

# 61-62.96

## Nitrogen Oxides (NO<sub>x</sub>) Budget Program

Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
May 24, 2002	2593	26	5
September 24, 2004	2913	28	9
June 22, 2007	3083	31	6
October 24, 2008	3224	32	10
May 28, 2010	4122	34	5
June 22, 2012 (Errata)	4122	36	6
September 28, 2012 (Errata)	4122	36	9
April 26, 2013	4330	37	4
January 25, 2019	4870	43	1

## **Subpart A - NO<sub>x</sub> Budget Program General Provisions**

### **Section 96.1 Purpose.**

In accordance with 40 CFR 51.121, this regulation establishes general provisions and the applicability and monitoring provisions for the NO<sub>x</sub> Budget Program as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor. The owner or operator of a unit, or any other person, shall comply with requirements of this regulation as a matter of state and federal law. The state of South Carolina authorizes the EPA to assist the state in implementing the NO<sub>x</sub> Budget Program by carrying out the functions set forth for the EPA in such requirements.

### **Section 96.2 Definitions.**

The terms used in this regulation shall have the meanings set forth in this section as follows:

(a) Account certificate of representation means the completed and signed submission required by Subpart B of this regulation for certifying the designation of a NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> Budget source or a group of identified NO<sub>x</sub> Budget sources who is authorized to represent the owners and operators of such source or sources and of the NO<sub>x</sub> Budget units at such source or sources with regard to matters under the NO<sub>x</sub> Budget Program.

(b) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) Automated data acquisition and handling system or DAHS means that component of the CEMS, or other emissions monitoring system approved for use under Subpart H of this regulation, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Subpart H of this regulation.

(f) 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.

(g) CAA means the Clean Air Act, 42 U.S.C. 7401, *et seq.*, as amended by Pub. L. No. 101-549 (November 15, 1990).

(h) 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.

(i) 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.

(j) Commence commercial operation means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. Except as provided in Section 96.5, for a unit that is a NO<sub>x</sub> Budget unit under Section 96.4 on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. Except as provided in Section 96.5, for a unit that is not a NO<sub>x</sub> Budget unit under Section 96.4 on the date the unit commences commercial operation, the date the unit becomes a NO<sub>x</sub> Budget unit under Section 96.4 shall be the unit's date of commencement of commercial operation.

(k) 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 Section 96.5, for a unit that is a NO<sub>x</sub> Budget unit under Section 96.4 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 Section 96.5, for a unit that is not a NO<sub>x</sub> Budget unit under Section 96.4 on the date of commencement of operation, the date the unit becomes a NO<sub>x</sub> Budget unit under Section 96.4 shall be the unit's date of commencement of operation.

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

(m) [Reserved]

(n) [Reserved]

(o) Continuous emission monitoring system or CEMS means the equipment required under Subpart H of 40 CFR Part 75 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. The following systems are component parts included, consistent with 40 CFR Part 75, in a continuous emission monitoring system:

(1) Flow monitor;

(2) Nitrogen oxides pollutant concentration monitors;

(3) Diluent gas monitor (oxygen or carbon dioxide) when such monitoring is required by Subpart H of this regulation;

(4) A continuous moisture monitor when such monitoring is required by Subpart H of this regulation; and

(5) An automated data acquisition and handling system.

(p) Control period means for the year 2004, the period beginning on May 31 and ending on September 30 of the same year, inclusive. Thereafter, control period shall mean the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(q) Department means the South Carolina Department of Health and Environmental Control.

(r) Emissions means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the EPA by the NO<sub>x</sub> authorized account representative and as determined by the EPA in accordance with Subpart H of this regulation.

(s) [Reserved]

(t) EPA means the United States Environmental Protection Agency.

(u) [Reserved]

(v) [Reserved]

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

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

(1) For units that commenced operation before January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty (50) percent of the annual heat input on a Btu basis during 1995, or if a unit had not heat input in 1995, during the last year of operation of the unit prior to 1995;

(2) For units that commenced operation on or after January 1, 1996, the combination of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than fifty (50) percent of the annual heat input on a Btu basis during any year.

