§ 95.3 Findings prior to application to Attorney General.

The Administrator, or the Administrator's designee, may apply to the Attorney General for a mandatory patent license pursuant to section 308 of the Act (42 U.S.C. 7608) either in response to a petition under §95.2 or on the Administrator's or designee's own initiative, only after expressly finding that each one of the following mandatory criteria is met:

(a) The application is for a patent license covering no more than one patent;

(b) The party to whom the proposed patent license is to be granted has presented the Administrator or designee with evidence that such party has made reasonable efforts to obtain a patent license from the patent owner with terms similar to the license terms to be proposed in the application to the Attorney General;

(c) The patent under which a patent license is sought in the application to the Attorney General is being used or is intended for public or commercial use;

(d) The mandatory patent license is necessary for a party to comply with the requirements of sections 111, 112 or 202 of the Act (42 U.S.C. 7411, 7412 or 7521);

(e) The patented technology is not otherwise reasonably available, and there are no other reasonable alternatives for accomplishing compliance with sections 111, 112 or 202 of the Act (42 U.S.C. 7411, 7412 or 7521); and

(f) The unavailability of a mandatory patent license may result in a substantial lessening of competition or a tendency to create a monopoly in any line of commerce in any section of the United States.

§ 95.4 Limitations on mandatory licenses

(a) If the Administrator, or the Administrator's designee, decides to apply to the Attorney General for a mandatory patent license in accordance with §95.3, the application shall include a proposed patent license with the following limitations:

(1) The scope and duration of the patent license shall be limited to that necessary to permit the proposed licensee to comply with the Act;

(2) The patent license shall be non-exclusive;

(3) The patent license shall be non-assignable, except with that part of the enterprise or goodwill that enjoys the license;

(4) The patent license shall be for use of the licensed technology in the United States only;

(5) The patent license shall extend only to those uses necessary to enable the licensee to comply with sections 111, 112 or 202 of the Act (42 U.S.C. 7411, 7412 or 7521);

(6) The patent license shall provide for termination, subject to adequate protections of the legitimate interests of the licensed party, when the circumstances that made the compulsory patent license necessary cease to exist and are unlikely to recur; and

(7) The patent license shall provide for adequate remuneration that takes into account the economic value of the license.

(b) The Administrator, or the Administrator's designee, may decide as appropriate to include additional conditions, terms or limitations on the
Environmental Protection Agency

scope of the patent license for which application is made to the Attorney General.

PART 96—NO\textsubscript{X} BUDGET TRADING PROGRAM AND CAIR NO\textsubscript{X} AND SO\textsubscript{2} TRADING PROGRAMS FOR STATE IMPLEMENTATION PLANS

Subpart A—NO\textsubscript{X} Budget Trading Program General Provisions

Sec.
96.1 Purpose.
96.2 Definitions.
96.3 Measurements, abbreviations, and acronyms.
96.4 Applicability.
96.5 Retired unit exemption.
96.6 Standard requirements.
96.7 Computation of time.

Subpart B—Authorized Account Representative for NO\textsubscript{X} Budget Sources

96.10 Authorization and responsibilities of the NO\textsubscript{X} authorized account representative.
96.11 Alternate NO\textsubscript{X} authorized account representative.
96.12 Changing the NO\textsubscript{X} authorized account representative and the alternate NO\textsubscript{X} authorized account representative; changes in the owners and operators.
96.13 Account certificate of representation.
96.14 Objections concerning the NO\textsubscript{X} authorized account representative.

Subpart C—Permits

96.20 General NO\textsubscript{X} Budget trading program permit requirements.
96.21 Submission of NO\textsubscript{X} Budget permit applications.
96.22 Information requirements for NO\textsubscript{X} Budget permit applications.
96.23 NO\textsubscript{X} Budget permit contents.
96.24 Effective date of initial NO\textsubscript{X} Budget permit.
96.25 NO\textsubscript{X} Budget permit revisions.

Subpart D—Compliance Certification

96.30 Compliance certification report.
96.31 Permitting authority’s and Administrator’s action on compliance certifications.

Subpart E—NO\textsubscript{X} Allowance Allocations

96.40 State trading program budget.
96.41 Timing requirements for NO\textsubscript{X} allowance allocations.
96.42 NO\textsubscript{X} allowance allocations.

Subpart F—NO\textsubscript{X} Allowance Tracking System

96.50 NO\textsubscript{X} Allowance Tracking System accounts.
96.51 Establishment of accounts.
96.52 NO\textsubscript{X} Allowance Tracking System responsibilities of NO\textsubscript{X} authorized account representative.
96.53 Recordation of NO\textsubscript{X} allowance allocations.
96.54 Compliance.
96.55 Banking.
96.56 Account error.
96.57 Closing of general accounts.

Subpart G—NO\textsubscript{X} Allowance Transfers

96.60 Submission of NO\textsubscript{X} allowance transfers.
96.61 EPA recordation.
96.62 Notification.

Subpart H—Monitoring and Reporting

96.70 General requirements.
96.71 Initial certification and recertification procedures.
96.72 Out of control periods.
96.73 Notifications.
96.74 Recordkeeping and reporting.
96.75 Petitions.
96.76 Additional requirements to provide heat input data for allocations purposes.

Subpart I—Individual Unit Opt-ins

96.80 Applicability.
96.81 General.
96.82 NO\textsubscript{X} authorized account representative.
96.83 Applying for NO\textsubscript{X} Budget opt-in permit.
96.84 Opt-in process.
96.85 NO\textsubscript{X} Budget opt-in permit contents.
96.86 Withdrawal from NO\textsubscript{X} Budget Trading Program.
96.87 Change in regulatory status.
96.88 NO\textsubscript{X} allowance allocations to opt-in units.

Subpart J—Mobile and Area Sources [Reserved]

Subparts K—Z [Reserved]

Subpart AA—CAIR NO\textsubscript{X} Annual Trading Program General Provisions

96.101 Purpose.
96.102 Definitions.
96.103 Measurements, abbreviations, and acronyms.
96.104 Applicability.
96.105 Retired unit exemption.
96.106 Standard requirements.
96.107 Computation of time.
96.108 Appeal procedures.