

longer meets the requirements of paragraph (b)(1)(i)(B) of this section.

(2)(i) Any unit that is a CAIR SO<sub>2</sub> unit under paragraph (a)(1) or (2) of this section commencing operation before January 1, 1985:

(A) Qualifying as a solid waste incineration unit; and

(B) With an average annual fuel consumption of non-fossil fuel for 1985–1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(ii) Any unit that is a CAIR SO<sub>2</sub> unit under paragraph (a)(1) or (2) of this section commencing operation on or after January 1, 1985:

(A) Qualifying as a solid waste incineration unit; and

(B) With an average annual fuel consumption of non-fossil fuel for the first 3 calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(iii) If a unit qualifies as a solid waste incineration unit and meets the requirements of paragraph (b)(2)(i) or (ii) of this section for at least 3 consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO<sub>2</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.

[71 FR 25387, Apr. 28, 2006]

#### § 96.205 Retired unit exemption.

(a)(1) Any CAIR SO<sub>2</sub> unit that is permanently retired and is not a CAIR SO<sub>2</sub> opt-in unit under subpart III of this part shall be exempt from the CAIR SO<sub>2</sub> Trading Program, except for the provisions of this section, § 96.202, § 96.203, § 96.204, § 96.206(c)(4) through (7), § 96.207, § 96.208, and subparts BBB, FFF, and GGG of this part.

(2) The exemption under paragraph (a)(1) of this section shall become effec-

tive the day on which the CAIR SO<sub>2</sub> unit is permanently retired. Within 30 days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the permitting authority otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the Administrator. The statement shall state, in a format prescribed by the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of paragraph (b) of this section.

(3) After receipt of the statement under paragraph (a)(2) of this section, the permitting authority will amend any permit under subpart CCC of this part covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (a)(1) and (b) of this section.

(b) *Special provisions.* (1) A unit exempt under paragraph (a) of this section shall not emit any sulfur dioxide, starting on the date that the exemption takes effect.

(2) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (a) of this section shall retain, at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the permitting authority or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(3) The owners and operators and, to the extent applicable, the CAIR designated representative of a unit exempt under paragraph (a) of this section shall comply with the requirements of the CAIR SO<sub>2</sub> Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) A unit exempt under paragraph (a) of this section and located at a source that is required, or but for this exemption would be required, to have a title V operating permit shall not resume

operation unless the CAIR designated representative of the source submits a complete CAIR permit application under § 96.222 for the unit not less than 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2010 or the date on which the unit resumes operation.

(5) On the earlier of the following dates, a unit exempt under paragraph (a) of this section shall lose its exemption:

(i) The date on which the CAIR designated representative submits a CAIR permit application for the unit under paragraph (b)(4) of this section;

(ii) The date on which the CAIR designated representative is required under paragraph (b)(4) of this section to submit a CAIR permit application for the unit; or

(iii) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(6) For the purpose of applying monitoring, reporting, and recordkeeping requirements under subpart HHH of this part, a unit that loses its exemption under paragraph (a) of this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

[70 FR 25362, May 12, 2005, as amended at 71 FR 25388, Apr. 28, 2006]

#### § 96.206 Standard requirements.

(a) *Permit requirements.* (1) The CAIR designated representative of each CAIR SO<sub>2</sub> source required to have a title V operating permit and each CAIR SO<sub>2</sub> unit required to have a title V operating permit at the source shall:

(i) Submit to the permitting authority a complete CAIR permit application under § 96.222 in accordance with the deadlines specified in § 96.221; and

(ii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a CAIR permit application and issue or deny a CAIR permit.

(2) The owners and operators of each CAIR SO<sub>2</sub> source required to have a title V operating permit and each CAIR SO<sub>2</sub> unit required to have a title V op-

erating permit at the source shall have a CAIR permit issued by the permitting authority under subpart CCC of this part for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in subpart III of this part, the owners and operators of a CAIR SO<sub>2</sub> source that is not otherwise required to have a title V operating permit and each CAIR SO<sub>2</sub> unit that is not otherwise required to have a title V operating permit are not required to submit a CAIR permit application, and to have a CAIR permit, under subpart CCC of this part for such CAIR SO<sub>2</sub> source and such CAIR SO<sub>2</sub> unit.

(b) *Monitoring, reporting, and recordkeeping requirements.* (1) The owners and operators, and the CAIR designated representative, of each CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of subpart HHH of this part.

(2) The emissions measurements recorded and reported in accordance with subpart HHH of this part shall be used to determine compliance by each CAIR SO<sub>2</sub> source with the CAIR SO<sub>2</sub> emissions limitation under paragraph (c) of this section.

(c) *Sulfur dioxide emission requirements.* (1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source shall hold, in the source's compliance account, a tonnage equivalent in CAIR SO<sub>2</sub> allowances available for compliance deductions for the control period, as determined in accordance with § 96.254(a) and (b), not less than the tons of total sulfur dioxide emissions for the control period from all CAIR SO<sub>2</sub> units at the source, as determined in accordance with subpart HHH of this part.

(2) A CAIR SO<sub>2</sub> unit shall be subject to the requirements under paragraph (c)(1) of this section for the control period starting on the later of January 1, 2010 or the deadline for meeting the unit's monitor certification requirements under § 96.270(b)(1), (2), or (5) and for each control period thereafter.