

SUBCHAPTER E: ACID RAIN PERMITS AND CLEAN AIR INTERSTATE RULE
DIVISION 1: ACID RAIN PERMITS
§§122.410, 122.412, 122.414
Effective August 3, 2006

§122.410. Operating Permit Interface.

(a) The commission hereby adopts and incorporates by reference, except as specified in this section, the provisions of 40 Code of Federal Regulations (CFR) Part 72 with an effective date of July 1, 2006 ; 40 CFR Part 73 with an effective date of July 1, 2006; 40 CFR Part 74 with an effective date of July 1, 2006, Part 76 with an effective date of May 1, 1998; 40 CFR Part 77 with an effective date of July 1, 2006; and 40 CFR Part 78 with an effective date of July 11, 2005, for purposes of implementing an Acid Rain Program that meets the requirements of Federal Clean Air Act, Title IV.

(b) Applicants for sources subject to 40 CFR Parts 72 - 74, 76, and 77 shall comply with those requirements.

(c) If the provisions of 40 CFR Parts 72 - 74, 76, and 77 conflict with or are not included in this chapter, the provisions of 40 CFR Parts 72 - 74, 76, and 77 shall apply and take precedence except for the following.

(1) References to 40 CFR Part 70 in 40 CFR Parts 72 - 74, 76, and 77 shall be satisfied by the requirements of this chapter for the purposes of implementing the Acid Rain Program .

(2) The procedural requirements for Acid Rain permit revisions in 40 CFR Part 72, Subpart H (Acid Rain Permit Revisions) shall be satisfied by §122.414 of this title (relating to Acid Rain Permit Revisions).

Adopted July 12, 2006

Effective August 3, 2006

§122.412. Acid Rain Permit Application Due Dates.

The designated representative shall submit acid rain permit applications for affected units subject to 40 Code of Federal Regulations (40 CFR) 72, 74, or 76 to the executive director by the following dates.

(1) Sulfur dioxide.

(A) Applications for initial Phase II acid rain permits with an existing unit under 40 CFR 72.6(a)(2) shall be submitted by January 1, 1996.

(B) Applications for Phase II acid rain permits for new units shall be submitted at least 24 months before the later of January 1, 2000 or the date on which the unit commences operation.

(C) Applications for Phase II acid rain permits for units under 40 CFR §72.6(a)(3)(ii) shall be submitted at least 24 months before the later of January 1, 2000 or the date on

which the unit begins to serve a generator with a nameplate capacity greater than 25 megawatts of electricity.

(D) Applications for Phase II acid rain permits for units under 40 CFR §72.6(a)(3)(iii) shall be submitted at least 24 months before the later of January 1, 2000 or the date on which the auxiliary firing commences operation.

(E) Applications for Phase II acid rain permits with a unit under 40 CFR §72.6(a)(3)(iv) or (vii) shall be submitted before the later of January 1, 1998, or the March 1 of the year following the three-year calendar period in which the unit fails to meet the requirements of 40 CFR §72.6(b)(4) or (7).

(F) Applications for Phase II acid rain permits with a unit under 40 CFR §72.6(a)(3)(v) or (vi) shall be submitted before the later of January 1, 1998, or the March 1 following the calendar year in which the unit fails to meet the requirements of 40 CFR §72.6(b)(5) or (6).

(2) Nitrogen oxide. Applications for initial Phase II acid rain permits for nitrogen dioxide for affected units subject to 40 CFR 76 shall be submitted by January 1, 1998.

(3) Opt-in sources. Applications for acid rain permits for opt-in sources to the acid rain program shall be submitted in accordance with 40 CFR 74.

Adopted August 9, 2000

Effective September 4, 2000

§122.414. Acid Rain Permit Revisions.

(a) For the purposes of implementing the procedural requirements of 40 CFR 72, Subpart H (Acid Rain Permit Revisions Procedural Sections), the following sections of Subchapter C of this chapter (relating to Initial Permit Issuances, Revisions, Reopenings, and Renewals) shall be substituted.

(1) The provisions of §122.212 and §122.213 of this title (relating to Applications for Administrative Permit Revisions and Procedures for Administrative Permit Revisions) shall be used to satisfy the procedural requirements of 40 CFR §72.83(b)(1) and §72.80(d) for acid rain permit administrative amendments, except that the executive director shall submit the revised portion of the acid rain permit to EPA.

