ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
AIR DIVISION
ADMINISTRATIVE CODE

CHAPTER 335-3-8
NITROGEN OXIDES EMISSIONS

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335-3-8-.01 Standards For Portland Cement Kilns.

(1) Applicability. The requirements of this Rule apply only to Portland cement kilns in the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston with process rates of at least the following:

(a) Long dry kilns-12 short tons per hour (TPH) of clinker produced;

(b) Long wet kilns-10 short TPH of clinker produced;

(c) Preheater kilns-16 short TPH of clinker produced; and

(d) Precalciner and preheater/precalciner kilns-22 short TPH of clinker produced.

(2) Definitions. For the purpose of this Rule, the following definitions apply:

(a) "Clinker" means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(b) "Long Dry Kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is dry.

(c) "Long Wet Kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is a slurry.

(d) "Low-NOx Burners" means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing, and establish fuel rich zones for initial combustion.

(e) "Mid-kiln System Firing" means secondary firing in kiln systems by injecting solid fuel at an intermediate point in the kiln system using a specially designed fuel injection mechanism for the purpose of decreasing nitrogen oxide (NOx) emissions through:

1. Burning part of the fuel at a lower temperature; and

2. Reducing conditions at the fuel injection point that may destroy some of the NOx formed upstream in the kiln burning zone.

(f) "Portland Cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

(g) "Portland Cement Kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

(h) "Precalciner Kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and utilize a second

burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.

(i) "Preheater Kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.

(3) Standard Requirements. After May 31, 2004, the owner or operator of any Portland cement kiln subject to this Rule shall not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 to September 30 with at least one of the following: low-NOx burners, mid-kiln system firing, alternative control techniques or reasonably available control technology approved by the Director and the EPA as achieving at least the same emissions decreases as with low-NOx burners or mid-kiln system firing.

(4) The owner or operator subject to the requirements of paragraph (3) of this Rule above shall comply with the requirements as follows:

(a) By May 31, 2004, submit to the Department the identification number and type of each Portland cement kiln subject to this Rule, the name and address of the facility where the kiln is located, and the name and telephone number of the person responsible for demonstrating compliance with paragraph (3); and

(b) Submit data, electronically and in a format prescribed and provided by the Department, which reports the total NOx emissions from May 1 through September 30 of each year as follows:

1. Annual reporting. For each kiln, beginning with emission year 2004 and every year thereafter, by March 31st of the calendar year following the emission year being reported, the data specified in 40 CFR, §§51.122(c)(1) and (2) must be submitted to the Department.

2. Triennial reporting. For each kiln, beginning with emission year 2005 and every third year thereafter, by March 31st of the calendar year following the emission year being reported, the data specified in 40 CFR, 51.122(c)(3) must be submitted to the Department.

3. Year 2003 reporting. For each kiln, by March 31, 2004, the data specified in 40 CFR, §51.122(c)(3) must be submitted to the Department.

4. Year 2007 reporting. For each kiln, by March 31, 2008, the data specified in 40 CFR, §51.122(c)(3) must be submitted to the Department.

(5) By May 31, 2004, the owner or operator of a kiln subject to this Rule shall submit to the Department a demonstration of compliance with the requirements of paragraph (3). If compliance is being achieved by use of prescribed equipment, for example low-NOx burners or mid-kiln system firing, the demonstration of compliance shall be written certification to the Department that this equipment is installed and in use. If compliance is being achieved by use of alternative control techniques, approved by the Director and EPA, demonstration of compliance shall be specified by the Director and EPA. In case of compliance proposed to be achieved by use of alternative control techniques, a plan for compliance demonstration shall be submitted to the Department by May 1, 2003. Upon receipt, the Department shall immediately forward a copy of the plan to the EPA. By November 1, 2003, the Director shall specify in writing to the owner or operator of the kiln how compliance shall be demonstrated, this specification consistent with methods and requirements specified by the EPA following its review of the submitted plan.

(6) By December 31 of each year, beginning in 2004, the owner or operator of a Portland cement kiln subject to this Rule shall submit to the Department a written certification that compliance with the requirements of paragraph (3) has been maintained during that year's five-month period May 1 though September 30. The methods of determining that this compliance has been maintained shall be as specified on the major source operating permit issued for the facility at which the kiln is operated.

(7) Beginning May 1, 2004, the owner or operator of a Portland cement kiln subject to this Rule shall maintain records for May 1 through September 30 of each year that include the data as follow:

(a) The date, time, and duration of any startup, shutdown, or malfunction in the operation of the cement kiln or its emissions monitoring equipment or of any scheduled maintenance activity that affects NOx emissions or emissions monitoring;

(b) The results of any compliance testing; and

(c) Other data required by permit to be maintained.

(8) The records listed in paragraph (7) of this Rule shall be retained on-site for a minimum of 2 years following the calendar year for which they are made and shall be made available to the Department for review upon request.

(9) The requirements of this Rule shall not apply to periods of scheduled maintenance activities that affect NOx emissions.

Author: Ronald W. Gore

Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20.

History: New Rule: Filed March 2, 2001; effective April 6, 2001.

335-3-8-.02 Nitric Acid Manufacturing.

(1) Except as provided in paragraph (2) of this Rule, no person shall cause or permit the emission of nitrogen oxides, calculated as nitrogen dioxide, from nitric acid manufacturing plants in excess of 5.5 pounds per ton of one hundred percent (100%) acid produced.

(2) For nitric acid manufacturing plants within a designed capacity greater than one hundred and fifty (150) tons per day of one hundred percent (100%) acid, no person shall cause or permit the emission of nitrogen oxides, calculated as nitrogen dioxide, from such manufacturing plants in excess of twenty (20) pounds per ton of one hundred percent (100%) acid produced.
Author: James W. Cooper, John E. Daniel
Statutory Authority: Code of Ala. 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: Effective Date: January 18, 1972. **Amended:** Filed October 17, 1996; effective November 21, 1996.

335-3-8-.03 NOx Emissions From Electric Utility Steam Generating Units.

(1) Applicability. This Rule applies to existing coal-fired electric utility steam generating installations in Walker and Jefferson Counties.

(2) During the compliance period specified in paragraph (3) below, no person shall cause or permit the operation of a coal-fired electric utility steam generating installation in Walker or Jefferson Counties in such a manner that nitrogen oxides (NOx) are emitted in excess of the emission limits established by the Department in this Rule and specified in the Major Source Operating Permit for the affected unit(s). The BTU-weighted 30-day rolling average NOx emission rate for the affected units shall be less than or equal to 0.21 pounds per million BTU of heat input, during the compliance period specified in paragraph (3) below.

(3) Beginning May 1, 2003, and each year thereafter, the compliance period shall begin May 1 and end on September 30 of each year. Compliance is based on a 30-day rolling average.

(a) The first calculated 30-day averaging period shall be May 1 through May 30.

(b) The last calculated 30-day averaging period shall be September 1 through September 30.

(4) Testing, Recordkeeping and Reporting.

(a) Continuous emissions monitoring systems (CEMS) to measure nitrogen oxide emissions from each affected unit shall be installed and operated at locations approved by the Director. The CEMS shall meet the specifications and procedures of 40 CFR Part 75 and will be certified and maintained in accordance with 40 CFR Part 75. In addition, each of the CEMS shall undergo a relative accuracy test audit (RATA) on an annual basis at times approved by the Director.

(b) Records of the 30-day average nitrogen oxide emission rate for the affected units shall be kept for a period of five (5) years.

(c) A written report of the 30-day average nitrogen oxide emission rates for the affected units shall be submitted to the Department by the 15th day of each month during the period from May 1 to September 30 of each year. The first report shall be submitted by June 15 and shall include data for the month of May. The final report shall be submitted by October 15 and shall include data for the month of September.

(d) Any exceedances of the NOx emission rate specified in paragraph (2) of this Rule shall be reported to the Department within two (2) working days of the date of the exceedance.

(e) Additional testing, recordkeeping, and reporting requirements may be necessary and will be specified by the Director at such times as they become necessary.

Author: A. David Ousley, C. Lynn Garthright, Jeffery W. Kitchens
Statutory Authority: Code of Ala. 1975, §§22-28-14, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 26, 2000; effective November 30, 2000.

335-3-8-.04 NOx Emission Standards For Stationary Reciprocating Internal Combustion Engines.

(1) Applicability. The requirements of this Rule apply to any person that owns or operates a facility at which one or more large affected engines were located during the baseline period.

(2) Definitions. For the purpose of this Rule, the following definitions apply:

(a) "Affected engine" means an engine that was operated within the fine grid during the baseline period and was included in the NOx SIP Call Inventory.

(b) "Control period" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive, beginning in 2007.

(c) "Fine grid portion of the State" or "fine grid" means the geographic area that includes the Counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston, located within the State of Alabama.

(d) "Large affected engine" means any affected engine whose average daily NOx emission rate was greater than one ton per day during the baseline period.

(e) "NOx potential to emit" means the maximum capacity of an engine to emit NOx under its physical and operational design or applicable permit condition for a given period of time. Any physical limitation on the capacity of a source's potential to emit an air pollutant, including air pollution control equipment or combustion modification, shall be treated as part of its design if the limitation is enforceable by the Director.

(f) "NOx SIP Call baseline period" or "baseline period" means the period beginning May 1, 1995, and ending on September 30, 1995, inclusive.

(g) "NOx SIP Call baseline period utilization" or "baseline utilization" means the amount of work performed by an affected engine during the baseline period in brake horsepower-hours (bhp-hr).

(h) "NOx SIP Call Inventory" means the NOx emission inventory published March 2, 2000 at 65 FR 11222 and amended April 21, 2004 at 69 FR 21603.

(i) "Projected 2007 Ozone Season Base NOx Emissions" or "projected 2007 emissions" means, for an affected engine, the projected uncontrolled NOx emissions (in tons) for the 2007 ozone season as published in the NOx SIP Call Inventory and denoted as the variable labeled 'SNOx07'. For an affected engine that is not a large affected engine to which a control device is added or a combustion modification is made after September 30, 1995, if the Director approves a demonstration made by the person subject to this Rule that the Projected 2007 Ozone Season Base NOx Emissions published in the NOx SIP Call Inventory for that affected engine was not calculated from the correct 1995 ozone season emissions, the Projected 2007 Ozone Season Base NOx Emissions for that affected engine

will be the product of its uncontrolled 1995 NOx hourly emission rate (lb/hr), the number of hours it operated during the 1995 ozone season, and the 1995-2007 growth factor assigned to that affected engine in the NOx SIP Call Inventory denoted as the variable labeled 'GF9507.' The demonstration should provide representative emission test data or manufacturer's emission data for the affected engine applicable during the 1995 ozone season and records documenting its hours of operation during the 1995 ozone season.

(j) "Projected 2007 Ozone Season utilization" or "projected utilization" means the baseline utilization of an affected engine multiplied by the 1995-2007 growth factor assigned to that affected engine in the NOx SIP Call Inventory denoted as the variable labeled 'GF9507.'

(k) "Ozone season" means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(l) "Stationary reciprocating internal combustion engine" or "engine" means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not self-propelled or intended to be propelled while performing its function.

