

3745-103-03 **New units exemption.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (C) of rule 3745-103-01 of the Administrative Code titled "Referenced materials."]

(A) Applicability. This rule applies to any new utility unit that has not previously lost an exemption and:

- (1) Serves during the entire year (except for any period before the unit commenced commercial operation) one or more generators with total nameplate capacity of twenty-five MWe or less;
- (2) Burns fuel that does not include any coal or coal-derived fuel (except coal-derived gaseous fuel with a total sulfur content no greater than natural gas); and
- (3) Burns gaseous fuel with an annual average sulfur content of 0.05 per cent or less by weight and nongaseous fuel with an annual average sulfur content of 0.05 per cent or less by weight (as determined under paragraph (D) of this rule).

(B) Exemption

- (1) Any new utility unit that meets the requirements of paragraph (A) of this rule and that is not allocated any allowances under 40 CFR Part 73, Subpart B shall be exempt from the provisions of rules 3745-103-02 and 3745-103-06 of the Administrative Code.
- (2) The exemption under paragraph (B)(1) of this rule shall be effective on January first of the first full calendar year for which the unit meets the requirements of paragraph (A) of this rule. By December thirty-first of the first year for which the unit is to be exempt under this rule, a statement signed by the designated representative (authorized in accordance with rule 3745-103-06 of the Administrative Code) or, if no designated representative has been authorized, a certifying official of each owner of the unit shall be submitted to the director and to the USEPA. The statement, which shall be in a format prescribed by the director and the USEPA, shall identify the unit, state the nameplate capacity of each generator served by the unit and the fuels currently burned or expected to be burned by the unit and their sulfur content by weight, and state that the owners and operators of the unit will comply with paragraph (F) of this rule.
- (3) After receipt of the statement under paragraph (B)(2) of this rule, the director shall amend under rule 3745-103-18 of the Administrative Code the operating permit covering the source at which the unit is located, if the source has such a

permit, to add the provisions and requirements of the exemption under paragraphs (A), (B)(1), (D), and (F) of this rule.

(C) Further requirements

- (1) Any new utility unit that meets the requirements of paragraph (A) of this rule and that is allocated one or more allowances under 40 CFR Part 73, Subpart B shall be exempt from the acid rain program, except for the provisions of rules 3745-103-02 and 3745-103-06 of the Administrative Code, if each of the following requirements are met:
 - (a) The designated representative (authorized in accordance with rule 3745-103-06 of the Administrative Code) or, if no designated representative has been authorized, a certifying official of each owner of the unit submits to the director as the person responsible for administering a phase II acid rain permit for the unit a statement (in a format prescribed by the director) that:
 - (i) Identifies the unit and states the nameplate capacity of each generator served by the unit, and the fuels currently burned or expected to be burned by the unit and their sulfur content by weight;
 - (ii) States that the owners or operators of the unit will comply with paragraph (F) of this rule;
 - (iii) Surrenders allowances equal in number to, and with the same or earlier compliance use date as, all of those allocated to the unit under 40 CFR Part 73, Subpart B for the first year that the unit is to be exempt under this rule and for each subsequent year; and
 - (iv) Surrenders any proceeds for allowances under paragraph (C)(1)(a)(ii) of this rule withheld for the unit under 40 CFR 73.10. A copy of the statement shall be submitted to the USEPA.
 - (b) The USEPA deducts from the compliance account of the source that includes the unit allowances under paragraph (C)(1)(a)(iii) of this rule and receives proceeds under paragraph (C)(1)(a)(iv) of this rule. Within five business days of receiving a statement in accordance with paragraph (C)(1)(a) of this rule, the USEPA shall either deduct the allowances under paragraph (C)(1)(a)(iii) of this rule or notify the owners and operators that there are insufficient allowances to make such deductions.
- (2) The exemption under paragraph (C)(1) of this rule shall be effective on January first of the first full calendar year for which the requirements of paragraphs (A) and (C)(1) of this rule are met. After notification by the USEPA under the third sentence of paragraph (C)(1)(b) of this rule, the director shall amend under rule 3745-103-18 of the Administrative Code, the operating permit covering the

source at which the unit is located, if the source has such a permit, to add the provisions and requirements of the exemption under paragraphs (A), (C)(1), (D) and (F) of this rule.

(D) Compliance with the requirement that fuel burned during the year have an annual average sulfur content of 0.05 per cent by weight or less shall be determined as follows using a method of determining sulfur content that provides information with reasonable precision, reliability, accessibility, and timeliness:

- (1) For gaseous fuel burned during the year, if natural gas is the only gaseous fuel burned, the requirement is assumed to be met;
- (2) For gaseous fuel burned during the year where other gas in addition to or besides natural gas is burned, the requirement is met if the annual average sulfur content is equal to or less than 0.05 per cent by weight. The annual average sulfur content, as percentage by weight, for the gaseous fuel burned shall be calculated as follows:

$$\%S_{\text{annual}} = \frac{\sum_{n=1}^{\text{last}} \%S_n V_n d_n}{\sum_{n=1}^{\text{last}} V_n d_n}$$

where:

$\%S_{\text{annual}}$ = annual average sulfur content of the fuel burned during the year by the unit, as a percentage by weight;

$\%S_n$ = sulfur content of the nth sample of the fuel delivered during the year to the unit, as a percentage by weight;

V_n = volume of the fuel in a delivery during the year to the unit of which nth sample is taken, in standard cubic feet; or, for fuel delivered during the year to the unit continuously by pipeline, volume of the fuel delivered starting from when the nth of such fuel is taken until the next sample of such fuel is taken, in standard cubic feet;

d_n = density of the nth sample of the fuel delivered during the year to the unit, in pounds per standard cubic foot; and

n = each sample taken of the fuel delivered during the year to the unit, taken at least once for each delivery; or, for fuel that is delivered during the year to the unit continuously by pipeline, at least once each quarter during which the fuel is delivered.

