

(d) *Prohibitions.* (1) No owner or operator of a NO_x Budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with § 97.75.

(2) No owner or operator of a NO_x Budget unit shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this subpart and part 75 of this chapter, except as provided in § 75.74 of this chapter.

(3) No owner or operator of a NO_x Budget unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this subpart and part 75 of this chapter or except as provided in § 75.74 of this chapter.

(4) No owner or operator of a NO_x Budget unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subpart, except under any one of the following circumstances:

(i) During the period that the unit is covered by an exemption under § 97.4(b) or § 97.5 that is in effect;

(ii) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this subpart and part 75 of this chapter, by the permitting authority for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) The NO_x authorized account representative submits notification of the date of certification testing of a replacement monitoring system for the

retired or discontinued monitoring system in accordance with § 97.71(b)(2).

[65 FR 2727, Jan. 18, 2000, as amended at 67 FR 21530, Apr. 30, 2002; 69 FR 21647, Apr. 21, 2004]

§ 97.71 Initial certification and recertification procedures.

(a) The owner or operator of a NO_x Budget unit that is subject to an Acid Rain emissions limitation shall comply with the initial certification and recertification procedures of part 75 of this chapter for NO_x-diluent CEMS, flow monitors, NO_x concentration CEMS, or excepted monitoring systems under appendix E of part 75 of this chapter for NO_x, under appendix D for heat input, or under § 75.19 for NO_x and heat input, except that:

(1) If, prior to January 1, 1998, the Administrator approved a petition under § 75.17(a) or (b) of this chapter for apportioning the NO_x emission rate measured in a common stack or a petition under § 75.66 of this chapter for an alternative to a requirement in § 75.17 of this chapter, the NO_x authorized account representative shall resubmit the petition to the Administrator under § 97.75(a) to determine if the approval applies under the NO_x Budget Trading Program.

(2) For any additional CEMS required under the common stack provisions in § 75.72 of this chapter or for any NO_x concentration CEMS used under the provisions of § 75.71(a)(2) of this chapter, the owner or operator shall meet the requirements of paragraph (b) of this section.

(b) The owner or operator of a NO_x Budget unit that is not subject to an Acid Rain emissions limitation shall comply with the following initial certification and recertification procedures. The owner or operator of such a unit that qualifies to use the low mass emissions excepted monitoring methodology under § 75.19 of this chapter or that qualifies to use an alternative monitoring system under subpart E of part 75 of this chapter shall comply with the following procedures, as modified by paragraph (c) or (d) of this section. The owner or operator of a NO_x Budget unit that is subject to an Acid

Rain emissions limitation and that requires additional CEMS under the common stack provisions in § 75.72 of this chapter or uses a NO_x concentration CEMS under § 75.71(a)(2) of this chapter shall comply with the following procedures.

(1) *Requirements for initial certification.* The owner or operator shall ensure that each emission monitoring system required by subpart H of part 75 of this chapter (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under § 75.20 of this chapter by the applicable deadline in § 97.70(b). In addition, whenever the owner or operator installs an emission monitoring system in order to meet the requirements of this part in a location where no such emission monitoring system was previously installed, initial certification in accordance with § 75.20 of this chapter is required.

(2) *Requirements for recertification.* Whenever the owner or operator makes a replacement, modification, or change in a certified emission monitoring system that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input rate or to meet the requirements of § 75.21 of this chapter or appendix B to part 75 of this chapter, the owner or operator shall recertify the emission monitoring system in accordance with § 75.20(b) of this chapter. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system in accordance with § 75.20(b) of this chapter. Examples of changes that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.

(3) *Certification approval process for initial certification and recertification—(i) Notification of certification.* The NO_x authorized account representative shall submit to the Administrator, the appropriate EPA Regional Office and the

permitting authority written notice of the dates of certification in accordance with § 97.73.

(ii) *Certification application.* The NO_x authorized account representative shall submit to the Administrator, the appropriate EPA Regional Office and the permitting authority a certification application for each emission monitoring system required under subpart H of part 75 of this chapter. A complete certification application shall include the information specified in subpart H of part 75 of this chapter.

(iii) Except for units using the low mass emission excepted methodology under § 75.19 of this chapter, the provisional certification date for a monitor shall be determined in accordance with § 75.20(a)(3) of this chapter. A provisionally certified monitor may be used under the NO_x Budget Trading Program for a period not to exceed 120 days after receipt by the Administrator of the complete certification application for the monitoring system under paragraph (b)(3)(ii) of this section. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of part 75 of this chapter, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Administrator does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Administrator.

(iv) *Certification application formal approval process.* The Administrator will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under paragraph (b)(3)(ii) of this section. In the event the Administrator does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of part 75 of this chapter and is included in the certification application will be deemed certified for use under the NO_x Budget Trading Program.

(A) *Approval notice.* If the certification application is complete and shows that each monitoring system

meets the applicable performance requirements of part 75 of this chapter, then the Administrator will issue a written notice of approval of the certification application within 120 days of receipt.

