33 (CAIR NO<sub>x</sub> 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. deFleur  
Director

**335-3-8-.29 REPEAL CAIR NO<sub>x</sub> Ozone Season Allowance Allocations. Reserved.**

~~(1) State Ozone Season Trading Program Budget. The State trading budget for annual allocations of CAIR NO<sub>x</sub> Ozone Season allowances for the control periods in 2009 through 2014 is 34,510 tons and in 2015 and thereafter is 29,146 tons.~~

~~(2) Timing Requirements for CAIR NO<sub>x</sub> Ozone Season Allowance Allocations.~~

~~(a) By October 31, 2006, the Department will submit to the Administrator, in a format prescribed by the Administrator, the CAIR NO<sub>x</sub> Ozone Season allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2009, 2010, and 2011.~~

~~1. For the 2009 control period submitted to the Administrator, only the difference between the CAIR NO<sub>x</sub> Ozone Season allowance allocations and the 2009 NO<sub>x</sub> Budget Trading Program allowance allocations will be submitted.~~

~~(b) By October 31, 2008, the Department will submit to the Administrator, in a format prescribed by the Administrator, the CAIR NO<sub>x</sub> Ozone Season 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. 2015, 2018, etc.), the Department will submit to the Administrator, in a format prescribed by the Administrator, the CAIR NO<sub>x</sub> Ozone Season 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) CAIR NO<sub>x</sub> Ozone Season Allowance Allocations.~~

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

~~1. Baseline CAIR NO<sub>x</sub> Ozone Season Unit. A CAIR NO<sub>x</sub> Ozone Season unit that either:~~

~~(i) Commenced operation on or before May 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<sub>x</sub> Ozone Season Unit.~~

~~(i) A CAIR NO<sub>x</sub> Ozone Season unit, which replaces at the same facility, a Baseline CAIR NO<sub>x</sub> Ozone Season unit with the same or greater maximum design heat input capacity; or~~

~~(ii) The portion of a CAIR NO<sub>x</sub> Ozone Season unit, which replaces at the same facility, a Baseline CAIR NO<sub>x</sub> Ozone Season unit with the same or less maximum design heat input capacity.~~

~~3. New CAIR NO<sub>x</sub> Ozone Season Unit.~~

~~(i) A CAIR NO<sub>x</sub> Ozone Season unit that does not meet the definition of either Baseline CAIR NO<sub>x</sub> Ozone Season Unit as defined in subparagraph (3)(a)1. of this paragraph or Replacement CAIR NO<sub>x</sub> Ozone Season Unit as defined in subparagraph (3)(a)2. of this paragraph; or~~

~~(ii) The portion of a CAIR NO<sub>x</sub> Ozone Season unit that does not meet the definition of either Baseline CAIR NO<sub>x</sub> Ozone Season Unit or Replacement CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> Ozone Season allowance allocations under subparagraph (2)(a) of this rule will be:~~

~~(i) For a Baseline CAIR NO<sub>x</sub> Ozone Season unit that commenced operation on or before May 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<sub>x</sub> Ozone Season unit that did not commence operation on or before May 1, 2002 but did commence operation on or before May 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<sub>x</sub> Ozone Season unit that did not commence operation on or before May 1, 2003 but did commence operation on or before May 1, 2004, the heat input for the control period in 2004; or~~

~~(iv) For a Baseline CAIR NO<sub>x</sub> Ozone Season unit that did not commence operation on or before May 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 ozone season heat input based on actual utilization data of similar sources.~~

~~(v) For a Replacement CAIR NO<sub>x</sub> Ozone Season unit that did not commence operation on or before May 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<sub>x</sub> Ozone Season unit that it replaced.~~

~~(vi) For a New CAIR NO<sub>x</sub> Ozone Season unit that did not commence operation on or before May 1, 2004, the expected actual ozone season heat input based on actual utilization data of similar sources.~~

~~2. The heat input (in mmBtu) used for calculating CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> Ozone Season unit that commenced operation on or before May 1, 2005 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<sub>x</sub> Ozone Season unit that did not commence operation on or before May 1, 2005 but did commence operation on or before May 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<sub>x</sub> Ozone Season unit that did not commence operation on or before May 1, 2006 but did commence operation on or before May 1, 2007, the heat input for the control period in 2007; or~~

~~(iv) For a Replacement CAIR NO<sub>x</sub> Ozone Season unit that did not commence operation on or before May 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<sub>x</sub> Ozone Season unit that it replaced.~~

~~(v) For a New CAIR NO<sub>x</sub> Ozone Season unit that commenced operation on or before May 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<sub>x</sub> Ozone Season unit that did not commence operation on or before May 1, 2007, the expected actual ozone season heat input based on actual utilization data of similar sources.~~

~~3. The heat input (in mmBtu) used for calculating CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> Ozone Season unit, the average of the three highest (or less, if applicable) 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 ozone season heat inputs from 2006, 2007, 2008, 2009 and 2010]; or~~

~~(ii) For a Replacement CAIR NO<sub>x</sub> Ozone Season 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 ozone season heat inputs from 2006, 2007, 2008, 2009 and 2010]; or~~

~~(iii) For a Replacement CAIR NO<sub>x</sub> Ozone Season unit that did not commence operation on or before May 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<sub>x</sub> Ozone Season unit that it replaced.~~

~~(iv) For a New CAIR NO<sub>x</sub> Ozone Season unit that commenced operation prior to May 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<sub>x</sub> Ozone Season unit that did not commence operation prior to May 1 of the most recent control period, the expected actual ozone season 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<sub>x</sub> Ozone Season 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<sub>x</sub> Ozone Season allowances are initially allocated to baseline CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> Ozone Season allowances are allocated under paragraph (2) of this rule and shall equal the State Ozone Season Trading Program Budget minus the total of the Baseline Allowances for all baseline CAIR NO<sub>x</sub> Ozone Season units that have retired in accordance with rule 335-3-8-.25(5).~~

~~2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time CAIR NO<sub>x</sub> Ozone Season allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all CAIR NO<sub>x</sub> Ozone Season units that have retired in accordance with rule 335-3-8-.25(5).~~

~~(i) For the 2009 control period, the Retired Unit Allowance Pool shall equal the sum of the difference between the CAIR Baseline Allowances for those CAIR NO<sub>x</sub> Ozone Season units that were allocated allowances under the NO<sub>x</sub> Budget Trading Program, and that have retired in accordance with rule 335-3-8-.25(5) and the 2009 allowance allocation under the NO<sub>x</sub> Budget Trading Program for those CAIR NO<sub>x</sub> Ozone Season units. The Department will allocate the same number of CAIR Ozone Season allowances to the CAIR NO<sub>x</sub> Ozone Season source as calculated under the NO<sub>x</sub> Budget Trading Program for~~

~~the 2009 control period to prevent sources from returning previously allocated allowances.~~

~~(d) Adjustment Ratios. To ensure that the total number of CAIR NO<sub>x</sub> Ozone Season allowances allocated under this paragraph equals the number of tons of CAIR NO<sub>x</sub> Ozone Season emissions in the State trading program budget, the following ratios may be applied to the calculated CAIR NO<sub>x</sub> Ozone Season allowance allocations as appropriate.~~

~~1. 2009 Adjustment. For the 2009 control period, if a CAIR NO<sub>x</sub> Ozone Season source that was allocated allowances under the NO<sub>x</sub> Budget Trading Program is calculated to be allocated fewer allowances under subparagraph (3)(e)1. of this paragraph, the following adjustment shall be made:~~

~~(i) The Department will allocate the same number of CAIR Ozone Season allowances to the CAIR NO<sub>x</sub> Ozone Season source as calculated under the NO<sub>x</sub> Budget Trading Program to prevent sources from returning previously allocated allowances.~~

~~(ii) The Baseline Allowance Pool shall be adjusted by subtracting the total number of allowances in subparagraph (3)(d)1.(i) above. All other sources shall be allocated allowances according to subparagraph (3)(e)1. of this paragraph.~~

~~2. Baseline Adjustment Ratio. The Baseline Adjustment Ratio is the total number of CAIR NO<sub>x</sub> Ozone Season allowances in the Baseline Allowance Pool divided by the total number of CAIR NO<sub>x</sub> Ozone Season allowances calculated for Baseline CAIR NO<sub>x</sub> Ozone Season units for a control period prior to any adjustments.~~

~~(e) Calculation of CAIR NO<sub>x</sub> Ozone Season Allowances for Baseline CAIR NO<sub>x</sub> Ozone Season Units.~~

~~1. For each control period under subparagraph (2)(a) and (b) of this rule, the Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to all Baseline CAIR NO<sub>x</sub> Ozone Season units in accordance with the following procedures:~~

~~(i) The Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to each CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(i) or (ii)(I) in an amount equaling 0.15 lb/mmBtu, or the unit's permitted NO<sub>x</sub> 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<sub>x</sub> Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~



~~(ii) The Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to each CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(ii)(II) in an amount equaling 0.17 lb/mmBtu or the unit's permitted NO<sub>x</sub> 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<sub>x</sub> Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~2. For each control period under subparagraph (2)(c) of this rule, the Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to all baseline CAIR NO<sub>x</sub> Ozone Season units in accordance with the following procedures:~~

~~(i) The Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to each CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(i) in an amount equaling 0.125 lb/mmBtu or the unit's permitted NO<sub>x</sub> 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 CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season allowances may be further adjusted in accordance with subparagraph (h) of this paragraph where necessary. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~(ii) The Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to each CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(ii)(I) in an amount equaling 0.15 lb/mmBtu or the unit's permitted NO<sub>x</sub> limit (expressed as lb/mmBtu), whichever is less, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~(iii) The Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances to each CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(ii)(II) in an amount equaling 0.17 lb/mmBtu or the unit's permitted NO<sub>x</sub> limit (expressed~~

as lb/mmBtu), whichever is less, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. If a unit has multiple allowable emissions limits based on multiple operating scenarios, multiple fuels, etc., the unit's NO<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.

