

Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)

Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)

Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)

Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)

Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)

Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)

Rule 72 New Source Performance Standards (NSPS) (Adopted 6/28/94)

Rule 74 Specific Source Standards (Adopted 7/6/76)

Rule 74.1 Abrasive Blasting (Adopted 11/12/91)

Rule 74.2 Architectural Coatings (Adopted 08/11/92)

Rule 74.6 Surface Cleaning and Degreasing (Adopted 5/8/90)

Rule 74.6.1 Cold Cleaning Operations (Adopted 9/12/89)

Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 9/12/89)

Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 1/10/89)

Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)

Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)

Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 6/16/92)

Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NO_x (Adopted 4/9/85)

Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 12/13/94)

Rule 74.15 Boilers, Steam Generators and Process Heaters (5MM BTUs and greater) (Adopted 11/8/94)

Rule 74.15.1 Boilers, Steam Generators and Process Heaters (1-5MM BTUs)(Adopted 6/13/95)

Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)

Rule 74.20 Adhesives and Sealants (Adopted 6/8/93)

Rule 74.23 Stationary Gas Turbines (Adopted 3/14/95)

Rule 74.24 Marine Coating Operations (Adopted 3/8/94)

Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)

Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)

Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)

Rule 74.30 Wood Products Coatings (Adopted 5/17/94)

Rule 75 Circumvention (Adopted 11/27/78)

Appendix IV-A Soap Bubble Tests (Adopted 12/86)

Rule 100 Analytical Methods (Adopted 7/18/72)

Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)

Rule 102 Source Tests (Adopted 11/21/78)

Rule 103 Stack Monitoring (Adopted 6/4/91)

Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)

Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)

Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)

Rule 158 Source Abatement Plans (Adopted 9/17/91)

Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)

Rule 220 General Conformity (Adopted 5/9/95)

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BILLING CODE 6050-50-P

40 CFR Part 73

RIN 2060-AG41

[FRL-5513-4]

Acid Rain Program; Elimination of Direct Sale Program and IPP Written Guarantee Program: Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Title IV of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990, (the Act) authorized the U.S. Environmental Protection Agency to establish the Acid Rain Program to reduce the adverse health and ecological effects of acidic deposition. Under the Acid Rain Program, electric utilities must have an allowance for each ton of sulfur dioxide (SO₂) that their generating facilities emit. Title IV mandates that EPA hold or sponsor yearly auctions and direct sales of allowances for a small portion of the total allowances allocated each year. EPA is also required to make available to new independent power producers (IPPs) guarantees ensuring priority in purchasing allowances in the direct sales.

Section 416(c)(7) of the Act directs the Administrator to terminate the direct sale program if, during any two-year period, less than 20 percent of the allowances available for direct sales have been purchased. The direct sale and IPP provisions were designed to help ensure that units, including new IPPs, have a public source of allowances beyond those already allocated initially. Because no allowances have been sold through the direct sale program since it began in June 1993, EPA is revising its regulations to terminate the direct sales. The allowances available previously in the direct sale program will now be available in the annual allowance auctions, the proceeds of which will

continue to be returned to the utilities from which the allowances were withheld. In addition, because the IPP written guarantee program is implemented through the direct sales and no applications for such guarantees have been received, EPA is revising its regulations to terminate the guarantee program.

The rule revision is being issued as a direct final rule because the Act mandates this action and no adverse comment is expected.

DATES: This direct final rule will be effective on August 5, 1996, unless significant, adverse comments are received by July 8, 1996. If significant adverse comments are received on any portion of this direct final rule, that portion of the direct final rule will be withdrawn through a notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Kenon Smith, U.S. Environmental Protection Agency, Acid Rain Division (6204J), 401 M Street, SW, Washington, D.C. 20460, (202) 233-9164, call the Acid Rain Hotline at (202) 233-9620, or visit the Acid Rain Program web page at <http://www.epa.gov/docs/acidrain/ardhome.html>. All material supporting this notice is available for viewing and copying under Docket A-96-19, EPA Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Telephone (202) 260-7548.

SUPPLEMENTARY INFORMATION: Any significant adverse comments received on any portion of this direct final rule, by the date listed above, will be addressed in a subsequent final rule. That final rule will be based on the relevant portion of the rule revision that is noticed as a proposed rule in the Proposed Rule Section of this Federal Register and that is identical to this direct final rule.

EPA's Acid Rain Program established an innovative, market-based allowance trading system to reduce SO₂ emissions, one of the primary precursors of acid rain. Under this system, fossil fuel-fired power plants, the principal emitters of SO₂, were allotted tradeable allowances based on their past fuel usage and emissions. Each allowance entitles a boiler unit in a plant to emit 1 ton of SO₂ during or after the year specified in the allowance serial number. At the end of the year, the number of allowances a unit holds must equal or exceed the total emissions at that unit; otherwise, stringent penalties will apply. After the year 2000, the total number of allowances allocated each year will be about half of what the utility industry emitted in 1980.

Allowances may be bought, sold, or banked like any other commodity. If a unit has surplus allowances, it may sell them to units whose emissions levels exceed their allowance supply, or it may bank the allowances for future years.

Because the availability of allowances is crucial to ensure the economic efficiency of the emissions limitation program and facilitate the addition of new electric-generating capacity, title IV mandates that EPA hold or sponsor yearly auctions and direct sales of allowances for a small portion of the total allowances allocated each year. The auction and the direct sales include both spot sales (allowances first usable in the year of sale) and advance sales (allowances first usable in the 7th year after the year of sale). In addition, title IV requires that EPA provide a written guarantee ensuring priority for certain new independent power producers in purchasing allowances in the direct sales. The auctions, sales, and IPP guarantee provisions of title IV were designed to help ensure that units, including new IPPs, would have a public source of allowances beyond those allocated initially.

To supply the sales and auctions with allowances, EPA, as directed by the Act, has set aside in a Special Allowance Reserve 2.8 percent of the total annual allowances allocated to all units. During Phase I, when the allowances allocated total 5.7 million allowances annually, 150,000 allowances are available every year for auctions. During Phase II, when allowance allocations total 8.95 million allowances yearly, 200,000 allowances are earmarked annually for auctions and 50,000 designated for the direct sales. The Act set the direct sale price for allowances to be \$1,500 per allowance, adjusted by the Consumer Price Index.

Section 416(c)(7) of the Act directs the Administrator to terminate the direct sale subaccount and transfer such allowances to the auction subaccount "[i]f the Administrator determines that, during any period of 2 consecutive calendar years, less than 20 percent of the allowances available in the subaccount for direct sales established under this subsection have been purchased." 42 U.S.C. 76510(c)(7); see also 40 CFR 73.73(b). Since no allowances have ever been sold through the direct sale program since it began in 1993, EPA is terminating the direct sale program, beginning with the 1996 direct sale, and removing the regulations that established the program.

EPA is also revising part 73 to provide that the allowances available previously in the direct sale program will now be available in the annual allowance auctions, the proceeds of which will

continue to be returned to the utilities from which the allowances were originally withheld. As done in the previous three auctions, unsold advance allowances from the 1996 direct sale will be sold in the 6-year advance auction in the 1997 EPA auctions as allowances first usable in the 6th year after the year of sale. Allowances originally set aside for the advance direct sale in 1997, and each year thereafter, will be included in the advance auction of that respective year. Allowances originally set aside for the direct spot sales beginning in 2000, and each year thereafter, will be included in the spot auction of each respective year.

In addition, EPA is eliminating the IPP written guarantee program (and the relevant regulations) under which IPPs can apply for and receive priority for purchasing allowances in direct sales. Under section 417(c), the guarantee program is implemented exclusively through the direct sale program, which is being terminated. Further, since the publication of the regulations establishing the guarantee program in December 1991 (56 FR 65592 (December 17, 1991)), no applications have been submitted to obtain guaranteed allowances. Because the Act set the price of guaranteed allowances to be \$1,500.00 per allowance, adjusted by the Consumer Price Index (CPI), EPA does not expect there to be any applications. Sufficient quantities of allowances are readily available in the private market at prices well below the guaranteed price.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because the rule seems to raise novel legal or policy issues. As such, this action was submitted to OMB for review. Any written comments from OMB to EPA, any written EPA responses to those comments, and any changes made in response to OMB suggestions or recommendations are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **FOR FURTHER INFORMATION** section of this preamble.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this direct final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. However, as discussed in this preamble, the rule reduces the potential burden on regulated entities (which may include

some investor-owned or municipal utilities) of participating in direct sales or applying for written guarantees.

