

Environmental Protection Agency

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and recorded in its compliance subaccount. Following the deduction of all originally allocated allowances from the compliance subaccount, the Administrator will deduct those allowances that were transferred and recorded in the unit's compliance subaccount pursuant to subpart D of this part, beginning with those with the earliest date of recordation.

(d) *Deductions for excess emissions.* Pursuant to § 77.4 of this chapter, and following the process of recordation set forth in § 73.34(a) of this part, the Administrator will deduct allowances for each unit with excess emissions for the preceding calendar year in an amount equal to the unit's excess emissions tonnage.

(e) *Deductions for units sharing a common emission stack.* In the case of units sharing a common emission stack and have emissions that are not individually monitored pursuant to part 75 of this chapter, the authorized account representative may identify the percentage of allowances to be deducted from each unit's compliance subaccount. Such identification shall be made pursuant to part 72, subpart I of this chapter. In the absence of an identification, the Administrator will deduct an equal percentage of allowances from each unit's compliance subaccount.

[58 FR 3691, Jan. 11, 1993, as amended at 60 FR 17114, Apr. 4, 1995; 64 FR 25842, May 13, 1999]

§ 73.36 Banking.

(a) *Unit accounts.* Any allowance in a compliance subaccount not deducted pursuant to § 73.35 will remain in the compliance subaccount.

(b) *General accounts.* In the case of a general account, any allowances in the current year subaccount at the end of the current calendar year will remain in the current year subaccount.

§ 73.37 Account error and dispute resolution.

(a) *Claim of error.* The authorized account representative may notify the Administrator of any claim that the Administrator made an error in recording transfer information that was submitted correctly pursuant to subpart D of this part, provided that such claim

of error notification is submitted to the Administrator by no later than 15 business days following the date mark of the notification by the Administrator pursuant to actions taken under § 73.37(d) or § 73.53. Such claim of error notification shall be in writing and shall include:

(1) A description of the error alleged to have been made by the Administrator;

(2) A proposed correction of the alleged error;

(3) Any supporting documentation or other information concerning the alleged error and proposed correction; and

(4) Certification by the signature of and the date of the signature of the authorized account representative.

The Administrator will not act on claim of error notifications received after the stated deadlines (except as provided under paragraph (f) of this section, or that do not contend that the Administrator made an error in recordation.

(b) *EPA action.* The Administrator, at the Administrator's sole discretion based on documentation provided, will determine what changes, if any, will be made to the accounts subject to the alleged error. Not later than 20 business days after receipt of a claim of error notification pursuant to paragraph (a) of this section, the Administrator will submit to the authorized account representative a written response stating:

(1) The determination made and any action taken by, the Administrator; and

(2) The reasons for such action.

(c) *Administrative appeals procedure.* Following the Administrator's action pursuant to paragraph (b) of this section, the authorized account representative may appeal the Administrator's action through the administrative appeals procedure pursuant to part 78 of this chapter.

(d) *EPA corrections.* The Administrator may, without prior notice of a claim of error and in the Administrator's sole discretion, correct any errors in any account on his or her own motion. The Administrator will notify the authorized account representative by no later than 20 business days following any such corrections.

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(e) *Excess emissions requirements.* The filing of a claim of error notification pursuant to paragraph (a) of this section, or the pendency of the Administrator's action pursuant to paragraph (b) of this section, shall not affect a unit's obligations under part 77 of this chapter.

(f) *Waiver of deadline.* The Administrator may, in his or her discretion, accept claim of error submissions made following the deadlines imposed in this section upon a demonstration by the authorized account representative of good cause for the delay. The finding of whether good cause exists shall be in the sole discretion of the Administrator. Appeals of a decision by the Administrator under this paragraph will be addressed pursuant to the administrative appeals process in part 78 of this chapter.

§ 73.38 Closing of accounts.

(a) *General account.* The authorized account representative of a general account may instruct the Administrator to close the general account by submitting an allowance transfer, pursuant to § 73.50 and § 73.52, requesting the transfer of all allowances held in the account to one or more other accounts in the Allowance Tracking System, and by submitting in writing, with the signature of the authorized account representative, a request to delete the general account from the Allowance Tracking System.

(b) *Inactive accounts.* If a general account shows no activity for a period of a year or more and does not contain any allowances in its subaccounts, the Administrator will notify the account's authorized account representative that the account will be closed and eliminated from the Allowance Tracking System following 20 business days from the date the notice is sent. The account will be closed following the 20-day period, unless the Administrator receives and records a request for the transfer of allowances into the account pursuant to § 73.52 before the end of the 20-day period, or the authorized account representative submits, in writing, demonstration of good cause as to why the inactive account should not be closed. The finding of whether good

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cause exists shall be in the sole discretion of the Administrator.

Subpart D—Allowance Transfers

SOURCE: 58 FR 3694, Jan. 11, 1993, unless otherwise noted.

§ 73.50 Scope and submission of transfers.

(a) *Scope of transfers.* Except as provided in § 73.51 and § 73.52, the Administrator will record transfers of an allowance to and from Allowance Tracking System accounts, including, but not limited to, transfers of an allowance to and from contemporaneous future year subaccounts, and transfers of an allowance to and from compliance subaccounts and current year subaccounts, and transfers of all allowances allocated for a unit for each calendar year, in perpetuity.

(b) *Submission of transfers.* (1) Authorized account representatives seeking recordation of an allowance transfer shall request such transfer by submitting to the Administrator, in a format to be specified by the Administrator, an Allowance Transfer Form. To be considered correctly submitted the request for transfer shall include:

(i) The numbers identifying both the transferrer and transferee accounts;

(ii) A specification by serial number of each allowance to be transferred, or correct indication on the allowance transfer where a request involves the transfer of the unit's allowances in perpetuity;

(iii) Signatures of the authorized account representatives of both the transferrer and transferee accounts;

(iv) The dates of the signatures of the authorized account representatives;

(v) The numbers identifying the authorized account representatives for both the transferrer and transferee account; and

(vi) Where the transferee account has not been established, information as required pursuant to § 73.31 (b) or (c).

(2)(i) The authorized account representative for the transferee account can meet the requirements in paragraphs (b)(1)(iii) and (iv) of this section by submitting, in a format prescribed by the Administrator, a statement