AIR QUALITY CONTROL ADVISORY COUNCIL
AGENDA
September 18, 2017

Maryland Department of the Environment
Aeris Conference Room (1st Floor MDE Lobby)
1800 Washington Boulevard
Baltimore MD 21230

https://global.gotomeeting.com/join/448782925
United States: +1 (224) 501-3212
Access Code: 448-782-925

8:15 a.m. Welcome and Introductions John Quinn, Advisory Council Chair
Tad Aburn, Air Director

8:25 a.m. Approval of Meeting Minutes John Quinn

Action Items for Discussion/Approval:

8:30 a.m. COMAR 26.11.40 - NOx Ozone Season Emission Caps for Non-trading Large NOx Units Randy Mosier

9:30 a.m. COMAR 26.09.02.08 & .09 - Clean Generation Set-Aside Account Brian Hug

Briefings:

10:15 a.m. Regional Greenhouse Gas Initiative (RGGI) Chris Hoagland

10:45 a.m. Process for Implementing 2015 Ozone Standard Brian Hug

11:30 a.m. Adjourn

Next Meeting Dates:
December 11, 2017
FACTS ABOUT…

New Chapter COMAR 26.11.40 NO\textsubscript{x} Ozone Season Emission Caps for Non-trading Large NO\textsubscript{x} Units

Amendments to regulation .01 under COMAR 26.11.01 General Administrative Provisions

Amendments to regulation .07 under COMAR 26.11.14 Control of Emissions from Kraft Pulp Mills

Purpose
The purpose of this action is to propose new Regulations .01 - .04 under new Chapter COMAR 26.11.40 - NO\textsubscript{x} Ozone Season Emission Caps for Non-trading Large NO\textsubscript{x} Units to meet federal NO\textsubscript{x} (nitrogen oxides) SIP (State Implementation Plan) Call requirements under the Clean Air Act. The proposed action will also repeal one definition in Regulation .01 under COMAR 26.11.01 - General Administrative Provisions and will amend Regulation .07 under COMAR 26.11.14 - Control of Emissions from Kraft Pulp Mills.

Submission to EPA as Revision to Maryland’s State Implementation Plan (SIP)
This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's SIP.

Background
In 1998, EPA promulgated the NOx Budget Trading Program (NBP) as a central component of the broader NOx SIP Call. The NOx SIP Call was designed to mitigate significant transport of NOx in the eastern United States during the warm summer months, referred to as the ozone season, when ground-level ozone concentrations are highest.

In 2000, Maryland had two regulations that satisfied EPA’s NOx SIP Call requirements. At that time, COMAR 26.11.29 - NOx Reduction and Trading Program and COMAR 26.11.30 - Policies and Procedures Relating to Maryland's NOx Reduction and Trading Program were part of Maryland's SIP. (MDE Revision #00-05). Under this SIP, all large sources of NOx were to report ozone season NOx emission tonnage to EPA. EPA allocated each State a specific NOx ozone season emission budget cap to satisfy 40 CFR §51.121. Under the NOx SIP Call, EPA named the large sources of NOx either electric generating units (EGU) or Non-EGU. However, these terms and definitions have since been revised or replaced. The large sources of NOx were boilers and combustion turbines that either met an applicability threshold of being over 25 MW or over 250 MMBTu/hr.

Since 2000, Maryland and EPA have revised and developed additional regulations that deal with NOx reductions from these same NOx SIP Call sources. The EPA NOx Budget Trading Program evolved into the Trading Programs for large NOx sources. The EPA requirements are under 40 CFR Part 96 “NOx Budget Trading Program and Clean Air
Interstate Rule (CAIR) NOx and SO2 Trading Programs for SIPs” and Part 97 “Federal NOx Budget Trading Program, CAIR NOx and SO2 Trading Programs, and Cross-State Air Pollution Rule (CSAPR) NOx and SO2 Trading Programs”. The EPA’s CAIR and CSAPR programs were developed to limit emissions from fossil fuel-fired sources that are part of the electricity grid and are > 25 MW (EGUs). Each affected State was tasked with preparing a plan to address the non-trading units – or boilers, combustion turbines or combined cycle units with a maximum design heat input greater than 250mmBtu/hr – that do not meet the applicability criteria under the CAIR or CSAPR trading programs. The NOx budget that Maryland must meet for the Non-trading large NOx units was established in Maryland’s SIP revision to comply with the NOx SIP Call and matches the budget for those units listed under 40 CFR Appendix C to Subpart E of Part 97 “Final Section 126 Rule: Trading Budget” Table. The Non-EGU (column 2) is the NOx tonnage cap that the State must meet for all applicable Non-trading large NOx units. This table shows a NOx budget of 1,013 tons for Non-trading units in Maryland.

