

(i) If the designated representative of the unit under an approved early election plan fails to demonstrate compliance with the applicable emissions limitation under § 76.5 for any year during the period beginning January 1 of the first year the early election takes effect and ending December 31, 2007, the permitting authority will terminate the plan. The termination will take effect beginning January 1 of the year after the year for which there is a failure to demonstrate compliance, and the designated representative may not submit a new early election plan.

(ii) The designated representative of the unit under an approved early election plan may terminate the plan any year prior to 2008 but may not submit a new early election plan. In order to terminate the plan, the designated representative must submit a notice under § 72.40(d) of this chapter by January 1 of the year for which the termination is to take effect.

(iii)(A) If an early election plan is terminated any year prior to 2000, the unit shall meet, beginning January 1, 2000, the applicable emissions limitation for NO_x for Phase II units with Group 1 boilers under § 76.7.

(B) If an early election plan is terminated in or after 2000, the unit shall meet, beginning on the effective date of the termination, the applicable emissions limitation for NO_x for Phase II units with Group 1 boilers under § 76.7.

[60 FR 18761, Apr. 13, 1995, as amended at 61 FR 67163, Dec. 19, 1996]

§ 76.9 Permit application and compliance plans.

(a) *Duty to apply.* (1) The designated representative of any source with an affected unit subject to this part shall submit, by the applicable deadline under paragraph (b) of this section, a complete Acid Rain permit application (or, if the unit is covered by an Acid Rain permit, a complete permit revision) that includes a complete compliance plan for NO_x emissions covering the unit.

(2) The original and three copies of the permit application and compliance plan for NO_x emissions for Phase I shall be submitted to the EPA regional office for the region where the applica-

ble source is located. The original and three copies of the permit application and compliance plan for NO_x emissions for Phase II shall be submitted to the permitting authority.

(b) *Deadlines.* (1) For a Phase I unit with a Group 1 boiler, the designated representative shall submit a complete permit application and compliance plan for NO_x covering the unit during Phase I to the applicable permitting authority not later than May 6, 1994.

(2) For a Phase I or Phase II unit with a Group 2 boiler or a Phase II unit with a Group 1 boiler, the designated representative shall submit a complete permit application and compliance plan for NO_x emissions covering the unit in Phase II to the Administrator not later than January 1, 1998, except that early election units shall also submit an application not later than January 1, 1997.

(c) *Information requirements for NO_x compliance plans.* (1) In accordance with § 72.40(a)(2) of this chapter, a complete compliance plan for NO_x shall, for each affected unit included in the permit application and subject to this part, either certify that the unit will comply with the applicable emissions limitation under § 76.5, 76.6, or 76.7 or specify one or more other Acid Rain compliance options for NO_x in accordance with the requirements of this part. A complete compliance plan for NO_x for a source shall include the following elements in a format prescribed by the Administrator:

- (i) Identification of the source;
- (ii) Identification of each affected unit that is at the source and is subject to this part;
- (iii) Identification of the boiler type of each unit;
- (iv) Identification of the compliance option proposed for each unit (i.e., meeting the applicable emissions limitation under § 76.5, 76.6, 76.7, 76.8 (early election), 76.10 (alternative emission limitation), 76.11 (NO_x emissions averaging), or 76.12 (Phase I NO_x compliance extension)) and any additional information required for the appropriate option in accordance with this part;
- (v) Reference to the standard requirements in § 72.9 of this chapter (consistent with § 76.8(e)(1)(i)); and

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(vi) The requirements of §§ 72.21 (a) and (b) of this chapter.

(2) [Reserved]

(d) *Duty to reapply.* The designated representative of any source with an affected unit subject to this part shall submit a complete Acid Rain permit application, including a complete compliance plan for NO_x emissions covering the unit, in accordance with the deadlines in § 72.30(c) of this chapter.

§ 76.10 Alternative emission limitations.

(a) *General provisions.* (1) The designated representative of an affected unit that is not an early election unit pursuant to § 76.8 and cannot meet the applicable emission limitation in § 76.5, 76.6, or 76.7 using, for Group 1 boilers, either low NO_x burner technology or an alternative technology in accordance with paragraph (e)(11) of this section, or, for tangentially fired boilers, separated overfire air, or, for Group 2 boilers, the technology on which the applicable emission limitation is based may petition the permitting authority for an alternative emission limitation less stringent than the applicable emission limitation.

(2) In order for the unit to qualify for an alternative emission limitation, the designated representative shall demonstrate that the affected unit cannot meet the applicable emission limitation in § 76.5, 76.6, or 76.7 based on a showing, to the satisfaction of the Administrator, that:

(i)(A) For a tangentially fired boiler, the owner or operator has either properly installed low NO_x burner technology or properly installed separated overfire air; or

(B) For a dry bottom wall-fired boiler (other than a unit applying cell burner technology), the owner or operator has properly installed low NO_x burner technology; or

(C) For a Group 1 boiler, the owner or operator has properly installed an alternative technology (including but not limited to reburning, selective non-catalytic reduction, or selective catalytic reduction) that achieves NO_x emission reductions demonstrated in accordance with paragraph (e)(11) of this section; or

(D) For a Group 2 boiler, the owner or operator has properly installed the appropriate NO_x emission control technology on which the applicable emission limitation in § 76.6 is based; and

(ii) The installed NO_x emission control system has been designed to meet the applicable emission limitation in § 76.5, 76.6, or 76.7; and

(iii) For a demonstration period of at least 15 months or other period of time, as provided in paragraph (f)(1) of this section:

(A) The NO_x emission control system has been properly installed and properly operated according to specifications and procedures designed to minimize the emissions of NO_x to the atmosphere;

(B) Unit operating data as specified in this section show that the unit and NO_x emission control system were operated in accordance with the bid and design specifications on which the design of the NO_x emission control system was based; and

(C) Unit operating data as specified in this section, continuous emission monitoring data obtained pursuant to part 75 of this chapter, and the test data specific to the NO_x emission control system show that the unit could not meet the applicable emission limitation in § 76.5, 76.6, or 76.7.

(b) *Petitioning process.* The petitioning process for an alternative emission limitation shall consist of the following steps:

(1) Operation during a period of at least 3 months, following the installation of the NO_x emission control system, that shows that the specific unit and the NO_x emission control system was unable to meet the applicable emissions limitation under § 76.5, 76.6, or 76.7 and was operated in accordance with the operating conditions upon which the design of the NO_x emission control system was based and with vendor specifications and procedures;

(2) Submission of a petition for an alternative emission limitation demonstration period as specified in paragraph (d) of this section;

(3) Operation during a demonstration period of at least 15 months, or other period of time as provided in paragraph (f)(1) of this section, that demonstrates the inability of the specific unit to