

Comments will be accepted through August 26, 2013. A public hearing has not been scheduled.

**.03 Eligibility for Coverage and Subsidy.**

A. Eligible Persons. The following persons are eligible for Program coverage, with the exception of those persons listed in §B of this regulation:

(1) (text unchanged)

[(2) Employees whose status is temporary pending an examination;]

[(3)] (2) — [(6)] (5) (text unchanged)

[(7)] (6) Designated beneficiaries of deceased persons listed in §A(1) — [(6)] (5), [(8)] (7), and [(9)] (8) of this regulation in accordance with State Personnel and Pensions Article, §§2-507, 2-508 and 2-509, Annotated Code of Maryland, with the following limitations:

(a) (text unchanged)

(b) Notwithstanding any other provision in this regulation, a surviving spouse or surviving child must meet the requirements to be a dependent eligible for coverage as provided in [§A(9)] §A(8) of this regulation;

[(8)] (7) — [(9)] (8) (text unchanged)

[(10)] (9) Dependents of eligible persons listed in §A(1) — [(6)] (5), [(8)] (7), [(9)] (8), [(11)] (10), and [(12)] (11) of this regulation who are one of the following:

(a) — (b) (text unchanged)

(c) [The] *Until December 31, 2014, the domestic partner of the employee or retired employee, as [that] the term domestic partner, is defined in this chapter, if the domestic partner was enrolled on June 30, 2013. The domestic partner is eligible for coverage only in those benefits plans and options identified by the Secretary on an annual basis, which may include only:*

(i) — (iv) (text unchanged)

(d) [The] *Until December 31, 2014, the dependent child of a domestic partner, as [that] the term, dependent child of a domestic partner, is defined in this chapter, if the domestic partner or the dependent child of the domestic partner was enrolled on June 30, 2013. The dependent child of a domestic partner is eligible for coverage only in those benefits plans and options identified by the Secretary on an annual basis, which may include only:*

(i) — (iv) (text unchanged)

[(11)] (10) — [(12)] (11) (text unchanged)

B. (text unchanged)

C. Ineligible Dependents.

(1) (text unchanged)

(2) When both [husband and wife] *spouses* are covered as an employee or retired employee, neither is eligible to be enrolled both as a dependent under the spouse's coverage and as an employee or retiree for the same benefits plan. Dependent children of these individuals may be enrolled under either parent's coverage, but not both for the same benefits plan. An employee or retiree may provide coverage for his or her spouse who is also an employee provided that the spouse is not enrolled for coverage under the same benefits plan as an employee or retiree.

(3) (text unchanged)

D. Subsidy.

(1) Except as provided in Regulation .04B of this chapter for contractual and part-time employees, the State subsidy as provided in the State budget for active employees is available to those individuals identified in §A(1) — [(6)] (5) of this regulation and their dependents as described in [§A(10)] §A(9) of this regulation.

(2) The State subsidy available for individuals described in [§A(7)] §A(6) of this regulation shall be determined as provided in Regulation .05 of this chapter.

(3) The State subsidy available for individuals described in [§A(8) and (9)] §A(7) and (8) of this regulation and their dependents as described in [§A(10)] §A(9) of this regulation shall be determined as provided in Regulation .05 of this chapter, provided that the dependents of those retired employees described in [§A(8)(b) and (9)(b)] §A(7)(b) and (8)(b) of this regulation are not entitled to any State subsidy unless the retired employee has a total of 25 or more years of service with the State in a permanent, non-contractual position in the Executive, Judicial, or Legislative branch of State government. Prorated credit for service is provided for less than full-time service in such positions.

**.03-1 Satellite Organizations and Local Governments — Eligibility for Coverage and Subsidy.**

A. (text unchanged)

B. Each entity identified in §A of this regulation [must] *shall* permit the spouses and dependent children of its employees to be eligible for coverage but may elect:

(1) Whether [the domestic partner of an entity's employee or the dependent children of a domestic partner of an entity's employee are eligible for coverage in the Program] *and to what extent to provide a subsidy for the participation in the Program of its employees and their dependents;* and

(2) Whether [and to what extent to provide a subsidy for the participation in the Program of its employees and their dependents.] *the domestic partner of an entity's employee or the dependent children of a domestic partner of an entity's employee are eligible for coverage in the Program, as follows:*

(a) *A domestic partner is eligible for dependent coverage only if the domestic partner was enrolled on June 30, 2013;*

(b) *A dependent child of a domestic partner is eligible for dependent coverage only if the domestic partner or dependent child of a domestic partner was enrolled on June 30, 2013; and*

(c) *Domestic partners and dependent children of a domestic partner are ineligible for dependent coverage after December 31, 2014.*