(3) NOx Emission Standards.

(a) Any person subject to this Rule shall reduce NOx emissions from one or more affected engines within the fine grid during each control period by an amount not less than 82% of the 2007 Ozone Season Base NOx Emissions (rounded to the nearest whole ton) of the large affected engines currently or formerly located at a facility that is under their control or ownership.

(b) For the purposes of the compliance plan required by paragraph (4), NOx emission reductions shall be calculated according to the following criteria:

1. For an affected engine to which a control device is added or a combustion modification is made after September 30, 1995, the NOx emission reductions shall be equal to the difference (in tons) in the affected engine's projected 2007 emissions and the affected engine's NOx potential to emit at the controlled emission rate during a control period.

2. For an affected engine that is removed from service after September 30, 1995, and the facility's operating capacity equivalent to the removed affected engine's projected utilization is replaced, in part or in total, during a control period by a NOx emitting device

installed after September 30, 1995, the NOx emission reductions shall be the difference (in tons) in the removed affected engine's projected 2007 emissions and the replacement device's NOx potential to emit during a control period for the operating capacity (in brake horsepower-hours) equivalent to the portion of the removed affected engine's projected utilization that it will replace, not to exceed 100%.

3. For an affected engine that is removed from service after September 30, 1995, and the facility's operating capacity (in brake horsepower-hours) equivalent to the removed affected engine's projected utilization is replaced, in part or in total, during a control period by a device that does not emit NOx installed after September 30, 1995, the NOx emission reductions shall be the removed affected engine's projected 2007 emissions except where a NOx emitting device is installed at the removed affected engine's facility after the date that the device that does not emit NOx was installed.

4. For an affected engine that is removed from service after September 30, 1995, and the facility's operating capacity (in brake horsepower-hours) equivalent to the removed affected engine's projected utilization is replaced, in part or in total, during a control period by a device that does not emit NOx and a NOx emitting device is installed at the removed affected engine's facility after the date that the device that does not emit NOx was installed, the NOx emission reductions shall be the difference (in tons) in the removed affected engine's projected 2007 emissions and the NOx emitting device's NOx potential to emit during a control period for its operating capacity (in brake horsepower-hours) equivalent to the removed affected engine's projected utilization it will replace, not to exceed 100%.

(c) The following shall not be considered NOx emission reductions for the purposes of complying with this Rule:

1. A restriction on an affected engine's hours of operation during a control period, including a prohibition from operating;

2. A NOx emission limitation enforceable by the Director placed upon an affected engine to which no control device was added or combustion modification was made after September 30, 1995; or

3. The removal of an affected engine from service if that affected engine is placed into service at another location within the fine grid.

4. NOx emission reductions achieved at a facility that is not owned or operated by the person who is responsible for demonstrating compliance with this Rule.

(d) Demonstrability and Enforceability of NOx Emission Reductions.

1. NOx emission reductions calculated in accordance with subparagraph (3)(b)1., (3)(b)2., or (3)(b)4. shall be demonstrable and enforceable if:

(i) An hourly NOx emission limitation (in pounds per hour, "lb/hr") is incorporated into a permit enforceable by the Director for the affected engine or replacement device that is to be operated during a control period (the hourly NOx emission limitation shall be equal to the hourly emission rate used to calculate the NOx potential to emit for the affected engine or replacement device in the source's compliance plan), and

(ii) A performance test conducted in accordance with paragraph (5) determines that the affected engine or replacement device is capable of complying with the hourly NOx emission limitation.

2. For any affected engine removed from service, NOx emission reductions calculated in accordance with subparagraphs (3)(b)2. through (3)(b)4. shall be demonstrable and enforceable if the applicable permit has been modified or voided, whichever is applicable, such that the affected engine's authorization to operate ceases on or before the first day of the control period for which NOx emission reductions would be credited for its removal.

(e) NOx emission reductions achieved to comply with this Rule shall not be considered creditable for compliance with any other applicable requirement and shall not be considered a contemporaneous emission decrease for the purposes of netting or offsets under ADEM Admin. Code R. 335-3-14-.04 or .05.

(4) Compliance Plan.

(a) Any person subject to this Rule shall submit a complete compliance plan to the Director no later than May 1, 2006.

(b) Contents. The compliance plan shall contain the following:

1. Name and address of person subject to this Rule, including the name and telephone number of the person responsible for demonstrating compliance with the submitted compliance plan.

2. Identification of the large affected engines for which the person is subject to this Rule to include:

(i) Facility name and location;

(ii) Engine manufacturer, model, and maximum design capacity (brake horsepower);

(iii) NOx SIP Call Inventory source identification number ('POINTID'); and

(iv) 2007 Ozone Season Base NOx Emissions.

3. Calculation of the NOx emission reductions required by subparagraph (3)(a).

4. Identification of the affected engines from which NOx emission reductions will be achieved to include:

(i) Facility name and location;

(ii) Engine manufacturer, model, and maximum design capacity (brake horsepower);

(iii) NOx SIP Call Inventory source identification number ('POINTID'); and

(iv) 2007 Ozone Season Base NOx Emissions.

5. A narrative to describe the manner in which the NOx emission reductions will be achieved;

6. A numerical demonstration of the NOx emission reductions to be achieved that identifies the following for each affected engine or replacement device during a control period:

(i) Maximum hourly emission rate, in lb/hr;

(ii) Maximum design capacity, in brake horsepower;

(iii) NOx potential to emit (based upon 3,672 hours during a control period) for the affected engine or replacement device;

(iv) The baseline utilization of the affected engine that will be removed, if applicable; and

(v) For a replacement device that emits NOx, the maximum operating capacity (in brake horsepower-hours) during a control period.

(c) Modifications.

1. Any person subject to this Rule shall submit a request to modify the approved compliance plan if:

(i) An affected engine removed from service for which NOx emission reductions are relied upon for compliance with this Rule will be reinstalled and operated within the fine grid during a control period;

(ii) The operating capacity equivalent to a removed affected engine's projected utilization at the location at which the affected engine was located during the baseline period will be replaced, in part or in total, by the installation of another device that is not included in the approved compliance plan; or

(iii) The actual hourly NOx emission rate of an affected engine or replacement device in the approved compliance plan is determined to exceed the applicable hourly NOx emission limitation, except where it has been determined that maintenance or repair of the affected engine or replacement device has reduced the actual hourly NOx emission rate below the applicable hourly NOx emission limitation.

2. A request to modify a compliance plan shall be submitted at least 60 days prior to the control period in which the modification would be applicable, unless another time period is specifically approved by the Director.

(d) Completeness Determination. Within 60 days of receipt of a compliance plan or a request to modify a compliance plan, the Director shall notify the person in writing of the completeness of the submitted plan.

(e) Approval. A compliance plan shall be considered approvable if:

1. All permits required by subparagraph (3)(d) have been modified, issued, or voided, as applicable;

2. All performance tests required by paragraph (5) have been conducted, reviewed, and accepted; and

3. The plan establishes that demonstrable and enforceable NOx emission reductions required by subparagraph (3)(a) would be achieved.

(5) Performance Testing.

(a) Any person subject to this Rule which relies upon NOx emission reductions achieved from an affected engine in accordance with subparagraph (3)(b)1. or a replacement device in accordance with subparagraph (3)(b)2. or (3)(b)4. to comply with this Rule shall conduct a performance test in accordance with EPA Reference Method 7E or 20, as appropriate, found at Appendix A of 40 CFR 60 on the affected engine or replacement device to determine the actual hourly NOx emission rate, in lb/hr.

(b) The performance test shall be conducted at least 60 days, but not more than one year, prior to the first control period for which NOx emission reductions are to be achieved by that affected engine or replacement device, unless another period of time is specifically approved by the Director.

(c) At least 30 days prior to conducting the test, the person subject to this Rule shall submit written notification of testing to the Director. To avoid problems concerning testing methods and procedures, the following shall be included with the notification letter:

1. The date the test crew is expected to arrive, the date and time anticipated of the start of the first run, and the names of the persons and/or testing company that will conduct the tests.

2. A complete description of each sampling train to be used, including type of media used in determining gas stream components, type of probe lining, type of filter media, and probe cleaning method and solvent to be used (if test procedure requires probe cleaning).

3. A sketch or sketches showing sampling point locations and their relative positions to the nearest upstream and downstream gas flow disturbances.

(6) Emission Monitoring. For any affected engine or NOx emitting replacement device that operates during a control period from which demonstrable and enforceable NOx emission reductions are to be achieved, the person subject to this Rule shall conduct emission monitoring in accordance with one of the following:

(a) Conduct emission testing on that affected engine or NOx emitting replacement device at least once during each control period, or at least once during the six-month period preceding the first day of the control period. Emission testing shall be conducted in accordance with EPA Reference Method 7E or 20, as appropriate, found at Appendix A of 40 CFR 60 or an alternative EPA-approved method approved by the Director. Notification of emission testing shall be made in accordance with the requirements of subparagraph (5)(c);

(b) Install and operate during each control period a continuous emission monitoring system that complies with Part 60 or Part 75 of the Code of Federal Regulations; or

(c) Implement a parametric emission monitoring system based upon actual emission testing and correlations with operating parameters. The installation, implementation, and use of any parametric emission monitoring system must be approved by the Director in writing prior to implementation.

(7) Recordkeeping and Reporting.

(a) The person subject to this Rule shall maintain records of the following for each affected engine or replacement device from which demonstrable and enforceable NOx emission reductions are to be achieved during each control period:

1. Identification and location of each affected engine or replacement device;

2. Calendar date of record;

3. Number of hours operated during the control period;

4. Type and quantity of fuel used during the control period

5. Date and results of each emissions-related inspection and a summary of any emissions-related corrective maintenance, if taken;

6. The results of all emission tests; and

7. Additional information described in any compliance plan pursuant to paragraph (4) or parametric emission monitoring system approved pursuant to subparagraph (6)(c).

(b) Records required by subparagraph (a) above shall be maintained at the facility at which the affected engine or replacement device is located for a period of five (5) calendar years from the date of generation of each record. The records shall be made available for inspection upon request.

(c) The person subject to this Rule shall submit a report of the results of each emission test conducted in accordance with paragraph (5) or subparagraph (6)(a) to the Director within 30 days of the completion of the actual test, unless an extension of time is specifically approved by the Director.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-16, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: **New Rule**: Filed February 15, 2005; effective March 22, 2005.

335-3-8-.05 New Combustion Sources.

(1) No person shall cause or permit emissions of nitrogen oxides from a new gas-fired boiler with a capacity of 250 million BTU/hr or more in excess of 0.20 pounds per million BTU of heat input per hour.

(2) No person shall cause or permit emissions of nitrogen oxides from a new oil-fired boiler with a capacity of 250 million BTU/hr or more in excess of 0.30 pounds per million BTU of heat input per hour.

(3) No person shall cause or permit emission of nitrogen oxides from a new coal-fired boiler with a capacity of 250 million BTU per hour or more in excess of 0.7 pounds per million BTU of heat input per hour.

(4) For purposes of this rule, the total heat input from all similar fuel combustion units at a plant or premises shall be used for determining the maximum allowable emission of nitrogen oxides that passes through a stack or stacks.
Author: James W. Cooper and John E. Daniel
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-14.
History: **New Rule**: February 15, 2005; effective March 22, 2005. **Amended**: Filed June 6, 2006; effective July 11, 2006. **Amended**: Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed**: Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule**: Filed February 24, 2015; effective February 24, 2015: [The above rule became effective by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The rule became effective February 24, 2015, upon the department's certification.]

335-3-8-.06 Standards For New Combined-Cycle Electric Generating Units.

(1) Applicability. The requirements of this rule apply to all natural gas-fired and fuel oil-fired combined-cycle electric generating units which commence operation on or after April 1, 2003. The requirements of this rule do not pre-empt the applicability of any other State or Federal regulations.

(2) Definitions. For the purposes of this rule, the following definitions apply:

(a) "Combined-Cycle Electric Generating Unit" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(b) "Commence Operation" means to have begun to produce steam, gas, or other heated medium used to generate electricity for use or sale, including test generation.

(c) "Fuel Oil" means any petroleum-based fuel (including diesel fuel) as defined by the American Society for Testing and Materials in ASTM D396-90a, "Standard Specification for Fuel Oils".

(d) "Natural Gas" means a naturally fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions. Natural gas contains 20.0 grains or less of total sulfur per 100 standard cubic feet. Additionally, natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1100 Btu per standard cubic foot. Natural gas does not include the following gaseous fuels: landfill gas, digester gas, refinery gas, sour gas, blast furnace gas, coal-derived gas, producer gas, coke oven gas, or any gaseous fuel produced in a process which might result in highly variable sulfur content or heating value.

(3) Emission Limitations.

(a) No person shall cause or permit the emissions of nitrogen oxides from combined-cycle electric generating units fired by natural gas in excess of 4.0 ppmvd at 15% O2.

(b) No person shall cause or permit the emissions of nitrogen oxides from combined-cycle electric generating units fired by fuel oil in excess of 15.0 ppmvd at 15% O2.

(4) Compliance Method. Compliance with the nitrogen oxides emissions limitations in paragraph (3) of this rule shall be determined by EPA Reference Method 20 as found in 40 CFR 60, Appendix A [and incorporated by reference in rule 335-3-10-.03(1)].

Author: Ronald W. Gore

Statutory Authority: Code of Alabama 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.

History: **New Rule:** Filed March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed February 24, 2015; effective February 24, 2015: [The above rule became effective by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The rule became effective February 24, 2015, upon the department's certification.]

335-3-8-.07 TR NOXxAnnual Trading Program- Purpose And Definitions.

(1) Purpose. Rules 335-3-8-.07 through 335-3-8-.38 set forth the general, designated representative, allowance, and monitoring provisions for the Transport Rule (TR) NOx Annual Trading Program under section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(2) Definitions. For the purpose of rules 335-3-8-.07 through 335-3-8-.38, the definitions listed in 40 CFR §97.402, Subpart AAAAA as of July 1, 2015, will apply.

(a) "Department" shall mean the Alabama Department of Environmental Management.

(b) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.07 substitute:

1. Adem Administrative Code r. 335-3-8-.08 for 40 CFR §97.404.

2. Adem Administrative Code r. 335-3-8-.08(1)(b)2.(ii) and (iii) for 40 CFR §§97.404(b)(2)(i)(B) and (ii).

3. Adem Administrative Code r. 335-3-8-.09 for 40 CFR §97.405.

4. Adem Administrative Code r. 335-3-8-.13(1) for 40 CFR §97.410(a).

5. Adem Administrative Code r. 335-3-8-.13(2) for 40 CFR §97.410(b).

6. Adem Administrative Code r. 335-3-8-.14 for 40 CFR §97.411.

7. Adem Administrative Code r. 335-3-8-.14 for 40 CFR §97.412.

8. Adem Administrative Code r. 335-3-16-.01 for 40 CFR §70.2.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this rule and in rules 335-3-8-.07 through 335-3-8-.38 are defined as follows:

(a) Btu - British thermal unit.

(b) CO2 – carbon dioxide

(c) H2O – water

(d) hr – hour

(e) kW – kilowatt electrical

(f) kWh – kilowatt hour

(g) lb – pound

(h) mmBtu – million Btu

(i) MWe – megawatt electrical

(j) MWh – megawatt hour

(k) NOx – nitrogen oxides

(l) O2 – oxygen

(m) ppm – parts per million

(n) scfh – standard cubic feet per hour

(o) SO2 – sulfur dioxide

(p) yr – year

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-16, 22-28-18, 22-28-20, 22-28-22.
History: **New Rule:** Filed March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.08 TR NOx Annual Trading Program – Applicability.

(1) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph:

1. The following units in the State of Alabama shall be TR NOx Annual units, and any source that includes one or more such units shall be a TR NOx Annual source, subject to the requirements of rules 335-3-8-.07 through 335-3-8-.38: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, on or after January 1, 2005, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under subparagraph (a)1. of this paragraph, is not a TR NOx Annual unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a TR NOx Annual unit as provided in subparagraph (a)1. of this paragraph on the first date on which it both combusts fossil fuel and serves such generator.

(b) Any unit in the State that otherwise is a TR NOx Annual unit under subparagraph (a) of this paragraph and that meets

the requirements set forth in subparagraphs (b)1.(i) and (ii) or (b)2.(i) and (ii) of this paragraph shall not be TR NOx Annual units:

1. Any unit:

(i) Qualifying as a cogeneration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) Not supplying in 2005 or any calendar year thereafter more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(iii) If, after qualifying under subparagraphs (b)1.(i) and (ii) of this paragraph as not being a TR NOx Annual unit, a unit subsequently no longer meets all the requirements of subparagraphs (b)1.(i) and (ii) of this paragraph, the unit shall become a TR NOx Annual unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subparagraph (b)1.(ii) of this paragraph. The unit shall thereafter continue to be a TR NOx Annual unit.

2. Any unit:

(i) Qualifying as a solid waste incineration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a solid waste incineration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) With an average annual fuel consumption of fossil fuel for the first 3 consecutive calendar years of operation starting no earlier than 2005 of less than 20 percent (on a Btu basis) and an average annual fuel consumption of fossil fuel for any 3 consecutive calendar years thereafter of less than 20 percent (on a Btu basis).

(iii) If, after qualifying under subparagraphs (b)2.(i) and (ii) of this paragraph as not being a TR NOx Annual unit, a unit subsequently no longer meets all

the requirements of subparagraphs (b)2.(i) and (ii) of this paragraph, the unit shall become a TR NOx Annual unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 2005 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more. The unit shall thereafter continue to be a TR NOx Annual unit.

(c) A certifying official of an owner or operator of any unit or other equipment may submit a petition (including any supporting documents) to the Administrator at any time for a determination concerning the applicability, under subparagraphs (a) and (b) of this paragraph to the unit or other equipment. The certifying official of an owner or operator of any unit or other equipment shall submit a copy of the petition (including any supporting documents) to the Department.

1. Petition content. The petition shall be in writing and include the identification of the unit or other equipment and the relevant facts about the unit or other equipment. The petition and any other documents provided to the Department and the Administrator in connection with the petition shall include the following certification statement, signed by the certifying official: "I am authorized to make this submission on behalf of the owners and operators of the unit or other equipment for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all it attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. Response. The Administrator will issue a written response to the petition and may request supplemental information determined by the Administrator to be relevant to such petition. The Administrator's determination concerning the applicability, under subparagraphs (1)(a) and (b) of this rule, of the TR NOx Annual Trading Program to the unit or other equipment shall be binding on Alabama, the Department, and any other State or permitting

authority unless the Administrator determines that the petition contained significant, relevant errors or omissions.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, and 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.
History: **New Rule:** Filed March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.09 TR NOx Annual Trading Program- Retired Unit Exemption.

(1) Any TR NOx Annual unit that is permanently retired shall be exempt from 40 CFR §§97.406(b) and (c)(1), rule 335-3-8-.27, and rules 335-3-8-.33 through 335-3-8-.38.

(a) The exemption under paragraph (1) of this rule shall become effective the day on which the TR NOx Annual unit is permanently retired. Within 30 days of the unit's permanent retirement, the designated representative shall submit a statement to the Administrator. The statement shall state, in a format prescribed by the Administrator, that the unit was permanently retired on a specified date and will comply with the requirements of paragraph (2) of this rule. The designated representative shall submit a copy of the statement to the Department.

(2) Special provisions.

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

(b) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (1) of this rule shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the

period, in writing by the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(c) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under paragraph (1) of this rule shall comply with the requirements of the TR NOx Annual 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.

(d) A unit exempt under paragraph (1) of this rule shall lose its exemption on the first date on which the unit resumes operation. Such unit shall be treated, for purposes of applying allocation, monitoring, reporting, and recordkeeping requirements under the TR NOx Annual Trading Program, as a unit that commences commercial operation on the first date on which the unit resumes operation.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.
History: **New Rule:** Filed March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.10 TR NOx Annual Trading Program - Standard Requirements.

(1) General. The Environmental Protection Agency's Standard Requirements for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.406, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.10 substitute:

(a) Adem Administrative Code r. 335-3-16-.13(3) for 40 CFR §70.7(e)(2).

(b) Adem Administrative Code r. 335-3-16-.13(3)(a)2. for 40 CFR §70.7(e)(2)(i)(B).

(c) Adem Administrative Code r. 335-3-8-.14 for 40 CFR §§97.411(a)(2) and (b).

(d) Adem Administrative Code r. 335-3-8-.14 for 40 CFR §97.412.

(e) Adem Administrative Code r. 335-3-8-.09 for 40 CFR §97.405.

(f) Adem Administrative Code r. 335-3-8-.13(1) for 40 CFR §97.410(a).

(g) Adem Administrative Code r. 335-3-8-.13(2) for 40 CFR §97.410(b).

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.
History: **New Rule:** Filed March 2, 2001; effective April 6, 2001. **Amended:** Filed August 29, 2002; effective October 3, 2002. **Amended:** Filed February 27, 2003; effective April 3, 2003. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.11 TR NOx Annual Trading Program – Computation Of Time.

The Environmental Protection Agency Regulations governing Computation of Time under the TR NOx Annual Trading Program, are incorporated by reference as they exist in 40 CFR §97.407, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, and 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.

History: New Rule: Filed March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.12 Administrative Appeal Procedures.

The appeal procedures for decisions of the Administrator under rules 335-3-8-.07 through 335-3-8-.38 are set forth in 40 CFR 78.
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§§§22-22A-5, 22-22A-6, and 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.
History: New Rule: Filed March 2, 2001; effective April 6, 2001. **Amended:** Filed February 27, 2003; effective April 3, 2003. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.13 NOx Annual Trading Budgets And Variability Limits.

(1) The State NOx Annual trading budgets for allocations of TR NOx Annual allowances for the control periods in 2017 and thereafter is 71,962 tons.

