

(1) Consistent with paragraph (a) of this section, incorporation of a compliance option that the designated representative did not submit for approval and comment during the permit issuance process; except that incorporation of a reduced utilization plan that was not submitted during the permit issuance process, that does not designate a compensating unit, and that meets the requirements of § 72.43 of this part, may use the administrative permit amendment procedures under § 72.83 of this part;

(2) Changes in a substitution plan or reduced utilization plan that result in the addition of a new substitution unit or a new compensating unit under the plan;

(3) Addition of a nitrogen oxides averaging plan to a permit;

(4) Changes in a Phase I extension plan, repowering plan, nitrogen oxides averaging plan, or nitrogen oxides compliance deadline extension; and

(5) Changes in a thermal energy plan that result in any addition or subtraction of a replacement unit or any change affecting the number of allowances transferred for the replacement of thermal energy.

(c)(1) Permit modifications shall follow the permit issuance requirements of:

(i) Subparts E, F, and G of this part, where the Administrator is the permitting authority; or

(ii) Subpart G of this part and § 70.7(e)(4)(ii) of this chapter, where the State is the permitting authority.

(2) For purposes of applying paragraph (c)(1) of this section, a permit modification shall be treated as an Acid Rain permit application, to the extent consistent with this subpart.

[58 FR 3650, Jan. 11, 1993, as amended at 60 FR 17114, Apr. 4, 1995]

§ 72.82 Fast-track modifications.

The following procedures shall apply to all fast-track modifications.

(a) The designated representative shall serve a copy of the fast-track modification on the Administrator, the permitting authority, and any person entitled to a written notice under § 72.65(b)(1) (ii), (iii) and (iv) of this part. Within 5 business days of serving such copies, the designated representa-

tive shall also give public notice by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice.

(b) The public shall have a period of 30 days, commencing on the date of publication of the notice, to comment on the fast-track modification. Comments shall be submitted in writing to the permitting authority and to the designated representative.

(c) The designated representative shall submit the fast-track modification to the permitting authority on or before commencement of the public comment period.

(d) Within 30 days of the close of the public comment period, the permitting authority shall consider the fast-track modification and the comments received and approve, in whole or in part or with changes or conditions as appropriate, or disapprove the modification. A fast-track modification shall be effective immediately upon issuance, in accordance with § 70.7(a)(1)(v) of this chapter as applied to significant permit modifications.

§ 72.83 Administrative permit amendment.

(a) Acid Rain permit revisions that shall follow the administrative permit amendment procedures are:

(1) Activation of a compliance option conditionally approved by the permitting authority; *provided* that all requirements for activation under subpart D of this part are met;

(2) Changes in the designated representative or alternative designated representative; *provided* that a new certificate of representation is submitted;

(3) Correction of typographical errors;

(4) Changes in names, addresses, or telephone or facsimile numbers;

(5) Changes in the owners or operators; *provided* that a new certificate of 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 regulations implementing section 407 of the Act 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) Incorporation of changes that the Administrator has determined to be similar to those in paragraphs (a)(1) through (11) of this section.

(b) Administrative amendments shall follow the procedures set forth at § 70.7(d)(3) of this chapter. Where the State is the permitting authority, the permitting authority shall submit the revised portion of the permit to the Administrator within 10 working days after the date of final action on the request for an administrative amendment.

[58 FR 3650, Jan. 11, 1993, as amended at 60 FR 17114, Apr. 4, 1995]

§ 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) As provided in § 70.7(f) of this chapter, the permitting authority shall reopen an Acid Rain permit for cause, including whenever additional requirements become applicable to any affected unit governed by the permit.

(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)(2) and 72.74(b)(2) of this part, the permitting authority shall reopen an Acid Rain permit to incorporate nitrogen oxides requirements, consistent with section 407 of the Act and regulations implementing section 407 of the Act.

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

Subpart I—Compliance Certification

§ 72.90 Annual compliance certification report.

(a) *Applicability and deadline.* For each calendar year 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 the missing data procedures and reported in the quarterly monitoring reports;

(4) Whether the facts that form the basis for certification of each monitor at the unit or a group of units (including the unit) using a common stack or for using an Acid Rain Program excepted monitoring method or approved alternative monitoring method, if any, has changed; and

(5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

§ 72.91 Phase I unit adjusted utilization.

(a) *Annual compliance certification report.* The designated representative for each Phase I unit shall include in the annual compliance certification report the unit's adjusted utilization for the calendar year in Phase I covered by the report, calculated as follows:

$$\text{Adjusted utilization} = \text{baseline} - \text{actual utilization} - \text{plan reductions} + \text{compensating generation provided to other units}$$

where:

(1) "Baseline" is as defined in § 72.2 of this part.

(2) "Actual utilization" is the actual annual heat input (in mmBtu) of the unit for the calendar year determined in accordance with part 75 of this chapter.

(3) "Plan reductions" are the reductions in actual utilization, for the calendar year, below the baseline that are accounted for by an approved reduced utilization plan. The designated representative for the unit shall calculate the "plan reductions" (in mmBtu) using the following formula and converting all values in Kwh to mmBtu using the actual annual average heat rate (Btu/Kwh) of the unit (determined

in accordance with part 75 of this chapter) before the employment of any improved unit efficiency measures under an approved plan:

Plan reductions=reduction from energy conservation+reduction from improved unit efficiency improvements+shifts to designated sulfur-free generators+shifts to designated compensating units

where:

(i) "Reduction from energy conservation" is a good faith estimate of the expected kilowatt hour savings during the calendar year from all conservation measures under the reduced utilization plan and the corresponding reduction in heat input (in mmBtu) resulting from those savings. The verified amount of such reduction shall be submitted in accordance with paragraph (b) of this section.

(ii) "Reduction from improved unit efficiency" is a good faith estimate of the expected improvement in heat rate during the calendar year and the corresponding reduction in heat input (in mmBtu) at the Phase I unit as a result of all improved unit efficiency measures under the reduced utilization plan. The verified amount of such reduction shall be submitted in accordance with paragraph (b) of this section.

(iii) "Shifts to designated sulfur-free generators" is the reduction in utilization (in mmBtu), for the calendar year, that is accounted for by all sulfur-free generators designated under the reduced utilization plan in effect for the calendar year. This term equals the sum, for all such generators, of the "shift to sulfur-free generator." "Shift to sulfur-free generator" shall equal the amount, to the extent documented under paragraph (a)(6) of this section, calculated for each generator using the following formula:

Shift to sulfur-free generator=actual sulfur-free utilization - [(average 1985-87 sulfur-free annual utilization) (1+percentage change in dispatch system sales)]

where:

(A) "Actual sulfur-free utilization" is the actual annual generation (in Kwh) of the designated sulfur-free generator for the calendar year converted to mmBtus.

(B) "Average 1985-87 sulfur-free utilization" is the sum of annual generation (in Kwh) for 1985, 1986, and 1987 for the designated sulfur-free generator, divided by three and converted to mmBtus.

(C) "Percentage change in dispatch system sales" is calculated as follows:

$$\text{Percentage change in dispatch system sales} = \left[\frac{S_c - \left(\sum_{y=1985}^{1987} S_y \div 3 \right)}{\left(\sum_{y=1985}^{1987} S_y \div 3 \right)} \right]$$

where:

S=dispatch system sales (in Kwh)

c=calendar year

y=1985, 1986, or 1987

If the result of the formula for percentage change in dispatch system sales is less than or equal to zero, then percentage change in dispatch system sales shall be treated as zero only for purposes of paragraph (a)(3)(iii) of this section.

(D) If the result of the formula for "shift to sulfur-free generator" is less than or equal to zero, then "shift to sulfur-free generator" is zero.

(iv) "Shifts to designated compensating units" is the reduction in utilization (in mmBtu) for the calendar year

that is accounted for by increased generation at compensating units designated under the reduced utilization plan in effect for the calendar year. This term equals the heat rate, under paragraph (a)(3) of this section, of the unit reducing utilization multiplied by the sum, for all such compensating units, of the "shift to compensating unit" for each compensating unit. "Shift to compensating unit" shall equal the amount of compensating generation (in Kwh), to the extent documented under paragraph (a)(6) of this section, that the designated representatives of the unit reducing utilization