

(2) If a utility unit under paragraph (e)(1) of this section is allocated one or more allowances under subpart B of part 73 of this chapter, the designated representative (authorized in accordance with subpart B of this part) or, if no designated representative has been authorized, a certifying official of each owner of the unit shall submit to the permitting authority that issued the written exemption a statement (in a format prescribed by the Administrator) meeting the requirements of paragraph (c)(1)(i)(C) and (D) of this section. The statement shall be submitted by June 31, 1998 and, if the Administrator is not the permitting authority, a copy shall be submitted to the Administrator.

(f) *Special Provisions.* (1) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under this section shall:

(i) Comply with the requirements of paragraph (a) of this section for all periods for which the unit is exempt under this section; and

(ii) Comply with the requirements of the Acid Rain 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.

(2) For any period for which a unit is exempt under this section:

(i) For purposes of applying parts 70 and 71 of this chapter, the unit shall not be treated as an affected unit under the Acid Rain Program and shall continue to be subject to any other applicable requirements under parts 70 and 71 of this chapter.

(ii) The unit shall not be eligible to be an opt-in source under part 74 of chapter.

(3) For a period of 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 requirements of paragraph (a) of this section are met. 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 Administrator or the permitting authority.

(i) Such records shall include, for each delivery of fuel to the unit or for

fuel delivered to the unit continuously by pipeline, the type of fuel, the sulfur content, and the sulfur content of each sample taken.

(ii) The owners and operators bear the burden of proof that the requirements of paragraph (a) of this section are met.

(4) Loss of exemption. (i) On the earliest of the following dates, a unit exempt under paragraphs (b), (c), or (e) of this section shall lose its exemption and for purposes of applying parts 70 and 71 of this chapter, shall be treated as an affected unit under the Acid Rain Program:

(A) The date on which the unit first serves one or more generators with total nameplate capacity in excess of 25 MWe;

(B) The date on which the unit burns any coal or coal-derived fuel except for coal-derived gaseous fuel with a total sulfur content no greater than natural gas; or

(C) January 1 of the year following the year in which the annual average sulfur content for gaseous fuel burned at the unit exceeds 0.05 percent by weight (as determined under paragraph (d) of this section) or for nongaseous fuel burned at the unit exceeds 0.05 percent by weight (as determined under paragraph (d) of this section).

(ii) Notwithstanding § 72.30(b) and (c), the designated representative for a unit that loses its exemption under this section shall submit a complete Acid Rain permit application on the later of January 1, 1998 or 60 days after the first date on which the unit is no longer exempt.

(iii) For the purpose of applying monitoring requirements under part 75 of this chapter, a unit that loses its exemption under this section shall be treated as a new unit that commenced commercial operation on the first date on which the unit is no longer exempt.

[62 FR 55476, Oct. 24, 1997, as amended at 71 FR 25377, Apr. 28, 2006; 70 FR 25334, May 12, 2005]

§ 72.8 Retired units exemption.

(a) This section applies to any affected unit (except for an opt-in source) that is permanently retired.

(b)(1) Any affected unit (except for an opt-in source) that is permanently retired shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, §§ 72.10 through 72.13, and subpart B of part 73 of this chapter.

(2) The exemption under paragraph (b)(1) of this section shall become effective on January 1 of the first full calendar year during which the unit is permanently retired. By December 31 of the first year that the unit is to be exempt under this section, the designated representative (authorized in accordance with subpart B of this part), or, if no designated representative has been authorized, a certifying official of each owner of the unit shall submit a statement to the permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit. If the Administrator is not the permitting authority, a copy of the statement shall be submitted to the Administrator. The statement shall state (in a format prescribed by the Administrator) that the unit is permanently retired and will comply with the requirements of paragraph (d) of this section.

(3) After receipt of the notice under paragraph (b)(2) of this section, the permitting authority shall amend under § 72.83 the operating permit covering the source at which the unit is located, if the source has such a permit, to add the provisions and requirements of the exemption under paragraphs (b)(1) and (d) of this section.

(c) A unit that was issued a written exemption under this section and that is permanently retired shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, §§ 72.10 through 72.13, and subpart B of part 73 of this chapter, and shall be subject to the requirements of paragraph (d) of this section in lieu of the requirements set forth in the written exemption. The permitting authority shall amend under § 72.83 the operating permit covering the source at which the unit is located, if the source has such a permit, to add the provisions and requirements of the exemption under this paragraph (c) and paragraph (d) of this section.

