

**SUBPART 245-3****PERMITS**

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**Historical Note**

Subpart (§§ 245-3.1 — 245-3.5) filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-3.1 General CAIR SO<sub>2</sub> Trading Program permit requirements.**

(a) Each CAIR SO<sub>2</sub> source must have a permit issued by the department pursuant to Parts 201 and 621 of this Title.

(b) Each CAIR permit must contain, with regard to the CAIR SO<sub>2</sub> source and the CAIR SO<sub>2</sub> units at the source covered by the CAIR permit, all applicable requirements for the CAIR SO<sub>2</sub> Trading Program, the CAIR NO<sub>x</sub> Annual Trading Program, and the CAIR NO<sub>x</sub> Ozone Season Trading Program requirements and shall be a complete and separable portion of the permit under subdivision (a) of this section.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-3.2 Submission of CAIR permit applications.**

The CAIR designated representative of any CAIR SO<sub>2</sub> source must submit to the department a complete CAIR permit application under section 245-3.3 of this Subpart for the source covering each CAIR SO<sub>2</sub> unit at the source by the later of January 1, 2008 or the date on which the CAIR SO<sub>2</sub> unit commences commercial operation, except as provided in section 245-9.4 of this Part.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-3.3 Information requirements for CAIR permit applications.**

A complete CAIR permit application must include the following elements concerning the CAIR SO<sub>2</sub> source for which the application is submitted, in a format prescribed by the department:

- (a) identification of the CAIR SO<sub>2</sub> source;
- (b) identification of each CAIR SO<sub>2</sub> unit at the CAIR SO<sub>2</sub> source; and
- (c) the standard requirements under section 245-1.6 of this Part.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-3.4 CAIR permit contents.**

Each CAIR permit will contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under section 245-5.3 of this Part and all applicable requirements of this Subpart.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-3.5 CAIR permit revisions.**

Revisions to a CAIR permit shall be done in accordance with Parts 201 and 621 of this Title.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

## SUBPART 245-6

### CAIR SO<sub>2</sub> ALLOWANCE TRACKING SYSTEM

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#### Historical Note

Subpart (§§ 245-6.1 — 245-6.8) filed Sept. 19, 2007 eff. 30 days after filing.

#### § 245-6.2 Establishment of accounts.

(a) *Compliance accounts.* Except as provided in section 245-9.5(e) of this Part, upon receipt of a complete certificate of representation under section 245-2.4 of this Part, the administrator will establish a compliance account for the CAIR SO<sub>2</sub> source for which the certificate of representation was submitted, unless the source already has a compliance account.

(b) *General accounts.* (1) Application for general account.

(i) Any person may apply to open a general account for the purpose of holding and transferring CAIR SO<sub>2</sub> allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.

(ii) A complete application for a general account shall be submitted to the administrator and shall include the following elements in a format prescribed by the administrator:

(a) name, mailing address, e-mail address, telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative;

(b) organization name and type of organization, if applicable;

(c) a list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR SO<sub>2</sub> allowances held in the general account;

(d) the following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR SO<sub>2</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO<sub>2</sub> Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."; and

(e) the signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.

(iii) Unless otherwise required by the department or the administrator, documents of agreement referred to in the application for a general account shall not be submitted to the

department or the administrator. Neither the department nor the administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Authorization of CAIR authorized account representative and alternate CAIR authorized account representative.

(i) Upon receipt by the administrator of a complete application for a general account under paragraph (1) of this subdivision:

(a) The administrator will establish a general account for the person or persons for whom the application is submitted.

(b) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR SO<sub>2</sub> allowances held in the general account in all matters pertaining to the CAIR SO<sub>2</sub> Trading Program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the administrator or a court regarding the general account.

(c) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(ii) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR SO<sub>2</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR SO<sub>2</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(iii) The administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subparagraph (ii) of this paragraph.

(3) Changing CAIR authorized account representative and alternate CAIR authorized account representative; changes in persons with ownership interest.

(i) The CAIR authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under paragraph (1) of this subdivision. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR SO<sub>2</sub> allowances in the general account.

(ii) The alternate CAIR authorized account representative for a general account may be changed at any time upon receipt by the administrator of a superseding complete application for a general account under paragraph (1) of this subdivision. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the administrator receives the superseding application for a general account shall be binding on the new

alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR SO<sub>2</sub> allowances in the general account.

(iii) (a) In the event a person having an ownership interest with respect to CAIR SO<sub>2</sub> allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the administrator or a court, as if the person were included in such list.

(b) Within 30 days following any change in the persons having an ownership interest with respect to CAIR SO<sub>2</sub> allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR SO<sub>2</sub> allowances in the general account to include the change.