In 2010, under COMAR 26.11.14.07, the Maryland Department of the Environment (the Department) allocated all of the Non-trading large NOx units budget tonnage to the only identified source subject to these requirements. This source was the Luke Paper Mill, a kraft pulp papermill in operation since 1959. Also in 2010, Maryland removed the NOx SIP call regulations COMAR 26.11.29 and COMAR 26.11.30. (Of note, in 2010 & 2015 COMAR Chapter 29 & Chapter 30 were re-codified and now cover requirements for Natural Gas Compression Stations and Cement Plants, respectively.)

A recent review of existing and proposed sources in Maryland has shown that there are additional facilities that now have units that fall under the Non-trading large NOx unit requirements of the NOx SIP Call. Therefore, Maryland is proposing a new COMAR chapter to identify those affected sources and associated requirements.

In addition to establishing an ozone season NOx budget tonnage cap, the federal regulations also require “Part 75” monitoring for non-trading large NOx units. Per 40 CFR §51.121(i)(4), applicable sources are required to comply with the monitoring provisions of 40 CFR Part 75 Continuous Emissions Monitor (CEM), Subpart H (§§ 75.70 – 75.75). Subpart H is titled "NOx Mass Emissions Provisions" and details the CEM recording and record keeping requirements that non-trading large NOx units must employ.

To satisfy the CAA requirements, the Department proposes to re-allocate NOx ozone season tonnage caps and establish the required Part 75 monitoring requirements. COMAR 26.11.40 will allocate NOx ozone season tonnage caps to affected sources, which include the existing kraft pulp papermill and several new sources that have been identified since 2010 to meet the criteria.

Sources Affected and Location
This regulation is applicable throughout the entire State.

The following “Affected Sources and Units” have been identified in Maryland.
• Cove Point LNG Terminal, Dominion Energy, located in Lusby, Maryland: Units No. Frame 5-1 (Turbine S009), Frame 5-2 (Turbine S010), Frame 7-A, Frame 7-B, Aux A and Aux B;
• Domino Sugar, American Sugar Refining, located in Baltimore, Maryland: Unit No. C6; and
• A person who owns or operates a new unit subject to this Chapter.

Requirements
COMAR 26.11.40 establishes NOx ozone season tonnage caps and NOx monitoring requirements for large NOx sources in the state of Maryland, that are not covered under CSAPR. The compliance deadline to begin meeting the NOx caps begins on May 1, 2018.

COMAR 26.11.40.03 identifies the existing sources and gives each source a NOx emission tonnage cap so that the entire State does not exceed 1,013 tons as required under Maryland’s SIP revision addressing the NOx SIP Call. Each affected source will be required to limit their ozone season NOx emissions to meet or be under the NOx ozone season tonnage cap in the table under proposed COMAR 26.11.40.03.B.

The NOx ozone season tonnage cap for each facility was calculated using permit conditions, regulatory emission rates and capacity factors. The Department worked with the facilities to determine an appropriate unit tonnage. Each facility has been allocated a cap based on the calculations. The new unit set aside is the remaining tons available to any new source identified to meet the applicability of COMAR 26.11.40.02. Ozone season NOx emissions from new sources applicable to this chapter may not exceed the new unit set aside allocations as identified in the table under proposed COMAR 26.11.40.03.B.

<table>
<thead>
<tr>
<th>Affected Sources</th>
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<td><strong>Total</strong></td>
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COMAR 26.11.40.04 requires “Part 75” monitoring for non-trading large NOx units to be operated in accordance with 40 CFR Part 75, Subpart H and 40 CFR §51.121(i)(4). Affected units must maintain records and submit reports in accordance with 40 CFR Part 75. CEM quarterly reports shall also be submitted to the Department pursuant to COMAR 26.11.01.11E(2).

Projected Emission Reductions
The NOx SIP Call requirements have been in place within Maryland for several decades and the NOx emission benefits have already been realized. This proposed action satisfies the NOx SIP Call requirements and maintains a NOx cap for affected sources. No additional NOx emission reductions are projected.
Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

Some of affected sources may need to install modifications to their NOx CEM devices to meet the Part 75 emission stack monitoring requirements. Software updates may also be likely to coordinate electronic reporting between the facility and the EPA.

Industry estimates for the economic impact:

Capital costs per unit: CEMS, hardware and software $50,000 - $150,000

Annual Operating costs per unit: operational maintenance and reporting $10,000 - $40,000 / yr.

This action will not have an economic impact on State agencies or local governments.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

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

Yes – 40 CFR §51.121 “Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen”. This CFR requirement has been termed by EPA and the States as “the NOx SIP Call”. An important piece of this federal requirement is monitoring and reporting requirements under 40 CFR Part 75 Continuous Emissions Monitor (CEM), Subpart H "NOx Mass Emissions Provisions", (§§75.70 – 75.75). The state’s NOx budget for these units was established under the state’s SIP revision addressing the NOx SIP Call and matches the state's budget for these sources shown at 40 CFR Part 97, Subpart E, Appendix C.
Title 26 DEPARTMENT OF THE ENVIRONMENT
Subtitle 11 AIR QUALITY
Chapter 01 General Administrative Provisions

Authority: Environment Article, §§1-404, 2-103, 2-301—2-303, Annotated Code of Maryland

.01 Definitions.
A. (text unchanged)
B. Terms Defined.
   (1) — (24) (text unchanged)
   [(24-1) “NOx Ozone Season Allowance” means a NOx ozone season allowance established under 40 CFR 97.501—.535 NOx ozone season emission trading program and does not constitute a security or other form of property.]
   (25) — (53) (text unchanged)

.02 — .11 (text unchanged)

Title 26 DEPARTMENT OF THE ENVIRONMENT
Subtitle 11 AIR QUALITY
Chapter 14 Control of Emissions from Kraft Pulp Mills

Authority: Environment Article, §§1-404, 2-103, 2-301—2-303, Annotated Code of Maryland

.01 — .06 (text unchanged)

.07 Control of NOx Emissions from Fuel Burning Equipment.
A. Applicability and NOx Emission Standards.
   (1) (text unchanged)
   (2) The total combined NOx emissions of all fuel burning equipment at the Luke Kraft pulp mill to which this regulation applies may not exceed the following:
      (a) Except as provided in §B(1) of this regulation, an emission rate of 0.70 pounds of NOx per million Btu and 947 tons of NOx during the period May 1 through September 30 of each year; and
      (b) An emission rate of 0.99 pounds of NOx per million Btu during the period October 1 through April 30 of each year; and
      (c) The NO2 ozone season emission cap in COMAR 26.11.40.03.
[(3) Compliance with the emission limit in §A(2)(b) of this regulation shall be demonstrated as a 30 day rolling average.]
B. Demonstrating Compliance.
   (1) If during the period May 1 through September 30 of any year the NOx emission limit in §A(2)(a) of this regulation is exceeded, the owner or operator of a Kraft pulp mill shall acquire one NOx ozone season allowance (as that term is defined at COMAR 26.11.01.01B(24-1)) for each ton or partial ton of NOx emissions in excess of the limit in §A(2)(a) of this regulation. Compliance with the NOx emission rates in §A(2)(a) and (b) of this Regulation and the NOx ozone season emission cap in COMAR 26.11.40.03 shall be demonstrated with a continuous emission monitoring system that is installed, operated, and certified in accordance with 40 CFR Part 75.
   (2) If the total number of NOx ozone season allowances acquired pursuant to §B(1) of this regulation for any one period may not exceed 95 and shall be of the same vintage year in which the emission limit is exceeded. Compliance with the emission rates in §A(2)(a) and (b) of this Regulation shall be demonstrated as a 30 day rolling average.
   (3) NOx ozone season allowances acquired pursuant to §B(1) of this regulation shall be acquired on or before November 30 and shall be submitted to the Department for retirement by December 30 of the year in which the emission limit is exceeded.
C. Achieving Compliance Through the Use of NOx Ozone Season Allowances. The owner or operator of a Kraft pulp mill subject to this regulation that achieves compliance through the use of allowances pursuant to §B of this regulation shall:
(1) Acquire the NOx ozone season allowances from a source that has been allocated allowances, a NOx ozone season allowance broker or other entity that has NOx ozone season allowances and agrees to transfer them; and

(2) Transfer the NOx ozone season allowances to the Department for retirement.

[D.] (C.) Monitoring and Reporting Requirements.

(1) (text unchanged)

(2) The owner or operator of a Kraft pulp mill subject to this regulation shall include emissions data obtained from a CEM pursuant to §[D]C(1) of this regulation in the CEM quarterly reports submitted to the Department pursuant to COMAR 26.11.01.11E(2).