T. ELOISE FOSTER  
Secretary of Budget and Management



**Title 26  
DEPARTMENT OF THE  
ENVIRONMENT**

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

**Notice of Proposed Action**

[13-210-P-I]

The Secretary of the Environment proposes to:

(1) Amend Regulations .02 and .03 under **COMAR 26.09.01 General Administrative Provisions;**

(2) Amend Regulations .02, .03, .05, .07, and .11 under **COMAR 26.09.02 Applicability, Determining Compliance, and Allowance Distribution;**

(3) Amend Regulations .01, .02, .04, .05, and .09 under **COMAR 26.09.03 Offset Projects;** and

(4) Adopt new Regulation .06 and recodify existing Regulations .06 — .13 to be Regulations .07 — .14 under **COMAR 26.09.04 Auctions.**

### Statement of Purpose

The purpose of this action is to amend regulations under Code of Maryland Regulations (COMAR) 26.09, Maryland CO<sub>2</sub> Budget Trading Program, with program improvements developed in conjunction with other participating states during the 2012 Comprehensive Region Greenhouse Gas Initiative (RGGI) Program Review. This proposed action includes the following revisions:

1. A reduction in the Maryland CO<sub>2</sub> emissions budget;
2. Adjustments to the emissions budget through 2020 to offset the large private bank of allowances to ensure a binding cap;
3. Adoption of a new mechanism, the Cost Containment Reserve (CCR), to reduce price volatility in the allowance market;
4. The addition of an interim compliance period;
5. The addition of new "minimum reserve price" and "long term contract price" definitions;
6. Replacement of the existing afforestation offset protocol with a new, more inclusive, forest offset protocol;
7. Revisions to other definitions.

### The Regional Greenhouse Gas Initiative

The Healthy Air Act was signed into law on April 6, 2006 and required Maryland to join the Regional Greenhouse Gas Initiative (RGGI) by July 2007. Maryland joined RGGI when Governor Martin O'Malley signed RGGI's multi-state Memorandum of Understanding (MOU) on April 20, 2007. The Department subsequently adopted COMAR 26.09.01 to .03, implementing the "Maryland CO<sub>2</sub> Budget Trading Program", which became effective on July 17, 2008. COMAR 26.09.04 ("Auctions") became effective as a permanent regulation on August 25, 2008.

RGGI is comprised of nine states in the Northeast and Mid-Atlantic regions. These states adopted market-based carbon dioxide (CO<sub>2</sub>) cap and trade 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. RGGI currently is comprised of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, and Maryland. New Jersey discontinued participation after the end of the first compliance period, 2009-2011. Participating RGGI states require electricity generators to have acquired, through regional auction or secondary market transactions, one CO<sub>2</sub> allowance for every ton of CO<sub>2</sub> emitted over a 3-year compliance period. Auction proceeds fund a number of state programs, including energy efficiency programs that result in lower CO<sub>2</sub> emissions through reduced electricity demand. Further, auction proceeds fund renewable energy projects which reduce the amount of CO<sub>2</sub> emissions generated by fossil-fuels electricity generators.

The RGGI program has several unique features unlike other cap and trade programs in the U.S. The allowances are controlled by the states and can be allocated or sold to sources. Most states have opted to auction the allowances to sources through quarterly auctions. Proceeds from the auctions are used to fund energy efficiency programs to reduce demand for electricity and provide a means to lower CO<sub>2</sub> emissions. The states conducted the first quarterly regional auction in September 2008, and the program officially began in January 2009.

RGGI set a cap of 188,076,976 tons of CO<sub>2</sub> emissions for the region, based on average 2000 to 2002 CO<sub>2</sub> emissions from electricity generators subject to the program. Maryland receives 37,503,983 CO<sub>2</sub> allowances each year through 2013. Maryland will receive 20,360,944 CO<sub>2</sub> allowances in 2014. Between 2015 and 2020, Maryland will annually receive 2 ½ percent fewer CO<sub>2</sub> allowances, as the RGGI cap reduces by 10 percent during that time. Maryland has set aside 7,388,491 allowances in 4 different set aside accounts to account for special needs or programs.

RGGI has completed its first control period, 2009-2011. The regional auctions have generated almost a billion dollars in revenue for the states. These funds were used to provide funding for energy efficiency and renewable energy programs, rebates to ratepayers, bill payment for low income ratepayers and general fund relief.

### The 2012 Comprehensive Program Review Process

Each participating state's CO<sub>2</sub> Budget Trading Program is based on the 2008 RGGI Model Rule, which was developed to provide guidance to states as they implemented the RGGI program. RGGI participating states have completed a 2012 Program Review, which consisted of a comprehensive evaluation of program successes, program impacts, the potential for additional reductions, emissions leakage, and offsets.

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

Carbon dioxide emissions in the RGGI region have declined substantially. One factor contributing to the decrease in regional emissions has been a shift in use of natural gas over coal and oil for fuel at electricity generators due to a significant decrease in the price of natural gas. Another factor is an economic downturn that began in late 2008. As electric generating companies acquired CO<sub>2</sub> allowances equal to their emissions, some CO<sub>2</sub> allowances offered at the regional auctions were not sold. Maryland regulations allow these allowances to be offered for sale at a subsequent auction or to be retired. With demand for allowances through the auction smaller than the amount of allowances offered, the participating states held the unsold allowances until the end of the first compliance period. This allowed the states to determine whether demand exists for the allowances or whether retirement would provide the best environmental benefit. The states determined that the unsold allowances should be retired and retired 102,631,137 allowances. Maryland retired 19,794,971 unsold allowances.

### Maryland Set Asides

Maryland retains four set aside accounts for special purposes. The four set aside accounts are: 1) the Limited Industrial Exemption Set Aside; 2) the Long Term Contract Set Aside; 3) the Clean Generation Set Aside; and the 4) Voluntary Renewable Set Aside. The Limited Industrial Exemption Set Aside allows the Department to retire allowances equal to the emissions of industrial sources that generate their own electricity but have been exempted from RGGI because they do not sell electricity to the grid. The Long Term Contract Set Aside allows sources with long term contracts prescribing what those sources may charge for electricity to obtain a set amount of allowances at the auction reserve price. The Clean Generation Set Aside provides allowances to new, clean fossil-fuel electric generation sources as an incentive. The incentive lasts for 6 years. The Voluntary Renewable Set Aside allows the Department to retire allowances proportional to renewable energy credits purchased voluntarily to be retired on behalf of RGGI.

In addition to some of the allowances going unsold at auction, many of the CO<sub>2</sub> allowances allocated to Maryland's set-aside accounts were not utilized. The Department previously reviewed the need and usage of the set asides. The Department determined the set asides served useful purposes but recognized usage could be sporadic. The process for populating the set aside accounts was revised to retain unused set aside allowances in the accounts and only add new allowances to replenish the accounts to their regulatory limit. In this manner, more current year allowances would go directly

to auction. Although some of these allowances may go unsold, this process allows a greater percentage of Maryland's allowances to enter the marketplace earlier.

Amendments to COMAR 26.09:

1. Reduction in the Maryland CO<sub>2</sub> Emissions Budget

The Regional Emissions Cap in 2014 will be equal to 91 million tons. The original 2.5% per year reduction to the regional RGGI cap for the years 2015 through 2020 is maintained. This change reflects the substantial drop in CO<sub>2</sub> emissions since 2006 and serves to preserve these reductions. The Maryland CO<sub>2</sub> emissions budgets for 2014-2020 are similarly reduced.

2. Adjustments to the Emissions Budget through 2020 to Offset the Large Private Bank of Allowances

The private bank of allowances is addressed through the following two distinct budget adjustments:

- The First Control Period Interim Adjustment for Banked Allowances (first adjustment), adjusts the budget for 100 percent of the first control period private bank of allowances (vintages 2009, 2010, & 2011) held by market participants as of the end of the first control period, that are in addition to the total quantity of first control period emissions. The first adjustment timing and algorithm is described in the regulations and is made over the 7 year period 2014-2020.

- The Second Control Period Interim Adjustment for Banked Allowances (second adjustment), adjusts the budget for 100 percent of the 2012 and 2013 vintage allowances held by market participants as of the end of 2013, that are in addition to the total quantity of 2012 and 2013 emissions. The Second Control Period adjustment timing and algorithm is described in the regulations and will be determined for the 6 year period from 2015 through 2020 based on the actual size of the 2012 and 2013 vintage private bank at the beginning of 2014. This change helps to ensure a binding cap, given the opportunity for sources to accumulate surplus low cost allowances while states implement the regulatory changes needed to establish the lower cap.

3. Adoption of a new mechanism, the Cost Containment Reserve (CCR), to Reduce Price Volatility in the Allowance Market

The Cost Containment Reserve

These amendments create a cost containment reserve (CCR) and specify how it will be used in order to provide flexibility and cost containment for the program. The CCR would consist of a fixed quantity of allowances, in addition to the cap, that would be held in reserve, and only made available for sale if allowance prices were to exceed predefined price levels.

- The regulations prescribe an annual CCR withdrawal limit of MD's portion of the total RGGI 5 million allowances in 2014, and an annual CCR withdrawal limit of MD's portion of the total RGGI 10 million allowances thereafter. The CCR would initially be populated in 2014, and in subsequent years would be replenished only as needed to maintain the withdrawal limit.

- Allowances from the CCR would be fully fungible.

- The CCR allowances would be made available immediately in any auction in which demand for allowances at prices above the CCR trigger price exceeds the supply of allowances offered for sale in that auction.

- If the CCR is triggered, the CCR allowances will only be sold at or above the CCR trigger price.

- CCR Trigger Prices: \$4 in 2014, \$6 in 2015, \$8 in 2016, and \$10 in 2017. Each year after 2017, the CCR trigger price will increase by 2.5%.

Offset Trigger Mechanisms

The regulations delete the existing offset price triggers that raise the allowable percentage of offsets and that allow the use of international CO<sub>2</sub> emission credit retirements. The allowable offset percentage would remain at 3.3%, and only those offset credits that

satisfy all regulatory requirements for a specific project category (including any new categories added) may be used for compliance. These changes are consistent with the decision to add a CCR mechanism and address the need for cost control in a much more transparent and predictable way. These changes help to reduce price volatility through increasing supply when prices are rising quickly.

4. The addition of an Interim Compliance Period

The regulations create interim control periods that include the following components:

- The addition of new defined terms, including:

- "Interim Control Period," defined as each of the first 2 calendar years of each 3-year control period.

- "Excess Interim Emissions," defined as any emissions (above 50%) over the amount of allowances held at the end of each Interim Control Period.

- A new general requirement for sources to hold allowances to cover 50% of emissions for each Interim Control Period, subject to the existing true-up process and a March 1 deadline.

- The final compliance true-up at the end of the 3-year control period will continue to require sources to hold allowances to cover 100% of the emissions for the 3 years.

- The allowances already deducted to meet each of the two annual Interim Control Period obligations will be subtracted from the 3-year compliance true-up obligation.

- Each ton of Excess Interim Emissions will be considered a violation, subject to the ordinary existing enforcement provisions of the relevant agency on an annual basis.

- The deletion of existing offset triggers and regulatory terms related to the potential to extend the control period to 4 years. This change simplifies the program and ensures that sources are maintaining their compliance obligations.

5. The Addition of New "minimum reserve price" and "long term contract price" Definitions

Reserve Price

The regulations simplify the reserve price calculation. The reserve price is set at \$2.00 in 2014 and increases by 2.5 percent each year thereafter. Use of the Consumer Price Index to adjust the reserve price is eliminated, as well as the definition of "current market reserve price". The "long term contract price" is defined in the same manner as the "minimum reserve price".

6. Replacement of the Existing Afforestation Offset Protocol with a New, More Inclusive, Forest Offset Protocol

Forestry Offset

The regulations contain language that substitutes a new offset category known as "Sequestration of carbon due to reforestation, improved forest management or avoided conversion" that States may adopt in lieu of the existing Afforestation category.

A RGGI U.S. Forests Offset Protocol has been developed, based mainly on the California Air Resources Board (CARB) U.S. Forests Offset Protocol, to include:

- Improved Forest Management;

- Avoided Conversion; and

- Reforestation (which would replace the existing RGGI Afforestation category type).

Wherever possible, the Model Rule intentionally maintains consistency with the CARB protocol to leverage work done by CARB and the Climate Action Reserve (CAR).

One difference between the RGGI and CARB protocols is the approach to addressing reversals and ensuring permanence of offset projects. The RGGI protocol uses a discounting approach, instead of the buffer account approach used by CARB. Forestry projects that have generated credits in a voluntary offset program would be permitted to transfer to the RGGI program, assuming that they meet all other RGGI requirements and there is no double-counting. The general additionality requirements for existing RGGI offset

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categories have not changed. This protocol provides a better option for offsets in Maryland.

**Affected Sources:**  
 AES Warrior Run Inc., Warrior Run Plant, Allegany County  
 Con Edison Development and Old Dominion Electric Cooperative, Rock Springs Plant, Cecil County  
 Raven Power Holdings, LLC., Brandon Shores Plant, Anne Arundel County  
 Raven Power Holdings, LLC., Herbert A. Wagner Plant, Anne Arundel County  
 Raven Power Holdings, LLC., C. P. Crane Plant, Baltimore County  
 Exelon Corporation, Gould Street Plant, Baltimore City  
 Exelon Corporation, Perryman Plant, Harford County  
 Exelon Corporation, Riverside Plant, Baltimore County  
 Exelon Corporation, Westport Plant, Baltimore City  
 NRG Energy, Chalk Point Plant, Prince George’s County  
 NRG Energy, Dickerson Plant, Montgomery County  
 NRG Energy, Morgantown Plant, Charles County  
 NRG Energy, Vienna Plant, Dorchester County  
 Panda Energy, Brandywine Plant, Prince George’s County

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The lowering of the regional CO<sub>2</sub> cap to 91 million will result in positive economic benefits to the Maryland economy. The money raised from the auction of allowances will be reinvested in the Maryland economy to provide more jobs and reduce energy usage. Maryland revenues from the regional CO<sub>2</sub> allowance auction are deposited in the Strategic Energy Investment Fund (SEIF). The Maryland Energy Administration (MEA) administers the fund, allocating the proceeds to various purposes as directed by statute. Many agencies benefit from these proceeds, including MEA. The proceeds fund various energy efficiency, renewable energy and climate change programs, as well as low income bill payment and other low income energy assistance programs. The power sector and commercial and industrial industries will experience some additional costs as a result of the lowered cap. However, residents and the renewable energy and construction sector will benefit.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)		Unquantifiable
B. On other State agencies: Cumulative revenue to SEIF from 2014—2020 via MEA	(R+)		\$415.4 million
C. On local governments:	(R+)		Unquantifiable

Benefit (+)  
Cost (-)      Magnitude

**D. On regulated industries or trade groups:**

(1) Power sector	(-)	\$415.4 M + technology costs
(2) Construction	(+) )	Indeterminable
(3) Renewable Energies	(+) )	Indeterminable
<b>E. On other industries or trade groups:</b>		
(1) Commercial	(-)	\$27 cost/business/yr
(2) Industrial	(-)	\$154 cost/business/yr
<b>F. Direct and indirect effects on public:</b>		
(1) Households	(+) )	\$15 savings/household/yr
(2) Workers	(+) )	Net increase of jobs in MD
(3) Public Health	(+) )	Unquantifiable

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A. Department revenues are expected to increase as a result of higher allowance prices even though the number of CO<sub>2</sub> allowances Maryland will sell as a result of the lower CO<sub>2</sub> allowance budget will decrease.

B. SEIF revenues are projected to increase as a result of higher allowance prices even though Maryland’s CO<sub>2</sub> allowance budget decreases. MEA is responsible for the administration of Maryland’s portion of the RGGI auction proceeds. The projected revenue is based on economic modeling of future allowance prices and the quantity of allowances available each year from 2014-2020. Increased energy efficiency and renewable energy spending resulting from the lowered CO<sub>2</sub> cap is projected to result in a net positive gain of jobs within Maryland, which may increase the tax revenues to the State government

C. A number of programs funded through SEIF are specific to local governments, including several revolving loan programs and energy efficiency programs. As the fund increases more revenues can be allocated these programs.

D(1). The power sector will be responsible for buying the allowances necessary to comply with the regulation. This will increase their operating costs. \$415.4 million is the difference between projected allowance expenditures with the 165 million ton regional cap and the new cap of 91 million tons. Additionally, there may be technology changes or improvements implemented by the generators to reduce emissions. These potential additional costs are not quantified at this time.

D(2). The construction industry will benefit from the increased spending on energy efficiency improvements to homes, businesses and government buildings.

D(3). Renewable energy can be purchased for credits by the energy producers subject to the RGGI regulations. As such there will be increased demand for, and increased spending on, renewable energies. Furthermore, 2.34% of the RGGI auction proceeds are reinvested in clean and renewable energy.

E(1). Analysis provided by RGGI, Inc. projects the average yearly commercial energy bill will increase by \$27 dollars.

E(2). Analysis provided by RGGI, Inc. projects the average yearly industrial energy bill will increase by \$154 dollars.

F(1). Analysis provided by RGGI, Inc. projects the average yearly residential energy bill for Maryland households will decrease by \$15 dollars.

F(2). Analysis provided by RGGI, Inc. projects a net gain of employment as a result of the lower cap. This will create additional jobs within Maryland.

F(3). There are several health benefits that will result from lowering GHG emissions in Maryland. Improved air quality will result in lower health risks to the Maryland population. A report by the Interagency Working Group on the Social Cost of Carbon, United States Government, 2010, finds that the social cost of 1 ton of carbon dioxide ranges from \$5 to \$55. As a result of the lower regional CO<sub>2</sub> cap, emissions in Maryland are expected to decrease by roughly 50 million tons through 2020.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has an impact on individuals with disabilities as follows:

These regulations may have a positive impact on individuals with disabilities, especially those with limited mobility, by providing low cost opportunities to weatherize their homes. Reduced energy costs allow individuals with disabilities to remain at home during extreme weather conditions. Extreme temperatures often exacerbate numerous respiratory and cardiovascular diseases.

**Opportunity for Public Comment**

The Department of the Environment will hold a public hearing on the proposed action on August 28, 2013 at 10 a.m. at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Rooms, Baltimore, Maryland 21230-1720. Interested persons are invited to attend and express their views. Comments may be sent to Deborah Rabin, Regulations Coordinator, Air and Radiation Management Administration, Department of the Environment, 1800 Washington Boulevard, Suite 730, Baltimore, Maryland 21230-1720, or emailed to [debbie.rabin@maryland.gov](mailto:debbie.rabin@maryland.gov). Comments must be received not later than August 28, 2013, or be submitted at the hearing. For more information, call Deborah Rabin at (410) 537-3240.

