

Environmental Protection Agency

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the allocation set-aside to the NO_x Budget unit.

(iv) Once an allocation set-aside for a control period has been depleted of all NO_x allowances, the permitting authority will deny, and will not allocate any NO_x allowances pursuant to, any NO_x allowance allocation request under which NO_x allowances have not already been allocated for the control period.

(6) Within 60 days of receipt of a NO_x allowance allocation request, the permitting authority will take appropriate action under paragraph (d)(5) of this section and notify the NO_x authorized account representative that submitted the request and the Administrator of the number of NO_x allowances (if any) allocated for the control period to the NO_x Budget unit.

(e) For a NO_x Budget unit that is allocated NO_x allowances under paragraph (d) of this section for a control period, the Administrator will deduct NO_x allowances under § 96.54(b) or (e) to account for the actual utilization of the unit during the control period. The Administrator will calculate the number of NO_x allowances to be deducted to account for the unit's actual utilization using the following formulas and rounding to the nearest whole NO_x allowance as appropriate, provided that the number of NO_x allowances to be deducted shall be zero if the number calculated is less than zero:

NO_x allowances deducted for actual utilization for units under § 96.4(a)(1) = (Unit's NO_x allowances allocated for control period) - (Unit's actual control period utilization × 0.15 lb/mmBtu); and

NO_x allowances deducted for actual utilization for units under § 96.4(a)(2) = (Unit's NO_x allowances allocated for control period) - (Unit's actual control period utilization × 0.17 lb/mmBtu)

Where:

“Unit's NO_x allowances allocated for control period” is the number of NO_x allowances allocated to the unit for the control period under paragraph (d) of this section; and

“Unit's actual control period utilization” is the utilization (in mmBtu), as defined in § 96.2, of the unit during the control period.

(f) After making the deductions for compliance under § 96.54(b) or (e) for a control period, the Administrator will notify the permitting authority whether any NO_x allowances remain in the allocation set-aside for the control period. The permitting authority will allocate any such NO_x allowances to the NO_x Budget units in the State using the following formula and rounding to the nearest whole NO_x allowance as appropriate:

Unit's share of NO_x allowances remaining in allocation set-aside = Total NO_x allowances remaining in allocation set-aside × (Unit's NO_x allowance allocation ÷ State trading program budget excluding allocation set-aside)

Where:

“Total NO_x allowances remaining in allocation set-aside” is the total number of NO_x allowances remaining in the allocation set-aside for the control period to which the allocation set-aside applies;

“Unit's NO_x allowance allocation” is the number of NO_x allowances allocated under paragraph (b) or (c) of this section to the unit for the control period to which the allocation set-aside applies; and

“State trading program budget excluding allocation set-aside” is the State trading program budget under § 96.40 for the control period to which the allocation set-aside applies multiplied by 95 percent if the control period is in 2003, 2004, or 2005 or 98 percent if the control period is in any year thereafter, rounded to the nearest whole NO_x allowance as appropriate.

[63 FR 57514, Oct. 27, 1998, as amended at 63 FR 71225, Dec. 24, 1998]

Subpart F—NO_x Allowance Tracking System

§ 96.50 NO_x Allowance Tracking System accounts.

(a) *Nature and function of compliance accounts and overdraft accounts.* Consistent with § 96.51(a), the Administrator will establish one compliance account for each NO_x Budget unit and one overdraft account for each source with one or more NO_x Budget units. Allocations of NO_x allowances pursuant to subpart E of this part or § 96.88 and deductions or transfers of NO_x allowances pursuant to § 96.31, § 96.54, § 96.56, subpart G of this part, or subpart I of

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this part will be recorded in the compliance accounts or overdraft accounts in accordance with this subpart.

(b) *Nature and function of general accounts.* Consistent with §96.51(b), the Administrator will establish, upon request, a general account for any person. Transfers of allowances pursuant to subpart G of this part will be recorded in the general account in accordance with this subpart.

§96.51 Establishment of accounts.

(a) *Compliance accounts and overdraft accounts.* Upon receipt of a complete account certificate of representation under §96.13, the Administrator will establish:

(1) A compliance account for each NO_x Budget unit for which the account certificate of representation was submitted; and

(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two or more NO_x Budget units.

(b) *General accounts.* (1) Any person may apply to open a general account for the purpose of holding and transferring allowances. A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(i) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NO_x authorized account representative and any alternate NO_x authorized account representative;

(ii) At the option of the NO_x authorized account representative, organization name and type of organization;

(iii) A list of all persons subject to a binding agreement for the NO_x authorized account representative or any alternate NO_x authorized account representative to represent their ownership interest with respect to the allowances held in the general account;

(iv) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: “I certify that I was selected as the NO_x authorized account representative or the NO_x alternate authorized account representative, as applicable, by an

agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account.”

(v) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(vi) Unless otherwise required by the permitting authority or the Administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the permitting authority or the Administrator. Neither the permitting authority nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Upon receipt by the Administrator of a complete application for a general account under paragraph (b)(1) of this section:

(i) The Administrator will establish a general account for the person or persons for whom the application is submitted.

(ii) The NO_x authorized account representative and any alternate NO_x authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_x allowances held in the general account in all matters pertaining to the NO_x Budget Trading Program, notwithstanding any agreement between the NO_x authorized account representative or any alternate NO_x authorized account representative and such person. Any such person shall be bound by any order or decision issued to the NO_x authorized account representative or any alternate NO_x authorized account representative by the Administrator or a court regarding the general account.