(4) Objections concerning CAIR authorized account representative and alternate CAIR authorized account representative.

(i) Once a complete application for a general account under paragraph (1) of this subdivision has been submitted and received, the administrator will rely on the application unless and until a superseding complete application for a general account under paragraph (1) of this subdivision is received by the administrator.

(ii) Except as provided in subparagraph (3)(i) or (ii) of this subdivision, no objection or other communication submitted to the administrator concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the administrator under the CAIR SO<sub>2</sub> Trading Program.

(iii) The administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR SO<sub>2</sub> allowance transfers.

(5) Delegation by CAIR authorized account representative and alternate CAIR authorized account representative.

(i) A CAIR authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the administrator provided for or required under this Subpart and Subpart 245-7 of this Part.

(ii) An alternate CAIR authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the administrator provided for or required under this Subpart and Subpart 245-7 of this Part.

(iii) In order to delegate authority to make an electronic submission to the administrator in accordance with subparagraph (i) or (ii) of this paragraph, the CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate, must submit to the administrator a notice of delegation, in a format prescribed by the administrator, that includes the following elements:

(a) the name, address, e-mail address, telephone number, and facsimile transmission number (if any) of such CAIR authorized account representative or alternate CAIR authorized account representative;

(b) the name, address, e-mail address, telephone number, and, facsimile transmission number (if any) of each such natural person (referred to as an *agent*);

(c) for each such natural person, a list of the type or types of electronic submissions under subparagraph (i) or (ii) of this paragraph for which authority is delegated to him or her;

(d) the following certification statement by such CAIR authorized account representative or alternate CAIR authorized account representative: "I agree that any electronic submission to the Administrator that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR authorized account representative or alternate CAIR authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 6 NYCRR 245-6.2(b)(5)(iv) shall be deemed to be an electronic submission by me."; and

(e) the following certification statement by such CAIR authorized account representative or alternate CAIR authorized account representative: "Until this notice of delegation is superseded by another notice of delegation under 6 NYCRR 245-6.2(b)(5)(iv), I agree to maintain an e-mail account and to notify the Administrator immediately of any change in my e-mail address unless all delegation of authority by me under 6 NYCRR 245-6.2(b)(5) is terminated."

(iv) A notice of delegation submitted under subparagraph (iii) of this paragraph shall be effective, with regard to the CAIR authorized account representative or alternate CAIR authorized account representative identified in such notice, upon receipt of such notice by the administrator and until receipt by the administrator of a superseding notice of delegation submitted by such CAIR authorized account representative or alternate CAIR authorized account representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(v) Any electronic submission covered by the certification in clause (iii)(d) of this paragraph and made in accordance with a notice of delegation effective under subparagraph (iv) of this paragraph shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

(c) *Account identification.* The administrator will assign a unique identifying number to each account established under subdivision (a) or (b) of this section.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-6.3 Responsibilities of CAIR authorized account representative.**

Following the establishment of a CAIR SO<sub>2</sub> Allowance Tracking System account, all submissions to the administrator pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR SO<sub>2</sub> allowances in the account, shall be made only by the CAIR authorized account representative for the account.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-6.4 Recordation of CAIR SO<sub>2</sub> allowances.**

(a) (1) After a compliance account is established under section 245-6.2(a) of this Subpart or 40 CFR 73.31(a) or (b), the administrator will record in the compliance account any CAIR SO<sub>2</sub> allowance allocated to any CAIR SO<sub>2</sub> unit at the source for each of the 30 years starting the later of 2010 or the year in which the compliance account is established and any CAIR SO<sub>2</sub> allowance allocated for each of the 30 years starting the later of 2010 or the year in which the compliance account is established and transferred to the source in accordance with Subpart 245-7 of this Part or 40 CFR part 73 subpart D.

(2) In 2011 and each year thereafter, after the administrator has completed all deductions under section 245-6.5(b) of this Subpart, the administrator will record in the compliance

account any CAIR SO<sub>2</sub> allowance allocated to any CAIR SO<sub>2</sub> unit at the source for the new 30th year (*i.e.*, the year that is 30 years after the calendar year for which such deductions are or could be made) and any CAIR SO<sub>2</sub> allowance allocated for the new 30th year and transferred to the source in accordance with Subpart 245-7 of this Part or 40 CFR part 73 subpart D.

(b) (1) After a general account is established under section 245-6.2(b) of this Subpart or 40 CFR part 73(c), the administrator will record in the general account any CAIR SO<sub>2</sub> allowance allocated for each of the 30 years starting the later of 2010 or the year in which the general account is established and transferred to the general account in accordance with Subpart 245-7 or 40 CFR part 73 subpart D.

