

$$\text{Allowances Requested} = \frac{\left[ \begin{array}{c} (a) \\ \text{Diesel Fuel Production} \end{array} \right] \times \left[ \begin{array}{c} (b) \\ (302) \end{array} \right] \times \left[ \begin{array}{c} (c) \\ (0.00224) \end{array} \right] \times \left[ \begin{array}{c} (d) \\ (2) \end{array} \right]}{\left[ \begin{array}{c} 2000 \\ (e) \end{array} \right]}$$

where:

- a = diesel fuel in barrels for the year (or for October 1 through December 31 for 1993)
- b = lbs per barrel of diesel
- c = lbs of sulfur per lbs of diesel
- d = lbs of SO<sub>2</sub> per lbs of sulfur
- e = lbs per short ton

(3) If applications for a given year request, in the aggregate, more than 35,000 allowances, the Administrator will allocate allowances to each refinery in the amount equal to the lesser of 1500 or:

$$\text{Refinery Allowances} = \text{the lesser of} \left[ \begin{array}{c} \text{Allowances Requested} \times \frac{35,000}{\text{Total Allowances Requested}} \\ \text{or} \\ 1,500 \end{array} \right]$$

[58 FR 15716, Mar. 23, 1993; 58 FR 33770, June 21, 1993; 62 FR 55486, Oct. 24, 1997]

**PART 74—SULFUR DIOXIDE OPT-INS**

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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 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]

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### § 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 this chapter shall not be included in the opt-in permit; and

(4) *Termination.* The provision that participation of a combustion or process source in the Acid Rain Program may be terminated only in accordance with § 74.18 (withdrawal), § 74.46 (shutdown, reconstruction, or change in affected status), and § 74.50 (deducting allowances).

(d) Each opt-in permit is deemed to incorporate the definitions of terms under § 72.2 of this chapter.

(e) *Permit shield.* Each opt-in source operated in accordance with the opt-in permit that governs the opt-in source and that was issued in compliance with title IV of the Act, as provided in this part and parts 72, 73, 75, 77, and 78 of

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this chapter, shall be deemed to be operating in compliance with the Acid Rain Program, except as provided in § 72.9(g)(6) of this chapter.

(f) *Term of opt-in permit.* An opt-in permit shall be issued for a period of 5 years and may be renewed in accordance with § 74.19; provided

(1) If an opt-in permit is issued prior to January 1, 2000, then the opt-in permit may, at the option of the permitting authority, expire on December 31, 1999; and

(2) If an affected unit with an Acid Rain permit is located at the same source as the combustion source, the combustion source's opt-in permit may, at the option of the permitting authority, expire on the same date as the affected unit's Acid Rain permit expires.

### § 74.14 Opt-in permit process.

(a) *Submission.* The designated representative of a combustion or process source may submit an opt-in permit application and a monitoring plan to the Administrator at any time for any combustion or process source that is operating.

(b) *Issuance or denial of opt-in permits.* The permitting authority shall issue or deny opt-in permits or revisions of opt-in permits in accordance with the procedures in parts 70 and 71 of this chapter and subparts F and G of part 72 of this chapter, except as provided in this section.

(1) *Supplemental information.* Regardless of whether the opt-in permit application is complete, the Administrator or the permitting authority may request submission of any additional information that the Administrator or the permitting authority determines to be necessary in order to review the opt-in permit application or to issue an opt-in permit.

(2) *Interim review of monitoring plan.* The Administrator will determine, on an interim basis, the sufficiency of the monitoring plan, accompanying the opt-in permit application. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that all SO<sub>2</sub> emissions, NO<sub>x</sub> emissions, CO<sub>2</sub> emissions, and opacity of the combustion or process source are mon-

itored and reported in accordance with part 75 of this chapter. This interim review of sufficiency shall not be construed as the approval or disapproval of the combustion or process source's monitoring system.

(3) *Issuance of draft opt-in permit.* After the Administrator determines whether the combustion or process source's monitoring plan is sufficient under paragraph (b)(2) of this section, the permitting authority shall serve the draft opt-in permit or the denial of a draft permit or the draft opt-in permit revisions or the denial of draft opt-in permit revisions on the designated representative of the combustion or process source submitting an opt-in permit application. A draft permit or draft opt-in permit revision shall not be served or issued if the monitoring plan is determined not to be sufficient.

(4) *Confirmation by source of intention to opt-in.* Within 21 calendar days from the date of service of the draft opt-in permit or the denial of the draft opt-in permit, the designated representative of a combustion or process source submitting an opt-in permit application must submit to the Administrator, in writing, a confirmation or recision of the source's intention to become an opt-in source under this part. The Administrator shall treat the failure to make a timely submission as a recision of the source's intention to become an opt-in source and as a withdrawal of the opt-in permit application.

(5) *Issuance of draft opt-in permit.* If the designated representative confirms the combustion or process source's intention to opt in under paragraph (b)(4) of this section, the permitting authority will give notice of the draft opt-in permit or denial of the draft opt-in permit and an opportunity for public comment, as provided under § 72.65 of this chapter with regard to a draft permit or denial of a draft permit if the Administrator is the permitting authority or as provided in accordance with part 70 of this chapter with regard to a draft permit or the denial of a draft permit if the State is the permitting authority.

(6) *Permit decision deadlines.* (i) If the Administrator is the permitting authority, an opt-in permit will be issued

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or denied within 12 months of receipt of a complete opt-in permit application.

(ii) If the State is the permitting authority, an opt-in permit will be issued or denied within 18 months of receipt of a complete opt-in permit application or such lesser time approved for operating permits under part 70 of this chapter.

(7) *Withdrawal of opt-in permit application.* A combustion or process source may withdraw its opt-in permit application at any time prior to the issuance of the final opt-in permit. Once a combustion or process source withdraws its application, in order to re-apply, it must submit a new opt-in permit application in accordance with § 74.16 for combustion sources or § 74.17 for process sources.

(c) [Reserved]

(d) *Entry into Acid Rain Program—(1) Effective date.* The effective date of the opt-in permit shall be the January 1, April 1, July 1, or October 1 for a combustion or process source providing monthly data under § 74.20, or January 1 for a combustion or process source providing annual data under § 74.20, following the later of the issuance of the opt-in permit by the permitting authority or the completion of monitoring system certification, as provided in subpart F of this part for combustion sources or subpart G of this part for process sources. The combustion or process source shall become an opt-in source and an affected unit as of the effective date of the opt-in permit.

(2) *Allowance allocation.* After the opt-in permit becomes effective, the Administrator will allocate allowances to the opt-in source as provided in § 74.40. If the effective date of the opt-in permit is not January 1, allowances for the first year shall be pro-rated as provided in § 74.28.

(e) *Expiration of opt-in permit.* An opt-in permit that is issued before the completion of monitoring system certification under subpart F of this part for combustion sources or under subpart G of this part for process sources shall expire 180 days after the permitting authority serves the opt-in permit on the designated representative of the combustion or process source governed by the opt-in permit, unless such monitoring system certification is complete. The designated representative

may petition the Administrator to extend this time period in which an opt-in permit expires and must explain in the petition why such an extension should be granted. The designated representative of a combustion source governed by an expired opt-in permit and that seeks to become an opt-in source must submit a new opt-in permit application.

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

### § 74.16 Application requirements for combustion sources.

(a) *Opt-in permit application.* Each complete opt-in permit application for a combustion source shall contain the following elements in a format prescribed by the Administrator:

(1) Identification of the combustion source, including company name, plant name, plant site address, mailing address, description of the combustion source, and information and diagrams on the combustion source's configuration;

(2) Identification of the designated representative, including name, address, telephone number, and facsimile number;

(3) The year and month the combustion source commenced operation;

(4) The number of hours the combustion source operated in the six months preceding the opt-in permit application and supporting documentation;

(5) The baseline or alternative baseline data under § 74.20;

(6) The actual SO<sub>2</sub> emissions rate under § 74.22;

(7) The allowable 1985 SO<sub>2</sub> emissions rate under § 74.23;

(8) The current allowable SO<sub>2</sub> emissions rate under § 74.24;

(9) The current promulgated SO<sub>2</sub> emissions rate under § 74.25;

(10) If the combustion source seeks to qualify for a transfer of allowances from the replacement of thermal energy, a thermal energy plan as provided in § 74.47 for combustion sources; and

(11) A statement whether the combustion source was previously an affected unit under this part;

(12) A statement that the combustion source is not an affected unit under § 72.6 of this chapter and does not have

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an exemption under § 72.7, § 72.8, or § 72.14 of this chapter;

(13) A complete compliance plan for SO<sub>2</sub> under § 72.40 of this chapter; and

(14) The following statement signed by the designated representative of the combustion source: "I certify that the data submitted under subpart C of part 74 reflects actual operations of the combustion source and has not been adjusted in any way."

(b) *Accompanying documents.* The designated representative of the combustion source shall submit a monitoring plan in accordance with § 74.61.

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

## § 74.17 Application requirements for process sources. [Reserved]

## § 74.18 Withdrawal.

(a) *Withdrawal through administrative amendment.* An opt-in source may request to withdraw from the Acid Rain Program by submitting an administrative amendment under § 72.83 of this chapter; provided that the amendment will be treated as received by the permitting authority upon issuance of the notification of the acceptance of the request to withdraw under paragraph (f)(1) of this section.

