

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 28 Clean Air Interstate Rule

.01 Definitions.

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

B. Terms Defined.

(1) "Affected trading unit" means fuel burning equipment that meets the applicability provisions in 40 CFR §§96.104 and 96.304.

(2) "Consumer of electric power" means an entity located in Maryland that has agreed to purchase part or all of its electric power from a renewable energy project in accordance with this chapter.

(3) "New affected trading unit" means an affected trading unit that is not included in the allocation of allowances in Regulation .08 of this chapter.

(4) "Renewable energy project" means a project that generates electricity by solar energy, wind, tidal energy, geothermal energy, or a hydroelectric facility, and, except as otherwise provided, commenced operation on or after January 1, 2007.

(5) "Set aside pool" means a reserve of NO_x allowances to be used to provide the ozone season and annual NO_x allowances to new affected trading units, renewable energy projects, and consumers of electric power.

.02 Incorporation by Reference.

A. In this chapter, except for the provisions in §C of this regulation, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) 40 CFR §§96.101—96.188, CAIR NO_x Annual Trading Program.

(2) 40 CFR §§96.201—96.288, CAIR Sulfur Dioxide Trading Program.

(3) 40 CFR §§96.301—96.388, CAIR NO_x Ozone Season Trading Program.

C. The requirements in 40 CFR §§96.142(d) and 96.342(d) pertaining to the distribution of allowances from the set aside pool shall be replaced with the requirements in Regulation .01 and Regulations .03—.07 of this chapter.

.03 Affected Units and General Requirements.

A. The requirements of this chapter apply to any existing or new affected trading unit as that term is defined in Regulation .01B of this chapter.

B. A person who owns, operates, leases, or has control of an affected trading unit subject to this chapter shall not violate any of the provisions in 40 CFR §§96.101—96.188, §§96.201—96.288, and §§96.301—96.388.

C. If allowances in the set aside pool are insufficient to provide the necessary allowances to those eligible for allowances under Regulation .01B(5) of this chapter, new affected trading units have first priority and allowances will be distributed in accordance with the provisions in 40 CFR §§96.142(c) and 96.342(c). Allowances will be distributed to renewable energy projects and consumers of electric power only to the extent that they are available from the set aside pool.

.04 Requirements for New Affected Trading Units and NO_x Set Aside Pool.

A. Obtaining NO_x Allowances.

(1) The owner or operator of a new affected trading unit may request allowances from the set aside pool by March 15 of the year following the year the unit began commercial operation and by March 15 for each year thereafter until the control period for which the unit is first allocated allowances under 40 CFR §§96.142(b) and 96.342(b).

(2) The application for allowances shall include:

(a) The name and address of the owner and location of the new unit;

(b) A brief description of the total facility constructed at that site and the date on which the new affected trading unit commenced commercial operation; and

(c) The permitted annual and ozone season NO_x emissions for the new unit and the actual ozone season and annual emissions for the previous year.

(3) The new unit priority for allowances as stated in Regulation .03C of this chapter shall continue each year until the new unit is allocated allowances.

B. General Requirements for New Affected Trading Units.

(1) Allowances from the set aside pool allocated to a new unit shall be in an amount equal to the number of tons of NO_x emissions from the previous control period.

(2) If the EPA determines that an existing unit was not included in the allowance allocation in Regulation .08 of this chapter but should be subject to this chapter as an affected trading unit, the unit shall be considered a new affected trading unit and allowances shall be distributed to the unit from the set aside pool until the control period for which the unit is first allocated allowances under 40 CFR §§96.142(b) and 96.342(b).

.05 NO_x Allowances for Renewable Energy Projects and Consumers of Electric Power.

A. Following any distribution of NO_x allowances from the set aside pool for new units, the remaining portion of the set aside pool may be available for distribution to renewable energy projects and consumers of electric power.

B. Renewable Energy Projects Located in Maryland.

(1) The owner or operator of a renewable energy project in Maryland may submit an application for allowances from the set aside pool after it commences construction.

(2) The application for allowances shall include:

- (a) The name and address of the owner and location of the project;
- (b) A description of the project and, as applicable, the design capacity in megawatts; and
- (c) The date on which the project is expected to commence operation.

(3) If allowances are available in the set aside pool and after reviewing the application and securing any additional information, if the Department decides to distribute allowances to the project, the Department will determine the number of allowances to be distributed by applying a factor of 1.5 pounds per megawatt hour to:

- (a) The design capacity in megawatt hours of the proposed project for the first year; and
- (b) The actual annual generation for each of the next 3 years.

C. Renewable Energy Projects Located Out of State.

(1) The owner or operator of a renewable energy project located in Delaware, the District of Columbia, Pennsylvania, Virginia, or West Virginia that provides electric power to a consumer of electric power as defined in Regulation .01B(2) of this chapter may request allowances from the set aside pool after it commences operation by submitting an application as required in §B(2) of this regulation.

(2) After reviewing the application and securing any additional information, if allowances are available in the set aside pool, the Department will determine the number of allowances to be distributed to the renewable energy project by applying a factor of 1.5 pounds per megawatt hour to the actual annual megawatt hours of electric provided to the consumer of electric power for each of the next 4 years.

D. A renewable energy project that provides electric power to a consumer of electric power is not subject to the January 1, 2007 date in Regulation .01B(4) of this chapter.

E. Priority for Distributing Allowances from the Set Aside Pool.

(1) Following any distribution of allowances to new units, unless the Department determines that the set aside pool contains an insufficient number of allowances, the Department will distribute allowances on a first-come, first-served basis.

(2) If the Department determines that the set aside pool contains an insufficient number of allowances, the Department shall distribute allowances as follows:

(a) Renewable energy projects located in Maryland have first priority;

(b) Consumers of electric power have second priority; and

(c) Renewable energy projects located out-of-State have third priority.

F. Applications for allowances from the set aside pool for renewable energy projects and consumers of electric power shall be submitted to the Department by March 15 following the year in which the electric power was generated or consumed.

G. By July 1 of each year, NO_x allowances for renewable energy projects shall be transferred to a general account established by the EPA in the allowance tracking system for the owner or operator of the renewable energy project in accordance with the provisions in 40 CFR §§96.151 and 96.152 for NO_x annual allowances and 40 CFR §§96.351 and 96.352 for NO_x ozone season allowances.

.06 NO_x Allowances to be Distributed to Consumers of Electric Power.

A. At the request of a consumer of electric power, the Department shall determine the number of allowances to be distributed based on the total megawatt hours of electric power purchased by the consumer of electric power.

B. In its request for allowances, the consumer of electric power shall provide the Department with:

(1) A copy of the agreement with the owner of the renewable energy project that shows the amount of power to be purchased and the duration of the contract;

(2) The total amount of electric power purchased by the consumer of electric power for the previous 3 years and the name of the supplier of the electric power; and

(3) Any seasonal variation in the power to be purchased from the renewable energy project.

C. Allowances for a consumer of electric power shall be transferred to a retirement account established by the EPA in the allowance tracking system. Allowances for a consumer of electric power shall be considered only if the total electric power that the consumer purchased during the ozone season or calendar year is equivalent to the allocation of at least one allowance.

D. For the purpose of this regulation, a consumer of electric power may purchase electric power from any renewable energy project in Maryland or a project that is located in Delaware, the District of Columbia, Pennsylvania, Virginia, or West Virginia.

E. Allowances for consumers of electric power shall be based on a factor of 1.5 pounds of NO_x per megawatt hour of electricity purchased. That factor shall apply for both ozone season and annual allowances.

.07 Distribution of Unused NO_x Allowances in the Set Aside Pool.

A. Following the end of each control period, but before March 15, 20 percent of the unused ozone season and 20 percent of the unused annual allowances from the previous control period shall be transferred to a retirement account established by the EPA in the allowance tracking system. The remaining portion of unused allowances shall be distributed to the affected trading units listed in Regulation .08 of this chapter in accordance with the proportions in the initial allowance allocations. The unused ozone season and annual allowances shall be distributed to the affected trading units by March 15 of the year following the end of each control period.

B. Unused allowances established under the COMAR 26.11.29 (NO_x SIP Call) set aside pool shall remain in the Department's account until a determination for use of the allowances is made by the Department. The Department shall notify the EPA of the disposition of these allowances.

.08 Allocation of NO_x Allowances.

Unit	Ozone Season Allocation 2009—2014	Annual Allocation 2009—2014
(1) Allegany County Warrior Run (AES)	519	1,177
(2) Anne Arundel County Constellation Wagner		
Unit 1	43	83
Unit 2	325	761
Unit 3	681	1,530
Unit 4	178	305
Constellation Brandon Shores		
Unit 1	1,592	3,313
Unit 2	1,693	3,455
(3) Baltimore City Constellation Westport		
CT5	4	4
(4) Baltimore County Constellation Riverside		
Unit 4	13	13
CT6	5	7
Constellation Crane		
Unit 1	403	941
Unit 2	449	1,011
(5) Cecil County Rock Springs		
Unit 1	21	22
Unit 2	20	21

Unit 3	15	21
Unit 4	17	24
(6) Charles County		
Mirant Morgantown		
Unit 1	1,230	2,874
Unit 2	1,224	2,854
CT3	2	6
CT4	4	5
CT5	4	6
CT6	4	5
(7) Dorchester County NRG Energy		
Vienna		
Unit 8	73	126
(8) Harford County Constellation		
Perryman		
GT1	5	11
GT2	5	12
GT3	5	12
GT4	6	12
CT51	20	50
(9) Montgomery County Mirant		
Dickerson		
Unit 1	364	761
Unit 2	389	833
Unit 3	367	790
Station H-GT2	24	38
Station H-GT3	29	38
(10) Prince George's County Mirant		
Chalk Point		
Unit 1	714	1,601
Unit 2	768	1,679
Unit 3	358	620
Unit 4	268	547
CT2	2	2
CT3	15	25
CT4	15	26
CT5	17	29
CT6	22	35
SGT1	10	20
Panda Brandywine	31	73
Unit 2	41	87
(11) Washington County Allegheny		

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Unit 9	31	76
Unit 11	167	396

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