

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 72**

[FRL-5186-4]

RIN 2060-AE59

**Acid Rain Program: Permits**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** Title IV of the Clean Air Act (the Act), as amended by the Clean Air Act Amendments of 1990, authorizes the Environmental Protection Agency (EPA or Agency) to establish the Acid Rain Program. The program sets emissions limitations to reduce acidic deposition and its serious, adverse effects on natural resources, ecosystems, materials, visibility, and public health. On January 11, 1993, the Agency promulgated final rules under title IV. Several parties filed petitions for review of the rules. On January 10, 1995, EPA and the parties signed a settlement agreement addressing reduced utilization issues.

Based on a review of the record, the Agency concludes that the January 11, 1993, regulations concerning reduced utilization should be revised. The regulations require that, unless certain requirements are met, the designated representative of a unit in Phase I of the program whose annual utilization of fuel is less than the unit's average annual utilization in 1985-1987 submit reduced utilization plans. The regulations also require designated representatives to submit end-of-year compliance certification reports that, based on specified formulas, estimate the sulfur dioxide emissions resulting from underutilization of Phase I units and to surrender allowances for the

estimated emissions. The Agency is revising the regulations to simplify the criteria for determining whether a reduced utilization plan must be submitted: where the end-of-year reporting and allowance surrender requirements are met, such plans are not required. Further, the Agency is revising the formulas for estimating the emissions resulting from underutilization to correct certain errors, clarify certain provisions, and take account of and facilitate compliance by Phase I units that have multiple owners or whose owners are required by law to purchase electricity from non-utility power production facilities.

Because the rule revision is consistent with the January 10, 1995, settlement and the Agency does not anticipate receiving adverse comments, the revision is also being issued as a direct final rule in the final rules section of this **Federal Register**.

**DATES:** Comments on the regulations proposed by this action must be received on or before May 11, 1995.

**ADDRESSES:** *Comments.* All written comments must be identified with the appropriate docket number and must be submitted in duplicate to: EPA Air Docket Section (LE-131), Waterside Mall, Room 1500, 1st floor, 401 M St. SW., Washington, DC 20460.

*Docket.* Docket No. A-93-40, containing supporting information used to develop the proposal, copies of all comments received, and responses to comments, is available for public inspection and copying from 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 3:30 p.m., Monday through Friday, excluding legal holidays, at EPA's Air Docket Section, Waterside Mall, Room 1500, 1st floor, 401 M St. SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Dwight C. Alpern, Attorney-Advisor, at (202) 233-9151, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, or the Acid Rain Hotline at (202) 233-9620.

**SUPPLEMENTARY INFORMATION:** If no significant, adverse comments are timely received, no further activity is contemplated in relation to this proposed rule and the direct final rule in the final rules section of this **Federal Register** will automatically go into effect on the date specified in that rule. If significant, adverse comments are timely received on any provision, that provision of the direct final rule will be withdrawn and all public comment received on that provision will be addressed in a subsequent final rule based on the relevant portions of this proposed rule. Because the Agency will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, the detailed rationale, and the rule provisions, see the information provided in the direct final rule in the final rules section of this **Federal Register**.

**List of Subjects in 40 CFR Part 72**

Environmental protection, Acid rain program, Air pollution control, Compliance plans, Electric utilities, Permits, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: March 31, 1995.

**Carol M. Browner,**

*Administrator, Environmental Protection Agency.*

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