(2) The State NOx annual variability limit for the State NOx Annual trading budgets for the control periods in 2017 and thereafter is 12,953 tons.
Author: Ronald W. Gore

Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.
History: New Rule: Filed March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.14 TR NOx Annual Allowance Allocations.

(1) State Annual Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) NOx Annual allowances for the control periods 2017 and thereafter is 71,962 tons.

(2) Timing Requirements for NOx Allowance Allocations.

(a) By June 1, 2016, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2017 and 2018.

(b) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(c) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(d) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the annual NOx allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) NOx Allowance Allocations.

(a) Definitions. For the purpose of this rule, the following definitions apply:

1. Baseline TR NOx Unit. A TR NOx unit that either:

(i) Commenced operation on or before January 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014.

2. New TR NOx Unit. A TR NOx unit that does not meet the definition of a Baseline TR NOx Unit as defined in subparagraph (3)(a)1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2016 will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit’s heat input for the control periods, in which the unit operated, in 2010, 2011, 2012, 2013, and 2014; or

(ii) For a Baseline TR NOx unit that did not commence operation on or before January 1, 2014, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR NOx unit, the expected actual annual heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2017 will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit’s heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR NOx unit that did not commence operation on or before January 1, 2015, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR NOx unit that commenced operation on or before January 1, 2015, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2014 and 2015.

(iv) For a New TR NOx unit that did not commence operation on or before January 1, 2015, the expected actual annual heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2018 will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2012, 2013, 2014, 2015, and 2016.

(ii) For a New TR NOx unit that commenced operation on or before January 1 2016, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated in 2014, 2015, and 2016.

(iii) For a New TR NOx unit that did not commence operation on or before January 1, 2016, the expected actual annual heat input based on actual utilization data of similar sources.

4. The heat input (in mmBtu) used for calculating TR NOx allowance allocations under subparagraph (2)(d) of this rule that are to be submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR NOx unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated for the five most recent control periods available prior to the deadline submission year.

(ii) For a New TR NOx unit that commenced operation prior to January 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New TR NOx unit that did not commence operation prior to January 1 of the most recent control period available prior to the submission year, the expected actual annual heat input based on actual utilization data of similar sources.

5. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR NOx unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) annual NOx allowances are initially allocated to baseline TR NOx units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR annual NOx allowances are allocated under paragraph (2) of this rule and shall equal the State Annual Trading Program Budget minus the total of the Baseline Allowances for all baseline TR NOx units that have retired in accordance with Rule 335-3-8-.09.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR NOx allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR NOx units that have retired in accordance with Rule 335-3-8-.09.

(d) Maximum Historic Emission Cap. The maximum historic emission cap is identified by using an 8 year historic emission period for each TR NOx unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under paragraph (3)(b) of this rule. The maximum historic emission cap is the maximum NOx emissions (in tons) that occurred during any control period

during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR NOx unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(e) Calculation of TR NOx Allowances for Baseline TR NOx Units.

1. For each control period under paragraph (2) of this rule, the Department will allocate TR NOx allowances from the Baseline Allowance Pool to all baseline TR NOx units in accordance with the following procedures:

(i) The Department will allocate TR NOx allowances to each TR NOx unit under Rule 335-3-8-.08(1)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the baseline allowance pool. If a TR NOx unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation will equal the maximum historic emission cap for that TR NOx unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to baseline TR NOx units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR NOx allocation value is rounded to the nearest whole ton.

(f) Calculation of NOx Allowances for New TR NOx Units. For each control period under paragraph (2) of this rule, after calculating NOx allowances for all baseline TR NOx units that have not retired in accordance with Rule 335-3-8-.09, the Department will allocate NOx allowances in the Retired Unit Allowance Pool to all new TR NOx units, in accordance with the following procedures:

1. For each new TR NOx unit under Rule 335-3-8-.08(1)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under paragraph (2) of this rule, the number of TR NOx allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all new TR NOx units,

determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a new TR NOx unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation equals the maximum historic emission cap for that TR NOx unit .

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to new TR NOx units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR NOx allocation value is rounded to the nearest whole ton.

(g) Adjustment of Baseline NOx Allowance Allocations. If TR NOx allowances remain in the Retired Unit Allowance Pool after allocations are made to all new TR NOx units in accordance with subparagraph (f) of this paragraph, these NOx allowances will be allocated on a pro rata basis to the baseline TR NOx units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(h) NOx allowances allocated to baseline TR NOx units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NOx allowances were allocated. If the unit does not commence operations, the NOx allowances will be transferred by the Department pro rata to Baseline TR NOx units that were allocated NOx allowances in accordance with subparagraph (b)1.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NOx allowance transfers.

1. NOx allowances allocated to new TR NOx units based on heat inputs determined in accordance with subparagraphs (b)1.(iii), (b)2.(iv), (b)3.(iii), or (b)4.(iii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NOx allowances were allocated. If the unit does not commence operation, the NOx allowances will be transferred by the Department pro rata to Baseline TR NOx units that were allocated NOx allowances in accordance with subparagraphs (b)1.(i) and (ii), (b)2.(i) and (ii), (b)3.(i), or (b)4.(i) of this paragraph, and whose historic heat input based allocation

does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NOx allowance transfers.

2. NOx allowances will not be allocated to TR NOx units that retire under Rule 335-3-8-.09 prior to the date NOx allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this rule.

3. The total NOx allowances allocated for any control period in accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State NOx Annual Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(i) Distribution of remaining TR NOx Annual Allowances. Annual allowances remain after allocations are completed in subparagraphs (e) through (h) of this paragraph, the remaining allowances shall be distributed proportional to the allocations made in subparagraphs (e) through (h) of this paragraph beyond the unit's historical emissions cap. However, no unit may receive additional allocations that exceed any enforcement cap or permit limitation.

(j) Units Incorrectly Allocated TR NOx Annual Allowances. The procedures for addressing units that were incorrectly allocated TR NOx Annual allowances are incorporated by reference as they exist in 40 CFR §97.411(c), Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-22A-5, 22-22A-6, 22-22A-8, 22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22.
History: Effective Date: January 18, 1972. **Amended:** March 2, 2001; effective April 6, 2001. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed October 23, 2018; effective December 7, 2018.

Ed. Note: Previous Rule 335-3-8-.01 was renumbered to 335-3-8-.14, as per certification filed March 2, 2001; effective April 6, 2001.

335-3-8-.15 Reserved.
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed December 19, 2002; effective January 23, 2003. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.]

335-3-8-.16 Authorization Of Designated Representative And Alternate Designated Representative.

The Environmental Protection Agency Regulations governing the Authorization of Designated Representative and Alternate Designated Representative for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.413, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009, effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are

no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.17 Responsibilities Of Designated Representative And Alternate Designated Representative.

The Environmental Protection Agency Regulations governing the Responsibilities of Designated Representative and Alternate Designated Representative for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.414, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.18 Changing Designated Representative And Alternate Designated Representative; Changes In Owners And Operators; Changes In Units At The Source.

The Environmental Protection Agency Regulations governing Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source for TR NOx Sources, are incorporated by reference as they exist in 40 CFR §97.415, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore

Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.19 Certificate Of Representation.

The Environmental Protection Agency Regulations governing Certificate of Representation, are incorporated by reference as they exist in 40 CFR §97.416, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.20 Objections Concerning Designated Representative And Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing Objections Concerning Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.417, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.20 substitute:

(a) Only in 40 CFR §97.417(c) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.21 Delegation By Designated Representative And Alternate Designated Representative.

The Environmental Protection Agency Regulations governing Delegation by Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.418, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.22 Reserved.
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. Filed March 14, 2012: Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012. **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.23 Establishment Of Compliance Accounts, Assurance Accounts, And General Accounts.

(1) General. The Environmental Protection Agency Regulations governing Establishment of Compliance Accounts, Assurance Accounts, and General Accounts, are incorporated by reference as they exist in 40 CFR §97.420, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.23 substitute:

(a) Only in 40 CFR §97.420(c)(4)(iii) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24,

2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.24 Recordation Of TR NOX Annual Allowance Allocations And Auction Results.

The Environmental Protection Agency Regulations governing Recordation of TR NOx Annual Allowance Allocations and Auction Results, are incorporated by reference as they exist in 40 CFR §97.421, Subpart AAAAA as of July 1, 2015, except for the provisions found in 40 CFR §§97.421(a), (b), (h), and (i). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.25 Submission Of TR NOx Annual Allowance Transfers.

The Environmental Protection Agency Regulations governing Submission of TR NOx Annual Allowance Transfers, are incorporated by reference as they exist in 40 CFR §97.422, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.

History: New Rule: Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.26 Recordation Of TR NOx Annual Allowance Transfers.

The Environmental Protection Agency Regulations governing, Recordation of TR NOx Annual Allowance Transfers are incorporated by reference as they exist in 40 CFR §97.423, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.27 Compliance With TR NOx Annual Emissions Limitation.

The Environmental Protection Agency Regulations governing Compliance with TR NOx Annual Emissions Limitation, are incorporated by reference as they exist in 40 CFR §97.424, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.28 Compliance With TR NOx Annual Assurance Provisions.

The Environmental Protection Agency Regulations governing Compliance with TR NOx Annual Assurance Provisions, are incorporated by reference as they exist in 40 CFR §97.425, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed June 6, 2006; effective July 11, 2006. **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.29 Banking.

(1) General. The Environmental Protection Agency Regulations governing Banking for TR NOx Annual Allowance, are incorporated by reference as they exist in 40 CFR §97.426, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.29 substitute:

(a) Adem Administrative Code r. 335-3-8-.14(3)(j) for 40 CFR §97.411(c).

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.30 Account Error.

The Environmental Protection Agency Regulations governing Account Error, are incorporated by reference as they exist in 40 CFR §97.427, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of

suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.31 Administrator's Action On Submissions.

The Environmental Protection Agency Regulations governing Administrator's Action on Submissions, are incorporated by reference as they exist in 40 CFR §97.428, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.32 Reserved.
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. **Amended:** Filed February 24, 2009; effective March 31, 2009. Filed March 14, 2012: [Certified rule refiled after agency adoption of

suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.]

335-3-8-.33 General Monitoring, Recordkeeping, And Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governing General Monitoring, Recordkeeping, and Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.430, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.33 substitute:

(a) Adem Administrative Code r. 335-3-8-.09 for 40 CFR §97.405.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed June 6, 2006; effective July 11, 2006. **Amended:** Filed February 27, 2007; effective April 3, 2007. Filed March 14, 2012: [Certified rule refiled after agency adoption of suggested amendment by the Joint Committee on Administrative Regulation Review that the repeal of the rule will take effect when the department certifies to the Legislative Reference Service the federal CAIR rules have been repealed; effective March 14, 2012.] **Repealed:** Filed February 24, 2015; effective February 24, 2015: [The above rule was repealed by their own terms upon certification of the Alabama Department of Environmental Management that the federal Clean Air Interstate Rules (CAIR) are no longer in effect. The repeal became effective February 24, 2015, upon the department's certification.] **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.34 **Initial Monitoring System Certification And Recertification Procedures.**

(1) General. The Environmental Protection Agency Regulations governing Initial Monitoring System Certification and Recertification Procedures, are incorporated by reference as they exist in 40 CFR §97.431, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.34 substitute:

(a) In §97.431(d)(3)(i) insert ", the Department" after "Office."

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015.

335-3-8-.35 **Monitoring System Out-Of-Control Periods.**

The Environmental Protection Agency Regulations governing Monitoring System Out-of-Control Periods, are incorporated by reference as they exist in 40 CFR §97.432, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.36 **Notifications Concerning Monitoring.**

The Environmental Protection Agency Regulations governing Notifications Concerning Monitoring, are incorporated by reference as they exist in 40 CFR §97.433, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore

Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.37 Recordkeeping And Reporting.

The Environmental Protection Agency Regulations governing Recordkeeping and Reporting, are incorporated by reference as they exist in 40 CFR §97.434, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.38 Petitions For Alternatives To Monitoring, Recordkeeping, Or Reporting Requirements.

The Environmental Protection Agency Regulations governing Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.435, Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.
History: Effective Date: November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.39 TR NOX Ozone Season Group 2 Trading Program - Purpose And Definitions.

(1) Purpose. Rules 335-3-8-.39 through 335-3-8-.70 set forth the general, designated representative, allowance, and monitoring provisions for the Transport Rule (TR) NOx Ozone Season Trading Program under section 110 of the Clean Air Act, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(2) Definitions. For the purpose of rules 335-3-8-.39 through 335-3-8-.70 the definitions listed in 40 CFR §97.802, Subpart BBBBB as of July 1, 2016, and October 26, 2016 (81 FR 74504), will apply.

(a) "Department" shall mean the Alabama Department of Environmental Management.

(b) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.39 substitute:

1. Adem Administrative Code r. 335-3-8-.40 for 40 CFR §97.804.

2. Adem Administrative Code r. 335-3-8-.40(1)(b)2.(ii) and (iii) for 40 CFR §§97.804(b)(2)(i)(B) and (ii).

3. Adem Administrative Code r. 335-3-8-.41 for 40 CFR §97.805.

4. Adem Administrative Code r. 335-3-8-.45(1) for 40 CFR §97.810(a).

5. Adem Administrative Code r. 335-3-8-.45(2) for 40 CFR §97.810(b).

6. Adem Administrative Code r. 335-3-8-.46 for 40 CFR §97.811.

7. Adem Administrative Code r. 335-3-8-.46 for 40 CFR §97.812.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this rule and in rules 335-3-8-.39 through 335-3-8-.70 are defined as follows:

(a) Btu - British thermal unit.

(b) CO2 – carbon dioxide

(c) H2O – water

(d) hr – hour

(e) kW – kilowatt electrical

(f) kWh – kilowatt hour

(g) lb – pound

(h) mmBtu – million Btu

(i) MWe – megawatt electrical

(j) MWh – megawatt hour

(k) NOx – nitrogen oxides

(l) O2 – oxygen

(m) ppm – parts per million

(n) scfh – standard cubic feet per hour

(o) SO2 – sulfur dioxide

(p) yr – year

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.40 TR NOx Ozone Season Group 2 Trading Program – Applicability.

(1) Applicability.

(a) Except as provided in subparagraph (b) of this paragraph:

1. The following units in the State of Alabama shall be TR NOx Ozone Season Group 2 units, and any source that includes one or more such units shall be a TR NOx Ozone Season Group 2 source, subject to the requirements of rules 335-3-8-.39 through 335-3-8-.70: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, on or after January 1, 2005, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under subparagraph (a)1. of this paragraph, is not a TR NOx Ozone Season Group 2 unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a TR NOx Ozone Season Group 2 unit as provided in subparagraph (a)1. of this paragraph on the first date on which it both combusts fossil fuel and serves such generator.

(b) Any unit in the State that otherwise is a TR NOx Ozone Season Group 2 unit under subparagraph (a) of this paragraph and that meets the requirements set forth in subparagraphs

(b)1.(i) and (ii) or 2.(i) and (ii) of this paragraph shall not be a TR NOx Ozone Season Group 2 unit:

1. Any unit:

(i) Qualifying as a cogeneration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) Not supplying in 2005 or any calendar year thereafter more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(iii) If, after qualifying under subparagraphs (b)1.(i) and (ii) of this paragraph as not being a TR NOx Ozone Season Group 2 unit, a unit subsequently no longer meets all the requirements of subparagraphs (b)1.(i) and (ii) of this paragraph, the unit shall become a TR NOx Ozone Season Group 2 unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subparagraph (b)1.(ii) of this paragraph. The unit shall thereafter continue to be a TR NOx Ozone Season Group 2 unit.

2. Any unit:

(i) Qualifying as a solid waste incineration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a solid waste incineration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(ii) With an average annual fuel consumption of fossil fuel for the first 3 consecutive calendar years of operation starting no earlier than 2005 of less than 20 percent (on a Btu basis) and an average annual fuel consumption of fossil fuel for any 3 consecutive calendar years thereafter of less than 20 percent (on a Btu basis).

(iii) If, after qualifying under subparagraphs (b)2.(i) and (ii) of this paragraph as not being a TR NOx Ozone Season Group 2 unit, a unit subsequently no

longer meets all the requirements of subparagraphs (b)2.(i) and (ii) of this paragraph, the unit shall become a TR NOx Ozone Season Group 2 unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 2005 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more. The unit shall thereafter continue to be a TR NOx Ozone Season Group 2 unit.

(c) A certifying official of an owner or operator of any unit or other equipment may submit a petition (including any supporting documents) to the Administrator at any time for a determination concerning the applicability, under subparagraphs (a) and (b) of this paragraph, to the unit or other equipment. The certifying official of an owner or operator of any unit or other equipment shall submit a copy of the petition (including any supporting documents) to the Department.

1. Petition content. The petition shall be in writing and include the identification of the unit or other equipment and the relevant facts about the unit or other equipment. The petition and any other documents provided to the Department and the Administrator in connection with the petition shall include the following certification statement, signed by the certifying official: "I am authorized to make this submission on behalf of the owners and operators of the unit or other equipment for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. Response. The Administrator will issue a written response to the petition and may request supplemental information determined by the Administrator to be relevant to such petition. The Administrator's determination concerning the applicability, under subparagraphs (1)(a) and (b) of this rule, of the TR NOx Ozone Season Group 2 Trading Program to the unit or other equipment shall be binding on Alabama, the Department, and any other State or permitting authority unless the

Administrator determines that the petition contained significant, relevant errors or omissions.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed August 21, 2018; effective October 5, 2018.

335-3-8-.41 TR NOx Ozone Season Group 2 Trading Program - Retired Unit Exemption.

(1) Any TR NOx Ozone Season Group 2 unit that is permanently retired shall be exempt from 40 CFR §§97.806(b) and

(c)(1), rule 335-3-8-.59, and rules 335-3-8-.65 through 335-3-8-.70.

(a) The exemption under paragraph (1) of this rule shall become effective the day on which the TR NOx Ozone Season Group 2 unit is permanently retired. Within 30 days of the unit's permanent retirement, the designated representative shall submit a statement to the Administrator. The statement shall state, in a format prescribed by the Administrator, that the unit was permanently retired on a specified date and will comply with the requirements of paragraph (2) of this rule. The designated representative shall submit a copy of the statement to the Department.

(2) Special provisions.

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

(b) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (1) of this rule shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(c) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under paragraph (1) of this rule shall comply with the requirements of the TR NOx Ozone Season Group 2 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.

(d) A unit exempt under paragraph (1) of this rule shall lose its exemption on the first date on which the unit resumes operation. Such unit shall be treated, for purposes of applying allocation, monitoring, reporting, and recordkeeping requirements under TR NOx Ozone Season Group 2 Trading Program, as a unit that commences commercial operation on the first date on which the unit resumes operation.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.42 TR NOx Ozone Season Group 2 Trading Program - Standard Requirements.

(1) General. The Environmental Protection Agency's Standard Requirements for TR NOx Ozone Season Group 2 sources, are incorporated by reference as they exist in 40 CFR §97.806, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-8-.42 substitute:

(a) Adem Administrative Code r. 335-3-16-.13(3) for 40 CFR §70.7(e)(2).

(b) Adem Administrative Code r. 335-3-16-.13(3)(a)2. for 40 CFR §70.7(e)(2)(i)(B).

(c) Adem Administrative Code r. 335-3-8-.46 for 40 CFR §§97.811(a)(2) and (b).

(d) Adem Administrative Code r. 335-3-8-.46 for 40 CFR §97.812.

(e) Only in 40 CFR §97.806(e) substitute "Administrator or the Department" for "Administrator."

(f) Adem Administrative Code r. 335-3-8-.41 for 40 CFR §97.805.

(g) Adem Administrative Code r. 335-3-8-.45(1) for §97.810(a).

(h) Adem Administrative Code r. 335-3-8-.45(2) for §97.810(b).
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.43 TR NOx Ozone Season Group 2 Trading Program - Computation Of Time.

The Environmental Protection Agency Regulations governing Computation of Time under the TR NOx Ozone Season Group 2 Trading Program, are incorporated by reference as they exist in 40 CFR §97.807, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.44 Administrative Appeal Procedures.

The appeal procedures for the decisions of the Administrator under rules 335-3-8-.39 through 335-3-8-.70 are set forth in 40 CFR 78.
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.45 NOx Ozone Season Group 2 Trading Budgets And Variability Limits.

(1) The State NOx Ozone Season trading budgets for allocations of TR NOx Ozone Season Group 2 allowances for the control periods in 2017 and thereafter is 13,211 tons.

(2) The State NOx Ozone Season variability limit for the State NOx Ozone season trading budgets for the control periods in 2017 and thereafter is 2,774 tons.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.46 TR NOx Ozone Season Group 2 Allowance Allocations.

(1) State NOx Ozone Season Group 2 Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) NOx ozone season allowances for the control periods 2017 and thereafter is 13,211 tons.

(2) Timing Requirements for NOx Ozone Season Allowance Allocations.

(a) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the TR NOx Ozone Season Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(b) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the TR NOx Ozone Season Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(c) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the TR NOx Ozone Season Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) TR NOx Ozone Season Group 2 Allowance Allocations.

(a) Definitions. For the purpose of this rule, the following definitions apply:

1. Baseline TR NOx Ozone Season Unit. A TR NOx Ozone Season Group 2 unit that either:

(i) Commenced operation on or before May 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014.

2. New TR NOx Ozone Season Unit. A TR NOx Ozone Season Group 2 unit that does not meet the definition of a Baseline TR NOx Ozone Season unit as defined in subparagraph (3)(a)1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR NOx Ozone Season Group 2 allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2017, will be:

(i) For a Baseline TR NOx Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR NOx Ozone Season unit that did not commence operation on or before May 1, 2014, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014, the expected actual ozone season heat input based on actual utilization data of similar sources.

(iii) For a New TR NOx Ozone Season unit, the expected actual ozone season heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR NOx Ozone Season Group 2 allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2018, will be:

(i) For a Baseline TR NOx Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2012, 2013, 2014, 2015, and 2016; or

(ii) For a Baseline TR NOx Ozone Season unit that did not commence operation on or before May 1, 2015, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014, the expected actual ozone season heat input based on actual utilization data of similar sources.

(iii) For a New TR NOx Ozone Season unit that commenced operation on or before May 1, 2016, the average of the three (or less, if applicable) highest

amounts of the unit's heat input for the control periods, in which the unit operated in 2015 and 2016.

(iv) For a New TR NOx Ozone Season unit that did not commence operation on or before May 1, 2016, the expected actual ozone season heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR NOx Ozone Season Group 2 allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR NOx Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated for the five most recent control periods available prior to the deadline submission year.

(ii) For a New TR NOx Ozone Season unit that commenced operation prior to May 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New TR NOx Ozone Season unit that did not commence operation prior to May 1 of the most recent control period available prior to the submission year, the expected actual ozone season heat input based on actual utilization data of similar sources.

4. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR NOx Ozone Season Group 2 unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) NOx Ozone Season Group 2 allowances are initially allocated to Baseline TR NOx Ozone Season units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR NOx Ozone Season Group 2 allowances are allocated under paragraph (2) of this rule and shall equal the State Ozone Season Group 2 trading program budget minus the total of the Baseline Allowances for all Baseline TR NOx Ozone Season units that have retired in accordance with 335-3-8-.41 and minus 13 allowances set aside for any new TR NOx Oxone Season Group 2 units located in Indian Country.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR NOx Ozone Season Group 2 allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR NOx Ozone Season Group 2 units that have retired in accordance with 335-3-8-.41.

3. Indian Country New Unit Allowance Pool. A total of 13 RT NOx Ozone Season Group 2 allowances will be initially set aside for any new TR NOx Ozone Season Group 2 units in Indian country. If the Indian country allowances are not allocated by the Administrator and are made available to the Department for allocation, the allowances will be proportionally distributed, to existing units in the state in accordance with subparagraphs(g) and (i) of this paragraph.

(d) Maximum Historic Emission Cap. The Maximum Historic Emission Cap is identified by using an 8 year historic emission period for each TR NOx Ozone Season Group 2 unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under subparagraph (3)(b) of this paragraph. The Maximum Historic Emission Cap is the maximum NOx emissions (in tons) that occurred during any control period during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR NOx Ozone Season Group 2 unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(e) Calculation of TR NOx Ozone Season Group 2 Allowances for Baseline TR NOx Ozone Season Units.

1. For each control period under paragraph (2) of this rule, the Department will allocate TR NOx Ozone Season Group 2 allowances from the Baseline Allowance Pool to all Baseline TR NOx Ozone Season units in accordance with the following procedures:

(i) The Department will allocate TR NOx Ozone Season Group 2 allowances to each TR NOx Ozone Season Group

2 unit under 335-3-8-.40(1)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the Baseline Allowance Pool. If a TR NOx Ozone Season Group 2 unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation will equal the maximum historic emission cap for that TR NOx Ozone Season Group 2 unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to Baseline TR NOx Ozone Season units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR NOx Ozone Season Group 2 allocation value is rounded to the nearest whole ton.

(f) Calculation of NOx Allowances for New TR NOx Ozone Season Units. For each control period under paragraph (2) of this rule, after calculating NOx allowances for all Baseline TR NOx Ozone Season units that have not retired in accordance with 335-3-8-.41, the Department will allocate NOx allowances in the Retired Unit Allowance Pool to all New TR NOx Ozone Season units, in accordance with the following procedures:

1. For each New TR NOx Ozone Season unit under 335-3-8-.40(1)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under paragraph (2) of this rule, the number of TR NOx Ozone Season Group 2 allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all New TR NOx Ozone Season units, determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a New TR NOx Ozone Season unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation equals the maximum historic emission cap for that TR NOx Ozone Season Group 2 unit.

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to New TR NOx Ozone Season units whose historic heat input based allocation does not exceed its maximum

historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR NOx Ozone Season Group 2 allocation value is rounded to the nearest whole ton.

(g) Adjustment of Baseline NOx Allowance Allocations. If TR NOx Ozone Season Group 2 allowances remain in the Retired Unit Allowance Pool after allocations are made to all New TR NOx Ozone Season units in accordance with subparagraph (g) of this paragraph, or if the TR NOx Ozone Season Group 2 allowances from the Indian Country New Unit Allowance Pool become available for allocation by the Department in accordance with subparagraph (c)3 of this paragraph. these NOx allowances will be allocated on a pro rata basis to the Baseline TR NOx Ozone Season units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(h) NOx allowances allocated to Baseline TR NOx Ozone Season units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NOx allowances were allocated. If the unit does not commence operations, the NOx allowances will be transferred by the Department pro rata to Baseline TR NOx Ozone Season units that were allocated NOx allowances in accordance with subparagraph (b)1.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NOx allowance transfers.

1. NOx allowances allocated to New TR NOx Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(iii), (b)2.(iv), (b)3.(iii), or (b)4.(iii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NOx allowances were allocated. If the unit does not commence operations, the NOx allowances will be transferred by the Department pro rata to Baseline TR NOx Ozone Season units that were allocated NOx allowances in accordance with subparagraphs (b)1.(i) and (ii), (b)2.(i) and (ii), (b)3.(i), or (b)4.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NOx allowance transfers.

2. NOx allowances will not be allocated to TR NOx Ozone Season Group 2 units that retire under 335-3-8-.41 prior to the date NOx allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this rule.

3. The total NOx Ozone Season Group 2 allowances allocated for any control period in accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State Ozone Season Group 2 Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(i) Distribution of remaining TR NOx Ozone Season Group 2 Allowances. If any TR NOx Ozone Season Group 2 allowances remain after allocations are completed in subparagraphs (e) through (h) of this paragraph, the remaining allowances shall be distributed proportional to the allocations made in subparagraphs (e) through (h) of this paragraph beyond the unit's historical emissions cap. However, no unit may receive additional allocations that exceed any enforcement cap or permit limitation.

(j) Units Incorrectly Allocated TR NOx Ozone Season Group 2 Allowances. The procedures for addressing units that were incorrectly allocated TR NOx Ozone Season Group 2 allowances are incorporated by reference as they exist in 40 CFR §97.511(c), Subpart EEEEE as of October 26, 2016 (81 FR 74504) except for the provisions found in 40 CFR §§97.811(c)(5)(i) and (ii). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Filed October 23, 2018; effective December 7, 2018.

335-3-8-.47 Reserved.
Author:
Statutory Authority:
History:

335-3-8-.48 Authorization Of Designated Representative And Alternate Designated Representative.

The Environmental Protection Agency Regulations governing the Authorization of Designated Representative and Alternate Designated Representative for TR NOX Ozone Season Group 2 Sources, are incorporated by reference as they exist in 40 CFR §97.813, Subpart EEEEE as of October 26, 2016 (81 FR 74505). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.49 Responsibilities Of Designated Representative And Alternate Designated Representative.

The Environmental Protection Agency Regulations governing the Responsibilities of Designated Representative and Alternate Designated Representative for TR NOx Ozone Season Group 2 Sources, are incorporated by reference as they exist in 40 CFR §97.814, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.50 Changing Designated Representative And Alternate Designated Representative; Changes In Owners And Operators; Changes In Units At The Source.

The Environmental Protection Agency Regulations governing Changing Designated Representative and Alternate Designated Representative; Changes in Owners and Operators; Changes in Units at the Source for TR NOX Ozone Season Group 2 Sources, are incorporated by reference as they exist in 40 CFR §97.815, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by

reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.51 Certificate Of Representation.

The Environmental Protection Agency Regulations governing Certificate of Representation for TR NOx Ozone Season Group 2 Sources, are incorporated by reference as they exist in 40 CFR §97.816, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.52 Objections Concerning Designated Representative and Alternate Designated Representative.

(1) General. The Environmental Protection Agency Regulations governing Objections Concerning Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.817, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.52 substitute:

(a) Only in 40 CFR §97.817(c) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.53 Delegation By Designated Representative And Alternate Designated Representative.

The Environmental Protection Agency Regulations governing Delegation by Designated Representative and Alternate Designated Representative, are incorporated by reference as they exist in 40 CFR §97.818, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.54 Reserved.
Author:
Statutory Authority:
History:

335-3-8-.55 Establishment Of Compliance Accounts, Assurance Accounts, And General Accounts.

(1) General. The Environmental Protection Agency Regulations governing Establishment of Compliance Accounts, Assurance Accounts, and General Accounts, are incorporated by reference as they exist in 40 CFR §97.820, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.55 substitute:

(a) Only in 40 CFR §97.820(c)(4)(iii) substitute "Neither the Administrator nor the Department shall" for "The Administrator will not."

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.56 Recordation Of TR NOx Ozone Season Group 2 Allowance Allocations And Auction Results.

The Environmental Protection Agency Regulations governing Recordation of TR NOx Ozone Season Group 2 Allowance Allocations and Auction Results, are incorporated by reference as they exist in 40 CFR §97.821, Subpart EEEEE as of October 26, 2016 (81 FR 74504), except for the provisions found in 40 CFR §§97.821(a), (b), (i), and (j). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.57 Submission Of TR NOx Ozone Season Group 2 Allowance Transfers.

The Environmental Protection Agency Regulations governing Submission of TR NOx Ozone Season Group 2 Allowance Transfers, are incorporated by reference as they exist in 40 CFR §97.822, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.58 Recordation Of TR NOx Ozone Season Group 2 Allowance Transfers.

The Environmental Protection Agency Regulations governing Recordation of TR NOx Ozone Season Group 2 Allowance Transfers, are incorporated by reference as they exist in 40 CFR §97.823, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore

Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.59 Compliance With TR NOx Ozone Season Group 2 Emissions Limitation.

The Environmental Protection Agency Regulations governing Compliance with TR NOx Ozone Season Group 2 Emissions Limitation, are incorporated by reference as they exist in 40 CFR §97.824, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.60 Compliance With TR NOx Ozone Season Group 2 Assurance Provisions.

The Environmental Protection Agency Regulations governing Compliance with TR NOx Ozone Season Group 2 Assurance Provisions, are incorporated by reference as they exist in 40 CFR §97.825, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.61 Banking.

(1) General. The Environmental Protection Agency Regulations governing Banking for TR NOx Ozone Season Group 2 Allowance, are incorporated by reference as they exist in 40 CFR §97.826, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials

incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.61 substitute:

(a) Adem Administrative Code r. 335-3-8-.46(3)(j) for 40 CFR §97.811(c).

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.62 TR NOx Ozone Season Group 2 Trading Program - Account Error.

The Environmental Protection Agency Regulations governing Account Error, are incorporated by reference as they exist in 40 CFR §97.827, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.
Amended: Published December 29, 2023; effective February 12, 2024.

335-3-8-.63 TR NOx Ozone Season Group 2 Trading Program - Administrator's Action On Submissions.

The Environmental Protection Agency Regulations governing Administrator's Action on Submissions, are incorporated by reference as they exist in 40 CFR §97.828, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.
Amended: Published December 29, 2023; effective February 12, 2024.

335-3-8-.64 Reserved.
Author:
Statutory Authority:
History:

335-3-8-.65 General Monitoring, Recordkeeping, And Reporting Requirements.

(1) General. The Environmental Protection Agency Regulations governing General Monitoring, Recordkeeping, and Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.830, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.65 substitute:

(a) Adem Administrative Code r. 335-3-8-.41 for 40 CFR §97.805.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.66 Initial Monitoring System Certification And Recertification Procedures.

(1) General. The Environmental Protection Agency Regulations governing Initial Monitoring System Certification and Recertification Procedures, are incorporated by reference as they exist in 40 CFR §97.831, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

(2) Word, Phrase, and Rule Substitutions. For the purpose of rule 335-3-8-.66 substitute:

(a) In §97.831(d)(3)(i) insert ", the Department" after "Office."

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.

History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017.

335-3-8-.67 Monitoring System Out-Of-Control Periods.

The Environmental Protection Agency Regulations governing Monitoring System Out-of-Control Periods, are incorporated by reference as they exist in 40 CFR §97.832, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.68 Notifications Concerning Monitoring.

The Environmental Protection Agency Regulations governing Notifications Concerning Monitoring, are incorporated by reference as they exist in 40 CFR §97.833, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: New Rule: Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.69 Recordkeeping And Reporting.

The Environmental Protection Agency Regulations governing Recordkeeping and Reporting, are incorporated by reference as they exist in 40 CFR §97.834, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.

History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.70 Petitions For Alternatives To Monitoring, Recordkeeping, Or Reporting Requirements.

The Environmental Protection Agency Regulations governing Petitions for Alternatives to Monitoring, Recordkeeping, or Reporting Requirements, are incorporated by reference as they exist in 40 CFR §97.835, Subpart EEEEE as of October 26, 2016 (81 FR 74504). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)
Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Filed October 20, 2015; effective November 24, 2015. **Amended:** Filed April 25, 2017; effective June 9, 2017. **Amended:** Published December 29, 2023; effective February 12, 2024.

335-3-8-.71 NOx Budget Program.

(1) Purpose. The following rule establishes general provisions and the applicability, monitoring and reporting provisions for the NOx Budget Program for Alabama's State Implementation Plan as a means of mitigating the interstate transport of ozone and nitrogen oxides pursuant to 40 CFR, §51.121 and 51.122.

(2) Definitions. For the purpose of this rule and rule 335-3-8-.72, the following definitions will apply:

(a) "Account Certificate of Representation" means the completed and signed designation of a NOx Authorized Account Representative for a NOx Budget source or a group of identified NOx Budget sources who is authorized to represent the owners and operators of such source or sources and of the NOx Budget units at such source or sources with regard to matters under the NOx Budget Program. A complete account certificate of representation shall include:

1. Identification of the NOx Budget source and each NOx Budget unit at the source for which the account certificate of representation is submitted.

2. The name, address, e-mail address, and telephone number of the NOx authorized account representative and any alternate NOx authorized account representative.

3. A list of the owners and operators of the NOx Budget source and of each NOx Budget unit at the source.

4. The following certification statement by the NOx authorized account representative and any alternate NOx authorized account representative: "I certify that I was selected as the NOx authorized account representative or alternate NOx authorized account representative, as applicable, by an agreement binding on the owners and operators of the NOx Budget source and each NOx Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NOx Budget Program on behalf of the owners and operators of the NOx Budget source and of each NOx Budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department, the Administrator, or a court regarding the source or unit."

5. The signature of the NOx authorized account representative and any alternate NOx authorized account representative and the dates signed.

(b) "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

(c) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(d) "CAA" means the CAA, 42 U.S.C. 7401, et seq., as amended by Pub. L. No. 101-549 (November 15, 1990).

(e) "Cogeneration Combined Cycle System" means a combined cycle system that has equipment used to produce electricity and forms of useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes through the sequential use of energy.

(f) "Combined Cycle System" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(g) "Combustion Turbine" means an enclosed fossil or other fuel-fired device that is comprised of 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.

(h) "Commence Operation" means 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 (5) of this rule, for a unit that is a NOx Budget unit under paragraph (4) of this rule on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in paragraph (5) of this rule for a unit that is not a NOx Budget unit under paragraph (4) of this rule on the date of commencement of operation, the date the unit becomes a NOx Budget unit under paragraph (4) of this rule shall be the unit's date of commencement of operation.

(i) "Compliance Certification" means a submission to the Department or the Administrator, as appropriate, that is required under rule 335-3-8-.72 to report a NOx Budget source's or a NOx Budget unit's compliance or noncompliance with this rule and that is signed by the NOx authorized account representative in accordance with this rule.

(j) "Continuous Emission Monitoring System or CEMS" means the equipment required to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for nitrogen oxides. A CEMS may include any or all of the following components:

1. Flow monitor;

2. Nitrogen oxides pollutant concentration monitors;

3. Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required;

4. A continuous moisture monitor when such monitoring is required; or

5. An automated data acquisition and handling system.

(k) "Control Period" means the period of ozone season, beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(l) "Department" means the Alabama Department of Environmental Management.

(m) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Department.

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

(o) "Fossil fuel-fired" with regard to a unit, means:

1. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year starting in 1995 or, if a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995; or

2. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year; provided that the unit shall be "fossil fuel-fired'' as of the date, during such year, on which the unit begins combusting fossil fuel.

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

(q) "Heat Input" means the product (in mmBtu/time) of the gross calorific value of the fuel (in Btu/lb) and the fuel feed rate into a combustion device (in mass of fuel/time), and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(r) "Maximum Design Heat Input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(s) "Monitoring System" means any monitoring system that meets the requirements of rule 335-3-8-.72.

(t) "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.

(u) "NOx Authorized Account Representative" means, for a NOx budget source or NOx budget unit at the source, a responsible

person or official who is authorized by the owner and operator of the source and all NOx budget units at the source to represent and legally bind each owner and operator in matters pertaining to the NOx Budget Program. The NOx Authorized Account Representative shall be the responsible official as defined under this rule and the NOx Authorized Account Representative shall act as the designated representative for any sources that continue to monitor and report NOx mass emissions under 40 CFR 75.

(v) "NOx Budget Source" means a source that includes one or more NOx Budget units.

(w) "NOx Budget Unit" means a unit that is subject to the NOx Budget Program emissions limitations under paragraph (4) of this rule.

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

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

1. Any holder of any portion of the legal or equitable title in a NOx Budget unit; or

2. Any holder of a leasehold interest in a NOx Budget unit.

(z) "Ozone Season" means, for the purpose of this rule, as well as rule 335-3-8-.72, the period of time beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(aa) "Receive or Receipt of" means, when referring to the Department or the Administrator, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the Department or the Administrator in the regular course of business.

(bb) "Reference Method" means any direct test method of sampling and analyzing for an air pollutant or diluent as specified in 40 CFR 60, Appendix A [incorporated by reference in ADEM Admin. Code r. 335-3-10-.03(1)].

(cc) "Responsible Official" means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a

principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the Department;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this chapter, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).

(dd) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of paragraph 502(c) of the CAA, a "source", including a "source" with multiple units, shall be considered a single "facility".

(ee) "State" means the State of Alabama, the Environmental Management Commission, and the Commission's representatives.

(ff) "State of Alabama NOx Budget" means the total number of tons of NOx apportioned to all NOx Budget units in the State, in accordance with the NOx Budget Program, for use in a given control period.

(gg) "Submit or Serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation in person, by United States Postal Service, or by other means of dispatch or transmission and delivery. Compliance with any "submission", "service", or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(hh) "Ton or Tonnage" means any "short ton" (i.e., 2,000 pounds). For the purpose of reporting ozone season NOx

emissions from NOx Budget sources, total tons for a control period shall be calculated in accordance with 335-3-8-.72, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

(ii) "Unit" means a fossil fuel-fired stationary boiler, combustion turbine, combined cycle system, or cogeneration combined cycle system.

(3) Measurements, Abbreviations, and Acronyms. Measurements, abbreviations, and acronyms used in this rule and in rule 335-3-8-.72 are defined as follows:

(a) Btu - British thermal unit.

(b) hr - hour.

(c) lb - pounds.

(d) mmBtu - million Btu.

(e) mmscf - million standard cubic feet

(f) MWe - megawatt electrical.

(g) ppmw - parts per million concentration, on a wet basis

(h) ton - 2000 pounds.

(i) NOx - nitrogen oxides.

(4) Applicability.

(a) The following units in the counties of Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, Dallas, Dekalb, Elmore, Etowah, Fayette, Franklin, Greene, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Macon, Madison, Marion, Marshall, Morgan, Perry, Pickens, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston shall be NOx Budget units, and any source that includes one or more such units shall be a NOx Budget source, subject to the requirements of this rule:

1. Any fossil fuel fired unit with a maximum design heat input greater than 250 mmBtu/hr that either:

(i) does not serve a generator producing electricity for sale; or

(ii) both serves a generator producing electricity (whether or not for sale) and produces useful thermal

energy (such as heat or steam for industrial, commercial, heating, or cooling purposes) shall be a NOx Budget unit from the time it commences operation.

(5) The following units shall be exempt from the requirements of the NOx Budget Program:

(a) Any unit subject to ADEM Admin. Code r. 335-3-8-.40 shall not be a NOx Budget unit.

(b) Any NOx Budget unit that is permanently retired shall be exempt from the NOx Budget Program, except for the provisions of this paragraph.

1. The exemption under subparagraph (b) of this paragraph shall become effective the day on which the unit is permanently retired. Within 30 days of permanent retirement, the NOx authorized account representative shall submit a statement to the Department. A copy of the statement shall be submitted to the EPA. The statement shall state (in a format prescribed by the Department) that the unit is permanently retired and will comply with the requirements of rule 335-3-8-.71(5). After receipt of the notice under this subparagraph, the Department will amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under subparagraph (c) of this paragraph.

(c) Special provisions.

1. A unit exempt under this paragraph shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

2. The owners and operators and, to the extent applicable, the NOx authorized account representative of a unit exempt under this paragraph shall comply with the requirements of the NOx Budget 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.

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

4. Loss of exemption.

(i) A unit exempt under subparagraph (b) of this paragraph shall lose its exemption the date on which the unit resumes operation.

(ii) For the purpose of applying monitoring requirements under ADEM Admin. Code r. 335-3-8-.72, a unit that loses its exemption under this section shall be treated as a unit that commences operation on the first date on which the unit resumes operation.

(6) Standard Requirements.

(a) State of Alabama NOx Budget.

1. The NOx Budget for NOx Budget units, which applies to units only in the counties listed at subparagraph (4)a of this rule, in the state of Alabama is 2,328 tons for each control period. The sum of the tons of NOx emitted from all such units under paragraph (4) of this rule in each control period beginning after the effective date of this rule may not exceed this budget amount.

(i) Unless all NOx Budget units under paragraph (4) of this rule are exempt by the first of May each year, the state shall conduct an annual review of actual NOx emissions during the previous control period from all NOx Budget units under paragraph (4) of this rule, including any new units, to ensure the total emissions remain below the state NOx budget

(ii) By January 31 of each year, the state shall supply to EPA an annual review of the actual NOx emissions during the previous control period from all NOx Budget units under paragraph (4) of this rule, in compliance with 40 CFR 51.122(c)(1)(i).

(iii) Should the total emissions for the control period exceed the state NOx budget as defined in this paragraph, the State will, within one year of determining the exceedance of the State program budget, submit a revised State Implementation Plan to the EPA which compensates for the budget shortfall and ensures the state program budget is met in future years.

(b) Monitoring and reporting requirements.

1. The owners and operators and, to the extent applicable, the NOx authorized account representative of each NOx Budget source and each NOx Budget unit at the source shall comply with the monitoring and reporting

requirements of ADEM Admin. Code r. 335-3-8-.72 for any control period during which a NOx Budget Unit operates.

2. NOx mass emissions measurements recorded and reported in accordance with ADEM Admin. Code r. 335-3-8-.72 shall be used to determine compliance with the State of Alabama NOx Budget set forth in subparagraph (6)(a)1. of this paragraph.

(c) Recordkeeping requirements.

1. Unless otherwise provided, the owners and operators of the NOx Budget source and each NOx Budget unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 5 years, in writing by the Department or the Administrator.

(i) The account certificate of representation for the NOx authorized account representative for the source and each NOx Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with subparagraph (2)(a) of this rule; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new account certificate of representation changing the NOx authorized account representative.

(ii) All emissions monitoring information, in accordance with ADEM Admin Code r. 335-3-8-.72; provided that to the extent that rule 335-3-8-.72 provides for a 3-year period for recordkeeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NOx Budget Program.

(iv) Any other submission in order to demonstrate compliance with the requirements of the NOx Budget Program.

2. The NOx authorized account representative of a NOx Budget source and each NOx Budget unit at the source shall submit the reports and compliance certifications required under the NOx Budget Program, including those under ADEM Admin Code r. 335-3-8-.72.

(d) Liability.

1. Any person who knowingly violates any requirement or prohibition of the NOx Budget Program, or an exemption under paragraph (5) of this rule shall be subject to enforcement pursuant to applicable State or Federal law.

2. Any person who knowingly makes a false material statement in any record, submission, or report under the NOx Budget Program shall be subject to criminal enforcement pursuant to the applicable State or Federal law.

3. No permit revision shall excuse any violation of the requirements of the NOx Budget Program that occurs prior to the date that the revision takes effect.

4. Each NOx Budget source and each NOx Budget unit at the source shall meet the requirements of the NOx Budget Program.

5. Any provision of the NOx Budget Program that applies to a NOx Budget source (including a provision applicable to the NOx authorized account representative of a NOx Budget source) shall also apply to the owners and operators of such source and of the NOx Budget units at the source.

6. Any provision of the NOx Budget Program that applies to a NOx Budget unit (including a provision applicable to the NOx authorized account representative of a NOx budget unit) shall also apply to the owners and operators of such unit.

(e) Effect on other authorities. No provision of the NOx Budget Program or an exemption under paragraph (5) of this rule shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NOx authorized account representative of a NOx Budget source or NOx Budget unit from compliance with any other provision of the applicable, approved State Implementation Plan, an enforceable permit, or the CAA.

(7) Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the NOx Budget Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NOx Budget 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.

(c) Unless otherwise stated, if the final day of any time period, under the NOx Budget Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
History: **New Rule:** Published February 28, 2020; effective April 13, 2020. **Amended (No changes to text):** Published December 29, 2023; effective February 12, 2024.

335-3-8-.72 NOx Budget Program Monitoring And Reporting.

(1) Monitoring and reporting requirements. The owners and operators and, to the extent applicable, the NOx authorized account representative of each NOx Budget source and each NOx Budget unit at the source shall implement a monitoring and reporting system necessary to attribute ozone season NOx mass emissions to each NOx Budget Unit at the source and provide a compliance certification report to be received by the Department by the 30th of November following each ozone season:

(a) A NOx Budget Unit that is required by any regulation or permit, or elects to monitor and report NOx mass emissions in accordance with 40 CFR Part 75 shall adhere to the monitoring and reporting requirements of 40 CFR Part 75 and the data from the Part 75 monitoring system shall be utilized by the Department.

1. For purposes of a source subject to the monitoring and reporting provisions of Part 75, the definitions in 40 CFR 72.2 shall apply, and the terms "affected unit", "designated representative", and "continuous emission monitoring system" (or "CEMS") in 40 CFR Part 75 shall be replaced by the terms "NOx Budget unit", "NOx authorized account representative", and "continuous emission monitoring system" (or "CEMS"), respectively, as defined in 335-3-8-.71(2).

(b) A NOx Budget Unit that elects to monitor and report NOx mass emissions utilizing a continuous emissions rate monitoring system (CERMS) shall adhere to the QA/QC requirements of 40 CFR Part 60, Performance Specification 2 and 40 CFR Part 60 Appendix F for the NOx CEMS, 40 CFR Part 60, Performance Specification 3 for a O2 or CO2 CEMS, and 40 CFR Part 60, Performance Specification 6 for Stack Gas Flow CEMS. The data from the CEMS shall be utilized by the Department.

(c) A NOx Budget Unit that is required by any regulation or permit, or elects to operate a NOx CEMS and is not subject to subparagraph (1)(a) of this rule, shall comply with the applicable monitoring and reporting regulations and utilize the CEMS data in conjunction with one of the following methods:

1. NOx budget sources utilizing this alternative monitoring option will calculate the NOx mass emissions (tons) for each ozone season and report the total as part of the compliance certification report to the Department no later than November 30th following that ozone season. The calculation for NOx mass emissions shall be as follows:

$$M = (R)*(HI)/2000$$

Where M is the NOx mass emissions (tons),

R is the NOx emissions rate (lb/mmBtu)

HI is the heat input (mmBtu)

(i) The NOx emission rate would be calculated from CEMS measurements using Method 19 in Appendix A of 40 CFR Part 60. For multi-fuel fired units, a worst case F-factor may be utilized for the purpose of calculating the NOx emission rate;

(ii) The heat input shall be calculated by totaling the heating value of the fuels used multiplied by the amount of each respective fuel utilized. The heat input due to the firing of wood waste may be calculated from steam production, less the heat input from other fuels. The calculation method for determining wood waste heat input must be detailed in the monitoring protocol required under subparagraph (e) of this paragraph; and

(iii) Each CEMS monitor shall meet the requirements of 40 CFR Part 60 Appendix B, Performance Specifications 2 and Appendix F.

Or,

2. NOx budget sources utilizing this alternative monitoring option will calculate the NOx mass emissions (tons) for each ozone season and report the total as part of the compliance certification report to the Department no later than November 30th following that ozone season. The calculation for NOx mass emissions shall be as follows:

$$M = 0.1194(R)*(Q)*top,/2000$$

Where M is the NOx mass emissions (tons),

R is the NOx emissions concentration (ppmw)

Q is the flow rate (mmscf/hr), and

top is the operating time (hr).

(i) The NOx emission concentration shall be determined from CEMS measurements.

(ii) The flow rate shall be determined by:

(I) The average flow rate of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring, or

(II) The flow rate of the unit as determined by 40 CFR Part 60, Appendix A, Methods 1-4.

(iii) Each CEMS monitor shall meet the requirements of 40 CFR Part 60 Appendix B, Performance Specifications 2 and Appendix F.

(d) A NOx Budget Unit that is not subject to subparagraph (1)(a), (1)(b) or 1(c) shall calculate the NOx mass emissions (tons) for each ozone season and report the total as part of the compliance certification report to the Department no later than November 30th following that ozone season. The calculation for NOx mass emissions shall be that of rule 335-3-8-.72(1)(c)2. with use of the following:

1. For sources which have previously operated CEMS subject to the requirements of 40 CFR Part 75:

(i) The average NOx concentration of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring,

(ii) The average flow rate of the unit under normal operating conditions as demonstrated by previous 40 CFR Part 75 monitoring,

(iii) If the unit operating parameters, such as fuel composition, change beyond normal conditions from that of the Part 75 monitoring, additional testing may be required to verify the NOx concentration and the flow rate, or to establish new NOx concentration and flow rate factors.

2. For units which do not have NOx concentration and flow rate factors from Part 75 CEMS, initial testing utilizing 40 CFR Part 60, Appendix A, Methods 1-4 and 7 or 7e shall be performed, followed by at least two annual tests which shall be used to establish NOx concentration and flow rate factors. If the unit operating parameters, such as fuel composition, change beyond normal conditions during the initial testing, additional testing may be required to verify the NOx concentration and the flow rate, or to establish new NOx concentration and flow rate factors, as approved by the Department.

3. Any source subject to the requirements of subparagraph (d) of this paragraph must include in the annual report required under subparagraph (2)(a) of this rule a statement of whether the unit operating parameters were within the historical parameters used to establish the appropriate NOx concentration and flow rate factors.

4. The monitoring protocol would be approved if the Department finds that the protocol is designed to provide all information necessary to accurately attribute NOx emissions to the unit, and would be sufficient to determine whether the sources are collectively in compliance with the State of Alabama NOx Budget.

5. A test in accordance with the methods used in 40 CFR Part 60, Appendix A, Methods 1-4 and 7 or 7E shall be performed at least once every five years to verify historical NOx concentration and flow rate factors used to compute NOx means emissions. For units subject to the testing required under subparagraph (1)(d)2. of this rule, five years begins as of the date of completion of the testing required under subpargraph (1)(d)2. For units that previously operated a CEMS under (1)(d)1., five years begins as of the date the CEMS cease to be used.

(e) A monitoring protocol shall be submitted for review and approval by the Department for each NOx Budget Unit. Minimum information in the monitoring protocol would be the monitoring method in subparagraphs (a), (b), or (c) of this paragraph; the normal operating conditions of the unit, including fuel type and operating rate; and any unit specific NOx concentration factors and flow rate factors utilized to calculate emissions. Additional information such as multiple operating scenarios or missing data substitution methods should be included as relevant.

1. For units which commenced operation prior to May 1, 2020, the pre-existing monitoring requirements must be met until a monitoring protocol is approved by the Department.

2. For units which commence operation on or after May 1, 2020, a monitoring protocol must be approved by the Department prior to operation during the initial ozone season.

3. Whenever the monitoring is changed, the pre-existing monitoring requirements shall be met until a new monitoring protocol is approved by the Department.

(2) Annual Compliance Report and Certification.

(a) For each control period in which one or more NOx Budget units at a source are subject to the NOx Budget program, the NOx authorized account representative of the source shall submit to the Department by November 30 of that year, a compliance certification report for each source covering all such units.

1. The NOx authorized account representative shall include in the compliance certification report under subparagraph (a) of this paragraph identification of each NOx Budget unit, all NOx mass emissions produced by the given unit for the control period covered by the report, supporting documentation, and the following certifications:

(i) The NOx authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NOx Budget units at the source in compliance with the NOx Budget Program, whether each NOx Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NOx Budget Program applicable to the unit, including whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NOx emissions to the unit, in accordance with rule 335-3-8-.72(1).

Author: Ronald W. Gore
Statutory Authority: Code of Ala. 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, 22-22A-8.
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