(3) Notwithstanding the definition set forth in 96.2(x)(1) above, a unit shall be deemed fossil fuel-fired if on any year after January 1, 2001, the fossil fuel actually combusted comprises more than fifty (50) percent of the annual heat input on a Btu basis.

(y) [Reserved]

(z) Generator means a device that produces electricity.

(aa) 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), as measured, recorded, and reported to the EPA by the NO<sub>x</sub> authorized account representative and as determined by the EPA in accordance with Subpart H of this regulation, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

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

(1) For the life of the unit;

(2) For a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(3) For a period equal to or greater than twenty-five (25) years or seventy (70) percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(cc) [Reserved]

(dd) 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.

(ee) [Reserved]

(ff) [Reserved]

(gg) Maximum rated hourly heat input means a unit-specific maximum hourly heat input (mmBtu) which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

(hh) Monitoring system means any monitoring system that meets the requirements of Subpart H of this regulation.

(ii) [Reserved]

(jj) Nameplate capacity means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(kk) [Reserved]

(ll) [Reserved]

(mm) [Reserved]

(nn) [Reserved]

(oo) [Reserved]

(pp) [Reserved]

(qq) [Reserved]

(rr) NO<sub>x</sub> authorized account representative means, for a NO<sub>x</sub> Budget source or NO<sub>x</sub> Budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO<sub>x</sub> Budget

units at the source, in accordance with Subpart B of this regulation, to represent and legally bind each owner and operator in matters pertaining to the NO<sub>x</sub> Budget Program.

(ss) [Reserved]

(tt) [Reserved]

(uu) [Reserved]

(vv) [Reserved]

(ww) NO<sub>x</sub> Budget source means a source that includes one or more NO<sub>x</sub> Budget units.

(xx) NO<sub>x</sub> Budget Program means a multi-state nitrogen oxides air pollution control and emission reduction program established in accordance with this regulation and pursuant to 40 CFR Part 51 Section 51.121, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(yy) NO<sub>x</sub> Budget unit means a unit that is subject to the NO<sub>x</sub> Budget Program emissions limitation under Section 96.4.

(zz) [Reserved]

(aaa) Operator means any person who operates, controls, or supervises a NO<sub>x</sub> Budget unit or a NO<sub>x</sub> Budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(bbb) [Reserved]

(ccc) [Reserved]

(ddd) Owner means any of the following persons:

(1) Any holder of any portion of the legal or equitable Title in a NO<sub>x</sub> Budget unit; or

(2) Any holder of a leasehold interest in a NO<sub>x</sub> Budget unit; or

(3) Any purchaser of power from a NO<sub>x</sub> Budget unit under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO<sub>x</sub> Budget unit; or

(4) [Reserved]

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

(fff) [Reserved]

(ggg) Receive or receipt of means, when referring to the Department or the EPA, 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 EPA in the regular course of business.

(hhh) [Reserved]

(iii) [Reserved]

(jjj) [Reserved]

(kkk) 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 Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

(lll) State means the state of South Carolina.

(mmm) [Reserved]

(nnn) Submit or serve means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(1) In person;

(2) By United States Postal Service; or

(3) 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.

(ooo) [Reserved]

(ppp) [Reserved]

(qqq) [Reserved]

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

(sss) [Reserved]

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

(uuu) Unit operating hour or hour of unit operation means any hour (or fraction of an hour) during which a unit combusts any fuel.

(v) [Reserved]

### **Section 96.3 Measurements, abbreviations, and acronyms.**

Measurements, abbreviations, and acronyms used in this regulation are defined as follows:

Btu-British thermal unit.  
hr-hour.  
lb-pounds.  
mmBtu-million Btu.  
MWe-megawatt electrical.  
ton-2000 pounds.  
CO<sub>2</sub>-carbon dioxide.  
NO<sub>x</sub> -nitrogen oxides.  
O<sub>2</sub>-oxygen.

### **Section 96.4 Applicability.**

(a) The following units shall be NO<sub>x</sub> Budget units, and any source that includes one or more such units shall be a NO<sub>x</sub> Budget source, subject to the requirements of this regulation:

(1)(i) For units that commenced operation before January 1, 1999, a unit serving a generator that has a nameplate capacity greater than 25 MWe and, except for a unit that has a SIC code of 4911 or 4931, produces an annual average of more than one-third of its potential electrical output capacity for sale to the electric grid during any three calendar year period.