(d) *Special Provisions.* (1) A unit exempt under this section shall not emit any sulfur dioxide and nitrogen oxides starting on the date that the exemption takes effect. The owners and operators of the unit will be allocated allowances in accordance with subpart B of part 73 of this chapter. If the unit is a Phase I unit, for each calendar year in Phase I, the designated representative of the unit shall submit a Phase I permit application in accordance with subparts C and D of this part 72 and an annual certification report in accordance with §§ 72.90 through 72.92 and is subject to §§ 72.95 and 72.96.

(2) A unit exempt under this section shall not resume operation unless the designated representative of the source that includes the unit submits a complete Acid Rain permit application under § 72.31 for the unit not less than 24 months prior to the later of January 1, 2000 or the date on which the unit is first to resume operation.

(3) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under this section shall comply with the requirements of the Acid Rain 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) For any period for which a unit is exempt under this section:

(i) For purposes of applying parts 70 and 71 of this chapter, the unit shall not be treated as an affected unit under the Acid Rain Program and shall continue to be subject to any other applicable requirements under parts 70 and 71 of this chapter.

(ii) The unit shall not be eligible to be an opt-in source under part 74 of chapter.

(5) For a period of 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 Administrator or the permitting authority. The owners and operators bear the burden

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of proof that the unit is permanently retired.

(6) Loss of exemption. (i) On the earlier of the following dates, a unit exempt under paragraph (b) or (c) of this section shall lose its exemption and for purposes of applying parts 70 and 71 of this chapter, shall be treated as an affected unit under the Acid Rain Program:

(A) The date on which the designated representative submits an Acid Rain permit application under paragraph (d)(2) of this section; or

(B) The date on which the designated representative is required under paragraph (d)(2) of this section to submit an Acid Rain permit application.

(ii) For the purpose of applying monitoring requirements under part 75 of this chapter, a unit that loses its exemption under this section shall be treated as a new unit that commenced commercial operation on the first date on which the unit resumes operation.

[62 FR 55477, Oct. 24, 1997; 62 FR 66279, Dec. 18, 1997, as amended at 71 FR 25377, Apr. 28, 2006]

§ 72.9 Standard requirements.

(a) *Permit Requirements.* (1) The designated representative of each affected source and each affected unit at the source shall:

(i) Submit a complete Acid Rain permit application (including a compliance plan) under this part in accordance with the deadlines specified in § 72.30;

(ii) Submit in a timely manner a complete reduced utilization plan if required under § 72.43; and

(iii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review an Acid Rain permit application and issue or deny an Acid Rain permit.

(2) The owners and operators of each affected source and each affected unit at the source shall:

(i) Operate the unit in compliance with a complete Acid Rain permit application or a superseding Acid Rain permit issued by the permitting authority; and

(ii) Have an Acid Rain Permit.

(b) *Monitoring Requirements.* (1) The owners and operators and, to the ex-

tent applicable, designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements as provided in part 75 of this chapter.

(2) The emissions measurements recorded and reported in accordance with part 75 of this chapter shall be used to determine compliance by the source or unit, as appropriate, with the Acid Rain emissions limitations and emissions reduction requirements for sulfur dioxide and nitrogen oxides under the Acid Rain Program.

(3) The requirements of part 75 of this chapter shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the Act and other provisions of the operating permit for the source.

(c) *Sulfur Dioxide Requirements.* (1) The owners and operators of each source and each affected unit at the source shall:

(i) Hold allowances, as of the allowance transfer deadline, in the source's compliance account (after deductions under § 73.34(c) of this chapter) not less than the total annual emissions of sulfur dioxide for the previous calendar year from the affected units at the source; and

(ii) Comply with the applicable Acid Rain emissions limitation for sulfur dioxide.

(2) Each ton of sulfur dioxide emitted in excess of the Acid Rain emissions limitations for sulfur dioxide shall constitute a separate violation of the Act.

(3) An affected unit shall be subject to the requirements under paragraph (c)(1) of this section as follows:

(i) Starting January 1, 1995, an affected unit under § 72.6(a)(1);

(ii) Starting on or after January 1, 1995 in accordance with §§ 72.41 and 72.43, an affected unit under § 72.6(a)(2) or (3) that is a substitution or compensating unit;

(iii) Starting January 1, 2000, an affected unit under § 72.6(a)(2) that is not a substitution or compensating unit; or

(iv) Starting on the later of January 1, 2000 or the deadline for monitor certification under part 75 of this chapter, an affected unit under § 72.6(a)(3) that