

3745-103-05      **Standard requirements.**

[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) Permit requirements.

- (1) The designated representative of each affected source and each affected unit at the source shall:
  - (a) Submit a complete acid rain permit application under this chapter in accordance with the deadlines specified in rule 3745-103-07 of the Administrative Code;
  - (b) Submit within thirty days after notification by the director any supplemental information that the director determines is necessary in order to review an acid rain permit application and issue or deny an acid rain permit.
- (2) The owners and operators of each affected source and each affected unit at the source shall:
  - (a) Operate the unit in compliance with a complete acid rain permit application or a superseding acid rain permit issued by the director; and
  - (b) Have an acid rain permit.

(B) Monitoring requirements.

- (1) The owners and operators and, to the extent applicable, designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements as provided in 40 CFR Part 75 and Section 407 of the Clean Air Act.
- (2) The emissions measurements recorded and reported in accordance with 40 CFR Part 75 shall be used to determine compliance by the source or unit, as appropriate, with the acid rain emissions limitations and emissions reduction requirements for sulfur dioxide and nitrogen oxides under the acid rain program.
- (3) The requirements of 40 CFR Part 75 shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the Clean Air Act and other provisions of the operating permit for the source.

(C) Sulfur dioxide requirements.

(1) The owners and operators of each source and each affected unit at the source shall:

(a) Hold allowances, as of the allowance transfer deadline, in the source's compliance account, after deductions under 40 CFR 73.34(C), not less than the total annual emissions of sulfur dioxide for the previous calendar year from the affected units at the source; and

(b) Comply with the applicable acid rain emissions limitation for sulfur dioxide.

(2) Each ton of sulfur dioxide emitted in excess of the acid rain emissions limitations for sulfur dioxide shall constitute a separate violation of this rule.

(3) An affected unit shall be subject to the requirements under paragraph (C)(1) of this rule as follows:

(a) Starting January 1, 2000, an affected unit under paragraph (A)(2) of rule 3745-103-02 of the Administrative Code; or

(b) Starting on the later of January 1, 2000 or the deadline for monitor certification under 40 CFR Part 75, an affected unit under paragraph (A)(3) of rule 3745-103-02 of the Administrative Code.

(4) Allowances shall be held in, deducted from, or transferred among allowance tracking system accounts in accordance with the acid rain program.

(5) An allowance shall not be deducted in order to comply with the requirements under paragraph (C)(1)(a) of this rule prior to the calendar year for which the allowance was allocated.

(6) An allowance allocated by the USEPA under the acid rain program is a limited authorization to emit sulfur dioxide in accordance with the acid rain program. No provision of the acid rain program, the acid rain permit application, the acid rain permit, or an exemption under rule 3745-103-03 or 3745-103-04 of the Administrative Code and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.

(7) An allowance allocated by the USEPA under the acid rain program does not constitute a property right.

(D) Nitrogen oxides requirements. The owners and operators of the source and each affected unit at the source shall comply with the applicable acid rain emissions limitation for nitrogen oxides.

(E) Excess emissions requirements.

- (1) The designated representative of an affected source that has excess emissions in any calendar year shall submit a proposed offset plan to the USEPA, as required under 40 CFR Part 77, and submit a copy to the director.
- (2) The owners and operators of an affected source that has excess emissions in any calendar year shall:
  - (a) Pay to the USEPA without demand the penalty required, and pay to the USEPA upon demand the interest on that penalty, as required by 40 CFR Part 77; and
  - (b) Comply with the terms of an approved offset plan, as required by 40 CFR Part 77.

(F) Recordkeeping and reporting requirements.

- (1) Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Ohio EPA.
  - (a) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24; provided that the certificate and documents shall be retained on site at the source beyond such five year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative.
  - (b) All emissions monitoring information, in accordance with 40 CFR Part 75; provided to the extent that 40 CFR Part 75 provides for a three year period of recordkeeping, the three year period shall apply.
  - (c) Copies of all reports, compliance certifications, and other submissions and all records made or required under the acid rain program.
  - (d) Copies of all documents used to complete an acid rain permit application and any other submission under the acid rain program or to demonstrate compliance with the requirements of the acid rain program.
- (2) The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the acid rain program.

(G) Liability.

- (1) Any person who knowingly violates any requirement or prohibition of the acid rain program, a complete acid rain permit application, an acid rain permit, or an exemption under rule 3745-103-03 or 3745-103-04 of the Administrative Code, including any requirement for the payment of any penalty owed to the United States, shall be subject to enforcement by the USEPA pursuant to section 113(C) of the Clean Air Act and by the Ohio EPA pursuant to Chapter 3704. of the Revised Code.
- (2) Any person who knowingly makes a false, material statement in any record, submission, or report under the acid rain program shall be subject to criminal enforcement by the USEPA pursuant to section 113(c) of the Clean Air Act and 18 USC 1001 and by the director pursuant to Chapter 3704. of the Revised Code.
- (3) No permit revision shall excuse any violation of the requirements of the acid rain program that occurs prior to the date that the revision takes effect.
- (4) Each affected source and each affected unit shall meet the requirements of the acid rain program.
- (5) Any provision of the acid rain program that applies to an affected source, including a provision applicable to the designated representative of an affected source, shall also apply to the owners and operators of such source and of the affected units at the source.
- (6) Any provision of the acid rain program that applies to an affected unit, including a provision applicable to the designated representative of an affected unit, shall also apply to the owners and operators of such unit.
- (7) Each violation of a provision of rules 3745-103-01 to 3745-103-66 of the Administrative Code and 40 CFR Parts 72, 73, 74, 75, 76, 77, and 78, by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation.

(H) Effect on other authorities. No provision of the acid rain program, an acid rain permit application, an acid rain permit, or an exemption under rule 3745-103-03 or 3745-103-04 of the Administrative Code shall be construed as:

- (1) Except as expressly provided in Title IV of the Clean Air Act, exempting or excluding the owners and operators and, to the extent applicable, the designated representative of an affected source or affected unit from compliance with any other provision of the Clean Air Act, including the provisions of Title I of the

Clean Air Act relating to applicable national ambient air quality standards or state implementation plans;

- (2) Limiting the number of allowances a source can hold; provided, that the number of allowances held by the source shall not affect the source's obligation to comply with any other provisions of the Clean Air Act;
- (3) Requiring a change of any kind in any Ohio law regulating electric utility rates and charges, affecting any Ohio law regarding such Ohio regulation, or limiting such Ohio regulation, including any prudence review requirements under such Ohio law;
- (4) Modifying the Federal Power Act or affecting the authority of the federal energy regulatory commission under the Federal Power Act; or
- (5) Interfering with or impairing any program for competitive bidding for power supply in a state in which such program is established.

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