

an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x Budget opt-in permit under §97.83. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input rate of the unit are monitored and reported in accordance with subpart H of this part. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(b) If the Administrator determines that the unit's monitoring plan is sufficient under paragraph (a) of this section and after completion of monitoring system certification under subpart H of this part, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with subpart H of this part for one full control period during which percent monitor data availability is not less than 90 percent and during which the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a "NO_x Budget unit" prior to issuance of a NO_x Budget opt-in permit covering the unit.

(c) Based on the information monitored and reported under paragraph (b) of this section, the Administrator will calculate the unit's baseline heat input, which will equal the unit's total heat input (in mmBtu) for the control period, and the unit's baseline NO_x emissions rate, which will equal the unit's total NO_x mass emissions (in lb) for the control period divided by the unit's baseline heat input.

(d) *Issuance of draft NO_x Budget opt-in permit for public comment.* The permitting authority will issue a draft NO_x Budget opt-in permit for public comment in accordance with §97.20.

(e) Notwithstanding paragraphs (a) through (d) of this section, if at any time before issuance of a draft NO_x Budget opt-in permit for public comment for the unit, the Administrator or the permitting authority determines that the unit does not qualify as a NO_x Budget opt-in unit under §97.80, the permitting authority will issue a draft

denial of a NO_x Budget opt-in permit for public comment for the unit in accordance with §97.20.

(f) *Withdrawal of application for NO_x Budget opt-in permit.* A NO_x authorized account representative of a unit may withdraw its application for an initial NO_x Budget opt-in permit under §97.83 at any time prior to the issuance of the initial NO_x Budget opt-in permit. Once the application for a NO_x Budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to re-apply must submit a new application for an initial NO_x Budget permit under §97.83.

(g) The unit shall be a NO_x Budget opt-in unit and a NO_x Budget unit starting May 1 of the first control period starting after the issuance of the initial NO_x Budget opt-in permit by the permitting authority.

§97.85 NO_x Budget opt-in permit contents.

(a) Each NO_x Budget opt-in permit will contain all elements required for a complete NO_x Budget opt-in permit application under §97.22.

(b) Each NO_x Budget opt-in permit is deemed to incorporate automatically the definitions of terms under §97.2 and, upon recordation by the Administrator under subpart F or G of this part, every allocation, transfer, or deduction of NO_x allowances to or from the compliance accounts of each NO_x Budget opt-in unit covered by the NO_x Budget opt-in permit or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in unit is located.

§97.86 Withdrawal from NO_x Budget Trading Program.

(a) *Requesting withdrawal.* To withdraw from the NO_x Budget Trading Program, the NO_x authorized account representative of a NO_x Budget opt-in unit shall submit to the Administrator and the permitting authority a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.

(b) *Conditions for withdrawal.* Before a NO_x Budget opt-in unit covered by a

request under paragraph (a) of this section may withdraw from the NO_x Budget Trading Program and the NO_x Budget opt-in permit may be terminated under paragraph (e) of this section, the following conditions must be met:

(1) For the control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the Administrator and the permitting authority an annual compliance certification report in accordance with § 97.30.

(2) If the NO_x Budget opt-in unit has excess emissions for the control period immediately before the withdrawal is to be effective, the Administrator will deduct or has deducted from the NO_x Budget opt-in unit's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in unit is located, the full amount required under § 97.54(d) for the control period.

(3) After the requirements for withdrawal under paragraphs (b)(1) and (2) of this section are met, the Administrator will deduct from the NO_x Budget opt-in unit's compliance account, or the overdraft account of the NO_x Budget source where the NO_x Budget opt-in unit is located, NO_x allowances equal in number to and allocated for the same or a prior control period as any NO_x allowances allocated to that source under § 97.88 for any control period for which the withdrawal is to be effective. The Administrator will close the NO_x Budget opt-in unit's compliance account and transfer any remaining allowances to a general account specified by the owners and operators of the NO_x Budget opt-in unit.

(c) A NO_x Budget opt-in unit that withdraws from the NO_x Budget Trading Program shall comply with all requirements under the NO_x Budget Trading Program concerning all years for which such NO_x Budget opt-in unit was a NO_x Budget opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(d) *Notification.* (1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of NO_x allowances required), the Adminis-

trator will issue a notification to the permitting authority and the NO_x authorized account representative of the NO_x Budget opt-in unit of the acceptance of the withdrawal of the NO_x Budget opt-in unit as of a specified effective date that is after such requirements have been met and that is prior to May 1 or after September 30.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the Administrator will issue a notification to the permitting authority and the NO_x authorized account representative of the NO_x Budget opt-in unit that the request to withdraw is denied. If the NO_x Budget opt-in unit's request to withdraw is denied, the NO_x Budget opt-in unit shall remain subject to the requirements for a NO_x Budget opt-in unit.

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

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

(g) *Ability to return to the NO_x Budget Trading Program.* Once a NO_x Budget opt-in unit withdraws from the NO_x Budget Trading Program and its NO_x Budget opt-in permit is terminated under paragraph (e) of this section, the NO_x authorized account representative may not submit another application for a NO_x Budget opt-in permit under § 97.83 for the unit prior to the date that is 4 years after the date on which the terminated NO_x Budget opt-in permit became effective.