BEGIN ALL NEW MATTER

Title 26 DEPARTMENT OF THE ENVIRONMENT
Subtitle 11 AIR QUALITY
Chapter 40 NOx Ozone Season Emission Caps for Non-trading Large NOx Units

Authority: Environment Article, §§1-404, 2-103, 2-301—2-303, Annotated Code of Maryland

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Boiler” means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam or other medium.

(2) “Combined Cycle System” means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(3) “Combustion Turbine” means an enclosed fossil or other fuel-fired device:

(a) That is comprised of a compressor, a combustor, and a turbine; and

(b) In which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(4) “Fossil Fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(5) “Fossil Fuel-fired” means:

(a) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year; or

(b) The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year.

(6) “New Unit” means:

(a) A non-trading large NOx unit that is installed after January 1, 2018; or

(b) An existing unit that is modified to meet the definition of §B(8) of this Regulation.

(7) “New Unit Set Aside” means remaining NOx ozone season emission tons available for new units.

(8) “Non-trading Large NOx, Unit” means a fossil-fuel fired stationary boiler, combustion turbine, or combined cycle system unit with:

(a) A maximum design heat input greater than 250 mmBtu per hour; or

(b) A name plate capacity greater than 25.0 MW.

(9) “Ozone Season” means May 1 through September 1 of any calendar year.

.02 Applicability.

A. The owner or operator of a non-trading large NOx unit, that is not a unit subject to the federal Cross State Air Pollution Rule NOx Ozone Season Group 2 Trading Program established under 40 CFR Part 97, Subpart EEEE, shall comply with the ozone season NOx emission limitation, monitoring, recordkeeping and reporting requirements for ozone season emissions of NOx set forth in this Chapter.

B. The requirements of this Chapter apply to a person who owns or operates a non-trading large NOx unit located at the affected sources in §C of this Regulation.
C. Affected Sources and Units.
(1) Cove Point LNG Units No. Frame 5-1 (Turbine S009), Frame 5-2 (Turbine S010), Frame 7-A, Frame 7-B, Aux A and Aux B;
(2) Luke Paper Mill Units No. 24, 25 and 26;
(3) American Sugar Unit No. C6; and
(4) A person who owns or operates a new unit subject to this Chapter.

.03 NOx Ozone Season Emission Caps.
A. The total combined NOx ozone season emissions for all non-trading large NOx units subject to this Chapter shall not exceed 1013 tons in accordance with the 40 CFR Part 97, Subpart E, Appendix C.

B. NOx Ozone Season Emission Caps.
(1) The total combined ozone season NOx emissions from all the affected units at an affected source as identified in §.02.C of this Chapter shall not exceed the NOx ozone season emission caps in §B(2) of this Regulation.

(2) Table - NOx Ozone Season Emission Caps

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C. NOx ozone season emission caps for new units shall be determined by the Department from available tonnage allocated to New Unit Set Aside under §B(2) of this Regulation.

.04 Monitoring and Reporting Requirements.
A. For non-trading large NOx units subject to this Chapter, the owner or operator shall:
(1) Continuously monitor NOx emissions with a CEM system in accordance with 40 CFR Part 75, Subpart H and 40 CFR §51.121(i)(4); and
(2) Maintain records and submit reports in accordance with 40 CFR Part 75.
B. The owner or operator of a non-trading large NOx unit subject to this Regulation shall include emissions data obtained from a CEM system pursuant to §A of this Regulation in the CEM quarterly reports submitted to the Department pursuant to COMAR 26.11.01.11E(2).

END ALL NEW MATTER
Facts About…

Purpose of These Amendments
The purpose of this action is to revise the Maryland CO₂ Budget Trading Program to incorporate amendments to the Voluntary Renewable Set-Aside Account (VRSA) and the Clean Generation Set-Aside Account (CGSA).

Submission to EPA as Revision to Maryland’s SIP
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
The Regional Greenhouse Gas Initiative (RGGI) is composed of individual CO₂ Budget Trading Programs in each RGGI participating state. Maryland’s CO₂ Budget Trading Program contains four Set-Aside Accounts, among which are the VRSA (COMAR 26.09.02.08) and the CGSA (COMAR 26.09.02.09). Amendments to the VRSA and the CGSA were developed by Department staff. The intent of the VRSA was to spur renewable energy development, and with the increased sustainability of renewable energy in recent years, the VRSA can now expire. Further, this effort will ensure a fair distribution of CO₂ allowances to eligible CO₂ budget units that wish to utilize the CGSA.

Definitions
The amendments introduce two new terms to COMAR 26.09.01.02B - Definitions: “Early Applicant” and “Non-early Applicant”. An Early Applicant is a unit that commences operation prior to or on December 31, 2017 and a Non-early Applicant is a unit that commences operation after December 31, 2017.

Size and Structure of the CGSA
The CGSA is now set at 1,875,199 tons for 2017 and decreases annually to 937,599 tons in 2022. The CGSA will expire on January 1, 2023.

Allocation of CO₂ Allowances from the CGSA
The Department will award CO₂ allowances from the CGSA to an eligible CO₂ budget unit for each ton of CO₂ actually emitted by the eligible CO₂ budget unit for that calendar year. Early Applicants are each guaranteed at least 25 percent of the amount of allowances allocated to the CGSA for each year for the life of the CGSA (provided that number does not exceed their actual emissions). When Non-early Applicants request allowances from the CGSA in addition to Early Applicants, two scenarios will determine how CO₂ allowances are awarded:

1. When requests are less than the number of CO₂ allowances allocated — Allowances will be awarded based on the number of CO₂ allowances requested.
2. When requests are greater than the number of CO₂ allowances allocated — Allowances will be awarded in proportion to the number of allowances requested by the total number of Early Applicants and Non-early Applicants.
Expiration of the VRSA and the CGSA
The VRSA will expire on January 1, 2018, and the CGSA will expire on January 1, 2023.

Sources Affected and Location
Eligible CO₂ budget units who voluntarily choose to participate in the VRSA and/or the CGSA will be affected.

Requirements
Sources that voluntarily choose to participate in the VRSA or CGSA must adhere to the requirements of each set-aside account. As of Jan. 1, 2018 the VRSA is no longer an option.

Expected Emissions Reductions
The proposed action will not result in any emissions reductions, as the amendments are administrative.

Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public
Eligible CO₂ budget units who voluntarily choose to participate in the VRSA and/or the CGSA will receive CO₂ allowances from the appropriate set-aside account allotment, which can be then be sold at a market-determined value. This action will have no economic impact on the Department. This action will not have an economic impact on other State agencies, local governments, other industries or trade groups, or the public.

Economic Impact on Small Businesses
The proposed action has no economic impact on small businesses.

Comparison to Federal Standards
There is no corresponding federal standard to this proposed action.
Title 26 DEPARTMENT OF THE ENVIRONMENT
Subtitle 09 MARYLAND CO₂ BUDGET TRADING PROGRAM
Chapter 01 General Administrative Provisions

0.01 (text unchanged).

0.02 Definitions.
A. (text unchanged)
B. Terms Defined.
   (1) — (50) (text unchanged)
   (50-1) “Early Applicant” means an eligible CO₂ budget unit that commences operation prior to or on December 31, 2017.
   (51) — (75) (text unchanged)
   (75-1) “Non-early Applicant” means an eligible CO₂ budget unit that commences operation after December 31, 2017.
   (76) — (103) (text unchanged)

0.03 — 0.06 (text unchanged).

Title 26 DEPARTMENT OF THE ENVIRONMENT
Subtitle 09 MARYLAND CO₂ BUDGET TRADING PROGRAM
Chapter 02 Applicability, Determining Compliance, and Allowance Distribution

0.01 — 0.07 (text unchanged).

0.08 Voluntary Renewable Set-Aside Account.
A. — C. (text unchanged)
   D. The Voluntary Renewable Set-aside Account shall expire on January 1, 2018.

0.09 Clean Generation Set-aside Account.
A. (text unchanged)
   B. A CO₂ budget unit that commences operation after January 1, 2009, is eligible for an award of CO₂ allowances from the Clean Generation Set-aside Account if [it] the CO₂ budget unit:
   (1) — (3) (text unchanged)
   C. [The Department shall award allowances from the Clean Generation Set-Aside Account to an eligible CO₂ budget unit for up to its first 6 years of operation] Allocation of CO₂ Allowances.
   (1) The Department shall allocate CO₂ allowances from the Consumer Energy Efficiency Account to the Clean Generation Set-aside Account so that the total number of CO₂ allowances in the Clean Generation Set-aside Account is:
   (a) 1,875,199 CO₂ allowances for 2017;
   (b) 1,687,679 CO₂ allowances for 2018;
   (c) 1,500,159 CO₂ allowances for 2019;
   (d) 1,312,639 CO₂ allowances for 2020;
   (e) 1,125,119 CO₂ allowances for 2021; and
   (f) 937,599 CO₂ allowances for 2022.
D. [The Department shall award one CO2 allowance to an eligible CO2 budget unit from the Clean Generation Set-aside Account for each ton of CO2 actually emitted by the eligible CO2 budget unit, as follows:] Awarding of CO2 Allowances.

