

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Title V Permit Guidance and Template for the Cross-State Air Pollution Rule

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TO: Regional Air Division Directors, 1-7

The purpose of this memorandum is to transmit title V permit guidance, which includes a template, for the incorporation of the Cross-State Air Pollution Rule (CSAPR) applicable requirements into title V permits. This document may be shared with your state and local permitting contacts, who we understand are anticipating it. This guidance is also available electronically on the Environmental Protection Agency's CSAPR website at <http://www.epa.gov/crossstaterule/stateinfo.html>.

This guidance does not address the removal of the Clean Air Interstate Rule (CAIR) requirements from title V permits. Following the close of the CSAPR litigation, the EPA expects to determine if additional guidance is appropriate to address the removal of the CAIR provisions. In addition, this guidance does not address non-Electric Generating Units (non-EGUs) that are not subject to CSAPR, but which were part of the EPA's "Finding of Significant Contribution and Rulemakings for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (the NO_x SIP Call). Guidance on the NO_x SIP Call non-EGUs can be found at: <http://www.epa.gov/crossstaterule/faqs.html>.

Issuance of this guidance is consistent with the EPA's statements in the CSAPR preamble to assist permitting authorities in implementing CSAPR applicable requirements. *See* 76 FR 48208, 48300 (August 8, 2011). As part of this guidance, the EPA has developed a user-friendly template that can be completed and inserted into a title V permit in order to ensure that the CSAPR applicable requirements are correctly incorporated into a title V permit. If states wish to deviate from this template, we recommend obtaining assistance from the appropriate EPA Regional Office. Regional offices should also coordinate with the EPA Headquarters Clean Air Markets Division.

Attachment

Title V Permit Guidance for the Cross-State Air Pollution Rule (CSAPR)

The Environmental Protection Agency is issuing this guidance to assist permitting authorities and permit applicants in incorporating Cross-State Air Pollution Rule (CSAPR) requirements into title V permits.¹ As explained in the preamble of the CSAPR regulations promulgated on August 8, 2011, the requirements established in the CSAPR trading programs are “applicable requirements” that must be included in a source’s title V permit pursuant to 40 Code of Federal Regulations (CFR) parts 70 and 71.² See 76 FR 48208, 48299 – 48300 (August 8, 2011).

For sources with existing title V permits, permitting authorities should incorporate CSAPR applicable requirements in accordance with the procedures in the approved operating permit program, as applicable to the specific permit. Such procedures include the permit renewal provisions at 40 CFR § 70.7(c) or 40 CFR § 71.7(c), the reopening for cause provisions at 40 CFR § 70.7(f) or 40 CFR § 71.7(f), and the significant permit modification provisions at 40 CFR § 70.7(e)(4) or 40 CFR § 71.7(e)(4). For sources that become newly subject to title V permitting, the initial permit issued pursuant to 40 CFR § 70.7(a) or 40 CFR § 71.7(a) will need to include the CSAPR applicable requirements.

The EPA intends the following template to provide a streamlined method for permit applicants and permitting authorities to easily identify the CSAPR-subject units at each title V source and include the applicable CSAPR standard requirements for the subject units. With the addition of the relevant source-specific information, the template can be inserted directly into a title V permit pursuant to the renewal, reopening, significant modification, or initial permit procedures referenced above. Instructions to the permit applicant and permitting authorities are included in bracketed text – these instructions are intended to be removed upon completion of the task. If permit applicants or authorities wish to deviate from the provided template we recommend conferring with the appropriate EPA Regional Office and the EPA’s Clean Air Markets Division to ensure that all necessary CSAPR requirements are properly included.

The template reflects the standard requirements for CSAPR as promulgated and amended in the initial, supplemental, and revisions rules in 2011 and 2012 [76 FR 48208 (August 8, 2011); (76 FR 80760 (December 27, 2011); 77 FR 10324 (February 21, 2012); and 77 FR 34830 (June 12, 2012)]. The template also reflects the compliance schedule adjustments contained in the interim final rule issued by the EPA in 2014 in response to the United States Court of Appeals for the District of Columbia Circuit’s order lifting the stay of CSAPR [(79 FR 71663 (December 3, 2014)].

After the CSAPR applicable requirements are included in a title V permit, the EPA anticipates that a source or permitting authority may occasionally need to revise the unit-specific monitoring tables which describe the general monitoring approach applicable to each unit at the source. Pursuant to 40 CFR § 70.7(e)(2)(i)(B) and 40 CFR § 71.7(e)(1)(i)(B), title V allows the use of the minor permit modification procedures for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable

¹ A note regarding nomenclature: The EPA has been using the phrase “Cross-State Air Pollution Rule (CSAPR)” to describe the final revisions to 40 CFR parts 51, 52 and 97 promulgated on August 8, 2011, as the “Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals; Final Rule,” also referred to as the “Transport Rule” throughout the CFR. We are noting this equivalence here in order to confirm that this guidance and template is for the inclusion of the Transport Rule requirements into a title V permit to satisfy the CSAPR.

² We note that this approach is different than the approach the EPA utilized for the Clean Air Interstate Rule (CAIR). In CAIR, part 51 created a CAIR permit that was a separable permit implemented through title V.

requirements promulgated by the EPA. Consistent with 40 CFR § 70.7(e)(2)(i)(B) and 40 CFR § 71.7(e)(1)(i)(B), CSAPR explicitly provides that the minor permit modification procedures may be used to add a description of the general monitoring and reporting approach for a covered unit to a title V permit, or to change an existing description of a covered unit's general monitoring and reporting approach in a title V permit, provided that the requirements applicable to the general approach, the description of which is being added or changed, are already incorporated elsewhere in the permit. The EPA has drafted this template to explicitly provide not only a description of the general monitoring approach specific to each unit and the web address where all the units' monitoring plans and approvals of any alternative requirements can be accessed, but also a description of other general monitoring approaches for which the unit may be eligible and the applicable requirements for each general approach. As a result, use of the EPA's template to incorporate CSAPR's monitoring and reporting approaches and requirements into a title V permit will facilitate the use of minor permit modification procedures to make subsequent revisions to the unit-specific monitoring tables in the permit if such revisions prove necessary.³

³ This guidance does not modify the requirement that the applicable, approved part 70 or 71 program, as well as the specific title V permit at issue, would need to authorize minor permit modifications pursuant to 40 CFR § 70.7(e)(2)(i)(B) or 40 CFR § 71.7(e)(1)(i)(B).

Transport Rule (TR) Trading Program Title V Requirements

Description of TR Monitoring Provisions

The TR subject unit(s), and the unit-specific monitoring provisions at this source, are identified in the following table(s). These unit(s) are subject to the requirements for the *[Insert TR NO_x Annual Trading Program, TR NO_x Ozone Season Trading Program, TR SO₂ Group 1 Trading Program, and/or the TR SO₂ Group 2 Trading Program]*.

[Complete a separate table for each TR-subject unit, with the unit ID inserted in the first row. In each unit's separate table, insert an "X" in each applicable column for each applicable parameter to reflect the monitoring methodology used at that unit for that parameter.]

