

application as necessary for the Secretary to make a determination that the applicant meets the requirements of § 73.28(a)(9) and (b). Additional information or revised applications will be processed according to the date of receipt of such information or revisions.

(c) *Notification of approval.* The Secretary of Energy will review the net income neutrality application to determine whether it meets the requirements of § 73.82 (a)(9) and (b) and will certify this finding in writing to the applicant and to the Administrator within 60 calendar days of receipt of the net income neutrality application or a revised application, except that the Secretary may specify a later date for certification.

**§ 73.84 Administrator's action on applications.**

(a) *First come, first served.* The Administrator will process and approve Allowance Reserve applications, in whole or in part, on a "first-come, first-served" basis as established by the order of date of receipt, provided that the Administrator shall not allocate more than a total of 30,000 allowances in connection with applications based on any one of the four categories of qualified renewable energy generation enumerated in § 73.81(c)(2)(i) and appendix A(3.1-3.4).

(b) *Deficient applications.* An application is deficient and will be returned by the Administrator if it fails to meet the requirements set forth in this subpart, including those set forth in § 73.82. A revised application that is submitted after being returned for failure to meet the requirements of this subpart will be processed according to the date of receipt of the revised application.

(c) *Notification of approval.* Applications that the Administrator determines to be complete and correct will be conditionally approved, subject to notification to EPA of a net income neutrality certification from the Department of Energy, within 120 calendar days of receipt. Allowances from the Reserve will be awarded subject to the Department of Energy certification, or, if a DOE certification has already been issued to the applicant, allocated to applicants from such applications depending on the avail-

ability of allowances in the Reserve. In the event the initial application approval is conditioned upon the Secretary of Energy's certification, final approval will be granted upon notification of certification by the Secretary of Energy pursuant to § 73.83. The Administrator will notify applicants of final approval in writing.

(d) *Allocation of allowances.* Beginning in 1995, the Administrator will allocate allowances from the Reserve for each approved application into the applicant's account or accounts in the Allowance Tracking System. If the applicant does not have an account in the Allowance Tracking System, or wishes to open a new account for the allowances from the Reserve, an application pursuant to § 73.31(c) must accompany the application for Reserve allowances.

(e) *Partial fulfillment of requests.* (1) In the event that the allowances available in the Reserve are less than the number that could otherwise be allocated to an approved applicant's account under the application as approved, the applicant will receive the allowances remaining in the Reserve.

(2) In the event that a subaccount is established by EPA, pursuant to § 73.85, and the applicant is making a request for allowances not included in the subaccount, the Allowance Reserve allocations for the approved applicant will be made, in addition to any that may be allocated pursuant to paragraph (f)(3) of this section, from any allowances remaining in the Reserve that are not contained in the subaccount.

(f) *Oversubscription of the Reserve.*(1) In the event that the Reserve becomes oversubscribed by more than one applicant on a single day, the allowances remaining in the Reserve will be distributed on a pro rata basis to applicants meeting the requirements of § 73.82.

(2) If Reserve applications are received by the Administrator after all allowances from the Reserve have been allocated, the Administrator will so notify the applicant within 5 business days after receipt of the application.

(3) In the event that applications meeting the requirements pursuant to § 73.82 are received by the Administrator prior to February 1, 1998, and

## Environmental Protection Agency

## § 73.86

(i) All remaining allowances in the Reserve have been placed in a subaccount pursuant to § 73.85; and

(ii) The applicant is not eligible for an allocation of allowances from the subaccount; the application will be placed on a waiting list in order of receipt.

(iii) The Administrator will notify the applicant of such action within 5 business days after receipt of the application.

(4) If any allowances are returned to the Reserve after February 1, 1998 pursuant to § 73.85(c), the Administrator will review the wait-listed applications in order of receipt and allocate any remaining allowances to the approved applicants in the order of their receipt until no more allowances remain in the Reserve.

(g) *Applications for allowances based on the same avoided emissions from the same energy conservation measures or renewable energy generation.*(1) The Administrator will not award allowances to more than one applicant for the same avoided emissions from the same energy conservation measure or the same qualified renewable energy generation, and will process and act on such duplicative applications on a "first-come, first-serve" basis as determined by the order of date of receipt.

(2) Any allowances awarded pursuant to two or more applications received on the same date based on the same avoided emissions from the same energy conservation measure or the same renewable electric generation will be divided equally between all such applicants unless the Administrator is otherwise directed by all such applicants.

### § 73.85 Administrator review of the reserve program.

(a) *Administrator review of the Reserve and creation of a subaccount.* In the event that an allocation of allowances from the Reserve pursuant to a pending application would bring the total number of allowances allocated to a number greater than 240,000, the Administrator will review the distribution of all allowances allocated as follows:

(1) If at least 60,000 allowances have been allocated from the Reserve for each of

(i) Qualified energy conservation measures, and

(ii) Qualified renewable energy generation, allocations of allowances will continue pursuant to § 73.82, until no more allowances remain in the Reserve.

(2) If fewer than 60,000 allowances have been allocated for either qualified energy conservation measures or qualified renewable energy generation, the Administrator will establish a subaccount for the allocation of allowances for applications based on the category for which fewer than 60,000 allowances have been allocated. The subaccount will contain allowances equal to 60,000 less the number of allowances previously allocated for such category.

(b) *Allocation of allowances from the subaccount.* The Administrator will allocate allowances from the subaccount established pursuant to paragraph (a) of this section to approved and DOE certified applicants that fulfill the requirements of this subpart, including § 73.82 and § 73.83, on a "first-come, first-served basis", pursuant to § 73.84(a), until the subaccount is depleted or closed pursuant to paragraph (c) of this section.

(c) *Closure of the subaccount.* Unless all allowances in the subaccount have been previously allocated, the Administrator will terminate the subaccount not later than February 1, 1998 and return any allowances remaining in the subaccount to the general account of the Reserve. After all Reserve allocations have been made to applicants with approved and DOE certified applications subject to § 73.84(f)(3), the Administrator will allocate any remaining allowances to any applicants that meet the requirements of this subpart, including § 73.82 and § 73.83, on a "first-come, first-served" basis, pursuant to § 73.84.

### § 73.86 State regulatory autonomy.

Nothing in this subpart shall preclude a State or State regulatory authority from providing additional incentives to utilities to encourage investment in any conservation measures or renewable energy generation.