(2) In 2011 and each year thereafter, after the administrator has completed all deductions under section 245-6.5(b) of this Subpart, the administrator will record in the general account any CAIR SO<sub>2</sub> allowance allocated for the new 30th year (*i.e.*, the year that is 30 years after the calendar year for which such deductions are or could be made) and transferred to the general account in accordance with Subpart 245-7 of this Part or 40 CFR part 73 subpart D.

(c) *Serial numbers for allocated CAIR SO<sub>2</sub> allowances.* When recording the allocation of CAIR SO<sub>2</sub> allowances issued by the department under section 245-9.9 of this Part, the administrator will assign each such CAIR SO<sub>2</sub> allowance a unique identification number that will include digits identifying the year of the control period for which the CAIR SO<sub>2</sub> allowance is allocated.

#### Historical Note

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

### § 245-6.5 Compliance with CAIR SO<sub>2</sub> emissions limitation.

(a) *Allowance transfer deadline.* The CAIR SO<sub>2</sub> allowances are available to be deducted for compliance with a source's CAIR SO<sub>2</sub> emissions limitation for a control period in a given calendar year only if the CAIR SO<sub>2</sub> allowances:

- (1) were allocated for the control period in the year or a prior year; and
- (2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR SO<sub>2</sub> allowance transfer correctly submitted for recordation under sections 245-7.1 and 245-7.2 of this Part by the allowance transfer deadline for the control period.

(b) *Deductions for compliance.* Following the recordation, in accordance with section 245-7.2 of this Part, of CAIR SO<sub>2</sub> allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the administrator will deduct from the compliance account CAIR SO<sub>2</sub> allowances available under subdivision (a) of this section in order to determine whether the source meets the CAIR SO<sub>2</sub> emissions limitation for the control period, as follows:

- (1) For a CAIR SO<sub>2</sub> source subject to an acid rain emissions limitation, the administrator will, in the following order:
  - (i) Deduct the amount of CAIR SO<sub>2</sub> allowances, available under subdivision (a) of this section and not originally issued by a permitting authority to a CAIR opt-in unit, that is required under 40 CFR part 73.35(b) and (c). If there are sufficient CAIR SO<sub>2</sub> allowances to complete this deduction, the deduction will be treated as satisfying the requirements of 40 CFR part 73.35(b) and (c).
  - (ii) Deduct the amount of CAIR SO<sub>2</sub> allowances, not originally issued by a permitting authority to a CAIR opt-in unit, that is required under 40 CFR part 73.35(d) and 77.5. If there are sufficient CAIR SO<sub>2</sub> allowances to complete this deduction, the deduction will be treated as satisfying the requirements of 40 CFR 73.35(d) and 77.5.
  - (iii) Treating the CAIR SO<sub>2</sub> allowances deducted under subparagraph (i) of this paragraph as also being deducted under this subparagraph, deduct CAIR SO<sub>2</sub> allowances available under subdivision (a) of this section (including any originally issued by a permitting authority to a CAIR opt-in unit) in order to determine whether the source meets the CAIR SO<sub>2</sub> emissions limitation for the control period, as follows:

(a) until the tonnage equivalent of the CAIR SO<sub>2</sub> allowances deducted equals, or exceeds in accordance with paragraphs (c)(1) and (2) of this section, the number of tons of total sulfur dioxide emissions, determined in accordance with Subpart 245-8 of this Part, from all CAIR SO<sub>2</sub> units at the source for the control period; or

(b) if there are insufficient CAIR SO<sub>2</sub> allowances to complete the deductions in clause (a) of this subparagraph, until no more CAIR SO<sub>2</sub> allowances available under subdivision (a) of this section (including any originally issued by a permitting authority to a CAIR opt-in unit) remain in the compliance account.

(2) For a CAIR SO<sub>2</sub> source not subject to an acid rain emissions limitation, the administrator will deduct CAIR SO<sub>2</sub> allowances available under subdivision (a) of this section (including any issued by a permitting authority to a CAIR opt-in unit) in order to determine whether the source meets the CAIR SO<sub>2</sub> emissions limitation for the control period, as follows:

(i) until the tonnage equivalent of the CAIR SO<sub>2</sub> allowances deducted equals, or exceeds in accordance with paragraphs (c)(1) and (2) of this section, the number of tons of total sulfur dioxide emissions, determined in accordance with Subpart 245-8 of this Part, from all CAIR SO<sub>2</sub> units at the source for the control period; or

(ii) if there are insufficient CAIR SO<sub>2</sub> allowances to complete the deductions in subparagraph (i) of this paragraph, until no more CAIR SO<sub>2</sub> allowances available under subdivision (a) of this section (including any issued by a permitting authority to a CAIR opt-in unit) remain in the compliance account.

(c) (1) Identification of CAIR SO<sub>2</sub> allowances by serial number. The CAIR authorized account representative for a source's compliance account may request that specific CAIR SO<sub>2</sub> allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (b) or (d) of this section. Such request shall be submitted to the administrator by the allowance transfer deadline for the control period and include, in a format prescribed by the administrator, the identification of the CAIR SO<sub>2</sub> source and the appropriate serial numbers.

(2) First-in, first-out. The administrator will deduct CAIR SO<sub>2</sub> allowances under subdivision (b) or (d) of this section from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR SO<sub>2</sub> allowances by serial number under paragraph (1) of this subdivision, on a first-in, first-out (FIFO) accounting basis in the following order:

(i) any CAIR SO<sub>2</sub> allowances that were allocated to the units at the source for a control period before 2010, in the order of recordation;

(ii) any CAIR SO<sub>2</sub> allowances that were allocated to any entity for a control period before 2010 and transferred and recorded in the compliance account pursuant to Subpart 245-7 of this Part, or 40 CFR part 73 subpart D, in the order of recordation.

(iii) any CAIR SO<sub>2</sub> allowances that were allocated to the units at the source for a control period during 2010 through 2014, in the order of recordation;

(iv) any CAIR SO<sub>2</sub> allowances that were allocated to any entity for a control period during 2010 through 2014 and transferred and recorded in the compliance account pursuant to Subpart 245-7 of this Part or CFR part 73 subpart D, in the order of recordation;

(v) any CAIR SO<sub>2</sub> allowances that were allocated to the units at the source for a control period in 2015 or later, in the order of recordation; and

(vi) any CAIR SO<sub>2</sub> allowances that were allocated to any entity for a control period in 2015 or later and transferred and recorded in the compliance account pursuant to Subpart 245-7 of this Part or CFR part 73 subpart D, in the order of recordation.

(d) *Deductions for excess emissions.* (1) After making the deductions for compliance under subdivision (b) of this section for a control period in a calendar year in which the CAIR SO<sub>2</sub> source has excess emissions, the administrator will deduct from the source's compliance account the tonnage equivalent in CAIR SO<sub>2</sub> allowances, allocated for the control period in the immediately following calendar year (including any originally issued by a permitting authority

to an opt-in unit), equal to, or exceeding in accordance with paragraphs (c)(1) and (2) of this section, three times the following amount: the number of tons of the source's excess emissions minus, if the source is subject to acid rain emissions limitation, the amount of the CAIR SO<sub>2</sub> allowances required to be deducted under subparagraph (b)(1)(ii) of this section.

(2) Any allowance deduction required under paragraph (1) of this subdivision shall not affect the liability of the owners and operators of the CAIR SO<sub>2</sub> source or the CAIR SO<sub>2</sub> units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the act or applicable State law.

(i) For purposes of determining the number of days of a violation, if a CAIR SO<sub>2</sub> unit has excess emissions for a control period, each day in the control period constitutes a day in violation.

(ii) Each ton of excess emissions is a separate violation.

(c) *Recordation of deductions.* The administrator will record in the appropriate compliance account all deductions from such an account under subdivisions (b) and (d) of this section and Subpart 245-9 of this Part.

(f) *Administrator's action on submissions.* (1) The administrator may review and conduct independent audits concerning any submission under the CAIR SO<sub>2</sub> Trading Program and make appropriate adjustments of the information in the submissions.

(2) The administrator may deduct CAIR SO<sub>2</sub> allowances from or transfer CAIR SO<sub>2</sub> allowances to a source's compliance account based on the information in the submissions, as adjusted under paragraph (1) of this subdivision, and record such deductions and transfers.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-6.6 Banking.**

(a) CAIR SO<sub>2</sub> allowances may be banked for future use or transfer in a compliance account or a general account in accordance with subdivision (b) of this section.

(b) Any CAIR SO<sub>2</sub> allowance that is held in a compliance account or a general account will remain in such account unless and until the CAIR SO<sub>2</sub> allowance is deducted or transferred under sections 245-6.5, 245-6.7 of this Subpart, or Subpart 245-7 or 245-9 of this Part.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-6.7 Account error.**

The administrator may, at his or her sole discretion and on his or her own motion, correct any error in any CAIR SO<sub>2</sub> Allowance Tracking System account. Within 10 business days of making such correction, the administrator will notify the CAIR authorized account representative for the account.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-6.8 Closing of general accounts.**

(a) The CAIR authorized account representative of a general account may submit to the administrator a request to close the account, which shall include a correctly submitted allowance transfer under sections 245-7.1 and 245-7.2 of this Part for any CAIR SO<sub>2</sub> allowances in the account to one or more other CAIR SO<sub>2</sub> Allowance Tracking System accounts.