(b) *Requesting withdrawal.* To withdraw from the Acid Rain Program, the designated representative of an opt-in source shall submit to the Administrator and the permitting authority a request to withdraw effective January 1 of the year after the year in which the submission is made. The submission shall be made no later than December 1 of the calendar year preceding the effective date of withdrawal.

(c) *Conditions for withdrawal.* In order for an opt-in source to withdraw, the following conditions must be met:

(1) By no later than January 30 of the first calendar year in which the withdrawal is to be effective, the designated representative must submit to the Administrator an annual compliance certification report pursuant to § 74.43.

(2) If the opt-in source has excess emissions in the calendar year before the year for which the withdrawal is to be in effect, the designated representative must submit an offset plan for ex-

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cess emissions, pursuant to part 77 of this chapter, that provides for immediate deduction of allowances.

(d) *Administrator's action on withdrawal.* After the opt-in source meets the requirements for withdrawal under paragraphs (b) and (c) of this section, the Administrator will deduct allowances required to be deducted under § 73.35 of this chapter and part 77 of this chapter and allowances equal in number to and with the same or earlier compliance use date as those allocated under § 74.40 for the first year for which the withdrawal is to be effective and all subsequent years.

(e) *Opt-in source's prior violations.* An opt-in source that withdraws from the Acid Rain Program shall comply with all requirements under the Acid Rain Program concerning all years for which the opt-in source was an affected unit, even if such requirements arise, or must be complied with after the withdrawal takes effect.

(f) *Notification.* (1) After the requirements for withdrawal under paragraphs (b) and (c) of this section are met and after the Administrator's action on withdrawal under paragraph (d) of this section is complete, the Administrator will issue a notification to the permitting authority and the designated representative of the opt-in source of the acceptance of the opt-in source's request to withdraw.

(2) If the requirements for withdrawal under paragraphs (b) and (c) of this section are not met or the Administrator's action under paragraph (d) of this section cannot be completed, the Administrator will issue a notification to the permitting authority and the designated representative of the opt-in source that the opt-in source's request to withdraw is denied. If the opt-in source's request to withdraw is denied, the opt-in source shall remain in the Opt-in Program and shall remain subject to the requirements for opt-in sources contained in this part.

(g) *Permit amendment.* (1) After the Administrator issues a notification under paragraph (f)(1) of this section that the requirements for withdrawal have been met (including the deduction of the full amount of allowances as required under paragraph (d) of this section), the permitting authority shall

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amend, in accordance with §§ 72.80 and 72.83 (administrative amendment) of this chapter, the opt-in source's Acid Rain permit to terminate the opt-in permit, not later than 60 days from the issuance of the notification under paragraph (f) of this section.

(2) The termination of the opt-in permit under paragraph (g)(1) of this section will be effective on January 1 of the year for which the withdrawal is requested. An opt-in source shall continue to be an affected unit until the effective date of the termination.

(h) *Reapplication upon failure to meet conditions of withdrawal.* If the Administrator denies the opt-in source's request to withdraw, the designated representative may submit another request to withdraw in accordance with paragraphs (b) and (c) of this section.

(i) *Ability to return to the Acid Rain Program.* Once a combustion or process source withdraws from the Acid Rain Program and its opt-in permit is terminated, a new opt-in permit application for the combustion or process source may not be submitted prior to the date that is four years after the date on which the opt-in permit became effective.

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, Apr. 16, 1998; 70 FR 25336, May 12, 2005]

### § 74.19 Revision and renewal of opt-in permit.

(a) The designated representative of an opt-in source may submit revisions to its opt-in permit in accordance with subpart H of part 72 of this chapter.

(b) The designated representative of an opt-in source may renew its opt-in permit by meeting the following requirements:

(1)(i) In order to renew an opt-in permit if the Administrator is the permitting authority for the renewed permit, the designated representative of an opt-in source must submit to the Administrator an opt-in permit application at least 6 months prior to the expiration of an existing opt-in permit.

(ii) In order to renew an opt-in permit if the State is the permitting authority for the renewed permit, the designated representative of an opt-in source must submit to the permitting authority an opt-in permit application

at least 18 months prior to the expiration of an existing opt-in permit or such shorter time as may be approved for operating permits under part 70 of this chapter.

(2) Each complete opt-in permit application submitted to renew an opt-in permit shall contain the following elements in a format prescribed by the Administrator:

(i) Elements contained in the opt-in source's initial opt-in permit application as specified under § 74.16(a)(1), (2), (10), (11), (12), and (13).

(ii) An updated monitoring plan, if applicable under § 75.53(b) of this chapter.

(c)(1) Upon receipt of an opt-in permit application submitted to renew an opt-in permit, the permitting authority shall issue or deny an opt-in permit in accordance with the requirements under subpart B of this part, except as provided in paragraph (c)(2) of this section.

(2) When issuing a renewed opt-in permit, the permitting authority shall not alter an opt-in source's allowance allocation as established, under subpart B and subpart C of this part for combustion sources and under subpart B and subpart D of this part for process sources, in the opt-in permit that is being renewed.

## Subpart C—Allowance Calculations for Combustion Sources

### § 74.20 Data for baseline and alternative baseline.

(a) *Acceptable data.* (1) The designated representative of a combustion source shall submit either the data specified in this paragraph or alternative data under paragraph (c) of this section. The designated representative shall also submit the calculations under this section based on such data.

(2) The following data shall be submitted for the combustion source for the calendar year(s) under paragraph (a)(3) of this section:

(i) Monthly or annual quantity of each type of fuel consumed, expressed in thousands of tons for coal, thousands of barrels for oil, and million standard cubic feet (scf) for natural

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gas. If other fuels are used, the combustion source must specify units of measure.

(ii) Monthly or annual heat content of fuel consumed for each type of fuel consumed, expressed in British thermal units (Btu) per pound for coal, Btu per barrel for oil, and Btu per standard cubic foot (scf) for natural gas. If other fuels are used, the combustion source must specify units of measure.

(iii) Monthly or annual sulfur content of fuel consumed for each type of fuel consumed, expressed as a percentage by weight.

(3) *Calendar Years.* (i) For combustion sources that commenced operating prior to January 1, 1985, data under

this section shall be submitted for 1985, 1986, and 1987.

(ii) For combustion sources that commenced operation after January 1, 1985, the data under this section shall be submitted for the first three consecutive calendar years during which the combustion source operated after December 31, 1985.

(b) *Calculation of baseline and alternative baseline.* (1) For combustion sources that commenced operation prior to January 1, 1985, the baseline is the average annual quantity of fuel consumed during 1985, 1986, and 1987, expressed in mmBtu. The baseline shall be calculated as follows:

$$\text{baseline} = \frac{\sum_{\text{Year}=1985}^{1987} \text{annual fuel consumption}}{3}$$

where,

(i) for a combustion source submitting monthly data,

$$\text{annual fuel consumption} = \sum_{\text{months}=\text{Jan}}^{\text{Dec}} \sum_{\text{Fuel Types}} \left[ \begin{array}{l} \text{quantity of fuel consumed} \\ \times \text{heat content} \times \text{unit conversion} \end{array} \right]$$

and unit conversion  
 = 2 for coal  
 = 0.001 for oil  
 = 1 for gas

For other fuels, the combustion source must specify unit conversion; or

(ii) for a combustion source submitting annual data,

$$\text{annual fuel consumption} = \sum_{\text{Fuel Types}} \left[ \begin{array}{l} \text{quantity of fuel consumed} \\ \times \text{heat content} \times \text{unit conversion} \end{array} \right]$$

and unit conversion  
 = 2 for coal  
 = 0.001 for oil  
 = 1 for gas

For other fuels, the combustion source must specify unit conversion.

(2) For combustion sources that commenced operation after January 1, 1985,

the alternative baseline is the average annual quantity of fuel consumed in the first three consecutive calendar years during which the combustion source operated after December 31, 1985, expressed in mmBtu. The alternative baseline shall be calculated as follows:

$$\text{alternative baseline} = \frac{\sum_{\text{First 3 consecutive years}} \text{annual fuel consumption}}{3}$$

where,

“annual fuel consumption” is as defined under paragraph (b)(1)(i) or (ii) of this section.

(c) *Alternative data.* (1) For combustion sources for which any of the data under paragraph (b) of this section is not available due solely to a natural catastrophe, data as set forth in paragraph (a)(2) of this section for the first three consecutive calendar years for which data is available after December 31, 1985, may be submitted. The alternative baseline for these combustion sources shall be calculated using the equation for alternative baseline in paragraph (b)(2) of this section and the definition of annual fuel consumption in paragraphs (b)(1)(i) or (ii) of this section.

(2) Except as provided in paragraph (c)(1) of this section, no alternative data may be submitted. A combustion source that cannot submit all required data, in accordance with this section, shall not be eligible to submit an opt-in permit application.

(d) *Administrator’s action.* The Administrator may accept in whole or in part or with changes as appropriate, request additional information, or reject data or alternative data submitted for a combustion source’s baseline or alternative baseline.

**§ 74.22 Actual SO<sub>2</sub> emissions rate.**

(a) *Data requirements.* The designated representative of a combustion source shall submit the calculations under this section based on data submitted under §74.20 for the following calendar year:

(1) For combustion sources that commenced operation prior to January 1, 1985, the calendar year for calculating

the actual SO<sub>2</sub> emissions rate shall be 1985.