~~(f) Calculation of CAIR NO<sub>x</sub> Ozone Season Allowances for Replacement CAIR NO<sub>x</sub> Ozone Season units. For each control period under subparagraph (2)(a), (b), or (c) of this rule, after calculating CAIR NO<sub>x</sub> Ozone Season allowances for all Baseline CAIR NO<sub>x</sub> Ozone Season units that have not retired in accordance with rule 335 3 8 .25(5), the Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances from the Retired Unit Allowance Pool to all Replacement CAIR NO<sub>x</sub> Ozone Season units in accordance with the following procedures:~~

~~1. For each Replacement CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(i) 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 CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO<sub>x</sub> 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<sub>x</sub> allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~2. For each replacement CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(i) 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 CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NO<sub>x</sub> 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<sub>x</sub> allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.

~~3. For each Replacement CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(ii)(I) 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), (b), or (c) of this rule, the number of CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO<sub>x</sub> limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~4. For each Replacement CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(ii)(II) 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), (b), or (c) of this rule, the number of CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NO<sub>x</sub> limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio and then rounded to the nearest whole CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~(g) Calculation of CAIR NO<sub>x</sub> Ozone Season Allowances for New CAIR NO<sub>x</sub> Ozone Season units. For each control period under subparagraph (2)(a), (b), or (c) of this rule, after calculating CAIR NO<sub>x</sub> Ozone Season allowances for all~~

~~Baseline CAIR NO<sub>x</sub> Ozone Season units that have not retired in accordance with rule 335 3 8 .25(5) and calculating CAIR NO<sub>x</sub> Ozone Season allowances for all Replacement CAIR NO<sub>x</sub> Ozone Season units, the Department will allocate CAIR NO<sub>x</sub> Ozone Season allowances remaining in the Retired Unit Allowance Pool to all New CAIR NO<sub>x</sub> Ozone Season units in accordance with the following procedures:~~

~~1. For each new CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(i) 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 CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO<sub>x</sub> 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 CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~2. For each new CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(i) 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 CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.125 lb/mmBtu, or the unit's permitted NO<sub>x</sub> 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<sub>x</sub> allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~3. For each New CAIR NO<sub>x</sub> Ozone Season unit under rule 335 3 8 .25(4)(a)1.(ii)(l) 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), (b), or (c) of this rule, the number of CAIR NO<sub>x</sub>~~

~~Ozone Season allowances allocated for each applicable control period will be equal to 0.15 lb/mmBtu, or the unit's permitted NO<sub>x</sub> limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~4. For each New CAIR NO<sub>x</sub> Ozone Season unit under rule 335-3-8-25(4)(a)1.(ii)(II) 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), (b), or (c) of this rule, the number of CAIR NO<sub>x</sub> Ozone Season allowances allocated for each applicable control period will be equal to 0.17 lb/mmBtu, or the unit's permitted NO<sub>x</sub> limit (expressed as lb/mmBtu), whichever is less, multiplied by the heat input determined under subparagraph (b)1., (b)2., or (b)3. of this paragraph, multiplied by the Baseline Adjustment Ratio, and then rounded to the nearest whole CAIR NO<sub>x</sub> Ozone Season allowance as appropriate. These CAIR NO<sub>x</sub> Ozone Season 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<sub>x</sub> 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<sub>x</sub> rate will be used for allocation purposes.~~

~~(h) Adjustment of Baseline CAIR NO<sub>x</sub> Ozone Season Allowance Allocations. If CAIR NO<sub>x</sub> Ozone Season allowances remain in the Retired Unit Allowance Pool after allocations are made to all Replacement and New CAIR NO<sub>x</sub> Ozone Season units in accordance with subparagraphs (f) and (g) of this paragraph, these CAIR NO<sub>x</sub> Ozone Season allowances will be allocated on a pro rata basis to the Baseline CAIR NO<sub>x</sub> Ozone Season units for the applicable control periods.~~

~~(i) Adjustment of Replacement CAIR NO<sub>x</sub> Ozone Season Allowance Allocations. If the total number of calculated CAIR NO<sub>x</sub> Ozone Season allowances allocated to all Replacement CAIR NO<sub>x</sub> Ozone Season units under subparagraph (f) of this paragraph exceeds the number of CAIR NO<sub>x</sub> Ozone Season allowances in the Retired Unit Allowance Pool, each unit's allocation will be further adjusted by multiplying by the ratio of the number of CAIR NO<sub>x</sub> Ozone Season allowances in the Retired Unit Allowance Pool divided by the~~

~~total number of CAIR NO<sub>x</sub> Ozone Season allowance allocations to all Replacement units under subparagraph (f) of this paragraph so that the number of CAIR NO<sub>x</sub> Ozone Season allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted CAIR NO<sub>x</sub> Ozone Season allowance allocations will be rounded to the nearest ton, as appropriate.~~

~~(j) Adjustment of New CAIR NO<sub>x</sub> Ozone Season Allowance Allocations. If the total number of calculated CAIR NO<sub>x</sub> Ozone Season allowances allocated to all New CAIR NO<sub>x</sub> Ozone Season units under subparagraph (g) of this paragraph exceeds the number of CAIR NO<sub>x</sub> Ozone Season allowances remaining in the Retired Unit Allowance Pool after allocation to Replacement CAIR NO<sub>x</sub> Ozone Season units, each unit's allocation will be further adjusted by multiplying by the ratio of the number of CAIR NO<sub>x</sub> Ozone Season allowances remaining in the Retired Unit Allowance Pool after allocation to Replacement CAIR NO<sub>x</sub> Ozone Season units divided by the total number of CAIR NO<sub>x</sub> Ozone Season allowance allocations to New CAIR NO<sub>x</sub> Ozone Season units under subparagraph (g) of this paragraph so that the total number of CAIR NO<sub>x</sub> Ozone Season allowances in the Retired Unit Allowance Pool is not exceeded. The adjusted CAIR NO<sub>x</sub> Ozone Season allowance allocations will be rounded to the nearest ton, as appropriate.~~

~~(k) CAIR NO<sub>x</sub> Ozone Season allowances allocated to Baseline CAIR NO<sub>x</sub> Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(iv) of this paragraph will be held in the Department's general account until the unit commences operation, but no later than July 31 of the year for which the CAIR NO<sub>x</sub> Ozone Season allowances are being allocated. If the unit does not commence operations, the CAIR NO<sub>x</sub> Ozone Season allowances will be transferred by the Department pro rata to Baseline CAIR NO<sub>x</sub> Ozone Season units that were allocated CAIR NO<sub>x</sub> Ozone Season allowances in accordance with subparagraphs (b)1.(i), (ii), or (iii) of this paragraph. No later than July 31 of the year for which the allocation is being made, the Department shall notify the Administrator of the appropriate CAIR NO<sub>x</sub> Ozone Season allowance transfers.~~

~~(l) CAIR NO<sub>x</sub> Ozone Season allowances allocated to Replacement CAIR NO<sub>x</sub> Ozone Season 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 July 31 of the year for which the CAIR NO<sub>x</sub> Ozone Season allowances are being allocated. If the unit does not commence operations, the CAIR NO<sub>x</sub> Ozone Season allowances will be transferred by the Department pro rata to Baseline CAIR NO<sub>x</sub> Ozone Season units that were allocated CAIR NO<sub>x</sub> Ozone Season allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii), or (b)3.(i) of this paragraph. No later than July 31 of the year for which the allowances were allocated, the Department shall notify the Administrator of the appropriate CAIR NO<sub>x</sub> Ozone Season allowance transfers.~~

~~(m) CAIR NO<sub>x</sub> Ozone Season allowances allocated to New CAIR NO<sub>x</sub> Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(vi), (b)2.(vi), or (b)3.(iv) of this paragraph will be held in the~~

~~Department's general account until the unit commences operation, but no later than July 31 of the year for which the CAIR NO<sub>x</sub> Ozone Season allowances are being allocated. If the unit does not commence operations, the CAIR NO<sub>x</sub> Ozone Season allowances will be transferred by the Department pro rata to Baseline CAIR NO<sub>x</sub> Ozone Season units that were allocated CAIR NO<sub>x</sub> Ozone Season allowances in accordance with subparagraphs (b)1.(i) through (iii), (b)2.(i) through (iii), or (b)3.(i) of this paragraph. No later than July 31 of the year for which the allowances were allocated, the Department shall notify the Administrator of the appropriate CAIR NO<sub>x</sub> Ozone Season allowance transfers.~~

~~(n) CAIR NO<sub>x</sub> Ozone Season allowances will not be allocated to CAIR NO<sub>x</sub> Ozone Season units that retire under 335 3 8 .25(5) prior to the date CAIR NO<sub>x</sub> Ozone Season allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), or (c) of this rule.~~

~~(o) The total CAIR NO<sub>x</sub> Ozone Season 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.~~

~~**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.~~