

Subpart E—Allowance Tracking and Transfer and End of Year Compliance

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AUTHORITY: 42 U.S.C. 7601 and 7651 *et seq.*

SOURCE: 60 FR 17115, Apr. 4, 1995, unless otherwise noted.

Subpart A—Background and Summary

§ 74.1 Purpose and scope.

The purpose of this part is to establish the requirements and procedures for:

- (a) The election of a combustion or process source that emits sulfur dioxide to become an affected unit under the Acid Rain Program, pursuant to section 410 of title IV of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, as amended by Public Law 101–549 (November 15, 1990); and
- (b) Issuing and modifying operating permits; certifying monitors; and allocating, tracking, transferring, surrendering and deducting allowances for combustion or process sources electing to become affected units.

§ 74.2 Applicability.

Combustion or process sources that are not affected units under § 72.6 of this chapter and that are operating and are located in the 48 contiguous States or the District of Columbia may submit an opt-in permit application to become opt-in sources upon issuance of an opt-in permit. Units for which an exemption under § 72.7 or § 72.8 of this chapter is in effect and combustion or process sources that are not operating are not eligible to submit an opt-in permit application to become opt-in sources.

[60 FR 17115, Apr. 4, 1995, as amended at 62 FR 55487, Oct. 24, 1997; 66 FR 12978, Mar. 1, 2001]

§ 74.3 Relationship to the Acid Rain program requirements.

(a) *General.* (1) For purposes of applying parts 72, 73, 75, 77 and 78, each opt-in source shall be treated as an affected unit.

(2) Subpart A, B, G, and H of part 72 of this chapter, including §§ 72.2 (definitions), 72.3 (measurements, abbreviations, and acronyms), 72.4 (Federal authority), 72.5 (State authority), 72.6 (applicability), 72.7 (New units exemption), 72.8 (Retired units exemption), 72.9 (Standard Requirements), 72.10 (availability of information), and 72.11 (computation of time), shall apply to this part.

(b) *Permits.* The permitting authority shall act in accordance with this part and parts 70, 71, and 72 of this chapter in issuing or denying an opt-in permit and incorporating it into a combustion or process source's operating permit. To the extent that any requirements of this part, part 72, and part 78 of this chapter are inconsistent with the requirements of parts 70 and 71 of this chapter, the requirements of this part, part 72, and part 78 of this chapter shall take precedence and shall govern the issuance, denials, revision, reopening, renewal, and appeal of the opt-in permit.

(c) *Appeals.* The procedures for appeals of decisions of the Administrator under this part are contained in part 78 of this chapter.

(d) *Allowances.* A combustion or process source that becomes an affected unit under this part shall be subject to

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all the requirements of subparts C and D of part 73 of this chapter, consistent with subpart E of this part.

(e) *Excess emissions.* A combustion or process source that becomes an affected unit under this part shall be subject to the requirements of part 77 of this chapter applicable to excess emissions of sulfur dioxide and shall not be subject to the requirements of part 77 of this chapter applicable to excess emissions of nitrogen oxides.

(f) *Monitoring.* A combustion or process source that becomes an affected unit under this part shall be subject to all the requirements of part 75, consistent with subparts F and G of this part.

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, Apr. 16, 1998]

§ 74.4 Designated representative.

(a) The provisions of subpart B of part 72 of this chapter shall apply to the designated representative of an opt-in source.

(b) If a combustion or process source is located at the same source as one or more affected units, the combustion or process source shall have the same designated representative as the other affected units at the source.

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, Apr. 16, 1998; 71 FR 25379, Apr. 28, 2006]

Subpart B—Permitting Procedures

§ 74.10 Roles—EPA and permitting authority.

(a) *Administrator responsibilities.* The Administrator shall be responsible for the following activities under the opt-in provisions of the Acid Rain Program:

(1) *Calculating* the baseline or alternative baseline and allowance allocation, and allocating allowances for combustion or process sources that become affected units under this part;

(2) Certifying or recertifying monitoring systems for combustion or process sources as provided under § 74.20 of this chapter;

(3) Establishing allowance accounts, tracking allowances, assessing end-of-year compliance, determining reduced utilization, approving thermal energy

transfer and accounting for the replacement of thermal energy, closing accounts for opt-in sources that shut down, are reconstructed, become affected under § 72.6 of this chapter, or fail to renew their opt-in permit, and deducting allowances as provided under subpart E of this part; and

(4) Ensuring that the opt-in source meets all withdrawal conditions prior to withdrawal from the Acid Rain Program as provided under § 74.18; and

(5) Approving and disapproving the request to withdraw from the Acid Rain Program.

(b) *Permitting authority responsibilities.* The permitting authority shall be responsible for the following activities:

(1) Issuing the draft and final opt-in permit;

(2) Revising and renewing the opt-in permit; and

(3) Terminating the opt-in permit for an opt-in source as provided in § 74.18 (withdrawal), § 74.46 (shutdown, reconstruction or change in affected status) and § 74.50 (deducting allowances).

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, Apr. 16, 1998]

§ 74.12 Opt-in permit contents.

(a) The opt-in permit shall be included in the Acid Rain permit.

(b) *Scope.* The opt-in permit provisions shall apply only to the opt-in source and not to any other affected units.

(c) *Contents.* Each opt-in permit, including any draft or proposed opt-in permit, shall contain the following elements in a format specified by the Administrator:

(1) All elements required for a complete opt-in permit application as provided under § 74.16 for combustion sources or under § 74.17 for process sources or, if applicable, all elements required for a complete opt-in permit renewal application as provided in § 74.19 for combustion sources or under § 74.17 for process sources;

(2) The allowance allocation for the opt-in source as determined by the Administrator under subpart C of this part for combustion sources or subpart D of this part for process sources;

(3) The standard permit requirements as provided under § 72.9 of this chapter, except that the provisions in § 72.9(d) of