(2) For combustion sources that commenced operation after January 1, 1985, the calendar year for calculating the actual SO<sub>2</sub> emissions rate shall be the first year of the three consecutive calendar years of the alternative baseline under §74.20(b)(2).

(3) For combustion sources meeting the requirements of §74.20(c), the calendar year for calculating the actual SO<sub>2</sub> emissions rate shall be the first year of the three consecutive calendar years to be used as alternative data under §74.20(c).

(b) *SO<sub>2</sub> emissions factor calculation.* The SO<sub>2</sub> emissions factor for each type of fuel consumed during the specified year, expressed in pounds per thousand tons for coal, pounds per thousand barrels for oil and pounds per million cubic feet (scf) for gas, shall be calculated as follows:

$$\text{SO}_2 \text{ Emissions Factor} = (\text{average percent of sulfur by weight}) \times (k),$$

where,

- average percent of sulfur by weight
  - = annual average, for a combustion source submitting annual data
  - = monthly average, for a combustion source submitting monthly data
- k = 39,000 for bituminous coal or anthracite
- = 35,000 for subbituminous coal
- = 30,000 for lignite
- = 5,964 for distillate (light) oil
- = 6,594 for residual (heavy) oil
- = 0.6 for natural gas

For other fuels, the combustion source must specify the SO<sub>2</sub> emissions factor.

(c) *Annual SO<sub>2</sub> emissions calculation.* Annual SO<sub>2</sub> Emissions for the specified calendar year, expressed in pounds, shall be calculated as follows:

(1) For a combustion source submitting monthly data,

$$\text{Annual SO}_2 \text{ Emissions} = \sum_{\text{months=Jan}}^{\text{Dec}} \sum_{\text{Fuel Types}} \left[ \begin{array}{l} \text{quantity of fuel consumed} \\ \times \text{SO}_2 \text{ emissions factor} \\ \times (1 - \text{control system efficiency}) \\ \times (1 - \text{fuel pre-treatment efficiency}) \end{array} \right]$$

(2) For a combustion source submitting annual data:

$$\text{Annual SO}_2 \text{ Emissions} = \sum_{\text{Fuel Types}} \left[ \begin{array}{l} \text{quantity of fuel consumed} \\ \times \text{SO}_2 \text{ emissions factor} \\ \times (1 - \text{control system efficiency}) \\ \times (1 - \text{fuel pre-treatment efficiency}) \end{array} \right]$$

where,

- “quantity of fuel consumed” is as defined under §74.20(a)(2)(i);
- “SO<sub>2</sub> emissions factor” is as defined under paragraph (b) of this section;
- “control system efficiency” is as defined under §60.48(a) and part 60, appendix A, method 19 of this chapter, if applicable; and
- “fuel pre-treatment efficiency” is as defined under §60.48(a) and part 60, appendix A, method 19 of this chapter, if applicable.

(d) *Annual fuel consumption calculation.* Annual fuel consumption for the specified calendar year, expressed in mmBtu, shall be calculated as defined under §74.20(b)(1) (i) or (ii).

(e) *Actual SO<sub>2</sub> emissions rate calculation.* The actual SO<sub>2</sub> emissions rate for the specified calendar year, expressed in lbs/mmBtu, shall be calculated as follows:

$$\text{Actual SO}_2 \text{ Emissions Rate} = \frac{\text{Annual SO}_2 \text{ Emissions}}{\text{Annual Fuel Consumption}}$$

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

**§ 74.23 1985 Allowable SO<sub>2</sub> emissions rate.**

(a) *Data requirements.* (1) The designated representative of the combustion source shall submit the following data and the calculations under paragraph (b) of this section based on the submitted data:

(i) Allowable SO<sub>2</sub> emissions rate of the combustion source expressed in lbs/

mmBtu as defined under §72.2 of this chapter for the calendar year specified in paragraph (a)(2) of this section. If the allowable SO<sub>2</sub> emissions rate is not expressed in lbs/mmBtu, the allowable emissions rate shall be converted to lbs/mmBtu by multiplying the emissions rate by the appropriate factor as specified in Table 1 of this section.

TABLE 1—FACTORS TO CONVERT EMISSION LIMITS TO POUNDS OF SO<sub>2</sub>/MMBTU

Unit measurement	Bituminous coal	Subbituminous coal	Lignite coal	Oil
lbs Sulfur/mmBtu .....	2.0	2.0	2.0	2.0
% Sulfur in fuel .....	1.66	2.22	2.86	1.07
ppm SO <sub>2</sub> .....	0.00287	0.00384	.....	0.00167
ppm Sulfur in fuel .....	.....	.....	.....	0.00334

TABLE 1—FACTORS TO CONVERT EMISSION LIMITS TO POUNDS OF SO<sub>2</sub>/MMBTU—Continued

Unit measurement	Bituminous coal	Subbituminous coal	Lignite coal	Oil
tons SO <sub>2</sub> /hour .....	2 × 8760/(annual fuel consumption for specified year <sup>1</sup> × 10 <sup>3</sup> )			
lbs SO <sub>2</sub> /hour .....	8760/(annual fuel consumption for specified year <sup>1</sup> × 10 <sup>6</sup> )			

<sup>1</sup> Annual fuel consumption as defined under § 74.20(b)(1) (i) or (ii); specified calendar year as defined under § 74.23(a)(2).

(ii) Citation of statute, regulations, and any other authority under which the allowable emissions rate under paragraph (a)(1) of this section is established as applicable to the combustion source;

(iii) Averaging time associated with the allowable emissions rate under paragraph (a)(1) of this section.

(iv) The annualization factor for the combustion source, based on the type of combustion source and the associated averaging time of the allowable emissions rate of the combustion source, as set forth in the Table 2 of this section:

TABLE 2—ANNUALIZATION FACTORS FOR SO<sub>2</sub> EMISSION RATES

Type of combustion source	Annualization factor for scrubbed unit	Annualization factor for unscrubbed unit
Unit Combusting Oil, Gas, or some combination .....	1.00	1.00
Coal Unit with Averaging Time ≤ 1 day .....	0.93	0.89
Coal Unit with Averaging Time = 1 week .....	0.97	0.92
Coal Unit with Averaging Time = 30 days .....	1.00	0.96
Coal Unit with Averaging Time = 90 days .....	1.00	1.00
Coal Unit with Averaging Time = 1 year .....	1.00	1.00
Coal Unit with Federal Limit, but Averaging Time Not Specified .....	0.93	0.89

(2) *Calendar year.* (i) For combustion sources that commenced operation prior to January 1, 1985, the calendar year for the allowable SO<sub>2</sub> emissions rate shall be 1985.

(ii) For combustion sources that commenced operation after January 1, 1985, the calendar year for the allowable SO<sub>2</sub> emissions rate shall be the first year of the three consecutive calendar years of the alternative baseline under § 74.20(b)(2).

(iii) For combustion sources meeting the requirements of § 74.20(c), the calendar year for calculating the allowable SO<sub>2</sub> emissions rate shall be the first year of the three consecutive calendar years to be used as alternative data under § 74.20(c).

(b) *1985 Allowable SO<sub>2</sub> emissions rate calculation.* The allowable SO<sub>2</sub> emissions rate for the specified calendar year shall be calculated as follows:

$$1985 \text{ Allowable SO}_2 \text{ Emissions Rate} = (\text{Allowable SO}_2 \text{ Emissions Rate}) \times (\text{Annualization Factor})$$

**§ 74.24 Current allowable SO<sub>2</sub> emissions rate.**

The designated representative shall submit the following data:

(a) Current allowable SO<sub>2</sub> emissions rate of the combustion source, expressed in lbs/mmBtu, which shall be the most stringent federally enforceable emissions limit in effect as of the date of submission of the opt-in application. If the allowable SO<sub>2</sub> emissions rate is not expressed in lbs/mmBtu, the allowable emissions rate shall be converted to lbs/mmBtu by multiplying the allowable rate by the appropriate factor as specified in Table 1 in § 74.23(a)(1)(i).

(b) Citations of statute, regulation, and any other authority under which the allowable emissions rate under paragraph (a) of this section is established as applicable to the combustion source;

(c) Averaging time associated with the allowable emissions rate under paragraph (a) of this section.

**§ 74.25**

**§ 74.25 Current promulgated SO<sub>2</sub> emissions limit.**

The designated representative shall submit the following data:

(a) Current promulgated SO<sub>2</sub> emissions limit of the combustion source, expressed in lbs/mmBtu, which shall be the most stringent federally enforceable emissions limit that has been promulgated as of the date of submission of the opt-in permit application and that either is in effect on that date or will take effect after that date. If the promulgated SO<sub>2</sub> emissions limit is not expressed in lbs/mmBtu, the limit shall be converted to lbs/mmBtu by multiplying the limit by the appropriate factor as specified in Table 1 of § 74.23(a)(1)(i).

(b) Citations of statute, regulation and any other authority under which the emissions limit under paragraph (a)

of this section is established as applicable to the combustion source;

(c) Averaging time associated with the emissions limit under paragraph (a) of this section.

(d) Effective date of the emissions limit under paragraph (a) of this section.

