

**§ 72.84**

**40 CFR Ch. I (7-1-07 Edition)**

representation is submitted within 30 days;

(6)(i) Termination of a compliance option in the permit; provided that all requirements for termination under subpart D of this part are met and this procedure shall not be used to terminate a repowering plan after December 31, 1999 or a Phase I extension plan;

(ii) For opt-in sources, termination of a compliance option in the permit; provided that all requirements for termination under § 74.47 of this chapter are met.

(7) Changes in a substitution or reduced utilization plan that do not result in the addition of a new substitution unit or a new compensating unit under the plan;

(8) Changes in the date, specified in a unit's Acid Rain permit, of commencement of operation of qualifying Phase I technology, *provided* that they are in accordance with § 72.42 of this part;

(9) Changes in the date, specified in a new unit's Acid Rain permit, of commencement of operation or the deadline for monitor certification, *provided* that they are in accordance with § 72.9 of this part;

(10) The addition of or change in a nitrogen oxides alternative emissions limitation demonstration period, *provided* that the requirements of part 76 of this chapter are met; and

(11) Changes in a thermal energy plan that do not result in the addition or subtraction of a replacement unit or any change affecting the number of allowances transferred for the replacement of thermal energy.

(12) The addition of a NO<sub>x</sub> early election plan that was approved by the Administrator under § 76.8 of this chapter;

(13) The addition of an exemption for which the requirements have been met under § 72.7 or § 72.8 and

(14) Incorporation of changes that the Administrator has determined to be similar to those in paragraphs (a)(1) through (13) of this section.

(b)(1) The permitting authority will take final action on an administrative permit amendment within 60 days, or, for the addition of an alternative emissions limitation demonstration period, within 90 days, of receipt of the requested amendment and may take such action without providing prior public

notice. The source may implement any changes in the administrative permit amendment immediately upon submission of the requested amendment, *provided* that the requirements of paragraph (a) of this section are met.

(2) The permitting authority may, on its own motion, make an administrative permit amendment under paragraph (a)(3), (a)(4), (a)(12), or (a)(13) of this section at least 30 days after providing notice to the designated representative of the amendment and without providing any other prior public notice.

(c) The permitting authority will designate the permit revision under paragraph (b) of this section as having been made as an administrative permit amendment. Where a State is the permitting authority, the permitting authority shall submit the revised portion of the permit to the Administrator.

(d) An administrative amendment shall not be subject to the provisions for review by the Administrator and affected States applicable to a permit modification under § 72.81.

[58 FR 3650, Jan. 11, 1993, as amended at 60 FR 17114, Apr. 4, 1995; 62 FR 55485, Oct. 24, 1997; 66 FR 12978, Mar. 1, 2001]

**§ 72.84 Automatic permit amendment.**

The following permit revisions shall be deemed to amend automatically, and become a part of the affected unit's Acid Rain permit by operation of law without any further review:

(a) Upon recordation by the Administrator under part 73 of this chapter, all allowance allocations to, transfers to, and deductions from an affected unit's Allowance Tracking System account; and

(b) Incorporation of an offset plan that has been approved by the Administrator under part 77 of this chapter.

**§ 72.85 Permit reopenings.**

(a) The permitting authority shall reopen an Acid Rain permit for cause whenever:

(1) Any additional requirement under the Acid Rain Program becomes applicable to any affected unit governed by the permit;

(2) The permitting authority determines that the permit contains a material mistake or that an inaccurate statement was made in establishing the emissions standards or other terms or conditions of the permit, unless the mistake or statement is corrected in accordance with § 72.83; or

(3) The permitting authority determines that the permit must be revised or revoked to assure compliance with Acid Rain Program requirements.

(b) In reopening an Acid Rain permit for cause, the permitting authority shall issue a draft permit changing the provisions, or adding the requirements, for which the reopening was necessary. The draft permit shall be subject to the requirements of subparts E, F, and G of this part.

(c) As provided in §§ 72.73(b)(1) and 72.74(c)(2), the permitting authority shall reopen an Acid Rain permit to incorporate nitrogen oxides requirements, consistent with part 76 of this chapter.

(d) Any reopening of an Acid Rain permit shall not affect the term of the permit.

[58 FR 3650, Jan. 11, 1993, as amended at 62 FR 55485, Oct. 24, 1997]

### Subpart I—Compliance Certification

#### § 72.90 Annual compliance certification report.

(a) *Applicability and deadline.* For each calendar year during 1995 through 2005 in which a unit is subject to the Acid Rain emissions limitations, the designated representative of the source at which the unit is located shall submit to the Administrator, within 60 days after the end of the calendar year, an annual compliance certification report for the unit.

(b) *Contents of report.* The designated representative shall include in the annual compliance certification report under paragraph (a) of this section the following elements, in a format prescribed by the Administrator, concerning the unit and the calendar year covered by the report:

(1) Identification of the unit;

(2) For all Phase I units, the information in accordance with §§ 72.91(a) and 72.92(a) of this part;

(3) If the unit is governed by an approved Phase I extension plan, then the information in accordance with § 72.93 of this part;

(4) At the designated representative's option, the total number of allowances to be deducted for the year, using the formula in § 72.95 of this part, and the serial numbers of the allowances that are to be deducted;

(5) At the designated representative's option, for units that share a common stack and whose emissions of sulfur dioxide are not monitored separately or apportioned in accordance with part 75 of this chapter, the percentage of the total number of allowances under paragraph (b)(4) of this section for all such units that is to be deducted from each unit's compliance subaccount; and

(6) The compliance certification under paragraph (c) of this section.

(c) *Annual compliance certification.* In the annual compliance certification report under paragraph (a) of this section, the designated representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the affected units at the source in compliance with the Acid Rain Program, whether each affected 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 Acid Rain Program applicable to the unit, including:

(1) Whether the unit was operated in compliance with the applicable Acid Rain emissions limitations, including whether the unit held allowances, as of the allowance transfer deadline, in its compliance subaccount (after accounting for any allowance deductions under § 73.34(c) of this chapter) not less than the unit's total sulfur dioxide emissions during the calendar year covered by the annual report;

(2) 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 monitored emissions to the unit;

(3) Whether all the emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through