(2) The following provisions shall be used to satisfy the procedural requirements of 40 CFR §72.82 for acid rain fast-track modifications with the following restrictions.

(A) An application for an acid rain fast-track modification must include, at a minimum, the following:

- (i) a description of each change;
- (ii) a description of the emission units affected;

(iii) a statement that the change qualifies for a fast-track modification;
and

(iv) a certification in accordance with §122.165 of this title (relating to Certification by a Responsible Official).

(B) An acid rain permit revision for a fast-track modification may be issued by the executive director provided the following:

(i) the changes meet the criteria for a fast-track modification;

(ii) the executive director has received an application;

(iii) the conditions of the acid rain permit provide for compliance with the requirements of this chapter; and

(iv) the requirements of the chapter for public notice as specified in subparagraph (E) of this paragraph, local program notification, affected state review, and EPA review have been satisfied.

(C) The designated representative shall:

(i) provide a copy of the complete application requesting a fast-track modification to the executive director, the EPA, affected states, and local air pollution control agencies with jurisdiction in the county in which the site is located; and

(ii) send a notification, consistent with subparagraph (E) of this paragraph, of the fast-track modification permit application to persons on a mailing list maintained by the chief clerk.

(D) Changes for a fast-track modification shall not be operated before the permit is revised.

(E) Within five days of submission of the application for a fast-track modification to the executive director, the designated representative shall comply with the public notice requirements in §122.320(b) - (m) of this title (relating to Public Notice) and §122.322 of this title (relating to Bilingual Public Notice), except for the provisions regarding a request for or notice of a hearing or a public meeting. However, the application rather than the draft permit shall be the subject of public notice. In addition, each newspaper notice shall direct the public to submit comments to both the executive director and to the designated representative.

(F) The executive director shall consider the application for a fast-track modification and comments received and provide approval, in whole or in part with changes or conditions as appropriate, or disapproval of the acid rain permit revision within 90 days of the close of the public notice comment period.

(3) The provisions of §122.220 and §122.221 of this title (relating to Applications for Significant Permit Revisions and Procedures for Significant Permit Revisions) shall be used to satisfy the procedural requirements of 40 CFR §72.81(c) for acid rain permit modifications. However, at the discretion of the executive director, the procedural requirements for §§122.320, 122.322, and 122.350 of this title (relating to Public Notice; Bilingual Notice; and EPA Review) may run concurrently.

(4) The provisions of §122.231 of this title (relating to Permit Reopenings) shall be used to satisfy the procedural requirements of 40 CFR §72.85 for acid rain permit reopenings. However, at the discretion of the executive director, the procedural requirements for §§122.320, 122.322, and 122.350 of this title may run concurrently.

(b) The following provisions shall apply to the procedural requirements for acid rain permit revisions or modifications.

(1) Changes qualifying as administrative permit revisions may be processed as fast-track modifications or significant permit revisions at the option of the designated representative.

(2) Changes qualifying as fast-track modifications may be processed as significant permit revisions at the option of the designated representative.

(3) The designated representative may be subject to enforcement action if the change to the permit is later determined not to qualify for the type of permit revision or modification submitted.

(4) Provisional terms and conditions are not eligible for a permit shield.

Adopted August 9, 2000

Effective September 4, 2000

DIVISION 2: CLEAN AIR INTERSTATE RULE
§§122.420, 122.422, 122.424, 122.426, 122.428
Effective August 3, 2006

§122.420. General Clean Air Interstate Rule Annual Trading Program Permit Requirements.

(a) For each Clean Air Interstate Rule (CAIR) nitrogen oxides (NO_x) source and CAIR sulfur dioxide (SO₂) source required to have a federal operating permit, such permit must include a CAIR permit. The CAIR portion of the federal permit must be administered in accordance with this chapter as applicable, except as provided otherwise by 40 Code of Federal Regulations (CFR) Part 96, Subpart CC and Subpart CCC.

(b) Each CAIR permit must contain, with regard to the CAIR NO_x source and CAIR SO₂ source and the CAIR NO_x units and CAIR SO₂ units at the source covered by the CAIR permit, all applicable CAIR NO_x Annual Trading Program, and CAIR SO₂ Trading Program requirements and must be a complete and separable portion of the federal operating permit or other federally enforceable permit under subsection (c) of this section.

