Title 26
DEPARTMENT OF THE ENVIRONMENT

Subtitle 11 AIR QUALITY

Chapter 30 Policies and Procedures Relating to Maryland's NOx Reduction and Trading Program

.01 Scope and Applicability.

A. This chapter is referenced throughout COMAR 26.11.29 and establishes procedural requirements to implement Maryland's NOx Reduction and Trading Program. These procedures include the methods to be used by a source or a unit to opt into the program when the source or unit is not initially an affected trading source, the tracking systems to manage allowances, and other procedures relating to accounts, banking, early reductions, and allowance transfers.

B. This chapter applies to the owner and operator of an affected trading source and, to the extent specified in this regulation, the authorized account representative and the alternate account representative of an affected trading source.

C. The Department authorizes the Administrator to assist in implementing the NOx Reduction and Trading Program by carrying out the functions set forth for the Administrator in this chapter and COMAR 26.11.29.

.02 Definitions.

The terms defined in COMAR 26.11.29 also apply throughout this chapter.

.03 Procedures Relating to Compliance Accounts and Overdraft Accounts.

A. Following the procedures in 40 CFR Part 96, Subpart B, the owner or operator of an affected trading source shall designate an authorized account representative and an alternate authorized account representative for each compliance and overdraft account.

B. The authorized account representative shall authorize any transfers of allowances into or out of a NATS account for which the person is the authorized account representative and is responsible for all transactions and reports submitted to the Department or Administrator.

C. The authorized account representative and the alternate authorized account representative for each compliance and overdraft account shall be officially designated by June 1, 2000, upon receipt by the Administrator or the Department of a form entitled "Account Certificate of Representation." The Account Certificate of Representation shall contain the following information:

(1) Facility name, state, and identification number for each affected trading source for which the certification of representation is submitted;

(2) The name, address, telephone number, and facsimile number of the authorized account representative and the alternate account representative; and

(3) A statement signed by the authorized account representative and alternate account representative in the following form: "I certify that I (name), was selected as the Authorized (or Alternate) Account Representative as applicable by an agreement binding on the owners of the affected trading source legally designated as (name of affected trading source). I certify that I have the necessary authority to carry out my duties and responsibilities under the NOx Reduction and Trading Program on behalf of the owners and operators of this affected trading source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department, the Administrator, or a court regarding the affected trading source."

D. After June 1, 2000, an authorized account representative or alternate authorized account representative may be replaced by submitting a new Account Certificate of Representation.

E. For affected trading sources that have not been allocated allowances in Regulation .09 of this chapter, the information required in §C of this regulation shall be submitted not later than 180 days following issuance of a permit for the affected trading source or before beginning operation, whichever first occurs.

F. For any affected trading source that begins operation on or after June 1, 2000, a complete account certificate of representation for an authorized account representative or alternate authorized account representative shall be submitted to the Administrator or the Department before any information is submitted under this chapter or COMAR 26.11.29 concerning an affected trading source.

.04 Procedures Relating to General Accounts.

A. Any person or group may open a general account with the Administrator and designate an authorized account representative in accordance with the procedures in 40 CFR Part 96, Subpart B.

B. To create a general account, the owner of NOx allowances in the account shall follow the procedures of 40 CFR §96.51(b) and shall submit a request to create a general account with the Administrator that contains the following information:

(1) The name, address, telephone number, facsimile number, and electronic mail address of the authorized account representative and the alternate authorized account representative;

(2) A list of all the persons subject to a binding agreement for the authorized account representative or any alternate account representative authorized to represent their ownership and interest with respect to the NOx allowances held in the general account; and

(3) A statement signed and dated by the authorized account representative and alternate account representative in the following form: "I certify that I, (name), was selected as the Authorized (or Alternate) Account Representative as applicable by an agreement binding on the owners of the NOx allowances held in the general account. I certify that I have the necessary authority to carry out my duties and responsibilities under the NOx Reduction and Trading Program on behalf of such persons and that each person shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Administrator or a court regarding the affected trading source."

C. The authorized account representative shall authorize any transfers of allowances into or out of the NATS account.

.05 Allowance Banking.

A. After the Administrator has made all deductions following the procedures in 40 CFR §96.54, unused allowances at the end of an allowance transfer deadline may be retained in the compliance account, overdraft account, or general account and be designated as banked allowances by the Administrator and the Department.

B. Using Banked Allowances.

(1) Banked allowances may be used as provided in this section.

(2) By March 1 of each year, starting in 2004, the total number of banked allowances in the compliance, overdraft, or general accounts will be determined by the Administrator. The Department and the Administrator shall announce restrictions or conditions that apply to banked allowances that are used in the control period.

(3) Determination of Restrictions or Conditions.

(a) If the total number of banked allowances held in compliance, overdraft, or general accounts is less than or equal to 10 percent of the sum of the budgets for the states that are participating in the state trading program for the current control period, all banked allowances may be used in the current year on a one-for-one basis.

(b) If the total number of banked allowances held in compliance, overdraft, or general accounts exceeds 10 percent of the sum of the budgets for the states that are participating in the state trading program for the control period, affected trading sources shall be notified of the allowance ratio calculated by the Administrator that will apply to banked allowances in each compliance account. The allowance ratio determined in accordance with 40 CFR §96.55 shall

determine the number of banked allowances available for use in the control period on a one-for-one basis, and the number of banked allowances available for use on a two-for-one basis.

.06 Allowance Transfers.

A. Transfer Procedure.

(1) A transfer request shall be documented on a form, or electronic media, as directed by the Administrator in accordance with 40 CFR Part 96, Subpart G. The transfer request shall include:

(a) The account number identifying both the originating account and the acquiring account;

(b) The name and address of the owners of the originating account and the acquiring account; and

(c) The serial numbers for each allowance being transferred.

(2) The authorized account representative shall authorize and certify the allowance transfer request for the originating account. The request for transfer shall include the following signed statement of certification: "I am authorized to make this submission on behalf of the owners and operators of the affected trading source and I hereby certify under penalty of law that I have personally examined the foregoing and am familiar with the information contained in this document and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

B. The authorized account representative shall further provide a copy of the transfer request to each owner or operator of the originating affected trading source.

C. The allowance transfer is complete when the following has been verified by the Administrator and the Department:

(1) Each allowance listed in the transfer request is held by the originating account at the time the transfer is to be recorded;

(2) The acquiring party has an account in the NATS;

(3) The transfer request has been filed by the authorized account representative for the originating account; and

(4) The requirements of 40 CFR §96.61(a) and (b) are met.

D. The Administrator shall manage the NATS in accordance with the procedures in 40 CFR Part 96, Subpart F.

.07 Early Reductions.

A. The owner or operator of an affected trading source may create early NOx emission reductions.

B. The Department shall certify the early reductions and convert all or part of them not to exceed 3,840 tons to NOx allowances for use in 2003 and 2004, subject to the following:

(1) Approval by the Department that the reductions are real, quantifiable, and surplus to any other state or federal requirement;

(2) The amount of early reduction allowances shall be based on the average capacity utilization (in MMBtu) of the affected trading source for the 2 consecutive calendar years immediately preceding the period for which early reduction allowances are being applied;

(3) The Department shall allow the use of a different 2 consecutive year period within the 5 years immediately preceding the early reduction allowance application if the affected trading source demonstrates, to the satisfaction of the Department, that an alternate 2 consecutive year period is more representative of normal operations;

(4) NOx emission rate and heat input shall be determined in accordance with 40 CFR Part 96, Subpart H;

(5) The authorized account representative of an affected trading source may submit to the Department a request for early reduction allowances for the affected trading source based on the NOx emission rate reductions made by the affected trading source in the control period for 2001 and 2002 in accordance with the following:

(a) Each affected trading source for which the owner or operator requests any early reduction allowances shall reduce its NOx emission rate, for each control period for which early reduction allowances are requested, by more than 65 percent of the affected trading source's 1990 base year emissions (or 55 percent as required in COMAR 26.11.27), or to less than 0.20 pounds per MMBtu, whichever is least restrictive;

(b) The NOx authorized account representative may only request early reduction allowances for the control period in an amount that exceeds what is otherwise required by State or federal law; and

(c) Any request for early reductions shall be:

(i) Based on the NOx emission rate reduction achieved in the year for which a request is made, and

(ii) Submitted to the Department on or before October 31 in that year;

(6) Early reduction allowances may only be used for purposes of compliance with this chapter and COMAR 26.11.29; and

(7) Early reductions that remain banked after 2003 are subject to the flow control conditions in Regulation .05 of this chapter for the control period in 2004.

.08 Opt-In Procedures.

A. A person who owns or operates a NOx emitting stationary source or unit that does not meet the definition of an affected trading source may opt-in to become an affected trading source and comply with the requirements of the program in accordance with 40 CFR Part 96, Subpart I, by submitting an opt-in application to the Department.

B. The opt-in application shall include baseline controlled period emissions. Baseline controlled emissions are a representative average of the actual emissions for two consecutive control periods within the 5 years preceding the opt-in application. Baseline emissions cannot be greater than the source's or unit's allowable emissions established by any permit or regulation.

C. The Department shall modify the source's or unit's federally enforceable operating permit to include the applicability of this program.

D. If a source or unit opts-in to become an affected trading source or unit and subsequently ceases or curtails operations, allowances for the source or unit shall be reduced by an amount equivalent to the emission reduction created by the cessation or curtailment of operations.

E. A source or unit that opts-in may not opt-out unless the NOx emitting operations have ceased.

.09 Allocation of Allowances. [Revised; the SIP effective date is 1/2/07]

A. The Department shall allocate allowances to each affected trading source listed in §B of this regulation for the control periods in 2003 through 2005, 2006 through 2007, and 2008.

B. Source Allowance Allocations for the Control Periods in 2003 through 2005, 2006 through 2007, and 2008.

Unit	*Allocation 2003—2005*	*Allocation 2006—2007*	*Allocation 2008*
(1) Allegany County			
Mead Westvaco			
Unit 24	500	500	500
Unit 25	440	440	440
Unit 26	7	7	7
Warrior Run (AES)	378	378	378
(2) Anne Arundel County			
Constellation Wagner			
Unit 1	74	76	46
Unit 2	367	295	361
Unit 3	669	776	678
Unit 4	156	219	275
Constellation Brandon Shores			
Unit 1	1850	1858	1604
Unit 2	1819	2027	1666
(3) Baltimore City			
Constellation Westport			
CT5	21	15	2
Constellation Gould Street			
Unit 3	50	78	60

(4) Baltimore County			
Constellation Riverside			
Unit 4	26	30	32
CT6	9	10	8
Constellation Crane			
Unit 1	461	412	461
Unit 2	435	511	494
(5) Charles County			
Mirant Morgantown			
Unit 1	1231	1325	1468
Unit 2	1316	1290	1394
CT3	11	3	7
CT4	13	6	7
CT5	13	5	7
CT6	12	6	6
(6) Dorchester County			
NRG Energy Vienna			
Unit 8	129	143	81
(7) Harford County			
Constellation Perryman			
CT1	7	6	10
CT2	7	5	11

CT3	5	7	11
CT4	7	9	8
CT51	312	41	14
(8) Montgomery County			
Mirant Dickerson			
Unit 1	452	401	385
Unit 2	441	439	385
Unit 3	461	404	367
Station H-GT2	77	28	72
Station H-GT3	89	49	84
(9) Prince George's County			
Mirant Chalk Point			
Unit 1	793	528	844
Unit 2	818	744	831
Unit 3	339	559	626
Unit 4	408	553	486
CT2	1	2	3
CT3	32	24	39
CT4	32	25	41
CT5	54	45	40
CT6	31	40	57
SGT1	43	17	25
Panda Brandywine	218	197	184
(10) Washington County			

Allegheny Energy			
R. P. Smith			
Unit 9	7	23	42
Unit 11	119	183	193