(1) For the calendar year that a CO2 budget unit commences operation, 30 days after the end of the calendar year; and] Within 60 days after the end of the calendar year, the Department shall award one CO2 allowance to an eligible CO2 budget unit from the Clean Generation Set-aside Account for each ton of CO2 actually emitted by the eligible CO2 budget unit for that calendar year.

(2) [For the next 5 years after that, 30 days after the end of each year] Calculating Award of CO2 Allowances for Early Applicants until December 31, 2022.

(a) Except as directed in §D(2)(b) of this regulation, each Early Applicant is guaranteed the following allowances from the Clean Generation Set-aside Account:

(i) 468,800 CO2 allowances for 2017;
(ii) 421,920 CO2 allowances for 2018;
(iii) 375,040 CO2 allowances for 2019;
(iv) 328,160 CO2 allowances for 2020;
(v) 281,280 CO2 allowances for 2021; and
(vi) 234,400 CO2 allowances for 2022.

(b) Early Applicants may not be awarded more CO2 allowances than they are eligible to receive as directed in §D(1) of this regulation.

(3) Calculating Award of CO2 Allowances when Requests are Less than Allocation.

(a) If, after all the allowances are awarded under §D(2)(a), the Department finds that it has only received requests for CO2 allowances for a calendar year from Early Applicants, and the number of allowances requested does not exceed the remaining number of allowances in the Clean Generation Set-aside Account, the remaining CO2 allowances will be awarded based on the number of CO2 allowances requested by the number of eligible Early-Applicants for each calendar year, not to exceed the amount directed in §D(1) of this regulation.

(b) If, after all the allowances are awarded under §D(2)(a), the Department finds that it has received requests for allowances for a calendar year from both Early Applicants and Non-early Applicants, and the number of CO2 allowances requested by both Early Applicants and Non-early Applicants does not exceed the number of remaining CO2 allowances in the Clean Generation Set-aside Account, the remaining CO2 allowances will be awarded based on the number of CO2 allowances requested by the number of eligible Early Applicants and Non-early Applicants, not to exceed the amount directed in §D(1) of this regulation.

(4) Calculating Award of CO2 Allowances when Requests are Greater than Allocation.

(a) If, after all the allowances are awarded under §D(2)(a), the Department finds that it has only received requests for CO2 allowances for a calendar year from Early Applicants, and the number of allowances requested by Early Applicants exceeds the number of remaining allowances in the Clean Generation Set-aside Account, the remaining CO2 allowances will be awarded in proportion to the number of CO2 allowances requested by the number of eligible Early-Applicants for each calendar year, not to exceed the amount directed in §D(1) of this regulation.

(b) If, after all the allowances are awarded under §D(2)(a), the Department finds that it has received requests for allowances for a calendar year from both Early Applicant and Non-early Applicants, and the number of CO2 allowances requested by both Early Applicants and Non-early Applicants does not exceed the number of remaining CO2 allowances in the Clean Generation Set-aside Account, the remaining CO2 allowances will be awarded in proportion to the number of CO2 allowances requested by the number of eligible Early Applicants and Non-early Applicants, not to exceed the amount directed in §D(1) of this regulation.

[E. If the total number of CO2 allowances requested by eligible CO2 budget units exceeds the number of CO2 allowances in the Clean Generation Set-aside Account, the Department shall award CO2 allowances in proportion to each eligible CO2 budget unit's average heat input for up to 3 years of operation, or, if not available, the CO2 budget unit's estimated heat input for the first year of operation.]

[F.] E. All CO2 allowances awarded by the Department under this regulation shall be maintained in the CO2 budget unit's compliance account and shall only be used to demonstrate compliance.

[G.] F. CO2 [Allowances] allowances awarded by the Department under this regulation may not be resold by the recipient of the award.

[H.] G. At the end of each calendar year, any CO2 allowances that remain in the Clean Generation Set-aside Account will remain in the Clean Generation Set-aside Account. After awarding CO2 allowances for the preceding calendar year, the Department shall transfer from the Consumer Energy Efficiency Account the number of CO2 allowances needed to restore the balance of the Clean Generation Set-aside Account to [1,875,199] the allocations defined in §C(1)(a) — (f) of this regulation.


.10 — .11 (text unchanged).