

## Environmental Protection Agency

## § 73.83

for any calendar year shall be equal to the product of:

$$\frac{(A) \times (B)}{2000 \text{ lbs./ton}}$$

(ROUNDED TO THE NEAREST TON)

where:

(A) = the actual kilowatt hours of qualified renewable energy generated or purchased by the applicant (based on the qualified renewable energy generation portion for hybrid generation).

(B) = 0.004 lbs. of sulfur dioxide per kilowatt hour.

(e) *Certification by Applicant's Certifying Official.*

(1) Certification of all application requirements, including the net income neutrality requirements, shall be made by a certifying official of the applicant upon such official's verification of all information and documentation submitted.

(2) The applicant shall submit a certification statement signed by the applicant's certifying official that reads "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the information is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false material information, or omitting material information, including the possibility of fine or imprisonment for violations."

(f) *Certification by State Utility Regulatory Authority.* Applicants subject to the ratemaking jurisdiction of a State utility regulatory authority shall include in their applications a certification by the State utility regulatory authority's certifying official that it has reviewed the application, including supporting documentation, and finds it to be accurate, complete, and consistent with all applicable requirements of this subpart.

(g) *Time period to apply.* (1) Beginning no earlier than July 1, 1993, and no earlier than July 1 of each subsequent year, applicants may apply to the Ad-

ministrator for allowances from the Reserve for emissions avoided in a previous year or years by use of qualified energy conservation measures or qualified renewable energy generation that became operational during the period of applicability; and

(2) Beginning no earlier than January 1, 1993, any applicant may apply to the Secretary of Energy for the Secretary's certification of net income neutrality where the application is based on the use of one or more qualified energy conservation measures.

(3) Applications will be received by the Administrator and the Secretary of Energy until January 2, 2010, pursuant to § 73.80(c), or until no allowances remain in the Reserve.

(h) *Submittal location.* Applicants shall submit one copy of the completed Reserve application, not including the net income neutrality application, via registered mail to the Administrator at an address to be specified in later guidance. Applicants shall submit 10 copies of the net income neutrality application via registered mail to the Department of Energy at the following address: Department of Energy, Office of Conservation and Renewable Energy, Mail Stop CE-10, Room 6c-036, 1000 Independence Avenue, SW., Washington, DC 20585, Attn: Net Income Neutrality Certification.

[58 FR 3695, Jan. 11, 1993; 58 FR 40747, July 30, 1993]

### § 73.83 Secretary of Energy's action on net income neutrality applications.

(a) *First come, first served.* The Secretary of Energy will process and certify net income neutrality applications on a "first-come, first served" basis, according to the order, by date and time, in which they are received from either the applicant or, in the case of an application submitted to the Administrator and then forwarded to the Secretary, from the Administrator.

(b) *Deficient applications.* If the Secretary of Energy determines that the net income neutrality certification application does not meet the requirements of § 73.82 (a)(9) and (b), the Secretary will notify the applicant and the Administrator in writing of the deficiency. The applicant may then supply additional information or a new revised

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