(b) If a general account has no allowance transfers in or out of the account for a 12-month period or longer and does not contain any CAIR SO<sub>2</sub> allowances, the administrator may notify the CAIR authorized account representative for the account that the account will be closed following 20 business days after the notice is sent. The account will be closed after the 20-day period unless, before the end of the 20-day period, the administrator receives a correctly submitted transfer of

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CAIR SO<sub>2</sub> allowances into the account under sections 245-7.1 and 245-7.2 of this Part or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the administrator good cause as to why the account should not be closed.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

## SUBPART 245-7

### CAIR SO<sub>2</sub> ALLOWANCE TRANSFERS

Sec.	
245-7.1	Submission of CAIR SO <sub>2</sub> allowance transfers
245-7.2	EPA recordation
245-7.3	Notification

#### Historical Note

Subpart (§§ 245-7.1 — 245-7.3) filed Sept. 19, 2007 eff. 30 days after filing.

#### § 245-7.1 Submission of CAIR SO<sub>2</sub> allowance transfers.

(a) A CAIR authorized account representative seeking recordation of a CAIR SO<sub>2</sub> allowance transfer shall submit the transfer to the administrator. To be considered correctly submitted, the CAIR SO<sub>2</sub> allowance transfer shall include the following elements, in a format specified by the administrator:

- (1) the account numbers for both the transferor and transferee accounts;
- (2) the serial number of each CAIR SO<sub>2</sub> allowance that is in the transferor account and is to be transferred; and
- (3) the name and signature of the CAIR authorized account representatives of the transferor and transferee accounts and the dates signed.

(b) (1) The CAIR authorized account representative for the transferee account can meet the requirements in paragraph (a)(3) of this section by submitting, in a format prescribed by the administrator, a statement signed by the CAIR authorized account representative and identifying each account into which any transfer of allowances, submitted on or after the date on which the administrator receives such statement, is authorized. Such authorization shall be binding on any CAIR authorized account representative for such account and shall apply to all transfers into the account that are submitted on or after such date of receipt, unless and until the administrator receives a statement signed by the CAIR authorized account representative retracting the authorization for the account.

(2) The statement under paragraph (1) of this subdivision shall include the following: "By this signature I authorize any transfer of allowances into each account listed herein, except that I do not waive any remedies under State or Federal law to obtain correction of any erroneous transfers into such accounts. This authorization shall be binding on any CAIR authorized account representative for such account unless and until a statement signed by the CAIR authorized account representative retracting this authorization for the account is received by the administrator."

#### Historical Note

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

#### § 245-7.2 EPA Recordation.

(a) Within five business days (except as necessary to perform a transfer in perpetuity of CAIR SO<sub>2</sub> allowances allocated to a CAIR SO<sub>2</sub> unit or as provided in subdivision [b] of this section) of receiving a CAIR SO<sub>2</sub> allowance transfer, the administrator will record a CAIR SO<sub>2</sub> allowance transfer by moving each CAIR SO<sub>2</sub> allowance from the transferor account to the transferee account as specified by the request, provided that:

- (1) the transfer is correctly submitted under section 245-7.1 of this Subpart;
- (2) the transferor account includes each CAIR SO<sub>2</sub> allowance identified by serial number in the transfer; and
- (3) the transfer is in accordance with the limitation on transfer under 40 CFR 74.42 and 40 CFR 74.47(c), as applicable.

(b) A CAIR SO<sub>2</sub> allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR SO<sub>2</sub> allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the administrator completes the deductions under section 245-6.5 of this Part for the control period immediately before such allowance transfer deadline.

(c) Where a CAIR SO<sub>2</sub> allowance transfer submitted for recordation fails to meet the requirements of subdivision (a) of this section, the administrator will not record such transfer.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-7.3 Notification.**

(a) *Notification of recordation.* Within five business days of recordation of a CAIR SO<sub>2</sub> allowance transfer under section 245-7.2 of this Subpart, the administrator will notify the CAIR authorized account representatives of both the transferor and transferee accounts.

(b) *Notification of non-recordation.* Within 10 business days of receipt of a CAIR SO<sub>2</sub> allowance transfer that fails to meet the requirements of section 245-7.2(a) of this Subpart, the administrator will notify the CAIR authorized account representatives of both accounts subject to the transfer of:

- (1) a decision not to record the transfer; and
- (2) the reasons for such non-recordation.

(c) Nothing in this section shall preclude the submission of a CAIR SO<sub>2</sub> allowance transfer for recordation following notification of non-recordation.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

## SUBPART 245-8

### MONITORING AND REPORTING

Sec.	
245-8.1	General requirements
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#### Historical Note

Subpart (§§ 245-8.1 — 245-8.6) filed Sept. 19, 2007 eff. 30 days after filing.

#### § 245-8.1 General requirements.

The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR SO<sub>2</sub> unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this Subpart and 40 CFR part 75, subparts F and G. For purposes of complying with such requirements, the definitions in section 245-1.2 of this Part and 40 CFR 72.2 shall apply, and the terms *affected unit*, *designated representative*, and *continuous emission monitoring system* (or *CEMS*) in 40 CFR part 75 shall be deemed to refer to the terms *CAIR SO<sub>2</sub> unit*, *CAIR designated representative*, and *continuous emission monitoring system* (or *CEMS*) respectively, as defined in section 245-1.2 of this Part. The owner or operator of a unit that is not a CAIR SO<sub>2</sub> unit but that is monitored under 40 CFR 75.16(b)(2) shall comply with the same monitoring, recordkeeping, and reporting requirements as a CAIR SO<sub>2</sub> unit.

(a) *Requirements for installation, certification, and data accounting.* The owner or operator of each CAIR SO<sub>2</sub> unit shall:

(1) install all monitoring systems required under this Subpart for monitoring SO<sub>2</sub> mass emissions and individual unit heat input (including all systems required to monitor SO<sub>2</sub> concentration, stack gas moisture content, stack gas flow rate, CO<sub>2</sub> or O<sub>2</sub> concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.11 and 40 CFR 75.16);

(2) successfully complete all certification tests required under section 245-8.2 of this Subpart and meet all other requirements of this Subpart and 40 CFR part 75 applicable to the monitoring systems under paragraph (1) of this subdivision; and

(3) record, report, and quality-assure the data from the monitoring systems under paragraph (1) of this subdivision.

(b) *Compliance deadlines.* Except as provided in subdivision (e) of this section, the owner or operator shall meet the monitoring system certification and other requirements of paragraphs (a)(1) and (2) of this section on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under paragraph (a)(1) of this section on and after the following dates.

(1) For the owner or operator of a CAIR SO<sub>2</sub> unit that commences commercial operation before July 1, 2008, by January 1, 2009.

(2) For the owner or operator of a CAIR SO<sub>2</sub> unit that commences commercial operation on or after July 1, 2008, by the later of the following dates:

(i) January 1, 2009; or

(ii) 90-unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR SO<sub>2</sub> unit for which construction of a new stack or flue or installation of add-on SO<sub>2</sub> emission controls is completed after the applicable deadline under paragraph (1), (2), (4), or (5) of this subdivision, by 90-unit operating days or 180

calendar days, whichever occurs first, after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on SO<sub>2</sub> emissions controls.

(4) Notwithstanding the dates in paragraphs (1) and (2) of this subdivision, for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Subpart 245-9 of this Part, by the date specified in section 245-9.5(b) of this Part.

(5) Notwithstanding the dates in paragraphs (1) and (2) of this subdivision, for the owner or operator of a CAIR SO<sub>2</sub> opt-in unit under Subpart 245-9 of this Part, by the date on which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program as provided in section 245-9.5(g) of this Part.

(c) *Reporting data.* The owner or operator of a CAIR SO<sub>2</sub> unit that does not meet the applicable compliance date set forth in subdivision (b) of this section for any monitoring system under paragraph (a)(1) of this section shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for SO<sub>2</sub> concentration, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine SO<sub>2</sub> mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3) or 40 CFR part 75, appendix D, section 2.4, as applicable.

(d) *Prohibitions.* (1) No owner or operator of a CAIR SO<sub>2</sub> unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this Subpart without having obtained prior written approval in accordance with section 245-8.6 of this Subpart.

(2) No owner or operator of a CAIR SO<sub>2</sub> unit shall operate the unit so as to discharge, or allow to be discharged, SO<sub>2</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this Subpart and 40 CFR part 75.

(3) No owner or operator of a CAIR SO<sub>2</sub> unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording SO<sub>2</sub> mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this Subpart and 40 CFR part 75.

(4) No owner or operator of a CAIR SO<sub>2</sub> unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this Subpart, except under any one of the following circumstances:

(i) during the period that the unit is covered by an exemption under section 245-1.5 of this Part that is in effect;

(ii) the owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this Subpart and 40 CFR part 75, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(iii) the CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with section 245-8.2(d)(3)(i) of this Subpart.

(e) *Long-term cold storage.* The owner or operator of a CAIR SO<sub>2</sub> unit is subject to the applicable provisions of 40 CFR part 75 concerning units in long-term cold storage.

