Environmental Protection Agency

§ 76.8 Early election for Group 1, Phase II boilers.

(a) General provisions. (1) The owner or operator of a Phase II coal-fired utility unit with a Group 1 boiler may elect to have the unit become subject to the applicable emissions limitation for NO\textsubscript{X} under §76.5, starting no later than January 1, 1997.

(2) The owner or operator of a Phase II coal-fired utility unit with a Group 1 boiler that elects to become subject to the applicable emission limitation under §76.5 shall not be subject to §76.7 until January 1, 2008, provided the designated representative demonstrates that the unit is in compliance with the limitation under §76.5, using the methods and procedures specified in part 75 of this chapter.

(3) The owner or operator of any Phase II unit with a cell burner boiler that converts to conventional burner technology may elect to become subject to the applicable emissions limitation for NO\textsubscript{X} for Phase II units with Group 1 boilers under §76.7.

(b) Submission requirements. In order to obtain early election status, the designated representative of a Phase II unit with a Group 1 boiler shall submit an early election plan to the Administrator by January 1 of the year the early election is to take effect, but not later than January 1, 1997.

(c) Contents of an early election plan. A complete early election plan shall include the following elements in a format prescribed by the Administrator:

(1) A request for early election;

(2) The first year for which early election is to take effect, but not later than 1997; and

(3) The special provisions under paragraph (e) of this section.

(d)(1) Permitting authority’s action. To the extent the Administrator determines that an early election plan complies with the requirements of this section, the Administrator will approve the plan and:

(i) If a Phase I Acid Rain permit governing the source at which the unit is located has been issued, will revise the permit in accordance with the permit modification procedures in §72.81 of this chapter to include the early election plan; or

(ii) If a Phase I Acid Rain permit governing the source at which the unit is located has not been issued, will issue a Phase I Acid Rain permit effective from January 1, 1996 through December 31, 1999, that will include the early
election plan and a complete compliance plan under §72.40(a) of this chapter and paragraph (b) of this section. If the early election plan is not effective until after January 1, 1995, the permit will not contain any NO\(_X\) emissions limitations until the effective date of the plan.

(2) Beginning January 1, 2000, the permitting authority will approve any early election plan previously approved by the Administrator during Phase I, unless the plan is terminated pursuant to paragraph (e)(3) of this section.

(e) Special provisions—(1) Emissions limitations—(i) Sulfur dioxide. Notwithstanding §72.9 of this chapter, a unit that is governed by an approved early election plan and that is not a substitution unit under §72.41 of this chapter or a compensating unit under §72.43 of this chapter shall not be subject to the following standard requirements under §72.9 of this chapter for Phase I:

(A) The permit requirements under §§72.9(a)(1)(i) and (ii) of this chapter;
(B) The sulfur dioxide requirements under §72.9(c) of this chapter;
(C) The excess emissions requirements under §72.9(e)(1) of this chapter.

(ii) Nitrogen oxides. A unit that is governed by an approved early election plan shall be subject to an emissions limitation for NO\(_X\) as provided under paragraph (a)(2) of this section except as provided under paragraph (e)(3)(iii) of this section.

(2) Liability. The owners and operators of any unit governed by an approved early election plan shall be liable for any violation of the plan or this section at that unit. The owners and operators shall be liable, beginning January 1, 2000, for fulfilling the obligations specified in part 77 of this chapter.

(3) Termination. An approved early election plan shall be in effect only until the earlier of January 1, 2008 or January 1 of the calendar year for which a termination of the plan takes effect.

(i) If the designated representative of the unit under an approved early election plan fails to demonstrate compliance with the applicable emissions limitation under §76.5 for any year during the period beginning January 1 of the first year the early election takes effect and ending December 31, 2007, the permitting authority will terminate the plan. The termination will take effect beginning January 1 of the year after the year for which there is a failure to demonstrate compliance, and the designated representative may not submit a new early election plan.

(ii) The designated representative of the unit under an approved early election plan may terminate the plan any year prior to 2008 but may not submit a new early election plan. In order to terminate the plan, the designated representative must submit a notice under §72.40(d) of this chapter by January 1 of the year for which the termination is to take effect.

(iii)(A) If an early election plan is terminated any year prior to 2000, the unit shall meet, beginning January 1, 2000, the applicable emissions limitation for NO\(_X\) for Phase II units with Group 1 boilers under §76.7.

(B) If an early election plan is terminated in or after 2000, the unit shall meet, beginning on the effective date of the termination, the applicable emissions limitation for NO\(_X\) for Phase II units with Group 1 boilers under §76.7.