(ii) For units that commenced operation on or after January 1, 1999, a unit serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

(2)(i) For units that commenced operation before January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr and does not serve a generator that has a nameplate capacity greater than 25 MWe if any such generator produces an annual average of more than one-third of its potential electrical output capacity for sale to the electric grid during any three calendar year period.

(ii) For units that commenced operation on or after January 1, 1999, a unit that has a maximum design heat input greater than 250 mmBtu/hr that:

(A) At no time served a generator producing electricity for sale; or

(B) At any time served a generator producing electricity for sale, if any such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than fifty (50) percent of the potential electrical output capacity of the unit.

(b)(1) Notwithstanding paragraph (a) of this section, a unit under paragraph (a)(1) or (a)(2) of this section that has a federally enforceable permit restricting the unit to the combustion of only natural gas or fuel oil and includes a NO<sub>x</sub> emission limitation restricting NO<sub>x</sub> emissions during a control period to 25 tons or less and that includes the special provisions in paragraph (b)(4) of this section shall be exempt from the



requirements of the NO<sub>x</sub> Budget Program, except for the provisions of this paragraph, Section 96.2, Section 96.3, Section 96.4(a), and Section 96.7. The NO<sub>x</sub> emission limitation under this paragraph (b)(1) shall restrict NO<sub>x</sub> emissions during the control period by limiting unit operating hours. The restriction on unit operating hours shall be calculated by dividing 25 tons by the unit's maximum potential hourly NO<sub>x</sub> mass emissions, which shall equal the unit's maximum rated hourly heat input multiplied by the highest default NO<sub>x</sub> emission rate otherwise applicable to the unit under 40 CFR Part 75 Section 75.19.

(2) The exemption under paragraph (b)(1) of this section shall become effective as follows:

(i) The exemption shall become effective on the date on which the NO<sub>x</sub> emission limitation and the special provisions in the permit under paragraph (b)(1) of this section become final; or

(ii) If the NO<sub>x</sub> emission limitation and the special provisions in the permit under paragraph (b)(1) of this section become final during a control period and after the first date on which the unit operates during such control period, then the exemption shall become effective on May 1 of such control period, provided that such NO<sub>x</sub> emission limitation and the special provisions apply to the unit as of such first date of operation. If such NO<sub>x</sub> emission limitation and special provisions do not apply to the unit as of such first date of operation, then the exemption under paragraph (b)(1) of this section shall become effective on October 1 of the year during which such NO<sub>x</sub> emission limitation and the special provisions become final.

(3) The Department will provide the EPA written notice of the issuance of such permit under paragraph (b)(1) of this section for a unit under paragraph (a)(1) or (a)(2) of this section, and, upon request, a copy of the permit.

(4) Special provisions.

(i) A unit exempt under paragraph (b)(1) of this section shall comply with the restriction on unit operating hours described in paragraph (b)(1) of this section during the control period in each year.

(ii) [Reserved]

(iii) A unit exempt under this paragraph (b) shall report hours of unit operation during the control period in each year to the Department by November 1 of that year.

(iv) For a period of five (5) years from the date the records are created, the owners and operators of a unit exempt under paragraph (b)(1) of this section shall retain, at the source that includes the unit, records demonstrating that the conditions of the federally enforceable permit under paragraph (b)(1) of this section were met, including the restriction on fuel use and unit operating hours. 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 EPA. The owners and operators bear the burden of proof that the unit met the restriction on unit operating hours.

(v) The owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of a unit exempt under paragraph (b)(1) of this section shall comply with the requirements of the NO<sub>x</sub> 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.

(vi) On the earlier of the following dates, a unit exempt under paragraph (b)(1) of this section shall lose its exemption:

(A) The date on which the restriction on fuel use and unit operating hours described in paragraph (b)(1) of this section is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable to any control period starting in 2004; or

(B) The first date on which the unit fails to comply, or with regard to which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on fuel use and unit operating hours described in paragraph (b)(1) of this section during any control period starting in 2004.

