

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.