

requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under § 96.188(c) and such unit is repowered after its date of entry into the CAIR NO<sub>x</sub> Annual Trading Program under paragraph (g) of this section, the repowered unit shall be treated as a CAIR NO<sub>x</sub> opt-in unit replacing the original CAIR NO<sub>x</sub> 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<sub>x</sub> emission rate as the original CAIR NO<sub>x</sub> opt-in unit, and the original CAIR NO<sub>x</sub> opt-in unit shall no longer be treated as a CAIR NO<sub>x</sub> opt-in unit or a CAIR NO<sub>x</sub> 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<sub>x</sub> emission rate under § 96.184(d);

(5) A statement whether the unit is to be allocated CAIR NO<sub>x</sub> 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<sub>x</sub> 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,

transfer, or deduction of CAIR NO<sub>x</sub> allowances to or from the compliance account of the source that includes a CAIR NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> Annual Trading Program.**

Except as provided under paragraph (g) of this section, a CAIR NO<sub>x</sub> opt-in unit may withdraw from the CAIR NO<sub>x</sub> Annual Trading Program, but only if the permitting authority issues a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> opt-in unit in accordance with paragraph (d) of this section.

(a) *Requesting withdrawal.* In order to withdraw a CAIR NO<sub>x</sub> opt-in unit from the CAIR NO<sub>x</sub> Annual Trading Program, the CAIR designated representative of the CAIR NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> opt-in unit covered by a request under paragraph (a) of this section may withdraw from the CAIR NO<sub>x</sub> 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<sub>x</sub> opt-in unit must meet the requirement to hold CAIR NO<sub>x</sub> allowances under § 96.106(c) and cannot have any excess emissions.

(2) After the requirement for withdrawal under paragraph (b)(1) of this section is met, the Administrator will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit CAIR NO<sub>x</sub> allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under § 96.188 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO<sub>x</sub> units at the source, the Administrator will close the compliance account, and the owners and operators of the CAIR NO<sub>x</sub> opt-in unit may submit a CAIR NO<sub>x</sub> allowance transfer for any remaining CAIR NO<sub>x</sub> allowances to another CAIR NO<sub>x</sub> Allowance Tracking System in accordance with subpart GG of this part.

(c) *Notification.* (1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of CAIR NO<sub>x</sub> allowances required), the permitting authority will issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the permitting authority will issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit that the CAIR NO<sub>x</sub> opt-in unit's request to withdraw is denied. Such CAIR NO<sub>x</sub> opt-in unit shall continue to be a CAIR NO<sub>x</sub> opt-in unit.

(d) *Permit amendment.* After the permitting authority issues a notification under paragraph (c)(1) of this section that the requirements for withdrawal have been met, the permitting authority will revise the CAIR permit covering the CAIR NO<sub>x</sub> opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under paragraph (c)(1) of this section. The unit shall continue to be a CAIR NO<sub>x</sub> opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO<sub>x</sub> Annual Trading Program con-

cerning any control periods for which the unit is a CAIR NO<sub>x</sub> opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(e) *Reapplication upon failure to meet conditions of withdrawal.* If the permitting authority denies the CAIR NO<sub>x</sub> opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with paragraphs (a) and (b) of this section.

(f) *Ability to reapply to the CAIR NO<sub>x</sub> Annual Trading Program.* Once a CAIR NO<sub>x</sub> opt-in unit withdraws from the CAIR NO<sub>x</sub> Annual Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under § 96.183 for such CAIR NO<sub>x</sub> opt-in unit before the date that is 4 years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under § 96.184.

(g) *Inability to withdraw.* Notwithstanding paragraphs (a) through (f) of this section, a CAIR NO<sub>x</sub> opt-in unit shall not be eligible to withdraw from the CAIR NO<sub>x</sub> Annual Trading Program if the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit requests, and the permitting authority issues a CAIR NO<sub>x</sub> opt-in permit providing for, allocation to the CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under § 96.188(c).

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

#### § 96.187 Change in regulatory status.

(a) *Notification.* If a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 96.104, then the CAIR designated representative shall notify in writing the permitting authority and the Administrator of such change in the CAIR NO<sub>x</sub> opt-in unit's regulatory status, within 30 days of such change.

(b) *Permitting authority's and Administrator's actions.* (1) If a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under § 96.104, the permitting authority will revise the CAIR NO<sub>x</sub> opt-in unit's CAIR opt-in permit to meet the requirements