

3745-103-04      **Retired units exemption.**

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

(A) This rule applies to any affected unit (except for an opt-in source) that is permanently retired.

(B) Provisions

(1) Any affected unit (except for an opt-in source) that is permanently retired shall be exempt from the acid rain program, except for the provisions of rules 3745-103-01 and 3745-103-02 of the Administrative Code, and 40 CFR Part 73, Subpart B.

(2) The exemption under paragraph (B)(1) of this rule shall become effective on January first of the first full calendar year during which that the unit is permanently retired. By December thirty-first of the first year that the unit is to be exempt under this rule, the designated representative (authorized in accordance with rule 3745-103-06 of the Administrative Code), or, if no designated representative has been authorized, a certifying official of each owner of the unit shall submit a statement to the director. A copy of the statement shall be submitted to USEPA. The statement shall state (in a format prescribed by the USEPA) that the unit is permanently retired and will comply with the requirements of paragraph (D) of this rule.

(3) After receipt of the notice under paragraph (B)(2) of this rule, the director shall amend under rule 3745-103-18 of the Administrative Code the operating permit covering the source at which the unit is located, if the source has such a permit, to add the provisions and requirements of the exemption under paragraphs (B)(1) and (D) of this rule.

(C) A unit that was issued a written exemption under this rule and that is permanently retired shall be exempt from the acid rain program, except for the provisions of this rule, rules 3745-103-01 and 3745-103-02 of the Administrative Code, and subpart B of 40 CFR Part 73, and shall be subject to the requirements of paragraph (D) of this rule in lieu of the requirements set forth in the written exemption. The director shall amend under rule 3745-103-18 of the Administrative Code the operating permit covering the source at which the unit is located, if the source has such a permit, to add the provisions and requirements of the exemption under this paragraph and paragraph (D) of this rule.

(D) Special provisions.

- (1) A unit exempted under this rule shall not emit any sulfur dioxide and nitrogen oxides starting on the date the exemption takes effect. The owners and operators of the unit will be allocated allowances in accordance with 40 CFR Part 73, Subpart B.
- (2) A unit exempt under this rule shall not resume operation unless the designated representative of the source that includes the unit submits a complete acid rain permit application under rule 3745-103-07 of the Administrative Code for the unit not less than twenty-four months prior to the date on which the unit is to resume operation.
- (3) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under this rule shall comply with the requirements of the acid rain program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.
- (4) For any period for which a unit is exempt under this rule:
  - (a) For purposes of applying 40 CFR Parts 70 and 71, the unit shall not be treated as an affected unit under the acid rain program and shall continue to be subject to any other applicable requirements under 40 CFR Parts 70 and 71.
  - (b) The unit shall not be eligible to be an opt-in source under rules 3745-103-22 to 3745-103-54 of the Administrative Code.
- (5) For a period of five years from the date the records are created the owners and operators of a unit exempt under this rule shall retain at the source that includes the unit records demonstrating that the unit is permanently retired. The five year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the director. The owners and operators bear the burden of proof that the unit is permanently retired.
- (6) Loss of exemption.
  - (a) On the earlier of the following dates, a unit exempt under paragraph (B) or (C) of this rule shall lose its exemption under the acid rain program and 40 CFR Parts 70 and 71:
    - (i) The date on which the designated representative submits an acid rain permit application under paragraph (D)(2) of this rule; or
    - (ii) The date on which the designated representative is required under paragraph (D)(2) of this rule to submit an acid rain permit application.

- (b) For the purpose of applying monitoring requirements under 40 CFR Part 75, a unit that loses its exemption under this rule shall be treated as a new unit that commenced commercial operation on the first date on which the unit resumes operation.

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