

allowances requested (as adjusted under paragraph (c)(4)(i) of this section), multiplied by the amount of CAIR NO<sub>x</sub> Ozone Season allowances in the new unit set-aside for the control period, divided by the sum determined under paragraph (c)(4)(ii) of this section, and rounded to the nearest whole allowance as appropriate.

(v) The Administrator will notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO<sub>x</sub> Ozone Season allowances (if any) allocated for the control period to the CAIR NO<sub>x</sub> Ozone Season unit covered by the request.

(d) If, after completion of the procedures under paragraph (c)(4) of this section for a control period, any unallocated CAIR NO<sub>x</sub> Ozone Season allowances remain in the new unit set-aside under paragraph (c) of this section for a State for the control period, the Administrator will allocate to each CAIR NO<sub>x</sub> Ozone Season unit that was allocated CAIR NO<sub>x</sub> Ozone Season allowances under paragraph (b) of this section in the State an amount of CAIR NO<sub>x</sub> Ozone Season allowances equal to the total amount of such remaining unallocated CAIR NO<sub>x</sub> Ozone Season allowances, multiplied by the unit's allocation under paragraph (b) of this section, divided by 95 percent for a control period during 2009 through 2014, and 97 percent for a control period during 2015 and thereafter, of the amount of tons of NO<sub>x</sub> emissions in the applicable State trading budget under § 97.340, and rounded to the nearest whole allowance as appropriate.

(e) If the Administrator determines that CAIR NO<sub>x</sub> Ozone Season allowances were allocated under paragraphs (a) and (b) of this section, paragraphs (a) and (c) of this section, or paragraph (d) of this section for a control period and that the recipient of the allocation is not actually a CAIR NO<sub>x</sub> Ozone Season unit under § 97.304 in such control period, then the Administrator will notify the CAIR designated representative and will act in accordance with the following procedures:

(1) Except as provided in paragraph (e)(2) or (3) of this section, the Administrator will not record such CAIR NO<sub>x</sub> Ozone Season allowances under § 97.353.

(2) If the Administrator already recorded such CAIR NO<sub>x</sub> Ozone Season allowances under § 97.353 and if the Administrator makes such determinations before making deductions for the source that includes such recipient under § 97.354(b) for the control period, then the Administrator will deduct from the account in which such CAIR NO<sub>x</sub> Ozone Season allowances were recorded under § 97.353 an amount of CAIR NO<sub>x</sub> Ozone Season allowances allocated for the same or a prior control period equal to the amount of such already recorded CAIR NO<sub>x</sub> Ozone Season allowances. The CAIR designated representative shall ensure that there are sufficient CAIR NO<sub>x</sub> Ozone Season allowances in such account for completion of the deduction.

(3) If the Administrator already recorded such CAIR NO<sub>x</sub> Ozone Season allowances under § 97.353 and if the Administrator makes such determinations after making deductions for the source that includes such recipient under § 97.354(b) for the control period, then the Administrator will apply paragraph (e)(1) or (2) of this section, as appropriate, to any subsequent control period for which CAIR NO<sub>x</sub> Ozone Season allowances were allocated to such recipient.

(4) The Administrator will transfer the CAIR NO<sub>x</sub> Ozone Season allowances that are not recorded, or that are deducted, in accordance with paragraphs (e)(1), (2), and (3) of this section to a new unit set-aside for the State in which such recipient is located.

**§ 97.343 Alternative of allocation of CAIR NO<sub>x</sub> Ozone Season allowances by permitting authority.**

(a) Notwithstanding §§ 97.341, 97.342, and 97.353 if a State submits, and the Administrator approves, a State implementation plan revision in accordance with § 51.123(ee)(2) of this chapter providing for allocation of CAIR NO<sub>x</sub> Ozone Season allowances by the permitting authority, then the permitting authority shall make such allocations in accordance with such approved State implementation plan revision, the Administrator will not make allocations under §§ 97.341 and 97.342 for the CAIR NO<sub>x</sub> Ozone Season units in the

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State, and under § 97.353, the Administrator will record allocations made under such approved State implementation plan revision instead of allocations under §§ 97.341 and 97.342.

(b) In implementing paragraph(a) of this section and §§ 97.341, 97.342, and 97.353, the Administrator will ensure that the total amount of CAIR NO<sub>x</sub> Ozone Season allowances allocated, under such provisions and under a State's State implementation plan revision approved in accordance with § 51.123(ee)(2) of this chapter, for a control period for CAIR NO<sub>x</sub> Ozone Season sources in the State or for other entities specified by the permitting authority will not exceed the State's State trading budget for the year of the control period.

### APPENDIX A TO SUBPART EEEEE OF PART 97—STATES WITH APPROVED STATE IMPLEMENTATION PLAN REVISIONS CONCERNING ALLOCATIONS

The following States have State Implementation Plan revisions under § 51.123(ee)(2) of this chapter approved by the Administrator and providing for allocation of CAIR NO<sub>x</sub> Ozone Season allowances by the permitting authority under § 97.344(a):

[Reserved]

### Subpart FFFF—CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System

#### § 97.350 [Reserved]

#### § 97.351 Establishment of accounts.

(a) *Compliance accounts.* Except as provided in § 97.384(e), upon receipt of a complete certificate of representation under § 97.313, the Administrator will establish a compliance account for the CAIR NO<sub>x</sub> Ozone Season source for which the certificate of representation was submitted, unless the source already has a compliance account.

(b) *General accounts—(1) Application for general account.* (i) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO<sub>x</sub> Ozone Season allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who

may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.

(ii) A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(A) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative;

(B) Organization name and type of organization, if applicable;

(C) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO<sub>x</sub> Ozone Season allowances held in the general account;

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO<sub>x</sub> Ozone Season allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> Ozone Season Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."

(E) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.