Copies of the proposed action and supporting documents are available for review at the following locations:

- The Department of the Environment’s website at: <http://www.mde.state.md.us/programs/regulations/air/Pages/reqcomments.aspx>
- The Air and Radiation Management Administration;
- Regional offices of the Department in Cumberland and Salisbury;
- All local air quality control offices; and
- Local health departments in those counties not having separate air quality control offices.

Anyone needing special accommodations at the public hearing should contact the Department’s Fair Practices Office at (410) 537-3964. TTY users may contact the Department through the Maryland Relay Service at 1-800-735-2258.

Editor’s Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, the Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects, June 13, 2013, has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 40:1 Md. R. 9 (January 11, 2013), and is available online at [www.dsd.state.md.us](http://www.dsd.state.md.us). The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

**26.09.01 General Administrative Provisions**

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

**.02 Definitions.**

- A. (text unchanged)
- B. Terms Defined.

(1) — (2) (text unchanged)

[(3) "Afforestation" means the conversion of land that has been in a nonforested condition for at least the 10 years before the filing of an initial application for a CO<sub>2</sub> offset project consistency determination to a forested condition.]

[(4)] (3) — [(8-1)] (8) (text unchanged)

(9) — (14) (text unchanged)

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

[(a) Which are recorded in the compliance account of a CO<sub>2</sub> budget unit for early reductions;]

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

[(c)] (b) Which are recorded in the compliance account of a recipient of allowances from the [Long Term Contract Set-aside Account or the] Clean Generation Set-aside Account.

(15-1) — (22) (text unchanged)

(23) "CO<sub>2</sub> allowance deduction" means the permanent withdrawal of CO<sub>2</sub> allowances from a CO<sub>2</sub> compliance account for each ton of CO<sub>2</sub> emitted from a CO<sub>2</sub> budget unit during a control period *or interim control period*.

[(24) "CO<sub>2</sub> allowance price" means the price for CO<sub>2</sub> allowances for a particular time period as determined by the Department, calculated based on a volume-weighted average of transaction prices reported to the Department and taking into account prices as reported publicly through reputable sources.]

[(25)] (24) — [(27)] (26) (text unchanged)

[(28)] (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*.

[(29)] (28) (text unchanged)

[(30)] (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 an interim control period*.

[(31)] (30) — [(34)] (33) (text unchanged)

(34) "CO<sub>2</sub> cost containment reserve allowance or CO<sub>2</sub> CCR 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) — (41) (text unchanged)

(42) "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 interim control period* for the purpose of meeting the source's CO<sub>2</sub> budget emissions limitation.

(43) — (45) (text unchanged)

(45-1) "Cost containment reserve trigger price, or CCR trigger price" means the minimum price at which CO<sub>2</sub> CCR allowances are offered for sale by the Department at an auction, and shall be:

- (a) \$4.00 per CO<sub>2</sub> allowance for calendar year 2014;
- (b) \$6.00 per CO<sub>2</sub> allowance for calendar year 2015;
- (c) \$8.00 per CO<sub>2</sub> allowance for calendar year 2016;
- (d) \$10.00 per CO<sub>2</sub> allowance for calendar year 2017; and
- (e) Each calendar year thereafter, the CCR trigger price shall be 1.025 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent.

(46) (text unchanged)

[(47) Consumer Price Index.

(a) "Consumer Price Index (CPI)" means:

(i) The U.S. Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers for the U.S. city average, for all items on the latest reference base; or

(ii) If this index is no longer published, another index the Department determines is appropriate.

(b) "Consumer Price Index" for any calendar year means the 12-month average of the CPI published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of the previous calendar year.]

[(48)] (47) (text unchanged)

[(49)] (48) "Control period" means a 3-calendar year time period beginning January 1, 2009, to December 31, 2011, and each subsequent 3-year period [, unless extended to 4 years upon occurrence of a stage 2 trigger event].

[(50)] (49) — [(51-2)] (51-1) (text unchanged)

(52) — (56) (text unchanged)

(56-1) "Excess interim emissions" means, during an interim control period, the amount in tons of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source that exceeds 50 percent of the CO<sub>2</sub>-budget emissions limitation for the source.

(57) ["Financial viability" means, for the Long Term Contract Set-aside Account, the ability of the plant or a direct or indirect owner of the plant to:

(a) Pay expenses and other obligations as they become due; and

(b) Financially sustain itself as an ongoing business and reasonably perform its business functions, with respect to plant or plant operations.] "First control period interim 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.

(58) ["Forested condition" means land deemed to be:

(a) At least 1 acre in size and 120 feet wide measured stem-to-stem from the outer-most edge, while forested strips are to be 120 feet wide for a continuous length of at least 363 feet in order to meet the acre threshold; and

(b) At least one of the two following stocking criteria:

(i) The condition is at least 10 percent stocked by trees of any size or has been at least 10 percent stocked in the past, and the condition is not subject to nonforest uses that prevent normal tree

regeneration and succession such as regular mowing, intensive grazing, or recreation activities; or

(ii) In western woodland species where stocking cannot be determined, the condition has at least 5 percent crown cover by trees of any size, or has had at least 5 percent cover in the past, and the condition is not subject to nonforest use that prevents normal regeneration and succession such as regular mowing, chaining, or recreation activities.] "Forest offset project" means an offset project involving reforestation, improved forest management, or avoided conversion.

(58-1) "Forest offset project data report" means the report prepared by a project sponsor each year that provides the information and documentation required by COMAR 26.09.03.05 or the forest offset protocol.

(58-2) "Forest offset protocol" means the protocol titled "Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects, June 13, 2013", published by the participating states on [http://www.rggi.org/docs/ProgramReview/\\_FinalProgramReviewMaterials/Forest\\_Protocol\\_FINAL.pdf](http://www.rggi.org/docs/ProgramReview/_FinalProgramReviewMaterials/Forest_Protocol_FINAL.pdf).

(59) — (67) (text unchanged)

(67-1) "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.

(67-2) "Interim control period" means a 1-calendar-year time period, during each of the first and second calendar years of each 3-year control period, further defined as follows:

(a) The first interim control period begins on January 1, 2015 and ends on December 31, 2015, inclusive;

(b) The second interim control period begins on January 1, 2016, and ends on December 31, 2016, inclusive; and

(c) Each successive 3-year control period will include two interim control periods, comprised of each of the first 2 calendar years of that control period.

(68) (text unchanged)

(68-1) "Long Term Contract Price" [means the 2012 reserve price adjusted annually in accordance with COMAR 26.09.02.07H.] shall be:

(a) \$2.00 in calendar year 2014; and

(b) For each calendar year thereafter, the LTCP from the previous year multiplied by 1.025, rounded to the nearest whole cent.

(69) (text unchanged)

(70) "Long Term Contract Set-aside Account" means a general account established by the Department from which allowances will be awarded to CO<sub>2</sub> budget units with long term contracts after demonstration by the budget unit that purchasing allowances equal to the budget unit's CO<sub>2</sub> emissions will affect the financial viability of the plant.

(71) (text unchanged)

(72) ["Market settling period" means the first 14 months of any control period.] "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 26.09.02.03G 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) "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:

(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) "Minimum reserve price" shall be, except for CCR allowances:

(a) \$2.00 in calendar year 2014; and

(b) For each calendar year thereafter, the minimum reserve price from the previous calendar year multiplied by 1.025, rounded to the nearest whole cent.

(73) — (75) (text unchanged)

[(76) Nonforested Condition.

(a) "Nonforested condition" means land that does not meet the definition of forested condition, including areas used for crops, improved pasture, residential areas, city parks, improved roads of any width and adjoining rights-of-way, power line clearings of any width, noncensus water, and unimproved roads.

(b) "Nonforested condition" includes nonforested strips that are more than 120 feet wide, and clearings more than 1 acre in size if intermingled in forest areas.]

[(77)] (76) — [(78)] (77) (text unchanged)

[(79) "Partially forested" means land areas that do not qualify as nonforested but have total tree basal areas, defined by the U. S. Forest Service measurement methods, between 5 square feet/acre and 50 square feet/acre.]

[(80)] (78) — [(82-3)] (82-1) (text unchanged)

(83) "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; [or]

(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.

(84) — (87-2) (text unchanged)

(87-3) "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.

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

(89) — (90-1) (text unchanged)

(90-2) "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.

(90-3) "Second control period interim 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) — (92) (text unchanged)

(93) ["Stage 1 threshold price" means the monetary amount established as of the first day of each calendar year and derived annually from use of the following formula:

$S1TP(2005+n) = S1TP(2005) \times [1+(CPI(2005+n)-CPI(2005))/CPI(2005)]$

Where:

(a) "S1TP" is the stage 1 threshold price;

(b) "S1TP(2005)" is \$7;

(c) "n" is the number of years since 2005; and

(d) "CPI" means the Consumer Price Index.] "Ton or tonnage" means any "short ton", or 2,000 pounds. For the purpose of determining compliance with the CO<sub>2</sub> requirements of Regulations .04 and .05 of this chapter, total CO<sub>2</sub> emissions for a control period and each interim control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with COMAR 26.09.02.10 and .11: with

(a) Any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal 1 ton;

(b) Any fraction of a ton less than 0.50 ton deemed to equal zero tons; and

(c) A short ton is equal to 0.9072 metric tons.

