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3745-109-01 **CAIR NOx annual, CAIR SO2 and CAIR NOx ozone season trading programs definitions and general provisions.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see ~~the "Incorporation by Reference" section at the end of this rule.~~paragraph (H) of this rule titled "Referenced materials."]

(A) Purpose.

Rules 3745-109-01 to 3745-109-08 of the Administrative Code establish the CAIR NOx annual trading program in Ohio as a means of reducing NOx emissions in the state. The director authorizes the administrator to assist the director in implementing the state CAIR NOx annual trading program by carrying out the functions set forth for the administrator in rules 3745-109-01 to 3745-109-08 of the Administrative Code.

Rules 3745-109-01 and 3745-109-09 to 3745-109-14 of the Administrative Code establish the CAIR SO2 budget trading program in Ohio as a means to control fine particulate and sulfur dioxide emissions from CAIR units in the state. The director authorizes the administrator to assist the director in implementing the state CAIR SO2 budget trading program as a participant in the federal CAIR SO2 budget trading program by carrying out the functions set forth for the administrator in these rules.

Rules 3745-109-01 and 3745-109-15 to 3745-109-21 of the Administrative Code establish the provisions and requirements to implement a CAIR NOx ozone season trading program in Ohio as a means of control and reductions of NOx emissions. The director authorizes the administrator to assist the director in implementing the state CAIR NOx ozone season trading program as a participant in the federal CAIR NOx ozone season trading program by carrying out the functions set forth for the administrator in these rules.

(B) Definitions.

The terms used in this rule and rules 3745-109-02 to 3745-109-21 of the Administrative Code shall have the meanings set forth in this paragraph as follows:

(1) "Account number" means the identification number given by the administrator to each CAIR NOx, SO2, or NOx ozone season allowance tracking system account.

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

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(3) "Acid rain program" means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the administrator under Title IV of the CAA and 40 CFR Parts 72 to 78.

(4) "Administrator" means the administrator of the United States environmental protection agency or the administrator's duly authorized representative.

(5) "Allocate" or "allocation" means the following:

(a) With regard to CAIR NOx allowances, the determination by a permitting authority or the administrator of the amount of such CAIR NOx allowances to be initially credited to a CAIR NOx unit, a new unit set-aside, or other entity.~~;~~

(b) With regard to CAIR SO2 allowances issued under the acid rain program, the determination by the administrator of the amount of such CAIR SO2 allowances to be initially credited to a CAIR SO2 unit or other entity and, with regard to CAIR SO2 allowances issued under provisions of a state implementation plan that are approved under 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2) or 40 CFR 51.124(r) or 40 CFR 97.288, the determination by a permitting authority of the amount of such CAIR SO2 allowances to be initially credited to a CAIR SO2 unit or other entity.~~; and~~

(c) With regard to CAIR NOx ozone season allowances, the determination by a permitting authority or the administrator of the amount of such CAIR NOx ozone season allowances to be initially credited to a CAIR NOx ozone season unit, a new unit set-aside, or other entity.

(6) "Allowance transfer deadline" means the following:

(a) For a control period, midnight of March first (if it is a business day), or midnight of the first business day thereafter (if March first is not a business day), immediately following the control period and is the deadline by which a CAIR NOx or SO2 allowance transfer must be submitted for recordation in a CAIR NOx or SO2 source's compliance account in order to be used to meet the source's CAIR NOx or SO2 emissions limitation for such control period in accordance with paragraph (D) of rule 3745-109-05 or paragraph (D) of rule 3745-109-11, respectively, of the Administrative Code.~~;~~

(b) For a control period, midnight of November thirtieth (if it is a business

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day), or midnight of the first business day thereafter (if November thirtieth is not a business day), immediately following the control period and is the deadline by which a CAIR NOx ozone season allowance transfer must be submitted for recordation in a CAIR NOx ozone season source's compliance account in order to be used to meet the source's CAIR NOx ozone season emissions limitation for such control period in accordance with paragraph (D) of rule 3745-109-18 of the Administrative Code.

(7) "Alternate CAIR designated representative" means the following:

(a) For a CAIR NOx source and each CAIR NOx unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with rules 3745-109-02 and 3745-109-08 of the Administrative Code, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NOx annual trading program. If the CAIR NOx source is also a CAIR SO2 source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO2 trading program. If the CAIR NOx source is also a CAIR NOx ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NOx ozone season trading program. If the CAIR NOx source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NOx source is also subject to the Hg budget trading program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg budget trading program.~~;~~

(b) For a CAIR SO2 source and each CAIR SO2 unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with rules 3745-109-09 and 3745-109-14 of the Administrative Code, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR SO2 trading program. If the CAIR SO2 source is also a CAIR NOx source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NOx annual trading program. If the CAIR SO2 source is also a CAIR NOx ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NOx ozone season trading program. If the CAIR SO2 source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If

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the CAIR SO2 source is also subject to the Hg budget trading program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg budget trading program.~~;~~

(c) For a CAIR NOx ozone season source and each CAIR NOx ozone season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with rules 3745-109-15 and 3745-109-21 of the Administrative Code, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NOx ozone season trading program. If the CAIR NOx ozone season source is also a CAIR NOx source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NOx annual trading program. If the CAIR NOx ozone season source is also a CAIR SO2 source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO2 trading program. If the CAIR NOx ozone season source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NOx ozone season source is also subject to the Hg budget trading program, then this natural person shall be the same person as the alternate Hg designated representative under the Hg budget trading program.

(8) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under rules 3745-109-07, 3745-109-13 and 3745-109-20 of the Administrative Code, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by rules 3745-109-07, 3745-109-13 and 3745-109-20 of the Administrative Code.

(9) "Biomass" means any of the following:

(a) Any organic material grown for the purpose of being converted to energy.~~;~~

(b) Any organic byproduct of agriculture that can be converted into energy.~~;~~ ~~or~~

(c) Any material that can be converted into energy and is nonmerchantable

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for other purposes, that is segregated from other nonmerchantable material, and that is either of the following:~~;~~

(i) A forest-related organic resource, including mill residues, precommercial thinnings, slash, brush, or by product from conversion of trees to merchantable material.~~; or~~

(ii) A wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way tree trimmings.

(10) "Boiler" means an enclosed fossil-fuel-fired or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium, excluding CO boilers associated with the combusting CO from fluidized catalytic crackers at petroleum refineries. The exclusion of CO boilers applies only to those units applicable to the CAIR NOx ozone season trading program under paragraph (C)(4) of this rule (non-EGUs).

(11) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

(12) "Btu" means British thermal unit.

(13) "CAIR" means the clean air interstate rule.

(14) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with rules 3745-109-02, 3745-109-05, 3745-109-08, 3745-109-09, 3745-109-11, 3745-109-14, 3745-109-15, 3745-109-18 and 3745-109-21 of the Administrative Code, to transfer and otherwise dispose of CAIR NOx, SO2, or NOx ozone season allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(15) "CAIR designated representative" means the following:

(a) For a CAIR NOx source and each CAIR NOx unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with rules

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3745-109-02 and 3745-109-08 of the Administrative Code, to represent and legally bind each owner and operator in matters pertaining to the CAIR NOx annual trading program. If the CAIR NOx source is also a CAIR SO2 source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO2 trading program. If the CAIR NOx source is also a CAIR NOx ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NOx ozone season trading program. If the CAIR NOx source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NOx source is also subject to the Hg budget trading program, then this natural person shall be the same person as the Hg designated representative under the Hg budget trading program.~~;~~

(b) For a CAIR SO2 source and each CAIR SO2 unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with rules 3745-109-09 and 3745-109-14 of the Administrative Code, to represent and legally bind each owner and operator in matters pertaining to the CAIR SO2 trading program. If the CAIR SO2 source is also a CAIR NOx source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NOx annual trading program. If the CAIR SO2 source is also a CAIR NOx ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NOx ozone season trading program. If the CAIR SO2 source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR SO2 source is also subject to the Hg budget trading program, then this natural person shall be the same person as the Hg designated representative under the Hg budget trading program.~~;~~

(c) For a CAIR NOx ozone season source and each CAIR NOx ozone season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with rules 3745-109-15 to 3745-109-21 of the Administrative Code, to represent and legally bind each owner and operator in matters pertaining to the CAIR NOx ozone season trading program. If the CAIR NOx ozone season source is also a CAIR NOx source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NOx annual trading program. If the CAIR NOx ozone season source is also a CAIR SO2 source, then this natural person shall be the same person as the CAIR designated

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representative under the CAIR SO2 trading program. If the CAIR NOx ozone season source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NOx ozone season source is also subject to the Hg budget trading program, then this natural person shall be the same person as the Hg designated representative under the Hg budget trading program.

(16) "CAIR NOx allowance" means a limited authorization issued by a permitting authority or the administrator under provisions of a state implementation plan that are approved under 40 CFR 51.123 (o)(1) or 40 CFR 51.123(o)(2) or 40 CFR 51.123(p) or 40 CFR Part 97 Subpart EE or 40 CFR 97.188, to emit one ton of NOx during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NOx annual trading program. An authorization to emit NOx that is not issued under provisions of a state implementation plan that are approved under 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2) or 40 CFR 51.123(p) or 40 CFR Part 97 Subpart EE or 40 CFR 97.188 shall not be a CAIR NOx allowance.

(17) "CAIR NOx allowance deduction" or "deduct CAIR NOx allowances" means the permanent withdrawal of CAIR NOx allowances by the administrator from a compliance account, e.g., in order to account for a specified number of tons of total NOx emissions from all CAIR NOx units at a CAIR NOx source for a control period, determined in accordance with rule 3745-109-07 of the Administrative Code, or to account for excess emissions.

