

Environmental Protection Agency

§97.43

“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 heat input” is the heat input (in mmBtu) of the unit during the control period.

(2) The Administrator will transfer any NO_x allowances deducted under paragraph (e)(1) of this section to the allocation set-aside for the control period for which they were allocated.

(f) After making the deductions for compliance under §97.54(b), (e), or (f) for a control period, the Administrator will determine whether any NO_x allowances remain in the allocation set-aside for the control period. The Administrator 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 number of NO_x allowances as appropriate:

$$\text{Unit's share of NO}_x \text{ allowances remaining in allocation set-aside} = \frac{\text{Total NO}_x \text{ allowances remaining in allocation set-aside} \times (\text{Unit's NO}_x \text{ allowance allocation})}{\text{State's trading program budget excluding allocation set-aside}}$$

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;

“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’s trading program budget excluding allocation set-aside” is the State’s trading program budget under §97.40 for the control period to which the allocation set-aside applies multiplied by 95 percent, rounded to the nearest whole number of NO_x allowances as appropriate.

(g) If the Administrator determines that NO_x allowances were allocated under paragraph (b), (c), or (d) of this section for a control period and the recipient of the allocation is not actually a NO_x Budget unit under §97.4(a), the Administrator will notify the NO_x authorized account representative and then will act in accordance with the following procedures:

(1)(i) The Administrator will not record such NO_x allowances for the

control period in an account under §97.53;

(ii) If the Administrator already recorded such NO_x allowances for the control period in an account under §97.53 and if the Administrator makes such determination before making all deductions pursuant to §97.54 (except deductions pursuant to §97.54(d)(2)) for the control period, then the Administrator will deduct from the account NO_x allowances equal in number to and allocated for the same or a prior control period as the NO_x allowances allocated to such recipient for the control period. The NO_x authorized account representative shall ensure that the account contains the NO_x allowances necessary for completion of such deduction. If account does not contain the necessary NO_x allowances, the Administrator will deduct the required number of NO_x allowances, regardless of the control period for which they were allocated, whenever NO_x allowances are recorded in the account; or

(iii) If the Administrator already recorded such NO_x allowances for the control period in an account under §97.53 and if the Administrator makes such determination after making all deductions pursuant to §97.54 (except deductions pursuant to §97.54(d)(2)) for the control period, then the Administrator will apply paragraph (g)(1)(ii) of this section to any subsequent control period for which NO_x allowances were allocated to such recipient.

(2) The Administrator will transfer the NO_x allowances that are not recorded, or that are deducted, pursuant to paragraph (g)(1) of this section to an allocation set-aside for the State in which such source is located.

[65 FR 2727, Jan. 18, 2000, as amended at 67 FR 21529, Apr. 30, 2002; 69 FR 21646, Apr. 21, 2004]

§97.43 Compliance Supplement Pool.

(a) For any NO_x Budget unit that reduces its NO_x emission rate in the 2001 through 2003 control period, the owners and operators may request early reduction credits in accordance with the following requirements:

(1) Each NO_x Budget unit for which the owners and operators intend to request, or request, any early reduction credits in accordance with paragraph

(a)(4) of this section shall monitor and report NO_x emissions in accordance with subpart H of this part starting in the 2000 control period and for each control period for which such early reduction credits are requested. The unit's percent monitor data availability shall not be less than 90 percent during the 2000 control period, and the unit must be in full compliance with any applicable State or Federal NO_x emission control requirements during 2000 through 2002.

(2) NO_x emission rate and heat input under paragraphs (a)(3) and (4) of this section shall be determined in accordance with subpart H of this part.

(3) Each NO_x Budget unit for which the owners and operators intend to request, or request, any early reduction credits under paragraph (a)(4) of this section shall reduce its NO_x emission rate, for each control period for which early reduction credits are requested, to less than both 0.25 lb/mmBtu and 80 percent of the unit's NO_x emission rate in the 2000 control period.

(4) The NO_x authorized account representative of a NO_x Budget unit that meets the requirements of paragraphs (a) (1) and (3) of this section may submit to the Administrator a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the control period for 2001 through 2003.

(i) In the early reduction credit request, the NO_x authorized account may request early reduction credits for such control period in an amount equal to the unit's heat input for such control period multiplied by the difference between 0.25 lb/mmBtu and the unit's NO_x emission rate for such control period, divided by 2000 lb/ton, and rounded to the nearest whole number of tons.

(ii) The early reduction credit request must be submitted, in a format specified by the Administrator, by February 1, 2004.

(b) For any NO_x Budget unit that is subject to the Ozone Transport Commission NO_x Budget Program under title I of the Clean Air Act, the owners and operators may request early reduction credits in accordance with the following requirements:

(1) The NO_x authorized account representative of the unit may submit to

the Administrator a request for early reduction credits in an amount equal to the amount of banked allowances under the Ozone Transport Commission NO_x Budget Program that were allocated for the control period in 2001 through 2003 and are held by the unit, in accordance with the Ozone Transport Commission NO_x Budget Program, as of the date of submission of the request. During the entire control period in 2001 through 2003 for which the allowances were allocated, the unit must have monitored and reported NO_x emissions in accordance with part 75 (except for subpart H) of this chapter and the Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program (January 28, 1997).