**§ 74.26 Allocation formula.**

(a) The Administrator will calculate the annual allowance allocation for a combustion source based on the data, corrected as necessary, under § 74.20 through § 74.25 as follows:

(1) For combustion sources for which the current promulgated SO<sub>2</sub> emissions limit under § 74.25 is greater than or equal to the current allowable SO<sub>2</sub> emissions rate under § 74.24, the number of allowances allocated for each year equals:

$$\text{Allowances} = \frac{\left[ \begin{array}{c} \text{baseline} \\ \text{or} \\ \text{alternative baseline} \end{array} \right] \times \text{the lesser of } \left[ \begin{array}{c} \text{the actual SO}_2 \text{ emissions rate} \\ \text{or} \\ \text{the 1985 allowable SO}_2 \text{ emissions rate} \\ \text{or} \\ \text{the current allowable SO}_2 \text{ emissions rate} \end{array} \right]}{2000}$$

(2) For combustion sources for which the current promulgated SO<sub>2</sub> emissions limit under § 74.25 is less than the current allowable SO<sub>2</sub> emissions rate under § 74.24.

(i) The number of allowances for each year ending prior to the effective date of the promulgated SO<sub>2</sub> emissions limit equals:

$$\text{Allowances} = \frac{\left[ \begin{array}{c} \text{baseline} \\ \text{or} \\ \text{alternative baseline} \end{array} \right] \times \text{the lesser of } \left[ \begin{array}{c} \text{the actual SO}_2 \text{ emissions rate} \\ \text{or} \\ \text{the 1985 allowable SO}_2 \text{ emissions rate} \\ \text{or} \\ \text{the current allowable SO}_2 \text{ emissions rate} \end{array} \right]}{2000}$$

(ii) The number of allowances for the year that includes the effective date of

the promulgated SO<sub>2</sub> emissions limit and for each year thereafter equals:

$$\text{Allowances} = \frac{\left[ \begin{array}{c} \text{baseline} \\ \text{or} \\ \text{alternative baseline} \end{array} \right] \times \text{the lesser of} \left[ \begin{array}{c} \text{the actual SO}_2 \text{ emissions rate} \\ \text{or} \\ \text{the 1985 allowable SO}_2 \text{ emissions rate} \\ \text{or} \\ \text{the current promulgated SO}_2 \text{ emissions rate} \end{array} \right]}{2000}$$

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

**§ 74.28 Allowance allocation for combustion sources becoming opt-in sources on a date other than January 1.**

(a) *Dates of entry.* (1) If an opt-in source provided monthly data under § 74.20, the opt-in source's opt-in permit may become effective at the beginning of a calendar quarter as of January 1, April 1, July 1, or October 1.

(2) If an opt-in source provided annual data under § 74.20, the opt-in

source's opt-in permit must become effective on January 1.

(b) *Prorating by Calendar Quarter.* Where a combustion source's opt-in permit becomes effective on April 1, July 1, or October 1 of a given year, the Administrator will prorate the allowance allocation for that first year by the calendar quarters remaining in the year as follows:

Allowances for the first year

$$= \left( \frac{\text{first year partial baseline}}{\text{baseline or alternative baseline}} \right) \times \text{annual allocation of allowances for the first year}$$

(1) For combustion sources that commenced operations before January 1, 1985,

$$\text{first year partial baseline} = \frac{\sum_{\text{Year}=1985}^{1987} \text{fuel consumption for remaining calendar quarters}}{3}$$

(2) For combustion sources that commenced operations after January 1, 1985,

$$\text{first year partial baseline} = \frac{\sum_{\text{First 3 consecutive years}} \text{fuel consumption for the remaining calendar quarters}}{3}$$

(3) Under paragraphs (b) (1) and (2) of this section,

(i) "Remaining calendar quarters" shall be the calendar quarters in the

first year for which the opt-in permit will be effective.

(ii) Fuel consumption for remaining calendar quarters =

$$\sum_{\text{months=Apr., Jul., or Oct.}}^{\text{Dec}} \cdot \sum_{\text{Fuel Types}} \text{quantity of fuel consumed} \times \text{heat content} \times \text{unit conversion}$$

where unit conversion

- = 2 for coal
- = 0.001 for oil
- = 1 for gas

For other fuels, the combustion source must specify unit conversion;

and where starting month

- = April, if effective date is April 1;
- = July, if effective date is July 1; and
- = October, if effective date is October 1.

**Subpart D—Allowance Calculations for Process Sources [Reserved]**

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

**§ 74.40 Establishment of opt-in source allowance accounts.**

(a) *Establishing accounts.* Not earlier than the date on which a combustion or process source becomes an affected unit under this part and upon receipt of a request for a compliance account under paragraph (b) of this section, the Administrator will establish a compliance account (unless the source that includes the opt-in source already has a compliance account or the opt-in source has, under § 74.4(c), a different designated representative than the designated representative for the source) and allocate allowances in accordance with subpart C of this part for combustion sources or subpart D of this part for process sources.

(b) *Request for opt-in account.* The designated representative of the opt-in source shall, on or after the effective date of the opt-in permit as specified in § 74.14(d), submit a letter requesting the opening of a compliance account (unless the source that includes the opt-in source already has a compliance account or the opt-in source has, under § 74.4(c), a different designated representative than the designated representative for the source) to the Administrator.

[60 FR 17115, Apr. 4, 1995, as amended at 70 FR 25336, May 12, 2005]

**§ 74.41 Identifying allowances.**

(a) *Identifying allowances.* Allowances allocated to an opt-in source will be assigned a serial number that identifies them as being allocated under an opt-in permit.

(b) *Submittal of opt-in allowances for auction.* (1) An authorized account representative may offer for sale in the spot auction under § 73.70 of this chapter allowances that are allocated to opt-in sources, if the allowances have a compliance use date earlier than the year in which the spot auction is to be held and if the Administrator has completed the deductions for compliance under § 73.35(b) for the compliance year corresponding to the compliance use date of the offered allowances.

(2) Authorized account representatives may not offer for sale in the advance auctions under § 73.70 of this chapter allowances allocated to opt-in sources.

**§ 74.42 Limitation on transfers.**

(a) With regard to a transfer request submitted for recordation during the period starting January 1 and ending with the allowance transfer deadline in the same year, the Administrator will not record a transfer of an opt-in allowance that is allocated to an opt-in source for the year in which the transfer request is submitted or a subsequent year.

(b) With regard to a transfer request during the period starting with the day after an allowance transfer deadline and ending December 31 in the same year, the Administrator will not record a transfer of an opt-in allowance that is allocated to an opt-in source for a year after the year in which the transfer request is submitted.

[70 FR 25336, May 12, 2005]

**§ 74.43 Annual compliance certification report.**

(a) *Applicability and deadline.* For each calendar year in which an opt-in source is subject to the Acid Rain

emissions limitations, the designated representative of the opt-in source shall submit to the Administrator, no later than 60 days after the end of the calendar year, an annual compliance certification report for the opt-in source.

(b) *Contents of report.* The designated representative shall include in the annual compliance certification report the following elements, in a format prescribed by the Administrator, concerning the opt-in source and the calendar year covered by the report:

- (1) Identification of the opt-in source;
- (2) An opt-in utilization report in accordance with § 74.44 for combustion sources and § 74.45 for process sources;
- (3) A thermal energy compliance report in accordance with § 74.47 for combustion sources and § 74.48 for process sources, if applicable;
- (4) Shutdown or reconstruction information in accordance with § 74.46, if applicable;
- (5) A statement that the opt-in source has not become an affected unit under § 72.6 of this chapter;
- (6) At the designated representative's option, the total number of allowances to be deducted for the year, using the formula in § 74.49, and the serial numbers of the allowances that are to be deducted; and
- (7) In an annual compliance certification report for a year during 1995 through 2005, at the designated representative's option, for opt-in sources that share a common stack and whose emissions of sulfur dioxide are not monitored separately or apportioned in accordance with part 75 of this chapter, the percentage of the total number of allowances under paragraph (b)(6) of this section for all such affected units that is to be deducted from each affected unit's compliance subaccount; and
- (8) In an annual compliance certification report for a year during 1995 through 2005, the compliance certification under paragraph (c) of this section.

(c) *Annual compliance certification.* In the annual compliance certification report under paragraph (a) of this section, the designated representative shall certify, based on reasonable inquiry of those persons with primary re-

sponsibility for operating the opt-in source in compliance with the Acid Rain Program, whether the opt-in source was operated during the calendar year covered by the report in compliance with the requirements of the Acid Rain Program applicable to the opt-in source, including:

- (1) Whether the opt-in source was operated in compliance with applicable Acid Rain emissions limitations, including whether the opt-in source held allowances, as of the allowance transfer deadline, in its compliance subaccount (after accounting for any allowance deductions or other adjustments under § 73.34(c) of this chapter) not less than the opt-in source's total sulfur dioxide emissions during the calendar year covered by the annual report;
- (2) Whether the monitoring plan that governs the opt-in source has been maintained to reflect the actual operation and monitoring of the opt-in source and contains all information necessary to attribute monitored emissions to the opt-in source;
- (3) Whether all the emissions from the opt-in source or group of affected units (including the opt-in source) using a common stack were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports in accordance with part 75 of this chapter;
- (4) Whether the facts that form the basis for certification of each monitor at the opt-in source or group of affected units (including the opt-in source) using a common stack or of an opt-in source's qualifications for using an Acid Rain Program excepted monitoring method or approved alternative monitoring method, if any, have changed;
- (5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitoring recertification; and
- (6) When applicable, whether the opt-in source was operating in compliance

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with its thermal energy plan as provided in § 74.47 for combustion sources and § 74.48 for process sources.

[60 FR 17115, Apr. 4, 1995, as amended at 70 FR 25337, May 12, 2005]

### § 74.44 Reduced utilization for combustion sources.

(a) *Calculation of utilization*—(1) *Annual utilization.* (i) Except as provided in paragraph (a)(1)(ii) of this section, annual utilization for the calendar year shall be calculated as follows:

$$\text{Annual Utilization} = \text{Actual heat input} \\ + \text{Reduction from improved efficiency}$$

where,

(A) “Actual heat input” shall be the actual annual heat input (in mmBtu) of the opt-in source for the calendar year determined in accordance with appendix F of part 75 of this chapter.

(B) “Reduction from improved efficiency” shall be the sum of the following four elements: Reduction from demand side measures that improve the efficiency of electricity consumption; reduction from demand side measures that improve the efficiency of steam consumption; reduction from improvements in the heat rate at the opt-in source; and reduction from improvement in the efficiency of steam production at the opt-in source. Qualified demand side measures applicable to the calculation of utilization for opt-in sources are listed in appendix A, section 1 of part 73 of this chapter.

(C) “Reduction from demand side measures that improve the efficiency of electricity consumption” shall be a good faith estimate of the expected kilowatt hour savings during the calendar year for such measures and the corresponding reduction in heat input (in mmBtu) resulting from those measures. The demand side measures shall be implemented at the opt-in source, in the residence or facility to which the opt-in source delivers electricity for consumption or in the residence or facility of a customer to whom the opt-in source’s utility system sells electricity. The verified amount of such reduction shall be submitted in accordance with paragraph (c)(2) of this section.

(D) “Reduction from demand side measures that improve the efficiency of steam consumption” shall be a good faith estimate of the expected steam savings (in mmBtu) from such measures during the calendar year and the corresponding reduction in heat input (in mmBtu) at the opt-in source as a result of those measures. The demand side measures shall be implemented at the opt-in source or in the facility to which the opt-in source delivers steam for consumption. The verified amount of such reduction shall be submitted in accordance with paragraph (c)(2) of this section.

(E) “Reduction from improvements in heat rate” shall be a good faith estimate of the expected reduction in heat rate during the calendar year and the corresponding reduction in heat input (in mmBtu) at the opt-in source as a result of all improved unit efficiency measures at the opt-in source and may include supply-side measures listed in appendix A, section 2.1 of part 73 of this chapter. The verified amount of such reduction shall be submitted in accordance with paragraph (c)(2) of this section.

(F) “Reduction from improvement in the efficiency of steam production at the opt-in source” shall be a good faith estimate of the expected improvement in the efficiency of steam production at the opt-in source during the calendar year and the corresponding reduction in heat input (in mmBtu) at the opt-in source as a result of all improved steam production efficiency measures. In order to claim improvements in the efficiency of steam production, the designated representative of the opt-in source must demonstrate to the satisfaction of the Administrator that the heat rate of the opt-in source has not increased. The verified amount of such reduction shall be submitted in accordance with paragraph (c)(2) of this section.

(G) Notwithstanding paragraph (a)(1)(i)(B) of this section, where two or more opt-in sources, or two or more opt-in sources and Phase I units, include in their annual compliance certification reports their good faith estimate of kilowatt hour savings or steam savings from the same specific measures:

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(1) The designated representatives of all such opt-in sources and Phase I units shall submit with their annual compliance certification reports a certification signed by all such designated representatives. The certification shall apportion the total kilowatt hour savings or steam savings among such opt-in sources and Phase I units.

(2) Each designated representative shall include in its annual compliance certification report only its share of kilowatt hour savings or steam savings.

(ii) For an opt-in source whose opt-in permit becomes effective on a date other than January 1, annual utilization for the first year shall be calculated as follows:

$$\text{Annual Utilization} = \frac{\text{Actual heat input for the remaining calendar quarters}}{\text{Reduction from improved efficiency for the remaining calendar quarters}} +$$

where “actual heat input” and “reduction from improved efficiency” are defined as set forth in paragraph (a)(1)(i) of this section but are restricted to data or estimates for the “remaining calendar quarters”, which are the calendar quarters that begin on or after the date the opt-in permit becomes effective.

(2) *Average utilization.* Average utilization for the calendar year shall be defined as the average of the annual utilization calculated as follows:

(i) For the first two calendar years after the effective date of an opt-in permit taking effect on January 1, average utilization will be calculated as follows:

(A) Average utilization for the first year =  $\text{annual utilization}_{\text{year 1}}$

where “annual utilization<sub>year 1</sub>” is as calculated under paragraph (a)(1)(i) of this section.

(B) Average utilization for the second year

$$= \left( \frac{\text{revised annual utilization}_{\text{year 1}} + \text{annual utilization}_{\text{year 2}}}{2} \right)$$

where, “revised annual utilization<sub>year 1</sub>” is as submitted for the year under paragraph (c)(2)(i)(B) of this section and adjusted under paragraph (c)(2)(iii) of this section; “annual utilization<sub>year 2</sub>” is as calculated under paragraph (a)(1)(i) of this section.

(ii) For the first three calendar years after the effective date of the opt-in permit taking effect on a date other than January 1, average utilization will be calculated as follows:

(A) Average utilization for the first year after opt-in =  $\text{annual utilization}_{\text{year 1}}$

where “annual utilization<sub>year 1</sub>” is as calculated under paragraph (a)(1)(ii) of this section.

(B) Average utilization for the second year after opt-in

where,

$$= \left( \frac{\text{revised annual utilization}_{\text{year 1}} + \text{annual utilization}_{\text{year 2}}}{\left( \begin{array}{c} \text{Number of months} \\ \text{in year 1 and year 2 for which} \\ \text{the opt-in permit is effective} \end{array} \right)} \right) \times 12$$

“revised annual utilization<sub>year 1</sub>” is as submitted for the year under paragraph (c)(2)(i)(B) of this section and adjusted under paragraph (c)(2)(iii) of this section; and

“annual utilization<sub>year 2</sub>” is as calculated under paragraph (a)(1)(ii) of this section.

(C) Average utilization for the third year after opt-in

$$= \left( \frac{\text{revised annual utilization}_{\text{year 1}} + \text{revised annual utilization}_{\text{year 2}} + \text{annual utilization}_{\text{year 3}}}{\left( \begin{array}{c} \text{Number of months} \\ \text{in year 1, year 2, and year 3} \\ \text{for which the opt-in permit is effective} \end{array} \right)} \right) \times 12$$

where,

“revised annual utilization<sub>year 1</sub>” is as submitted for the year under paragraph (c)(2)(i)(B) of this section and adjusted under paragraph (c)(2)(iii) of this section; and

“revised annual utilization<sub>year 2</sub>” is as submitted for the year under paragraph (c)(2)(i)(B) of this section and adjusted under paragraph (c)(2)(iii) of this section; and

“annual utilization<sub>year 3</sub>” is as calculated under paragraph (a)(1)(ii) of this section.

(iii) Except as provided in paragraphs (a)(2)(i) and (a)(2)(ii) of this section, average utilization shall be the sum of annual utilization for the calendar year and the revised annual utilization, submitted under paragraph (c)(2)(i)(B) of this section and adjusted by the Administrator under paragraph (c)(2)(iii) of this section, for the two immediately preceding calendar years divided by 3.

(b) *Determination of reduced utilization and calculation of allowances*—(1) *Determination of reduced utilization.* For a year during which its opt-in permit is effective, an opt-in source has reduced utilization if the opt-in source’s average utilization for the calendar year, as calculated under paragraph (a) of this section, is less than its baseline.

(2) *Calculation of allowances deducted for reduced utilization.* If the Administrator determines that an opt-in source has reduced utilization for a calendar year during which the opt-in source’s opt-in permit is in effect, the Administrator will deduct allowances, as calculated under paragraph (b)(2)(i) of this section, from the compliance sub-account of the opt-in source’s Allowance Tracking System account.

(i) Allowances deducted for reduced utilization =

$$\text{Number of allowances allocated for the calendar year} \times \left( 1 - \left( \frac{\text{average utilization}_{\text{calendar year}}}{\text{baseline}} \right) \right)$$

(ii) The allowances deducted shall have the same or an earlier compliance use date as those allocated under subpart C of this part for the calendar year for which the opt-in source has reduced utilization.

(c) *Compliance*—(1) *Opt-in Utilization Report*. The designated representative for each opt-in source shall submit an opt-in utilization report for the calendar year, as part of its annual compliance certification report under § 74.43, that shall include the following elements in a format prescribed by the Administrator:

(i) The name, authorized account representative identification number, and telephone number of the designated representative of the opt-in source;

(ii) The account identification number in the Allowance Tracking System of the source that includes the opt-in source;

(iii) The opt-in source's annual utilization for the calendar year, as defined under paragraph (a)(1) of this section, and the revised annual utilization, submitted under paragraph (c)(2)(i)(B) of this section and adjusted under paragraph (c)(2)(iii) of this section, for the two immediately preceding calendar years;

(iv) The opt-in source's average utilization for the calendar year, as defined under paragraph (a)(2) of this section;

(v) The difference between the opt-in source's average utilization and its baseline;

(vi) The number of allowances that shall be deducted, if any, using the formula in paragraph (b)(2)(i) of this section and the supporting calculations;

(2) *Confirmation report*. (i) If the annual compliance certification report for an opt-in source includes estimates of any reduction in heat input resulting from improved efficiency as defined under paragraph (a)(1)(i) of this section, the designated representative shall submit, by July 1 of the year in which the annual compliance certification report was submitted, a confirmation report, concerning the calendar year covered by the annual compliance certification report. The Administrator may grant, for good cause shown, an extension of the time to file the confirmation report. The confirmation report shall include the following

elements in a format prescribed by the Administrator:

(A) *Verified reduction in heat input*. Any verified kwh savings or any verified steam savings from demand side measures that improve the efficiency of electricity or steam consumption, any verified reduction in the heat rate at the opt-in source, or any verified improvement in the efficiency of steam production at the opt-in source achieved and the verified corresponding reduction in heat input for the calendar year that resulted.

(B) *Revised annual utilization*. The opt-in source's annual utilization for the calendar year as provided under paragraph (c)(1)(iii) of this section, recalculated using the verified reduction in heat input for the calendar year under paragraph (c)(2)(i)(A) of this section.

(C) *Revised average utilization*. The opt-in source's average utilization as provided under paragraph (c)(1)(iv) of this section, recalculated using the verified reduction in heat input for the calendar year under paragraph (c)(2)(i)(A) of this section.

(D) *Recalculation of reduced utilization*. The difference between the opt-in source's recalculated average utilization and its baseline.

(E) *Allowance adjustment*. The number of allowances that should be credited or deducted using the formulas in paragraphs (c)(2)(iii)(C) and (D) of this section and the supporting calculations; and the number of adjusted allowances remaining using the formula in paragraph (c)(2)(iii)(E) of this section and the supporting calculations.

(ii) *Documentation*. (A) For all figures under paragraphs (c)(2)(i)(A) of this section, the opt-in source must provide as part of the confirmation report, documentation (which may follow the EPA Conservation Verification Protocol) verifying the figures to the satisfaction of the Administrator.

(B) Notwithstanding paragraph (c)(2)(i)(A) of this section, where two or more opt-in sources, or two or more opt-in sources and Phase I units include in the confirmation report under paragraph (c)(2) of this section or § 72.91(b) of this chapter the verified kilowatt hour savings or steam savings defined under paragraph (c)(2)(i)(A) of

this section, for the calendar year, from the same specific measures:

(1) The designated representatives of all such opt-in sources and Phase I units shall submit with their confirmation reports a certification signed by all such designated representatives. The certification shall apportion the total kilowatt hour savings or steam savings as defined under paragraph (c)(2)(i)(A) of this section for the calendar year among such opt-in sources and Phase I units.

(2) Each designated representative shall include in the opt-in source's confirmation report only its share of the verified reduction in heat input as defined under paragraph (c)(2)(i)(A) of this section for the calendar year under the certification under paragraph (c)(2)(ii)(B)(1) of this section.

(iii) *Determination of reduced utilization based on confirmation report.* (A) If an opt-in source must submit a confirmation report as specified under paragraph (c)(2) of this section, the Administrator, upon such submittal, will adjust his or her determination of reduced utilization for the calendar year for the opt-in source. Such adjustment will include the recalculation of both annual utilization and average utilization, using verified reduction in heat

input as defined under paragraph (c)(2)(i)(A) of this section for the calendar year instead of the previously estimated values.

(B) *Estimates confirmed.* If the total, included in the confirmation report, of the amounts of verified reduction in the opt-in source's heat input equals the total estimated in the opt-in source's annual compliance certification report for the calendar year, then the designated representative shall include in the confirmation report a statement indicating that is true.

(C) *Underestimate.* If the total, included in the confirmation report, of the amounts of verified reduction in the opt-in source's heat input is greater than the total estimated in the opt-in source's annual compliance certification report for the calendar year, then the designated representative shall include in the confirmation report the number of allowances to be credited to the compliance account of the source that includes the opt-in source calculated using the following formula:

Allowances credited for the calendar year in which the reduced utilization occurred =

$$\text{Number of allowances allocated for the calendar year} \times \left[ \frac{\text{Average utilization}_{\text{verified}} - \text{Average utilization}_{\text{estimate}}}{\text{baseline}} \right]$$

where,

Average Utilization<sub>estimate</sub> = the average utilization of the opt-in source as defined under paragraph (a)(2) of this section, calculated using the estimated reduction in the opt-in source's heat input under (a)(1) of this section, and submitted in the annual compliance certification report for the calendar year.

Average Utilization<sub>verified</sub> = the average utilization of the opt-in source as defined under paragraph (a)(2) of this section, calculated using the verified reduction in the opt-in source's heat input as submitted under paragraph (c)(2)(i)(A) of this section by the designated representative in the confirmation report.

(D) *Overestimate.* If the total of the amounts of verified reduction in the opt-in source's heat input included in

the confirmation report is less than the total estimated in the opt-in source's annual compliance certification report for the calendar year, then the designated representative shall include in the confirmation report the number of allowances to be deducted from the compliance account of the source that includes the opt-in source, which equals the absolute value of the result of the formula for allowances credited under paragraph (c)(2)(iii)(C) of this section.

(E) *Adjusted allowances remaining.* Unless paragraph (c)(2)(iii)(B) of this section applies, the designated representative shall include in the confirmation report the adjusted amount of allowances that would have been held in the

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compliance account of the source that includes the opt-in source if the deductions made under § 73.35(b) of this chapter had been based on the verified,

rather than the estimated, reduction in the opt-in source's heat input, calculated as follows:

$$\text{Adjusted amount of allowances} = \begin{array}{l} \text{Allowances held after deduction} - \text{Excess emissions} \\ + \text{Allowances credited} - \text{Allowances deducted} \end{array}$$

where:

“Allowances held after deduction” shall be the amount of allowances held in the compliance account of the source that includes the opt-in source after deduction of allowances was made under § 73.35(b) of this chapter based on the annual compliance certification report.

“Excess emissions” shall be the amount (if any) of excess emissions determined under § 73.35(d) for the calendar year based on the annual compliance certification report. “Allowances credited” shall be the amount of allowances calculated under paragraph (c)(2)(iii)(C) of this section.

“Allowances deducted” shall be the amount of allowances calculated under paragraph (c)(2)(iii)(D) of this section.

(1) If the result of the formula for “adjusted amount of allowances” is negative, the absolute value of the result constitutes excess emissions of sulfur dioxide. If the result is positive, there are no excess emissions of sulfur dioxide.

(2) If the amount of excess emissions of sulfur dioxide calculated under “adjusted amount of allowances” differs from the amount of excess emissions of sulfur dioxide determined under § 73.35 of this chapter based on the annual compliance certification report, then the designated representative shall include in the confirmation report a demonstration of:

(i) The number of allowances that should be deducted to offset any increase in excess emissions or returned to the account for any decrease in excess emissions; and

(ii) The amount of the excess emissions penalty (excluding interest) that should be paid or returned to the account for the change in excess emissions.

(3) The Administrator will deduct immediately from the compliance account of the source that includes the opt-in source the amount of allowances

that he or she determines is necessary to offset any increase in excess emissions or will return immediately to the compliance account of the source that includes the opt-in source the amount of allowances that he or she determines is necessary to account for any decrease in excess emissions.

(4) The designated representative may identify the serial numbers of the allowances to be deducted or returned. In the absence of such identification, the deduction will be on a first-in, first-out basis under § 73.35(c)(2) of this chapter and the identification of allowances returned will be at the Administrator's discretion.

(5) If the designated representative of an opt-in source fails to submit on a timely basis a confirmation report, in accordance with paragraph (c)(2) of this section, with regard to the estimate of reductions in heat input as defined under paragraph (c)(2)(i)(A) of this section, then the Administrator will reject such estimate and correct it to equal zero in the opt-in source's annual compliance certification report that includes that estimate. The Administrator will deduct immediately, on a first-in, first-out basis under § 73.35(c)(2) of this chapter, the amount of allowances that he or she determines is necessary to offset any increase in excess emissions of sulfur dioxide that results from the correction and will require the owners and operators of the opt-in source to pay an excess emission penalty in accordance with part 77 of this chapter.

(F) If the opt-in source is governed by an approved thermal energy plan under § 74.47 and if the opt-in source must

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submit a confirmation report as specified under paragraph (c)(2) of this section, the adjusted amount of allowances that should remain in the com-

pliance account of the source that includes the opt-in source shall be calculated as follows:  
Adjusted amount of allowances =

$$\text{Allowances allocated or acquired} - \text{tons emitted} - \text{the larger of } \left( \begin{array}{l} \text{allowances transferred} \\ \text{to all replacement units} \\ \text{or} \\ \text{allowances deducted} \\ \text{for reduced utilization} \end{array} \right)$$

where,

“Allowances allocated or acquired” shall be the number of allowances held in the compliance account of the source that includes the opt-in source at the allowance transfer deadline plus the number of allowances transferred for the previous calendar year to all replacement units under an approved thermal energy plan in accordance with § 74.47(a)(6).

“Tons emitted” shall be the total tons of sulfur dioxide emitted by the opt-in source during the calendar year, as reported in accordance with subpart F of this part for combustion sources.

“Allowances transferred to all replacement units” shall be the sum of allowances transferred to all replacement units under an approved thermal energy plan in accordance with § 74.47 and adjusted by the Administrator in accordance with § 74.47(d)(2).

“Allowances deducted for reduced utilization” shall be the total number of allowances deducted for reduced utilization as calculated in accordance with this section including any adjustments required under paragraph (c)(iii)(E) of this section.

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, Apr. 16, 1998; 70 FR 25337, May 12, 2005]

**§ 74.45 Reduced utilization for process sources. [Reserved]**

**§ 74.46 Opt-in source permanent shutdown, reconstruction, or change in affected status.**

(a) *Notification.* (1) When an opt-in source has permanently shutdown during the calendar year, the designated representative shall notify the Administrator of the date of shutdown, within 30 days of such shutdown.

(2) When an opt-in source has undergone a modification that qualifies as a reconstruction as defined in § 60.15 of

this chapter, the designated representative shall notify the Administrator of the date of completion of the reconstruction, within 30 days of such completion.

(3) When an opt-in source becomes an affected unit under § 72.6 of this chapter, the designated representative shall notify the Administrator of such change in the opt-in source’s affected status within 30 days of such change.

(b) *Administrator’s action.* (1) The Administrator will terminate the opt-in source’s opt-in permit and deduct allowances as provided below in the following circumstances:

(i) When an opt-in source has permanently shutdown. The Administrator shall deduct allowances equal in number to and with the same or earlier compliance use date as those allocated to the opt-in source under § 74.40 for the calendar year in which the shut down occurs and for all future years following the year in which the shut down occurs; or

(ii) When an opt-in source has undergone a modification that qualifies as a reconstruction as defined in § 60.15 of this chapter. The Administrator shall deduct allowances equal in number to and with the same or earlier compliance use date as those allocated to the opt-in source under § 74.40 for the calendar year in which the reconstruction is completed and all future years following the year in which the reconstruction is completed; or

(iii) When an opt-in source becomes an affected unit under § 72.6 of this chapter. The Administrator shall deduct allowances equal in number to and with the same or earlier compliance use date as those allocated to the

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opt-in source under § 74.40 for the calendar year in which the opt-in source becomes affected under § 72.6 of this chapter and all future years following the calendar year in which the opt-in source becomes affected under § 72.6; or

(iv) When an opt-in source does not renew its opt-in permit. The Administrator shall deduct allowances equal in number to and with the same or earlier compliance use date as those allocated to the opt-in source under § 74.40 for the calendar year in which the opt-in source's opt-in permit expires and all future years following the year in which the opt-in source's opt-in permit expires.

(2) [Reserved]

[60 FR 17115, Apr. 4, 1995, as amended at 70 FR 25337, May 12, 2005]

### **§ 74.47 Transfer of allowances from the replacement of thermal energy—combustion sources.**

(a) *Thermal energy plan*—(1) *General provisions.* The designated representative of an opt-in source that seeks to qualify for the transfer of allowances based on the replacement of thermal energy by a replacement unit shall submit a thermal energy plan subject to the requirements of § 72.40(b) of this chapter for multi-unit compliance options and this section. The effective period of the thermal energy plan shall begin at the start of the calendar quarter (January 1, April 1, July 1, or October 1) for which the plan is approved and end December 31 of the last full calendar year for which the opt-in permit containing the plan is in effect.

(2) *Applicability.* This section shall apply to any designated representative of an opt-in source and any designated representative of each replacement unit seeking to transfer allowances based on the replacement of thermal energy.

(3) *Contents.* Each thermal energy plan shall contain the following elements in a format prescribed by the Administrator:

(i) The calendar year and quarter that the thermal energy plan takes effect, which shall be the first year and quarter the replacement unit(s) will replace thermal energy of the opt-in source;

(ii) The name, authorized account representative identification number, and telephone number of the designated representative of the opt-in source;

(iii) The name, authorized account representative identification number, and telephone number of the designated representative of each replacement unit;

(iv) The account identification number in the Allowance Tracking System of the source that includes the opt-in source;

(v) The account identification number in the Allowance Tracking System of each source that includes a replacement unit;

(vi) The type of fuel used by each replacement unit;

(vii) The allowable SO<sub>2</sub> emissions rate, expressed in lbs/mmBtu, of each replacement unit for the calendar year for which the plan will take effect. When a thermal energy plan is renewed in accordance with paragraph (a)(9) of this section, the allowable SO<sub>2</sub> emission rate at each replacement unit will be the most stringent federally enforceable allowable SO<sub>2</sub> emissions rate applicable at the time of renewal for the calendar year for which the renewal will take effect. This rate will not be annualized;

(viii) The estimated annual amount of total thermal energy to be reduced at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy to be reduced starting April 1, July 1, or October 1 respectively and ending on December 31;

(ix) The estimated amount of total thermal energy at each replacement unit for the calendar year prior to the year for which the plan is to take effect, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy for the portion of such calendar year starting April 1, July 1, or October 1 respectively;

(x) The estimated annual amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xi) The estimated annual amount of thermal energy at each replacement unit, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, replacing thermal energy at the opt-in source, and, for a plan starting April 1, July 1, or October 1, such estimated amount of thermal energy replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xii) The estimated annual total fuel input at each replacement unit after replacing thermal energy at the opt-in source and, for a plan starting April 1, July 1, or October 1, such estimated total fuel input after replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xiii) The number of allowances calculated under paragraph (b) of this section that the opt-in source will transfer to each replacement unit represented in the thermal energy plan.

(xiv) The estimated number of allowances to be deducted for reduced utilization under § 74.44;

(xv) Certification that each replacement unit has entered into a legally binding steam sales agreement to provide the thermal energy, as calculated under paragraph (a)(3)(xi) of this section, that it is replacing for the opt-in source. The designated representative of each replacement unit shall maintain and make available to the Administrator, at the Administrator's request, copies of documents demonstrating that the replacement unit is replacing the thermal energy at the opt-in source.

(4) *Submission.* The designated representative of the opt-in source seeking to qualify for the transfer of allowances based on the replacement of thermal energy shall submit a thermal energy plan to the permitting authority by no later than six months prior to the first calendar quarter for which the plan is to be in effect. The thermal energy plan shall be signed and certified by the designated representative of the opt-in source and each replacement unit covered by the plan.

(5) *Retirement of opt-in source upon enactment of plan.* (i) If the opt-in source will be permanently retired as of the effective date of the thermal energy plan, the opt-in source shall not be required to monitor its emissions upon retirement, consistent with § 75.67 of this chapter, provided that the following requirements are met:

(A) The designated representative of the opt-in source shall include in the plan a request for an exemption from the requirements of part 75 in accordance with § 75.67 of this chapter and shall submit the following statement: "I certify that the opt-in source ("is" or "will be", as applicable) permanently retired on the date specified in this plan and will not emit any sulfur dioxide or nitrogen oxides after such date."

(B) The opt-in source shall not emit any sulfur dioxide or nitrogen oxides after the date specified in the plan.

(ii) Notwithstanding the monitoring exemption discussed in paragraph (a)(5)(i) of this section, the designated representative for the opt-in source shall submit the annual compliance certification report provided under paragraph (d) of this section.

(6) *Administrator's action.* If the permitting authority approves a thermal energy plan, the Administrator will annually transfer allowances to the compliance account of each source that includes a replacement unit, as provided in the approved plan.

(7) *Incorporation, modification and renewal of a thermal energy plan.* (i) An approved thermal energy plan, including any revised or renewed plan that is approved, shall be incorporated into both the opt-in permit for the opt-in source and the Acid Rain permit for each replacement unit governed by the

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plan. Upon approval, the thermal energy plan shall be incorporated into the Acid Rain permit for each replacement unit pursuant to the requirements for administrative permit amendments under § 72.83 of this chapter.

(ii) In order to revise an opt-in permit to add an approved thermal energy plan or to change an approved thermal energy plan, the designated representative of the opt-in source shall submit a plan or a revised plan under paragraph (a)(4) of this section and meet the requirements for permit revisions under § 72.80 and either § 72.81 or § 72.82 of this chapter.

(8) *Termination of plan.* (i) A thermal energy plan shall be in effect until the earlier of the expiration of the opt-in permit for the opt-in source or the year for which a termination of the plan takes effect under paragraph (a)(8)(ii) of this section.

(ii) *Termination of plan by opt-in source and replacement units.* A notification to terminate a thermal energy plan in accordance with § 72.40(d) of this chapter shall be submitted no later than December 1 of the calendar

year for which the termination is to take effect.

(iii) If the requirements of paragraph (a)(8)(ii) of this section are met and upon revision of the opt-in permit of the opt-in source and the Acid Rain permit of each replacement unit governed by the thermal energy plan to terminate the plan pursuant to § 72.83 of this chapter, the Administrator will adjust the allowances for the opt-in source and the replacement units to reflect the transfer back to the opt-in source of the allowances transferred from the opt-in source under the plan for the year for which the termination of the plan takes effect.

(9) *Renewal of thermal energy plan.* The designated representative of an opt-in source may renew the thermal energy plan as part of its opt-in permit renewal in accordance with § 74.19.

