

## Environmental Protection Agency

## § 97.30

I of 40 CFR part 97 is operating, as that term is defined under 40 CFR 97.2.”

### § 97.23 NO<sub>x</sub> Budget permit contents.

(a) Each NO<sub>x</sub> Budget permit will contain, in a format prescribed by the permitting authority, all elements required for a complete NO<sub>x</sub> Budget permit application under § 97.22.

(b) Each NO<sub>x</sub> Budget permit is deemed to incorporate automatically the definitions of terms under § 97.2 and, upon recordation by the Administrator under subpart F or G of this part, every allocation, transfer, or deduction of a NO<sub>x</sub> allowance to or from the compliance accounts of the NO<sub>x</sub> Budget units covered by the permit or the overdraft account of the NO<sub>x</sub> Budget source covered by the permit.

### § 97.24 NO<sub>x</sub> Budget permit revisions.

(a) For a NO<sub>x</sub> Budget source with a title V operating permit, except as provided in § 97.23(b), the permitting authority will revise the NO<sub>x</sub> Budget permit, as necessary, in accordance with the permitting authority's title V operating permits regulations addressing permit revisions.

(b) For a NO<sub>x</sub> Budget source with a non-title V permit, except as provided in § 97.23(b), the permitting authority will revise the NO<sub>x</sub> Budget permit, as necessary, in accordance with the permitting authority's non-title V permits regulations addressing permit revisions.

## Subpart D—Compliance Certification

### § 97.30 Compliance certification report.

(a) *Applicability and deadline.* For each control period in which one or more NO<sub>x</sub> Budget units at a source are subject to the NO<sub>x</sub> Budget emissions limitation, the NO<sub>x</sub> authorized account representative of the source shall submit to the permitting authority and the Administrator by November 30 of that year, a compliance certification report for each source covering all such units.

(b) *Contents of report.* The NO<sub>x</sub> authorized account representative shall include in the compliance certification report under paragraph (a) of this sec-

tion the following elements, in a format prescribed by the Administrator, concerning each unit at the source and subject to the NO<sub>x</sub> Budget emissions limitation for the control period covered by the report:

(1) Identification of each NO<sub>x</sub> Budget unit;

(2) At the NO<sub>x</sub> authorized account representative's option, the serial numbers of the NO<sub>x</sub> allowances that are to be deducted from each unit's compliance account under § 97.54 for the control period;

(3) At the NO<sub>x</sub> authorized account representative's option, for units sharing a common stack and having NO<sub>x</sub> emissions that are not monitored separately or apportioned in accordance with subpart H of this part, the percentage of allowances that is to be deducted from each unit's compliance account under § 97.54(e); and

(4) The compliance certification under paragraph (c) of this section.

(c) *Compliance certification.* In the compliance certification report under paragraph (a) of this section, the NO<sub>x</sub> authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO<sub>x</sub> Budget units at the source in compliance with the NO<sub>x</sub> Budget Trading Program, whether each NO<sub>x</sub> Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO<sub>x</sub> Budget Trading Program applicable to the unit, including:

(1) Whether the unit was operated in compliance with the NO<sub>x</sub> Budget emissions limitation;

(2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit and contains all information necessary to attribute NO<sub>x</sub> emissions to the unit, in accordance with subpart H of this part;

(3) Whether all the NO<sub>x</sub> emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures

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and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subpart H of this part. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made;

(4) Whether the facts that form the basis for certification under subpart H of this part of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under subpart H of this part, if any, have changed; and

(5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

**§ 97.31 Administrator's action on compliance certifications.**

(a) The Administrator may review and conduct independent audits concerning any compliance certification or any other submission under the NO<sub>x</sub> Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(b) The Administrator may deduct NO<sub>x</sub> allowances from or transfer NO<sub>x</sub> allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under paragraph (a) of this section.

**Subpart E—NO<sub>x</sub> Allowance Allocations**

**§ 97.40 Trading program budget.**

In accordance with §§ 97.41 and 97.42, the Administrator will allocate to the NO<sub>x</sub> Budget units under § 97.4(a) in a State, for each control period specified in § 97.41, a total number of NO<sub>x</sub> allow-

ances equal to the trading budget for the State, as set forth in appendix C of this part, less the sum of the NO<sub>x</sub> emission limitations (in tons) for each unit exempt under § 97.4(b) that is not allocated any NO<sub>x</sub> allowances under § 97.42 (b) or (c) for the control period and whose NO<sub>x</sub> emission limitation (in tons of NO<sub>x</sub>) is not included in the amount calculated under § 97.42(d)(5)(ii)(B) for the control period.

[65 FR 2727, Jan. 18, 2000, as amended at 69 FR 21646, Apr. 21, 2004]

**§ 97.41 Timing requirements for NO<sub>x</sub> allowance allocations.**

(a) The NO<sub>x</sub> allowance allocations, determined in accordance with §§ 97.42(a) through (c), for the control periods in 2004 through 2007 are set forth in appendices A and B of this part.

(b) By April 1, 2005, the Administrator will determine by order the NO<sub>x</sub> allowance allocations, in accordance with §§ 97.42 (a) through (c), for the control periods in 2008 through 2012.

(c) By April 1, 2010, by April 1 of 2015, and thereafter by April 1 of the year that is 5 years after the last year for which NO<sub>x</sub> allowances allocations are determined, the Administrator will determine by order the NO<sub>x</sub> allowance allocations, in accordance with §§ 97.42(a) through (c), for the control periods in the years that are 3, 4, 5, 6, and 7 years after the applicable deadline under this paragraph (c).

(d) By April 1, 2004 and April 1 of each year thereafter, the Administrator will determine by order the NO<sub>x</sub> allowance allocations, in accordance with § 97.42(d), for the control period in the year of the applicable deadline under this paragraph (d).

(e) The Administrator will make available to the public each determination of NO<sub>x</sub> allowance allocations under paragraph (b), (c), or (d) of this section 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 § 97.42.