

(ii) If a Phase I Acid Rain permit governing the source at which the unit is located has not been issued, will issue a Phase I Acid Rain permit effective from January 1, 1995 through December 31, 1999, that will include the early election plan and a complete compliance plan under §72.40(a) of this chapter and paragraph (b) of this section. If the early election plan is not effective until after January 1, 1995, the permit will not contain any NO_x emissions limitations until the effective date of the plan.

(2) Beginning January 1, 2000, the permitting authority will approve any early election plan previously approved by the Administrator during Phase I, unless the plan is terminated pursuant to paragraph (e)(3) of this section.

(e) *Special provisions*—(1) *Emissions limitations*—(i) *Sulfur dioxide*. Notwithstanding §72.9 of this chapter, a unit that is governed by an approved early election plan and that is not a substitution unit under §72.41 of this chapter or a compensating unit under §72.43 of this chapter shall not be subject to the following standard requirements under §72.9 of this chapter for Phase I:

(A) The permit requirements under §§72.9(a)(1) (i) and (ii) of this chapter;

(B) The sulfur dioxide requirements under §72.9(c) of this chapter; and

(C) The excess emissions requirements under §72.9(e)(1) of this chapter.

(ii) *Nitrogen oxides*. A unit that is governed by an approved early election plan shall be subject to an emissions limitation for NO_x as provided under paragraph (a)(2) of this section except as provided under paragraph (e)(3)(iii) of this section.

(2) *Liability*. The owners and operators of any unit governed by an approved early election plan shall be liable for any violation of the plan or this section at that unit. The owners and operators shall be liable, beginning January 1, 2000, for fulfilling the obligations specified in part 77 of this chapter.

(3) *Termination*. An approved early election plan shall be in effect only until the earlier of January 1, 2008 or January 1 of the calendar year for which a termination of the plan takes effect.

(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

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office for the region where the applicable 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

(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