

3745-103-02 **Applicability.**

[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) Each of the following units shall be an affected unit, and any source that includes such a unit shall be an affected source, subject to the requirements of the acid rain program:

- (1) A unit listed in Table 1 of 40 CFR 73.10(a).
- (2) An existing unit that is identified in Table 2 or 3 of 40 CFR 73.10 and any other existing utility unit, except a unit under paragraph (B) of this rule.
- (3) A utility unit, except a unit under paragraph (B) of this rule, that:
 - (a) Is a new unit; or
 - (b) Did not serve a generator with a nameplate capacity greater than twenty-five MWe on November 15, 1990 but serves such a generator after November 15, 1990.
 - (c) Was a simple combustion turbine on November 15, 1990 but adds or uses auxiliary firing after November 15, 1990;
 - (d) Was an exempt cogeneration facility under paragraph (B)(4) of this rule but during any three calendar year period after November 15, 1990 sold, to a utility power distribution system, an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs electric output, on a gross basis;
 - (e) Was an exempt qualifying facility under paragraph (B)(5) of this rule but, at any time after the later of November 15, 1990 or the date the facility commences commercial operation, fails to meet the definition of qualifying facility;
 - (f) Was an exempt independent power production facility under paragraph (B)(6) of this rule but, at any time after the later of November 15, 1990 or the date the facility commences commercial operation, fails to meet the definition of independent power production facility; or

- (g) Was an exempt solid waste incinerator under paragraph (B)(7) of this rule but during any three calendar year period after November 15, 1990 consumes twenty per cent or more (on a Btu basis) fossil fuel.
- (B) The following types of units are not affected units subject to the requirements of the acid rain program:
- (1) Any simple combustion turbine that commenced commercial operation before November 15, 1990.
 - (2) Any unit that commenced commercial operation before November 15, 1990 and that did not, as of November 15, 1990, and does not currently, serve a generator with a nameplate capacity of greater than twenty-five MWe.
 - (3) Any unit that, during 1985, did not serve a generator that produced electricity for sale and that did not, as of November 15, 1990, and does not currently, serve a generator that produces electricity for sale.
 - (4) Any cogeneration facility which:
 - (a) For a unit that commenced construction on or prior to November 15, 1990, was constructed for the purpose of supplying equal to or less than one-third its potential electrical output capacity equal or two hundred nineteen thousand MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). If the purpose of construction is not known, it will be presumed to be consistent with the actual operation from 1985 through 1987. However, if in any three calendar year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the acid rain program; or
 - (b) For units that commenced construction after November 15, 1990, supplies equal to or less than one-third its potential electrical output capacity or equal to or less than two hundred nineteen thousand MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). However, if in any three calendar year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than two hundred nineteen thousand MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the acid rain program.
 - (5) A qualifying facility that:

- (a) Has, as of November 15, 1990, one or more qualifying power purchase commitments to sell at least fifteen per cent of its total planned net output capacity; and
 - (b) Consists of one or more units designated by the owner or operator with total installed net output capacity not exceeding one hundred thirty per cent of the total planned net output capacity. If the emissions rates of the units are not the same, the USEPA may exercise discretion to designate which units are exempt.
 - (6) An independent power production facility that:
 - (a) Has, as of November 15, 1990, one or more qualifying power purchase commitments to sell at least fifteen per cent of its total planned net output capacity; and
 - (b) Consists of one or more units designated by the owner or operator with total installed net output capacity not exceeding one hundred thirty per cent of its total planned net output capacity. If the emissions rates of the units are not the same, the USEPA may exercise discretion to designate which units are exempt.
 - (7) A solid waste incinerator, if more than eighty per cent (on a Btu basis) of the annual fuel consumed at such incinerator is other than fossil fuels. For solid waste incinerators which began operation before January 1, 1985, the average annual fuel consumption of non-fossil fuels for calendar years 1985 through 1987 must be greater than eighty per cent for such an incinerator to be exempt. For solid waste incinerators which began operation after January 1, 1985, the average annual fuel consumption of non-fossil fuels for the first three years of operation must be greater than eighty per cent for such an incinerator to be exempt. If, during any three calendar year period after November 15, 1990, such incinerator consume twenty per cent or more (on a Btu basis) fossil fuel, such incinerator will be an affected source under the acid rain program.
 - (8) A non-utility unit.
 - (9) A unit for which an exemption under rule 3745-103-03 or 3745-103-04 of the Administrative Code is in effect. Although such a unit is not an affected unit, the unit shall be subject to the requirements of rule 3745-103-03 or 3745-103-04, of the Administrative Code, as applicable to the exemption.
- (C) A certifying official of an owner or operator of any unit may petition the USEPA for a determination of applicability under this rule.
- (1) **Petition content.** The petition shall be in writing and include identification of the unit and relevant facts about the unit. In the petition, the certifying official shall

certify, by the official's signature, the statement set forth in paragraph (A)(2)(b) of rule 3745-103-06 of the Administrative Code. Within ten business days of receipt of any written determination by the USEPA covering the unit, the certifying official shall provide each owner or operator of the unit, facility, or source with a copy of the petition and a copy of the USEPA's response.

- (2) Timing. The petition may be submitted to the USEPA at any time but, if possible, should be submitted prior to the issuance (including renewal) of a phase II acid rain permit for the unit.

Effective: 11/10/2011

R.C. 119.032 review dates: 08/24/2011 and 08/24/2016

CERTIFIED ELECTRONICALLY
Certification

10/31/2011
Date

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