



**AIR QUALITY CONTROL ADVISORY COUNCIL  
AGENDA  
September 18, 2017**

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

<https://global.gotomeeting.com/join/448782925>

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**Access Code: 448-782-925**

- |           |                             |   |
|-----------|-----------------------------|---|
| 8:15 a.m. | Welcome and Introductions   | John Quinn, Advisory Council Chair<br>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<sub>x</sub> Ozone Season Emission Caps for Non-trading Large NO<sub>x</sub> 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<sub>x</sub> Ozone Season Emission Caps for Non-trading Large NO<sub>x</sub> Units** to meet federal NO<sub>x</sub> (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 NO<sub>x</sub> Budget Trading Program (NBP) as a central component of the broader NO<sub>x</sub> SIP Call. The NO<sub>x</sub> SIP Call was designed to mitigate significant transport of NO<sub>x</sub> 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 NO<sub>x</sub> SIP Call requirements. At that time, COMAR 26.11.29 - NO<sub>x</sub> Reduction and Trading Program and COMAR 26.11.30 - Policies and Procedures Relating to Maryland's NO<sub>x</sub> Reduction and Trading Program were part of Maryland's SIP. (MDE Revision #00-05). Under this SIP, all large sources of NO<sub>x</sub> were to report ozone season NO<sub>x</sub> emission tonnage to EPA. EPA allocated each State a specific NO<sub>x</sub> ozone season emission budget cap to satisfy 40 CFR §51.121. Under the NO<sub>x</sub> SIP Call, EPA named the large sources of NO<sub>x</sub> either electric generating units (EGU) or Non-EGU. However, these terms and definitions have since been revised or replaced. The large sources of NO<sub>x</sub> 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 NO<sub>x</sub> reductions from these same NO<sub>x</sub> SIP Call sources. The EPA NO<sub>x</sub> Budget Trading Program evolved into the Trading Programs for large NO<sub>x</sub> sources. The EPA requirements are under 40 CFR Part 96 "NO<sub>x</sub> Budget Trading Program and Clean Air

Interstate Rule (CAIR) NO<sub>x</sub> and SO<sub>2</sub> Trading Programs for SIPs” and Part 97 “Federal NO<sub>x</sub> Budget Trading Program, CAIR NO<sub>x</sub> and SO<sub>2</sub> Trading Programs, and Cross-State Air Pollution Rule (CSAPR) NO<sub>x</sub> and SO<sub>2</sub> 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 NO<sub>x</sub> budget that Maryland must meet for the Non-trading large NO<sub>x</sub> units was established in Maryland’s SIP revision to comply with the NO<sub>x</sub> 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 NO<sub>x</sub> tonnage cap that the State must meet for all applicable Non-trading large NO<sub>x</sub> units. This table shows a NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> unit requirements of the NO<sub>x</sub> 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 NO<sub>x</sub> budget tonnage cap, the federal regulations also require “Part 75” monitoring for non-trading large NO<sub>x</sub> 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 “NO<sub>x</sub> Mass Emissions Provisions” and details the CEM recording and record keeping requirements that non-trading large NO<sub>x</sub> units must employ.

To satisfy the CAA requirements, the Department proposes to re-allocate NO<sub>x</sub> ozone season tonnage caps and establish the required Part 75 monitoring requirements. COMAR 26.11.40 will allocate NO<sub>x</sub> 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;
- Luke Paper Mill, VERSO Corporation, located in Luke, Maryland: Units No. 24, 25 and 26;
- 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 NO<sub>x</sub> ozone season tonnage caps and NO<sub>x</sub> monitoring requirements for large NO<sub>x</sub> sources in the state of Maryland, that are not covered under CSAPR. The compliance deadline to begin meeting the NO<sub>x</sub> caps begins on May 1, 2018.

COMAR 26.11.40.03 identifies the existing sources and gives each source a NO<sub>x</sub> emission tonnage cap so that the entire State does not exceed 1,013 tons as required under Maryland's SIP revision addressing the NO<sub>x</sub> SIP Call. Each affected source will be required to limit their ozone season NO<sub>x</sub> emissions to meet or be under the NO<sub>x</sub> ozone season tonnage cap in the table under proposed COMAR 26.11.40.03.B.

The NO<sub>x</sub> 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 NO<sub>x</sub> 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.

<b><i>Affected Sources</i></b>	<b><i>NO<sub>x</sub> Ozone Season Emission Caps beginning May 1, 2018</i></b>
<i>Cove Point LNG</i>	<i>214 tons</i>
<i>Luke Paper Mill</i>	<i>656 tons</i>
<i>American Sugar</i>	<i>24 tons</i>
<i>New Unit Set Aside</i>	<i>119 tons</i>
<b><i>Total</i></b>	<b><i>1013 tons</i></b>

COMAR 26.11.40.04 requires "Part 75" monitoring for non-trading large NO<sub>x</sub> 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 NO<sub>x</sub> SIP Call requirements have been in place within Maryland for several decades and the NO<sub>x</sub> emission benefits have already been realized. This proposed action satisfies the NO<sub>x</sub> SIP Call requirements and maintains a NO<sub>x</sub> cap for affected sources. No additional NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> 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 “NO<sub>x</sub> Mass Emissions Provisions”, (§§75.70 – 75.75). The state’s NO<sub>x</sub> budget for these units was established under the state’s SIP revision addressing the NO<sub>x</sub> 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) “NO<sub>x</sub> Ozone Season Allowance” means a NO<sub>x</sub> ozone season allowance established under 40 CFR 97.501—.535 NO<sub>x</sub> 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 NO<sub>x</sub> Emissions from Fuel Burning Equipment.**

A. Applicability and NO<sub>x</sub> Emission Standards.

(1) (text unchanged)

(2) The total combined NO<sub>x</sub> 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] *An emission [limit] rate of 0.70 pounds of NO<sub>x</sub> per million Btu [and 947 tons of NO<sub>x</sub>] during the period May 1 through September 30 of each year; [and]*

(b) *An emission rate of 0.99 pounds of NO<sub>x</sub> per million Btu during the period October 1 through April 30 of each year[.];*

*and*

(c) *The NO<sub>x</sub> 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 NO<sub>x</sub> emission limit in §A(2)(a) of this regulation is exceeded, the owner or operator of a Kraft pulp mill shall acquire one NO<sub>x</sub> ozone season allowance (as that term is defined at COMAR 26.11.01.01B(24-1)) for each ton or partial ton of NO<sub>x</sub> emissions in excess of the limit in §A(2)(a) of this regulation.] *Compliance with the NO<sub>x</sub> emission rates in §A(2)(a) and (b) of this Regulation and the NO<sub>x</sub> 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) [The total number of NO<sub>x</sub> 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) NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> ozone season allowances from a source that has been allocated allowances, a NO<sub>x</sub> ozone season allowance broker or other entity that has NO<sub>x</sub> ozone season allowances and agrees to transfer them; and
  - (2) Transfer the NO<sub>x</sub> 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 NO<sub>x</sub> Ozone Season Emission Caps for Non-trading Large NO<sub>x</sub> 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 NO<sub>x</sub> 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 NO<sub>x</sub> ozone season emission tons available for new units.
- (8) “Non-trading Large NO<sub>x</sub> 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 NO<sub>x</sub> unit, that is not a unit subject to the federal Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Group 2 Trading Program established under 40 CFR Part 97, Subpart EEEEE, shall comply with the ozone season NO<sub>x</sub> emission limitation, monitoring, recordkeeping and reporting requirements for ozone season emissions of NO<sub>x</sub> set forth in this Chapter.*

*B. The requirements of this Chapter apply to a person who owns or operates a non-trading large NO<sub>x</sub> 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 NO<sub>x</sub> Ozone Season Emission Caps.**

A. The total combined NO<sub>x</sub> ozone season emissions for all non-trading large NO<sub>x</sub> units subject to this Chapter shall not exceed 1013 tons in accordance with the 40 CFR Part 97, Subpart E, Appendix C.

*B. NO<sub>x</sub> Ozone Season Emission Caps.*

(1) The total combined ozone season NO<sub>x</sub> emissions from all the affected units at an affected source as identified in §.02.C of this Chapter shall not exceed the NO<sub>x</sub> ozone season emission caps in §B(2) of this Regulation.

(2) Table - NO<sub>x</sub> Ozone Season Emission Caps

Affected Sources	NO <sub>x</sub> Ozone Season Emission Caps beginning May 1, 2018
Cove Point LNG	214 tons
Luke Paper Mill	656 tons
American Sugar	24 tons
New Unit Set Aside	119 tons
Total	1013 tons

C. NO<sub>x</sub> 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 NO<sub>x</sub> units subject to this Chapter, the owner or operator shall:

- (1) Continuously monitor NO<sub>x</sub> 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 NO<sub>x</sub> 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**

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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 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 CO<sub>2</sub> Budget Trading Programs in each RGGI participating state. Maryland's CO<sub>2</sub> 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 CO<sub>2</sub> allowances to eligible CO<sub>2</sub> 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 CO<sub>2</sub> Allowances from the CGSA**

The Department will award CO<sub>2</sub> allowances from the CGSA to an eligible CO<sub>2</sub> budget unit for each ton of CO<sub>2</sub> actually emitted by the eligible CO<sub>2</sub> 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 CO<sub>2</sub> allowances are awarded:

1. *When requests are less than the number of CO<sub>2</sub> allowances allocated* — Allowances will be awarded based on the number of CO<sub>2</sub> allowances requested.
2. *When requests are greater than the number of CO<sub>2</sub> 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 CO<sub>2</sub> 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 CO<sub>2</sub> budget units who voluntarily choose to participate in the VRSA and/or the CGSA will receive CO<sub>2</sub> 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 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) — (50) (text unchanged)

(50-1) “*Early Applicant*” means an eligible CO<sub>2</sub> budget unit that commences operation prior to or on December 31, 2017.

(51) — (75) (text unchanged)

(75-1) “*Non-early Applicant*” means an eligible CO<sub>2</sub> budget unit that commences operation after December 31, 2017.

(76) — (103) (text unchanged)

**.03 — .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 — .07 (text unchanged).**

**.08 Voluntary Renewable Set-Aside Account.**

A. — C. (text unchanged)

D. *The Voluntary Renewable Set-aside Account shall expire on January 1, 2018.*

**.09 Clean Generation Set-aside Account.**

A. (text unchanged)

B. A CO<sub>2</sub> budget unit that commences operation after January 1, 2009, is eligible for an award of CO<sub>2</sub> allowances from the Clean Generation Set-aside Account if [it] *the CO<sub>2</sub> budget unit*:

(1) — (3) (text unchanged)

C. [The Department shall award allowances from the Clean Generation Set-Aside Account to an eligible CO<sub>2</sub> budget unit for up to its first 6 years of operation] *Allocation of CO<sub>2</sub> Allowances.*

(1) *The Department shall allocate CO<sub>2</sub> allowances from the Consumer Energy Efficiency Account to the Clean Generation Set-aside Account so that the total number of CO<sub>2</sub> allowances in the Clean Generation Set-aside Account is:*

(a) *1,875,199 CO<sub>2</sub> allowances for 2017;*

(b) *1,687,679 CO<sub>2</sub> allowances for 2018;*

(c) *1,500,159 CO<sub>2</sub> allowances for 2019;*

(d) *1,312,639 CO<sub>2</sub> allowances for 2020;*

(e) *1,125,119 CO<sub>2</sub> allowances for 2021; and*

(f) *937,599 CO<sub>2</sub> allowances for 2022.*

D. [The Department shall award one CO<sub>2</sub> allowance to an eligible CO<sub>2</sub> budget unit from the Clean Generation Set-aside Account for each ton of CO<sub>2</sub> actually emitted by the eligible CO<sub>2</sub> budget unit, as follows:] *Awarding of CO<sub>2</sub> Allowances.*

(1)[ For the calendar year that a CO<sub>2</sub> 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 CO<sub>2</sub> allowance to an eligible CO<sub>2</sub> budget unit from the Clean Generation Set-aside Account for each ton of CO<sub>2</sub> actually emitted by the eligible CO<sub>2</sub> 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 CO<sub>2</sub> 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 CO<sub>2</sub> allowances for 2017;
- (ii) 421,920 CO<sub>2</sub> allowances for 2018;
- (iii) 375,040 CO<sub>2</sub> allowances for 2019;
- (iv) 328,160 CO<sub>2</sub> allowances for 2020;
- (v) 281,280 CO<sub>2</sub> allowances for 2021; and
- (vi) 234,400 CO<sub>2</sub> allowances for 2022.

(b) *Early Applicants may not be awarded more CO<sub>2</sub> allowances than they are eligible to receive as directed in §D(1) of this regulation.*

(3) *Calculating Award of CO<sub>2</sub> 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 CO<sub>2</sub> 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 CO<sub>2</sub> allowances will be awarded based on the number of CO<sub>2</sub> 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 CO<sub>2</sub> allowances requested by both Early Applicants and Non-early Applicants does not exceed the number of remaining CO<sub>2</sub> allowances in the Clean Generation Set-aside Account, the remaining CO<sub>2</sub> allowances will be awarded based on the number of CO<sub>2</sub> 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 CO<sub>2</sub> 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 CO<sub>2</sub> 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 CO<sub>2</sub> allowances will be awarded in proportion to the number of CO<sub>2</sub> 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 CO<sub>2</sub> allowances requested by both Early Applicants and Non-early Applicants exceeds the number of remaining CO<sub>2</sub> allowances in the Clean Generation Set-aside Account, the remaining CO<sub>2</sub> allowances will be awarded in proportion to the number of CO<sub>2</sub> 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 CO<sub>2</sub> allowances requested by eligible CO<sub>2</sub> budget units exceeds the number of CO<sub>2</sub> allowances in the Clean Generation Set-aside Account, the Department shall award CO<sub>2</sub> allowances in proportion to each eligible CO<sub>2</sub> budget unit's average heat input for up to 3 years of operation, or, if not available, the CO<sub>2</sub> budget unit's estimated heat input for the first year of operation.]

[F.] E. All CO<sub>2</sub> allowances awarded by the Department under this regulation shall be maintained in the CO<sub>2</sub> budget unit's compliance account and shall only be used to demonstrate compliance.

[G.] F. CO<sub>2</sub> [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 CO<sub>2</sub> allowances that remain in the Clean Generation Set-aside Account will remain in the Clean Generation Set-aside Account. After awarding CO<sub>2</sub> allowances for the preceding calendar year, the Department shall transfer from the Consumer Energy Efficiency Account the number of CO<sub>2</sub> 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.*

H. *The Clean Generation Set-aside Account shall expire on January 1, 2023.*

**.10 — .11 (text unchanged).**