§ 73.35 Compliance.

(a) Allowance transfer deadline. No allowance shall be deducted for purposes of compliance with an affected source's sulfur dioxide Acid Rain emissions limitation requirements pursuant to title IV of the Act and paragraph (b) of this section unless:

(1) The compliance use date of the allowance is no later than the year in which the source's SO₂ emissions occurred; and

(2) The allowance is:

(i) Recorded in the source's compliance account; or

(ii) Transferred to the source's compliance account, with the transfer submitted correctly pursuant to subpart D of this part for recordation in the source's compliance account by not later than the allowance transfer deadline in the calendar year following the year for which compliance is being established; and

(3) The allowance was not previously deducted by the Administrator in accordance with a State SO₂ mass emissions reduction program under §51.124(o) of this chapter or otherwise permanently retired in accordance with §51.124(p) of this chapter.

(b) Deductions for compliance. (1) Except as provided in paragraph (d) of this section, following the recordation of transfers submitted correctly for recordation in the compliance account pursuant to paragraph (a) of this section and subpart D of this part, the Administrator will deduct allowances available for deduction under paragraph (a) of this section from each affected source's compliance account in accordance with the allowance deduction formula in §72.95 of this chapter, or, for opt-in sources, the allowance deduction formula in §74.49 of this chapter, and any correction made under §72.96 of this chapter.

(2) The Administrator will make deductions until either the number of allowances deducted is equal to the amount calculated in accordance with §72.95 of this chapter, or, for opt-in sources, in accordance with §74.49 of this chapter, as modified under §72.96 of this chapter or until no more allowances available for deduction under paragraph (a) of this section remain in the compliance account.

(ii) Notwithstanding paragraph (b)(3)(i) of this section, if the amount calculated results in less than 10 tons of excess emissions, the maximum deduction from other units shall be adjusted so that 10 tons of excess emissions, or the tons of excess emissions that would result if no allowances could be deducted from other units, whichever is less, remain for the unit.

(iii) If the authorized account representative submits within 15 days of receipt of a notification under paragraph (b)(3)(i) of this section a written request specifying allowances to deduct in accordance with paragraphs...
(b)(3)(i) and (ii) of this section, the Administrator will deduct such allowances, and reduce the tons of excess emissions otherwise at the unit by an equal amount, up to the amount calculated under paragraphs (b)(3)(i) and (ii) of this section.

(c)(1) Identification of allowances by serial number. The authorized account representative for a source's compliance account may request that specific allowances, identified by serial number, in the compliance account be deducted for a calendar year in accordance with paragraph (b) or (d) of this section. Such request shall be submitted to the Administrator by the allowance transfer deadline for the year and include, in a format prescribed by the Administrator, the identification of the source and the appropriate serial numbers.

(2) First-in, first-out. In the absence of an identification or in the case of a partial identification of allowances by serial number, as provided for in paragraph (b)(1) or (d) of this section, the Administrator will deduct allowances on a first-in, first-out (FIFO) accounting basis beginning with those allowances with the earliest compliance use date originally allocated for the units at the source and recorded in the source's compliance account. Following the deduction of all originally allocated allowances from the compliance account, the Administrator will deduct those allowances that were transferred and recorded in the source's compliance account pursuant to subpart D of this part, beginning with those with the earliest date of recordation.

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

§ 73.37 Account error.

The Administrator may, at his or her sole discretion and on his or her own motion, correct any error in any Allowance Tracking System account. Within 10 business days of making such correction, the Administrator will notify the authorized account representative for the account.

§ 73.38 Closing of accounts.

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

(b) Inactive accounts. If a general account shows no activity for a 12-month period or longer and does not contain any allowances, the Administrator may notify the account's authorized account representative that the account will be closed following 20 business days from the date the notice is sent. The account will be closed following the 20-day period, unless the Administrator receives and records a request for the transfer of allowances into the account pursuant to §73.52 before the end of the 20-day period, or the authorized account representative submits, in writing, demonstration of good cause as to why the inactive account should not be closed.

§ 73.36 Banking.

(a) Compliance accounts. Any allowance in a compliance account not deducted pursuant to §73.35 will remain in the compliance account.

(b) General accounts. In the case of a general account, any allowances in the general account not transferred pursuant to subpart D to another Allowance Tracking System account will remain in the general account.

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