

§ 72.31

§ 72.31 Information requirements for Acid Rain permit applications.

A complete Acid Rain permit application shall include the following elements in a format prescribed by the Administrator:

(a) Identification of the affected source for which the permit application is submitted;

(b) Identification of each Phase I unit at the source for which the permit application is submitted for Phase I or each affected unit (except for an opt-in source) at the source for which the permit application is submitted for Phase II;

(c) A complete compliance plan for each unit, in accordance with subpart D of this part;

(d) The standard requirements under § 72.9; and

(e) If the Acid Rain permit application is for Phase II and the unit is a new unit, the date that the unit has commenced or will commence operation and the deadline for monitor certification.

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

§ 72.32 Permit application shield and binding effect of permit application.

(a) Once a designated representative submits a timely and complete Acid Rain permit application, the owners and operators of the affected source and the affected units covered by the permit application shall be deemed in compliance with the requirement to have an Acid Rain permit under § 72.9(a)(2) and § 72.30(a); *provided* that any delay in issuing an Acid Rain permit is not caused by the failure of the designated representative to submit in a complete and timely fashion supplemental information, as required by the permitting authority, necessary to issue a permit.

(b) Prior to the date on which an Acid Rain permit is issued or denied, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete Acid Rain permit application shall be deemed to be operating in compliance with the Acid Rain Program.

(c) A complete Acid Rain permit application shall be binding on the owners and operators and the designated

40 CFR Ch. I (7-1-07 Edition)

representative of the affected source and the affected units covered by the permit application and shall be enforceable as an Acid Rain permit from the date of submission of the permit application until the issuance or denial of an Acid Rain permit covering the units.

(d) If agency action concerning a permit is appealed under part 78 of this chapter, issuance or denial of the permit shall occur when the Administrator takes final agency action subject to judicial review.

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

§ 72.33 Identification of dispatch system.

(a) Every Phase I unit shall be treated as part of a dispatch system for purposes of §§ 72.91 and 72.92 in accordance with this section.

(b)(1) The designated representatives of all affected units in a group of all units and generators that are interconnected and centrally dispatched and that are included in the same utility system, holding company, or power pool, may jointly submit to the Administrator a complete identification of dispatch system.

(2) Except as provided in paragraph (f) of this section, each unit or generator may be included in only one dispatch system.

(3) Any identification of dispatch system must be submitted by January 30 of the first year for which the identification is to be in effect. A designated representative may request, and the Administrator may grant at his or her discretion, an exemption allowing the submission of an identification of dispatch system after the otherwise applicable deadline for such submission.

(c) A complete identification of dispatch system shall include the following elements in a format prescribed by the Administrator:

(1) The name of the dispatch system.

(2) The list of all units and generators (including sulfur-free generators) in the dispatch system.

(3) The first calendar year for which the identification is to be in effect.

(4) The following statement: "I certify that, except as otherwise required under a petition as approved under 40

CFR 72.33(f), the units and generators listed herein are and will continue to be interconnected and centrally dispatched, and will be treated as a dispatch system under 40 CFR 72.91 and 72.92, during the period that this identification of dispatch system is in effect. During such period, all information concerning these units and generators and contained in any submissions under 40 CFR 72.91 and 72.92 by me and the other designated representatives of these units shall be consistent and shall conform with the data in the dispatch system data reports under 40 CFR 72.92(b). I am aware of, and will comply with, the requirements imposed under 40 CFR 72.33(e)(2).''

(5) The signatures of the designated representative for each affected unit in the dispatch system.

(d) In order to change a unit's current dispatch system, complete identifications of dispatch system shall be submitted for the unit's current dispatch system and the unit's new dispatch system, reflecting the change.

(e)(1) Any unit or generator not listed in a complete identification of dispatch system that is in effect shall treat its utility system as its dispatch system and, if such unit or generator is listed in the NADB, shall treat the utility system reported under the data field "UTILNAME" of the NADB as its utility system.

(2) During the period that the identification of dispatch system is in effect all information that concerns the units and generators in a given dispatch system and that is contained in any submissions under §§ 72.91 and 72.92 by designated representative of these units shall be consistent and shall conform with the data in the dispatch system data reports under § 72.92(b). If this requirement is not met, the Administrator may reject all such submissions and require the designated representatives to make the submissions under §§ 72.91 and 72.92 (including the dispatch system data report) treating the utility system of each unit or generator as its respective dispatch system and treating the identification of dispatch system as no longer in effect.

(f)(1) Notwithstanding paragraph (e)(1) of this section or any submission of an identification of dispatch system

under paragraphs (b) or (d) of this section, the designated representative of a Phase I unit with two or more owners may petition the Administrator to treat, as the dispatch system for an owner's portion of the unit, the dispatch system of another unit.

(i) The owner's portion of the unit shall be based on one of the following apportionment methods:

(A) *Owner's share of the unit's capacity in 1985-1987.* Under this method, the baseline of the owner's portion of the unit shall equal the baseline of the unit multiplied by the average of the owner's percentage ownership of the capacity of the unit for each year during 1985-1987. The actual utilization of the owner's portion of the unit for a year in Phase I shall equal the actual utilization of the unit for the year that is attributed to the owner.

(B) *Owner's share of the unit's baseline.* Under this method, the baseline of the owner's portion of the unit shall equal the average of the unit's annual utilization in 1985-1987 that is attributed to the owner. The actual utilization of the owner's portion of the unit for a year in Phase I shall equal the actual utilization of the unit for the year that is attributed to the owner.

(ii) The annual or actual utilization of a unit shall be attributed, under paragraph (f)(1)(i) of this section, to an owner of the unit using accounting procedures consistent with those used to determine the owner's share of the fuel costs in the operation of the unit during the period for which the annual or actual utilization is being attributed.

(iii) Upon submission of the petition, the designated representative may not change the election of the apportionment method or the baseline of the owner's portion of the unit.

The same apportionment method must be used for all portions of the unit for all years in Phase I for which any petition under paragraph (f)(1) of this section is approved and in effect.

(2) The petition under paragraph (f)(1) of this section shall be submitted by January 30 of the first year for which the dispatch system proposed in the petition will take effect, if approved. A complete petition shall include the following elements in a format prescribed by the Administrator:

§ 72.33

40 CFR Ch. I (7-1-07 Edition)

(i) The election of the apportionment method under paragraph (f)(1)(i) of this section.

(ii) The baseline of the owner's portion of the unit and the baseline of any other owner's portion of the unit for which a petition under paragraph (f)(1) of this section has been approved or has been submitted (and not disapproved) and a demonstration that the sum of such baselines and the baseline of any remaining portion of the unit equals 100 percent of the baseline of the unit. The designated representative shall also submit, upon request, either:

(A) Where the unit is to be apportioned under paragraph (f)(1)(i)(A) of this section, documentation of the average of the owner's percentage ownership of the capacity of the unit for each year during 1985-1987; or

(B) Where the unit is to be apportioned under paragraph (f)(1)(i)(B) of this section, documentation showing the attribution of the unit's utilization in 1985, 1986, and 1987 among the portions of the unit and the calculation of the annual average utilization for 1985-1987 for the portions of the unit.

(iii) The name of the proposed dispatch system and a list of all units (including portions of units) and generators in that proposed dispatch system and, upon request, documentation demonstrating that the owner's portion of the unit, along with the other units in the proposed dispatch system, are a group of all units and generators that are interconnected and centrally dispatched by a single utility company, the service company of a single holding company, or a single power pool.

(iv) The following statement, signed by the designated representatives of all units in the proposed dispatch system: "I certify that the units and generators in the dispatch system proposed in this petition are and will continue to be interconnected and centrally dispatched, and will be treated as a dispatch system under 40 CFR 72.91 and 72.92, during the period that this petition, as approved, is in effect."

(v) The following statement, signed by the designated representatives of all units in all dispatch systems that will include any portion of the unit if the petition is approved: "During the pe-

riod that this petition, if approved, is in effect, all information that concerns the units and generators in any dispatch system including any portion of the unit apportioned under the petition and that is contained in any submissions under 40 CFR 72.91 and 72.92 by me and the other designated representatives of these units shall be consistent and shall conform to the data in the dispatch system data reports under 40 CFR 72.92(b). I am aware of, and will comply with, the requirements imposed under 40 CFR 72.33(f) (4) and (5)."

(3)(i) The Administrator will approve in whole, in part, or with changes or conditions, or deny the petition under paragraph (f)(1) of this section within 90 days of receipt of the petition. The Administrator will treat the petition, as changed or conditioned upon approval, as amending any identification of dispatch system that is submitted prior to the approval and includes any portion of the unit for which the petition is approved. Where any portion of a unit is not covered by an approved petition, that remaining portion of the unit shall continue to be part of the unit's dispatch system.

(ii) In approving the petition, the Administrator will determine, on a case-by-case basis, the proper calculation and treatment, for purposes of the reports required under §§72.91 and 72.92, of plan reductions and compensating generation provided to other units.

(4) The designated representative for the unit for which a petition is approved under paragraph (f)(3) of this section and the designated representatives of all other units included in all dispatch systems that include any portion of the unit shall submit all annual compliance certification reports, dispatch system data reports, and other reports required under §§72.91 and 72.92 treating, as a separate Phase I unit, each portion of the unit for which a petition is approved under paragraph (f)(3) of this section and the remaining portion of the unit. The reports shall include all required calculations and demonstrations, treating each such portion of the unit as a separate Phase I unit. Upon request, the designated representatives shall demonstrate that the data in all the reports under §§72.91 and 72.92 has been properly attributed

or apportioned among the portions of the unit and the dispatch systems and that there is no undercounting or double-counting with regard to such data.

(i) The baseline of each portion of the unit for which a petition is approved shall be determined under paragraphs (f)(1) (i) and (ii) of this section. The baseline of the remaining portion of such unit shall equal the baseline of the unit less the sum of the baselines of any portions of the unit for which a petition is approved.

(ii) The actual utilization of each portion of the unit for which a petition is approved shall be determined under paragraphs (f)(1) (i) and (ii) of this section. The actual utilization of the remaining portion of such unit shall equal the actual utilization of the unit less the sum of the actual utilizations of any portions of the unit for which a petition is approved. Upon request, the designated representative of the unit shall demonstrate in the annual compliance certification report that the requirements concerning calculation of actual utilization under paragraph (f)(1)(ii) and any requirements established under paragraph (f)(3) of this section are met.

(iii) Except as provided in paragraph (f)(5) of this section, the designated representative shall surrender for deduction the number of allowances calculated using the formula in § 72.92(c) and treating, as a separate Phase I unit, each portion of unit for which a petition is approved under paragraph (f)(3) of this section and the remaining portion of the unit.

(5) In the event that the designated representatives fail to make all the proper attributions, apportionments, calculations, and demonstrations under paragraph (f)(4) of this section and §§ 72.91 and 72.92, the Administrator may require that:

(i) All portions of the unit be treated as part of the dispatch system of the unit in accordance with paragraph (e)(1) of this paragraph and any identification of dispatch system submitted under paragraph (b) or (d) of this section;

(ii) The designated representatives make all submissions under §§ 72.91 and 72.92 (including the dispatch system data report), treating the entire unit as

a single Phase I unit, in accordance with paragraph (e)(1) of this paragraph and any identification of dispatch system submitted under paragraph (b) or (d) of this section; and

(iii) The designated representative surrender for deduction the number of allowances calculated, consistent with the reports under paragraph (f)(5)(ii) of this section and §§ 72.91 and 72.92, using the formula in § 72.92(c) and treating the entire unit as a single Phase I unit.

(6) The designated representative may submit a notification to terminate an approved petition by January 30 of the first year for which the termination is to take effect. The notification must be signed and certified by the designated representatives of all units included in all dispatch systems that include any portion of the unit apportioned under the petition. Upon receipt of the notification meeting the requirements of the prior two sentences by the Administrator, the approved petition is no longer in effect for that year and the remaining years in Phase I and the designated representatives shall make all submissions under §§ 72.91 and 72.92 treating the petition as no longer in effect for all such years.

(7) Except as expressly provided in paragraphs (f)(1) through (6) of this section or the Administrator's approval of the petition, all provisions of the Acid Rain Program applicable to an affected source or an affected unit shall apply to the entire unit regardless of whether a petition has been submitted or approved, or reports have been submitted, under such paragraphs. Approval of a petition under such paragraphs shall not constitute a determination of the percentage ownership in a unit under any other provision of the Acid Rain Program and shall not change the liability of the owners and operators of an affected unit that has excess emissions under § 72.9(e).

[58 FR 3650, Jan. 11, 1993, as amended at 60 FR 18468, Apr. 11, 1995; 62 FR 55481, Oct. 24, 1997]