(vii) A unit that loses its exemption in accordance with paragraph (b)(4)(vi) of this section shall be subject to the requirements of this Part. For the purpose of applying monitoring requirements under Subpart H of this regulation, the unit shall be treated as commencing operation and, if the unit is covered by paragraph (a)(1) of this section, commencing commercial operation on the date the unit loses its exemption.

(viii) [Reserved]

### **Section 96.5 Retired unit exemption.**

(a) This section applies to any NO<sub>x</sub> Budget unit that is permanently retired.

(b)(1) Any NO<sub>x</sub> Budget unit that is permanently retired shall be exempt from the NO<sub>x</sub> Budget Program, except for the provisions of this section, and Sections 96.2, 96.3, 96.4, and 96.7.

(2) The exemption under paragraph (b)(1) of this section shall become effective the day on which the unit is permanently retired. Within thirty (30) days of permanent retirement, the NO<sub>x</sub> authorized account representative (authorized in accordance with Subpart B of this regulation) shall submit a statement to the Department otherwise responsible for administering any permit for the unit. 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 paragraph (c) of this section.

(3) After receipt of the notice under paragraph (b)(2) of this section, 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 paragraphs (b)(1) and (c) of this section.

(c) Special provisions.

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

(2) [Reserved]

(3) The owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of a unit exempt under this section shall comply with the requirements of the NO<sub>x</sub> 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.

(4) [Reserved]

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

(6) Loss of exemption.

(i) [Reserved]

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

### **Section 96.6 Standard requirements.**

(a) [Reserved]

(b) Monitoring requirements.

(1) The owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of each NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source shall comply with the monitoring requirements of Subpart H of this regulation.

(2) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) Recordkeeping and Reporting Requirements.

(1) Unless otherwise provided, the owners and operators of the NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source shall keep on site at the source each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the Department or the EPA.

(i) The account certificate of representation for the NO<sub>x</sub> authorized account representative for the source and each NO<sub>x</sub> Budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with Section 96.13; 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 NO<sub>x</sub> authorized account representative.

(ii) All emissions monitoring information, in accordance with Subpart H of this regulation; provided that to the extent that Subpart H of this regulation 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 NO<sub>x</sub> Budget Program.

(iv) Copies of all documents used to complete any submission under the NO<sub>x</sub> Budget Program or to demonstrate compliance with the requirements of the NO<sub>x</sub> Budget Program.

(2) The NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source shall submit the reports and compliance certifications required under the NO<sub>x</sub> Budget Program, including those under Subpart H of this regulation.

(f) Liability.

(1) Any person who knowingly violates any requirement or prohibition of the NO<sub>x</sub> Budget Program or an exemption under Section 96.5 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 NO<sub>x</sub> 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 NO<sub>x</sub> Budget Program that occurs prior to the date that the revision takes effect.

(4) Each NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit shall meet the requirements of the NO<sub>x</sub> Budget Program.

(5) Any provision of the NO<sub>x</sub> Budget Program that applies to a NO<sub>x</sub> Budget source (including a provision applicable to the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> Budget source) shall also apply to the owners and operators of such source and of the NO<sub>x</sub> Budget units at the source.

(6) Any provision of the NO<sub>x</sub> Budget Program that applies to a NO<sub>x</sub> Budget unit (including a provision applicable to the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> budget unit) shall also apply to the owners and operators of such unit. Except with regard to the requirements applicable to units with a common stack, the owners and operators and the NO<sub>x</sub> authorized account representative of one NO<sub>x</sub> Budget unit shall not be liable for any violation by any other NO<sub>x</sub> Budget unit of which they are not owners or operators or the NO<sub>x</sub> authorized account representative and that is located at a source of which they are not owners or operators or the NO<sub>x</sub> authorized account representative.

(g) Effect on Other Authorities. No provision of the NO<sub>x</sub> Budget Program or an exemption under Section 96.5 shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> Budget source or NO<sub>x</sub> Budget unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the CAA.