#### Historical Note

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

### § 245-8.2 Initial certification and recertification procedures.

(a) The owner or operator of a CAIR SO<sub>2</sub> unit shall be exempt from the initial certification requirements of this section for a monitoring system under section 245-8.1(a)(1) of this Subpart if the following conditions are met:

(1) the monitoring system has been previously certified in accordance with 40 CFR part 75; and

(2) the applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and appendices B and D to 40 CFR part 75 are fully met for the certified monitoring system described in paragraph (1) of this subdivision.

(b) The recertification provisions of this section shall apply to a monitoring system under section 245-8.1(a)(1) of this Subpart exempt from initial certification requirements under subdivision (a) of this section.

(c) [*Reserved*]

(d) Except as provided in subdivision (a) of this section, the owner or operator of a CAIR SO<sub>2</sub> unit shall comply with the following initial certification and recertification procedures, for a continuous monitoring system (*i.e.*, a continuous emission monitoring system and an excepted monitoring system under appendix D to 40 CFR part 75) under section 245-8.1(a)(1) of this Subpart. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 or that qualifies to use an alternative monitoring system under subpart E of 40 CFR part 75 shall comply with the procedures in subdivision (e) or (f) of this section respectively.

(1) Requirements for initial certification. The owner or operator shall ensure that each continuous monitoring system under section 245-8.1(a)(1) of this Subpart (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadline in section 245-8.1(b) of this Subpart. In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this Subpart in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

(2) Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under section 245-8.1(a)(1) of this Subpart that may significantly affect the ability of the system to accurately measure or record SO<sub>2</sub> mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or appendix B to 40 CFR part 75, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b). Examples of changes to a continuous emission monitoring system that require recertification include: replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system under section 245-8.1(a)(1) of this Subpart is subject to the recertification requirements in 40 CFR 75.20(g)(6).

(3) Approval process for initial certification and recertification. Subparagraphs (i) through (iv) of this paragraph apply to both initial certification and recertification of a continuous monitoring system under section 245-8.1(a)(1) of this Subpart. For recertifications, replace the words *certification* and *initial certification* with the word *recertification*, replace the word *certified* with the word *recertified*, and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subparagraph (v) of this paragraph.

(i) Notification of certification. The CAIR designated representative shall submit to the department, the appropriate EPA regional office, and the administrator written notice of the dates of certification testing, in accordance with section 245-8.4 of this Subpart.

(ii) Certification application. The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.

(iii) Provisional certification date. The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified

monitoring system may be used under the CAIR SO<sub>2</sub> Trading Program for a period not to exceed 120 days after receipt by the department of the complete certification application for the monitoring system under subparagraph (ii) of this paragraph. Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of the date of receipt of the complete certification application by the department.

(iv) Certification application approval process. The department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subparagraph (ii) of this paragraph. In the event the department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR part 75 and is included in the certification application will be deemed certified for use under the CAIR SO<sub>2</sub> Trading Program.

(a) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR part 75, then the department will issue a written notice of approval of the certification application within 120 days of receipt.

(b) Incomplete application notice. If the certification application is not complete, then the department will issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under clause (c) of this subparagraph. The 120-day review period shall not begin before receipt of a complete certification application.

(c) Disapproval notice. If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR part 75 or if the certification application is incomplete and the requirement for disapproval under clause (b) of this subparagraph is met, then the department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification (as defined under 40 CFR 75.20[a][3]). The owner or operator shall follow the procedures for loss of certification in subparagraph (v) of this paragraph for each monitoring system that is disapproved for initial certification.

(d) Audit decertification. The department or, for a CAIR SO<sub>2</sub> opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Subpart 245-9 of this Part, the administrator may issue a notice of disapproval of the certification status of a monitor in accordance with section 245-8.3(b) of this Subpart.

(v) Procedures for loss of certification. If the department or the administrator issues a notice of disapproval of a certification application under clause (iv)(c) of this paragraph or a notice of disapproval of certification status under clause (iv)(d) of this paragraph, then:

(a) the owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii), 75.20(g)(7), or 75.21(e) and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i) or (g)(7):

(1) for a disapproved SO<sub>2</sub> pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of SO<sub>2</sub> and the maximum potential flow rate, as defined in sections 2.1.1.1 and 2.1.4.1 of appendix A to 40 CFR part 75;

- (2) for a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO<sub>2</sub> concentration or the minimum potential O<sub>2</sub> concentration (as applicable), as defined in sections 2.1.5, 2.1.3.1, and 2.1.3.2 of appendix A to 40 CFR part 75;
- (3) for a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in section 2.4.2.1 of appendix D to 40 CFR part 75;
- (b) the CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (i) and (ii) of this paragraph;
- (c) the owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the administrator's notice of disapproval, no later than 30-unit operating days after the date of issuance of the notice of disapproval.
- (e) *Initial certification and recertification procedures for units using the low mass emission accepted methodology under 40 CFR 75.19.* The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19 shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2) and 75.20(h). If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).
- (f) *Certification/recertification procedures for alternative monitoring systems.* The CAIR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the administrator and, if applicable, the department under subpart E of 40 CFR part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-8.3 Out of control periods.**

- (a) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR part 75, data shall be substituted using the applicable missing data procedures in subpart D of or appendix D to 40 CFR part 75.
- (b) *Audit decertification.* Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under section 245-8.2 of this Subpart or the applicable provisions of 40 CFR part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR SO<sub>2</sub> opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Subpart 245-9 of this Part, the administrator will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subdivision, an audit shall be either a field audit or an audit of any information submitted to the department or the administrator. By issuing the notice of disapproval, the department or the administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in section 245-8.2 of this Subpart for each disapproved monitoring system.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-8.4 Notifications.**

The CAIR designated representative for a CAIR SO<sub>2</sub> unit shall submit written notice to the department and the administrator in accordance with 40 CFR 75.61.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-8.5 Recordkeeping and reporting.**

(a) *General provisions.* The CAIR designated representative shall comply with all recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements in subparts F and G of 40 CFR part 75, and the requirements of section 245-2.1(e)(1) of this Part.

(b) *Monitoring plans.* The owner or operator of a CAIR SO<sub>2</sub> unit shall comply with requirements of 40 CFR 75.62 for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under sections 245-9.4 and 245-9.5(a) of this Part.

(c) *Certification applications.* The CAIR designated representative shall submit an application to the department within 45 days after completing all initial certification or recertification tests required under section 245-8.2 of this Subpart, including the information required under 40 CFR 75.63.

(d) *Quarterly reports.* The CAIR designated representative shall submit quarterly reports, as follows:

(1) The CAIR designated representative shall report the SO<sub>2</sub> mass emissions data and heat input data for the CAIR SO<sub>2</sub> unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009 through March 31, 2009;

(ii) for a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under section 245-8.1(b) of this Subpart, unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 through March 31, 2009;

(iii) notwithstanding subparagraphs (i) and (ii) of this paragraph, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under Subpart 245-9 of this Part, the calendar quarter corresponding to the date specified in section 245-9.5(b) of this Part; and

(iv) notwithstanding subparagraphs (i) and (ii) of this paragraph, for a CAIR SO<sub>2</sub> opt-in unit under Subpart 245-9 of this Part, the calendar quarter corresponding to the date on which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> Trading Program as provided in section 245-9.5(g) of this Part.

(2) The CAIR designated representative shall submit each quarterly report to the administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.64.

(3) For CAIR SO<sub>2</sub> units that are also subject to an acid rain emissions limitation or the CAIR NO<sub>x</sub> Annual Trading Program, CAIR NO<sub>x</sub> Ozone Season Trading Program, or the Mercury Reduction Program for coal-fired electric utility steam generating units (Part 246 of this Title), quarterly reports shall include the applicable data and information required by subparts F through I of 40 CFR part 75 as applicable, in addition to the SO<sub>2</sub> mass emission data, heat input data, and other information required by this Subpart.

(e) *Compliance certification.* The CAIR designated representative shall submit to the administrator a compliance certification (in a format prescribed by the administrator) in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for

ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

- (1) the monitoring data submitted were recorded in accordance with the applicable requirements of this Subpart and 40 CFR part 75, including the quality assurance procedures and specifications; and
- (2) for a unit with add-on SO<sub>2</sub> emission controls and for all hours where SO<sub>2</sub> data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B to 40 CFR part 75 and the substitute data values do not systematically underestimate SO<sub>2</sub> emissions.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.

**§ 245-8.6 Petitions.**

(a) The CAIR designated representative of a CAIR SO<sub>2</sub> unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the administrator requesting approval to apply an alternative to any requirement of this Subpart. Application of an alternative to any requirement of this Subpart is in accordance with this Subpart only to the extent that the petition is approved in writing by the administrator, in consultation with the department.

(b) The CAIR designated representative of a CAIR SO<sub>2</sub> unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the department and the administrator requesting approval to apply an alternative to any requirement of this Subpart. Application of an alternative to any requirement of this Subpart is in accordance with this Subpart only to the extent that the petition is approved in writing by both the department and the administrator.

**Historical Note**

Sec. filed Sept. 19, 2007 eff. 30 days after filing.