(18) "CAIR NOx allowance tracking system" means the system by which the administrator records allocations, deductions, and transfers of CAIR NOx allowances under the CAIR NOx annual trading program. Such allowances shall be allocated, held, deducted, or transferred only as whole allowances.

(19) "CAIR NOx allowance tracking system account" means an account in the CAIR NOx allowance tracking system established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR NOx allowances.

(20) "CAIR NOx allowances held" or "hold CAIR NOx allowances" means the CAIR NOx allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with rules 3745-109-05, 3745-109-06 and 3745-109-08 of the Administrative Code, in a CAIR NOx allowance tacking system account.

*** DRAFT - NOT YET FILED ***

(21) "CAIR NOx annual trading program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with 40 CFR Part 96, Subparts AA to II, and 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2) or established by the administrator in accordance with 40 CFR Part 97, Subparts AA to II and 40 CFR 51.123(p) and 40 CFR 52.35, as a means of mitigating interstate transport of fine particulates and NOx.

(22) "CAIR NOx emissions limitation" means, for a CAIR NOx source, the tonnage equivalent, in NOx emissions in a control period, of the CAIR NOx allowances available for deduction for the source under paragraphs (D)(1) and (D)(2) of rule 3745-109-05 of the Administrative Code for the control period.

(23) "CAIR NOx ozone season allowance" means a limited authorization issued by a permitting authority or the administrator under provisions of a state implementation plan that are approved under 40 CFR 51.123(aa)(1) or (aa)(2) (and (bb)(1)), (bb)(2), (dd), or (ee), or under 40 CFR Part 97, Subpart EEEE or 40 CFR 97.388, to emit one ton of NOx during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NOx ozone season trading program or a limited authorization issued by a permitting authority for a control period during 2003 through 2008 under the NOx budget trading program in accordance with 40 CFR 51.121(p) to emit one ton of NOx during a control period, provided that the provision in 40 CFR 51.121(b)(2)(ii)(E) shall not be used in applying this definition and the limited authorization shall not have been used to meet the allowance-holding requirement under the NOx budget trading program. An authorization to emit NOx that is not issued under provisions of a state implementation plan approved under 40 CFR 51.123(aa)(1) or (aa)(2) (and (bb)(1)), (bb)(2), (dd), or (ee) or 40 CFR Part 97, Subpart EEEE or 40 CFR 97.388 or under the NOx budget trading program as described in the prior sentence shall not be a CAIR NOx ozone season allowance.

(24) "CAIR NOx ozone season allowance deduction" or "deduct CAIR NOx ozone season allowances" means the permanent withdrawal of CAIR NOx ozone season allowances by the administrator from a compliance account, e.g., in order to account for a specified number of tons of total NOx emissions from all CAIR NOx ozone season units at a CAIR NOx ozone season source for a control period, determined in accordance with rule 3745-109-20 of the Administrative Code, or to account for excess emissions.

(25) "CAIR NOx ozone season allowance tracking system" means the system by

*** DRAFT - NOT YET FILED ***

which the administrator records allocations, deductions, and transfers of CAIR NOx ozone season allowances under the CAIR NOx ozone season trading program. Such allowances shall be allocated, held, deducted, or transferred only as whole allowances.

(26) "CAIR NOx ozone season allowance tracking system account" means an account in the CAIR NOx ozone season allowance tracking system established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR NOx ozone season allowances.

(27) "CAIR NOx ozone season allowances held" or "hold CAIR NOx ozone season allowances" means the CAIR NOx ozone season allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with rules 3745-109-18, 3745-109-19 and 3745-109-21 of the Administrative Code, in a CAIR NOx ozone season allowance tracking system account.

(28) "CAIR NOx ozone season emissions limitation" means, for a CAIR NOx ozone season source, the tonnage equivalent, in NOx emissions in a control period, of the CAIR NOx ozone season allowances available for deduction for the source under paragraphs (D)(1) and (D)(2) of rule 3745-109-18 of the Administrative Code for a control period.

(29) "CAIR NOx ozone season source" means, in regard to the CAIR NOx annual and SO2 trading programs, a source that is subject to the CAIR NOx ozone season trading program; in regard to the CAIR NOx ozone season program it means a source that includes one or more CAIR NOx ozone season units.

(30) "CAIR NOx ozone season trading program" means a multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the administrator in accordance with 40 CFR Part 96 Subparts, AAAA to IIII and 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2) (and 40 CFR 51.123(bb)(1)), 40 CFR 51.123(bb)(2), or 40 CFR 51.123(dd) or established by the administrator in accordance with 40 CFR Part 97 Subparts AAAA to IIII and 40 CFR 51.123(ee) and 40 CFR 52.35, as a means of mitigating interstate transport of ozone and NOx.

(31) "CAIR NOx ozone season unit" means a unit that is subject to the CAIR NOx ozone season trading program under paragraph (C) this rule and, except for the purposes of paragraph (D) of this rule and rule 3745-109-17 of the Administrative Code, a CAIR NOx ozone season opt-in unit under rule 3745-109-21 of the Administrative Code.

*** DRAFT - NOT YET FILED ***

(32) "CAIR NOx source" means, in regard to the CAIR NOx annual trading program, a source that includes one or more CAIR NOx units; in regard to the CAIR NOx ozone season and SO2 trading programs it means a source that is subject to the CAIR NOx annual trading program.

(33) "CAIR NOx unit" means a unit that is subject to the CAIR NOx annual trading program under paragraph (C) this rule and, except for the purposes of paragraph (D) of this rule and rule 3745-109-04 of the Administrative Code, a CAIR NOx opt-in unit under rule 3745-109-08 of the Administrative Code.

(34) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the director under rules 3745-109-03, 3745-109-10 and 3745-109-16 of the Administrative Code, including any permit revisions, specifying the CAIR NOx annual, SO2, or NOx ozone season trading program requirements applicable to a CAIR NOx, SO2, or NOx ozone season source, to each CAIR NOx, SO2, or NOx ozone season unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.

(35) "CAIR SO2 allowance" means a limited authorization issued by the administrator under the acid rain program, or by a permitting authority under provisions of a state implementation plan that are approved under 40 CFR 51.124(o)(1) or 40 CFR 51.124(2) or 40 CFR 51.124(r) or 40 CFR 97.288, to emit SO2 during the control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR SO2 trading program as follows:

(a) For one CAIR SO2 allowance allocated for a control period in a year before 2010, one ton of SO2, except as provided in paragraph (D)(2) of rule 3745-109-11 of the Administrative Code.~~;~~

(b) For one CAIR SO2 allowance allocated for a control period in 2010 through 2014, 0.50 ton of SO2, except as provided in paragraph (D)(2) of rule 3745-109-11 of the Administrative Code.~~;~~

(c) For one CAIR SO2 allowance allocated for a control period in 2015 or later, 0.35 ton of SO2, except as provided in paragraph (D)(2) of rule 3745-109-11 of the Administrative Code.~~; and~~

(d) An authorization to emit SO2 that is not issued under the acid rain program, under the provisions of a state implementation plan that are approved under 40 CFR 51.124(o)(1) or 40 CFR 51.124 (o)(2) or 40

*** DRAFT - NOT YET FILED ***

CFR 51.124(r), or under 40 CFR 97.288 shall not be a CAIR SO2 allowance.

(36) "CAIR SO2 allowance deduction" or "deduct CAIR SO2 allowances" means the permanent withdrawal of CAIR SO2 allowances by the administrator from a compliance account, e.g., in order to account for a specified number of tons of total SO2 emissions from all CAIR SO2 units at a CAIR SO2 source for a control period, determined in accordance with rule 3745-109-13 of the Administrative Code, or to account for excess emissions.

(37) "CAIR SO2 allowance tracking system" means the system by which the administrator records allocations, deductions, and transfers of CAIR SO2 allowances under the CAIR SO2 trading program. This is the same system as the allowance tracking system under 40 CFR 72.2 by which the administrator records allocations, deduction, and transfers of acid rain SO2 allowances under the acid rain program.

(38) "CAIR SO2 allowance tracking system account" means an account in the CAIR SO2 allowance tracking system established by the administrator for purposes of recording the allocation, holding, transferring, or deducting of CAIR SO2 allowances. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(39) "CAIR SO2 allowances held" or "hold CAIR SO2 allowances" means the CAIR SO2 allowances recorded by the administrator, or submitted to the administrator for recordation, in accordance with rules 3745-109-11, 3745-109-12 and 3745-109-14 of the Administrative Code or 40 CFR Part 73, in a CAIR SO2 allowance tracking system account.

(40) "CAIR SO2 emissions limitation" means, for a CAIR SO2 source, the tonnage equivalent, in SO2 emissions in a control period, of the CAIR SO2 allowances available for deduction for the source under paragraphs (D)(2) and (D)(3) of rule 3745-109-11 of the Administrative Code for the control period.

(41) "CAIR SO2 source" means, in regard to the CAIR NOx annual and ozone season trading programs, a source that is subject to the CAIR SO2 trading program; in regard to the CAIR SO2 trading program its means a source that includes one or more CAIR SO2 units.

(42) "CAIR SO2 trading program" means a multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the

*** DRAFT - NOT YET FILED ***

administrator in accordance with 40 CFR Part 96, Subparts AAA to III and 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2) or established by the administrator in accordance with 40 CFR Part 97, Subparts AAA to III and 40 CFR 51.124(r) and 40 CFR 52.36, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(43) "CAIR SO2 unit" means a unit that is subject to the CAIR SO2 trading program under paragraph (C) of this rule and, except for purposes of paragraph (D) of this rule, a CAIR SO2 opt-in unit under rule 3745-109-14 of the Administrative Code.

(44) "Clean Air Act" or "CAA" means the Clean Air Act, 42 USC 7401 to 7671q.

(45) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(46) "Coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

(47) "Coal-fired" means the following:

(a) Except for purposes of rules 3745-109-04 and 3745-109-17 of the Administrative Code, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year.~~; or~~

(b) For purposes of rule 3745-109-04 and 3745-109-17 of the Administrative Code, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

(c) For the purposes of rules 3745-109-09 to 3745-109-14 of the Administrative Code, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel.

(48) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that conforms to the following:

(a) ~~Having~~Has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy.~~; and~~

*** DRAFT - NOT YET FILED ***

(b) Except for units meeting the applicability requirements under paragraph (C)(4) of this rule, ~~producing~~ during the twelve-month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity, produces the following:

(i) For a topping-cycle cogeneration unit the following:~~;~~

(a) Useful thermal energy not less than five per cent of total energy output.~~; and~~

(b) Useful power that, when added to one-half of useful thermal energy produced, is not less then 42.5 per cent of total energy input, if useful thermal energy produced is fifteen per cent or more of total energy output, or not less than forty-five per cent of total energy input, if useful thermal energy produced is less than fifteen per cent of total energy output.~~;~~

(ii) For a bottoming-cycle cogeneration unit, useful power not less than forty-five per cent of total energy input.~~;~~

(c) Provided that the total energy input under paragraphs (B)(48)(b)(i)(b) and (B)(48)(b)(ii) of this rule shall equal the unit's total energy input from all fuel except biomass if the unit is a boiler.

(49) "Combustion turbine" means the following:

(a) An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.~~; and~~

(b) If the enclosed device under paragraph (B)(49)(a) of this rule is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.

(50) "Commence commercial operation" means, with regard to a unit, the following:

(a) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as

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provided in paragraph (D) of this rule and ~~paragraphs~~paragraph (E)(8) of rules 3745-109-08 ~~of the Administrative Code~~, ~~paragraph (E)(8) of rule~~ 3745-109-14 ~~of the Administrative Code~~, and ~~paragraph (E)(8) of rule~~ 3745-109-21 of the Administrative Code.

(i) For a unit that is a CAIR NOx, SO2, or NOx ozone season unit under paragraph (C) of this rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in paragraph (B)(50)(a) of this rule 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 unit's date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NOx, SO2, or NOx ozone season unit under paragraph (C) of this rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in paragraph (B)(50)(a) of this rule and that is subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph (B)(50)(a) or (B)(50)(b) of this rule as appropriate.

(b) Notwithstanding paragraph (B)(50)(a) of this rule and except as provided in paragraph (D) of this rule, for a unit that is not a CAIR NOx, SO2, or NOx ozone season unit under paragraph (C) of this rule on the later of November 15, 1990 or the date the unit commences commercial operation as defined in paragraph (B)(50)(a) of this rule , the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NOx, SO2, or NOx ozone season unit under paragraph (C) of this rule.

(i) For a unit with a date for commencement of commercial operation as defined in paragraph (B)(50)(b) of this rule 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 unit's date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in paragraph (B)(50)(b) of this rule and that is

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subsequently replaced by a unit at the same source (e.g., repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph (B)(50)(a) or (B)(50)(b) of this rule as appropriate.

(c) Notwithstanding paragraphs (B)(50)(a) and (B)(50)(b) of this rule, for a unit 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.

(51) "Commence operation" means:

(a) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in paragraph (E)(8) of rules 3745-109-08 ~~of the Administrative Code~~, ~~paragraph (E)(8) of rule~~ 3745-109-14 ~~of the Administrative Code~~, and ~~and paragraph (E)(8) of rule~~ 3745-109-21 of the Administrative Code.

(i) For a unit that is a CAIR NOx, SO2, or NOx ozone season unit that undergoes a physical change (other than replacement of the unit by a unit at the same source), after the date the unit commences operation as defined in paragraph (B)(51)(a) of this rule, such date shall remain the unit's date of commencement of operation, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NOx, SO2, or NOx ozone season unit that is replaced by a unit at the same source (e.g., repowered), after the date the unit commences operation as defined in paragraph (B)(51)(a) of this rule, 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 paragraph (B)(51)(a), (B)(51)(a)(i), or (B)(51)(a)(ii) of this rule as appropriate, except as provided in paragraph (E)(8) of rules 3745-109-08 ~~of the Administrative Code for CAIR NOx units~~, ~~paragraph (E)(8) of rule~~ 3745-109-14 ~~of the Administrative Code for CAIR SO2 units~~, ~~and paragraph (E)(8) of rule~~ and 3745-109-21 of the Administrative Code ~~for CAIR NOx ozone season units~~.

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(b) Notwithstanding paragraph (B)(51)(a) of this rule, and solely for purposes of rule 3745-109-20 of the Administrative Code, for a unit that is not a CAIR NOx ozone season unit under paragraph (C)(4) of this rule ~~3745-109-01 of the Administrative Code~~ (non-EGUs) on the later of November 15, 1990 or the date the unit commences operation as defined in paragraph (B)(51)(a) of this rule and that subsequently becomes such a CAIR NOx ozone season unit, the unit's date for commencement of operation shall be the date on which the unit becomes a CAIR NOx ozone season unit under paragraph (C)(4) of this rule. ~~3745-109-01 of the Administrative Code (non-EGUs).~~

(i) For a unit with a date of commencement of operation as defined in paragraph (B)(51)(b) of this rule 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.

(ii) For a unit with a date for commencement of operation as defined in paragraph (B)(51)(b) of this rule and that is subsequently 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 paragraph (B)(51)(a) or (B)(51)(b) of this rule as appropriate.

(52) "Common stack" means a single flue through which emissions from two or more units are exhausted.

(53) "Compliance account" means the following:

(a) For a CAIR NOx allowance tracking system account, established by the administrator for a CAIR NOx source under rule 3745-109-05 or 3745-109-08 of the Administrative Code, in which any CAIR NOx allowance allocations for the CAIR NOx units at the source are initially recorded and in which are held any CAIR NOx allowances available for use for a control period in order to meet the source's CAIR NOx emissions limitation in accordance with paragraph (D) of rule 3745-109-05 of the Administrative Code.~~;~~

(b) For a CAIR SO2 allowance tracking system account, established by the administrator for a CAIR SO2 source subject to an acid rain emissions

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limitation under 40 CFR 73.31(a) or 40 CFR 73.31(b) or for any other CAIR SO2 source under rule 3745-109-11 or 3745-109-14 of the Administrative Code, in which any CAIR SO2 allowance allocations for the CAIR SO2 units at the source are initially recorded and in which are held any CAIR SO2 allowances available for use for a control period in order to meet the source's CAIR SO2 emissions limitation in accordance with paragraph (D) of rule 3745-109-11 of the Administrative Code.;

(c) For a CAIR NOx ozone season allowance tracking system account, established by the administrator for a CAIR NOx ozone season source under rules 3745-109-18 and 3745-109-21 of the Administrative Code, in which any CAIR NOx ozone season allowance allocations for the CAIR NOx ozone season units at the source are initially recorded and in which are held any CAIR NOx ozone season allowances available for use for a control period in order to meet the source's CAIR NOx ozone season emissions limitation in accordance with paragraph (D) of rule 3745-109-18 of the Administrative Code.

(54) "CSP" means compliance supplement pool.

(55) "CO2" means carbon dioxide.

(56) "Continuous emission monitoring system" or "CEMS" means the equipment required under rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen minutes (using an automated data acquisition and handling system (DAHS), a permanent record of NOx or SO2 emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable)), in a manner consistent with 40 CFR Part 75. The following systems are the principal types of continuous emission monitoring systems required under rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code:

(a) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour.;

(b) A NOx concentration or SO2 monitoring system, consisting of a NOx or SO2 pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of

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NOx or SO2 emissions, in parts per million.~~;~~

(c) A NOx emission rate (or NOx-diluent) monitoring system, consisting of a NOx pollutant concentration monitor, a diluent gas (CO2 or O2) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NOx concentration, in parts per million, diluent gas concentration, in per cent CO2 or O2; and NOx emission rate, in pounds per mmBtu.~~;~~

(d) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in per cent H2O.~~;~~

(e) A carbon dioxide monitoring system, consisting of a CO2 pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO2 concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO2 emissions, in per cent CO2.~~; and~~

(f) An oxygen monitoring system, consisting of an O2 concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O2, in per cent O2.

(57) "Control period" means the following:

(a) For the purposes of the CAIR annual trading program, the period beginning January first of a calendar year, except as provided in paragraph (E)(3)(b) of this rule and ending on December thirty-first of the same year, inclusive.

(b) For the purposes of the CAIR ozone season trading program, the period beginning May first of a calendar year, except as provided in paragraph (E)(3)(b) of this rule and ending on September thirtieth of the same year, inclusive.

(58) "Director" means the director of the Ohio environmental protection agency.

(59) "Electricity for sale under a firm contract to the electric grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

*** DRAFT - NOT YET FILED ***

(60) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the CAIR designated representative and as determined by the administrator in accordance with rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code.