## **Section 96.7 Computation of time.**

- (a) Unless otherwise stated, any time period scheduled, under the NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> Budget Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

## **Subpart B - NO<sub>x</sub> Authorized Account Representative for NO<sub>x</sub> Budget Sources**

### **Section 96.10 Authorization and responsibilities of the NO<sub>x</sub> authorized account representative.**

- (a) Except as provided under Section 96.11, each NO<sub>x</sub> Budget source, including all NO<sub>x</sub> Budget units at the source, shall have one and only one NO<sub>x</sub> authorized account representative, with regard to all matters under the NO<sub>x</sub> Budget Program concerning the source or any NO<sub>x</sub> Budget unit at the source.
- (b) The NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> Budget source shall be selected by an agreement binding on the owners and operators of the source and all NO<sub>x</sub> Budget units at the source.
- (c) Upon receipt by the EPA of a complete account certificate of representation under Section 96.13, the NO<sub>x</sub> authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO<sub>x</sub> Budget source represented and each NO<sub>x</sub> Budget unit at the source in all matters pertaining to the NO<sub>x</sub> Budget Program, notwithstanding any agreement between the NO<sub>x</sub> authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NO<sub>x</sub> authorized account representative by the Department, the EPA, or a court regarding the source or unit.
- (d) [Reserved]
- (e)(1) Each submission under the NO<sub>x</sub> Budget Program shall be submitted, signed, and certified by the NO<sub>x</sub> authorized account representative for each NO<sub>x</sub> Budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the NO<sub>x</sub> authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the NO<sub>x</sub> Budget sources or NO<sub>x</sub> Budget units 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) The Department and the EPA will accept or act on a submission made on behalf of owner or operators of a NO<sub>x</sub> Budget source or a NO<sub>x</sub> Budget unit only if the submission has been made, signed, and certified in accordance with paragraph (e)(1) of this section.

**Section 96.11 Alternate NO<sub>x</sub> authorized account representative.**

(a) An account certificate of representation may designate one and only one alternate NO<sub>x</sub> authorized account representative who may act on behalf of the NO<sub>x</sub> authorized account representative. The agreement by which the alternate NO<sub>x</sub> authorized account representative is selected shall include a procedure for authorizing the alternate NO<sub>x</sub> authorized account representative to act in lieu of the NO<sub>x</sub> authorized account representative.

(b) Upon receipt by the EPA of a complete account certificate of representation under Section 96.13, any representation, action, inaction, or submission by the alternate NO<sub>x</sub> authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO<sub>x</sub> authorized account representative.

(c) Except in this section and Sections 96.10(a), 96.12, and 96.13, whenever the term “NO<sub>x</sub> authorized account representative” is used in this regulation, the term shall be construed to include the alternate NO<sub>x</sub> authorized account representative.

**Section 96.12 Changing the NO<sub>x</sub> authorized account representative and the alternate NO<sub>x</sub> authorized account representative; changes in the owners and operators.**

(a) Changing the NO<sub>x</sub> authorized account representative. The NO<sub>x</sub> authorized account representative may be changed at any time upon receipt by the EPA of a superseding complete account certificate of representation under Section 96.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NO<sub>x</sub> authorized account representative prior to the time and date when the EPA receives the superseding account certificate of representation shall be binding on the new NO<sub>x</sub> authorized account representative and the owners and operators of the NO<sub>x</sub> Budget source and the NO<sub>x</sub> Budget units at the source.

(b) Changing the alternate NO<sub>x</sub> authorized account representative. The alternate NO<sub>x</sub> authorized account representative may be changed at any time upon receipt by the EPA of a superseding complete account certificate of representation under Section 96.13. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate NO<sub>x</sub> authorized account representative prior to the time and date when the EPA receives the superseding account certificate of representation shall be binding on the new alternate NO<sub>x</sub> authorized account representative and the owners and operators of the NO<sub>x</sub> Budget source and the NO<sub>x</sub> Budget units at the source.

(c) Changes in the owners and operators.

(1) In the event a new owner or operator of a NO<sub>x</sub> Budget source or a NO<sub>x</sub> Budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO<sub>x</sub> authorized account representative and any

alternate NO<sub>x</sub> authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Department or the EPA, as if the new owner or operator were included in such list.

