

restriction under paragraphs (b)(1)(ii) and (iii) of this section, the unit shall be a NO_x Budget unit, subject to the requirements of this part. Such unit shall be treated as commencing operation and, for a unit under paragraph (a)(1) of this section, commencing commercial operation on September 30 of the control period for which the fuel use restriction or the operating hours restriction is no longer applicable or during which the unit does not comply with the fuel use restriction or the operating hours restriction.

§ 96.5 Retired unit exemption.

(a) This section applies to any NO_x Budget unit, other than a NO_x Budget opt-in source, that is permanently retired.

(b)(1) Any NO_x Budget unit, other than a NO_x Budget opt-in source, that is permanently retired shall be exempt from the NO_x Budget Trading Program, except for the provisions of this section, §§ 96.2, 96.3, 96.4, 96.7 and subparts E, F, and G of this part.

(2) The exemption under paragraph (b)(1) of this section shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NO_x authorized account representative (authorized in accordance with subpart B of this part) shall submit a statement to the permitting authority otherwise responsible for administering any NO_x Budget permit for the unit. A copy of the statement shall be submitted to the Administrator. The statement shall state (in a format prescribed by the permitting authority) that the unit is permanently retired and will comply with the requirements of paragraph (c) of this section.

(3) After receipt of the notice under paragraph (b)(2) of this section, the permitting authority will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (b)(1) and (c) of this section.

(c) *Special provisions.* (1) A unit exempt under this section shall not emit any nitrogen oxides, starting on the date that the exemption takes effect. The owners and operators of the unit

will be allocated allowances in accordance with subpart E of this part.

(2)(i) A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a title V operating permit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x Budget permit application under § 96.22 for the unit not less than 18 months (or such lesser time provided under the permitting authority's title V operating permits regulations for final action on a permit application) prior to the later of May 1, 2003 or the date on which the unit is to first resume operation.

(ii) A unit exempt under this section and located at a source that is required, or but for this exemption would be required, to have a non-title V permit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x Budget permit application under § 96.22 for the unit not less than 18 months (or such lesser time provided under the permitting authority's non-title V permits regulations for final action on a permit application) prior to the later of May 1, 2003 or the date on which the unit is to first resume operation.

(3) The owners and operators and, to the extent applicable, the NO_x authorized account representative of a unit exempt under this section shall comply with the requirements of the NO_x Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) A unit that is exempt under this section is not eligible to be a NO_x Budget opt-in source under subpart I of this part.

(5) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the permitting authority or the Administrator.

The owners and operators bear the burden of proof that the unit is permanently retired.

(6) *Loss of exemption.* (i) On the earlier of the following dates, a unit exempt under paragraph (b) of this section shall lose its exemption:

(A) The date on which the NO_x authorized account representative submits a NO_x Budget permit application under paragraph (c)(2) of this section; or

(B) The date on which the NO_x authorized account representative is required under paragraph (c)(2) of this section to submit a NO_x Budget permit application.

(ii) For the purpose of applying monitoring requirements under subpart H of this part, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

§96.6 Standard requirements.

(a) *Permit Requirements.* (1) The NO_x authorized account representative of each NO_x Budget source required to have a federally enforceable permit and each NO_x Budget unit required to have a federally enforceable permit at the source shall:

(i) Submit to the permitting authority a complete NO_x Budget permit application under §96.22 in accordance with the deadlines specified in §96.21(b) and (c);

(ii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a NO_x Budget permit application and issue or deny a NO_x Budget permit.

(2) The owners and operators of each NO_x Budget source required to have a federally enforceable permit and each NO_x Budget unit required to have a federally enforceable permit at the source shall have a NO_x Budget permit issued by the permitting authority and operate the unit in compliance with such NO_x Budget permit.

(3) The owners and operators of a NO_x Budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_x Budget permit application, and to have a NO_x Budget permit,

under subpart C of this part for such NO_x Budget source.

(b) *Monitoring requirements.* (1) The owners and operators and, to the extent applicable, the NO_x authorized account representative of each NO_x Budget source and each NO_x Budget unit at the source shall comply with the monitoring requirements of subpart H of this part.

(2) The emissions measurements recorded and reported in accordance with subpart H of this part shall be used to determine compliance by the unit with the NO_x Budget emissions limitation under paragraph (c) of this section.

(c) *Nitrogen oxides requirements.* (1) The owners and operators of each NO_x Budget source and each NO_x Budget unit at the source shall hold NO_x allowances available for compliance deductions under §96.54, as of the NO_x allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount not less than the total NO_x emissions for the control period from the unit, as determined in accordance with subpart H of this part, plus any amount necessary to account for actual utilization under §96.42(e) for the control period.

(2) Each ton of nitrogen oxides emitted in excess of the NO_x Budget emissions limitation shall constitute a separate violation of this part, the CAA, and applicable State law.

(3) A NO_x Budget unit shall be subject to the requirements under paragraph (c)(1) of this section starting on the later of May 1, 2003 or the date on which the unit commences operation.

(4) NO_x allowances shall be held in, deducted from, or transferred among NO_x Allowance Tracking System accounts in accordance with subparts E, F, G, and I of this part.

(5) A NO_x allowance shall not be deducted, in order to comply with the requirements under paragraph (c)(1) of this section, for a control period in a year prior to the year for which the NO_x allowance was allocated.

(6) A NO_x allowance allocated by the permitting authority or the Administrator under the NO_x Budget Trading Program is a limited authorization to emit one ton of nitrogen oxides in accordance with the NO_x Budget Trading Program. No provision of the NO_x