

“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<sub>x</sub> allowances deducted under paragraph (c)(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<sub>x</sub> allowances remain in the allocation set-aside for the control period. The Administrator will allocate any such NO<sub>x</sub> allowances to the NO<sub>x</sub> Budget units in the State using the following formula and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate:

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

Where:

“Total NO<sub>x</sub> allowances remaining in allocation set-aside” is the total number of NO<sub>x</sub> allowances remaining in the allocation set-aside for the control period;

“Unit’s NO<sub>x</sub> allowance allocation” is the number of NO<sub>x</sub> 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<sub>x</sub> allowances as appropriate.

(g) If the Administrator determines that NO<sub>x</sub> 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<sub>x</sub> Budget unit under § 97.4(a), the Administrator will notify the NO<sub>x</sub> authorized account representative and then will act in accordance with the following procedures:

(1)(i) The Administrator will not record such NO<sub>x</sub> allowances for the control period in an account under § 97.53;

(ii) If the Administrator already recorded such NO<sub>x</sub> 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<sub>x</sub> allowances equal in number to and allocated for the same or a prior control period as the NO<sub>x</sub> allowances allocated to such recipient for the control period. The NO<sub>x</sub> authorized account representative shall ensure that the account contains the NO<sub>x</sub> allowances necessary for completion of such deduction. If account does not contain the necessary NO<sub>x</sub> allowances, the Administrator will deduct the required number of NO<sub>x</sub> allowances, regardless of the control period for which they were allocated, whenever NO<sub>x</sub> allowances are recorded in the account; or

(iii) If the Administrator already recorded such NO<sub>x</sub> 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<sub>x</sub> allowances were allocated to such recipient.

(2) The Administrator will transfer the NO<sub>x</sub> 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.

#### § 97.43 Compliance Supplement Pool.

(a) For any NO<sub>x</sub> Budget unit that reduces its NO<sub>x</sub> emission rate in the 2001 or 2002 control period, the owners and operators may request early reduction credits in accordance with the following requirements:

(1) Each NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> emission control requirements during 2000 through 2002.

(2) NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> emission rate in the 2000 control period.

(4) The NO<sub>x</sub> authorized account representative of a NO<sub>x</sub> 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<sub>x</sub> emission rate reductions made by the unit in the control period for 2001 or 2002.

(i) In the early reduction credit request, the NO<sub>x</sub> 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<sub>x</sub> 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, 2003.

(b) For any NO<sub>x</sub> Budget unit that is subject to the Ozone Transport Commission NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> Budget Program that were allocated for the control period in 2001 or

2002 and are held by the unit, in accordance with the Ozone Transport Commission NO<sub>x</sub> Budget Program, as of the date of submission of the request. During the entire control period in 2001 or 2002 for which the allowances were allocated, the unit must have monitored and reported NO<sub>x</sub> 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<sub>x</sub> 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, 2003.

(3) The NO<sub>x</sub> 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<sub>x</sub> Budget Program that were allocated for any control period during which the unit made NO<sub>x</sub> 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<sub>x</sub> allowances to NO<sub>x</sub> 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, 2003, the Administrator will make available to the public a statement of the total number of early reduction credits requested by NO<sub>x</sub> 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<sub>x</sub> 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 and 2002 (as adjusted under paragraph (c)(1) of this section) submitted by February 1, 2003, the Administrator will allocate to each

## Environmental Protection Agency

## §97.51

NO<sub>x</sub> 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<sub>x</sub> allowances than the amount of early reduction credits in all early reduction credit requests under paragraph (a) or (b) of this section for 2001 and 2002 (as adjusted under paragraph (c)(1) of this section) submitted by February 1, 2003, the Administrator will allocate NO<sub>x</sub> allowances to each NO<sub>x</sub> Budget unit covered by such requests according to the following formula and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate:

Unit's allocation for early reduction credits = Unit's adjusted early reduction credits × (State's compliance supplement pool ÷ Total adjusted early reduction credits for all units)

Where:

"Unit's allocation for early reduction credits" is the number of NO<sub>x</sub> 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<sub>x</sub> 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, 2003, 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<sub>x</sub> allowance allocations and will provide an opportunity for submission of objections to the determination. 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 ac-

cordance with paragraph (c)(1), (3), or (4) of this section.

(6) By May 1, 2003, the Administrator will record the allocations under paragraph (c)(3) or (4) of this section.

(7) NO<sub>x</sub> allowances recorded under paragraph (c)(6) of this section may be deducted for compliance under §97.54 for the control period in 2003 or 2004. Notwithstanding §97.55(a), the Administrator will deduct as retired any NO<sub>x</sub> 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.

(8) NO<sub>x</sub> allowances recorded under paragraph (c)(6) of this section are treated as banked allowances in 2004 for the purposes of §§97.54(f) and 97.55(b).

### Subpart F—NO<sub>x</sub> Allowance Tracking System

#### §97.50 NO<sub>x</sub> 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<sub>x</sub> Budget unit and one overdraft account for each source with two or more NO<sub>x</sub> Budget units. Allocations of NO<sub>x</sub> allowances pursuant to subpart E of this part or §97.88, and deductions or transfers of NO<sub>x</sub> 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<sub>x</sub> 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.

#### §97.51 Establishment of accounts.

(a) *Compliance accounts and overdraft accounts.* Upon receipt of a complete account certificate of representation under §97.13, the Administrator will establish: