

## Environmental Protection Agency

## § 72.22

each owner and operator of the affected source represented and each affected unit at the source in all matters pertaining to the Acid Rain Program, notwithstanding any agreement between the designated representative and such owners and operators. The owners and operators shall be bound by any order issued to the designated representative by the Administrator, the permitting authority, or a court.

(c) The designated representative shall be selected and act in accordance with the certifications set forth in § 72.24(a) (4), (5), (7), and (9).

(d) No Acid Rain permit shall be issued to an affected source, nor shall any allowance transfer be recorded for an Allowance Tracking System account of an affected unit at a source, until the Administrator has received a complete certificate of representation for the designated representative of the source and the affected units at the source.

[58 FR 3650, Jan. 11, 1993, as amended at 71 FR 25373, Apr. 28, 2006]

### § 72.21 Submissions.

(a) Each submission under the Acid Rain Program shall be submitted, signed, and certified by the designated representative for all sources on behalf of which the submission is made.

(b) In each submission under the Acid Rain Program, the designated representative shall certify, by his or her signature:

(1) The following statement, which shall be included verbatim in such submission: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made."

(2) The following statement, which shall be included verbatim in such submission: "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and infor-

mation or omitting required statements and information, including the possibility of fine or imprisonment."

(c) The Administrator and the permitting authority shall accept or act on a submission made on behalf of owners or operators of an affected source and an affected unit only if the submission has been made, signed, and certified in accordance with paragraphs (a) and (b) of this section.

(d)(1) The designated representative of a source shall serve notice on each owner and operator of the source and of an affected unit at the source:

(i) By the date of submission, of any Acid Rain Program submissions by the designated representative and

(ii) Within 10 business days of receipt of a determination, of any written determination by the Administrator or the permitting authority,

(iii) Provided that the submission or determination covers the source or the unit.

(2) The designated representative of a source shall provide each owner and operator of an affected unit at the source a copy of any submission or determination under paragraph (d)(1) of this section, unless the owner or operator expressly waives the right to receive such a copy.

(e) The provisions of this section shall apply to a submission made under parts 73, 74, 75, 76, 77, and 78 of this chapter only if it is made or signed or required to be made or signed, in accordance with parts 73, 74, 75, 76, 77, and 78 of this chapter, by:

(1) The designated representative; or

(2) The authorized account representative or alternate authorized account representative of a compliance account.

[58 FR 3650, Jan. 11, 1993, as amended at 60 FR 17113, Apr. 4, 1995; 70 FR 25334, May 12, 2005]

### § 72.22 Alternate designated representative.

(a) The certificate of representation may designate one and only one alternate designated representative, who may act on behalf of the designated representative. The agreement by which the alternate designated representative is selected shall include a procedure for the owners and operators

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of the source and affected units at the source to authorize the alternate designated representative to act in lieu of the designated representative.

(b) Upon receipt by the Administrator of a complete certificate of representation that meets the requirements of § 72.24 (including those applicable to the alternate designated representative), any representation, action, inaction, or submission by the alternate designated representative shall be deemed to be an action, representation, or failure to act by the designated representative.

(c) In the event of a conflict, any action taken by the designated representative shall take precedence over any action taken by the alternate designated representative if, in the Administrator's judgement, the actions are concurrent and conflicting.

(d) Except in this section, § 72.23, and § 72.24, whenever the term "designated representative" is used under the Acid Rain Program, the term shall be construed to include the alternate designated representative.

(e)(1) Notwithstanding paragraph (a) of this section, the certification of representation may designate two alternate designated representatives for a unit if:

(i) The unit and at least one other unit, which are located in two or more of the contiguous 48 States or the District of Columbia, each have a utility system that is a subsidiary of the same company; and

(ii) The designated representative for the units under paragraph (e)(1)(i) of this section submits a NO<sub>x</sub> averaging plan under § 76.11 of this chapter that covers such units and is approved by the permitting authority, *provided* that the approved plan remains in effect.

(2) Except in this paragraph (e), whenever the term "alternate designated representative" is used under the Acid Rain Program, the term shall be construed to include either of the alternate designated representatives authorized under this paragraph (e). Except in this section, § 72.23, and § 72.24, whenever the term "designated representative" is used under the Acid Rain Program, the term shall be construed to include either of the alter-

nate designated representatives authorized under this paragraph (e).

[58 FR 3650, Jan. 11, 1993, as amended at 62 FR 55480, Oct. 24, 1997; 71 FR 25378, Apr. 28, 2006]

### **§ 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 representations, actions, inactions, and submissions 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 representations, actions, inactions, and submissions 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 an 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 owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the designated representative and any alternative designated representative of the source or unit, and the decisions, actions, and inactions of