

**§97.107**

**40 CFR Ch. I (7-1-12 Edition)**

of this part, provided that to the extent that subpart HH of this part provides for a 3-year period for record-keeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO<sub>x</sub> Annual Trading Program.

(iv) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO<sub>x</sub> Annual Trading Program or to demonstrate compliance with the requirements of the CAIR NO<sub>x</sub> Annual Trading Program.

(2) The CAIR designated representative of a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall submit the reports required under the CAIR NO<sub>x</sub> Annual Trading Program, including those under subpart HH of this part.

(f) *Liability.* (1) Each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit shall meet the requirements of the CAIR NO<sub>x</sub> Annual Trading Program.

(2) Any provision of the CAIR NO<sub>x</sub> Annual Trading Program that applies to a CAIR NO<sub>x</sub> source or the CAIR designated representative of a CAIR NO<sub>x</sub> source shall also apply to the owners and operators of such source and of the CAIR NO<sub>x</sub> units at the source.

(3) Any provision of the CAIR NO<sub>x</sub> Annual Trading Program that applies to a CAIR NO<sub>x</sub> unit or the CAIR designated representative of a CAIR NO<sub>x</sub> unit shall also apply to the owners and operators of such unit.

(g) *Effect on other authorities.* No provision of the CAIR NO<sub>x</sub> Annual Trading Program, a CAIR permit application, a CAIR permit, or an exemption under §97.105 shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO<sub>x</sub> source or CAIR NO<sub>x</sub> unit from compliance with any other provision of the applicable, approved State implementation plan, a federally enforceable permit, or the Clean Air Act.

**§97.107 Computation of time.**

(a) Unless otherwise stated, any time period scheduled, under the CAIR NO<sub>x</sub> Annual Trading Program, to begin on the occurrence of an act or event shall

begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR NO<sub>x</sub> Annual Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO<sub>x</sub> Annual Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

**§97.108 Appeal procedures.**

The appeal procedures for decisions of the Administrator under the CAIR NO<sub>x</sub> Annual Trading Program are set forth in part 78 of this chapter.

**Subpart BB—CAIR Designated Representative for CAIR NO<sub>x</sub> Sources**

**§97.110 Authorization and responsibilities of CAIR designated representative.**

(a) Except as provided under §97.111, each CAIR NO<sub>x</sub> source, including all CAIR NO<sub>x</sub> units at the source, shall have one and only one CAIR designated representative, with regard to all matters under the CAIR NO<sub>x</sub> Annual Trading Program concerning the source or any CAIR NO<sub>x</sub> unit at the source.

(b) The CAIR designated representative of the CAIR NO<sub>x</sub> source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO<sub>x</sub> units at the source and shall act in accordance with the certification statement in §97.113(a)(4)(iv).

(c) Upon receipt by the Administrator of a complete certificate of representation under §97.113, the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO<sub>x</sub> source represented and each CAIR NO<sub>x</sub> unit at the source in all matters pertaining to the CAIR NO<sub>x</sub> Annual Trading Program, notwithstanding any agreement

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between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the permitting authority, the Administrator, or a court regarding the source or unit.

(d) No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO<sub>x</sub> Allowance Tracking System account will be established for a CAIR NO<sub>x</sub> unit at a source, until the Administrator has received a complete certificate of representation under §97.113 for a CAIR designated representative of the source and the CAIR NO<sub>x</sub> units at the source.

(e)(1) Each submission under the CAIR NO<sub>x</sub> Annual Trading Program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO<sub>x</sub> source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(2) The permitting authority and the Administrator will accept or act on a submission made on behalf of owner or operators of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit only if the submission has been made, signed, and certified in accordance with paragraph (e)(1) of this section.

### **§ 97.111 Alternate CAIR designated representative.**

(a) A certificate of representation under §97.113 may designate one and only one alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.

(b) Upon receipt by the Administrator of a complete certificate of representation under §97.113, any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.

(c) Except in this section and §§97.102, 97.110(a) and (d), 97.112, 97.113, 97.115, 97.151 and 97.182, whenever the term "CAIR designated representative" is used in subparts AA through II of this part, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

### **§ 97.112 Changing CAIR designated representative and alternate CAIR designated representative; changes in owners and operators.**

(a) *Changing CAIR designated representative.* The CAIR designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation under §97.113. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source.

(b) *Changing alternate CAIR designated representative.* The alternate CAIR designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation under