

## Environmental Protection Agency

## § 73.81

### § 73.73 Delegation of auctions and sales and termination of auctions and sales.

(a) *Delegation.* The Administrator may, in the Administrator's discretion, by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by non-governmental agencies, groups, or organizations.

(b) *Termination of sales.* If the Administrator determines that, during any period of 2 consecutive calendar years, fewer than 20 percent of the allowances available in the subaccount for direct sales have been purchased, the Administrator shall terminate the Direct Sale Subaccount and transfer such allowances to the Auction Subaccount.

(c) *Termination of auctions.* The Administrator may, in the Administrator's discretion, terminate the withholding of allowances and the auctions if the Administrator determines, that, during any period of 3 consecutive years after 2002, fewer than 20 percent of the allowances available in the Auction Subaccount have been purchased.

### Subpart F—Energy Conservation and Renewable Energy Reserve

SOURCE: 58 FR 3695, Jan. 11, 1993, unless otherwise noted.

### § 73.80 Operation of allowance reserve program for conservation and renewable energy.

(a) *General.* The Administrator will allocate allowances from the Conservation and Renewable Energy Reserve (the "Reserve") established under subpart B based on verified kilowatt hours saved through the use of one or more qualified energy conservation measures or based on kilowatt hours generated by qualified renewable energy generation. Allowances will be allocated to applicants that meet the requirements of this subpart according to the formulas specified in § 73.82(d), and in the order in which applications are received, except where provided for in § 73.84 and § 73.85, until a total of 300,000 allowances have been allocated.

(b) *Period of applicability.* Allowances will be allocated under this subpart for

qualified energy conservation measures or renewable energy generation sources that are operational on or after January 1, 1992, and before the date on which any unit owned or operated by the applicant becomes a Phase I unit or a Phase II unit.

(c) *Termination of the Reserve.* The Administrator will reallocate any allowances remaining in the Reserve after January 2, 2010 to the affected units from whom allowances were withheld by the Administrator, in accordance with section 404(g), for purposes of establishing the Reserve. Each unit's allocation under this paragraph will be calculated as follows:

$$\frac{\text{Remaining allowances in the Reserve} \times \text{Unit's allowances withheld}}{\text{Total amount in Reserve}}$$

(Allowances will be rounded to the nearest allowance)

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

### § 73.81 Qualified conservation measures and renewable energy generation.

(a) *Qualified energy conservation measures.* A qualified energy conservation measure is a demand-side measure not operational until the period of applicability, implemented in the residence or facility of a customer to whom the utility sells electricity, that:

(1) Is specified in appendix A(1) of this subpart; or

(2) In the case of a device or material that is not included in appendix A(1) of this subpart,

(i) Is a cost-effective demand-side measure consistent with an applicable least-cost plan or least-cost planning process that increases the efficiency of the customer's use of electricity (as measured in accordance with § 73.82(c)) without increasing the use by the customer of any fuel other than qualified renewable energy, industrial waste heat, or, pursuant to paragraph (b)(5) of this section, industrial waste gases;

(ii) Is implemented pursuant to a conservation program approved by the utility regulatory authority, which certifies that it meets the requirements of paragraph (a)(2)(i) of this section and is not excluded by paragraph (b) of this section; and

## § 73.82

(iii) Is reported by the applicant in its application to the Reserve.

(b) *Non-qualified energy conservation measures.* The following energy conservation measures shall not qualify for Allowance Reserve allocations:

(1) Demand-side measures that were operational before January 1, 1992;

(2) Supply-side measures;

(3) Conservation programs that are exclusively informational or educational in nature;

(4) Load management measures that lead to economic reduction of electric energy demand during a utility's peak generating periods, unless kilowatt hour savings can be verified by the utility pursuant to § 73.82(c); or

(5) Utilization of industrial waste gases, unless the applicant has certified that there is no net increase in sulfur dioxide emissions from such utilization.

(c) *Qualified renewable energy generation.* Qualified renewable energy generation is electrical energy generation, not operational until the period of applicability, that:

(1) Is specified in appendix A(3) of this subpart; or

(2) In the case of renewable energy generation that is not included in appendix A(3) of this subpart is#:

(i) Consistent with a least cost plan or a least cost planning process and derived from biomass (*i.e.*, combustible energy-producing materials from biological sources which include wood, plant residues, biological wastes, landfill gas, energy crops, and eligible components of municipal solid waste), solar, geothermal, or wind resources;

(ii) Implemented pursuant to approval by the utility regulatory authority, which certifies that it meets the requirements of paragraphs (c)(2)(i) and (c)(2)(ii) of this section and is not excluded by paragraph (d) of this section; and

(iii) Is reported by the applicant in its application to the Reserve.

(d) *Non-qualified renewable energy generation.* The following renewable energy generation shall not qualify for Allowance Reserve allocations:

(1) Renewable energy generation that was operational before January 1, 1992;

(2) Measures that reduce electricity demand for a utility's customers with-

## 40 CFR Ch. I (7-1-10 Edition)

out providing electric generation directly for sale to customers; and

(3) Measures that appear on the list of qualified energy conservation measures in appendix A(1) of this subpart.

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

### § 73.82 Application for allowances from reserve program.

(a) *Application Requirements.* Each application for Conservation and Renewable Energy Reserve allowances, shall:

(1) Certify that the applicant is a utility;

(2) Demonstrate that the applicant, any subsidiary of the applicant, or any subsidiary of the applicant's holding company, is an owner or operator, in whole or in part, of at least one Phase I or Phase II unit by including in the application the name and Allowance Tracking System account number of a Phase I or Phase II unit which it owns or operates and for which it is listed as an owner or operator on the certificate of representation submitted by the designated representative for the unit pursuant to § 72.20 of this chapter;

(3) Through certification, demonstrate that the applicant is paying in whole or in part for one or more qualified energy conservation measures or qualified renewable energy generation (that became operational during the period of applicability) either directly or through payment to another person that purchases the qualified energy conservation measure or qualified renewable energy generation;

(4) Demonstrate that the applicant is subject to a least cost plan or a least cost planning process that:

(i) provides an opportunity for public notice and comment or other public participation processes;

(ii) evaluates the full range of existing and incremental resources in order to meet expected future demand at lowest system cost;

(iii) treats demand-side resources and supply-side resources on a consistent and integrated basis;

(iv) takes into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk;