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of this section for all Phase I units that are in the unit's dispatch system and to which paragraph (b)(5) of this section is applicable, the designated representative shall calculate the number of allowances to be surrendered in accordance with § 72.92(c)(2) using the recalculated adjusted utilizations of such Phase I units.

(C) The allowances to be deducted under paragraph (b)(5) of this section shall equal the amount under paragraph (b)(5)(ii)(B) of this section, *provided* that if the amount calculated under this paragraph (b)(5)(ii)(C) is equal to or less than zero, then the amount of allowances to be deducted is zero.

(6) The Administrator will determine the amount of allowances that would have been included in the unit's compliance subaccount and the amount of excess emissions of sulfur dioxide that would have resulted if the deductions made under § 73.35(b) of this chapter had been based on the verified, rather than the estimated, reduction in the unit's heat input from energy conservation and improved unit efficiency measures.

(7) The Administrator will determine whether the amount of excess emissions of sulfur dioxide under paragraph (b)(6) of this section differs from the amount of excess emissions determined under § 73.35(b) of this chapter based on the annual compliance certification report. If the amounts differ, the Administrator will determine: The number of allowances that should be deducted to offset any increase in excess emissions or returned to account for any decrease in excess emissions; and the amount of excess emissions penalty (excluding interest) that should be paid or returned to account for the change in excess emissions. The Administrator will deduct immediately from the unit's compliance subaccount the amount of allowances that he or she determines is necessary to offset any increase in excess emissions or will return immediately to the unit's compliance subaccount the amount of allowances that he or she determines is necessary to account for any decrease in excess emissions. The designated representative may identify the serial numbers of the allowances to be deducted or returned.

In the absence of such identification, the deduction will be on a first-in, first-out basis under § 73.35(b)(2) of this chapter and the return will be at the Administrator's discretion.

(8) If the designated representative of a unit fails to submit on a timely basis a confirmation report (in accordance with paragraph (b) of this section) with regard to the estimate of expected kilowatt hour savings or improvement in heat rate from any energy conservation or improved unit efficiency measure under the reduced utilization plan, then the Administrator will reject such estimate and correct it to equal zero in the unit's annual compliance certification report that includes that estimate. The Administrator will deduct immediately, on a first-in, first-out basis under § 73.35(c)(2) of this chapter, the amount of allowances that he or she determines is necessary to offset any increase in excess emissions of sulfur dioxide that results from the correction and require the owners and operators to pay an excess emission penalty in accordance with part 77 of this chapter.

[58 FR 3650, Jan. 11, 1993, as amended at 58 FR 40747, July 30, 1993; 59 FR 60231, Nov. 22, 1994; 60 FR 18470, Apr. 11, 1995; 62 FR 55485, Oct. 24, 1997]

### § 72.92 Phase I unit allowance surrender.

(a) *Annual compliance certification report.* If a Phase I unit's adjusted utilization for the calendar year in Phase I under § 72.91(a) is greater than zero, then the designated representative shall include in the annual compliance certification report the number of allowances that shall be surrendered for adjusted utilization using the formula in paragraph (c) of this section and the calculations that were performed to obtain that number.

(b) *Other submissions.* (1) [Reserved]

(2)(i) If any Phase I unit in a dispatch system is governed during the calendar year by an approved reduced utilization plan relying on sulfur-free generation, then the designated representatives of all affected units in such dispatch system shall jointly submit,

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within 60 days of the end of the calendar year, a dispatch system data report that includes the following elements in a format prescribed by the Administrator:

(A) The name of the dispatch system as reported under § 72.33;

(B) The calculation of “percentage change in dispatch system sales” under § 72.91(a)(3)(iii)(C);

(C) A certification that each designated representative will use this figure, as appropriate, in its annual compliance certification report and will submit upon request the data supporting the calculation; and

(D) The signatures of all the designated representatives.

(ii) If any Phase I unit in a dispatch system has adjusted utilization greater than zero for the calendar year, then the designated representatives of all Phase I units in such dispatch system shall jointly submit, within 60 days of the end of the calendar year, a dispatch system data report that includes the following elements in a format prescribed by the Administrator:

(A) The name of the dispatch system as reported under § 72.33;

(B) The calculation of “percentage change in dispatch system sales” under § 72.91(a)(3)(iii)(C);

(C) The calculation of “dispatch system adjusted utilization” under paragraph (c)(2)(i) of this section;

(D) The calculation of “dispatch system aggregate baseline” under paragraph (c)(2)(ii) of this section;

(E) The calculation of “fraction of generation within dispatch system” under paragraph (c)(2)(v)(A) of this section;

(F) The calculation of “dispatch system emissions rate” under paragraph (c)(2)(v)(B) of this section;

(G) The calculation of “fraction of generation from non-utility generators” under paragraph (c)(2)(v)(C) of this section;

(H) The calculation of “non-utility generator average emissions rate” under paragraph (c)(2)(v)(F) of this section;

(I) A certification that each designated representative will use these figures, as appropriate, in its annual compliance certification report and

will submit upon request the data supporting these calculations; and

(J) The signatures of all the designated representatives.

(c) *Allowance surrender formula.* (1) As provided under the allowance surrender formula in paragraph (c)(2) of this section:

(i) Allowances are not surrendered for deduction for the portion of adjusted utilization accounted for by:

(A) Shifts in generation from the unit to other Phase I units;

(B) A dispatch-system-wide sales decline;

(C) Plan reductions under a reduced utilization plan as calculated under § 72.91; and

(D) Foreign generation.

(ii) Allowances are surrendered for deduction for the portion of adjusted utilization that is not accounted for under paragraph (c)(1)(i) of this section.

(2) The designated representative shall surrender for deduction the number of allowances calculated using the following formula:

Allowances surrendered = [dispatch system adjusted utilization + (dispatch system aggregate baseline × percentage change in dispatch system sales)] × unit’s share × emissions rate · 2000 lbs/ton.

If the result of the formula for “allowances surrendered” is less than or equal to zero, then no allowances are surrendered.

(i) *Calculating dispatch system adjusted utilization.* “Dispatch system adjusted utilization” (in mmBtu) is the sum of the adjusted utilization under § 72.91(a) for all Phase I units in the dispatch system. If “dispatch system adjusted utilization” is less than or equal to zero, then no allowances are surrendered by any unit in that dispatch system.

(ii) *Calculating dispatch system aggregate baseline.* “Dispatch system aggregate baseline” is the sum of the baselines (as defined in § 72.2 of this chapter) for all Phase I units in the dispatch system.

(iii) *Calculating percentage change in dispatch system sales.* “Percentage change in dispatch system sales” is the “percentage change in dispatch system

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sales” under § 72.91 (a)(3)(iii)(C); *provided* that if result of the formula in § 72.91(a)(3)(iii)(C) is greater than or equal to zero, the value shall be treated as zero only for purposes of paragraph (c)(2) of this section.

(iv) *Calculating unit's share.* “Unit's share” is the unit's adjusted utilization divided by the sum of the adjusted utilization for all Phase I units within the dispatch system that have adjusted utilization of greater than zero and is calculated as follows:

$$\text{Unit's share} = \frac{U_{\text{unit}}}{\sum_{i=1}^m U_i}$$

where:

(A)  $U_{\text{unit}}$  = the unit's adjusted utilization for the calendar year;

(B)  $U_i$  = the adjusted utilization of a Phase I unit in the dispatch system for the calendar year; and

(C)  $m$  = all Phase I units in the dispatch system having an adjusted utilization greater than 0 for the calendar year.

(v) *Calculating emissions rate.* “Emissions rate” (in lbs/mmBtu) is the weighted average emissions rate for sulfur dioxide of all units and generators, within and outside the dispatch system, that contributed to the dispatch system's electrical output for the year, calculated as follows:

Emissions rate = [fraction of generation within dispatch system × dispatch system emissions rate] + [fraction of generation from non-utility generators × non-utility generator average emissions rate] + [fraction of generation outside dispatch system × fraction of non-Phase I and non-foreign generation in NERC region × NERC region emissions rate]

where:

(A) “Fraction of generation within dispatch system” is the fraction of the dispatch system's total sales accounted for by generation from units and generators within the dispatch system, other than generation from non-utility generators. This term equals the total generation (in Kwh) by all units and

generators within the dispatch system for the calendar year minus the total non-utility generation from non-utility generators within the dispatch system for the calendar year and divided by the total sales (in Kwh) by the dispatch system for the calendar year.

(B) Dispatch system emissions rate” is the weighted average rate (in lbs/mmBtu) for the dispatch system calculated as follows:

Dispatch system emissions rate =

$$\sum_{i=1}^k g_i r_i \div \sum_{i=1}^k g_i$$

where:

$g_i$  = the difference between a Phase II unit's actual utilization for the calendar year and that Phase II unit's baseline. If that difference is less than or equal to zero, then the difference shall be treated as zero only for purposes of paragraph (c)(2)(v) of this section and that unit will be excluded from the calculation of dispatch system emissions rate. Notwithstanding the prior sentence, if the actual utilization of each Phase II unit for the year is equal to or less than the baseline, then  $g_i$  shall equal a Phase II unit's actual utilization for the year. Notwithstanding any provision in this paragraph (c)(2)(v)(B) to the contrary, if the actual utilization of each Phase II unit in the dispatch system is zero or there are no Phase II units in the dispatch system, then the dispatch system emissions rate shall equal the fraction of non-Phase I and non-foreign generation in the NERC region multiplied by the NERC region emissions rate.

$r_i$  = a Phase II unit's emissions rate (in lbs/mmBtu), determined in accordance with part 75 of this chapter, for the calendar year.

$k$  = number of Phase II units in the dispatch system.

(C) “Fraction of generation from non-utility generators” is the fraction of the dispatch system's total sales accounted for by generation acquired from non-utility generators within or outside the dispatch system. This term equals the total non-utility generation from non-utility generators (within or outside the dispatch system) for the calendar year divided by the total sales (in Kwh) by the dispatch system for the calendar year.

(D) “Non-utility generator” is a power production facility (within or outside the dispatch system) that is not an affected unit or a sulfur-free

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generator and that has a “non-utility generator emissions rate” for the calendar year under paragraph (c)(2)(v)(F) of this section.

(E) “Non-utility generation” is the generation (in Kwh) that the dispatch system acquired from a non-utility generator during the calendar year as required by Federal or State law or an order of a utility regulatory authority or under a contract awarded as the result of a power purchase solicitation required by Federal or State law or an order of a utility regulatory authority.

(F) “Non-utility generator average emissions rate” is the weighted average rate (in lbs/mmBtu) for the non-utility generators calculated as follows:

Non-utility generator average emissions rate =

$$\frac{\sum_{i=1}^n N_i R_i}{\sum_{i=1}^n N_i}$$

where:

$N_i$  = non-utility generation from a non-utility generator;

$R_i$  = non-utility generator emissions rate for the calendar year for a non-utility generator, which shall equal the most stringent federally enforceable or State enforceable SO<sub>2</sub> emissions limitation applicable for the calendar year to such power production facility, as determined in accordance with paragraphs (c)(2)(v)(F) (1), (2), and (3) of this section; and

$n$  = number of non-utility generators from which the dispatch system acquired non-utility generation. If  $n$  equals zero, then the non-utility generator average emissions rate shall be treated as zero only for purposes of paragraph (c)(2)(v) of this section.

(1) For purposes of determining the most stringent emissions limitation, applicable emissions limitations shall be converted to lbs/mmBtu in accordance with appendix B of this part. If an applicable emissions limitation cannot be converted to a unit-specific limitation in lbs/mmBtu under appendix B of this part, then the limitation shall not be used in determining the most stringent emissions limitation. Where the power production facility is subject to different emissions limitations depending on the type of fuel it uses during the calendar year, the most stringent emissions limitation shall be deter-

mined separately with regard to each type of fuel and the resulting limitation with the highest amount of lbs/mmBtu shall be treated as the facility’s most stringent federally enforceable or State enforceable emissions limitation.

(2) If there is no applicable emissions limitation that can be used in determining the most stringent emissions limitation under paragraph (c)(2)(v)(F)(1) of this section, then the power production facility has no non-utility generator emissions rate for purposes of paragraphs (c)(2)(v) (D) and (F) of this section and the generation from the facility shall be treated, for purposes of this paragraph (c)(2)(v) as generation from units and generators within the dispatch system if the facility is within the dispatch system or as generation from units and generators outside the dispatch system if the facility is outside the dispatch system.

(3) Notwithstanding paragraphs (c)(2)(v)(F) (1) and (2) of this section, if the power production facility is authorized under Federal or State law to use only natural gas as fuel, then the most stringent emissions limitation for the facility for the calendar year shall be deemed to be 0.0006 lbs/mmBtu.

(G) “Fraction of generation outside dispatch system” = 1 – fraction of generation within dispatch system – fraction of generation from non-utility generators.

(H) “Fraction of non-Phase I and non-foreign generation in NERC region” is the portion of the NERC region’s total sales generated by units and generators other than Phase I units or foreign sources in the unit’s NERC region in 1985, as set forth in table 1 of this section.

(I) “NERC region emissions rate” is the weighted average emission rate (in lbs/mmBtu) for the unit’s NERC region in 1985, as set forth in table 1 of this section.

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TABLE 1—NERC REGION GENERATION AND EMISSIONS RATE IN 1985

NERC region	Fraction of non-phase I and non-foreign generation in NERC region	NERC weighted average emissions rate (lbs/mmBtu)
WSCC .....	0.847	0.466
SPP .....	0.948	0.647
SERC .....	0.749	1.315
NPCC .....	0.423	1.058
MAPP .....	0.725	1.171
MAIN .....	0.682	1.495
MAAC .....	0.750	1.599
ERCOT .....	1.000	0.491
ECAR .....	0.549	1.564

[58 FR 3650, Jan. 11, 1993, as amended at 58 FR 40747, July 30, 1993; 60 FR 18470, Apr. 11, 1995]

§ 72.93 Units with Phase I extension plans.

*Annual compliance certification report.* The designated representative for a control unit governed by a Phase I extension plan shall include in the unit's annual compliance certification report for calendar year 1997, the start-up test results upon which the vendor is released from liability under the vendor certification of guaranteed sulfur dioxide removal efficiency under § 72.42(c)(12).

§ 72.94 Units with repowering extension plans.

(a) *Design and engineering and contract requirements.* No later than January 1, 2000, the designated representative of a unit governed by an approved repowering plan shall submit to the Administrator and the permitting authority:

- (1) Satisfactory documentation of a preliminary design and engineering effort.
- (2) A binding letter agreement for the executed and binding contract (or for each in a series of executed and binding contracts) for the majority of the equipment to repower the unit using the technology conditionally approved by the Administrator under § 72.44(d)(3).
- (3) The letter agreement under paragraph (a)(2) of this section shall be signed and dated by each party and specify:

- (i) The parties to the contract;

- (ii) The date each party executed the contract;
- (iii) The unit to which the contract applies;
- (iv) A brief list identifying each provision of the contract;
- (v) Any dates to which the parties agree, including construction completion date;
- (vi) The total dollar amount of the contract; and
- (vii) A statement that a copy of the contract is on site at the source and will be submitted upon written request of the Administrator or the permitting authority.

(b) *Removal from operation to repower.* The designated representative of a unit governed by an approved repowering plan shall notify the Administrator in writing at least 60 days in advance of the date on which the existing unit is to be removed from operation so that the qualified repowering technology can be installed, or is to be replaced by another unit with the qualified repowering technology, in accordance with the plan.

(c) *Commencement of operation.* Not later than 60 days after the unit repowered under an approved repowering plan commences operation at full load, the designated representative of the unit shall submit a report comparing the actual hourly emissions and percent removal of each pollutant controlled at the unit to the actual hourly emissions and percent removal at the existing unit under the plan prior to repowering, determined in accordance with part 75 of this chapter.

(d) *Decision to terminate.* If at any time before the end of the repowering extension the owners and operators decide to terminate good faith efforts to design, construct, and test the qualified repowering technology on the unit to be repowered under an approved repowering plan, then the designated representative shall submit a notice to the Administrator by the earlier of the end of the repowering extension or a date within 30 days of such decision, stating the date on which the decision was made.