(61) "Energy efficiency/renewable energy project" means any project that, during the ozone season, reduces end-use demand for electricity, including demand-side management practices, or displace electrical energy utilization through the use of wind power, solar power, biomass or landfill methane generation.

(62) "Excess emissions" means the following:

(a) For any ton of NOx emitted by the CAIR NOx or NOx ozone season units at a CAIR NOx or NOx ozone season source during a control period that exceeds the CAIR NOx or NOx ozone season emissions limitation for the source.~~;~~

(b) For any ton, or portion of a ton, of sulfur dioxide emitted by the CAIR SO2 units at a CAIR SO2 source during a control period that exceeds the CAIR SO2 emissions limitation for the source, provided that any portion of a ton of excess emissions shall be treated as one ton of excess emissions.

(63) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(64) "Fossil-fuel-fired" means the following:~~;~~

(a) For a unit meeting the applicability requirements under paragraph (C)(1) of this rule (EGUs), with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(b) For a unit meeting the applicability requirements under paragraph (C)(4) of this rule (non-EGUs), with regard to a unit as follows:

(i) For units that commenced operation before January 1, 1996, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty per cent of the annual heat input, on a Btu basis, during

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1995, or, if a unit had no heat input in 1995, during the last year of operation of the unit prior to 1995.~~;~~

(ii) For units that commenced operation on or after January 1, 1996 and before January 1, 1997, the combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty per cent of the annual heat input, on a Btu basis, during 1996.~~; or~~

(iii) For units that commence operation on or after January 1, 1997:

(a) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty per cent of the annual heat input, on a Btu basis, during any year.~~; or~~

(b) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than fifty per cent 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 unit begins combusting fossil fuel.

(65) "Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid, or gaseous state.

(66) "General account" means a CAIR NOx, SO2, or NOx ozone season allowance tracking system account, established under rule 3745-109-05, 3745-109-11, or 3745-109-18 of the Administrative Code, that is not a compliance account.

(67) "Generator" means a device that produces electricity.

(68) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

(69) "H2O" means water.

*** DRAFT - NOT YET FILED ***

(70) "Heat input" means, with regard to a specified period of time, the product (in mmBtu per unit of time) of the gross calorific value of the fuel (in Btu per pound) divided by one million Btu per mmBtu and multiplied by the fuel feed rate into a combustion device (in pounds of fuel per unit time), as measured, recorded, and reported to the administrator by the CAIR designated representative and determined by the administrator in accordance with rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(71) "Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hours) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hours) during which the unit combusts the fuel.

(72) "Hg" means mercury.

(73) "Hg budget trading program" means a multi-state Hg air pollution control and emission reduction program approved and administered by the administrator accordance with Chapter 3745-108 of the Administrative Code, or established by the administrator under Section 111 of the Clean Air Act, as a means of reducing national Hg emissions.

(74) "Innovative technology project" means any project utilizing technology that has not been adequately demonstrated in practice, but that would have a substantial likelihood of reducing NOx ozone season emissions compared to current practices. An innovative technology project could include technology to decrease electrical energy or fuel use either in stationary or mobile sources.

(75) "kWh" means kilowatt hour.

(76) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract for one of the following:

(a) ~~For the~~The life of the unit.~~;~~

(b) ~~For a~~A cumulative term of no less than thirty years, including contracts that permit an election for early termination.~~; or~~

*** DRAFT - NOT YET FILED ***

(c) ~~For a~~A period no less than twenty-five years or seventy per cent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(77) "Maximum design heat input" means the maximum amount of fuel per hour (in Btu per hour) that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(78) "MmBtu" means million British thermal units.

(79) "Monitoring system" means any monitoring system that meets the requirements of rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR Part 75.

(80) "Most stringent state or federal NOx or SO2 emissions limitation" means, with regard to a unit, the lowest NOx or SO2 emissions limitation (in terms of pounds per mmBtu) that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(81) "MWe" means mega watt electrical.

(82) "MWh" means megawatt-hour.

(83) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as of such completion as specified by the person conducting the physical change.

(84) "NOx" means all oxides of nitrogen which are determined to be ozone precursors, including, but not limited to, nitrogen oxide and nitrogen dioxide,

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but excluding nitrous oxide.

(85) "Oil-fired" means, for purposes of rule 3745-109-04 or 3745-109-17 of the Administrative Code, combusting fuel oil for more than 15.0 per cent of the annual heat input in a specified year and not qualifying as coal-fired.

(86) "Operator" means any person who operates, controls, or supervises a CAIR NOx, SO2, or NOx ozone season unit or a CAIR NOx, SO2, or NOx ozone season source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(87) "Owner" means any of the following persons:

(a) With regard to a CAIR NOx, SO2, or NOx ozone season source or a CAIR NOx, SO2, or NOx ozone season unit at a source, respectively:

(i) Any holder of any portion of the legal or equitable title in a CAIR NOx, SO2, or NOx ozone season unit at the source or the CAIR NOx, SO2, or NOx ozone season unit.~~;~~

(ii) Any holder of a leasehold interest in a CAIR NOx, SO2, or NOx ozone season unit at the source or the CAIR NOx, SO2, or NOx ozone season unit.~~; or~~

(iii) Any purchaser of power from a CAIR NOx, SO2, or NOx ozone season unit at the source or the CAIR NOx, SO2, or NOx ozone season unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such CAIR NOx, SO2, or NOx ozone season unit.~~; or~~

(b) With regard to any general account, any person who has an ownership interest with respect to the CAIR NOx, SO2, or NOx ozone season allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NOx, SO2, or NOx ozone season allowances.

*** DRAFT - NOT YET FILED ***

(88) "Ozone season" means the period beginning May first of a calendar year and ending on September thirtieth of the same year, inclusive.

(89) "Permitting authority" means the state air pollution control agency, local agency, other state agency, or other agency authorized by the administrator to issue or revise permits to meet the requirements of the CAIR NOx annual, CAIR SO2, and CAIR NOx ozone season trading program or, if no such agency has been so authorized, the administrator.

(90) "Potential electrical output capacity" means thirty-three per cent of a unit's maximum design heat input, divided by three thousand four hundred thirteen Btu per kWh, divided by one thousand kWh per MWh, and multiplied by eight thousand seven hundred sixty hours per year.

(91) "Receive" or "receipt of" means, when referring to the permitting authority or the administrator, to come into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official log, or by a notation made on the document, information, or correspondence, by the permitting authority or the administrator in the regular course of business.

(92) "Recordation," "record," or "recorded" means, with regard to CAIR NOx, SO2, or NOx ozone season allowances, the movement of CAIR NOx, SO2, or NOx ozone season allowances by the administrator into or between CAIR NOx, SO2, or NOx ozone season allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

(93) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22.

(94) "Replacement, replace, or replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shut down unit (the replaced unit).

(95) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

(a) Atmospheric or pressurized fluidized bed combustion.~~;~~

*** DRAFT - NOT YET FILED ***

(b) Integrated gasification combined cycle.~~;~~

(c) Magnetohydrodynamics.~~;~~

(d) Direct and indirect coal-fired turbines.~~;~~

(e) Integrated gasification fuel cells.~~; or~~

(f) As determined by the administrator, a derivative of one or more of the technologies under paragraphs (B)(95)(a) to (B)(95)(e) of this rule and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

(96) "Serial number" means, for a CAIR NOx, SO2, or NOx ozone season allowance, the unique identification number assigned to each CAIR NOx, SO2, or NOx ozone season allowance by the administrator.

(97) "Sequential use of energy" means either of the following:

(a) For a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process.~~; or~~

(b) For a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(98) "SO2" means sulfur dioxide.

(99) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in Section 129(g)(1) of the Clean Air Act.

(100) "Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a "source," including a "source" with multiple units, shall be considered a single "facility."

*** DRAFT - NOT YET FILED ***

(101) "State" means the State of Ohio, or, where the context indicates, any of the states or the District of Columbia that adopts the CAIR NOx annual, the SO2, or the NOx ozone season trading program pursuant to 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2) or 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2).

(102) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation by any of the following means:

(a) In person.~~;~~

(b) By United States postal service.~~; or~~

(c) ~~By other~~Other means of dispatch or transmission and delivery.

~~Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.~~

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(103) "Title V operating permit" means a permit issued under Chapter 3745-77 of the Administrative Code.

(104) "Title V operating permit regulations" means Chapters 3745-77 and 3745-78 of the Administrative Code.

(105) "Ton" means two thousand pounds. For the purpose of determining compliance with the CAIR NOx, SO2, or NOx ozone season emissions limitation, total tons of NOx, SO2, or NOx ozone season emissions for a control period shall be calculated as the sum of all recorded hourly emissions (or the mass equivalent of the recorded hourly emission rates) in accordance with rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code, but with any remaining fraction of a ton equal to or greater than 0.50 tons deemed to equal one ton and any remaining fraction of a ton less than 0.50 tons deemed to equal zero tons.

(106) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

*** DRAFT - NOT YET FILED ***

(107) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

Each form of energy supplied shall be measured by the lower heating value of that form of energy calculated as follows:

LHV = HHV - 10.55(W + 9H)

Where:

LHV = lower heating value of fuel in Btu per pound.~~,~~

HHV = higher heating value of fuel in Btu per pound.~~,~~

W = Weight per cent of moisture in fuel.~~, and~~

H = Weight per cent of hydrogen in fuel.