(2) The early reduction credit request under paragraph (b)(1) must be submitted, in a format specified by the Administrator, by February 1, 2004.

(3) The NO_x authorized account representative of the unit shall not submit a request for early reduction credits under paragraph (b)(1) of this section for banked allowances under the Ozone Transport Commission NO_x Budget Program that were allocated for any control period during which the unit made NO_x emission reductions for which he or she submits a request for early reduction credits under paragraph (a) of this section for the unit.

(c) The Administrator will review each early reduction credit request submitted in accordance with paragraph (a) or (b) of this section and will allocate NO_x allowances to NO_x Budget units in a given State and covered by such request as follows:

(1) Upon receipt of each early reduction credit request, the Administrator will make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirements of paragraph (a) or (b) of this section.

(2) After February 1, 2004, the Administrator will make available to the public a statement of the total number of early reduction credits requested by NO_x Budget units in the State.

(3) If the State's compliance supplement pool set forth in appendix D of this part has a number of NO_x allowances not less than the amount of early

reduction credits in all early reduction credit requests under paragraph (a) or (b) of this section for 2001 through 2003 (as adjusted under paragraph (c)(1) of this section) submitted by February 1, 2004, the Administrator will allocate to each NO_x Budget unit covered by such requests one allowance for each early reduction credit requested (as adjusted under paragraph (c)(1) of this section).

(4) If the State's compliance supplement pool set forth in appendix D of this part has a smaller number of NO_x allowances than the amount of early reduction credits in all early reduction credit requests under paragraph (a) or (b) of this section for 2001 through 2003 (as adjusted under paragraph (c)(1) of this section) submitted by February 1, 2004, the Administrator will allocate NO_x allowances to each NO_x Budget unit covered by such requests according to the following formula and rounding to the nearest whole number of NO_x allowances as appropriate:

Unit's allocation for early reduction credits = $\frac{\text{Unit's adjusted early reduction credits} \times (\text{State's compliance supplement pool})}{\text{Total adjusted early reduction credits for all units}}$

Where:

“Unit's allocation for early reduction credits” is the number of NO_x allowances allocated to the unit for early reduction credits.

“Unit's adjusted early reduction credits” is the amount of early reduction credits requested for the unit for 2001 and 2002 in early reduction credit requests under paragraph (a) or (b) of this section, as adjusted under paragraph (c)(1) of this section.

“State's compliance supplement pool” is the number of NO_x allowances in the State's compliance supplement pool set forth in appendix D of this part.

“Total adjusted early reduction credits for all units” is the amount of early reduction credits requested for all units for 2001 and 2002 in early reduction credit requests under paragraph (a) or (b) of this section, as adjusted under paragraph (c)(1) of this section.

(5) By April 1, 2004, the Administrator will determine by order the allocations under paragraph (c)(3) or (4) of this section. The Administrator will make available to the public each determination of NO_x allowance allocations and will provide an opportunity for submission of objections to the determina-

tion. Objections shall be limited to addressing whether the determination is in accordance with paragraph (c)(1), (3), or (4) of this section. Based on any such objections, the Administrator will adjust each determination to the extent necessary to ensure that it is in accordance with paragraph (c)(1), (3), or (4) of this section.

(6) By May 1, 2004, the Administrator will record the allocations under paragraph (c)(3) or (4) of this section.

(7) NO_x allowances recorded under paragraph (c)(6) of this section may be deducted for compliance under § 97.54 for the control period in 2004 or 2005. Notwithstanding § 97.55(a), the Administrator will deduct as retired any NO_x allowance that is recorded under paragraph (c)(6) of this section and that is not deducted for compliance under § 97.54 for the control period in 2003 or 2004.

[65 FR 2727, Jan. 18, 2000, as amended at 67 FR 21529, Apr. 30, 2002; 69 FR 21646, Apr. 21, 2004]

Subpart F—NO_x Allowance Tracking System

§ 97.50 NO_x Allowance Tracking System accounts.

(a) *Nature and function of compliance accounts and overdraft accounts.* Consistent with § 97.51(a), the Administrator will establish one compliance account for each NO_x Budget unit and one overdraft account for each source with two or more NO_x Budget units. Allocations of NO_x allowances pursuant to subpart E of this part or § 97.88, and deductions or transfers of NO_x allowances pursuant to § 97.31, § 96.54, § 96.56, subpart G of this part, or subpart I of this part will be recorded in compliance accounts or overdraft accounts in accordance with this subpart.

(b) *Nature and function of general accounts.* Consistent with § 97.51(b), the Administrator will establish, upon request, a general account for any person. Allocations of NO_x allowances pursuant to § 97.4(b)(4)(ii) or § 97.5(c)(2) and transfers of allowances pursuant to subpart G of this part will be recorded in general accounts in accordance with this subpart.