§ 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.


§ 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
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 af-
ected unit under this part shall be sub-
ject to the requirements of part 77 of 
this chapter applicable to excess emis-
sions 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 proc-
ess source that becomes an affected 
unit under this part shall be subject to 
all the requirements of part 75, con-
sistent 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 des-
ignated representative as the other af-
fected 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 au-
thority.

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

(1) Calculating the baseline or alter-
native baseline and allowance alloca-
tion, and allocating allowances for 
combustion or process sources that be-
come affected units under this part;

(2) Certifying or recertifying moni-
toring systems for combustion or proc-
ess 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 re-
placement of thermal energy, closing 
accounts for opt-in sources that shut 
down, are reconstructed, become af-
fected 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 Pro-
gram 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 re-
sponsible 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, recon-
struction 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 in-
cluded in the Acid Rain permit.

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

(c) Contents. Each opt-in permit, in-
cluding any draft or proposed opt-in 
permit, shall contain the following ele-
ments in a format specified by the Ad-
ministrator:

(1) All elements required for a com-
plete opt-in permit application as pro-
vided 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 Ad-
ministrator 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