

## § 72.23

Rain Program, the term shall be construed to include either of the alternate designated representatives authorized under this paragraph (e).

[58 FR 3650, Jan. 11, 1993, as amended at 62 FR 55480, Oct. 24, 1997]

### **§ 72.23 Changing the designated representative, alternate designated representative; changes in the owners and operators.**

(a) *Changing the designated representative.* The designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation. Notwithstanding any such change, all submissions, actions, and inactions by the previous designated representative prior to the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new designated representative and on the owners and operators of the source represented and the affected units at the source.

(b) *Changing the alternate designated representative.* The alternate designated representative may be changed at any time upon receipt by the Administrator of a superseding complete certificate of representation. Notwithstanding any such change, all submissions, actions, and inactions by the previous alternate designated representative prior to the time and date when the Administrator receives the superseding certificate of representation shall be binding on the new alternate designated representative and on the owners and operators of the source represented and the affected units at the source.

(c) *Changes in the owners and operators.* (1) In the event a new owner or operator of an affected source or an affected unit is not included in the list of owners and operators submitted in the certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the certificate of representation, the submissions, actions, and inactions of the designated representative and any alternate designated representative of the source or unit, and the decisions, actions, and inactions of the Administrator and permitting authority, as if

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the new owner or operator were included in such list.

(2) Within 30 days following any change in the owners and operators of an affected unit, including the addition of a new owner or operator, the designated representative or any alternate designated representative shall submit a revision to the certificate of representation amending the list of owners and operators to include the change.

### **§ 72.24 Certificate of representation.**

(a) A complete certificate of representation for a designated representative or an alternate designated representative shall include the following elements in a format prescribed by the Administrator:

(1) Identification of the affected source and each affected unit at the source for which the certificate of representation is submitted.

(2) The name, address, and telephone and facsimile numbers of the designated representative and any alternate designated representative.

(3) A list of the owners and operators of the affected source and of each affected unit at the source.

(4) The following statement: "I certify that I was selected as the 'designated representative' or 'alternate designated representative,' as applicable, by an agreement binding on the owners and operators of the affected source and each affected unit at the source."

(5) The following statement: "I certify that I have given notice of the agreement, selecting me as the 'designated representative' for the affected source and each affected unit at the source identified in this certificate of representation, in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice."

(6) The following statement: "I certify that I have all necessary authority to carry out my duties and responsibilities under the Acid Rain Program on behalf of the owners and operators of the affected source and of each affected unit at the source and that each such owner and operator shall be fully

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bound by my actions, inactions, or submissions.”

(7) The following statement: “I certify that I shall abide by any fiduciary responsibilities imposed by the agreement by which I was selected as ‘designated representative’ or ‘alternate designated representative’, as applicable.”

(8) The following statement: “I certify that the owners and operators of the affected source and of each affected unit at the source shall be bound by any order issued to me by the Administrator, the permitting authority, or a court regarding the source or unit.”

(9) The following statement: “Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an affected unit, or where a utility or industrial customer purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, I certify that:

(i) “I have given a written notice of my selection as the ‘designated representative’ or ‘alternate designated representative’, as applicable, and of the agreement by which I was selected to each owner and operator of the affected source and of each affected unit at the source; and

(ii) “Allowances and proceeds of transactions involving allowances will be deemed to be held or distributed in proportion to each holder’s legal, equitable, leasehold, or contractual reservation or entitlement or, if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract.”

(10) If an alternate designated representative is authorized in the certificate of representation, the following statement: “The agreement by which I was selected as the alternate designated representative includes a procedure for the owners and operators of the source and affected units at the source to authorize the alternate designated representative to act in lieu of the designated representative.”

(11) The signature of the designated representative and any alternate designated representative who is authorized in the certificate of representation and the date signed.

(b) Unless otherwise required by the Administrator or the permitting authority, documents of agreement or notice referred to in the certificate of representation shall not be submitted to the Administrator or the permitting authority. Neither the Administrator nor the permitting authority shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

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### § 72.25 Objections.

(a) Once a complete certificate of representation has been submitted in accordance with § 72.24, the Administrator will rely on the certificate of representation unless and until a superseding complete certificate is received by the Administrator.

(b) Except as provided in § 72.23, no objection or other communication submitted to the Administrator or the permitting authority concerning the authorization, or any submission, action or inaction, of the designated representative shall affect any submission, action, or inaction of the designated representative, or the finality of any decision by the Administrator or permitting authority, under the Acid Rain Program. In the event of such communication, the Administrator and the permitting authority are not required to stay any allowance transfer, any submission, or the effect of any action or inaction under the Acid Rain Program.

(c) Neither the Administrator nor any permitting authority will adjudicate any private legal dispute concerning the authorization or any submission, action, or inaction of any designated representative, including private legal disputes concerning the proceeds of allowance transfers.

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