- (3) For nongaseous fuel burned during the year, the requirement is met if the annual average sulfur content is equal to or less than 0.05 per cent by weight. The annual average sulfur content, as a percentage by weight, shall be calculated using the equation in paragraph (D)(2) of this rule. In lieu of the factor, volume times density ($V_n d_n$), in the equation, the factor, mass (M_n), may be used, where M_n is: mass of the nongaseous fuel in a delivery during the year to the unit of which the n^{th} sample is taken, in pounds; or, for fuel delivered during the year to the unit continuously by pipeline, mass of the nongaseous fuel delivered starting from when the n^{th} sample of such fuel is taken until the next sample of such fuel is taken, in pounds.

(E) Additional provisions

- (1) A utility unit that was issued a written exemption under this rule and that meets the requirements of paragraph (A) of this rule shall be exempt from the acid rain program, except for the provisions of this rule and rules 3745-103-01 and 3745-103-02 of the Administrative Code and 40 CFR sections 72.3, 72.4, 72.5, 72.10, 72.11, 72.12 and 72.13 and shall be subject to the requirements of paragraphs (A), (D), (E)(2), and (F) of this rule in lieu of the requirements set forth in the written exemption. The director shall amend under rule 3745-103-18 of the Administrative Code the operating permit covering the source at which the unit is located, if the source has such a permit, to add the provisions and requirements of the exemption under this paragraph and paragraphs (A), (D), (E)(2), and (F) of this rule.
- (2) If a utility unit under paragraph (E)(1) of this rule is allocated one or more allowances under 40 CFR Part 73, Subpart B, the designated representative (authorized in accordance with 40 CFR Part 72, Subpart B) or, if no designated representative has been authorized, a certifying official of each owner of the unit shall submit to the director, a statement (in a format prescribed by the director) meeting the requirements of paragraphs (C)(1)(a)(iii) and (C)(1)(a)(iv) of this rule. The statement shall be submitted by June 30, 1998. A copy shall be submitted to the USEPA.

(F) Special provisions

- (1) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under this rule shall:
 - (a) Comply with the requirements of paragraph (A) of this rule for all periods for which the unit is exempt under this rule; and
 - (b) Comply with the requirements of the acid rain 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.

- (2) For any period for which the unit is exempt under this rule:
- (a) For purposes of applying 40 CFR Parts 70 and 71, the unit shall not be treated as an affected unit under the acid rain program and shall continue to be subject to any other applicable requirements under 40 CFR Parts 70 and 71.
 - (b) The unit shall not be eligible to be an opt-in source under rules 3745-103-22 to 3745-103-54 of the Administrative Code.
- (3) For a period of five years from the date the records are created, the owners and operators of a unit exempt under this rule shall retain at the source that includes the unit records demonstrating that the requirements of paragraph (A) of this rule are met. The five year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the director.
- (a) Such records shall include, for each delivery of fuel to the unit or for fuel delivered to the unit continuously by pipeline, the type of fuel, the sulfur content, and the sulfur content of each sample taken.
 - (b) The owners and operators bear the burden of proof that the requirements of paragraph (A) of this rule are met.
- (4) Loss of exemption.
- (a) On the earliest of the following dates, a unit exempt under paragraph (B), (C), or (E) of this rule shall lose its exemption and for purposes of applying 40 CFR Parts 70 and 71, shall be treated as an affected unit under the acid rain program:
 - (i) The date on which the unit first serves one or more generators with total nameplate capacity in excess of twenty-five MWe;
 - (ii) The date on which the unit burns any coal or coal-derived fuel except for coal-derived gaseous fuel with a total sulfur content no greater than natural gas; or
 - (iii) January first of the year following the year in which the annual average sulfur content for gaseous fuel burned at unit exceeds 0.05 per cent by weight (as determined under paragraph (D) of this rule) or for nongaseous fuel burned at the unit exceeds 0.05 per cent by weight (as determined under paragraph (D) of this rule).
 - (b) Notwithstanding paragraph (A) of rule 3745-103-07 of the Administrative Code, the designated representative for a unit that loses its exemption under

this rule shall submit a complete acid rain permit application on the later of January 1, 1998 or sixty days after the first date on which the unit is no longer exempt.

- (c) For the purpose of applying monitoring requirements under 40 CFR Part 75, a unit that loses its exemption under this rule shall be treated as a new unit that commenced commercial operation on the first date on which the unit is no longer exempt.

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