(c) For each CAIR NO_x opt-in unit and CAIR SO₂ opt-in unit that is required to have a federally enforceable permit, such permit must include a CAIR permit. The CAIR portion of the federally enforceable permit must be administered in accordance with the commission's regulations for such permit as applicable, except as otherwise provided under 40 CFR Part 96, Subparts II and III.

(d) No CAIR permit may be issued, amended, reopened, or renewed until the United States Environmental Protection Agency has received a complete certificate of representation under 40 CFR §96.113 or §96.213 for a CAIR designated representative of the CAIR NO_x and CAIR SO₂ source and the CAIR NO_x and CAIR SO₂ units at the source.

Adopted July 12, 2006

Effective August 3, 2006

§122.422. Submission of Clean Air Interstate Rule Permit Applications.

(a) The Clean Air Interstate Rule (CAIR) designated representative of any CAIR nitrogen oxides (NO_x) source and CAIR sulfur dioxide (SO₂) source required to have a federal operating permit shall submit to the executive director a complete CAIR permit application under §122.424 of this title (relating to Information Requirements for Clean Air Interstate Rule Permit Applications) for the source covering each CAIR NO_x unit and CAIR SO₂ unit at the source by June 1, 2007, or at least 18 months prior to the date that the CAIR NO_x unit and CAIR SO₂ unit commences operation.

(b) For a CAIR NO_x source and CAIR SO₂ source required to have a federal operating permit, the CAIR designated representative shall submit a complete CAIR permit application to the executive director under §122.424 of this title for the source covering each CAIR NO_x unit and CAIR SO₂ unit at the source to renew the CAIR permit in accordance with this chapter.

Adopted July 12, 2006

Effective August 3, 2006

§122.424. Information Requirements for Clean Air Interstate Rule Permit Applications.

A complete Clean Air Interstate Rule (CAIR) permit application must include the following elements concerning the CAIR nitrogen oxides (NO_x) source and CAIR sulfur dioxide (SO₂) source for which the application is submitted, in a format prescribed by the executive director:

- (1) identification of the CAIR NO_x source and CAIR SO₂ source;
- (2) identification of each CAIR NO_x unit and CAIR SO₂ unit at the CAIR NO_x source and CAIR SO₂ source;
- (3) the standard requirements under 40 Code of Federal Regulations §96.106 and §96.206;
- (4) a copy of the complete certificate of representation submitted to the United States Environmental Protection Agency as required under §122.420(d) of this title (relating to General Clean Air Interstate Rule Annual Trading Program Permit Requirements); and
- (5) any other information requested by the executive director.

Adopted July 12, 2006

Effective August 3, 2006

§122.426. Clean Air Interstate Rule Permit Contents and Term.

(a) Each Clean Air Interstate Rule (CAIR) permit must contain, in a format prescribed by the executive director, all elements required for a complete CAIR permit application under §122.424 of this title (relating to Information Requirements for Clean Air Interstate Rule Permit Applications).

(b) Each CAIR permit must incorporate the definitions of terms under 40 Code of Federal Regulations §96.102 and §96.202 and, upon recordation by the United States Environmental Protection Agency administrator under 40 Code of Federal Regulations Part 96, Subparts FF, GG, II, FFF, GGG, and III every allocation, transfer, and deduction of a CAIR nitrogen oxides (NO_x) allowance and CAIR sulfur dioxide (SO₂) allowance to or from the compliance account of the CAIR NO_x source and CAIR SO₂ source covered by the permit.

(c) The executive director shall set the term of the CAIR permit as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, reopening, or renewal of the CAIR NO_x source's and CAIR SO₂ source's federal operating permit.

Adopted July 12, 2006

Effective August 3, 2006

§122.428. Clean Air Interstate Rule Permit Revisions.

Except as provided in §122.426(b) of this title (relating to Clean Air Interstate Rule Permit Contents and Term), the executive director shall revise the Clean Air Interstate Rule permit, as necessary, in accordance with this chapter or the regulations for other federally enforceable permits regarding permit revisions as applicable addressing permit revisions.

Adopted July 12, 2006

Effective August 3, 2006