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§ 97.282 CAIR designated representative.

Any CAIR SO₂ opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this subpart, located at the same source as one or more CAIR SO₂ units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR SO₂ units.

§ 97.283 Applying for CAIR opt-in permit.

(a) *Applying for initial CAIR opt-in permit.* The CAIR designated representative of a unit meeting the requirements for a CAIR SO₂ opt-in unit in § 97.280 may apply for an initial CAIR opt-in permit at any time, except as provided under § 97.286(f) and (g), and, in order to apply, must submit the following:

(1) A complete CAIR permit application under § 97.222;

(2) A certification, in a format specified by the permitting authority, that the unit:

(i) Is not a CAIR SO₂ unit under § 97.204 and is not covered by a retired unit exemption under § 97.205 that is in effect;

(ii) Is not covered by a retired unit exemption under § 72.8 of this chapter that is in effect;

(iii) Is not and, so long as the unit is a CAIR SO₂ opt-in unit, will not become, an opt-in source under part 74 of this chapter;

(iv) Vents all of its emissions to a stack; and

(v) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under § 97.222;

(3) A monitoring plan in accordance with subpart HHH of this part;

(4) A complete certificate of representation under § 97.213 consistent with § 97.282, if no CAIR designated representative has been previously designated for the source that includes the unit; and

(5) A statement, in a format specified by the permitting authority, whether the CAIR designated representative requests that the unit be allocated CAIR SO₂ allowances under § 97.288(b) or

§ 97.288(c) (subject to the conditions in §§ 97.284(h) and 97.286(g)), to the extent such allocation is provided in a State implementation plan revision submitted in accordance with § 51.124(r)(1), (2), or (3) of this chapter and approved by the Administrator. If allocation under § 97.288(c) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

(b) *Duty to reapply.* (1) The CAIR designated representative of a CAIR SO₂ opt-in unit shall submit a complete CAIR permit application under § 97.222 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for title V operating permits, or the permitting authority's regulations for other federally enforceable permits if applicable, addressing permit renewal.

(2) Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR SO₂ opt-in unit from the CAIR SO₂ Trading Program in accordance with § 97.286 or the unit becomes a CAIR SO₂ unit under § 97.204, the CAIR SO₂ opt-in unit shall remain subject to the requirements for a CAIR SO₂ opt-in unit, even if the CAIR designated representative for the CAIR SO₂ opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under paragraph (b)(1) of this section.

[65 FR 2727, Jan. 18, 2000, as amended at 71 FR 74795, Dec. 13, 2006]

§ 97.284 Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under § 97.183 is submitted in accordance with the following, to the extent provided in a State implementation plan revision submitted in accordance with § 51.124(r)(1), (2), or (3) of this chapter and approved by the Administrator:

(a) *Interim review of monitoring plan.* The permitting authority and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit

under § 97.283. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the SO₂ emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with subpart HHH of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) *Monitoring and reporting.* (1)(i) If the permitting authority and the Administrator determine that the monitoring plan is sufficient under paragraph (a) of this section, the owner or operator shall monitor and report the SO₂ emissions rate and the heat input of the unit and all other applicable parameters, in accordance with subpart HHH of this part, starting on the date of certification of the appropriate monitoring systems under subpart HHH of this part and continuing until a CAIR opt-in permit is denied under § 97.284(f) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR SO₂ Trading Program in accordance with § 97.286.

(ii) The monitoring and reporting under paragraph (b)(1)(i) of this section shall include the entire control period immediately before the date on which the unit enters the CAIR SO₂ Trading Program under § 97.284(g), during which period monitoring system availability must not be less than 90 percent under subpart HHH of this part and the unit must be in full compliance with any applicable State or Federal emissions or emissions-related requirements.

(2) To the extent the SO₂ emissions rate and the heat input of the unit are monitored and reported in accordance with subpart HHH of this part for one or more control periods, in addition to the control period under paragraph (b)(1)(ii) of this section, during which control periods monitoring system availability is not less than 90 percent under subpart HHH of this part and the unit is in full compliance with any applicable State or Federal emissions or emissions-related requirements and which control periods begin not more than 3 years before the unit enters the CAIR SO₂ Trading Program under § 97.284(g), such information shall be

used as provided in paragraphs (c) and (d) of this section.

(c) *Baseline heat input.* The unit's baseline heat input shall equal:

(1) If the unit's SO₂ emissions rate and heat input are monitored and reported for only one control period, in accordance with paragraph (b)(1) of this section, the unit's total heat input (in mmBtu) for the control period; or

(2) If the unit's SO₂ emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, the average of the amounts of the unit's total heat input (in mmBtu) for the control periods under paragraphs (b)(1)(ii) and (2) of this section.

(d) *Baseline SO₂ emission rate.* The unit's baseline SO₂ emission rate shall equal:

(1) If the unit's SO₂ emissions rate and heat input are monitored and reported for only one control period, in accordance with paragraph (b)(1) of this section, the unit's SO₂ emissions rate (in lb/mmBtu) for the control period;

(2) If the unit's SO₂ emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit does not have add-on SO₂ emission controls during any such control periods, the average of the amounts of the unit's SO₂ emissions rate (in lb/mmBtu) for the control periods under paragraphs (b)(1)(ii) and (2) of this section; or

(3) If the unit's SO₂ emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit has add-on SO₂ emission controls during any such control periods, the average of the amounts of the unit's SO₂ emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on SO₂ emission controls.

(e) *Issuance of CAIR opt-in permit.* After calculating the baseline heat input and the baseline SO₂ emissions rate for the unit under paragraphs (c) and (d) of this section and if the permitting authority determines that the CAIR designated representative shows

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that the unit meets the requirements for a CAIR SO₂ opt-in unit in § 97.280 and meets the elements certified in § 97.283(a)(2), the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the Administrator, who will then establish a compliance account for the source that includes the CAIR SO₂ opt-in unit unless the source already has a compliance account.

(f) *Issuance of denial of CAIR opt-in permit.* Notwithstanding paragraphs (a) through (e) of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR SO₂ opt-in unit in § 97.280 or meets the elements certified in § 97.283(a)(2), the permitting authority will issue a denial of a CAIR opt-in permit for the unit.

(g) *Date of entry into CAIR SO₂ Trading Program.* A unit for which an initial CAIR opt-in permit is issued by the permitting authority shall become a CAIR SO₂ opt-in unit, and a CAIR SO₂ unit, as of the later of January 1, 2010 or January 1 of the first control period during which such CAIR opt-in permit is issued.

(h) *Repowered CAIR SO₂ opt-in unit.*

(1) If CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR SO₂ opt-in unit of CAIR SO₂ allowances under § 97.288(c) and such unit is repowered after its date of entry into the CAIR SO₂ Trading Program under paragraph (g) of this section, the repowered unit shall be treated as a CAIR SO₂ opt-in unit replacing the original CAIR SO₂ opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

(2) Notwithstanding paragraphs (c) and (d) of this section, as of the date of start-up under paragraph (h)(1) of this section, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline SO₂ emission rate as the original CAIR SO₂ opt-in unit, and the original CAIR SO₂

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opt-in unit shall no longer be treated as a CAIR SO₂ opt-in unit or a CAIR SO₂ unit.

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§ 97.285 CAIR opt-in permit contents.

(a) Each CAIR opt-in permit will contain:

(1) All elements required for a complete CAIR permit application under § 97.222;

(2) The certification in § 97.283(a)(2);

(3) The unit's baseline heat input under § 97.284(c);

(4) The unit's baseline SO₂ emission rate under § 97.284(d);

(5) A statement whether the unit is to be allocated CAIR SO₂ allowances under § 97.288(b) or § 97.288(c) (subject to the conditions in §§ 97.284(h) and 97.286(g));

(6) A statement that the unit may withdraw from the CAIR SO₂ Trading Program only in accordance with § 97.286; and

(7) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of § 97.287.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under § 97.202 and, upon recordation by the Administrator under subpart FFF or GGG of this part or this subpart, every allocation, transfer, or deduction of CAIR SO₂ allowances to or from the compliance account of the source that includes a CAIR SO₂ opt-in unit covered by the CAIR opt-in permit.

(c) The CAIR opt-in permit shall be included, in a format specified by the permitting authority, in the CAIR permit for the source where the CAIR SO₂ opt-in unit is located and in a title V operating permit or other federally enforceable permit for the source.

§ 97.286 Withdrawal from CAIR SO₂ Trading Program.

Except as provided under paragraph (g) of this section, a CAIR SO₂ opt-in unit may withdraw from the CAIR SO₂ Trading Program, but only if the permitting authority issues a notification to the CAIR designated representative of the CAIR SO₂ opt-in unit of the acceptance of the withdrawal of the CAIR