(108) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(109) "Unit" means the following:~~;~~

(a) For a unit meeting the applicability requirements under paragraph (C)(1) of this rule (EGUs), a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

(b) For a unit meeting the applicability requirements under paragraph (C)(4) of this rule (non-EGUs), a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

(110) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(111) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

(112) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

*** DRAFT - NOT YET FILED ***

(113) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that ~~is~~conforms to the following:

(a) Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water.~~;~~

(b) Used in a heating application (e.g., space heating or domestic hot water heating).~~; or~~

(c) Used in a space cooling application (i.e., thermal energy used by an absorption chiller).

(114) "USEPA" means the United State environmental protection agency.

(115) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

(C) Applicability.

The following units in the state shall be CAIR NOx, SO2, and NOx ozone season units, and any source that includes one or more such units shall be a CAIR NOx, SO2, and NOx ozone season source, subject to the requirements of this rule and rules 3745-109-02 to 3745-109-07, 3745-109-09 to 3745-109-13, and 3745-109-15 to 3745-109-20, respectively, of the Administrative Code:~~.~~

(1) Except as provided in paragraphs (C)(3) and (C)(5) of this rule, 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 twenty-five MWe producing electricity for sale (EGUs).

(2) If a stationary boiler or stationary combustion turbine that, under paragraph (C)(1) of this rule, is not a CAIR NOx, CAIR SO2, and CAIR NOx ozone season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five MWe producing electricity for sale, the unit shall become a CAIR NOx, CAIR SO2, and CAIR NOx ozone season unit as provided in paragraph (C)(1) of this rule on the first date on which it both combusts fossil fuel and serves such generator.

The units in the state that meet the requirements set forth in paragraph (C)(3)

*** DRAFT - NOT YET FILED ***

or (C)(5) of this rule shall not be CAIR NOx, SO2 or NOx ozone season units.

(3) Any unit that is a CAIR NOx, SO2, and NOx ozone season unit under paragraph (C)(1) or (C)(2) of this rule that conforms to the following:

(a) ~~Qualifying~~Qualifies as a cogeneration unit during the twelve-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit.~~; and~~

(b) ~~Not serving~~Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five MWe and supplying in any calendar year more than one-third of the unit's potential electric output capacity or two hundred nineteen thousand MWh, whichever is greater, to any utility power distribution system for sale.

(c) If a unit qualifies as a cogeneration unit during the twelve-month period starting on the date the unit first produces electricity and meets the requirements of paragraphs (C)(3)(a) and (C)(3)(b) of this rule for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become CAIR NOx, SO2, and NOx ozone season unit under paragraph (C)(1) of this rule starting on the earlier of January first after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January first after the first calendar year during which the unit no longer meets the requirements of paragraph (C)(3)(b) of this rule.

(4) The following units that are subject to the applicability requirements of the NOx SIP call in paragraph (C) of rule 3745-14-01 of the Administrative Code and that are not CAIR NOx ozone season units under paragraphs (C)(1) and (C)(2) of this rule (non-EGUs) shall be subject to the requirements of this rule and rules 3745-109-15 to 3745-109-20 of the Administrative Code (non-EGUs):

(a) For units, other than cogeneration units, the following:

(i) For units commencing operation before January 1, 1997, a unit that has a maximum design heat input greater than two hundred fifty mmBtu per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.~~;~~

*** DRAFT - NOT YET FILED ***

(ii) For units commencing operation before January 1, 1997, a unit serving during 1995 or 1996 a generator that had a nameplate capacity greater than twenty-five MWe and produced electricity for sale under a firm contract to the electric grid.~~;~~

(iii) For units commencing operation on or after January 1, 1997 and before January 1, 1999, a unit that has a maximum design heat input greater than two hundred fifty mmBtu per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.~~;~~

(iv) For units commencing operation on or after January 1, 1997 and before January 1, 1999, a unit serving during 1997 or 1998 a generator that had a nameplate capacity greater than twenty-five MWe and produced electricity for sale under a firm contract to the electric grid.~~;~~

(v) For units commencing operation on or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty mmBtu per hour that does either of the following:

(a) At no time serves a generator producing electricity for sale.~~; or~~

(b) At any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five MWe or less and has the potential to use no more than fifty per cent of the potential electrical output capacity of the unit.~~;~~

(vi) For units commencing operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than twenty-five MWe and produces electricity for sale.

(b) For cogeneration units, the following:

(i) For units commencing operation before January 1, 1997, a unit with a maximum design heat input greater than two hundred fifty mmBtu per hour and qualifying as an unaffected unit under 40 CFR 72.6(b)(4) under the "Acid Rain Program" for 1995 and 1996.~~;~~

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(ii) For units commencing operation before January 1, 1997, a unit serving during 1995 or 1996 a generator with a nameplate capacity greater than twenty-five MWe and failing to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for 1995 or 1996 under the "Acid Rain Program~~;~~."

(iii) For units commencing operation in 1997 or 1998, a unit with a maximum design heat input greater than two hundred fifty mmBtu per hour and qualifying as an unaffected unit under 40 CFR 72.6(b)(4) under the "Acid Rain Program" for 1997 and 1998.~~;~~

(iv) For units commencing operation in 1997 or 1998, a unit serving during 1997 or 1998 a generator with a nameplate capacity grater than twenty-five MWe and failing to qualify as an unaffected unit under 40 CFR 72.6(b)(4) for 1997 or 1998 under the "Acid Rain Program~~;~~."

(v) For units commencing on or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty mmBtu per hour and qualifying as an unaffected unit under 40 CFR 72.6(b)(4) under the "Acid Rain Program" for each year.~~;~~

(vi) For units commencing operation on or after January 1, 1999, a unit serving at any time a generator with a nameplate capacity greater than twenty-five MWe and failing to qualify as an unaffected unit under 40 CFR 72.6(b)(4) under the "Acid Rain Program" for any year.

(5) Any unit that is a CAIR NOx, SO2, and NOx ozone season unit under paragraph (C)(1) or (C)(2) of this rule that does the following:

(a) Commences operation before January 1, 1985 and qualifies as a solid waste incineration unit; and with an average annual fuel consumption of non-fossil fuel for 1987-1987 exceeding eighty per cent (on a Btu basis) and an average annual fule consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding eighty per cent (on a Btu basis).

~~(i) With an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding eighty per cent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three~~

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~~consecutive calendar years after 1990 exceeding eighty per cent (on a Btu basis).~~

(b) Commences operation after January 1, 1985 and qualifies as a solid waste incineration unit; and with an average annual fuel consumption of non-fossil fuel for the first three calendar years of operation exceeding eighty per cent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding eighty per cent (on a Btu basis).

~~(i) With an average annual fuel consumption of non-fossil fuel for the first three calendar years of operation exceeding eighty per cent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding eighty per cent (on a Btu basis).~~

(c) If a unit qualifies as a solid waste incineration unit and meets the requirements of paragraph (C)(5)(a) or (C)(5)(b) of this rule for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NOx, SO2, and CAIR NOx ozone season unit starting on the earlier of January first after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January first after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty per cent or more.

(D) Retired unit exemption.

(1) This paragraph applies to any CAIR NOx, SO2, or NOx ozone season unit, other than a CAIR NOx, SO2, or NOx ozone season opt-in unit, that is permanently retired.

(a) Any CAIR NOx, SO2, or NOx ozone season unit that is permanently retired and is not a CAIR NOx, SO2, or NOx ozone season opt-in unit under rule 3745-109-08, 3745-109-14, or 3745-109-21 of the Administrative Code shall be exempt from the CAIR NOx annual, the SO2, or the NOx ozone season trading program, except for the provisions of paragraphs (B), (C), (D), (E)(3)(d) to (E)(3)(g), (F) and (G) of this rule and rules 3745-109-02, 3745-109-04 to 3745-109-06, 3745-109-09, 3745-109-11, 3745-109-12, 3745-109-15 and 3745-109-17 to 3745-109-19 of the Administrative Code, respectively.

(b) The exemption under paragraph (D)(1)(a) of this rule shall become effective the day on which the CAIR NOx, SO2, or NOx ozone season

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unit is permanently retired. Within thirty days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the director otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the administrator. The statement shall state, in a format prescribed by the director, that the unit was permanently retired on a specific date and shall comply with ~~the requirements of~~ paragraph (D)(2) of this rule.

(c) After receipt of the statement under paragraph (D)(1)(b) of this rule, the director shall amend any permit under rule 3745-109-03, 3745-109-10, or 3745-109-16 of the Administrative Code covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (D)(1)(a) and (D)(1)(b) of this rule.

(2) Special provisions.

(a) A unit exempt under paragraph (D)(1) of this rule shall not emit any NOx or SO2 starting on the date that the exemption takes effect.

(b) The director shall allocate CAIR NOx or NOx ozone season allowances under rule 3745-109-04 or 3745-109-17 of the Administrative Code to a unit exempt under paragraph (D)(1) of this rule.

(c) For a period of five years from the date the records are created, the owners and operators of a unit exempt under paragraph (D)(1) of this rule shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The five-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the director or the administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(d) The owners and operators and, to the extent applicable, the CAIR designated representative of a unit exempt under paragraph (D)(1) of this rule shall comply with the requirements of the CAIR NOx annual, SO2, or NOx ozone season 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.

(e) A unit exempt under paragraph (D)(1) of this rule 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 CAIR designated representative of the source submits a complete CAIR

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permit application under paragraph (C) of rule 3745-109-03 of the Administrative Code or rule 3745-109-16 of the Administrative Code for the unit not less than eighteen months (or such lesser time provided by the director) before the later of January 1, 2009 or the date on which the unit resumes operation.

(f) A unit exempt under paragraph (D)(1) of this rule 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 CAIR designated representative of the source submits a complete CAIR permit application under paragraph (C) of rule 3745-109-10 of the Administrative Code for the unit not less than eighteen months (or such lesser time provided by the director) before the later of January 1, 2010 or the date on which the unit resumes operation.

(g) On the earlier of the following dates, a unit exempt under paragraph (D)(1) of this rule shall lose its exemption:

(i) The date on which the CAIR designated representative submits a CAIR permit application for the unit under paragraph (D)(2)(e) or (D)(2)(f) of this rule.~~;~~

(ii) The date on which the CAIR designated representative is required under paragraph (D)(2)(e) or (D)(2)(f) of this rule to submit a CAIR permit application for the unit.~~; or~~

(iii) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(h) For the purpose of applying monitoring, reporting, and record keeping requirements under rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code, a unit that loses its exemption under paragraph (D)(1) of this rule shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(E) Standard requirements.

(1) Permit requirements~~Requirements~~.

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(a) The CAIR designated representative of each CAIR NOx, SO2, or NOx ozone season source required to have a Title V operating permit and each CAIR NOx,, SO2, or NOx ozone season unit required to have a Title V operating permit at the source shall do the following:

(i) Submit to the director a complete CAIR permit application under paragraph (C) of rule 3745-109-03 of the Administrative Code, rule 3745-109-10 of the Administrative Code, or rule 3745-109-16 of the Administrative Code in accordance with the deadlines specified in rule 3745-109-03 of the Administrative Code, rule 3745-109-10 of the Administrative Code, or rule 3745-109-16 of the Administrative Code.~~; and~~

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

(b) The owners and operators of each CAIR NOx, SO2, or NOx ozone season source required to have a Title V operating permit and each CAIR NOx, SO2, or NOx ozone season unit required to have a Title V operating permit at the source shall have a CAIR permit issued by the director under rule 3745-109-03, 3745-109-10, or 3745-109-16 of the Administrative Code for the source and operate the source and the unit in compliance with such CAIR permit.

(c) Except as provided in rule 3745-109-08, 3745-109-14, or 3745-109-21 of the Administrative Code, the owners and operators of a CAIR NOx, SO2, or NOx ozone season source that is not otherwise required to have a Title V operating permit and each CAIR NOx, SO2, or NOx ozone season unit that is not otherwise required to have a Title V operating permit are not required to submit a CAIR permit application, and to have a CAIR permit, under rule 3745-109-03, 3745-109-10, or 3745-109-16 of the Administrative Code for such CAIR NOx, SO2, or NOx ozone season source and such CAIR NOx, SO2, or NOx ozone season unit.

(2) Monitoring, reporting, and record keeping requirements.

(a) The owners and operators, and the CAIR designated representative, of each CAIR NOx, SO2, or NOx ozone season source and each CAIR NOx, SO2, or NOx ozone season unit at the source shall comply with the monitoring, reporting, and record keeping requirements of rule

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3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code.

(b) The emissions measurements recorded and reported in accordance with rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code shall be used to determine compliance by each CAIR NOx, SO2, or NOx ozone season source with the CAIR NOx, SO2, or NOx ozone season emissions limitation under paragraph (E)(3) of this rule.

(3) NOx, SO2, or NOx ozone season emission requirements.

(a) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NOx or NOx ozone season source and each CAIR NOx or NOx ozone season unit at the source shall hold, in the source's compliance account, CAIR NOx or NOx ozone season allowances available for compliance deductions for the control period under paragraph (D)(1) of rule 3745-109-05 of the Administrative Code or rule 3745-109-18 of the Administrative Code in an amount not less than the tons of total NOx emissions for the control period from all CAIR NOx or NOx ozone season units at the source, as determined in accordance with rule 3745-109-07 or rule 3745-109-20 of the Administrative Code.

As of the allowance transfer deadline for a control period, the owners and operators of each CAIR SO2 source and each CAIR SO2 unit at the source shall hold, in the source's compliance account, a tonnage equivalent in CAIR SO2 allowances available for compliance deductions for the control period, as determined in accordance with paragraphs (D)(1) and (D)(2) of rule 3745-109-11 of the Administrative Code, not less than the tons of total SO2 emissions for the control period from all CAIR SO2 units at the source, as determined in accordance with rule 3745-109-13 of the Administrative Code.

(b) A CAIR NOx unit shall be subject to the requirements under paragraph (E)(3)(a) of this rule for the control period starting on the later of January 1, 2009 or the deadline for meeting the unit's monitor certification requirements under paragraph (A)(2)(a), (A)(2)(b) or (A)(2)(e) of rule 3745-109-07 of the Administrative Code and for each control period thereafter.

A CAIR SO2 unit shall be subject to the requirements under paragraph (E)(3)(a) of this rule for the control period starting on the later of January 1, 2010 or the deadline for meeting the unit's monitor

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certification requirements under paragraph (A)(2)(a), (A)(2)(b) or (A)(2)(e) of rule 3745-109-13 of the Administrative Code and for each control period thereafter.

A CAIR NOx ozone season unit shall be subject to the requirements under paragraph (E)(3)(a) of this rule for the control period starting on the later of May 1, 2009 or the deadline for meeting the unit's monitor certification requirements under paragraph (A)(2)(a), (A)(2)(b), (A)(2)(c) or (A)(2)(g) of rule 3745-109-20 of the Administrative Code and for each control period thereafter.

(c) A CAIR NOx, SO2, or NOx ozone season allowance shall not be deducted, for compliance with the requirements under paragraph (E)(3)(a) of this rule, for a control period in a calendar year before the year for which the CAIR NOx, SO2, or NOx ozone season allowance was allocated.

(d) CAIR NOx, SO2, or NOx ozone season allowances shall be held in, deducted from, or transferred into or among CAIR NOx, SO2, or NOx ozone season allowance tracking system accounts in accordance with rule 3745-109-04, 3745-109-05, 3745-109-06, 3745-109-08, 3745-109-11, 3745-109-12, 3745-109-14, 3745-109-17, 3745-109-18, 3745-109-19, or 3745-109-21 of the Administrative Code.

(e) A CAIR NOx or NOx ozone season allowance is a limited authorization to emit one ton of NOx in accordance with the CAIR NOx annual or ozone season trading program. No provision of the CAIR NOx annual or ozone season trading program, the CAIR permit application, the CAIR permit, or an exemption under paragraph (D) of this rule and no provision of law shall be construed to limit the authority of the United States or the state of Ohio to terminate or limit such authorization.

A CAIR SO2 allowance is a limited authorization to emit SO2 in accordance with the CAIR SO2 trading program. No provision of the CAIR SO2 trading program, the CAIR permit application, the CAIR permit, or an exemption under paragraph (D) of this rule and no provision of law shall be construed to limit the authority of the United States or the state of Ohio to terminate or limit such authorization.

(f) A CAIR NOx, SO2, or NOx ozone season allowance does not constitute a property right.

(g) Upon recordation by the administrator under rules 3745-109-05,

*** DRAFT - NOT YET FILED ***

3745-109-06, or 3745-109-08 of the Administrative Code, every allocation, transfer, or deduction of a CAIR NOx allowance to or from a CAIR NOx source's compliance account is incorporated automatically in any CAIR permit of the source.

Upon recordation by the administrator under rule 3745-109-11, 3745-109-12 or 3745-109-14 of the Administrative Code, every allocation, transfer, or deduction of a CAIR SO2 allowance to or from a CAIR SO2 source's compliance account is incorporated automatically in any CAIR permit of the source.

Upon recordation by the administrator under rules 3745-109-18, 3745-109-19 and 3745-109-21 of the Administrative Code, every allocation, transfer, or deduction of a CAIR NOx ozone season allowance to or from a CAIR NOx ozone season sources compliance account is incorporated automatically in any CAIR permit of the source.

(4) Excess emissions requirements.

(a) If a CAIR NOx, SO2, or NOx ozone season source emits NOx or SO2 during any control period in excess of the CAIR NOx, SO2, or NOx ozone season emissions limitation, then the following apply:

(i) The owners and operators of the source and each CAIR NOx or NOx ozone season unit at the source shall surrender the CAIR NOx or NOx ozone season allowances required for deduction under paragraph (D)(4)(a) of rule 3745-109-05 of the Administrative Code or rule 3745-109-18 of the Administrative Code and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law.~~;~~

The owners and operators of the source and each CAIR SO2 unit at the source shall surrender the CAIR SO2 allowances required for deduction under paragraph (D)(4)(a) of rule 3745-109-11 of the Administrative Code and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law.~~; and~~

(ii) Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this rule, the Clean Air Act, and applicable state law.

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(5) Record keeping and reporting requirements.

(a) Unless otherwise provided, the owners and operators of the CAIR NOx, SO2, or NOx ozone season source and each CAIR NOx, SO2, or NOx ozone season unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time before the end of five years, in writing by the director or the administrator.

(i) The certificate of representation under paragraph (D) of rule 3745-109-02 of the Administrative Code, rule 3745-109-09 of the Administrative Code, or rule 3745-109-15 of the Administrative Code for the CAIR designated representative for the source and each CAIR NOx, SO2, or NOx ozone season unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation under paragraph (D) of rule 3745-109-02 of the Administrative Code, rule 3745-109-09 of the Administrative Code, or rule 3745-109-15 of the Administrative Code changing the CAIR designated representative.

(ii) All emissions monitoring information, in accordance with rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code, provided that to the extent that rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code provides for a three-year period for record keeping, the three-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NOx annual, SO2, or NOx ozone season trading program.

(iv) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NOx annual, SO2, or NOx ozone season trading program or to demonstrate compliance with the requirements of the CAIR NOx annual, SO2, or NOx ozone season trading program.

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(b) The CAIR designated representative of a CAIR NOx, SO2, or NOx ozone season source and each CAIR NOx, SO2, or NOx ozone season unit at the source shall submit the reports required under the CAIR NOx annual, SO2, or NOx ozone season trading program, including those under rule 3745-109-07, 3745-109-13, or 3745-109-20 of the Administrative Code.

(6) Liability.

(a) Each CAIR NOx, SO2, or NOx ozone season source and each CAIR NOx, SO2, or NOx ozone season unit shall meet the requirements of the CAIR NOx annual, SO2, or NOx ozone season trading program.

(b) Any provision of the CAIR NOx annual, SO2, or NOx ozone season trading program that applies to a CAIR NOx, SO2, or NOx ozone season source or the CAIR designated representative of a CAIR NOx, SO2, or NOx ozone season source shall also apply to the owners and operators of such source and of the CAIR NOx, SO2, or NOx ozone season units at the source.

(c) Any provision of the CAIR NOx annual, SO2, or NOx ozone season trading program that applies to a CAIR NOx, SO2, or NOx ozone season unit or the CAIR designated representative of a CAIR NOx, SO2, or NOx ozone season unit shall also apply to the owners and operators of such unit.

(7) Effect on other authorities. No provision of the CAIR NOx annual, SO2, or NOx ozone season trading program, a CAIR permit application, a CAIR permit, or an exemption under paragraph (D) of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NOx, SO2, or NOx ozone season source or CAIR NOx, SO2, or NOx ozone season unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(F) Computation of time.

(1) Unless otherwise stated, any time period scheduled, under the CAIR NOx annual, SO2, or NOx ozone season trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(2) Unless otherwise stated, any time period scheduled, under the CAIR NOx

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annual, SO2, or NOx ozone season trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(3) Unless otherwise stated, if the final day of any time period, under the CAIR NOx annual, SO2, or NOx ozone season trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(G) Appeal procedures.

(1) The appeal procedures for decisions of the administrator under the CAIR NOx annual, SO2 and CAIR NOx ozone season trading programs are set forth in 40 CFR Part 78.

(2) Final decisions of the director made pursuant to these rules may be appealed to the environmental review appeals commission pursuant to section 3745.04 of the Revised Code. Environmental review appeals commission appeal procedures are set forth in agency 3746 of the Administrative Code.

(H) ~~Incorporation by reference~~Referenced materials. This chapter includes references to certain matter or materials. The text of the ~~incorporated~~ referenced materials is not included in the ~~regulations~~rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, and/or the particular edition or version of the material is included in this rule. ~~The materials are hereby made a part of the regulations in this chapter.~~ For materials subject to change, only the specific ~~version~~versions specified in ~~the regulation~~this rule are ~~incorporated~~referenced. Material is ~~incorporated~~referenced as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not ~~incorporated~~applicable unless and until this rule has been amended to specify the new dates.

(1) Availability. The ~~materials incorporated by reference~~referenced materials are available as follows:

(a) Clean Air Act as defined in this rule. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the Act as amended in 1990 is also available in electronic format at www.epa.gov/oar/caa/. A copy of the Act is also available for inspection and copying at most public libraries and "The State Library

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of Ohio."

(b) Code of Federal Regulations, Federal Register, and United States Code. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at ~~www.access.gpo.gov/nara/cfr/~~www.gpo.gov/fdsys. The CFR, Federal Register, and United States Code compilations are also available for inspection and copying at most Ohio public libraries and "The State Library of Ohio."

~~(c) Federal Register. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." Text of the Federal Register is also available in electronic format at www.gpoaccess.gov/fr/index.html. The Federal Register is also available for inspection and copying at most Ohio public libraries and "The State Library of Ohio."~~

~~(d) United States Code. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the United States Code is also available in electronic format at http://www4.law.cornell.edu/uscode/. The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."~~

(2) ~~Incorporated~~Referenced materials.

(a) 40 CFR 51.121; Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen;" 63 FR 57491, Oct. 27, 1998, as amended at 63 FR 71225, Dec. 24, 1998; 64 FR 26305, May 14, 1999; 65 FR 11230, Mar. 2, 2000; 65 FR 56251, Sept. 18, 2000; 69 FR 21642, Apr. 21, 2004; 70 FR 25317, May 12, 2005; 70 FR 51597, Aug. 31, 2005, 73 FR 21538, Apr. 22, 2008.

(b) 40 CFR 51.123; "Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen pursuant to the Clean Air Interstate Rule;" 70 FR 25319, May 12, 2005, as amended at 71 FR 25301, 25370, Apr. 28, 2006; 71 FR 74793, Dec. 13, 2006, 72 FR 59203, Oct. 19, 2007.

(c) 40 CFR 51.124; "Findings and requirements for submission of State

*** DRAFT - NOT YET FILED ***

implementation plan revisions relating to emissions of sulfur dioxide pursuant to the Clean Air Interstate Rule;" 70 FR 25328, May 12, 2005, as amended at 71 FR 25302, 25372, Apr. 28, 2006; 71 FR 74793, Dec. 13, 2006, 72 FR 59204, Oct. 19, 2007.

(d) 40 CFR 72.2; "Definitions;" 58 FR 3650, Jan. 11, 1993; as amended at 58 FR 15647, Mar. 23, 1993; 58 FR 33770, June 21, 1993; 58 FR 40747, July 30, 1993; 60 FR 17111, Apr. 4, 1995; 60 FR 18468, Apr. 11, 1995; 60 FR 26514, May 17, 1995; 62 FR 55475, Oct. 24, 1997; 63 FR 57498, Oct. 27, 1998; 63 FR 68404, Dec. 11, 1998; 64 FR 25842, May 13, 1999; 64 FR 28586, May 26, 1999; 67 FR 40420, June 12, 2002; 67 FR 53504, Aug. 16, 2002; 70 FR 25333, May 12, 2005; 70 FR 28690, May 18, 2005,72 FR 51527, September 7, 2007.

(e) 40 CFR 72.6; "Applicability;" 58 FR 3650, Jan. 11, 1993, as amended at 58 FR 15648, Mar. 23, 1993; 62 FR 55475, Oct. 24, 1997; 64 FR 28588, May 26, 1999; 66 FR 12978, Mar. 1, 2001.

(f) 40 CFR 72.8; "Retired units exemption;" 62 FR 55477, Oct. 24, 1997; 62 FR 66279, Dec. 18, 1997, as amended at 71 FR 25377, Apr. 28, 2006.

(g) 40 CFR 73.31; "Establishment of accounts;" 58 FR 3687, Jan. 11, 1993; 58 FR 40747, July 30, 1993, as amended at 71 FR 25378, Apr. 28, 2006; 70 FR 25335, May 12, 2005.

(h) 40 CFR 73.35; "Compliance;" 58 FR 3691, Jan. 11, 1993, as amended at 60 FR 17114, Apr. 4, 1995; 64 FR 25842, May 13, 1999; 70 FR 25335, May 12, 2005.

(i) 40 CFR 74.42; "Limitation on transfers;" 70 FR 25336, May 12, 2005.

(j) 40 CFR 74.47; "Transfer of allowances from the replacement of thermal energy--combustion sources;" 60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, 18842, Apr. 16, 1998; 70 FR 25337, May 12, 2005.

(k) 40 CFR 75.11; "Specific provisions for monitoring SO2 emissions (SO2 and flow monitors);" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26520, 26566, May 17, 1995; 61 FR 59157, Nov. 20, 1996; 63 FR 57499, Oct. 27, 1998; 64 FR 28590, May 26, 1999; 67 FR 40423, June 12, 2002, 73 FR 4342, Jan. 24, 2008.

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(l) 40 CFR 75.12; "Specific provisions for monitoring NOx emission rate (NOx-diluent monitoring systems);" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26520, May 17, 1995; 63 FR 57499, Oct. 27, 1998; 64 FR 28591, May 26, 1999; 67 FR 40423, June 12, 2002, 73 FR 4342, Jan. 24, 2008.

(m) 40 CFR 75.16; "Special provisions for monitoring emissions from common, bypass, and multiple stacks for SO2 emissions and heat input determinations;" 60 FR 26522, May 17, 1995; as amended at 61 FR 25582, May 22, 1996; 61 FR 59158, Nov. 20, 1996; 64 FR 28591, May 26, 1999; 67 FR 40423, June 12, 2002; 67 FR 53504, Aug. 16, 2002, 73 FR 4343, Jan. 24, 2008.

(n) 40 CFR 75.17; "Specific provisions for monitoring emissions from common, bypass, and multiple stacks for NOx emission rate;" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26523, May 17, 1995; 63 FR 57499, Oct. 27, 1998; 64 FR 28592, May 26, 1999; 67 FR 40424, June 12, 2002, 73 FR 4343, Jan. 24, 2008.

(o) 40 CFR 75.19; "Optional SO2, NO, and CO2 emissions calculation for low mass emissions (LME) units;" 63 FR 57500, Oct. 27, 1998; as amended at 64 FR 28592, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40424, 40425, June 12, 2002; 67 FR 53504, Aug. 16, 2002, 73 FR 4344, Jan. 24, 2008.

