

## § 97.31

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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.

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Based on any such objections, the Administrator will adjust each determination to the extent necessary to ensure that it is in accordance with § 97.42.

[65 FR 2727, Jan. 18, 2000, as amended at 67 FR 21529, Apr. 30, 2002]

### § 97.42 NO<sub>x</sub> allowance allocations.

(a)(1) The heat input (in mmBtu) used for calculating NO<sub>x</sub> allowance allocations for each NO<sub>x</sub> Budget unit under § 97.4(a) will be:

(i) For a NO<sub>x</sub> allowance allocation under § 97.41(a):

(A) For a unit under § 97.4(a)(1), the average of the two highest amounts of the unit's heat input for the control periods in 1995 through 1998; or

(B) For a unit under § 97.4(a)(2), the control period in 1995 or, if the Administrator determines that reasonably reliable data are available for control periods in 1996 through 1998, the average of the two highest amounts of the unit's heat input for the control periods in 1995 through 1998.

(ii) For a NO<sub>x</sub> allowance allocation under § 97.41(b), the unit's average heat input for the control periods in 2002 through 2004.

(iii) For a NO<sub>x</sub> allowance allocation under § 97.41(c), the unit's average heat input for the control period in the years that are 4, 5, 6, 7, and 8 years before the first year for which the allocation is being calculated.

(2) The unit's heat input for the control period in each year specified under paragraph (a)(1) of this section will be determined in accordance with part 75 of this chapter. Notwithstanding the first sentence of this paragraph (a)(2):

(i) For a NO<sub>x</sub> allowance allocation under § 97.41(a), such heat input will be determined using the best available data reported to the Administrator for the unit if the unit was not otherwise subject to the requirements of part 75 of this chapter for the control period.

(ii) For a NO<sub>x</sub> allowance allocation under § 97.41(b) or (c) for a unit exempt under § 97.4(b), such heat input shall be treated as zero if the unit is exempt under § 97.4(b) during the control period.

(b) For each group of control periods specified in § 97.41(a) through (c), the Administrator will allocate to all NO<sub>x</sub>

Budget units in a given State under § 97.4(a)(1) that commenced operation before May 1, 1997 for allocations under § 97.41(a), May 1, 2003 for allocations under § 97.41(b), and May 1 of the year 5 years before the first year for which the allocation under § 97.41(c) is being calculated, a total number of NO<sub>x</sub> allowances equal to 95 percent of the portion of the State's trading program budget under § 97.40 covering such units. The Administrator will allocate in accordance with the following procedures:

(1) The Administrator will allocate NO<sub>x</sub> allowances to each NO<sub>x</sub> Budget unit under § 97.4(a)(1) for each control period in an amount equaling 0.15 lb/mmBtu multiplied by the heat input determined under paragraph (a) of this section, divided by 2,000 lb/ton, and rounded to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(2) If the initial total number of NO<sub>x</sub> allowances allocated to all NO<sub>x</sub> Budget units under § 97.4(a)(1) in the State for a control period under paragraph (b)(1) of this section does not equal 95 percent of the portion of the State's trading program budget under § 97.40 covering such units, the Administrator will adjust the total number of NO<sub>x</sub> allowances allocated to all such NO<sub>x</sub> Budget units for the control period under paragraph (b)(1) of this section so that the total number of NO<sub>x</sub> allowances allocated equals 95 percent of such portion of the State's trading program budget. This adjustment will be made by: multiplying each unit's allocation by 95 percent of such portion of the State's trading program budget; dividing by the total number of NO<sub>x</sub> allowances allocated under paragraph (b)(1) of this section for the control period; and rounding to the nearest whole number of NO<sub>x</sub> allowances as appropriate.

(c) For each group of control periods specified in § 97.41(a) through (c), the Administrator will allocate to all NO<sub>x</sub> Budget units in a given State under § 97.4(a)(2) that commenced operation before May 1, 1997 for allocations under § 97.41(a), May 1, 2003 for allocations under § 97.41(b), and May 1 of the year 5 years before the first year for which the allocation under § 97.41(c) is being