

**SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS**  
**SECTION .2400- CLEAN AIR INTERSTATE RULES**

**.2401 PURPOSE AND APPLICABILITY**

(a) Purpose. The purpose of this Section is to implement the federal Clean Air Interstate Rule and thereby reduce the interstate transportation of fine particulate matter and ozone.

(b) Applicability. This Section applies to the following, which are CAIR NO<sub>x</sub> units, CAIR SO<sub>2</sub> units, and CAIR NO<sub>x</sub> Ozone Season units to the extent they are subject to the NO<sub>x</sub> annual trading program, SO<sub>2</sub> trading program, and NO<sub>x</sub> ozone season trading program, respectively, in this Section:

(1)(A) any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of a unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale, provided that if a stationary boiler or stationary combustion turbine that does not meet these requirements begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become subject to this Section under this Subparagraph on the first date on which the unit both combusts fossil fuel and serves such generator;

(B) notwithstanding Subparagraph (b)(1) of this Rule, a unit that meets the requirements in 40 CFR 96.104(b)(1)(i), (b)(2)(i), or (b)(2)(ii), 96.204(b)(1)(i), (b)(2)(i), or (b)(2)(ii), 96.304(b)(1)(i), (b)(2)(i), or (b)(2)(ii), shall not be subject to this Section under this Subparagraph and shall become subject to this Section under this Subparagraph as provided in 40 CFR 96.104(b)(1)(ii) or (b)(2)(iii), 96.204(b)(1)(ii) or (b)(2)(iii), or 96.304(b)(1)(ii) or (b)(2)(iii);

(2) solely for the purposes of the NO<sub>x</sub> ozone season trading program, fossil fuel-fired stationary boilers, combustion turbines, or combined cycle systems having a maximum design heat input greater than 250 million Btu per hour except stationary combustion turbines constructed before January 1, 1979, that have a federally enforceable permit that restricts:

(A) its potential emissions of nitrogen oxides to no more than 25 tons between May 1 and September 30;

(B) it to burning only natural gas or oil; and

(C) its hours of operation as described in 40 CFR 96.4(b)(1)(ii) and (iii); or

(3) solely for the purposes of the NO<sub>x</sub> ozone season trading program, fossil-fuel fired stationary boilers, combustion turbines, or combined cycle systems serving a generator with a nameplate capacity greater than 25 MW electrical and selling any amount of electricity.

(c) Retired unit exemption. Any unit that is permanently retired and is not an opt-in unit under Rule .2411 of this Section shall be exempted from the annual trading program for:

(1) nitrogen oxides if it complies with the provisions of 40 CFR 96.105,

- (2) sulfur dioxide if it complies with the provisions of 40 CFR 96.205, or
- (3) ozone season nitrogen oxides if it complies with the provisions of 40 CFR 96.305.

(d) Effect on other authorities. No provision of this Section, any application submitted or any permit issued pursuant to Rule .2406 of this Section, or any exemption under 40 CFR 96.105, 96.205, or 96.305 shall be construed as exempting any source or facility covered under this Section or the owner or operator or designated representative of any source or facility covered under this Section from complying with any other requirements of this Subchapter or Subchapter 15A NCAC 02Q or the Clean Air Act. The Environmental Management Commission may specify through rulemaking a specific emission limit lower than that established under this Rule for a specific source if compliance with the lower emission limit is required to attain or maintain the ambient air quality standard for ozone or fine particulate (PM<sub>2.5</sub>) or any other ambient air quality standard in Section 15A NCAC 02D .0400.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);  
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## **.2402 DEFINITIONS**

(a) For the purpose of this Section, the definitions in 40 CFR 96.102, 96.202 and 96.302 shall apply except that solely for the purposes of units subject to Subparagraph .2401(b)(3), .2401(b)(4), or .2405 (a)(2) of this Section, the term “fossil-fuel-fired” means:

(1) sources that began operation before January 1, 1996, where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during 1995, or, if a source had no heat input in 1995, during the last year of operation of the unit before 1995;

(2) sources that began operation on or after January 1, 1996 and before January 1, 1997, where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during 1996; or

(3) sources that began operation on or after January 1, 1997;

(A) Where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during any year as determined by the owner or operator of the source and verified by the Director; or

(B) Where fossil fuel combusted either alone or in combination with any other fuel, is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year, provided that the unit shall be “fossil-fuel-fired” as of the date, during such year, on which the source begins combusting fossil fuel.

(b) Notwithstanding the provisions of the definition of “commence commercial operation” in 40 CFR 96.302, for a unit under Subparagraphs .2401(b)(2), .2401(b)(3), or .2405(a)(2) of this Section, and not serving a generator producing electricity for sale, the unit’s date of commencement of operation shall also be the unit’s date of commencement of commercial operation.

(c) Notwithstanding the provisions of the definition of “commence operation” in 40 CFR 96.302, and solely for the purposes of 40 CFR Part 96 Subpart HHHH, for a unit that is not a CAIR NO<sub>x</sub> Ozone Season unit, under Subparagraphs .2401(b)(2), .2401(b)(3), or .2405(a)(2) of this Section on the later of November 15, 1990 or the date the unit commenced or commences operation as defined in the first provision of this definition in 40 CFR 96.302 and that subsequently becomes or became such a CAIR NO<sub>x</sub> Ozone Season unit, the unit’s date for commencement of operation shall be the date on which the unit becomes or became a CAIR NO<sub>x</sub> Ozone Season unit under Rule .2401(b)(2), .2401(b)(3), or .2405(a)(2) of this Section. For a unit with a date of commencement of operation as defined in the first sentence of this Subparagraph and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit. For a unit with a date of commencement of operation as defined in the first sentence of this Subparagraph and that subsequently is replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit’s date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this Subparagraph.

(d) For the purposes of this Section, the following definitions apply:

(1) "Modification" means modification as defined in 15A NCAC 02D .0101.

(2) "Reconstruction" means the replacement of components of an existing unit that meets the requirements of 40 CFR 60.15(b)(1).

(3) "Replacement" means, solely for the purposes of Rules .2403 and .2405 of this Section, removing an existing unit and putting in its place at the same facility a functionally equivalent new unit.

(e) For the purpose of this Section, the abbreviations and acronyms listed in 40 CFR 96.103, 96.203, 96.303 shall apply.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);

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**.2403 NITROGEN OXIDE EMISSIONS**

(a) Allocations. The annual allocations of nitrogen oxide allowances are:

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Craven County Wood Energy, LP	498	424
Duke Energy, Belews Creek	10,837	9,220
Duke Energy, Buck	1,355	1,153
Duke Energy, Cliffside	2,932	2,495
Duke Energy, Dan River	792	674
Duke Energy, G.G. Allen	4,338	3,691
Duke Energy, Lincoln	230	196
Duke Energy, Marshall	9,667	8,225
Duke Energy, Riverbend	1,709	1,454
Dvnegy-Rockinaham Power	194	165
Edgecombe GenCo	807	687
Elizabethtown Power	86	73
Lumberton Power	121	103
Primary Energy, Roxboro	164	140
Primary Energy, Southport	401	341
Progress Energy, Asheville	2,103	1,789
Progress Energy, Blewett	8	7
Progress Energy, Cape Fear	1,244	1,059
Progress Energy, Lee	1,870	1,591
Progress Energy, L. V. Sutton	2,146	1,826
Progress Energy, Mark's Creek Richmond	374	318
Progress Energy, Mayo	4,004	3,407
Progress Energy, Roxboro	11,578	9,851
Progress Energy, Weatherspoon	674	573
PWC-Butler Warner Generation Plant	77	65
Rosemary Power Station Halifax	42	36
Southern Power Company Plant Rowan	25	22
Westmoreland Partners, LLC, Roanoke Valley Energy Facility	1269	1080

In the event that EPA determines that Craven County Wood Energy is not subject to the provisions of this Section, its allocation shall go to the new source growth pool.

(b) Compliance. The emissions of nitrogen oxides of a CAIR NO<sub>x</sub> source shall not exceed the number of allowances that it has in its compliance account established and administered under

Rule .2408 of this Section.

(c) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HH shall be used to determine compliance by each CAIR NOx source with its emissions limitation according to 40 CFR 96.106(c) including 96.106(c)(5) and (6).

(d) Excess emission requirements. The provisions of 40 CFR 96.106(d) shall be used for excess emissions.

(e) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.106(f).

(f) Modification and reconstruction, replacement, retirement, or change of ownership. The modification or reconstruction of a CAIR NOx unit shall not make that CAIR NOx unit a “new” CAIR NOx unit under Rule .2412 of this Section. The CAIR NOx unit that is modified or reconstructed shall not change the emission allocation under Paragraph (a) of this Rule. If one or more CAIR NOx units at a facility covered under this Rule is replaced, the new CAIR NOx unit shall not receive an allocation under Rule .2412 of this Section, nor shall it change the allocation of the facility. If the owner of a facility changes, the emission allocations under this Rule and revised emission allocations made under Rule .2413 of this Section shall remain with the facility. If a CAIR NOx unit is retired, the owner or operator and the designated representatives of the CAIR NOx unit shall follow the procedures in 40 CFR 96.105. The allocations of a retired CAIR NOx unit shall remain with the owner or operator of the retired CAIR NOx unit until a reallocation occurs under Rule .2413 of this Section when the allocation shall be removed and given to other CAIR NOx units if the retired CAIR NOx unit is still retired using the procedure in Rule .2413 of this Section.

*History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10); Eff. July 1, 2006.  
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**.2404 SULFUR DIOXIDE**

- (a) Applicability. This Rule applies only to units that meet the description in Subparagraph .2401(b)(1) of this Section.
- (b) Allocations. The annual allocation of sulfur dioxide allowances shall be determined by EPA. The allocations for CAIR SO2 units are in 40 CFR 73.10.
- (c) Compliance. The emissions of sulfur dioxides of a source described in Paragraph (a) of this Rule shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section.
- (d) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HHH shall be used to determine compliance by each CAIR SO2 source with its emissions limitation according to 40 CFR 96.206(c) including 96.206(c)(5) and (6).
- (e) Excess emission requirements. The provisions of 40 CFR 96.206(d) shall be used for excess emissions.
- (f) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.206(f).

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);  
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**.2405 NITROGEN OXIDE EMISSIONS DURING OZONE SEASON**

(a) Allocations. The ozone season allocations of nitrogen oxide allowances are:

(1) Facilities that meet the description in .2401(b)(1) of this Section.

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Craven County Wood Energy, LP	211	179
Duke Energy, Belews Creek	4,917	4,184
Duke Energy, Buck	656	558
Duke Energy, Cliffside	1,350	1,148
Duke Energy, Dan River	436	371
Duke Energy, G.G. Allen	2,096	1,784
Duke Energy, Lincoln	169	144
Duke Energy, Marshall	4,179	3,556
Duke Energy, Riverbend	859	731
Dvnegy-Rockinaham Power	99	84
Edgecombe GenCo	331	281
Elizabethtown Power	51	43
Lumberton Power	46	39
Primary Energy, Roxboro	83	71
Primary Energy, Southport	213	181
Progress Energy, Asheville	899	765
Progress Energy, Blewett	7	6
Progress Energy, Cape Fear	527	448
Progress Energy, Lee	905	770
Progress Energy, L. V. Sutton	1,023	871
Progress Energy, Mark's Creek Richmond	335	285
Progress Energy, Mayo	1,735	1,476
Progress Energy, Roxboro	5,069	4,314
Progress Energy, Weatherspoon	346	295
PWC-Fayetteville	53	45
Rosemary Power Station Halifax	26	22
Southern Power Company Plant Rowan County	25	20
Westmoreland Partners, LLC, Roanoke Valley Energy Facility	511	434

In the event that EPA determines that Craven County Wood Energy is not subject to the provisions of this Section, its allocation shall go to the new source growth pool.



(2) Facilities that meet the description in Subparagraph .2401(b)(2) or (3) of this Section.

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Blue Ridge Paper Products	839	839
International Paper Corp., Columbus Co.	307	307
Kapstone Kraft Paper corporation	346	346
Coastal Carolina Clean Power, LLC	113	113
UNC-Chapel Hill	241	241
Weyerhaeuser, New Bern Mill	193	193
Domtar Paper Co.	404	404

(b) Ozone season defined. The ozone season is from May 1 through September 30 of each year.

(c) Change in status. If a unit at a facility named in Subparagraph (a)(2) of this Rule meets the description under Subparagraphs (b)(1) or (b)(2) of Rule .2401 of this Section, it shall lose its allocation under Subparagraph (a)(2) of this Rule and shall receive an allocation under Rule .2412 of this Section as a new unit until it receives an allocation under Rule .2413 of this Section.

(d) Compliance. The nitrogen oxide ozone season emissions of a CAIR NO<sub>x</sub> Ozone Season source shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section. For purposes of making deductions for excess emissions for the ozone season in 2008 under the NO<sub>x</sub> SIP Call (Section 15A NCAC 02D .1400), the Administrator shall deduct allowances allocated under this Rule for the ozone season in 2009.

(e) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HHHH shall be used to determine compliance by each CAIR NO<sub>x</sub> Ozone Season source with its emissions limitation according to 40 CFR 96.306(c) including 96.306(c)(5) and (6).

(f) Excess emission requirements. The provisions of 40 CFR 96.306(d) shall be used for excess emissions.

(g) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.306(f).

(h) Modification and reconstruction, replacement, retirement, or change of ownership. The modification or reconstruction of a CAIR NO<sub>x</sub> Ozone Season unit shall not make that CAIR NO<sub>x</sub> Ozone Season unit a “new” CAIR NO<sub>x</sub> Ozone Season unit under Rule .2412. The CAIR NO<sub>x</sub> Ozone Season unit that is modified or reconstructed shall not change the emission allocation under Paragraph (a) of this Rule. If one or more CAIR NO<sub>x</sub> Ozone Season units at a

facility is replaced, the new CAIR NOx Ozone Season unit shall not receive an allocation under Rule .2412 of this Section, nor shall it change the allocation of the facility. If the owner of a facility changes, the emission allocations under this Rule and revised emission allocations made under Rule .2413 of this Section shall remain with the facility. If a CAIR NOx Ozone Season unit is retired, the owner or operator, and designated representatives, of the CAIR NOx Ozone Season unit shall follow the procedures in 40 CFR 96.305. The allocations of a retired CAIR NOx Ozone Season unit shall remain with the owner or operator of the retired CAIR NOx Ozone Season unit until a reallocation occurs under Rule .2413 of this Section when the allocation shall be removed and given to other CAIR NOx Ozone Season units if the retired CAIR NOx Ozone Season unit is still retired using the procedure in Rule .2413 of this Section.

*History Note: Authority G.S. 143-215.3(a); 143-215.65; 143~215.66; 143-215.107(a){5}, (10); Eff. July 1, 2006.  
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**.2406 PERMITTING**

(a) The owner or operator of any source covered under this Section shall submit permit applications to comply with the requirements of this Section following the procedures and requirements in 15A NCAC 02Q .0500 (Title V permitting procedures) and in:

- (1) 40 CFR 96.106(a), 96.121, and 96.122 each CAIR NOx source;
- (2) 40 CFR 96.206(a), 96.221, and 96.222 for each CAIR SO2 source; and
- (3) 40 CFR 96.306(a), 96.321, and 96.322 for each CAIR NOx Ozone Season source.

(b) The Director shall review applications submitted under Paragraph (a) of this Rule and issue permits for compliance with this Section following the procedures and requirements in 15A NCAC 02Q .0500 (Title V permitting procedures) and in:

- (1) 40 CFR 96.106(a), 96.120, 96.123, and 96.124 for each CAIR NOx source;
- (2) 40 CFR 96.206(a), 96.220, 96.223, and 96.224 for each CAIR SO2 source; and
- (3) 40 CFR 96.306(a), 96.320, 96.323, and 96.324 for each CAIR NOx Ozone Season source.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); 143-215.108' Eff. July 1, 2006.

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**.2407 MONITORING, REPORTING, AND RECORDKEEPING**

(a) The owner or operator of a unit covered under this Section shall comply with the monitoring, recordkeeping, and reporting requirements in:

- (1) 40 CFR 96.106(b) and (e) and in 40 CFR Part 96, Subpart HH for each CAIR NOx unit;
- (2) 40 CFR 96.206(b) and (e) and in 40 CFR Part 96, Subpart HHH for each CAIR SO2 unit; and
- (3) 40 CFR 96.306(b) and (e) and in 40 CFR Part 96, Subpart HHHH for each CAIR Ozone Season NOx unit.

(b) To approve or disapprove monitors used to show compliance with Rules .2403, .2404, or .2405 of this Section, the Division shall follow the procedures in:

- (1) 40 CFR 96.171 and 40 CFR 96.172 for nitrogen oxides,
- (2) 40 CFR 96.271 and 40 CFR 96.272 for sulfur dioxides, and
- (3) 40 CFR 96.371 and 40 CFR 96.372 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10); Eff. July 1, 2006.

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## **.2408 TRADING PROGRAM AND BANKING**

(a) EPA to administer. The United States Environmental Protection Agency (EPA) shall administer the allowance tracking system according to the procedures in:

- (1) 40 CFR Part 96, Subpart FF and Subpart GG for nitrogen oxides;
- (2) 40 CFR Part 96, Subpart FFF and Subpart GGG for sulfur dioxide; and
- (3) 40 CFR Part 96, Subpart FFFF and Subpart GGGG for ozone season nitrogen oxides.

(b) Compliance account. The owners and operators of each source covered under this Section shall have a compliance account in the EPA administered tracking system that satisfies the requirements of:

- (1) 40 CFR 96.151 for nitrogen oxides,
- (2) 40 CFR 96.251 for sulfur dioxides, and
- (3) 40 CFR 96.351 for ozone season nitrogen oxides.

(c) General account. Any person may apply to open a general account to hold and transfer allowances by using the procedures and meeting the requirements in:

- (1) 40 CFR 96.151(b) for nitrogen oxides and may close that account using the procedures in 40 CFR 96.157,
- (2) 40 CFR 96.251(b) for sulfur dioxides and may close that account using the procedures in 40 CFR 96.257, and
- (3) 40 CFR 96.351(b) for ozone season nitrogen oxides and may close that account using the procedures in 40 CFR 96.357.

(d) Allowance transfers.

- (1) Any person who has a compliance or general account established under 40 CFR 96.151 may transfer allowances using the procedures in 40 CFR 96.160.
- (2) Any person who has a compliance or general account established under 40 CFR 96.251 may transfer allowances using the procedures in 40 CFR 96.260.
- (3) Any person who has a compliance or general account established under 40 CFR 96.351 may transfer allowances using the procedures in 40 CFR 96.360.

(e) Submittal of information. Persons with accounts shall submit information to EPA following the requirements of:

- (1) 40 CFR 96.152 for nitrogen oxides,
- (2) 40 CFR 96.252 for sulfur dioxides, and
- (3) 40 CFR 96.352 for ozone season nitrogen oxides.

(f) Banking. Any person who has a compliance account or a general account may bank allowances for future use or transfer under:

- (1) 40 CFR 96.155 for nitrogen oxides,

- (2) 40 CFR 96.255 for sulfur dioxides, and
- (3) 40 CFR 96.355 for ozone season nitrogen oxides.

(g) Appeal Procedures. The appeal procedures for decisions of the Administrator are set forth in

- (1) 40 CFR 96.108 for nitrogen oxides,
- (2) 40 CFR 96.208 for sulfur dioxides, and
- (3) 40 CFR 96.308 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);  
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## **.2409 DESIGNATED REPRESENTATIVE**

(a) Designated representative. The owners and operators of any source covered under this Section shall select a designated representative according to 40 CFR 96.110 for each CAIR NO<sub>x</sub> source, 96.210 for each CAIR SO<sub>2</sub> source, and 96.310 for each CAIR NO<sub>x</sub> Ozone Season source. The designated representative shall have the responsibilities and duties set out in 40 CFR 96.110 for a CAIR NO<sub>x</sub> source, 96.210 for a CAIR SO<sub>2</sub> source, and 96.310 for a CAIR NO<sub>x</sub> Ozone Season source.

(b) Alternate designated representative. The owners and operators of any source covered under this Section shall select an alternate designated representative according to 40 CFR 96.111 for each CAIR NO<sub>x</sub> source, 96.211 for each CAIR SO<sub>2</sub> source, and 96.311 for each CAIR NO<sub>x</sub> Ozone Season source. The alternate designated representative shall have the responsibilities and duties set out in 40 CFR 96.111 for a CAIR NO<sub>x</sub> source, 96.211 for CAIR SO<sub>2</sub> source, and 96.311 for a CAIR NO<sub>x</sub> Ozone Season source.

(c) Changing designated representative and alternate designated representative. The owner or operator of any source covered under this Section may change the designated representative or the alternate designated representative using:

- (1) 40 CFR 96.112 for a CAIR NO<sub>x</sub> source;
- (2) 40 CFR 96.212 for a CAIR SO<sub>2</sub> source; and
- (3) 40 CFR 96.312 for a CAIR NO<sub>x</sub> Ozone Season source.

(d) A CAIR designated representative or alternative CAIR designated representative may delegate his or her authority to make an electronic submission to the Administrator using:

- (1) 40 CFR 96.115 for a CAIR NO<sub>x</sub> source;
- (2) 40 CFR 96.215 for a CAIR SO<sub>2</sub> source; and
- (3) 40 CFR 96.315 for a CAIR NO<sub>x</sub> Ozone Season source.

(e) Changes in owners and operators. Whenever the owner or operator of a source or unit covered under this Section changes, the following provisions shall be followed:

- (1) 40 CFR 96.112(c) for a CAIR NO<sub>x</sub> source;
- (2) 40 CFR 96.212(c) for a CAIR SO<sub>2</sub> source; and
- (3) 40 CFR 96.312(c) for a CAIR NO<sub>x</sub> Ozone Season source.

(f) Certificate of representation. A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall meet the requirements of 40 CFR 96.113 for nitrogen oxides, 40 CFR 96.213 for sulfur dioxide, and 40 CFR 96.313 for ozone season nitrogen oxides.

(g) Objections concerning CAIR designated representative. Objections concerning CAIR designated representative shall be handled according to the procedures in 40 CFR 96.114 for nitrogen oxides, 40 CFR 96.214 for sulfur dioxide, and 40 CFR 96.314 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);  
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**.2410 COMPUTATION OF TIME**

Time periods shall be determined as described in:

- (1) 40 CFR 96.107 for nitrogen oxides;
- (2) 40 CFR 96.207 for sulfur dioxide, and
- (3) 40 CFR 96.307 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);  
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## **.2411 OPT-IN PROVISIONS**

(a) Opting in. The owners and operators of a unit may opt into:

- (1) the nitrogen oxide trading program by following the procedures in and meeting the requirements of 40 CFR Part 96 Subpart II,
- (2) the sulfur dioxide trading program by following the procedures in and meeting the requirements of 40 CFR Part 96 Subpart III, and
- (3) the ozone season nitrogen oxide trading program by following the procedures in and meeting the requirements of 40 CFR Part 96 Subpart IIII.

(b) Permitting. The Director shall permit opt-in units under Paragraph (a) of this Rule according to 15A NCAC 02Q .0500 and

- (1) 40 CFR 96.184 and 96.185 for nitrogen oxides and shall allocate allowances according to 40 CFR 96.188,
- (2) 40 CFR 96.284 and 96.285 for sulfur dioxides and shall allocate allowances according to 40 CFR 96.288, and
- (3) 40 CFR 96.384 and 96.385 for ozone season nitrogen oxides and shall allocate allowances according to 40 CFR 96.388.

