

§ 96.285

40 CFR Ch. I (7–1–10 Edition)

for, allocation to a CAIR SO₂ opt-in unit of CAIR SO₂ allowances under § 96.288(c) and such unit is repowered after its date of entry into the CAIR SO₂ Trading Program under paragraph (g) of this section, the repowered unit shall be treated as a CAIR SO₂ opt-in unit replacing the original CAIR SO₂ opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

(2) Notwithstanding paragraphs (c) and (d) of this section, as of the date of start-up under paragraph (h)(1) of this section, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline SO₂ emission rate as the original CAIR SO₂ opt-in unit, and the original CAIR SO₂ opt-in unit shall no longer be treated as a CAIR SO₂ opt-in unit or a CAIR SO₂ unit.

[70 FR 25362, May 12, 2005, as amended at 71 FR 25390, Apr. 28, 2006; 71 FR 74794, Dec. 13, 2006]

§ 96.285 CAIR opt-in permit contents.

(a) Each CAIR opt-in permit will contain:

(1) All elements required for a complete CAIR permit application under § 96.222;

(2) The certification in § 96.283(a)(2);

(3) The unit's baseline heat input under § 96.284(c);

(4) The unit's baseline SO₂ emission rate under § 96.284(d);

(5) A statement whether the unit is to be allocated CAIR SO₂ allowances § 96.288(b) or § 96.288(c) (subject to the conditions in §§ 96.284(h) and 96.286(g));

(6) A statement that the unit may withdraw from the CAIR SO₂ Trading Program only in accordance with § 96.286; and

(7) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of § 96.287.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under § 96.202 and, upon recordation by the Administrator under subpart FFF or GGG of this part or this subpart, every allocation, transfer, or deduction of CAIR SO₂ allowances to or from the compli-

ance account of the source that includes a CAIR SO₂ opt-in unit covered by the CAIR opt-in permit.

(c) The CAIR opt-in permit shall be included, in a format specified by the permitting authority, in the CAIR permit for the source where the CAIR SO₂ opt-in unit is located and in a title V operating permit or other federally enforceable permit for the source.

[70 FR 25362, May 12, 2005, as amended at 71 FR 25390, Apr. 28, 2006]

§ 96.286 Withdrawal from CAIR SO₂ Trading Program.

Except as provided under paragraph (g) of this section, a CAIR SO₂ opt-in unit may withdraw from the CAIR SO₂ Trading Program, but only if the permitting authority issues a notification to the CAIR designated representative of the CAIR SO₂ opt-in unit of the acceptance of the withdrawal of the CAIR SO₂ opt-in unit in accordance with paragraph (d) of this section.

(a) *Requesting withdrawal.* In order to withdraw a CAIR SO₂ opt-in unit from the CAIR SO₂ Trading Program, the CAIR designated representative of the CAIR SO₂ opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least 4 years after December 31 of the year of entry into the CAIR SO₂ Trading Program under § 96.284(g). The request must be submitted no later than 90 days before the requested effective date of withdrawal.

(b) *Conditions for withdrawal.* Before a CAIR SO₂ opt-in unit covered by a request under paragraph (a) of this section may withdraw from the CAIR SO₂ Trading Program and the CAIR opt-in permit may be terminated under paragraph (e) of this section, the following conditions must be met:

(1) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR SO₂ opt-in unit must meet the requirement to hold CAIR SO₂ allowances under § 96.206(c) and cannot have any excess emissions.

(2) After the requirement for withdrawal under paragraph (b)(1) of this section is met, the Administrator will deduct from the compliance account of

the source that includes the CAIR SO₂ opt-in unit CAIR SO₂ allowances equal in amount to and allocated for the same or a prior control period as any CAIR SO₂ allowances allocated to the CAIR SO₂ opt-in unit under § 96.288 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR SO₂ units at the source, the Administrator will close the compliance account, and the owners and operators of the CAIR SO₂ opt-in unit may submit a CAIR SO₂ allowance transfer for any remaining CAIR SO₂ allowances to another CAIR SO₂ Allowance Tracking System in accordance with subpart GGG of this part.

(c) *Notification.* (1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of CAIR SO₂ allowances required), the permitting authority will issue a notification to the CAIR designated representative of the CAIR SO₂ opt-in unit of the acceptance of the withdrawal of the CAIR SO₂ opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the permitting authority will issue a notification to the CAIR designated representative of the CAIR SO₂ opt-in unit that the CAIR SO₂ opt-in unit's request to withdraw is denied. Such CAIR SO₂ opt-in unit shall continue to be a CAIR SO₂ opt-in unit.

(d) *Permit amendment.* After the permitting authority issues a notification under paragraph (c)(1) of this section that the requirements for withdrawal have been met, the permitting authority will revise the CAIR permit covering the CAIR SO₂ opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under paragraph (c)(1) of this section. The unit shall continue to be a CAIR SO₂ opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR SO₂ Trading Program concerning any control periods for which the unit is a CAIR SO₂ opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(e) *Reapplication upon failure to meet conditions of withdrawal.* If the permitting authority denies the CAIR SO₂ opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with paragraphs (a) and (b) of this section.

(f) *Ability to reapply to the CAIR SO₂ Trading Program.* Once a CAIR SO₂ opt-in unit withdraws from the CAIR SO₂ Trading Program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under § 96.283 for such CAIR SO₂ opt-in unit before the date that is 4 years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit will be treated as an initial application for a CAIR opt-in permit under § 96.284.

(g) *Inability to withdraw.* Notwithstanding paragraphs (a) through (f) of this section, a CAIR SO₂ opt-in unit shall not be eligible to withdraw from the CAIR SO₂ Trading Program if the CAIR designated representative of the CAIR SO₂ opt-in unit requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to the CAIR SO₂ opt-in unit of CAIR SO₂ allowances under § 96.288(c).

[70 FR 25362, May 12, 2005, as amended at 71 FR 25390, Apr. 28, 2006]

§ 96.287 Change in regulatory status.

(a) *Notification.* If a CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under § 96.204, then the CAIR designated representative shall notify in writing the permitting authority and the Administrator of such change in the CAIR SO₂ opt-in unit's regulatory status, within 30 days of such change.

(b) *Permitting authority's and Administrator's actions.* (1) If a CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under § 96.204, the permitting authority will revise the CAIR SO₂ opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under § 96.223, and remove the CAIR opt-in permit provisions, as of the date on which the CAIR SO₂ opt-in unit becomes a CAIR SO₂ unit under § 96.204.

(2)(i) The Administrator will deduct from the compliance account of the