(B) *Incomplete application notice.* A certification application will be considered complete when all of the applicable information required to be submitted under paragraph (b)(3)(ii) of this section has been received by the Administrator. If the certification application is not complete, then the Administrator will issue a written notice of incompleteness that sets a reasonable date by which the NO_x authorized account representative must submit the additional information required to complete the certification application. If the NO_x authorized account representative does not comply with the notice of incompleteness by the specified date, then the Administrator may issue a notice of disapproval under paragraph (b)(3)(iv)(C) of this section. The 120-day review period shall not begin prior to receipt of a complete certification application.

(C) *Disapproval notice.* If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this part, or if the certification application is incomplete and the requirement for disapproval under paragraph (b)(3)(iv)(B) of this section has been met, then the Administrator will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Administrator and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under §75.20(a)(3) of this chapter). The owner or operator shall follow the procedures for loss of certification in paragraph (b)(3)(v) of this section for each monitoring system that is disapproved for initial certification.

(D) *Audit decertification.* The Administrator may issue a notice of disapproval of the certification status of a monitor in accordance with §97.72(b).

(v) *Procedures for loss of certification.* If the Administrator issues a notice of disapproval of a certification application under paragraph (b)(3)(iv)(C) of this section or a notice of disapproval of certification status under paragraph (b)(3)(iv)(D) of this section, then:

(A) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data specified under §75.20(a)(4)(iii), §75.20(b)(5), §75.20(h)(4), or §75.21(e) and continuing until the date and hour specified under §75.20(a)(5)(i) of this chapter:

(1) For units that the owner or operator intends to monitor or monitors for NO_x emission rate and heat input rate or intends to determine or determines NO_x mass emissions using the low mass emission excepted methodology under §75.19 of this chapter, the maximum potential NO_x emission rate and the maximum potential hourly heat input of the unit; and

(2) For units that the owner or operator intends to monitor or monitors for NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_x and the maximum potential flow rate of the unit under section 2 of appendix A of part 75 of this chapter.

(B) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with paragraphs (b)(3)(i) and (ii) of this section.

(C) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Administrator's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(c) *Initial certification and recertification procedures for low mass emission units using the excepted methodologies under §75.19 of this chapter.* The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under §75.19 of this chapter and not subject to an Acid Rain emissions limitation shall meet the applicable general operating requirements of §75.10 of this chapter and

the applicable requirements of § 75.19 of this chapter. The owner or operator of such a unit shall also meet the applicable certification and recertification procedures of paragraph (b) of this section, except that the excepted methodology shall be deemed provisionally certified for use under the NO_x Budget Trading Program as of the date on which a complete certification application is received by the Administrator. The methodology shall be considered to be certified either upon receipt of a written notice of approval from the Administrator or, if such notice is not provided, at the end of the Administrator's 120 day review period. However, a provisionally certified or certified low mass emissions excepted methodology shall not be used to report data under the NO_x Budget Trading Program prior to the applicable commencement date specified in § 75.19(a)(1)(ii) of this chapter.

(d) *Certification/recertification procedures for alternative monitoring systems.* The NO_x authorized account representative of each unit not subject to an Acid Rain emissions limitation for which the owner or operator intends to use an alternative monitoring system approved by the Administrator under subpart E of part 75 of this chapter shall comply with the applicable certification procedures of paragraph (b) of this section before using the system under the NO_x Budget Trading Program. The NO_x authorized account representative shall also comply with the applicable recertification procedures of paragraph (b) of this section. Section 75.20(f) of this chapter shall apply to such alternative monitoring system.

[65 FR 2727, Jan. 18, 2000, as amended at 69 FR 21647, Apr. 21, 2004]

§ 97.72 Out of control periods.

(a) Whenever any emission monitoring system fails to meet the quality assurance or data validation requirements of part 75 of this chapter, data shall be substituted using the applicable procedures in subpart D, subpart H, appendix D, or appendix E of part 75 of this chapter.

(b) *Audit decertification.* Whenever both an audit of an emission monitoring system and a review of the initial certification or recertification ap-

plication reveal that any system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under § 97.71 or the applicable provisions of part 75 of this chapter, both at the time of the initial certification or recertification application submission and at the time of the audit, the Administrator will issue a notice of disapproval of the certification status of such system. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the permitting authority or the Administrator. By issuing the notice of disapproval, the Administrator revokes prospectively the certification status of the system. The data measured and recorded by the system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the system. The owner or operator shall follow the initial certification or recertification procedures in § 97.71 for each disapproved system.

[65 FR 2727, Jan. 18, 2000, as amended at 69 FR 21648, Apr. 21, 2004]

§ 97.73 Notifications.

(a) The NO_x authorized account representative for a NO_x Budget unit shall submit written notice to the Administrator, the appropriate EPA Regional Office, and the permitting authority in accordance with § 75.61 of this chapter.

(b) For any unit that does not have an Acid Rain emissions limitation, the permitting authority may waive the requirement to notify the permitting authority in paragraph (a) of this section.

§ 97.74 Recordkeeping and reporting.

(a) *General provisions.* (1) The NO_x authorized account representative shall comply with all recordkeeping and reporting requirements in this section, with the recordkeeping and reporting requirements under § 75.73 of this chapter, and with the requirements of § 97.10(e)(1).