(2) Within thirty (30) days following any change in the owners and operators of a NO<sub>x</sub> Budget source or a NO<sub>x</sub> Budget unit, including the addition of a new owner or operator, the NO<sub>x</sub> authorized account representative or alternate NO<sub>x</sub> authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

### **Section 96.13 Account certificate of representation.**

(a) A complete account certificate of representation for a NO<sub>x</sub> authorized account representative or an alternate NO<sub>x</sub> authorized account representative shall include the following elements in a format prescribed by the EPA:

(1) Identification of the NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative.

(3) A list of the owners and operators of the NO<sub>x</sub> Budget source and of each NO<sub>x</sub> Budget unit at the source.

(4) The following certification statement by the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative: I certify that I was selected as the NO<sub>x</sub> authorized account representative or alternate NO<sub>x</sub> authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO<sub>x</sub> Budget Program on behalf of the owners and operators of the NO<sub>x</sub> Budget source and of each NO<sub>x</sub> 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 EPA, or a court regarding the source or unit.

(5) The signature of the NO<sub>x</sub> authorized account representative and any alternate NO<sub>x</sub> authorized account representative and the dates signed.

(b) Unless otherwise required by the Department or the EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or the EPA. Neither the Department nor the EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

### **Section 96.14 Objections concerning the NO<sub>x</sub> authorized account representative.**

(a) Once a complete account certificate of representation under Section 96.13 has been submitted and received, the Department and the EPA will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under Section 96.13 is received by the EPA.

(b) Except as provided in Section 96.12(a) or (b), no objection or other communication submitted to the Department or the EPA concerning the authorization, or any representation, action, inaction, or submission of the NO<sub>x</sub> authorized account representative shall affect any representation, action, inaction, or submission of the NO<sub>x</sub> authorized account representative or the finality of any decision or order by the Department or the EPA under the NO<sub>x</sub> Budget Program.

(c) Neither the Department nor the EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO<sub>x</sub> authorized account representative.

### **Subpart C - [Reserved]**

### **Subpart D - [Reserved]**

### **Subpart E - South Carolina NO<sub>x</sub> Ozone Season Budget**

#### **Section 96.40 State NO<sub>x</sub> Budget.**

For purposes of this regulation, for any control period, the South Carolina NO<sub>x</sub> budgets are as follows:

(a) The NO<sub>x</sub> budget for units specified in Section 96.4(a)(1) is 16,199 tons as approved at 67 FR 43546. The sum of the tons of NO<sub>x</sub> emitted from all such units in each control period beginning after the effective date of this rule may not exceed this budget amount.

(b) The NO<sub>x</sub> budget for units specified in Section 96.4(a)(2) is 3,479 tons as approved at 67 FR 43546. The sum of the tons of NO<sub>x</sub> emitted from all such units in each control period beginning after the effective date of this rule may not exceed this budget amount.

### **Subpart F - [Reserved]**

### **Subpart G - [Reserved]**

### **Subpart H - Monitoring and Reporting**

#### **Section 96.70 General Requirements.**

The owners and operators, and to the extent applicable, the NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> Budget unit, shall implement a monitoring and reporting system necessary to attribute ozone season NO<sub>x</sub> mass emissions to each unit in accordance with 40 CFR part 75, Subpart H ("Part 75"), except that a NO<sub>x</sub> budget unit that (i) is not required by 40 CFR 51.121, Regulation 61-62.97, or other regulation to comply with Part 75 and (ii) is subject to Subpart D or Subpart Db of 40 CFR Part 60, may instead monitor and report NO<sub>x</sub> mass emissions in accordance with 40 CFR Part 60, Subpart D or Subpart Db, as applicable. NO<sub>x</sub> mass emissions measurements recorded and reported in accordance with the above shall be used to determine compliance with the NO<sub>x</sub> budgets set forth in Section 96.40 of this regulation. For purposes of a source subject to the monitoring and reporting provisions of Part 75, the definitions in Section 96.2 and in 40 CFR Part 72 Section 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 NO<sub>x</sub>



Budget unit, NO<sub>x</sub> authorized account representative, and continuous emission monitoring system (or CEMS), respectively, as defined in Section 96.2.

**Section 96.76 [Reserved]**

**Subpart I - [Reserved]**