(c) Withdrawing. The owners and operators of an opt-in unit under Paragraph (a) of this Rule may withdraw from the trading program according to:

- (1) 40 CFR 96.186 for nitrogen oxides,
- (2) 40 CFR 96.286 for sulfur dioxides, and
- (3) 40 CFR 96.386 for ozone season nitrogen oxides.

(d) Change in regulatory status. If an opt-in unit becomes:

- (1) a CAIR NO<sub>x</sub> unit under 40 CFR 96.104, then 40 CFR 96.187 shall apply,
- (2) a CAIR SO<sub>2</sub> unit under 40 CFR 96.204, then 40 CFR 96.287 shall apply, or
- (3) a CAIR ozone season NO<sub>x</sub> unit under 40 CFR 96.304, then 40 CFR 96.387 shall apply.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); 143-215.108;  
Eff. July 1, 2006.

	Date Submitted	Date Approved	Federal to
	EPA	by EPA	Register
Original Reg.	Jun 20, 2008	Nov 30, 2009	74 FR 62496

## **.2412 NEW UNIT GROWTH**

(a) For nitrogen oxide emissions, the total nitrogen oxide allowances available for allocation in the new unit set-aside for each control period in 2009 through 2014 shall be 2638 tons and the total nitrogen oxide allowances available for allocation in each control period in 2015 and thereafter shall be 1154 tons. Except for the reference to 40 CFR 96.142(b), the procedures in 40 CFR 96.142(c)(2) through (4) shall be used to create allocations for units covered under this Section that commenced operations on or after January 1, 2001 and that are not covered in the table in Rule .2403 of this Section.

(b) For ozone season nitrogen oxides, oxides emissions, the total ozone season nitrogen oxide allowances available for allocation in the new unit set-aside for each control period in 2009 through 2014 shall be 1234 tons and the total ozone season nitrogen oxide allowances available for allocation in each control period in 2015 and thereafter shall be 555 tons. Except for the reference to 40 CFR 96.142(b) the procedures in 40 CFR 96.342(c)(2) through (4) shall be used to create allocations for units covered under this Section that commenced operations on or after January 1, 2001 and that are not listed 16 in the table in Rule .2405 of this Section.

(c) New unit allowances in Paragraph (a) of this Rule that are not allocated in a given year shall be redistributed to units under .2401 (b)(1)(A) and (B) according to the provisions of 40 CFR 96.142( d) and 96.342(d) except that the divisor used in calculating individual unit allocations:

(1) for nitrogen oxide allowances shall be 2638 tons for each control period in 2009 through 2014 and 1154 tons in each control period in 2015 and thereafter, and

(2) for ozone season nitrogen oxide allowances shall be 1234 tons for each control period in 2009 through 2014 and 555 tons for each control period in 2015 and thereafter.

(d) The Director shall report the allocations to new units to EPA in accordance with 40 CFR 30 51.123(o)(2) and (aa)(2).

*History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);*

*Eft. July 1, 2006.*

*Amended Eff. May 1, 2008*

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1 <sup>st</sup> Revision	Jun 20, 2008	Nov 30, 2009	74 FR 62496

## **.2413 PERIODIC REVIEW AND REALLOCATIONS**

In 2010 and every five years thereafter, the Environmental Management Commission shall review the emission allocations of units covered under Rules .2403 and .2405 of this Section and decide if any revisions are needed. In making this decision the Environmental Management Commission shall consider the following:

- (1) the size of the allocation pool for new unit growth under Rule .2412 of this Section;
  - (2) the amount of emissions allocations requested by units under Rule .2412 of this Section;
  - (3) the amount of emissions allocations available through the respective trading programs under Rule .2408 of this Section;
  - (4) the impact of reallocation on existing units;
  - (5) the impact of reallocations on units covered under Rule .2412 of this Section;
  - (6) impact on future growth; and
- other relevant information on the impacts of reallocation.

Any revisions of allocations shall be consistent with the requirements in 40 CFR 51.123(o)(2)(ii) and 18 (aa)(2)(iii) or 96.141 and 96.341.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);  
Eff. July 1, 2006.

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