(p) 40 CFR 75.20; "Initial certification and recertification procedures;" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26524, May 17, 1995; 60 FR 40296, Aug. 8, 1995; 61 FR 59158, Nov. 20, 1996; 63 FR 57506, Oct. 27, 1998; 64 FR 28592, May 26, 1999; 67 FR 40431, June 12, 2002, 70 FR 28678, May 18, 2005; 72 FR 51527, Sept. 7, 2007; 73 FR 4345, Jan. 24, 2008.

(q) 40 CFR 75.21; "Quality assurance and quality control requirements;" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26527, 26566, May 17, 1995; 61 FR 25582, May 22, 1996; 61 FR 59159, Nov. 20, 1996; 64 FR 28599, May 26, 1999; 67 FR 40433, June 12, 2002; 67 FR 53505, Aug. 16, 2002; 70 FR 28679, May 18, 2005, 73 FR 4345, Jan. 24, 2008.

(r) 40 CFR 75.22; "Reference test methods;" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26528, May 17, 1995; 64 FR 28600, May 26, 1999; 67 FR 40433, June 12, 2002; 67 FR 53505, Aug. 16, 2002; 70 FR 28679, May 18, 2005, 73 FR 4345, Jan. 24, 2008.

*** DRAFT - NOT YET FILED ***

(s) 40 CFR 75.31; "Initial missing data procedures;" 64 FR 28601, May 26, 1999; as amended at 67 FR 40433, June 12, 2002; 70 FR 28679, May 18, 2005, 73 FR 4346, Jan. 24, 2008.

(t) 40 CFR 75.34; "Units with add-on emission controls;" 60 FR 26567, May 17, 1995; as amended at 61 FR 59160, Nov. 20, 1996; 64 FR 28604, May 26, 1999; 67 FR 40438, June 12, 2002, 73 FR 4348, Jan. 24, 2008.

(u) 40 CFR 75.61; "Notifications;" 60 FR 26538, May 17, 1995; as amended at 61 FR 25582, May 22, 1996; 61 FR 59162, Nov. 22, 1996; 64 FR 28620, May 26, 1999; 67 FR 40442, 40443, June 12, 2002, 73 FR 4356, Jan. 24, 2008.

(v) 40 CFR 75.62; "Monitoring plan submittals;" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26539, May 17, 1995; 64 FR 28621, May 26, 1999; 67 FR 40443, June 12, 2002, 73 FR 4356, Jan. 24, 2008.

(w) 40 CFR 75.63; "Initial certification or recertification application;" 64 FR 28621, May 26, 1999; as amended at 67 FR 40443, June 12, 2002, 73 FR 4357, Jan. 24, 2008.

(x) 40 CFR 75.64; "Quarterly reports;" 64 FR 28622, May 26, 1999; as amended at 67 FR 40444, June 12, 2002, 73 FR 4357, Jan. 24, 2008.

(y) 40 CFR 75.66; "Petitions to the administrator:" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26540, 26569, May 17, 1995; 61 FR 59162, Nov. 20, 1996; 64 FR 28623, May 26, 1999; 67 FR 40444, June 12, 2002, 73 FR 4358, Jan. 24, 2008.

(z) 40 CFR 75.71; "Specific provisions for monitoring NOx and heat input for the purpose of calculating NOx mass emissions;" 63 FR 57508, Oct. 27, 1998, as amended at 64 FR 28624, May 26, 1999; 67 FR 40444, 40445, June 12, 2002; 67 FR 53505, Aug. 16, 2002, 73 FR 4358, Jan. 24, 2008.

(aa) 40 CFR 75.72; "Determination of NOx mass emissions;" 63 FR 57507, Oct. 27, 1998, as amended at 67 FR 40445, June 12, 2002, 73 FR 4358, Jan. 24, 2008.

(bb) 40 CFR 75.73; "Recordkeeping and reporting;" 64 FR 28624, May 26, 1999, as amended at 67 FR 40446, June 12, 2002, 73 FR 4359, Jan. 24, 2008.

*** DRAFT - NOT YET FILED ***

(cc) 40 CFR 77.5; "Deduction of allowances to offset excess emissions of sulfur dioxide;" 70 FR 25337, May 12, 2005.

(dd) 40 CFR 96.115; "Delegation by CAIR designated representative and alternate CAIR designated representative;" 71 FR 25382, Apr. 28, 2006, as amended by 71 FR 74794, Dec. 13, 2006.

(ee) 40 CFR 97.115; "Delegation by CAIR designated representative and alternate CAIR designated representative;" 65 FR 2727, Jan. 18, 2000, unless otherwise noted. 71 FR 25396, 25422, and 25443, Apr. 28, 2006.

(ff) 40 CFR Part 70; "State Operating Permit Programs;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(gg) 40 CFR Part 71; "Federal Operating Permit Programs;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(hh) 40 CFR Part 72; "Permits Regulation;" as published in the July 1, ~~2007~~ 2012 Code of Federal Regulations.

(ii) 40 CFR Part 73; "Sulfur Dioxide Allowance System;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(jj) 40 CFR Part 73, Subpart D; "Allowance Transfers;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(kk) 40 CFR Part 74; "Sulfur Dioxide Opt-ins;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(ll) 40 CFR Part 75; "Continuous Emission Monitoring;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(mm) 40 CFR Part 75, Appendix A; "Specifications and Test Procedures;" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26541, May 17, 1995; 61 FR 25582, May 22, 1996; 61 FR 59162, Nov. 20, 1996; 63 FR 57512, Oct. 27, 1998; 64 FR 28631, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40448, 40449, 40452, 40453, 40455, June 12, 2002; 67 FR 53505, Aug. 16, 2002; 70 FR 28690, May 18, 2005.

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*** DRAFT - NOT YET FILED ***

Procedures;" 58 FR 3701, Jan. 11, 1993; as amended at 60 FR 26546, 26571, May 17, 1995; 61 FR 59165, Nov. 20, 1996; 64 FR 28644, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40456, 40457, June 12, 2002; 67 FR 53505, Aug. 16, 2002; 67 FR 57274, Sept. 9, 2002; 70 FR 28690, May 18, 2005.

(oo) 40 CFR Part 75, Appendix D; "Optional SO2 Emissions Data Protocol for Gas-Fired and Oil-Fired Units;" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26548, 26551, May 17, 1995; 61 FR 25585, May 22, 1996; 61 FR 59166, Nov. 20, 1996; 63 FR 57513, Oct. 27, 1998; 64 FR 28652, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40460, 40472, June 12, 2002; 67 FR 53505, Aug. 16, 2002.

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(qq) 40 CFR Part 75, Subpart D; "Missing Data Substitution Procedures;" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26529, May 17, 1995; 61 FR 59160, Nov. 20, 1996; 61 FR 25582, May 22, 1996; 61 FR 59160, Nov. 20, 1996; 64 FR 28600, May 26, 1999; 67 FR 40433, June 12, 2002; 67 FR 53505, Aug. 16, 2002; 67 FR 57274, Sept. 9, 2002; 70 FR 28679, May 18, 2005.

(rr) 40 CFR Part 75, Subpart E; "Alternative Monitoring Systems;" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26530, May 17, 1995; 60 FR 40296, Aug. 8, 1995; 64 28605, May 26, 1999; 67 FR 40440, June 12, 2002.

(ss) 40 CFR Part 75, Subpart F; "Recordkeeping Requirements;" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 26532, May 17, 1995; 61 FR 59161, Nov. 20, 1996; 64 FR 28605, May 26, 1999; 64 FR 37582, July 12, 1999; 67 FR 40440, June 12, 2002; 70 FR 28682, May 18, 2005.

(tt) 40 CFR Part 75, Subpart G; "Reporting Requirements;" 58 FR 3701, Jan. 11, 1993, as amended at 60 FR 17131, Apr. 4, 1995; 60 FR 26538, May 17, 1995; 61 FR 25582, May 22, 1996; 61 FR 59162, Nov. 20, 1996; 62 FR 55487, Oct. 24, 1997; 64 FR 28620, May 26, 1999; 67 FR 40442, June 12, 2002.

*** DRAFT - NOT YET FILED ***

(uu) 40 CFR Part 75, Subpart H; "NOX Mass Emissions Provisions;" 63 FR 57507, Oct. 27, 1998, as amended at 64 FR 28624, May 26, 1999; 67 FR 40444, June 12, 2002; 67 FR 53505, Aug. 16, 2002.

(vv) 40 CFR Part 76; "Acid Rain Nitrogen Oxides Emission Reduction Program;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(ww) 40 CFR Part 77; "Excess Emissions;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(xx) 40 CFR Part 78; "Appeal Procedures For Acid Rain Program;" as published in the July 1, ~~2007~~2012 Code of Federal Regulations.

(yy) 42 USC 7401 to 7671q; "The Public Health and Welfare -Air Pollution Prevention and Control;" published January 3, 2005 in Supplement IV of the 2000 Edition of the United States Code.

(zz) Section 111 of the Clean Air Act; contained in 42 USC 7411;" Standards of Performance for New Stationary Sources;" published January 3, 2005 in Supplement IV of the 2000 Edition of the United States Code.

(aaa) Section 129 of the Clean Air Act; contained in 42 USC 7429; "Solid Waste Combustion;" published January 3, 2005 in Supplement IV of the 2000 Edition of the United States Code.

(bbb) Section 502(c) of the Clean Air Act; contained in 42 USC 7661;" Permit Programs;" published January 3, 2005 in Supplement IV of the 2000 Edition of the United States Code.

(ccc) Title IV of the Clean Air Act; contained in 42 USC 7651 to 7651o; "Acid Deposition Control;" published January 3, 2005 in Supplement IV of the 2000 Edition of the United States Code.