

§ 72.50

40 CFR Ch. I (7–1–14 Edition)

is not the permitting authority, a copy of the requested permit modification shall be submitted to the Administrator. In order to be properly constructed and tested, the repowering technology shall be constructed at least to the extent necessary for direct testing of the multiple combustion emissions (including sulfur dioxide and nitrogen oxides) from such unit while operating the technology at nameplate capacity. Where the preceding requirements of this paragraph are met:

(i) The permitting authority shall revise the Acid Rain portion of the operating permit in accordance with paragraphs (g)(2) (ii) and (iii) and § 72.81 (permit modification).

(ii) The existing unit may be retrofitted or repowered with another clean coal or other available control technology.

(iii) The repowering extension will continue in effect until the earlier of the date the existing unit commences commercial operation with such control technology or December 31, 2003. The Administrator will allocate or deduct allowances as necessary to ensure that allowances are allocated in accordance with paragraph (f)(3) of this section applying the repowering extension under this paragraph.

(h) *Special provisions—(1) Emissions Limitations.* (i) *Sulfur Dioxide.* Allowances allocated during the repowering extension under paragraphs (f)(3) and (g)(2)(iii) of this section to a unit governed by an approved repowering extension plan shall not be transferred to any Allowance Tracking System account other than the unit accounts of other units at the same source as that unit.

(ii) *Nitrogen oxides.* Any existing unit governed by an approved repowering extension plan shall be subject to the Acid Rain emissions limitations for nitrogen oxides in accordance with part 76 of this chapter beginning on the date that the unit is removed from operation to install the repowering technology or is permanently removed from service.

(iii) No existing unit governed by an approved repowering extension plan shall be eligible for a waiver under section 111(j) of the Act.

(iv) No new unit governed by an approved repowering extension plan shall receive an exemption from the requirements imposed under section 111 of the Act.

(2) *Reporting requirements.* Each unit governed by an approved repowering extension plan shall comply with the special reporting requirements of § 72.94.

(3) *Liability.* (i) The owners and operators of a unit governed by an approved repowering plan shall be liable for any violation of the plan or this section at that or any other unit governed by the plan, including liability for fulfilling the obligations specified in part 77 of this chapter and section 411 of the Act.

(ii) The units governed by the plan under paragraph (b)(2) of this section shall continue to have a common designated representative until the existing unit is permanently retired under the plan.

(4) *Terminations.* Except as provided in paragraph (g) of this section, a repowering extension plan shall not be terminated after December 31, 1999.

[58 FR 3650, Jan. 11, 1993, as amended at 58 FR 15649, Mar. 23, 1993; 62 FR 55481, Oct. 24, 1997]

Subpart E—Acid Rain Permit Contents

§ 72.50 General.

(a) Each Acid Rain permit (including any draft or proposed Acid Rain permit) will contain the following elements in a format prescribed by the Administrator:

(1) All elements required for a complete Acid Rain permit application under § 72.31 of this part, as approved or adjusted by the permitting authority;

(2) The applicable Acid Rain emissions limitation for sulfur dioxide; and

(3) The applicable Acid Rain emissions limitation for nitrogen oxides.

(b) Each Acid Rain permit is deemed to incorporate the definitions of terms under § 72.2 of this part.

§ 72.51 Permit shield.

Each affected unit operated in accordance with the Acid Rain permit that governs the unit and that was issued in compliance with title IV of

the Act, as provided in this part and parts 73, 74, 75, 76, 77, and 78 of this chapter shall be deemed to be operating in compliance with the Acid Rain Program, except as provided in § 72.9(g)(6).

[58 FR 3650, Jan. 11, 1993, as amended at 62 FR 55481, Oct. 24, 1997]

Subpart F—Federal Acid Rain Permit Issuance Procedures

§ 72.60 General.

(a) *Scope.* This subpart and parts 74, 76, and 78 of this chapter contain the procedures for federal issuance of Acid Rain permits for Phase I of the Acid Rain Program and Phase II for sources for which the Administrator is the permitting authority under § 72.74.

(1) Notwithstanding the provisions of part 71 of this chapter, the provisions of subparts C, D, E, F, and H of this part and of parts 74, 76, and 78 of this chapter shall govern the following requirements for Acid Rain permit applications and permits: submission, content, and effect of permit applications; content and requirements of compliance plans and compliance options; content of permits and permit shield; procedures for determining completeness of permit applications; issuance of draft permits; administrative record; public notice and comment and public hearings on draft permits; response to comments on draft permits; issuance and effectiveness of permits; permit revisions; and administrative appeal procedures. The provisions of part 71 of this chapter concerning Indian tribes, delegation of a part 71 program, affected State review of draft permits, and public petitions to reopen a permit for cause shall apply to Acid Rain permit applications and permits.

(2) The procedures in this subpart do not apply to the issuance of Acid Rain permits by State permitting authorities with operating permit programs approved under part 70 of this chapter, except as expressly provided in subpart G of this part.

(b) *Permit Decision Deadlines.* Except as provided in § 72.74(c)(1)(i), the Administrator will issue or deny an Acid Rain permit under § 72.69(a) within 6 months of receipt of a complete Acid

Rain permit application submitted for a unit, in accordance with § 72.21, at the U.S. EPA Regional Office for the Region in which the source is located.

(c) *Use of Direct Final Procedures.* The Administrator may, in his or her discretion, issue, as single document, a draft Acid Rain permit in accordance with § 72.62 and an Acid Rain permit in final form and may provide public notice of the opportunity for public comment on the draft Acid Rain permit in accordance with § 72.65. The Administrator may provide that, if no significant, adverse comment on the draft Acid Rain permit is timely submitted, the Acid Rain permit will be deemed to be issued on a specified date without further notice and, if such significant, adverse comment is timely submitted, an Acid Rain permit or denial of an Acid Rain permit will be issued in accordance with § 72.69. Any notice provided under this paragraph (c) will include a description of the procedure in the prior sentence.

[62 FR 55481, Oct. 24, 1997]

§ 72.61 Completeness.

(a) *Determination of Completeness.* The Administrator will determine whether the Acid Rain permit application is complete within 60 days of receipt by the U.S. EPA Regional Office for the Region in which the source is located. The permit application shall be deemed to be complete if the Administrator fails to notify the designated representative to the contrary within 60 days of receipt.

(b) *Supplemental Information.* (1) Regardless of whether the Acid Rain permit application is complete under paragraph (a) of this section, the Administrator may require submission of any additional information that the Administrator determines to be necessary in order to review the Acid Rain permit application and issue an Acid Rain permit.

(2)(i) Within a reasonable period determined by the Administrator, the designated representative shall submit the information required under paragraph (b)(1) of this section.