(b) *Calculation of transferable allowances—(1) Qualifying thermal energy.* The amount of thermal energy credited towards the transfer of allowances based on the replacement of thermal energy shall equal the qualifying thermal energy and shall be calculated for each replacement unit as follows:

$$\text{Qualifying thermal energy} = \frac{\text{the estimated thermal energy at the replacement unit under paragraph (a)(3)(xi) of this section}}{\text{Efficiency constant}}$$

(2) *Fuel associated with qualifying thermal energy.* The fuel associated with the qualifying thermal energy at each

replacement unit shall be calculated as follows:

$$\text{Fuel associated with Qualifying thermal energy} = \frac{\text{Qualifying thermal energy}}{\text{Efficiency constant}}$$

where,

“Qualifying thermal energy” for the replacement unit is as defined in paragraph (b)(1) of this section;

“Efficiency constant” for the replacement unit

= 0.85, where the replacement unit is a boiler

= 0.80, where the replacement unit is a co-generator

(3) *Allowances transferable from the opt-in source to each replacement unit.* The number of allowances transferable from the opt-in source to each replacement unit for the replacement of thermal energy is calculated as follows:

$$\text{transferable allowances for the replacement unit} = \frac{\text{Fuel Associated with Qualifying thermal energy} \times \text{allowable SO}_2 \text{ emission rate}_{\text{replacement unit}} \text{ (in lb/mmBtu)}}{2000}$$

where,

“Allowable SO<sub>2</sub> emission rate” for the replacement unit is as defined in paragraph (a)(3)(vii) of this section;

“Fuel associated with qualifying thermal energy” is as defined in paragraph (b)(2) of this section;

(c) *Transfer prohibition.* The allowances transferred from the opt-in source to each replacement unit shall not be transferred from the compliance account of the source that includes the replacement unit of the replacement unit to any other Allowance Tracking System account.

(d) *Compliance—(1) Annual compliance certification report.* (i) As required for all opt-in sources, the designated representative of the opt-in source covered by a thermal energy plan must submit an opt-in utilization report for the calendar year as part of its annual compliance certification report under § 74.44(c)(1).

(ii) The designated representative of an opt-in source must submit a thermal energy compliance report for the calendar year as part of the annual compliance certification report, which must include the following elements in a format prescribed by the Administrator:

(A) The name, authorized account representative identification number, and telephone number of the designated representative of the opt-in source;

(B) The name, authorized account representative identification number, and telephone number of the designated representative of each replacement unit;

(C) The account identification number in the Allowance Tracking System of the source that includes the opt-in source;

(D) The account identification number in the Allowance Tracking System of each source that includes a replacement unit;

(E) The actual amount of total thermal energy reduced at the opt-in source during the calendar year, in-

cluding all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application;

(F) The actual amount of thermal energy at each replacement unit, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, replacing the thermal energy at the opt-in source;

(G) The actual amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application;

(H) Actual total fuel input at each replacement unit as determined in accordance with part 75 of this chapter;

(I) Calculations of allowance adjustments to be performed by the Administrator in accordance with paragraph (d)(2) of this section.

(2) *Allowance adjustments by Administrator.* (i) The Administrator will adjust the number of allowances in the compliance account for each source that includes the opt-in source or a replacement unit to reflect any changes between the estimated values submitted in the thermal energy plan pursuant to paragraph (a) of this section and the actual values submitted in the thermal energy compliance report pursuant to paragraph (d) of this section. The values to be considered for this adjustment include:

(A) The number of allowances transferable by the opt-in source to each replacement unit, calculated in paragraph (b) of this section using the actual, rather than estimated, thermal energy at the replacement unit replacing thermal energy at the opt-in source.

(B) The number of allowances deducted from the compliance account of the source that includes the opt-in source, calculated under § 74.44(b)(2).

(ii) If the opt-in source includes in the opt-in utilization report under § 74.44 estimates for reductions in heat

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input, then the Administrator will adjust the number of allowances in the compliance account for each source that includes the opt-in source or a replacement unit to reflect any differences between the estimated values submitted in the opt-in utilization report and the actual values submitted in the confirmation report pursuant to § 74.44(c)(2).

(3) *Liability.* The owners and operators of an opt-in source or a replacement unit governed by an approved thermal energy plan shall be liable for any violation of the plan or this section at that opt-in source or replacement unit that is governed by the thermal energy plan, including liability for fulfilling the obligations specified in part 77 of this chapter and section 411 of the Act.

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18841, 18842, Apr. 16, 1998; 70 FR 25337, May 12, 2005]

### § 74.48 Transfer of allowances from the replacement of thermal energy—process sources. [Reserved]

### § 74.49 Calculation for deducting allowances.

(a) *Allowance deduction formula.* The following formula shall be used to determine the total number of allowances to be deducted for the calendar year from the allowances held in the compliance account of a source that includes an opt-in source as of the allowance transfer deadline applicable to that year:

Total allowances deducted = Tons emitted + Allowances deducted for reduced utilization where:

(1)(i) Except as provided in paragraph (a)(1)(ii) of this section, “Tons emitted” shall be the total tons of sulfur dioxide emitted by the opt-in source during the calendar year, as reported in accordance with subpart F of this part for combustion sources or subpart G of this part for process sources.

(ii) If the effective date of the opt-in source’s permit took effect on a date other than January 1, “Tons emitted” for the first calendar year shall be the total tons of sulfur dioxide emitted by the opt-in source during the calendar quarters for which the opt-in source’s opt-in permit is effective, as reported

in accordance with subpart F of this part for combustion sources or subpart G of this part for process sources.

(2) “Allowances deducted for reduced utilization” shall be the total number of allowances deducted for reduced utilization as calculated in accordance with § 74.44 for combustion sources or § 74.45 for process sources.

(b) [Reserved]

[60 FR 17115, Apr. 4, 1995, as amended at 70 FR 25337, May 12, 2005]

### § 74.50 Deducting opt-in source allowances from ATS accounts.

(a)(1) *Deduction of allowances.* The Administrator may deduct any allowances that were allocated to an opt-in source under § 74.40 by removing, from any Allowance Tracking System accounts in which they are held, the allowances in an amount specified in paragraph (d) of this section, under the following circumstances:

(i) When the opt-in source has permanently shut down; or

(ii) When the opt-in source has been reconstructed; or

(iii) When the opt-in source becomes an affected unit under § 72.6 of this chapter; or

(iv) When the opt-in source fails to renew its opt-in permit.

(2) An opt-in allowance may not be deducted under paragraph (a)(1) of this section from any Allowance Tracking System Account other than the account of the source that includes opt-in source allocated such allowance:

(i) After the Administrator has completed the process of recordation as set forth in § 73.34(a) of this chapter following the deduction of allowances from the compliance account of the source that includes the opt-in source for the year for which such allowance may first be used; or

(ii) If the opt-in source includes in the annual compliance certification report estimates of any reduction in heat input resulting from improved efficiency under § 74.44(a)(1)(i), after the Administrator has completed action on the confirmation report concerning such estimated reduction pursuant to § 74.44(c)(2)(iii)(E)(3), (4), and (5) for the year for which such allowance may first be used.

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(b) *Method of deduction.* The Administrator will deduct allowances beginning with those allowances with the latest recorded date of transfer out of the compliance account of the source that includes the opt-in source.

(c) *Notification of deduction.* When allowances are deducted, the Administrator will send a written notification to the authorized account representative of each Allowance Tracking System account from which allowances were deducted. The notification will state:

(1) The serial numbers of all allowances deducted from the account,

(2) The reason for deducting the allowances, and

(3) The date of deduction of the allowances.

(d) *Amount of deduction.* The Administrator may deduct allowances in accordance with paragraph (a) of this section in an amount required to offset any excess emissions in accordance with part 77 of this chapter and when the source that includes the opt-in source does not hold allowances equal in number to and with the same or earlier compliance use date for the calendar years specified under § 74.46(b)(1) (i) through (iv) in an amount required to be deducted under § 74.46(b)(1) (i) through (iv).

[60 FR 17115, Apr. 4, 1995, as amended at 63 FR 18842, Apr. 16, 1998; 70 FR 25337, May 12, 2005]

### Subpart F—Monitoring Emissions: Combustion Sources

#### § 74.60 Monitoring requirements.

(a) *Monitoring requirements for combustion sources.* The owner or operator of each combustion source shall meet all of the requirements specified in part 75 of this chapter for the owners and operators of an affected unit to install, certify, operate, and maintain a continuous emission monitoring system, an excepted monitoring system, or an approved alternative monitoring system in accordance with part 75 of this chapter.

(b) *Monitoring requirements for opt-in sources.* The owner or operator of each opt-in source shall install, certify, operate, and maintain a continuous emission monitoring system, an excepted

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monitoring system, an approved alternative monitoring system in accordance with part 75 of this chapter.

#### § 74.61 Monitoring plan.

(a) *Monitoring plan.* The designated representative of a combustion source shall meet all of the requirements specified under part 75 of this chapter for a designated representative of an affected unit to submit to the Administrator a monitoring plan that includes the information required in a monitoring plan under § 75.53 of this chapter. This monitoring plan shall be submitted as part of the combustion source's opt-in permit application under § 74.14 of this part.

(b) [Reserved]

### Subpart G—Monitoring Emissions: Process Sources [Reserved]

## PART 75—CONTINUOUS EMISSION MONITORING

### Subpart A—General

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