C. Paperwork Reduction Act

This rule does not provide for any new collection of information and, in fact, removes some information requirements of the current regulations. The removal of these requirements reduces the estimated burden, as compared to the burden under the current regulations, by an average of 48.5 hours per IPP guarantee application and 1.5 hours per direct sale application for an overall burden reduction from the original estimation of 4,850 hours. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An Information Collection Request document and estimates of the public reporting burden were prepared in connection with the current regulations establishing the direct sale and guarantee programs. 56 FR 65601.

Send comments regarding this collection of analysis or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, Information Policy Branch, EPA, 401 M Street, SW. (Mail Code 2136), Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, et seq., requires each federal agency to consider potential impacts of its regulations on small business "entities." Under 5 U.S.C. 604(a), an agency issuing a notice of proposed rulemaking must prepare and make available for public comment a regulatory flexibility analysis. Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

In the preamble of the current regulations establishing the direct sale and guarantee programs, the Administrator certified that those regulations, including the provisions revised by today's final rule, would not have a significant impact. 56 FR 65601. The final rule revisions adopted today are not significant enough to change the economic impact addressed in that preamble. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the

revised rule will not have a significant, adverse impact on a substantial number of small entities.

E. Miscellaneous

In accordance with section 117 of the Act, issuance of this rule was preceded by consultation with any appropriate advisory committees, independent experts, and federal departments and agencies.

List of Subjects in 40 CFR Part 73

Environmental protection, Acid rain, Air pollution control, Electric utilities, Reporting and recordkeeping requirements, and Sulfur dioxide.

Dated: May 24, 1996.

Carol M. Browner,

Administrator, U.S. Environmental Protection Agency.

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, et seq.

2. Section 73.70 is amended by revising table I of paragraph (a) as follows: **§ 73.70 Auctions.**

(a) * * *

TABLE I.—ALLOWANCE SCHEDULE FOR AUCTIONS

Year of purchase	Spot auction	Advance auction	Advance auction*
1993	50,000 ^a	100,000 ^b	
1994	50,000 ^a	100,000 ^b	25,000 ^c
1995	50,000 ^a	100,000 ^b	25,000 ^c
1996	150,000	100,000 ^b	25,000 ^c
1997	150,000	125,000 ^b	25,000 ^c
1998	150,000	125,000 ^b	
1999	150,000	125,000 ^b	
2000 and after	125,000	125,000 ^b	

^a Not usable until 1995.

^b Not usable until 7 years after purchase.

^c Not usable until 6 years after purchase.

*These are unsold advance allowances from the direct sale program for 1993, 1994, 1995, and 1996 respectively.

* * * * *

3. Section 73.72 is revised to read as follows:

§ 73.72 Direct sales.

Allowances that were formerly part of the direct sale program, which has been terminated under § 73.73(b), will be included in the annual allowance auctions in accordance with § 73.70(a).

4. Sections 73.74, 73.75, 73.76, and 73.77 are removed from subpart E.

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BILLING CODE 6560-50-P

40 CFR Part 80

[FRL-5513-3]

RIN 2060-AD55

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA published a direct final rule and an associated notice of proposed rulemaking of the same title on February 2, 1996 (61 FR 3832 and 61 FR 3894, respectively). Both actions were to revise EPA regulations to reflect the Clean Air Act's statutory prohibition of the introduction into commerce of gasoline containing lead or lead additives for use as a motor vehicle fuel after December 31, 1995. EPA received adverse comment on 40 CFR 80.24(b) as published in both the direct final rule and associated notice of proposed rulemaking. In response to that comment, EPA withdrew 40 CFR 80.24(b) from the direct final rule on March 4, 1996 (61 FR 8221). All other actions of the direct final rule became effective on March 4, 1996. In today's action, EPA is finalizing the revised 40 CFR 80.24(b) based on the February 2, 1996 notice of proposed rulemaking.

EFFECTIVE DATE: This action will become effective on July 8, 1996.

ADDRESSES: Materials relevant to this rulemaking and written comments on the direct final rule and notice of proposed rulemaking have been placed in Public Docket No. A-95-13, Waterside Mall (Room M-1500), Environmental Protection Agency, Air Docket Section, 401 M Street, SW., Washington, DC 20460. Documents may be inspected between the hours of 8 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Richard Babst, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9473.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Regulated categories and entities potentially affected by this action include: