

§ 96.87

40 CFR Ch. I (7-1-04 Edition)

and that is prior to May 1 or after September 30.

(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 NO_x authorized account representative of the NO_x Budget opt-in source that the NO_x Budget opt-in source's request to withdraw is denied. If the NO_x Budget opt-in source's request to withdraw is denied, the NO_x Budget opt-in source shall remain subject to the requirements for a NO_x Budget opt-in source.

(e) *Permit amendment.* After the permitting authority issues a notification under paragraph (d)(1) of this section that the requirements for withdrawal have been met, the permitting authority will revise the NO_x Budget permit covering the NO_x Budget opt-in source to terminate the NO_x Budget opt-in permit as of the effective date specified under paragraph (d)(1) of this section. A NO_x Budget opt-in source shall continue to be a NO_x Budget opt-in source until the effective date of the termination.

(f) *Reapplication upon failure to meet conditions of withdrawal.* If the permitting authority denies the NO_x Budget opt-in source's request to withdraw, the NO_x authorized account representative may submit another request to withdraw in accordance with paragraphs (a) and (b) of this section.

(g) *Ability to return to the NO_x Budget Trading Program.* Once a NO_x Budget opt-in source withdraws from the NO_x Budget Trading Program and its NO_x Budget opt-in permit is terminated under this section, the NO_x authority account representative may not submit another application for a NO_x Budget opt-in permit under § 96.83 for the unit prior to the date that is 4 years after the date on which the terminated NO_x Budget opt-in permit became effective.

§ 96.87 Change in regulatory status.

(a) *Notification.* When a NO_x Budget opt-in source becomes a NO_x Budget unit under § 96.4, the NO_x authorized account representative shall notify in writing the permitting authority and the Administrator of such change in the NO_x Budget opt-in source's regu-

latory status, within 30 days of such change.

(b) *Permitting authority's and Administrator's action.* (1)(i) When the NO_x Budget opt-in source becomes a NO_x Budget unit under § 96.4, the permitting authority will revise the NO_x Budget opt-in source's NO_x Budget opt-in permit to meet the requirements of a NO_x Budget permit under § 96.23 as of an effective date that is the date on which such NO_x Budget opt-in source becomes a NO_x Budget unit under § 96.4.

(ii)(A) The Administrator will deduct from the compliance account for the NO_x Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_x Budget source where the unit is located, NO_x allowances equal in number to and allocated for the same or a prior control period as:

(1) Any NO_x allowances allocated to the NO_x Budget unit (as a NO_x Budget opt-in source) under § 96.88 for any control period after the last control period during which the unit's NO_x Budget opt-in permit was effective; and

(2) If the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the NO_x allowances allocated to the NO_x Budget unit (as a NO_x Budget opt-in source) under § 96.88 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(B) The NO_x authorized account representative shall ensure that the compliance account of the NO_x Budget unit under paragraph (b)(1)(i) of this section, or the overdraft account of the NO_x Budget source where the unit is located, includes the NO_x allowances necessary for completion of the deduction under paragraph (b)(1)(ii)(A) of this section. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the Administrator will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(iii)(A) For every control period during which the NO_x Budget permit revised under paragraph (b)(1)(i) of this section is effective, the NO_x Budget unit under paragraph (b)(1)(i) of this section will be treated, solely for purposes of NO_x allowance allocations under § 96.42, as a unit that commenced operation on the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section and will be allocated NO_x allowances under § 96.42.

(B) Notwithstanding paragraph (b)(1)(iii)(A) of this section, if the effective date of the NO_x Budget permit revision under paragraph (b)(1)(i) of this section is during a control period, the following number of NO_x allowances will be allocated to the NO_x Budget unit under paragraph (b)(1)(i) of this section under § 96.42 for the control period: the number of NO_x allowances otherwise allocated to the NO_x Budget unit under § 96.42 for the control period multiplied by the ratio of the number of days, in the control period, starting with the effective date of the permit revision under paragraph (b)(1)(i) of this section, divided by the total number of days in the control period.

(2)(i) When the NO_x authorized account representative of a NO_x Budget opt-in source does not renew its NO_x Budget opt-in permit under § 96.83(b), the Administrator will deduct from the NO_x Budget opt-in unit's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior control period as any NO_x allowances allocated to the NO_x Budget opt-in source under § 96.88 for any control period after the last control period for which the NO_x Budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x Budget opt-in source's compliance account or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in source is located includes the NO_x allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the Administrator will deduct the required number of NO_x allowances, regardless

of the control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(ii) After the deduction under paragraph (b)(2)(i) of this section is completed, the Administrator will close the NO_x Budget opt-in source's compliance account. If any NO_x allowances remain in the compliance account after completion of such deduction and any deduction under § 96.54, the Administrator will close the NO_x Budget opt-in source's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_x Budget opt-in source. The NO_x authorized account representative for the NO_x Budget opt-in source shall become the NO_x authorized account representative for the general account.

§ 96.88 NO_x allowance allocations to opt-in units.

(a) *NO_x allowance allocation.* (1) By December 31 immediately before the first control period for which the NO_x Budget opt-in permit is effective, the permitting authority will allocate NO_x allowances to the NO_x Budget opt-in source and submit to the Administrator the allocation for the control period in accordance with paragraph (b) of this section.

(2) By no later than December 31, after the first control period for which the NO_x Budget opt-in permit is in effect, and December 31 of each year thereafter, the permitting authority will allocate NO_x allowances to the NO_x Budget opt-in source, and submit to the Administrator allocations for the next control period, in accordance with paragraph (b) of this section.

(b) For each control period for which the NO_x Budget opt-in source has an approved NO_x Budget opt-in permit, the NO_x Budget opt-in source will be allocated NO_x allowances in accordance with the following procedures:

(1) The heat input (in mmBtu) used for calculating NO_x allowance allocations will be the lesser of:

(i) The NO_x Budget opt-in source's baseline heat input determined pursuant to § 96.84(c); or

(ii) The NO_x Budget opt-in source's heat input, as determined in accordance with subpart H of this part, for