Unit ID:					
Parameter	Continuous emission monitoring system or systems (CEMS) requirements pursuant to 40 CFR part 75, subpart B (for SO ₂ monitoring) and 40 CFR part 75, subpart H (for NO _x monitoring)	Excepted monitoring system requirements for gas- and oil-fired units pursuant to 40 CFR part 75, appendix D	Excepted monitoring system requirements for gas- and oil-fired peaking units pursuant to 40 CFR part 75, appendix E	Low Mass Emissions excepted monitoring (LME) requirements for gas- and oil-fired units pursuant to 40 CFR 75.19	EPA-approved alternative monitoring system requirements pursuant to 40 CFR part 75, subpart E
SO ₂			-----		
NO _x		-----			
Heat input			-----		

[When inserting TR rule citations in paragraphs 1 through 4 below, use only the citations for the one or more specific TR trading programs to which the source is subject.]

1. The above description of the monitoring used by a unit does not change, create an exemption from, or otherwise affect the monitoring, recordkeeping, and reporting requirements applicable to the unit under 40 CFR *[Insert "97.430 through 97.435" (TR NO_x Annual Trading Program), "97.530 through 97.535" (TR NO_x Ozone Season Trading Program), "97.630 through 97.635" (TR SO₂ Group 1 Trading Program), and/or "97.730 through 97.735" (TR SO₂ Group 2 Trading Program), as applicable]*. The monitoring, recordkeeping and reporting requirements applicable to each unit are included below in the standard conditions for the applicable TR trading programs.

2. Owners and operators must submit to the Administrator a monitoring plan for each unit in accordance with 40 CFR 75.53, 75.62 and 75.73, as applicable. The monitoring plan for each unit is available at the EPA's website at <http://www.epa.gov/airmarkets/emissions/monitoringplans.html>.

3. Owners and operators that want to use an alternative monitoring system must submit to the Administrator a petition requesting approval of the alternative monitoring system in accordance with 40 CFR part 75, subpart E and 40 CFR 75.66 and *[Insert "97.435" (TR NO_x Annual Trading Program), "97.535" (TR NO_x Ozone Season Trading Program), "97.635" (TR SO₂ Group 1 Trading Program), and/or "97.735" (TR SO₂ Group 2 Trading Program), as applicable]*. The Administrator's response approving or disapproving any petition for an alternative monitoring system is available on the EPA's website at <http://www.epa.gov/airmarkets/emissions/petitions.html>.

4. Owners and operators that want to use an alternative to any monitoring, recordkeeping, or reporting requirement under 40 CFR *[Insert "97.430 through 97.434" (TR NO_x Annual Trading Program), "97.530 through 97.534" (TR NO_x Ozone Season Trading Program), "97.630 through 97.634" (TR SO₂ Group 1 Trading Program), and/or "97.730 through 97.734" (TR SO₂ Group 2 Trading Program), as applicable]* must submit to the Administrator a petition requesting approval of the alternative in accordance with 40 CFR 75.66 and *[Insert "97.435" (TR NO_x Annual Trading Program), "97.535" (TR NO_x Ozone Season Trading Program), "97.635" (TR SO₂ Group 1 Trading Program), and/or "97.735" (TR SO₂ Group 2 Trading Program), as applicable]*. The Administrator's response approving or disapproving any petition for an alternative to a monitoring, recordkeeping, or reporting requirement is available on EPA's website at <http://www.epa.gov/airmarkets/emissions/petitions.html>.

5. The descriptions of monitoring applicable to the unit included above meet the requirement of 40 CFR *[Insert "97.430 through 97.434" (TR NO_x Annual Trading Program), "97.530 through 97.534" (TR NO_x Ozone Season Trading Program), "97.630 through 97.634" (TR SO₂ Group 1 Trading Program), and/or "97.730 through 97.734" (TR SO₂ Group 2 Trading Program), as applicable]*, and therefore minor permit modification procedures, in accordance with 40 CFR 70.7(e)(2)(i)(B) or 71.7(e)(1)(i)(B), may be used to add to or change this unit's monitoring system description.

[EXAMPLE Description of TR Monitoring Provisions]

The following section is an example to be used by permitting authorities for how the unit ID table and the paragraphs 1-4 could be completed for Unit 2. Unit 2 is a non-peaking gas and oil-fired combustion turbine in a state covered by the TR NO_x Annual, TR NO_x Ozone Season, and TR SO₂ Group 1 Trading Programs. Note that only one “X” should be entered for each row in the table for SO₂, NO_x, and heat input in order to denote one monitoring methodology for each pollutant. Please do not include the example in the actual permit.

The TR subject unit(s), and the unit-specific monitoring provisions, at this source are identified in the following table(s). These unit(s) are subject to the requirements for the TR NO_x Annual Trading Program, TR NO_x Ozone Season Trading Program, and TR SO₂ Group 1 Trading Program.

Unit ID: 2, non-peaking gas and oil-fired combustion turbine					
Parameter	Continuous emission monitoring system or systems (CEMS) requirements pursuant to 40 CFR part 75, subpart B (for SO ₂ monitoring) and 40 CFR part 75, subpart H (for NO _x monitoring)	Excepted monitoring system requirements for gas- and oil-fired units pursuant to 40 CFR part 75, appendix D	Excepted monitoring system requirements for gas- and oil-fired peaking units pursuant to 40 CFR part 75, appendix E	Low Mass Emissions excepted monitoring (LME) requirements for gas- and oil-fired units pursuant to 40 CFR 75.19	EPA-approved alternative monitoring system requirements pursuant to 40 CFR part 75, subpart E
SO ₂		X	-----		
NO _x	X	-----			
Heat input		X	-----		

1. The above description of the monitoring used by a unit does not change, create an exemption from, or otherwise affect the monitoring, recordkeeping, and reporting requirements applicable to the unit under 40 CFR 97.430 through 97.435 (TR NO_x Annual Trading Program), 97.530 through 97.535 (TR NO_x Ozone Season Trading Program), and 97.630 through 97.635 (TR SO₂ Group 1 Trading Program). The monitoring, recordkeeping and reporting requirements applicable to each unit are included below in the standard conditions for the applicable TR trading programs.

2. Owners and operators must submit to the Administrator a monitoring plan for each unit in accordance with 40 CFR 75.53, 75.62 and 75.73, as applicable. The monitoring plan for each unit is available at the EPA’s website at <http://www.epa.gov/airmarkets/emissions/monitoringplans.html>.

3. Owners and operators that want to use an alternative monitoring system must submit to the Administrator a petition requesting approval of the alternative monitoring system in accordance with 40 CFR part 75, subpart E and 40 CFR 75.66 and 97.435 (TR NO_x Annual Trading Program), 97.535 (TR

NO_x Ozone Season Trading Program), and/or 97.635 (TR SO₂ Group 1 Trading Program). The Administrator's response approving or disapproving any petition for an alternative monitoring system is available on the EPA's website at <http://www.epa.gov/airmarkets/emissions/petitions.html>.

4. Owners and operators that want to use an alternative to any monitoring, recordkeeping, or reporting requirement under 40 CFR 97.430 through 97.434 (TR NO_x Annual Trading Program), 97.530 through 97.534 (TR NO_x Ozone Season Trading Program), and/or 97.630 through 97.634 (TR SO₂ Group 1 Trading Program) must submit to the Administrator a petition requesting approval of the alternative in accordance with 40 CFR 75.66 and 97.435 (TR NO_x Annual Trading Program), 97.535 (TR NO_x Ozone Season Trading Program), and/or 97.635 (TR SO₂ Group 1 Trading Program). The Administrator's response approving or disapproving any petition for an alternative to a monitoring, recordkeeping, or reporting requirement is available on the EPA's website at <http://www.epa.gov/airmarkets/emissions/petitions.html>.]

5. The descriptions of monitoring applicable to the unit included above meet the requirement of 40 CFR 97.430 through 97.434 (TR NO_x Annual Trading Program), 97.530 through 97.534 (TR NO_x Ozone Season Trading Program), and 97.630 through 97.634 (TR SO₂ Group 1 Trading Program), and therefore minor permit modification procedures, in accordance with 40 CFR 70.7(e)(2)(i)(B) or 71.7(e)(1)(i)(B), may be used to add or change this unit's monitoring system description.

[For this example, the full set of TR trading program requirements, paragraphs (a) through (g) and, if applicable paragraph (h) for the NO_x Annual, NO_x Ozone Season, and SO₂ Group 1 would then be included in the title V permit.]

[END OF EXAMPLE]

TR NO_x Annual Trading Program requirements (40 CFR 97.406)

[Fully include paragraphs (a) through (g) and, if applicable, paragraph (h), below only if you have units subject to the TR NO_x Annual Trading Program]

(a) Designated representative requirements.

The owners and operators shall comply with the requirement to have a designated representative, and may have an alternate designated representative, in accordance with 40 CFR 97.413 through 97.418.

(b) Emissions monitoring, reporting, and recordkeeping requirements.

- (1) The owners and operators, and the designated representative, of each TR NO_x Annual source and each TR NO_x Annual unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 97.430 (general requirements, including installation, certification, and data accounting, compliance deadlines, reporting data, prohibitions, and long-term cold storage), 97.431 (initial monitoring system certification and recertification procedures), 97.432 (monitoring system out-of-control periods), 97.433 (notifications concerning monitoring), 97.434 (recordkeeping and reporting, including monitoring plans, certification applications, quarterly reports, and compliance certification), and 97.435 (petitions for alternatives to monitoring, recordkeeping, or reporting requirements).
- (2) The emissions data determined in accordance with 40 CFR 97.430 through 97.435 shall be used to calculate allocations of TR NO_x Annual allowances under 40 CFR 97.411(a)(2) and (b) and 97.412 and to determine compliance with the TR NO_x Annual emissions limitation and assurance provisions under paragraph (c) below, provided that, for each monitoring location from which mass emissions are reported, the mass emissions amount used in calculating such allocations and determining such compliance shall be the mass emissions amount for the monitoring location determined in accordance with 40 CFR 97.430 through 97.435 and rounded to the nearest ton, with any fraction of a ton less than 0.50 being deemed to be zero.

(c) NO_x emissions requirements.

- (1) TR NO_x Annual emissions limitation.
 - (i). As of the allowance transfer deadline for a control period in a given year, the owners and operators of each TR NO_x Annual source and each TR NO_x Annual unit at the source shall hold, in the source's compliance account, TR NO_x Annual allowances available for deduction for such control period under 40 CFR 97.424(a) in an amount not less than the tons of total NO_x emissions for such control period from all TR NO_x Annual units at the source.
 - (ii). If total NO_x emissions during a control period in a given year from the TR NO_x Annual units at a TR NO_x Annual source are in excess of the TR NO_x Annual emissions limitation set forth in paragraph (c)(1)(i) above, then:
 - (A). The owners and operators of the source and each TR NO_x Annual unit at the source shall hold the TR NO_x Annual allowances required for deduction under 40 CFR 97.424(d); and
 - (B). The owners and operators of the source and each TR NO_x Annual unit at the source shall pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act, and each ton of such excess emissions and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart AAAAA and the Clean Air Act.
- (2) TR NO_x Annual assurance provisions.
 - (i). If total NO_x emissions during a control period in a given year from all TR NO_x Annual units at TR NO_x Annual sources in the state *[If the state has Indian country within its borders, insert: “(and Indian country within the borders of such State)”]* exceed the

state assurance level, then the owners and operators of such sources and units in each group of one or more sources and units having a common designated representative for such control period, where the common designated representative's share of such NO_x emissions during such control period exceeds the common designated representative's assurance level for the state and such control period, shall hold (in the assurance account established for the owners and operators of such group) TR NO_x Annual allowances available for deduction for such control period under 40 CFR 97.425(a) in an amount equal to two times the product (rounded to the nearest whole number), as determined by the Administrator in accordance with 40 CFR 97.425(b), of multiplying— (A) The quotient of the amount by which the common designated representative's share of such NO_x emissions exceeds the common designated representative's assurance level divided by the sum of the amounts, determined for all common designated representatives for such sources and units in the state *[If the state has Indian country within its borders, insert: “(and Indian country within the borders of such state)”]* for such control period, by which each common designated representative's share of such NO_x emissions exceeds the respective common designated representative's assurance level; and (B) The amount by which total NO_x emissions from all TR NO_x Annual units at TR NO_x Annual sources in the state *[If the State has Indian country within its borders, insert: “(and Indian country within the borders of such state)”]* for such control period exceed the state assurance level.

- (ii). The owners and operators shall hold the TR NO_x Annual allowances required under paragraph (c)(2)(i) above, as of midnight of November 1 (if it is a business day), or midnight of the first business day thereafter (if November 1 is not a business day), immediately after such control period.
 - (iii). Total NO_x emissions from all TR NO_x Annual units at TR NO_x Annual sources in the State *[If the state has Indian country within its borders, insert: “(and Indian country within the borders of such state)”]* during a control period in a given year exceed the state assurance level if such total NO_x emissions exceed the sum, for such control period, of the state NO_x Annual trading budget under 40 CFR 97.410(a) and the state's variability limit under 40 CFR 97.410(b).
 - (iv). It shall not be a violation of 40 CFR part 97, subpart AAAAA or of the Clean Air Act if total NO_x emissions from all TR NO_x Annual units at TR NO_x Annual sources in the State *[If the state has Indian country within its borders, insert: “(and Indian country within the borders of such State)”]* during a control period exceed the state assurance level or if a common designated representative's share of total NO_x emissions from the TR NO_x Annual units at TR NO_x Annual sources in the state *[If the state has Indian country within its borders, insert: “(and Indian country within the borders of such state)”]* during a control period exceeds the common designated representative's assurance level.
 - (v). To the extent the owners and operators fail to hold TR NO_x Annual allowances for a control period in a given year in accordance with paragraphs (c)(2)(i) through (iii) above,
 - (A). The owners and operators shall pay any fine, penalty, or assessment or comply with any other remedy imposed under the Clean Air Act; and
 - (B). Each TR NO_x Annual allowance that the owners and operators fail to hold for such control period in accordance with paragraphs (c)(2)(i) through (iii) above and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart AAAAA and the Clean Air Act.
- (3) Compliance periods.
- (i). A TR NO_x Annual unit shall be subject to the requirements under paragraph (c)(1) above for the control period starting on the later of January 1, 2015, or the deadline for meeting

the unit's monitor certification requirements under 40 CFR 97.430(b) and for each control period thereafter.

- (ii). A TR NO_x Annual unit shall be subject to the requirements under paragraph (c)(2) above for the control period starting on the later of January 1, 2017 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.430(b) and for each control period thereafter.

(4) Vintage of allowances held for compliance.

- (i). A TR NO_x Annual allowance held for compliance with the requirements under paragraph (c)(1)(i) above for a control period in a given year must be a TR NO_x Annual allowance that was allocated for such control period or a control period in a prior year.
- (ii). A TR NO_x Annual allowance held for compliance with the requirements under paragraphs (c)(1)(ii)(A) and (2)(i) through (iii) above for a control period in a given year must be a TR NO_x Annual allowance that was allocated for a control period in a prior year or the control period in the given year or in the immediately following year.

