



# Maryland

## Department of the Environment

**Wes Moore**, Governor  
**Aruna Miller**, Lt. Governor

**Serena McIlwain**, Secretary  
**Suzanne E. Dorsey**, Deputy Secretary  
**Adam Ortiz**, Deputy Secretary

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### AIR QUALITY CONTROL ADVISORY COUNCIL AGENDA September 15, 2025 IN PERSON MEETING AT MDE – MONTGOMERY PARK

#### Virtual option available for those who cannot attend in person

Video call link: <https://meet.google.com/wba-rizz-xvg>

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9:00 a.m.	Welcome and Introductions	Todd Chason, Council Chair Chris Hoagland, Air Director
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9:15 a.m.	Approval of Meeting Minutes	Todd Chason
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#### **Action Items:**

9:15 a.m.	Amendments to MDE Fee Collections	Suna Sariscak Mark Stewart
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10:00 a.m.	Anti-tampering Amendments	Kathryn Seaman John Artes
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10:15 a.m.	Regional Greenhouse Gas Initiative (RGGI) Amendments	Luke Wisniewski Scott Zacharko
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11:30 p.m.	Adjourn	
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Next Meeting Date:  
December 8



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## Facts About...

### ***Amendments to MDE Fees***

August 2025

#### Purpose

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The purpose of this action is to propose amendments to Regulation .19 under COMAR 26.11.02 – Permits, Approvals, and Registration and amendments to Regulation .02 under COMAR 26.28.02 – Benchmarking and Reporting

The Maryland Department of the Environment (MDE or the Department) proposes to update permit and reporting fees per legislation recently passed in the 2025 session. MDE proposes to increase the emissions-based rate fee for our Air and Radiation Administration's Operating Permits and remove an expired maximum \$500,000 annual cap on permit to operate fees for any source as well as add an annual reporting fee under the Subtitle Building Energy Performance Standards (BEPS).

#### Submission to EPA as Revision to Maryland's State Implementation Plan (SIP)

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This action will not be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

#### Background

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Per the Federal Clean Air Act (CAA) of 1989, facilities with significant sources of air pollution or those that have the potential to cause harm, based on the nature of their emissions, are required to obtain an operating permit. MDE has collected emissions-based fees from sources having a federal or a state operating permit, and these fees have been deposited into the Maryland Clean Air Fund ("the Fund" or "CAF") since that time. The Fund is a special revenue fund that began receiving receipts from penalties on July 1, 1988, and later from emission-based operating permit fees. The Fund's revenues are for activities under Title 2 of the Environment Article related to identifying, mitigating, monitoring, reducing, and regulating air pollution in Maryland, including program development of these activities. Historically, MDE's overall clean air programs were funded through a mixture of funding sources: the Clean Air Fund, federal grants, reimbursable funds from the Maryland Department of Transportation and the Maryland Department of Natural Resources, and general funds.

COMAR 26.11.02.19 establishes annual fees for pollution sources that are required to obtain a federal Title V - Part 70 Operating Permit or an Air Quality State Permit to Operate. The annual fee consists of a base fee plus an emissions-based fee for each ton of regulated emissions from the source. State Permit to Operate sources include asphalt plants, academic institutions, crematories, and aggregate operations. Title V - Part 70 Operating Permit sources are the largest air pollution sources in the State. These sources include power plants, cement plants, chemical plants, and federal facilities. In addition to large emission



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## Facts About...

### ***Amendments to MDE Fees***

sources, certain smaller, environmentally significant sources are required to obtain Title V - Part 70 Operating Permits (e.g. incinerators and landfills).

Per the Climate Solutions Now Act (CSNA) of 2022, Maryland, specifically the Department, is required to establish BEPS for covered buildings to achieve zero net direct greenhouse gas emissions and energy use intensity standards by 2040. On May 25, 2025, [House Bill 49](#) was enacted under the Environmental Article II, § 17(c) of the Maryland Constitution. Among other alterations to the BEPS program that will be enacted via future rulemakings after extensive study, House Bill 49 requires MDE to update COMAR 26.28 to include a \$100 annual reporting fee for each building subject to BEPS. This fee is indexed to the consumer price index and as such adjusted for inflation each year. The fee covers the administrative costs of implementing the BEPS program.

On May 13, 2025, Governor Moore signed [Senate Bill 250](#) or *the Department of the Environment - Fees, Penalties, Funding, and Regulation Act* enacting into law an increase of the emissions-based fee from not exceeding \$50.00 per ton to not exceeding \$200.00 per ton and removing a \$2M cap on carrying over unused funds in the Clean Air Fund at the end of each fiscal year. Effective June 1, 2025, the emissions-based fee rate has increased to \$200.00 per ton and may be adjusted in the future to reflect changes in the Consumer Price Index (CPI). For information purposes, the CPI adjustment increase applied on January 1, 2025 was 3.2%. The Act also removes an expired maximum \$500,000 annual cap on permit to operate fees for any source. Additionally, the Act locks in the Clean Air Funds by adding the following under the Environmental Article § 2-107(c)(4) "MONEY DEPOSITED INTO THE FUND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND MAY NOT REVERT TO THE GENERAL FUND OF THE STATE." This supports the activities of the Department and solidifies the funding for the Clean Air Act programs.

Following these legislative changes, MDE needs to amend regulation COMAR 26.11.02.19 and COMAR 26.28.02.02 to align with the adopted laws.

### Is there an Equivalent Federal Standard to this Proposed Regulatory Action?

Yes, in part. MDE is required by the EPA to collect sufficient fees to fund all reasonable Title V federal operating permit program costs (See 40 CFR §70.9). There is no corresponding federal requirement relating to emission-based fees for State Permits to Operate. There is no corresponding federal requirement relating to the annual reporting fee for BEPS.

### Sources Affected and Location

Air pollution sources located throughout the State that are required to maintain a federal Title V - Part 70 Operating Permit or a State Permit to Operate will be affected. There are currently 108 Title V - Part 70 Operating Permit sources and 368 State Permit to Operate sources regulated by the MDE Air and



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## Facts About...

### ***Amendments to MDE Fees***

Radiation Administration. Buildings covered by BEPS, generally those 35,000 square feet or larger in the State of Maryland, will need to file a report and pay the \$100 per year per building.

### Requirements

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The proposed amendments to COMAR 26.11.02.19 provide for emission rate fees to be calculated at \$200.00 per ton and to remove an outdated cap applied to facilities until 2009. Implementation effective dates are set to meet the legislative requirements. The emission fee shall be adjusted annually beginning in 2027 per the Consumer Price Index (as calculated per §B(5) of COMAR 26.11.02.19).

The proposed amendments to COMAR 26.28.02.02 require every building required to be included in a benchmarking report for the previous calendar year to pay the Department a \$100 fee, starting in 2026. The fee is due June 1 of each year. Buildings will need to do this in addition to the existing requirements to submit their annual benchmarking report to be in compliance with the regulation. This fee is adjusted by the Consumer Price Index each year.

### Projected Emission Reductions

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COMAR 26.11.02.19 is an emissions-based fee schedule for sources with a federal Title V - Part 70 Operating Permit or State Permit to Operate. This amendment does not affect emissions but rather determines a fee based on actual emissions emitted. This amendment does not directly affect the emissions from BEPS-covered buildings. However, the fee will support the implementation of the BEPS program, which has substantial projected emissions reductions.

### Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

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This action codifies *the Department of the Environment - Fees, Penalties, Funding, and Regulation Act*. This action adjusts an air emissions fee that will affect permitted air emissions sources in Maryland by increasing emission-based fees for those sources required to pay such fees and will provide revenue to MDE to administer the required permit program. The majority of permitted affected sources are not small businesses and the increase is not expected to be impactful. This action will have a minimal economic impact on local governments. Owners of BEPS-covered buildings, which could include small businesses, local government, and others, will see a minimal economic impact from the \$100 per building per year reporting fee.



## Facts About...

### *Amendments to MDE Fees*

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude \$\$, Minimal or Indeterminate
A. On issuing agency:	(R+)	\$2.6 million per year
B. On other State agencies:	NONE	
C. On local governments:	NONE	
<b>Types of Economic Impact.</b>	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$2.6 million per year
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	
<b>III. Assumptions.</b> (Identified by Impact Letter and Number from Section II.)		
A. This action will add revenue to MDE. The permit fees are estimated at \$1.9M per year as calculated utilizing emissions of regulated pollutants from affected sources for the previous 2 years. The BEPS benchmarking annual reporting fees are estimated at \$700,000 based on the approximately 7,000 covered buildings in the State, that are not in Montgomery County or are expected to be exempt.		
D. This action will affect permitted air emissions sources in Maryland. The fee increase will impact approximately 470 sources with an estimated total cost of \$1.9M per year, and about 7,000 covered buildings with an estimated total cost of \$700,000 due to the \$100 per year benchmarking report fee.		



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## Facts About...

### *Amendments to MDE Fees*

Some of the buildings and permitted facilities are owned by local governments, the State of Maryland, and the federal government.

### **Economic Impact on Small Businesses**

The proposed action has minimal economic impact on small businesses because the BEPS reporting fee is minimal – \$100 per building – and the permitted air emissions sources are not small businesses.

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 11 AIR QUALITY

### Chapter 02 Permits, Approvals, and Registration

Authority: Environment Article, §§1-101, 1-404, 1-601—1-606, 2-101—2-103, 2-301—2-303, and 2-401—2-404, Annotated Code of Maryland

#### .01 — .18 (text unchanged)

#### .19 Fee Schedule: Title V Permit or a State Permit to Operate.

A. (text unchanged)

B. Method of Calculating Fees.

(1) The emission-based fee prescribed in §A of this regulation shall be calculated by multiplying the total weight of actual annual emissions in tons of regulated emissions times an amount in dollars per ton as prescribed below:

[(a) From January 1, 1997 through September 30, 2008: \$25 per ton as increased pursuant to §B(6) of this regulation;]

[(b)] (a) From October 1, 2008 through [December 31, 2008] *May 31, 2025*: \$50 per ton *as increased pursuant to §B(5) of this regulation*;

(b) *From June 1, 2025 through December 31, 2026: \$200 per ton*; and

(c) Beginning January 1, [2009] *2027*: [\$50] *\$200* per ton as increased pursuant to [§B(6)] *§B(5)* of this regulation.

(2) For the purposes of this regulation, "regulated emissions" means the actual rate of emissions, in tons per year, of a regulated air pollutant except for carbon monoxide and carbon dioxide emitted by a source, to be calculated using criteria consistent with 40 CFR 70 (operating permit program).

[(3) Effective October 1, 2008 through December 31, 2009, the maximum annual permit to operate fee for each plant or facility is \$500,000.]

[(4)] (3) Except as provided in [§B(5)] *§B(4)* of this regulation, the total weight of annual emissions used to calculate the annual permit fee is based on the total actual emission tonnages as certified by the source and verified by the Department. Annual emissions shall be rounded off to the nearest ton.

[(5)] (4) Basis for Annual Emissions. The annual emissions to be used to calculate the fee in §§A and B of this regulation shall be as prescribed below:

(a) For sources that certify emissions of less than 10,000 tons for calendar year 2008, the annual emissions shall be based on the emissions certification required under §D of this regulation which was submitted the previous calendar year; and

(b) For sources that certify emissions of 10,000 tons or greater for calendar year 2008, the annual emissions shall be based on the actual emissions of the same calendar year as the annual fee.

[(6)] (5) Consumer Price Index.

(a) The annual dollar per ton amount prescribed in §B(1) of this regulation shall be increased on January 1 of each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index of the previous calendar year.

(b) The Consumer Price Index for any calendar year is the 12-month average of the Consumer Price Index for all urban consumers published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

C.— E. (text unchanged)

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 28 BUILDING ENERGY PERFORMANCE STANDARDS

### Chapter 02 Benchmarking and Reporting

Authority: Environment Article, §§1-404, 2-301, 2-302, 2-1205, 2-1602, Annotated Code of Maryland

#### .01 (text unchanged)

#### .02 Reporting Requirements of Building Owners.

A. — D. (text unchanged)

E. *Annual Reporting Fee.*

*(1) A building owner shall pay an annual reporting fee for each covered building as defined in Environment Article § 2-1601, Annotated Code of Maryland.*

*(2) The annual reporting fee is due by June 1st of each year beginning in 2026.*

*(3) In 2026, the annual reporting fee is \$100.*

*(4) Beginning in 2027 and each year thereafter, the annual reporting fee is \$100 as adjusted for inflation pursuant to § E(5) of this regulation.*

*(5) Consumer Price Index*

*(a) The annual reporting fee rate set forth in this chapter shall be increased each calendar year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.*

*(b) The Consumer Price Index for any calendar year is the 12-month average of the Consumer Price Index for all urban consumers published by the U.S. Department of Labor.*

**.03 — .05 (text unchanged)**



## Amendments to COMAR 26.11.20.02 Motor Vehicle Emission Control Devices

**DRAFT 8/27/2025**

### Purpose

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The purpose of this action is to amend COMAR 26.11.20.02 - Motor Vehicle Emission Control Devices to repeal record-keeping requirements for vehicle dealers or other businesses regarding vehicle emissions inspections. The Maryland Department of the Environment (MDE) determined that this requirement was redundant as vehicle safety inspections include checking emissions control equipment and are managed by a Maryland State Police certified program. Under this program, a Maryland Safety Inspection Certificate certifies that vehicles meet Maryland safety standards. A safety inspection is required for all used cars, trucks, tractors, trailers, motorcycles, special equipment, and class "B" for hire vehicles being titled and registered in Maryland. They must be inspected by a licensed Maryland vehicle safety inspection station, such as automobile dealers, service stations and specialized automobile service centers. A certificate of inspection issued by the inspection station within the previous 90 days of the vehicle titling must accompany an application for title. Inspection certificate records are submitted to the MVA by the inspection station.

### Submission to EPA as Revision to Maryland's State Implementation Plan (SIP)

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The proposed amendments to COMAR 26.11.20.02 will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's SIP.

### Background

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Tampering with a vehicle's emissions control system is illegal under existing state regulations, COMAR 26.11.20.02, and the federal Clean Air Act (CAA), 42 U.S.C. § 7522. The CAA also prohibits manufacturing, selling, offering for sale and installing aftermarket devices which effectively defeat those controls. Tampering causes excess emissions of nitrogen oxides (NOx), particulate matter (PM), and other pollutants to the air we breathe.

Both existing Maryland and federal law prohibit the removal, alteration or otherwise tampering with a vehicle's pollution control equipment. Maryland regulations also currently prohibit the operation of a motor vehicle that has had its air pollution control equipment tampered or removed.

In February 2022, MDE adopted a new regulation that clarified and expanded Maryland's existing COMAR 26.11.20.02 pertaining to (1) the removal or alteration of a motor vehicle's air pollution control systems; (2) the operation of motor vehicles with removed, altered, or inoperative air pollution control systems; (3) the manufacture, sale, installation, and use of any device that prevents a motor vehicle's air



## Amendments to COMAR 26.11.20.02 Motor Vehicle Emission Control Devices

pollution control system from operating as originally designed; and (4) the offering for sale, sale, lease, auction or transfer of any motor vehicle with removed, altered, or inoperative air pollution control systems. Further, the regulation required a vehicle dealer or business that sells, auctions or transfers a motor vehicle to maintain records confirming all air pollution control systems are in operating conditions at the time of sale.

In December 2022, MDE adopted an amendment to COMAR 26.11.20.02 that extended exemptions to cover new motor vehicles, vehicles sold at wholesale and by auto insurers that take ownership of motor vehicles associated with total loss claims, which occur when a vehicle sustains so much damage it is more economical for the insurance company to purchase the vehicle for its pre-accident value rather than repair the vehicle.

The purpose of this proposed action is to repeal Section F of COMAR 26.11.20.02 adopted in February 2022 that required a vehicle dealer or business transferring vehicles to maintain records confirming all air pollution control systems are in operating condition at the time of sale. Through continued research, MDE determined that these records were unnecessarily duplicative of the vehicle safety inspection records managed by the Maryland State Police certified program (under the Automotive Safety Enforcement Division).

In Maryland, vehicles require a safety inspection primarily when being registered, sold, or transferred, and when a resident moves to Maryland from another state. Under the Annotated Code of Maryland, Transportation Article and COMAR Title 11 Department of Transportation, Subtitle Motor Vehicle Administration – Vehicle Inspections, the seller or transferor of a vehicle is required to obtain a inspection certification. To obtain an inspection certification, a seller must have their vehicle inspected at a licensed vehicle safety inspection station in Maryland. There are approximately 1,600 of these facilities throughout the state.

### Sources Affected

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The proposed amendment applies to:

- A vehicle dealer or business that sells, auctions, or transfers a motor vehicle.

### Requirement

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The purpose of this action is to amend COMAR 26.11.20.02 - Motor Vehicle Emission Control Devices to repeal record-keeping requirements for vehicle dealers. The amendment will repeal 26.11.20.02F to remove MDE's record keeping requirement for a vehicle dealer or business that sells, auctions, or transfers a motor vehicle.



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## Amendments to COMAR 26.11.20.02 Motor Vehicle Emission Control Devices

### Projected Emission Reductions

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The proposed amendments do not impact emissions.

### Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public and Small Businesses

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The proposed action has no economic impact. Affected sources may see a minimal benefit as they are relieved from MDE's record-keeping requirement.

### Comparison to Federal Standards

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Maryland's existing and proposed regulations largely mirror and compliment federal regulations pertaining to the tampering of motor vehicles. Federal standards under CAA § 203(a)(3)(A) & (B), 42 U.S.C. § 7522(a)(3)(A), 42 U.S.C. § 7522(a)(3)(B), and CAA § 113(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C) address similar motor vehicle tampering prohibitions.

# **Title 26 DEPARTMENT OF THE ENVIRONMENT**

## **Subtitle 11 AIR QUALITY**

### **Chapter 20 Mobile Sources**

Authority: Environment Article, §§2-102, 2-103, and 2-301, Annotated Code of Maryland

**.01** (text unchanged)

#### **.02 Motor Vehicle Emission Control Devices.**

##### **A. Definitions.**

(1) "Air pollution control system" means any device or element of design installed on or in a motor vehicle or motor vehicle engine in order to comply with pollutant emission restrictions established for the motor vehicle or motor vehicle engine by federal or State statute or regulation.

(2) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle.

(3) "Motor vehicle" means any self-propelled vehicle powered by an internal combustion engine and designed for use on public roads, such as automobiles, trucks, and buses.

(4) "Tamper" means to remove, alter, or otherwise render inoperative an air pollution control system.

(5) "Wholesale" means a transaction in which a vehicle is purchased for resale by a non-retail purchaser.

**B. Applicability.** The provisions of this regulation apply to all motor vehicles, except as listed in §C of this regulation.

##### **C. Exemptions.**

(1) This regulation does not apply to:

(a) The offering for sale, sale, or transfer, by a dealer, as that term has the meaning stated in the Transportation Article, §11-111, Annotated Code of Maryland, of a new motor vehicle that has never been registered for use;

(b) The sale or transfer of a motor vehicle for the sole purpose of scrapping, dismantling, destroying, or any similar activity, if sufficient documentation and proof is provided to the Department's satisfaction within 30 days of sale or transfer;

(c) A vehicle that has been issued a certificate of salvage by the Maryland Motor Vehicle Administration, or a similar ownership document from within Maryland or another state as approved by the Department, that establishes a motor vehicle will not be operated on public roads;

(d) The offering for sale, sale, or transfer of a motor vehicle by auction where the auctioneer or facilitating auction is acting on behalf of a seller, secured party, or owner where the title does not pass to the auctioneer or to the facilitating auction location;

(e) The offering for sale, sale or transfer of a motor vehicle by an insured or claimant to an insurer;

(f) Vehicles manufactured without emissions systems;

(g) Motorcycles; or

(h) Vehicles sold at wholesale.

(2) This regulation does not prevent the service or repair of any air pollution control system.

##### **D. Anti-Tampering Prohibitions.**

(1) A person may not tamper with any air pollution control system on a motor vehicle or on a motor vehicle engine.

(2) A person may not operate a motor vehicle originally equipped with an air pollution control system unless that system is in place and in operating condition.

(3) A person may not manufacture, offer for sale, sell, install or use a device that prevents any air pollution control system from functioning as designed by the original manufacturer.

(4) A person may not offer for sale, lease, sell, auction, or transfer a motor vehicle with an air pollution control system that has been tampered with or removed or is otherwise not functional as designed by the original manufacturer.

##### **E. Compliance Inspections.**

(1) The Department or its agents have the right to conduct inspections of new and used motor vehicles for the purposes of determining compliance with the requirements of this regulation.

(2) The inspections authorized under §E(1) of this regulation may:

(a) Be conducted on any premises owned, operated, used, leased, or rented by any vehicle dealer;

(b) Extend to all air pollution control systems and their operation;

(c) Require the on-premises operation and testing of an engine or vehicle; and

(d) Require inspection of any related records, including records of emissions-related part repairs performed under warranty.

(3) Refusal to allow, or interference with, the inspections under this section shall be considered a violation of this regulation.

(4) A person who violates any provision of this regulation is subject to the sanctions set forth in Environment Article, Title 2, Annotated Code of Maryland. Each noncompliant vehicle is a separate violation.

[F. Record Keeping.

(1) A vehicle dealer or business that sells, auctions, or transfers a motor vehicle shall maintain records, including:

- (a) Date of sale or transfer of motor vehicle;
- (b) Fuel type of motor vehicle;
- (c) Motor vehicle description (that is, make, model, year, and GVWR);
- (d) Vehicle Identification Number (VIN); and
- (e) Statement that all air pollution control systems are in place and in operating condition.

(2) Records shall be maintained on-site for 5 years and available to the Department upon request.]

**.03 — .06** (text unchanged)



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## Amendments to COMAR 26.09

### Maryland CO<sub>2</sub> Budget Trading Program

#### Purpose of These Amendments

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The purpose of this action is to revise the Maryland CO<sub>2</sub> Budget Trading Program to incorporate amendments to the Regional Greenhouse Gas Initiative (RGGI) Model Rule.

The Secretary of the Environment proposes to:

- (1) Amend Regulations .02 - .04 under COMAR 26.09.01 General Administrative Provisions;
- (2) Amend Regulations .03, .06 - .07, and .10 - .11 under COMAR 26.09.02 Applicability, Determining Compliance, and Allowance Distribution;
- (3) Repeal Regulations .01 - .09 under COMAR 26.09.03 Offsets Projects; and
- (4) Amend Regulations .03 and .06 under COMAR 26.09.04 Auctions.

#### Submission to EPA as Revision to Maryland's SIP

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This action will not be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's State Implementation Plan (SIP).

#### Background

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RGGI is comprised of ten states in the Northeast and Mid-Atlantic regions and is composed of individual CO<sub>2</sub> Budget Trading Programs in each RGGI participating state. These states adopted market-based carbon dioxide (CO<sub>2</sub>) cap-and-invest programs designed to reduce emissions of CO<sub>2</sub>, a greenhouse gas, from fossil fuel-fired electricity generators with a nameplate capacity of 25 megawatts or greater. Each participating state's CO<sub>2</sub> Budget Trading Program is based on the RGGI Model Rule, which was developed to provide guidance to states as they implemented the RGGI program. RGGI participating states have concluded a third Program Review, which is a comprehensive evaluation of program successes, program impacts, the potential for additional reductions, and imports and emissions leakage.

Amendments to the RGGI Model Rule were developed by the RGGI state staff as part of the third Program Review and a consensus agreement was reached in 2025. This effort was supported by an extensive regional stakeholder process that engaged the regulated community, environmental non-profits, and other organizations with technical expertise in the design of cap-and-invest programs.

Maryland's CO<sub>2</sub> Budget Trading Program is being amended to incorporate changes to the RGGI Model Rule. A summary of the amendments to the RGGI Program, as outlined in the RGGI Model Rule, are discussed below.

#### Sources Affected and Location

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CO<sub>2</sub> budget sources subject to the requirements of the Maryland CO<sub>2</sub> Budget Trading Program will be affected.



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## Amendments to COMAR 26.09

### Maryland CO<sub>2</sub> Budget Trading Program

#### Requirements

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Compliance requirements for CO<sub>2</sub> budget sources subject to the Maryland CO<sub>2</sub> Budget Trading Program will remain the same.

#### Size and Structure of Regional Cap and Allowance Apportionment

The updated Model Rule reduces the regional emissions cap in 2027 to 69,806,919 tons of CO<sub>2</sub> from 75,717,784 tons under the previous Model Rule. Allowances decline by an average of 8,538,789 tons per year, which is approximately 10.5 percent of the 2025 budget, thereafter through 2033. Then, from 2034 through 2037 the cap will decline by 2,386,204 tons of CO<sub>2</sub> annually, which is approximately 3 percent of the 2025 budget. Subsequent years are set to match the 2037 emissions cap and no adjustments are made to banked allowances, which continue to be available for compliance. Maryland's base budget allocation (COMAR 26.09.02.03A) has been updated to reflect the new RGGI cap and decline.

#### Cost Containment Reserve

To ensure availability of RGGI allowances to meet grid reliability needs and to protect against cost volatility, the updated Model Rule contains language to revise the existing Cost Containment Reserve (CCR) (COMAR 26.09.02.03C). The CCR is a reserve of allowances made available at auction if the auction clearing price exceeds a predetermined trigger price. The update includes increasing the size of the CCR and implementing a second tier of CCR allowances available at auction at a higher trigger price.

If the entire first tier of CCR allowances is released and sold every year, the updated regional cap trajectory will provide a 74 percent cap reduction by the year 2037, relative to the 2025 cap. If both tiers of CCR allowances are released and sold every year, the updated regional cap trajectory will provide a 60 percent cap reduction by the year 2037, relative to the 2025 cap.

#### Emissions Containment Reserve

The updated Model Rule increases the minimum reserve price (COMAR 26.09.01.02B(68)), which is the lowest price at which RGGI allowances may be sold at auction. In the current RGGI design, in addition to a minimum reserve price, there is an Emissions Containment Reserve (ECR), which is a reserve of allowances that can be withheld from an auction if the auction clearing price falls below a predetermined trigger price. Beginning in 2027, the updated model Rule removes the ECR and replaces it with an increased minimum reserve price that matches the existing ECR trigger price trajectory. The new minimum reserve price is \$9.00 in 2027, increasing 7 percent annually thereafter. As a result, rather than a fixed number of allowances being withheld under the ECR if the auction price falls below this price, all allowances will simply be withheld below this price.

#### Limited Industrial Exemption

Maryland's CO<sub>2</sub> Budget Trading Program has been updated to replace the Limited Industrial Exemption Set-aside Account with the Limited Industrial Exemption (COMAR 26.09.02.06). The revised language still provides the opportunity for CO<sub>2</sub> budget sources to apply for exemption from compliance



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## Amendments to COMAR 26.09

### Maryland CO<sub>2</sub> Budget Trading Program

requirements if the CO<sub>2</sub> budget source's annual electrical output to the electric grid in the PJM region is not more than 10 percent of its annual gross generation. The CO<sub>2</sub> budget source is also still required to submit a request for and receive the Department's approval of a climate action plan, which requires reduction of CO<sub>2</sub>e emissions through reasonably available reduction practices. However, the Department will no longer allocate or retire CO<sub>2</sub> allowances on behalf of the exempt CO<sub>2</sub> budget source.

#### Offsets

The updated Model Rule eliminates language regarding RGGI offset allowances. Under past and current RGGI design, certain projects were eligible for the award of RGGI offset allowances, which could be held and traded in the same way as RGGI CO<sub>2</sub> allowances, and used for compliance up to a set limit (3.3 percent). Beginning in 2027, RGGI offset allowances will no longer be awarded for any project categories included in previous versions of the Model Rule. Any already awarded offset allowances could still be used for compliance, subject to the existing limits on their use.

#### Miscellaneous

The definitions for several terms have been edited for clarity and updated or removed to match corresponding updates throughout the Model Rule. Additionally, monitoring, reporting, and recordkeeping language have been streamlined, and certain references have been updated or corrected throughout for clarity and consistency with other changes.

#### Expected Emissions Reductions

The changes to the size and structure of the regional cap and allowance apportionments will result in emissions reductions. The regional emissions cap in 2027 will be equal to 69,806,919 tons and will decline by an average of 8,538,789 tons per year, which is approximately 10.5 percent of the 2025 budget, thereafter through 2033. Then, from 2034 through 2037 the cap will decline by 2,386,204 tons of CO<sub>2</sub> annually, which is approximately 3 percent of the 2025 budget. Subsequent years are set to match the 2037 emissions cap.

#### Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

The participating RGGI states conduct economic analyses utilizing the REMI model to determine the overall impact on the RGGI region from these changes. The most recent analysis from August 2025 showed that the estimated economic impact across the 10-state RGGI region is an increase in gross state product between \$20.4 billion and \$21.1 billion from 2025 to 2040; an increase in disposable personal income between \$8.9 billion and \$13.2 billion from 2025 to 2040; and an increase in employment between 24,900 job-years and 176,500 job-years from 2025 to 2040.





**Maryland**  
Department of  
the Environment

## Amendments to COMAR 26.09

### Maryland CO<sub>2</sub> Budget Trading Program

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#### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses. The regulated facilities are not small. Additionally, the participating RGGI states conducted an economic analysis utilizing the REMI model and Bill Impact analyses to determine the effect on electricity bills. These changes will have minimal effect on electricity bills.

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#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

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#### **Questions**

Please contact Luke Wisniewski, Market-Based Program Administrator, at 410-537-4231 or [luke.wisniewski@maryland.gov](mailto:luke.wisniewski@maryland.gov) with any questions.

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 09 MARYLAND CO<sub>2</sub> BUDGET TRADING PROGRAM

### Chapter 01 General Administrative Provisions

Authority: Environment Article, §§ 1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

#### .01 (text unchanged)

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (13) (text unchanged)

[(14)] (14) "Award" means an allocation of CO<sub>2</sub> allowances by the Department:

(a) Which are recorded in the general account of a project sponsor; or

(b) Which are recorded in the compliance account of a recipient of allowances from the Clean Generation Set-aside Account.]

[(14-1)] (14) "Bidder" means a person who is participating or may potentially participate in an auction of CO<sub>2</sub> allowances.

(15) "Billing meter" means a measurement device used to measure electric or thermal output for commercial billing under a contract where the *owners of the* facility selling the electric or thermal output [is a] *must be* different [owner] from the [person] *owners of the party* purchasing the electric or thermal output.

(16) — (24) (text unchanged)

(25) "CO<sub>2</sub> allowance retirement account" means a general account administered by the Department to hold CO<sub>2</sub> allowances that have been permanently retired from the Voluntary Renewable Set-aside Account [, the Limited Industrial Exemption Set-aside Account,] or the CO<sub>2</sub> Allowance Contingency Account.

(26) "CO<sub>2</sub> allowance tracking system or COATS" means the system that records allocations, deductions, and transfers of CO<sub>2</sub> allowances which may also be used to track [CO<sub>2</sub> emissions offset projects,] CO<sub>2</sub> allowance prices, and emissions from affected sources.

(27) "CO<sub>2</sub> allowance transfer deadline" means [midnight of the March 1 occurring after the end of the relevant control period and each relevant control period.] *the deadline by which CO<sub>2</sub> allowances must be submitted for recordation in a CO<sub>2</sub> budget source's compliance account for the source to meet the requirements of COMAR 26.09.02.03K for a control period or interim control period, occurring at:*

(a) *Midnight of the March 1 after the end of the relevant control period or interim control period; or*

(b) *If the relevant March 1 is not a business day, the deadline is midnight of the first business day thereafter.*

(28) (text unchanged)

(29) "CO<sub>2</sub> budget emissions limitation" means the tonnage equivalent of the CO<sub>2</sub> allowances available for compliance deduction for a CO<sub>2</sub> budget source for a control period or *twice the CO<sub>2</sub> allowances available for an* interim control period.

(30) "CO<sub>2</sub> budget permit" means a permit issued to a CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit that specifies the requirements applicable to the source or to each CO<sub>2</sub> budget unit, *and to the owners and operators and the CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit.*

(31) — (33) (text unchanged)

(34) "CO<sub>2</sub> cost containment reserve *tier 1* allowance or CO<sub>2</sub> CCR *tier 1* allowance" means a CO<sub>2</sub> allowance that is offered for sale at an auction by the Department for the purpose of containing the cost of CO<sub>2</sub> allowances, and is separate from, and additional to, a CO<sub>2</sub> allowance allocated from the Maryland CO<sub>2</sub> Budget Trading Program [base and adjusted] budgets.

(34-1) "*CO<sub>2</sub> cost containment reserve tier 2 allowance or CO<sub>2</sub> CCR tier 2 allowance*" means a CO<sub>2</sub> allowance that is offered for sale at an auction by the Department for the purpose of containing the cost of CO<sub>2</sub> allowances, and is separate from, and additional to, a CO<sub>2</sub> allowance allocated from the Maryland CO<sub>2</sub> Budget Trading Program budgets.

[(34-1)] (34-2) "CO<sub>2</sub> cost containment reserve *tier 1* trigger price, or CCR *tier 1* trigger price" means the minimum price at which CO<sub>2</sub> CCR *tier 1* allowances are offered for sale by the Department at an auction, and shall be:

(a) [\$10.00] \$19.50 per CO<sub>2</sub> allowance for calendar year [2017] 2027; and

(b) Each calendar year thereafter [through 2020], the CCR *tier 1* trigger price shall be [1.025] 1.07 multiplied by the CCR *tier 1* trigger price from the previous calendar year, rounded to the nearest whole cent as follows:

(i) [\$10.25] \$20.87 for [2018] 2028;

(ii) [\$10.51] \$22.33 for [2019] 2029; [and]

(iii) [\$10.77] \$23.89 for [2020] 2030;

- (iv) \$25.56 for 2031;
- (v) \$27.35 for 2032;
- (vi) \$29.26 for 2033;
- (vii) \$31.31 for 2034;
- (viii) \$33.50 for 2035;
- (ix) \$35.85 for 2036; and
- (x) \$38.36 for 2037.

[(c) \$13.00 per CO<sub>2</sub> allowance for calendar year 2021; and

(d) Each calendar year thereafter, the CCR trigger price shall be 1.07 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent as follows:

- (i) \$13.91 for 2022;
- (ii) \$14.88 for 2023;
- (iii) \$15.93 for 2024;
- (iv) \$17.04 for 2025;
- (v) \$18.23 for 2026;
- (vi) \$19.51 for 2027;
- (vii) \$20.88 for 2028;
- (viii) \$22.34 for 2029; and
- (ix) \$23.90 for 2030.]

[(34-2) "CO<sub>2</sub> emissions containment reserve allowance, or CO<sub>2</sub> ECR allowance" means a CO<sub>2</sub> allowance that is withheld from sale at an auction by the Department for the purpose of additional emission reduction in the event of lower than anticipated emission reduction costs.

(34-3) "CO<sub>2</sub> emissions containment reserve trigger price, or ECR trigger price" means the price below which CO<sub>2</sub> allowances will be withheld from sale by the Department or its agent at an auction. The ECR trigger price shall be:

(a) \$6.00 for calendar year 2021; and

(b) For each calendar year thereafter, the ECR trigger price shall be 1.07 multiplied by the ECR trigger price from the previous calendar year, rounded to the nearest whole cent as follows:

- (i) \$6.42 for 2022;
- (ii) \$6.87 for 2023;
- (iii) \$7.35 for 2024;
- (iv) \$7.86 for 2025;
- (v) \$8.42 for 2026;
- (vi) \$9.00 for 2027;
- (vii) \$9.63 for 2028;
- (viii) \$10.31 for 2029; and
- (ix) \$11.03 for 2030.]

(34-3) "CO<sub>2</sub> cost containment reserve tier 2 trigger price, or CCR tier 2 trigger price" means the minimum price at which CO<sub>2</sub> CCR tier 2 allowances are offered for sale by the Department at an auction, and shall be:

(a) \$29.25 per CO<sub>2</sub> allowance for calendar year 2027; and

(b) Each calendar year thereafter, the CCR tier 2 trigger price shall be 1.07 multiplied by the CCR tier 2 trigger price from the previous calendar year, rounded to the nearest whole cent as follows:

- (i) \$31.30 for 2028;
- (ii) \$33.49 for 2029;
- (iii) \$35.83 for 2030;
- (iv) \$38.34 for 2031;
- (v) \$41.02 for 2032;
- (vi) \$43.89 for 2033;
- (vii) \$46.96 for 2034;
- (viii) \$50.25 for 2035;
- (ix) \$53.77 for 2036; and
- (x) \$57.53 for 2037.

(34-4) (text unchanged)

(34-5) "CO<sub>2</sub> emission offset project" means:

(a) A historical project that allowed the Department to determine how many CO<sub>2</sub> offset allowances to record to a sponsor's general account related specific emission reductions outside of the electricity sector;

(b) Can no longer be approved for the Maryland CO<sub>2</sub> Budget Trading Program; and

(c) CO<sub>2</sub> offset allowances created before January 1, 2027 are eligible to meet the compliance deduction and subject to the relevant compliance deduction limitations.

(35) (text unchanged)

(36) "CO<sub>2</sub> offset allowance" means a CO<sub>2</sub> allowance that is:

(a) [Awarded to the project sponsor of a CO<sub>2</sub> emissions offset project] *Determined by the Department to have been recorded, by a participating state prior to January 1, 2027, in the general account of the sponsor of a CO<sub>2</sub> emissions offset project;* and

(b) [Subject] *Is subject to the relevant compliance deduction limitations.*

(37) — (40) (text unchanged)

(41) "Compliance account" means a budget source's CO<sub>2</sub> account in which the CO<sub>2</sub> allowances are held and made available for use by the source for a control period [and each] *or* interim control period for the purpose of meeting the source's CO<sub>2</sub> budget emissions limitation.

[(42)] "Conflict of interest" means a situation that may arise with respect to an individual in relation to any specific project sponsor, CO<sub>2</sub> emissions offset project or category of offset projects, such that the individuals other activities or relationships with other persons or organizations render or may render the individual incapable of providing an impartial certification opinion, or otherwise compromise the individuals objectivity in performing certain functions.

(43) "Consistency application" means all applicable information required by this subtitle and provided by a project sponsor to the Department for approval of a CO<sub>2</sub> offset project.

(44) "Consistency determination" means an approval given by the Department when the submitted information for a CO<sub>2</sub> offset project meets all of the applicable requirements of this subtitle.

(45) "Cooperating regulatory agency" means a regulatory agency in a state or other United States jurisdiction that is not a participating state that has entered into a memorandum of understanding with the appropriate regulatory agencies of all participating states to carry out certain obligations relative to CO<sub>2</sub> emissions offset projects in that state or United States jurisdiction, including but not limited to the obligation to perform audits of offset project sites, and report violations of this subtitle.]

[(46)] (42) — [(48)] (44) (text unchanged)

[(49)] "Cooperating regulatory agency" means a regulatory agency in a nonparticipating state or United States jurisdiction, that has entered into a memorandum of understanding with the appropriate regulatory agencies of all participating states to carry out certain obligations relative to CO<sub>2</sub> emissions offset projects in that state or United States jurisdiction, including the obligation to perform audits of offset project sites and report violations.]

[(49-1)] (45) — [(54)] (53) (text unchanged)

[(55)] "First control period adjustment for banked allowances" means, for allocation years 2014 through 2020, an adjustment, applied to the Maryland CO<sub>2</sub> Budget Trading Program base budget, to address the surplus allowances from allocation years 2009, 2010, and 2011 held in general and compliance accounts, including compliance accounts established pursuant to the CO<sub>2</sub> Budget Trading Program, that are in addition to the aggregate quantity of first control period CO<sub>2</sub> emissions from all CO<sub>2</sub> budget sources in all of the participating states. Allowances in accounts opened by participating states are not included.

(56) "Forest offset project" means an offset project involving reforestation, improved forest management, or avoided conversion.

(57) "Forest offset project data report" means the report prepared by a project sponsor each year that provides the information and documentation required by COMAR 26.09.03.04 or the forest offset protocol.

(58) "Forest offset protocol" means the protocol titled "Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects, June 13, 2013".]

[(59)] (54) — [(62)] (58) (text unchanged)

[(63)] "Global warming potential (GWP)" means a numerical measure of the radiative efficiency or heat-absorbing ability of a particular gas, relative to that of CO<sub>2</sub>, after taking into account the decay rate of each gas, relative to that of CO<sub>2</sub>, and consistent with the values used in the Intergovernmental Panel on Climate Change, Fifth Assessment Report, Climate Change 2013: The Physical Science Basis, Chapter 8 "Anthropogenic and Natural Radiative Forcing", Section 8.7 "Emission Metrics" (pages 710-720).]

[(64)] (59) — [(65)] (60) (text unchanged)

[(66)] "Intentional Reversal" means any reversal of a forest offset project caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the area within the offset project boundary.]

[(67)] (61) — [(68-1)] (63) (text unchanged)

[(69)] (64) "Limited Industrial Exemption [Set-aside Account]" means [a general account established by the Department from which allowances will be held for retirement for] industrial generators of at least 25 megawatts which have taken a permit condition that limits the unit's annual electrical output to the electric grid to less than or equal to 10 percent of its annual gross generation.

[(70)] (65) — [(71)] (66) (text unchanged)

[(72)] "Maryland CO<sub>2</sub> Budget Trading Program adjusted budget" means the number of CO<sub>2</sub> allowances available for allocation and auction annually, determined in accordance with COMAR 26.09.02.03I and the CO<sub>2</sub> Budget Trading Program. CO<sub>2</sub> allowances allocated under the Maryland CO<sub>2</sub> Budget Trading Program adjusted budget are separate from:

(a) CO<sub>2</sub> offset allowances allocated to project sponsors; and

(b) CO<sub>2</sub> CCR allowances offered for sale at an auction.]

[(72-1)] (67) "Maryland CO<sub>2</sub> Budget Trading Program base budget" is specified in COMAR 26.09.02.03A, and does not include [the following additional allowances:] *CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances offered for sale at an auction.*

- [(a)] CO<sub>2</sub> offset allowances allocated to project sponsors; and
- [(b)] CO<sub>2</sub> CCR allowances offered for sale at an auction.]

[(72-2)] (68) "Minimum reserve price" shall be, except for *CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2* allowances:

- [(a)] [\$2.00] \$9.00 in calendar year [2014] 2027; and
- [(b)] For each calendar year thereafter, the minimum reserve price from the previous calendar year multiplied by [1.025] 1.07, rounded to the nearest whole cent *as follows:*

- (i) \$9.63 for 2028;*
- (ii) \$10.30 for 2029;*
- (iii) \$11.02 for 2030;*
- (iv) \$11.79 for 2031;*
- (v) \$12.62 for 2032;*
- (vi) \$13.50 for 2033;*
- (vii) \$14.45 for 2034;*
- (viii) \$15.46 for 2035;*
- (ix) \$16.54 for 2036; and*
- (x) \$17.70 for 2037.*

[(73)] (69) — [(75-2)] (73) (text unchanged)

[(76)] "Offset project" means all equipment, materials, items, or actions directly related to the reduction of CO<sub>2</sub> equivalent emissions or the sequestration of carbon specified in a consistency application.]

[(77)] (74) — [(81-1)] (79) (text unchanged)

[(82)] "Project commencement" means:

[(a)] For an offset project involving physical construction, other work at an offset project site, or installation of equipment or materials, the date of the beginning of the activity;

[(b)] For an offset project that involves the implementation of a management activity or protocol, the date on which the activity is first implemented or protocol first utilized; or

[(c)] For an offset project involving reforestation, improved forest management, or avoided conversion, the date specified in section 3.2 of the forest protocol.

[(83)] "Project sponsor" means the CO<sub>2</sub> authorized account representative for the general account of the relevant offset project or CO<sub>2</sub> emissions credit retirement.]

[(84)] (80) — [(86-2)] (86) (text unchanged)

[(86-3)] "Reporting Period" means the period of time covered by a forest offset project data report, where:

[(a)] The first reporting period for an offset project in an initial crediting period may consist of 6 to 24 consecutive months; and

[(b)] All subsequent reporting periods in an initial crediting and all reporting periods in any renewed crediting period must consist of 12 consecutive months.]

[(87)] "Reserve price" means the minimum acceptable price at which a CO<sub>2</sub> allowance will be sold in a given auction, defined as either the minimum reserve price, *the CCR tier 1 trigger price*, or the *CCR tier 2 trigger price*.

[(88)] (text unchanged)

[(89)] "Reversal" means the intentional or unintentional release of CO<sub>2</sub> emissions from an offset project for which offset allowances have previously been issued.

[(90)] "Second control period adjustment for banked allowances" means, for allocation years 2015 through 2020, a reduction in the Maryland CO<sub>2</sub> Budget Trading Program base budget by the number of allowances equal to the number of 2012 and 2013 allowances held in general and compliance accounts established pursuant to the CO<sub>2</sub> Budget Trading Programs, that are in excess of the aggregate tons of 2012 and 2013 emissions from all CO<sub>2</sub> Budget sources in all of the participating states. Allowances in accounts opened by participating states are not included.]

[(91)] (89) (text unchanged)

[(92)] "Third adjustment for banked allowances" means, for allocation years 2021 through 2025, an adjustment applied to the Maryland CO<sub>2</sub> Budget Trading Program base budget to address allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, that are in addition to the aggregate quantity of emissions from all CO<sub>2</sub> budget sources in all of the participating states at the end of the fourth control period in 2020 and as reflected in the CO<sub>2</sub> Allowance Tracking System on March 17, 2021.]

[(93)] (90) — [(94)] (92) (text unchanged)

[(95)] "Unintentional Reversal" means any reversal of a forest offset project, including by wildfires or disease, that is not the result of the forest owners negligence, gross negligence, or willful intent.]

[(96)] (93) (text unchanged)

[(96-1)] "Verification" means the verification by an independent verifier that certain parts of a CO<sub>2</sub> emissions offset project consistency application and/or measurement, monitoring or verification report conforms to the requirements of this subtitle.]

[(96-2)] (94) — [(100)] (98) (text unchanged)

**.03 Incorporation by Reference.**

- A. (text unchanged)
- B. Documents Incorporated.
  - (1) 10 CFR Part 430, as amended.
  - (2) 40 CFR Part 60, Subpart Cc and Subpart WWW, as amended.]
  - [(3)] (1) — [(4)] (2) (text unchanged)
  - [(5) American Society of Agricultural and Biological Engineers, ASABE D384.2, Manure Production and Characteristics, March 2005.]
  - [(6)] (3) [Antares Group, Inc., for New York State Energy Research and Development Authority,] New York State Renewable [Portfolio] *Energy Standard* [,] Biomass [Guidebook, Appendix B, May 2006] *Power Guide*, June 2018.
  - [(7) Intergovernmental Panel on Climate Change, Fifth Assessment Report, Climate Change 2013: The Physical Science Basis, Chapter 8 “Anthropogenic and Natural Radiative Forcing”, Section 8.7 “Emission Metrics” (pages 710-720)
  - (8) Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects, June 13, 2013.
  - (9) U.S. Environmental Protection Agency (EPA), Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-2010, EPA (430-R-12-001), Annex 3, Table A-180, April 15, 2012.
  - (10 U.S. Environmental Protection Agency (EPA), Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79-020), Method Number 160.4, “Volatile Residue by Muffle Furnace,” 1971.
  - (11) U.S. Geological Survey (USGS), Marvin J. Fishman and Linda C. Friedman, editors, Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments, Techniques of Water-Resources Investigations of the United States Geological Survey, Book 5, Chapter A1, Method Number I-3750, “Solids, residue on evaporation at 105 degrees C, total, gravimetric,” 1985.]

**.04 Selection and Responsibilities of CO<sub>2</sub> Budget Source Compliance Account Authorized Account**

**Representatives.**

- A. —K. (text unchanged)
- L. Delegation by CO<sub>2</sub> Authorized Account Representative or Alternate CO<sub>2</sub> Authorized Account Representative.
  - (1) (text unchanged)
  - (2) In order to delegate authority to make an electronic submission, the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative shall submit a notice of delegation in a format prescribed by the Department that includes the following:
    - (a) — (b) (text unchanged)
    - (c) For each electronic submission agent, a list of the [type] *types* of electronic submissions for which authority is delegated to that individual; and
    - (d) The following certification statements by the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative:
      - (i) "I agree that any electronic submission by an individual identified in this notice of delegation and of a type listed for the electronic submission agent in this notice of delegation and that is made [when] *while* I am a CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation *under COMAR 26.09.01.04L* shall be deemed to be an electronic submission by me."; and
      - (ii) "Until this notice of delegation is superseded by another notice of delegation, I agree to maintain an email account and to notify the Department immediately of any change in email address unless all delegation authority by me *under COMAR 26.09.01.04L* is terminated".
  - (3) — (7) (text unchanged)
  - (8) In order to delegate authority to review information in the CO<sub>2</sub> allowance tracking system in accordance with §L(6) and (7) of this regulation, the CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative, as appropriate, must submit to the Department a notice of delegation, in a format prescribed by the Department that includes the following:
    - (a) — (b) (text unchanged)
    - (c) For each such natural person, a list of the type of information under §L(6) and (7) of this regulation for which *reviewing* authority is delegated to him or her; and
    - (d) The following certification statements by such CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative:
      - (i) "I agree that any information that is reviewed by a natural person identified in this notice of delegation and of a type listed for such information accessible by the reviewer in this notice of delegation and that is made [when] *while* I am a CO<sub>2</sub> authorized account representative or alternate CO<sub>2</sub> authorized account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation *under COMAR 26.09.01.04L* shall be deemed to be reviewed by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under COMAR 26.09.01.04L, I agree to maintain an e-mail account and to notify the Department [or its agent] immediately of any change in my e-mail address unless delegation authority by me under COMAR 26.09.01.04L is terminated."

(9) — (10) (text unchanged)

**.05 — .06 (text unchanged)**

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 09 MARYLAND CO<sub>2</sub> BUDGET TRADING PROGRAM

### Chapter 02 Applicability, Determining Compliance, and Allowance Distribution

Authority: Environment Article, §§ 1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

#### **.01 — .02 (text unchanged)**

#### **.03 Distribution of CO<sub>2</sub> Allowances and Compliance.**

A. The Maryland CO<sub>2</sub> Budget Trading Program consists of allowances to cover CO<sub>2</sub> emissions for the following:

- (1) [18,671,045] 12,663,369 tons for [2018] 2027;
- (2) [17,931,922] 11,080,448 tons for [2019] 2028;
- (3) [17,483,623] 9,497,527 tons for [2020] 2029;
- (4) [16,790,271] 7,914,605 tons for [2021] 2030;
- (5) [16,281,475] 6,331,684 tons for [2022] 2031;
- (6) [15,772,679] 4,748,763 tons for [2023] 2032;
- (7) [15,263,882] 3,165,842 tons for [2024] 2033;
- (8) [14,755,086] 2,713,579 tons for [2025] 2034;
- (9) [14,246,290] 2,261,316 tons for [2026] 2035;
- (10) [13,737,494] 1,809,053 tons for [2027] 2036; and
- (11) [13,228,698] 1,356,790 tons for [2028]; 2037 and each succeeding calendar year.
- [(12) 12,719,902 tons for 2029; and
- (13) 12,211,106 tons for 2030 and each succeeding calendar year.]

B. CO<sub>2</sub> Allowances Available for Allocation. For *the* allocation [years 2014 through 2031] *year 2027 and each succeeding calendar year*, the Maryland CO<sub>2</sub> Budget Trading Program [adjusted] *base* budget shall be the maximum number of allowances available for allocation in a given allocation year, except for [CO<sub>2</sub> offset allowances and] CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances.

C. Cost Containment Reserve Allocation. [The Department shall allocate CO<sub>2</sub> CCR allowances, separate from and in addition to the Maryland CO<sub>2</sub> Budget Trading Program base budget set forth in §A of this regulation, to the Consumer Energy Efficiency Account. The CCR allocation is for the purpose of containing the cost of CO<sub>2</sub> allowances. The Department shall allocate CO<sub>2</sub> CCR allowances in the following manner:]

(1) [The Department shall initially allocate 1,135,217 CO<sub>2</sub> CCR allowances for calendar year 2014] *The Department shall allocate CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances, separate from and in addition to the Maryland CO<sub>2</sub> Budget Trading Program base budget set forth in §A of this regulation, to the Consumer Energy Efficiency Account. The CCR allocation is for the purpose of containing the cost of CO<sub>2</sub> allowances.*

[(2) On or before January 1, 2015, and each calendar year thereafter through 2020, the Department shall allocate CO<sub>2</sub> CCR allowances sufficient to replenish Marylands 22.6 percent proportional share of the CCR.]

[(3)] (2) On or before January 1, [2021] 2027, and each calendar year thereafter, the Department shall allocate 2,130,856 current vintage year [CCR allowances equal to the following:] CO<sub>2</sub> CCR tier 1 and 2,130,856 CO<sub>2</sub> CCR tier 2 allowances, and withdraw the number of CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances that remain in the Maryland CO<sub>2</sub> Budget Trading Program at the end of the prior calendar year.

- [(a) 2,236,466 CCR allowances for 2018, 2019, and 2020;
- (b) 1,679,027 CCR allowances for 2021;
- (c) 1,628,147 CCR allowances for 2022;
- (d) 1,577,267 CCR allowances for 2023;
- (e) 1,526,388 CCR allowances for 2024;
- (f) 1,475,508 CCR allowances for 2025;
- (g) 1,424,629 CCR allowances for 2026;
- (h) 1,373,749 CCR allowances for 2027;
- (i) 1,322,869 CCR allowances for 2028;
- (j) 1,271,990 CCR allowances for 2029; and
- (k) 1,221,110 CCR allowances for 2030 and each succeeding calendar year.]

[(4)] (3) (text unchanged)

D. [Emissions Containment Reserve Withholding. The Department shall convert or transfer any CO<sub>2</sub> allowances that have been withheld from any auction(s) into the Emissions Containment Reserve Account. The ECR withholding is for the purpose of additional emissions reduction in the event of lower than anticipated emissions reduction costs. The Department shall withhold CO<sub>2</sub> ECR allowances in the following manner.



(1) If the condition in COMAR 26.09.04.06B(4)(a) is met at an auction, then the maximum number of CO<sub>2</sub> ECR allowances that will be withheld from that auction will be equal to the following, minus the total quantity of CO<sub>2</sub> ECR allowances that have been withheld from any prior auction(s) in that calendar year:

- (i) 1,679,027 for 2021;
- (ii) 1,628,148 for 2022;
- (iii) 1,577,268 for 2023;
- (iv) 1,526,388 for 2024;
- (v) 1,475,509 for 2025;
- (vi) 1,424,629 for 2026;
- (vii) 1,373,749 for 2027;
- (viii) 1,322,870 for 2028;
- (ix) 1,271,990 for 2029; and
- (x) 1,221,111 for 2030 and each succeeding calendar year.

(2) Any CO<sub>2</sub> ECR allowances withheld from an auction will be transferred into the Emission Containment Reserve Account.

(3) Allowances that have been transferred into the Emission Containment Reserve Account shall not be withdrawn.] *Repealed.*

E. (text unchanged)

F. [Adjustment for First Control Period Banked Allowances. By January 15, 2014, the Department shall establish the adjustment for first control period banked allowances as 1,863,361 allowances applicable to allocation years 2014 through 2020.] *Repealed.*

G. [Adjustment for Second Control Period Banked Allowances. On March 15, 2014, the Department shall establish the adjustment for second control period banked allowances as 3,106,578 allowances applicable to allocation years 2015 through 2020.] *Repealed.*

H. [Third Adjustment for Banked Allowances. On March 15, 2021, the Department shall establish the third adjustment for banked allowances quantity for allocation years 2021 through 2025 through the application of the following formula:

$$TABA = ((TA - TAE)/5) \times RS\%$$

Where:

(1) TABA is the third adjustment for banked allowances quantity in tons;

(2) TA, third adjustment, is the total quantity of allowances of vintage years prior to 2021 held in general and compliance accounts, including compliance accounts established pursuant to the CO<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, as reflected in the CO<sub>2</sub> Allowance Tracking System (COATS) on March 15, 2021;

(3) TAE, third adjustment emissions, is the total quantity of 2018, 2019, and 2020 emissions from all CO<sub>2</sub> budget sources in all participating states, reported pursuant to the CO<sub>2</sub> Budget Trading Program as reflected in the CO<sub>2</sub> Allowance Tracking System (COATS) on March 15, 2021;

(4) RS% is Maryland's budget divided by the regional budget.] *Repealed*

I. [CO<sub>2</sub> Budget Trading Program Adjusted Budgets.

(1) On April 15, 2019 the Department shall establish the Maryland CO<sub>2</sub> Budget Trading Program adjusted budgets for the 2018 through 2020 allocation years as follows:

- (a) 13,701,106 allowances in 2018;
- (b) 12,961,983 allowances in 2019; and
- (c) 12,513,684 allowances in 2020.

(2) On April 15, 2021, the Department shall establish the Maryland CO<sub>2</sub> Budget Trading Program adjusted budgets for the 2021 through 2025 allocation years by the following formula:

$$AB = BB \text{ TABA}$$

Where:

- (a) AB is the Maryland CO<sub>2</sub> Budget Trading Program adjusted budget;
- (b) BB is the Maryland CO<sub>2</sub> Budget Trading Program base budget; and
- (c) TABA is the third adjustment for banked allowances quantity in tons.

(3) After making the determinations required by §I(1) and (2) of this regulation, the Department will post on the Department website the CO<sub>2</sub> trading program adjusted base budgets for the 2021 through 2025 allocation years.] *Repealed.*

J. General Distribution of CO<sub>2</sub> Allowances.

(1) The Department shall open and manage a general account for the following:

[a] The Limited Industrial Exemption Set-aside Account;]

[b)] (a) — [(d)] (c) (text unchanged)

(2) (text unchanged)

(3) The Department shall allocate CO<sub>2</sub> allowances from the Consumer Energy Efficiency Account to each of the following accounts, except as directed in [COMAR 26.09.02.09] *Regulation .09 of this chapter*, so that the total number of allowances in each account is:

[(a) The following number of allowances in the Limited Industrial Set-aside Account;

- (i) 3,465,101 for 2018;
- (ii) 2,976,734 for 2019;
- (iii) 2,488,367 for 2020;
- (iv) 2,000,000 for 2021 and each succeeding calendar year.]

[(b)] (a) — [(c)] (b) (text unchanged)

(4) (text unchanged)

K. Demonstrating Compliance.

(1) (text unchanged)

(2) As of the CO<sub>2</sub> allowance transfer deadline for an interim control period, the owners and operators of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall hold, in the sources compliance account for deduction under §K of this regulation, CO<sub>2</sub> allowances for no less than 50 percent of the total *number of tons of* CO<sub>2</sub> emissions for the interim control period from all CO<sub>2</sub> budget units at the source.

(3) — (4) (text unchanged)

(5) The identification of available CO<sub>2</sub> allowances for compliance deduction by serial number or by default is as follows:

(a) (text unchanged)

(b) In the absence of an identification or in the case of a partial identification of available CO<sub>2</sub> allowances by serial number, the Department shall deduct CO<sub>2</sub> allowances for a control period or interim control period in the following descending order:

(i) — (ii) (text unchanged)

(iii) Subject to the relevant compliance deduction limitations identified in §K(3)(c) of this regulation, any CO<sub>2</sub> offset allowances transferred and recorded in the compliance account, in chronological order, *or, in the event that some, but not all, CO<sub>2</sub> offset allowances from a particular allocation year are to be deducted, CO<sub>2</sub> offset allowances shall be deducted by serial number, with lower serial number CO<sub>2</sub> offset allowances deducted before higher serial number allowances;* and

(iv) (text unchanged)

(6) — (9) (text unchanged)

#### **.04 — .05 (text unchanged)**

#### **.06 Limited Industrial Exemption [Set-aside Account].**

A. The Department shall administer the Limited Industrial Exemption [Set-aside Account] in accordance with the procedures of this regulation.

B. A CO<sub>2</sub> budget source is exempt from the requirements of Regulation [.03E] .03K of this chapter if it meets the following criteria:

(1) — (3) (text unchanged)

C. — E. (text unchanged)

F. [On the January 1 following the date that the Department granted an exemption to a CO<sub>2</sub> budget source and on January 1 each year after that, the Department shall retire the number of CO<sub>2</sub> allowances in the Limited Industrial Exemption Set-aside Account equal to the average number of CO<sub>2</sub> tons emitted by the exempt CO<sub>2</sub> budget source over the most recent 3 calendar years for which data are available. The Department shall retire CO<sub>2</sub> allowances from the Limited Industrial Exemption Set-aside Account to the CO<sub>2</sub> Allowance Retirement Account.] *On or after January 1, 2027, the Department may reallocate any CO<sub>2</sub> allowances previously allocated for retirement on behalf of CO<sub>2</sub> budget sources eligible for the Limited Industrial Exemption to the Consumer Energy Efficiency Account.*

[G. After the Department has retired CO<sub>2</sub> allowances from the Limited Industrial Exemption Set-aside Account for the proceeding calendar year, the Department shall supplement the remaining allowances in the account by transferring from the Consumer Energy Efficiency Account the number of allowances needed to restore the balance of the Limited Industrial Exemption Set-aside Account to the amount described in Regulation .03J(3)(a) of this chapter for that calendar year.]

#### **.07 Long Term Contract Set-aside Account**

A. — I. (text unchanged)

J. *The Long Term Contract Set-aside Account shall expire on January 1, 2027.*

#### **.08 — .09 (text unchanged)**

#### **.10 Monitoring Requirements.**

[A. General Requirements and Prohibitions.

(1) The owner or operator of a CO<sub>2</sub> budget unit shall:

(a) Install monitoring systems to monitor CO<sub>2</sub> concentration, stack gas flow rate, oxygen concentration, heat input, and fuel flow rate;

(b) Install all monitoring systems in accordance with 40 CFR Part 75, except for equation G-1 in Appendix G;

(c) Record, report, and verify the data from the monitoring systems; and

(d) Install and certify the monitoring system on or before the following dates:

(i) For a CO<sub>2</sub> budget unit that commences commercial operation before July 1, 2008, the owner or operator shall comply on or before January 1, 2009; and

(ii) For a CO<sub>2</sub> budget unit that commences commercial operation or constructs a new stack or flue on or after July 1, 2008, the owner or operator shall comply by January 1, 2009, or 90 operating days after the date on which the unit commences commercial operation.

(2) The owner or operator of a CO<sub>2</sub> budget unit that does not meet the applicable compliance date shall, in accordance with the provisions in 40 CFR §75.31(b)(2) or (c)(3), or §2.4 of Appendix D, determine, record, and report maximum potential or, as appropriate, minimum potential for the following:

(a) CO<sub>2</sub> concentration;

(b) CO<sub>2</sub> emissions rate;

(c) Stack gas moisture content;

(d) Fuel flow rate; and

(e) Any other parameter required to determine CO<sub>2</sub> mass emissions.

(3) The owner or operator of a CO<sub>2</sub> budget unit that does not meet the applicable compliance date for any monitoring system shall determine, record, and report substitute data using the applicable missing data procedures in 40 CFR Part 75 Subpart D, or Appendix D, instead of the maximum potential values or, as appropriate, minimum potential values for a parameter, if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation.

(4) An owner or operator of a CO<sub>2</sub> budget unit or a non-CO<sub>2</sub> budget unit monitored under 40 CFR §75.72(b)(2)(ii) may not:

(a) Use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emissions monitoring system without having obtained prior written approval from the Department;

(b) Operate the unit so as to discharge, or allow to be discharged, CO<sub>2</sub> emissions to the atmosphere without accounting for all emissions in accordance with the applicable provisions of this chapter and 40 CFR Part 75;

(c) Disrupt the operation of the CEMS, any portion of the CEMS, or any other approved emissions monitoring method, and thereby avoid monitoring and recording CO<sub>2</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed; or

(d) Permanently discontinue use of the approved CEMS unless the owner or operator monitors emissions with a system approved in accordance with this chapter and 40 CFR Part 75.

#### B. Initial Certification and Recertification Procedures.

(1) For purposes of this subtitle only, the owner or operator of a CO<sub>2</sub> budget unit is exempt from demonstrating compliance with the initial certification requirements of 40 CFR §75.20 for a monitoring system if the following conditions are met:

(a) The monitoring system has been previously certified in accordance with 40 CFR §75.20; and

(b) The applicable quality assurance and quality-control requirements of 40 CFR §75.21 and Appendix B and Appendix D of 40 CFR Part 75 are fully met for the certified monitoring system.

(2) The recertification provisions of this regulation apply to a monitoring system exempt from the initial certification requirements of this regulation.

(3) If the Department has previously approved a petition under 40 CFR §75.72(b)(2)(ii) or 40 CFR §75.16(b)(2)(ii)(B) pursuant to 40 CFR §75.13 for apportioning the CO<sub>2</sub> emissions rate measured in a common stack or a petition under 40 CFR §75.66 for an alternative requirement in 40 CFR Part 75, the CO<sub>2</sub> authorized account representative shall resubmit the petition to the Department to determine whether the approval applies under this chapter.

(4) The owner or operator of a CO<sub>2</sub> budget unit shall comply with the initial certification and recertification procedures for a CEMS and an excepted monitoring system under 40 CFR Part 75, Appendix D.

(5) The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR §75.19 or that qualifies to use an alternative monitoring system under 40 CFR Part 75, Subpart E, shall comply with this regulation.

#### C. Requirements for Recertification.

(1) When the owner or operator replaces, modifies, or changes a CEMS that the Department determines significantly affects the ability of the system to accurately measure or record CO<sub>2</sub> mass emissions or to meet the quality assurance and quality control requirements of 40 CFR §75.21 or Appendix B, the owner or operator shall recertify the monitoring system according to 40 CFR §75.20(b).

(2) When the owner or operator replaces, modifies, or changes the flue gas handling system or the unit's operation in a manner that the Department determines has significantly changed the flow or concentration profile, the owner or operator shall recertify the CEMS according to 40 CFR §75.20(b).

(3) Approval Process for Initial Certifications and Recertification. The procedures in 40 CFR §75.20(b)(5) and (g)(7) apply for recertifications. The CO<sub>2</sub> authorized account representative shall submit to the Department:

(a) A written notice of the dates of certification; and

(b) A recertification application for each monitoring system, including the information specified in 40 CFR §75.63.

(4) Provisional Certification Data.

(a) The provisional certification data for a monitor shall be determined in accordance with 40 CFR §75.20(a)(3).

(b) A provisionally certified monitor may be used for a period not to exceed 120 days after receipt of the complete certification application for the monitoring system or component.

(c) Data measured and recorded by the provisionally certified monitoring system or component is considered valid quality assured data, retroactive to the date and time of provisional certification, if the Department does not issue a notice of disapproval within 120 days of receipt of the complete certification application.

D. Certification Application Approval Process.

(1) The Department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application.

(2) If the Department does not issue the notice within the 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application shall be deemed certified for use.

(3) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, the Department shall issue a written notice of approval of the certification application within 120 days of receipt.

(4) If the certification application is not complete, the Department shall issue a written notice of incompleteness that sets a reasonable date by which the CO<sub>2</sub> authorized account representative is to submit the additional information required to complete the certification application.

(5) If the CO<sub>2</sub> authorized account representative does not comply with the notice of incompleteness by the specified date, the Department may issue a notice of disapproval.

(6) If the Department issues a notice of disapproval of a certification application or a notice of disapproval of certification status, the owner or operator shall substitute the following values for each disapproved monitoring system, for each hour of unit operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR §75.20(a)(5)(i) or 75.20(g)(7):

(a) For units using or intending to monitor for CO<sub>2</sub> mass emissions using heat input or for units using the low mass emissions excepted methodology under 40 CFR §75.19, the maximum potential hourly heat input of the unit; or

(b) For units intending to monitor for CO<sub>2</sub> mass emissions using a CO<sub>2</sub> pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO<sub>2</sub> and the maximum potential flow rate of the unit under 40 CFR Part 75, Appendix A, §2.1.

(7) The CO<sub>2</sub> authorized account representative shall submit a notification of certification retest dates and a new certification application. The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, not later than 30 operating days after the date of issuance of the notice of disapproval.

E. Initial Certification and Recertification Procedures for Low Mass Emissions Units Using the Excepted Methodologies under 40 CFR §75.19.

(1) The owner or operator of a unit qualified to use the low mass emissions excepted methodology under 40 CFR §75.19 shall meet the applicable certification and recertification requirements of 40 CFR §§75.19(a)(2) and 75.20(h).

(2) If the owner or operator of this unit elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements in 40 CFR §75.20(g).

F. Certification and Recertification Procedures for Alternative Monitoring Systems. For each unit for which the owner or operator intends to use an alternative monitoring system approved by the Department, 40 CFR Part 75, Subpart E, shall be used to comply with the applicable notification and application procedures of 40 CFR §75.20(f).

G. Out-of-Control Periods and Decertification Audit.

(1) When any monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable procedures in 40 CFR Part 75, Subpart D, Appendix D.

(2) Audit Decertification.

(a) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department shall issue a notice of disapproval of the certification status of the monitoring system.

(b) By issuing the notice of disapproval, the certification status of the monitoring system is prospectively revoked.

(3) The data measured and recorded by the monitoring system may not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status.]

A. The owner or operator of a CO<sub>2</sub> budget unit shall install monitoring systems to monitor CO<sub>2</sub> mass emissions including CO<sub>2</sub> concentration, stack gas flow rate, oxygen concentration, heat input, and fuel flow rate.

B. The owner or operator of a CO<sub>2</sub> budget unit shall install all monitoring systems in accordance with 40 CFR Part 75.13, 75.71, and 75.72 except for equation G-1 in Appendix G.

*C. The owner or operator of a CO<sub>2</sub> budget unit shall record, report, and verify the data from the monitoring systems in accordance with §A and B of this regulation.*

**.11 Record Keeping and Reporting.**

A. — C. (text unchanged)

D. CO<sub>2</sub> Budget Units that Burn Eligible Biomass.

(1) — (4) (text unchanged)

(5) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State Renewable [Portfolio] *Energy Standard Biomass [Guidebook, September 2011] Power Guide, June 2018.*

E. Additional Requirements to Provide Output Data.

(1) — (2) (text unchanged)

(3) Report of Net Electrical Output. A CO<sub>2</sub> budget unit shall submit the net electrical output *to be used* to the Department in accordance with this regulation. A CO<sub>2</sub> budget source whose electrical output is not used in the independent system operator (ISO) energy market settlement determinations shall propose a method for quantification of net electrical output.

(4) (text unchanged)

F. — I. (text unchanged)

# **Title 26 DEPARTMENT OF THE ENVIRONMENT**

## **Subtitle 09 MARYLAND CO<sub>2</sub> BUDGET TRADING PROGRAM**

### **Chapter 03 [Offset Projects] *Repealed***

Authority: Environment Article, §§ 1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

# **Title 26 DEPARTMENT OF THE ENVIRONMENT**

## **Subtitle 09 MARYLAND CO<sub>2</sub> BUDGET TRADING PROGRAM**

### **Chapter 04 Auctions**

Authority: Environment Article, §§1-101, 1-404, 2-103, and 2-1002(g), Annotated Code of Maryland

#### **.01 — .02 (text unchanged)**

#### **.03 Consumer Energy Efficiency Account.**

A. (text unchanged)

B. The Department shall administer the Account in such a manner that allowances allocated to the Account or transferred to it from [the Limited Industrial Exemption Set-aside Account,] the Long Term Contract Set-aside Account, the Voluntary Renewable Set-aside Account, the Clean Generation Set-aside Account, or the [CO] CO<sub>2</sub> Allowance Contingency Account may be offered for sale in [CO] CO<sub>2</sub> allowance auctions as described in COMAR 26.09.02.

C. — D. (text unchanged)

#### **.04 — .05 (text unchanged)**

#### **.06 Auction of CO<sub>2</sub> Allowances.**

A. (text unchanged)

B. General Requirements.

(1) The Department shall include the following information in the auction notice for each auction:

(a) The number of CO<sub>2</sub> allowances offered for sale at the auction, not including any CO<sub>2</sub> CCR *tier 1* or CO<sub>2</sub> CCR *tier 2* allowances;

(b) The number of CO<sub>2</sub> CCR *tier 1* allowances that will be offered for sale at the auction if the condition of §B(2)(a) of this regulation is met;

(c) *The number of CO<sub>2</sub> CCR tier 2 allowances that will be offered for sale at the auction if the condition of §B(2)(c) of this regulation is met;*

[(c)] (d) (text unchanged)

[(d)] (e) The CCR *tier 1* trigger price for the auction; and

[(e)] The maximum number of CO<sub>2</sub> allowances that may be withheld from sale at the auction if the condition of §B(4)(a) of this regulation is met; and]

(f) The [ECR] CCR *tier 2* trigger price for the auction.

(2) The Department or its agent shall follow these rules for the sale of CO<sub>2</sub> CCR allowances:

(a) CO<sub>2</sub> CCR *tier 1* allowances shall only be sold at an auction in which total demand for allowances, above the CCR *tier 1* trigger price, exceeds the number of CO<sub>2</sub> allowances available for purchase at the auction, not including any CO<sub>2</sub> CCR *tier 1* or *tier 2* allowances;

(b) If the condition of §B(2)(a) of this regulation is met at an auction, then the number of CO<sub>2</sub> CCR *tier 1* allowances offered for sale by the Department at the auction shall be equal to the number of CO<sub>2</sub> CCR *tier 1* allowances in the Consumer Energy Efficiency Account at the time of the auction;

(c) *CO<sub>2</sub> CCR tier 2 allowances shall only be sold at an auction in which total demand for allowances, above the CCR tier 2 trigger price, exceeds the number of CO<sub>2</sub> allowances available for purchase at the auction, not including any CO<sub>2</sub> CCR tier 2 allowances;*

(d) *If the condition of §B(2)(c) of this regulation is met at an auction, then the number of CO<sub>2</sub> CCR tier 2 allowances offered for sale by the Department at the auction shall be equal to the number of CO<sub>2</sub> CCR tier 2 allowances in the Consumer Energy Efficiency Account at the time of the auction;*

[(c)] (e) After all of the CO<sub>2</sub> CCR *tier 1* allowances in the Consumer Energy Efficiency Account have been sold in a given calendar year, no additional CO<sub>2</sub> CCR *tier 1* allowances will be offered for sale at any auction for the remainder of that calendar year, even if the condition of §B(2)(a) of this regulation is met at an auction;

(f) *After all of the CO<sub>2</sub> CCR tier 2 allowances in the Consumer Energy Efficiency Account have been sold in a given calendar year, no addition CO<sub>2</sub> CCR allowances will be offered for sale at any auction for the remainder of that calendar year, even if the condition of §B(2)(c) of this regulation is met at an auction;*

[(d)] (g) At an auction in which CO<sub>2</sub> CCR *tier 1* allowances are sold, but no CO<sub>2</sub> CCR *tier 2* allowances are sold, the reserve price for the auction shall be the CCR *tier 1* trigger price; [and]

(h) *At an auction in which CO<sub>2</sub> CCR tier 2 allowances are sold, the reserve price for the auction shall be the CCR tier 2 trigger price;*

[(e)] (i) If the condition of §B(2)(a) of this regulation is not satisfied, no CO<sub>2</sub> CCR tier 1 or CO<sub>2</sub> CCR tier 2 allowances shall be offered for sale at the auction, and the reserve price for the auction shall be equal to the minimum reserve prices; and

(j) *If the condition of §B(2)(c) of this regulation is not satisfied, no CO<sub>2</sub> CCR tier 2 allowances shall be offered for sale at the auction, and the reserve price for the auction shall be determined as follows:*

(i) *If the condition of §B(2)(a) of this regulation is met, the reserve price shall be equal to the CCR tier 1 trigger price; and*

(ii) *If the condition of §B(2)(a) of this regulation is not met, the reserve price shall be equal to the minimum reserve price.*

(3) (text unchanged)

[(4)] The Department or its agent shall follow these rules for the withholding of CO<sub>2</sub> ECR allowances from an auction:

(a) CO<sub>2</sub> ECR allowances shall only be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the ECR trigger price prior to the withholding from the auction of any ECR allowances;

(b) If the condition in §B(4)(a) of this regulation is met at an auction, then the maximum number of CO<sub>2</sub> ECR allowances that may be withheld from that auction will be equal to the quantity described in COMAR 26.09.02.03D(1) minus the total quantity of CO<sub>2</sub> ECR allowances that have been withheld from any prior auction in that calendar year; and

(c) Any CO<sub>2</sub> ECR allowances withheld from an auction will be transferred into the Emission containment reserve account.]

**.07 — .14 (text unchanged)**