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(2) A certification, in a format specified by the permitting authority, that the unit:

(i) Is not a CAIR NO_x unit under § 96.104 and is not covered by a retired unit exemption under § 96.105 that is in effect;

(ii) Is not covered by a retired unit exemption under § 72.8 of this chapter that is in effect;

(iii) Vents all of its emissions to a stack, and

(iv) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under § 96.122;

(3) A monitoring plan in accordance with subpart HH of this part;

(4) A complete certificate of representation under § 96.113 consistent with § 96.182, if no CAIR designated representative has been previously designated for the source that includes the unit; and

(5) A statement, in a format specified by the permitting authority, whether the CAIR designated representative requests that the unit be allocated CAIR NO_x allowances under § 96.188(b) or § 96.188(c) (subject to the conditions in §§ 96.184(h) and 96.186(g)). If allocation under § 96.188(c) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

(b) *Duty to reapply.* (1) The CAIR designated representative of a CAIR NO_x opt-in unit shall submit a complete CAIR permit application under § 96.122 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for title V operating permits, or the permitting authority's regulations for other federally enforceable permits if applicable, addressing permit renewal.

(2) Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR NO_x opt-in unit from the CAIR NO_x Annual Trading Program in accordance with § 96.186 or the unit becomes a CAIR NO_x unit under § 96.104, the CAIR NO_x opt-in unit shall remain subject to the requirements for a CAIR NO_x opt-in unit, even

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if the CAIR designated representative for the CAIR NO_x opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under paragraph (b)(1) of this section.

[70 FR 25339, May 12, 2005, as amended at 71 FR 25385, Apr. 28, 2006]

§ 96.184 Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under § 96.183 is submitted in accordance with the following:

(a) *Interim review of monitoring plan.* The permitting authority and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under § 96.183. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with subpart HH of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) *Monitoring and reporting.* (1)(i) If the permitting authority and the Administrator determine that the monitoring plan is sufficient under paragraph (a) of this section, the owner or operator shall monitor and report the NO_x emissions rate and the heat input of the unit and all other applicable parameters, in accordance with subpart HH of this part, starting on the date of certification of the appropriate monitoring systems under subpart HH of this part and continuing until a CAIR opt-in permit is denied under § 96.184(f) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO_x Annual Trading Program in accordance with § 96.186.

(ii) The monitoring and reporting under paragraph (b)(1)(i) of this section shall include the entire control period immediately before the date on which the unit enters the CAIR NO_x Annual Trading Program under § 96.184(g), during which period monitoring system

availability must not be less than 90 percent under subpart HH of this part and the unit must be in full compliance with any applicable State or Federal emissions or emissions-related requirements.

(2) To the extent the NO_x emissions rate and the heat input of the unit are monitored and reported in accordance with subpart HH of this part for one or more control periods, in addition to the control period under paragraph (b)(1)(ii) of this section, during which control periods monitoring system availability is not less than 90 percent under subpart HH of this part and the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements and which control periods begin not more than 3 years before the unit enters the CAIR NO_x Annual Trading Program under § 96.184(g), such information shall be used as provided in paragraphs (c) and (d) of this section.

(c) *Baseline heat input.* The unit's baseline heat input shall equal:

(1) If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with paragraph (b)(1) of this section, the unit's total heat input (in mmBtu) for the control period; or

(2) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under paragraphs (b)(1)(ii) and (2) of this section.

(d) *Baseline NO_x emission rate.* The unit's baseline NO_x emission rate shall equal:

(1) If the unit's NO_x emissions rate and heat input are monitored and reported for only one control period, in accordance with paragraph (b)(1) of this section, the unit's NO_x emissions rate (in lb/mmBtu) for the control period;

(2) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit does not have add-on NO_x emission controls during any such control

periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for the control periods under paragraphs (b)(1)(ii) and (2) of this section; or

(3) If the unit's NO_x emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit has add-on NO_x emission controls during any such control periods, the average of the amounts of the unit's NO_x emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO_x emission controls.

(e) *Issuance of CAIR opt-in permit.* After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under paragraphs (c) and (d) of this section and if the permitting authority determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO_x opt-in unit in § 96.180 and meets the elements certified in § 96.183(a)(2), the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the Administrator, who will then establish a compliance account for the source that includes the CAIR NO_x opt-in unit unless the source already has a compliance account.

(f) *Issuance of denial of CAIR opt-in permit.* Notwithstanding paragraphs (a) through (e) of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO_x opt-in unit in § 96.180 or meets the elements certified in § 96.183(a)(2), the permitting authority will issue a denial of a CAIR opt-in permit for the unit.

(g) *Date of entry into CAIR NO_x Annual Trading Program.* A unit for which an initial CAIR opt-in permit is issued by the permitting authority shall become a CAIR NO_x opt-in unit, and a CAIR NO_x unit, as of the later of January 1, 2009 or January 1 of the first control period during which such CAIR opt-in permit is issued.

(h) *Repowered CAIR NO_x opt-in unit.* (1) If CAIR designated representative

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requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR NO_x opt-in unit of CAIR NO_x allowances under § 96.188(c) and such unit is repowered after its date of entry into the CAIR NO_x Annual Trading Program under paragraph (g) of this section, the repowered unit shall be treated as a CAIR NO_x opt-in unit replacing the original CAIR NO_x opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

(2) Notwithstanding paragraphs (c) and (d) of this section, as of the date of start-up under paragraph (h)(1) of this section, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO_x emission rate as the original CAIR NO_x opt-in unit, and the original CAIR NO_x opt-in unit shall no longer be treated as a CAIR NO_x opt-in unit or a CAIR NO_x unit.

[70 FR 25339, May 12, 2005, as amended at 71 FR 25385, Apr. 28, 2006; 71 FR 74794, Dec. 13, 2006]

§ 96.185 CAIR opt-in permit contents.

(a) Each CAIR opt-in permit will contain:

(1) All elements required for a complete CAIR permit application under § 96.122;

(2) The certification in § 96.183(a)(2);

(3) The unit's baseline heat input under § 96.184(c);

(4) The unit's baseline NO_x emission rate under § 96.184(d);

(5) A statement whether the unit is to be allocated CAIR NO_x allowances § 96.188(b) or § 96.188(c) (subject to the conditions in §§ 96.184(h) and 96.186(g));

(6) A statement that the unit may withdraw from the CAIR NO_x Annual Trading Program only in accordance with § 96.186; and

(7) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of § 96.187.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under § 96.102 and, upon recordation by the Administrator under subpart FF or GG of this part or this subpart, every allocation,

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transfer, or deduction of CAIR NO_x allowances to or from the compliance account of the source that includes a CAIR NO_x opt-in unit covered by the CAIR opt-in permit.

(c) The CAIR opt-in permit shall be included, in a format specified by the permitting authority, in the CAIR permit for the source where the CAIR NO_x opt-in unit is located and in a title V operating permit or other federally enforceable permit for the source.

[70 FR 25339, May 12, 2005, as amended at 71 FR 25385, Apr. 28, 2006]

§ 96.186 Withdrawal from CAIR NO_x Annual Trading Program.

Except as provided under paragraph (g) of this section, a CAIR NO_x opt-in unit may withdraw from the CAIR NO_x Annual Trading Program, but only if the permitting authority issues a notification to the CAIR designated representative of the CAIR NO_x opt-in unit of the acceptance of the withdrawal of the CAIR NO_x opt-in unit in accordance with paragraph (d) of this section.

(a) *Requesting withdrawal.* In order to withdraw a CAIR NO_x opt-in unit from the CAIR NO_x Annual Trading Program, the CAIR designated representative of the CAIR NO_x opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least 4 years after December 31 of the year of entry into the CAIR NO_x Annual Trading Program under § 96.184(g). The request must be submitted no later than 90 days before the requested effective date of withdrawal.

(b) *Conditions for withdrawal.* Before a CAIR NO_x opt-in unit covered by a request under paragraph (a) of this section may withdraw from the CAIR NO_x Annual Trading Program and the CAIR opt-in permit may be terminated under paragraph (e) of this section, the following conditions must be met:

(1) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO_x opt-in unit must meet the requirement to hold CAIR NO_x allowances under § 96.106(c) and cannot have any excess emissions.