(5) Allowance Management System requirements. Each TR NO_x Annual allowance shall be held in, deducted from, or transferred into, out of, or between Allowance Management System accounts in accordance with 40 CFR part 97, subpart AAAAA.

(6) Limited authorization. A TR NO_x Annual allowance is a limited authorization to emit one ton of NO_x during the control period in one year. Such authorization is limited in its use and duration as follows:

- (i). Such authorization shall only be used in accordance with the TR NO_x Annual Trading Program; and
- (ii). Notwithstanding any other provision of 40 CFR part 97, the Administrator has the authority to terminate or limit the use and duration of such authorization to the extent the Administrator determines is necessary or appropriate to implement any provision of the Clean Air Act.

(7) Property right. A TR NO_x Annual allowance does not constitute a property right.

(d) Title V permit revision requirements.

- (1) No title V permit revision shall be required for any allocation, holding, deduction, or transfer of TR NO_x Annual allowances in accordance with 40 CFR part 97, subpart AAAAA.
- (2) This permit incorporates the TR emissions monitoring, recordkeeping and reporting requirements pursuant to 40 CFR 97.430 through 97.435, and the requirements for a continuous emission monitoring system (pursuant to 40 CFR part 75, subparts B and H), an excepted monitoring system (pursuant to 40 CFR part 75, appendices D and E), a low mass emissions excepted monitoring methodology (pursuant to 40 CFR 75.19), and an alternative monitoring system (pursuant to 40 CFR part 75, subpart E). Therefore, the Description of TR Monitoring Provisions table for units identified in this permit may be added to, or changed, in this title V permit using minor permit modification procedures in accordance with 40 CFR 97.406(d)(2) and 70.7(e)(2)(i)(B) or 71.7(e)(1)(i)(B).

(e) Additional recordkeeping and reporting requirements.

- (1) Unless otherwise provided, the owners and operators of each TR NO_x Annual source and each TR NO_x Annual unit at the source shall keep on site at the source each of the following documents (in hardcopy or electronic format) for a period of 5 years from the date the document is created. This period may be extended for cause, at any time before the end of 5 years, in writing by the Administrator.
 - (i). The certificate of representation under 40 CFR 97.416 for the designated representative for the source and each TR NO_x Annual unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate

and documents shall be retained on site at the source beyond such 5-year period until such certificate of representation and documents are superseded because of the submission of a new certificate of representation under 40 CFR 97.416 changing the designated representative.

- (ii). All emissions monitoring information, in accordance with 40 CFR part 97, subpart AAAAAA.
 - (iii). Copies of all reports, compliance certifications, and other submissions and all records made or required under, or to demonstrate compliance with the requirements of, the TR NO_x Annual Trading Program.
- (2) The designated representative of a TR NO_x Annual source and each TR NO_x Annual unit at the source shall make all submissions required under the TR NO_x Annual Trading Program, except as provided in 40 CFR 97.418. This requirement does not change, create an exemption from, or otherwise affect the responsible official submission requirements under a title V operating permit program in 40 CFR parts 70 and 71.

(f) Liability.

- (1) Any provision of the TR NO_x Annual Trading Program that applies to a TR NO_x Annual source or the designated representative of a TR NO_x Annual source shall also apply to the owners and operators of such source and of the TR NO_x Annual units at the source.
- (2) Any provision of the TR NO_x Annual Trading Program that applies to a TR NO_x Annual unit or the designated representative of a TR NO_x Annual unit shall also apply to the owners and operators of such unit.

(g) Effect on other authorities.

No provision of the TR NO_x Annual Trading Program or exemption under 40 CFR 97.405 shall be construed as exempting or excluding the owners and operators, and the designated representative, of a TR NO_x Annual source or TR NO_x Annual unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

[If the state has Indian country within its borders, insert:

“(h) Effect on units in Indian country. Notwithstanding the provisions of paragraphs (a) through (g) above, paragraphs (a) through (g) shall be deemed not to impose any requirements on any source or unit, or any owner, operator, or designated representative with regard to any source or unit, in Indian country within the borders of the state.”]

TR NO_x Ozone Season Trading Program Requirements (40 CFR 97.506)

[Fully include paragraphs (a) through (g) and, if applicable, paragraph (h) below only if you have units subject to the TR NO_x Ozone Season Trading Program]

(a) Designated representative requirements.

The owners and operators shall comply with the requirement to have a designated representative, and may have an alternate designated representative, in accordance with 40 CFR 97.513 through 97.518.

(b) Emissions monitoring, reporting, and recordkeeping requirements.

- (1) The owners and operators, and the designated representative, of each TR NO_x Ozone Season source and each TR NO_x Ozone Season unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 97.530 (general requirements, including installation, certification, and data accounting, compliance deadlines, reporting data, prohibitions, and long-term cold storage), 97.531 (initial monitoring system certification and recertification procedures), 97.532 (monitoring system out-of-control periods), 97.533 (notifications concerning monitoring), 97.534 (recordkeeping and reporting, including monitoring plans, certification applications, quarterly reports, and compliance certification), and 97.535 (petitions for alternatives to monitoring, recordkeeping, or reporting requirements).
- (2) The emissions data determined in accordance with 40 CFR 97.530 through 97.535 shall be used to calculate allocations of TR NO_x Ozone Season allowances under 40 CFR 97.511(a)(2) and (b) and 97.512 and to determine compliance with the TR NO_x Ozone Season emissions limitation and assurance provisions under paragraph (c) below, provided that, for each monitoring location from which mass emissions are reported, the mass emissions amount used in calculating such allocations and determining such compliance shall be the mass emissions amount for the monitoring location determined in accordance with 40 CFR 97.530 through 97.535 and rounded to the nearest ton, with any fraction of a ton less than 0.50 being deemed to be zero.

(c) NO_x emissions requirements.

- (1) TR NO_x Ozone Season emissions limitation.
 - (i). As of the allowance transfer deadline for a control period in a given year, the owners and operators of each TR NO_x Ozone Season source and each TR NO_x Ozone Season unit at the source shall hold, in the source's compliance account, TR NO_x Ozone Season allowances available for deduction for such control period under 40 CFR 97.524(a) in an amount not less than the tons of total NO_x emissions for such control period from all TR NO_x Ozone Season units at the source.
 - (ii). If total NO_x emissions during a control period in a given year from the TR NO_x Ozone Season units at a TR NO_x Ozone Season source are in excess of the TR NO_x Ozone Season emissions limitation set forth in paragraph (c)(1)(i) above, then:
 - (A). The owners and operators of the source and each TR NO_x Ozone Season unit at the source shall hold the TR NO_x Ozone Season allowances required for deduction under 40 CFR 97.524(d); and
 - (B). The owners and operators of the source and each TR NO_x Ozone Season unit at the source shall pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act, and each ton of such excess emissions and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart BBBBBB and the Clean Air Act.
- (2) TR NO_x Ozone Season assurance provisions.
 - (i). If total NO_x emissions during a control period in a given year from all TR NO_x Ozone Season units at TR NO_x Ozone Season sources in the state *[Insert, for each state with Indian country within its borders, “(and Indian country within the borders of such*

- state)"] exceed the state assurance level, then the owners and operators of such sources and units in each group of one or more sources and units having a common designated representative for such control period, where the common designated representative's share of such NO_x emissions during such control period exceeds the common designated representative's assurance level for the state and such control period, shall hold (in the assurance account established for the owners and operators of such group) TR NO_x Ozone Season allowances available for deduction for such control period under 40 CFR 97.525(a) in an amount equal to two times the product (rounded to the nearest whole number), as determined by the Administrator in accordance with 40 CFR 97.525(b), of multiplying—
- (A). The quotient of the amount by which the common designated representative's share of such NO_x emissions exceeds the common designated representative's assurance level divided by the sum of the amounts, determined for all common designated representatives for such sources and units in the state *[Insert, for each state with Indian country within its borders: "(and Indian country within the borders of such state)"]* for such control period, by which each common designated representative's share of such NO_x emissions exceeds the respective common designated representative's assurance level; and
 - (B). The amount by which total NO_x emissions from all TR NO_x Ozone Season units at TR NO_x Ozone Season sources in the state *[Insert, for each state with Indian country within its borders: "(and Indian country within the borders of such state)"]* for such control period exceed the state assurance level.
- (ii). The owners and operators shall hold the TR NO_x Ozone Season allowances required under paragraph (c)(2)(i) above, as of midnight of November 1 (if it is a business day), or midnight of the first business day thereafter (if November 1 is not a business day), immediately after such control period.
 - (iii). Total NO_x emissions from all TR NO_x Ozone Season units at TR NO_x Ozone Season sources in the state *[Insert, for each state with Indian country within its borders: "(and Indian country within the borders of such state)"]* during a control period in a given year exceed the state assurance level if such total NO_x emissions exceed the sum, for such control period, of the State NO_x Ozone Season trading budget under 40 CFR 97.510(a) and the state's variability limit under 40 CFR 97.510(b).
 - (iv). It shall not be a violation of 40 CFR part 97, subpart BBBBBB or of the Clean Air Act if total NO_x emissions from all TR NO_x Ozone Season units at TR NO_x Ozone Season sources in the state *[Insert, for each state with Indian country within its borders: "(and Indian country within the borders of such State)"]* during a control period exceed the state assurance level or if a common designated representative's share of total NO_x emissions from the TR NO_x Ozone Season units at TR NO_x Ozone Season sources in the state *[Insert, for each state with Indian country within its borders: "(and Indian country within the borders of such state)"]* during a control period exceeds the common designated representative's assurance level.
 - (v). To the extent the owners and operators fail to hold TR NO_x Ozone Season allowances for a control period in a given year in accordance with paragraphs (c)(2)(i) through (iii) above,
 - (A). The owners and operators shall pay any fine, penalty, or assessment or comply with any other remedy imposed under the Clean Air Act; and
 - (B). Each TR NO_x Ozone Season allowance that the owners and operators fail to hold for such control period in accordance with paragraphs (c)(2)(i) through (iii) above and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart BBBBBB and the Clean Air Act.

- (3) Compliance periods.
 - (i). A TR NO_x Ozone Season unit shall be subject to the requirements under paragraph (c)(1) above for the control period starting on the later of May 1, 2015 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.530(b) and for each control period thereafter.
 - (ii). A TR NO_x Ozone Season unit shall be subject to the requirements under paragraph (c)(2) above for the control period starting on the later of May 1, 2017 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.530(b) and for each control period thereafter.
- (4) Vintage of allowances held for compliance.
 - (i). A TR NO_x Ozone Season allowance held for compliance with the requirements under paragraph (c)(1)(i) above for a control period in a given year must be a TR NO_x Ozone Season allowance that was allocated for such control period or a control period in a prior year.
 - (ii). A TR NO_x Ozone Season allowance held for compliance with the requirements under paragraphs (c)(1)(ii)(A) and (2)(i) through (iii) above for a control period in a given year must be a TR NO_x Ozone Season allowance that was allocated for a control period in a prior year or the control period in the given year or in the immediately following year.
- (5) Allowance Management System requirements. Each TR NO_x Ozone Season allowance shall be held in, deducted from, or transferred into, out of, or between Allowance Management System accounts in accordance with 40 CFR part 97, subpart BBBBB.
- (6) Limited authorization. A TR NO_x Ozone Season allowance is a limited authorization to emit one ton of NO_x during the control period in one year. Such authorization is limited in its use and duration as follows:
 - (i). Such authorization shall only be used in accordance with the TR NO_x Ozone Season Trading Program; and
 - (ii). Notwithstanding any other provision of 40 CFR part 97, subpart BBBBB, the Administrator has the authority to terminate or limit the use and duration of such authorization to the extent the Administrator determines is necessary or appropriate to implement any provision of the Clean Air Act.
- (7) Property right. A TR NO_x Ozone Season allowance does not constitute a property right.

(d) Title V permit revision requirements.

- (1) No title V permit revision shall be required for any allocation, holding, deduction, or transfer of TR NO_x Ozone Season allowances in accordance with 40 CFR part 97, subpart BBBBB.
- (2) This permit incorporates the TR emissions monitoring, recordkeeping and reporting requirements pursuant to 40 CFR 97.530 through 97.535, and the requirements for a continuous emission monitoring system (pursuant to 40 CFR part 75, subparts B and H), an excepted monitoring system (pursuant to 40 CFR part 75, appendices D and E), a low mass emissions excepted monitoring methodology (pursuant to 40 CFR 75.19), and an alternative monitoring system (pursuant to 40 CFR part 75, subpart E). Therefore, the Description of TR Monitoring Provisions table for units identified in this permit may be added to, or changed, in this title V permit using minor permit modification procedures in accordance with 40 CFR 97.506(d)(2) and 70.7(e)(2)(i)(B) or 71.7(e)(1)(i)(B).

(e) Additional recordkeeping and reporting requirements.

- (1) Unless otherwise provided, the owners and operators of each TR NO_x Ozone Season source and each TR NO_x Ozone Season unit at the source shall keep on site at the source each of the following documents (in hardcopy or electronic format) for a period of 5 years from the date the

document is created. This period may be extended for cause, at any time before the end of 5 years, in writing by the Administrator.

- (i). The certificate of representation under 40 CFR 97.516 for the designated representative for the source and each TR NO_x Ozone Season unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such certificate of representation and documents are superseded because of the submission of a new certificate of representation under 40 CFR 97.516 changing the designated representative.
 - (ii). All emissions monitoring information, in accordance with 40 CFR part 97, subpart BBBBB.
 - (iii). Copies of all reports, compliance certifications, and other submissions and all records made or required under, or to demonstrate compliance with the requirements of, the TR NO_x Ozone Season Trading Program.
- (2) The designated representative of a TR NO_x Ozone Season source and each TR NO_x Ozone Season unit at the source shall make all submissions required under the TR NO_x Ozone Season Trading Program, except as provided in 40 CFR 97.518. This requirement does not change, create an exemption from, or otherwise affect the responsible official submission requirements under a title V operating permit program in 40 CFR parts 70 and 71.

(f) Liability.

- (1) Any provision of the TR NO_x Ozone Season Trading Program that applies to a TR NO_x Ozone Season source or the designated representative of a TR NO_x Ozone Season source shall also apply to the owners and operators of such source and of the TR NO_x Ozone Season units at the source.
- (2) Any provision of the TR NO_x Ozone Season Trading Program that applies to a TR NO_x Ozone Season unit or the designated representative of a TR NO_x Ozone Season unit shall also apply to the owners and operators of such unit.

(g) Effect on other authorities.

No provision of the TR NO_x Ozone Season Trading Program or exemption under 40 CFR 97.505 shall be construed as exempting or excluding the owners and operators, and the designated representative, of a TR NO_x Ozone Season source or TR NO_x Ozone Season unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

[If the state has Indian country within its borders, insert:

“(h) Effect on units in Indian country. Notwithstanding the provisions of paragraphs (a) through (g) above, paragraphs (a) through (g) shall be deemed not to impose any requirements on any source or unit, or any owner, operator, or designated representative with regard to any source or unit, in Indian country within the borders of the state.”]

TR SO₂ Group 1 Trading Program requirements (40 CFR 97.606)

[Fully include paragraphs (a) through (g) and, if applicable, paragraph (h) below only if you have units subject to the TR SO₂ Group 1 Trading Program]

(a) Designated representative requirements.

The owners and operators shall comply with the requirement to have a designated representative, and may have an alternate designated representative, in accordance with 40 CFR 97.613 through 97.618.

(b) Emissions monitoring, reporting, and recordkeeping requirements.

- (1) The owners and operators, and the designated representative, of each TR SO₂ Group 1 source and each TR SO₂ Group 1 unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 97.630 (general requirements, including installation, certification, and data accounting, compliance deadlines, reporting data, prohibitions, and long-term cold storage), 97.631 (initial monitoring system certification and recertification procedures), 97.632 (monitoring system out-of-control periods), 97.633 (notifications concerning monitoring), 97.634 (recordkeeping and reporting, including monitoring plans, certification applications, quarterly reports, and compliance certification), and 97.635 (petitions for alternatives to monitoring, recordkeeping, or reporting requirements).
- (2) The emissions data determined in accordance with 40 CFR 97.630 through 97.635 shall be used to calculate allocations of TR SO₂ Group 1 allowances under 40 CFR 97.611(a)(2) and (b) and 97.612 and to determine compliance with the TR SO₂ Group 1 emissions limitation and assurance provisions under paragraph (c) below, provided that, for each monitoring location from which mass emissions are reported, the mass emissions amount used in calculating such allocations and determining such compliance shall be the mass emissions amount for the monitoring location determined in accordance with 40 CFR 97.630 through 97.635 and rounded to the nearest ton, with any fraction of a ton less than 0.50 being deemed to be zero.

(c) SO₂ emissions requirements.

- (1) TR SO₂ Group 1 emissions limitation.
 - (i). As of the allowance transfer deadline for a control period in a given year, the owners and operators of each TR SO₂ Group 1 source and each TR SO₂ Group 1 unit at the source shall hold, in the source's compliance account, TR SO₂ Group 1 allowances available for deduction for such control period under 40 CFR 97.624(a) in an amount not less than the tons of total SO₂ emissions for such control period from all TR SO₂ Group 1 units at the source.
 - (ii). If total SO₂ emissions during a control period in a given year from the TR SO₂ Group 1 units at a TR SO₂ Group 1 source are in excess of the TR SO₂ Group 1 emissions limitation set forth in paragraph (c)(1)(i) above, then:
 - (A). The owners and operators of the source and each TR SO₂ Group 1 unit at the source shall hold the TR SO₂ Group 1 allowances required for deduction under 40 CFR 97.624(d); and
 - (B). The owners and operators of the source and each TR SO₂ Group 1 unit at the source shall pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act, and each ton of such excess emissions and each day of such control period shall constitute a separate violation 40 CFR part 97, subpart CCCCC and the Clean Air Act.
- (2) TR SO₂ Group 1 assurance provisions.
 - (i). If total SO₂ emissions during a control period in a given year from all TR SO₂ Group 1 units at TR SO₂ Group 1 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* exceed the

state assurance level, then the owners and operators of such sources and units in each group of one or more sources and units having a common designated representative for such control period, where the common designated representative's share of such SO₂ emissions during such control period exceeds the common designated representative's assurance level for the state and such control period, shall hold (in the assurance account established for the owners and operators of such group) TR SO₂ Group 1 allowances available for deduction for such control period under 40 CFR 97.625(a) in an amount equal to two times the product (rounded to the nearest whole number), as determined by the Administrator in accordance with 40 CFR 97.625(b), of multiplying—

- (A). The quotient of the amount by which the common designated representative's share of such SO₂ emissions exceeds the common designated representative's assurance level divided by the sum of the amounts, determined for all common designated representatives for such sources and units in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* for such control period, by which each common designated representative's share of such SO₂ emissions exceeds the respective common designated representative's assurance level; and
 - (B). The amount by which total SO₂ emissions from all TR SO₂ Group 1 units at TR SO₂ Group 1 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* for such control period exceed the state assurance level.
- (ii). The owners and operators shall hold the TR SO₂ Group 1 allowances required under paragraph (c)(2)(i) above, as of midnight of November 1 (if it is a business day), or midnight of the first business day thereafter (if November 1 is not a business day), immediately after such control period.
 - (iii). Total SO₂ emissions from all TR SO₂ Group 1 units at TR SO₂ Group 1 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* during a control period in a given year exceed the state assurance level if such total SO₂ emissions exceed the sum, for such control period, of the state SO₂ Group 1 trading budget under 40 CFR 97.610(a) and the state's variability limit under 40 CFR 97.610(b).
 - (iv). It shall not be a violation of 40 CFR part 97, subpart CCCCC or of the Clean Air Act if total SO₂ emissions from all TR SO₂ Group 1 units at TR SO₂ Group 1 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* during a control period exceed the state assurance level or if a common designated representative's share of total SO₂ emissions from the TR SO₂ Group 1 units at TR SO₂ Group 1 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* during a control period exceeds the common designated representative's assurance level.
 - (v). To the extent the owners and operators fail to hold TR SO₂ Group 1 allowances for a control period in a given year in accordance with paragraphs (c)(2)(i) through (iii) above,
 - (A). The owners and operators shall pay any fine, penalty, or assessment or comply with any other remedy imposed under the Clean Air Act; and
 - (B). Each TR SO₂ Group 1 allowance that the owners and operators fail to hold for such control period in accordance with paragraphs (c)(2)(i) through (iii) above and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart CCCCC and the Clean Air Act.

- (3) Compliance periods.
 - (i). A TR SO₂ Group 1 unit shall be subject to the requirements under paragraph (c)(1) above for the control period starting on the later of January 1, 2015 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.630(b) and for each control period thereafter.
 - (ii). A TR SO₂ Group 1 unit shall be subject to the requirements under paragraph (c)(2) above for the control period starting on the later of January 1, 2017 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.630(b) and for each control period thereafter.
- (4) Vintage of allowances held for compliance.
 - (i). A TR SO₂ Group 1 allowance held for compliance with the requirements under paragraph (c)(1)(i) above for a control period in a given year must be a TR SO₂ Group 1 allowance that was allocated for such control period or a control period in a prior year.
 - (ii). A TR SO₂ Group 1 allowance held for compliance with the requirements under paragraphs (c)(1)(ii)(A) and (2)(i) through (iii) above for a control period in a given year must be a TR SO₂ Group 1 allowance that was allocated for a control period in a prior year or the control period in the given year or in the immediately following year.
- (5) Allowance Management System requirements. Each TR SO₂ Group 1 allowance shall be held in, deducted from, or transferred into, out of, or between Allowance Management System accounts in accordance with 40 CFR part 97, subpart CCCCC.
- (6) Limited authorization. A TR SO₂ Group 1 allowance is a limited authorization to emit one ton of SO₂ during the control period in one year. Such authorization is limited in its use and duration as follows:
 - (i). Such authorization shall only be used in accordance with the TR SO₂ Group 1 Trading Program; and
 - (ii). Notwithstanding any other provision of 40 CFR part 97, subpart CCCCC, the Administrator has the authority to terminate or limit the use and duration of such authorization to the extent the Administrator determines is necessary or appropriate to implement any provision of the Clean Air Act.
- (7) Property right. A TR SO₂ Group 1 allowance does not constitute a property right.

(d) Title V permit revision requirements.

- (1) No title V permit revision shall be required for any allocation, holding, deduction, or transfer of TR SO₂ Group 1 allowances in accordance with 40 CFR part 97, subpart CCCCC.
- (2) This permit incorporates the TR emissions monitoring, recordkeeping and reporting requirements pursuant to 40 CFR 97.630 through 97.635, and the requirements for a continuous emission monitoring system (pursuant to 40 CFR part 75, subparts B and H), an excepted monitoring system (pursuant to 40 CFR part 75, appendices D and E), a low mass emissions excepted monitoring methodology (pursuant to 40 CFR part 75.19), and an alternative monitoring system (pursuant to 40 CFR part 75, subpart E). Therefore, the Description of TR Monitoring Provisions table for units identified in this permit may be added to, or changed, in this title V permit using minor permit modification procedures in accordance with 40 CFR 97.606(d)(2) and 70.7(e)(2)(i)(B) or 71.7(e)(1)(i)(B).

(e) Additional recordkeeping and reporting requirements.

- (1) Unless otherwise provided, the owners and operators of each TR SO₂ Group 1 source and each TR SO₂ Group 1 unit at the source shall keep on site at the source each of the following documents (in hardcopy or electronic format) for a period of 5 years from the date the document is created. This period may be extended for cause, at any time before the end of 5 years, in writing by the Administrator.

- (i). The certificate of representation under 40 CFR 97.616 for the designated representative for the source and each TR SO₂ Group 1 unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such certificate of representation and documents are superseded because of the submission of a new certificate of representation under 40 CFR 97.616 changing the designated representative.
 - (ii). All emissions monitoring information, in accordance with 40 CFR part 97, subpart CCCCC.
 - (iii). Copies of all reports, compliance certifications, and other submissions and all records made or required under, or to demonstrate compliance with the requirements of, the TR SO₂ Group 1 Trading Program.
- (2) The designated representative of a TR SO₂ Group 1 source and each TR SO₂ Group 1 unit at the source shall make all submissions required under the TR SO₂ Group 1 Trading Program, except as provided in 40 CFR 97.618. This requirement does not change, create an exemption from, or otherwise affect the responsible official submission requirements under a title V operating permit program in 40 CFR parts 70 and 71.

(f) Liability.

- (1) Any provision of the TR SO₂ Group 1 Trading Program that applies to a TR SO₂ Group 1 source or the designated representative of a TR SO₂ Group 1 source shall also apply to the owners and operators of such source and of the TR SO₂ Group 1 units at the source.
- (2) Any provision of the TR SO₂ Group 1 Trading Program that applies to a TR SO₂ Group 1 unit or the designated representative of a TR SO₂ Group 1 unit shall also apply to the owners and operators of such unit.

(g) Effect on other authorities.

No provision of the TR SO₂ Group 1 Trading Program or exemption under 40 CFR 97.605 shall be construed as exempting or excluding the owners and operators, and the designated representative, of a TR SO₂ Group 1 source or TR SO₂ Group 1 unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

[If the state has Indian country within its borders, insert:

“(h) Effect on units in Indian country. Notwithstanding the provisions of paragraphs (a) through (g) above, paragraphs (a) through (g) shall be deemed not to impose any requirements on any source or unit, or any owner, operator, or designated representative with regard to any source or unit, in Indian country within the borders of the state.”]

TR SO₂ Group 2 Trading Program requirements (40 CFR 97.706)

[Fully include paragraphs (a) through (g) and, if applicable, paragraph (h) below only if you have units subject to the TR SO₂ Group 2 Annual Trading Program]

(a) Designated representative requirements.

The owners and operators shall comply with the requirement to have a designated representative, and may have an alternate designated representative, in accordance with 40 CFR 97.713 through 97.718.

(b) Emissions monitoring, reporting, and recordkeeping requirements.

- (1) The owners and operators, and the designated representative, of each TR SO₂ Group 2 source and each TR SO₂ Group 2 unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 97.730 (general requirements, including installation, certification, and data accounting, compliance deadlines, reporting data, prohibitions, and long-term cold storage), 97.731 (initial monitoring system certification and recertification procedures), 97.732 (monitoring system out-of-control periods), 97.733 (notifications concerning monitoring), 97.734 (recordkeeping and reporting, including monitoring plans, certification applications, quarterly reports, and compliance certification), and 97.735 (petitions for alternatives to monitoring, recordkeeping, or reporting requirements).
- (2) The emissions data determined in accordance with 40 CFR 97.730 through 97.735 shall be used to calculate allocations of TR SO₂ Group 2 allowances under 40 CFR 97.711(a)(2) and (b) and 97.712 and to determine compliance with the TR SO₂ Group 2 emissions limitation and assurance provisions under paragraph (c) below, provided that, for each monitoring location from which mass emissions are reported, the mass emissions amount used in calculating such allocations and determining such compliance shall be the mass emissions amount for the monitoring location determined in accordance with 40 CFR 97.730 through 97.735 and rounded to the nearest ton, with any fraction of a ton less than 0.50 being deemed to be zero.

(c) SO₂ emissions requirements.

- (1) TR SO₂ Group 2 emissions limitation.
 - (i). As of the allowance transfer deadline for a control period in a given year, the owners and operators of each TR SO₂ Group 2 source and each TR SO₂ Group 2 unit at the source shall hold, in the source's compliance account, TR SO₂ Group 2 allowances available for deduction for such control period under 40 CFR 97.724(a) in an amount not less than the tons of total SO₂ emissions for such control period from all TR SO₂ Group 2 units at the source.
 - (ii). If total SO₂ emissions during a control period in a given year from the TR SO₂ Group 2 units at a TR SO₂ Group 2 source are in excess of the TR SO₂ Group 2 emissions limitation set forth in paragraph (c)(1)(i) above, then:
 - (A). The owners and operators of the source and each TR SO₂ Group 2 unit at the source shall hold the TR SO₂ Group 2 allowances required for deduction under 40 CFR 97.724(d); and
 - (B). The owners and operators of the source and each TR SO₂ Group 2 unit at the source shall pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act, and each ton of such excess emissions and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart DDDDD and the Clean Air Act.
- (2) TR SO₂ Group 2 assurance provisions.
 - (i). If total SO₂ emissions during a control period in a given year from all TR SO₂ Group 2 units at TR SO₂ Group 2 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* exceed the

state assurance level, then the owners and operators of such sources and units in each group of one or more sources and units having a common designated representative for such control period, where the common designated representative's share of such SO₂ emissions during such control period exceeds the common designated representative's assurance level for the state and such control period, shall hold (in the assurance account established for the owners and operators of such group) TR SO₂ Group 2 allowances available for deduction for such control period under 40 CFR 97.725(a) in an amount equal to two times the product (rounded to the nearest whole number), as determined by the Administrator in accordance with 40 CFR 97.725(b), of multiplying—

- (A). The quotient of the amount by which the common designated representative's share of such SO₂ emissions exceeds the common designated representative's assurance level divided by the sum of the amounts, determined for all common designated representatives for such sources and units in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* for such control period, by which each common designated representative's share of such SO₂ emissions exceeds the respective common designated representative's assurance level; and
 - (B). The amount by which total SO₂ emissions from all TR SO₂ Group 2 units at TR SO₂ Group 2 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* for such control period exceed the state assurance level.
- (ii). The owners and operators shall hold the TR SO₂ Group 2 allowances required under paragraph (c)(2)(i) above, as of midnight of November 1 (if it is a business day), or midnight of the first business day thereafter (if November 1 is not a business day), immediately after such control period.
 - (iii). Total SO₂ emissions from all TR SO₂ Group 2 units at TR SO₂ Group 2 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* during a control period in a given year exceed the state assurance level if such total SO₂ emissions exceed the sum, for such control period, of the state SO₂ Group 2 trading budget under 40 CFR 97.710(a) and the state's variability limit under 40 CFR 97.710(b).
 - (iv). It shall not be a violation of 40 CFR part 97, subpart DDDDD or of the Clean Air Act if total SO₂ emissions from all TR SO₂ Group 2 units at TR SO₂ Group 2 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* during a control period exceed the state assurance level or if a common designated representative's share of total SO₂ emissions from the TR SO₂ Group 2 units at TR SO₂ Group 2 sources in the state *[Insert, for each state with Indian country within its borders: “(and Indian country within the borders of such state)”]* during a control period exceeds the common designated representative's assurance level.
 - (v). To the extent the owners and operators fail to hold TR SO₂ Group 2 allowances for a control period in a given year in accordance with paragraphs (c)(2)(i) through (iii) above,
 - (A). The owners and operators shall pay any fine, penalty, or assessment or comply with any other remedy imposed under the Clean Air Act; and
 - (B). Each TR SO₂ Group 2 allowance that the owners and operators fail to hold for such control period in accordance with paragraphs (c)(2)(i) through (iii) above and each day of such control period shall constitute a separate violation of 40 CFR part 97, subpart DDDDD and the Clean Air Act.

- (3) Compliance periods.
 - (i). A TR SO₂ Group 2 unit shall be subject to the requirements under paragraph (c)(1) above for the control period starting on the later of January 1, 2015 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.730(b) and for each control period thereafter.
 - (ii). A TR SO₂ Group 2 unit shall be subject to the requirements under paragraph (c)(2) above for the control period starting on the later of January 1, 2017 or the deadline for meeting the unit's monitor certification requirements under 40 CFR 97.730(b) and for each control period thereafter.
- (4) Vintage of allowances held for compliance.
 - (i). A TR SO₂ Group 2 allowance held for compliance with the requirements under paragraph (c)(1)(i) above for a control period in a given year must be a TR SO₂ Group 2 allowance that was allocated for such control period or a control period in a prior year.
 - (ii). A TR SO₂ Group 2 allowance held for compliance with the requirements under paragraphs (c)(1)(ii)(A) and (2)(i) through (iii) above for a control period in a given year must be a TR SO₂ Group 2 allowance that was allocated for a control period in a prior year or the control period in the given year or in the immediately following year.
- (5) Allowance Management System requirements. Each TR SO₂ Group 2 allowance shall be held in, deducted from, or transferred into, out of, or between Allowance Management System accounts in accordance with 40 CFR part 97, subpart DDDDD.
- (6) Limited authorization. A TR SO₂ Group 2 allowance is a limited authorization to emit one ton of SO₂ during the control period in one year. Such authorization is limited in its use and duration as follows:
 - (i). Such authorization shall only be used in accordance with the TR SO₂ Group 2 Trading Program; and
 - (ii). Notwithstanding any other provision of 40 CFR part 97, subpart DDDDD, the Administrator has the authority to terminate or limit the use and duration of such authorization to the extent the Administrator determines is necessary or appropriate to implement any provision of the Clean Air Act.
- (7) Property right. A TR SO₂ Group 2 allowance does not constitute a property right.

(d) Title V permit revision requirements.

- (1) No title V permit revision shall be required for any allocation, holding, deduction, or transfer of TR SO₂ Group 2 allowances in accordance with 40 CFR part 97, subpart DDDDD.
- (2) This permit incorporates the TR emissions monitoring, recordkeeping and reporting requirements pursuant to 40 CFR 97.730 through 97.735, and the requirements for a continuous emission monitoring system (pursuant to 40 CFR part 75, subparts B and H), an excepted monitoring system (pursuant to 40 CFR part 75, appendices D and E), a low mass emissions excepted monitoring methodology (pursuant to 40 CFR 75.19), and an alternative monitoring system (pursuant to 40 CFR part 75, subpart E). Therefore the Description of TR Monitoring Provisions table for units identified in this permit may be added to, or changed, in this title V permit using minor permit modification procedures in accordance with 40 CFR 97.706(d)(2) and 70.7(e)(2)(i)(B) or 71.7(e)(1)(i)(B).

(e) Additional recordkeeping and reporting requirements.

- (1) Unless otherwise provided, the owners and operators of each TR SO₂ Group 2 source and each TR SO₂ Group 2 unit at the source shall keep on site at the source each of the following documents (in hardcopy or electronic format) for a period of 5 years from the date the document is created. This period may be extended for cause, at any time before the end of 5 years, in writing by the Administrator.

- (i). The certificate of representation under 40 CFR 97.716 for the designated representative for the source and each TR SO₂ Group 2 unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such certificate of representation and documents are superseded because of the submission of a new certificate of representation under 40 CFR 97.716 changing the designated representative.
 - (ii). All emissions monitoring information, in accordance with 40 CFR part 97, subpart DDDDD.
 - (iii). Copies of all reports, compliance certifications, and other submissions and all records made or required under, or to demonstrate compliance with the requirements of, the TR SO₂ Group 2 Trading Program.
- (2) The designated representative of a TR SO₂ Group 2 source and each TR SO₂ Group 2 unit at the source shall make all submissions required under the TR SO₂ Group 2 Trading Program, except as provided in 40 CFR 97.718. This requirement does not change, create an exemption from, or otherwise affect the responsible official submission requirements under a title V operating permit program in parts 70 and 71.

(f) Liability.

- (1) Any provision of the TR SO₂ Group 2 Trading Program that applies to a TR SO₂ Group 2 source or the designated representative of a TR SO₂ Group 2 source shall also apply to the owners and operators of such source and of the TR SO₂ Group 2 units at the source.
- (2) Any provision of the TR SO₂ Group 2 Trading Program that applies to a TR SO₂ Group 2 unit or the designated representative of a TR SO₂ Group 2 unit shall also apply to the owners and operators of such unit.

(g) Effect on other authorities.

No provision of the TR SO₂ Group 2 Trading Program or exemption under 40 CFR 97.705 shall be construed as exempting or excluding the owners and operators, and the designated representative, of a TR SO₂ Group 2 source or TR SO₂ Group 2 unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

[If the state has Indian country within its borders, insert:

“(h) Effect on units in Indian country. Notwithstanding the provisions of paragraphs (a) through (g) above, paragraphs (a) through (g) shall be deemed not to impose any requirements on any source or unit, or any owner, operator, or designated representative with regard to any source or unit, in Indian country within the borders of the state.”]