[(94) "Stage 1 trigger event" means the occurrence of any 12-month period that completely occurs following the market settling period characterized by an average CO<sub>2</sub> allowance price that is equal to or greater than the stage 1 threshold price.

(95) "Stage 2 threshold price" means the monetary amount established as of the first day of each calendar year derived annually from use of the following formula:

$S2TP(2005+n) = [S2TP(2005+(n-1)) \times \frac{CPI(2005+(n-1)) - CPI(2005+(n-2))}{CPI(2005+(n-2))} + 0.02] + S2TP(2005+(n-1))$

where:

(a) "S2TP" is the stage 2 threshold price;

(b) "S2TP(2005)" is \$10;

(c) "n" is the number of years since 2005; and

(d) "CPI" means the Consumer Price Index.

(96) "Stage 2 trigger event" means the occurrence of any 12-month period that completely occurs following the market settling period characterized by an average CO<sub>2</sub> allowance price that is equal to or greater than the stage 2 threshold price.]

[(97)] (94) (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 owner's negligence, gross negligence, or willful intent.

[(97-1)] (96) "Unsold allowance" means a CO<sub>2</sub> allowance that has been [made available] offered for sale in an auction conducted by the Department, but not sold [at that auction].

[(98)] (97) — [(98-1)] (98) (text unchanged)

(99) — (103) (text unchanged)

### .03 Incorporation by Reference.

A. (text unchanged)

B. Documents Incorporated.

(1) — (17) (text unchanged)

(17-1) Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects, June 13, 2013.

(18) — (22) (text unchanged)

## 26.09.02 Applicability, Determining Compliance, and Allowance Distribution

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

### .02 Applicability.

A. — D. (text unchanged)

[E.] (proposed for repeal)

[F.] E. — [G.] F. (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) 37,503,983 tons for [the] 2009 — [2014 allocation years] 2013;
- (2) 20,360,944 tons for 2014;
- [(2)] (3) [36,566,383] 19,851,920 tons for [the] 2015 [allocation year] ;
- [(3)] (4) [35,628,783] 19,355,622 tons for [the] 2016 [allocation year] ;
- [(4)] (5) [34,691,183] 19,149,790 tons for [the] 2017 [allocation year] ; [and]
- [(5)] (6) [33,753,583] 18,671,045 tons for [the] 2018 [allocation year and each allocation year after that.] ;
- (7) 18,204,269 tons for 2019; and
- (8) 17,749,162 tons for 2020 and each succeeding calendar year.

B. CO<sub>2</sub> Allowances Available for Allocation. For allocation years 2014 through 2020, the Maryland CO<sub>2</sub> Budget Trading Program adjusted 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 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.
- (2) On or before January 1, 2015, and each calendar year thereafter, the Department shall allocate CO<sub>2</sub> CCR allowances sufficient to replenish Maryland's 22.6 percent proportional share of the CCR.

[B.] D. (text unchanged)

E. Interim Adjustment for First Control Period Banked Allowances. By January 15, 2014, the Department shall determine the interim adjustment for first control period banked allowances applicable to allocation years 2014 through 2020 by use of the following formula:

$$FCPIABA = (FCPA/7) \times RS\%$$

Where:

- (1) FCPIABA is the first control period interim adjustment for banked allowances in tons;
- (2) FCPA is the total quantity of allocation year 2009, 2010, and 2011 CO<sub>2</sub> allowances held in general and compliance accounts, including compliance accounts established pursuant to the Maryland 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 January 1, 2014; and
- (3) RS% is 0.2237, which is Maryland's 2013 budget divided by the 2013 regional budget.

F. Interim Adjustment for Second Control Period Banked Allowances. On March 15, 2014, the Department shall determine the interim adjustment for second control period banked allowances applicable to allocation years 2015 through 2020 by use of the following formula:

$$SCPIABA = ((SCPA - SCPE)/6) \times RS\%$$

Where:

- (1) SCPIABA is the second control period interim adjustment for banked allowances in tons;
- (2) SCPA is the total quantity of allocation year 2012 and 2013 CO<sub>2</sub> allowances held in general and compliance accounts, including compliance accounts established pursuant to the Maryland 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 17, 2014; and

- (3) SCPE is the total quantity of 2012 and 2013 emissions from all CO<sub>2</sub> budget sources in all participating states, reported pursuant to the Maryland CO<sub>2</sub> Budget Trading Program as reflected in the CO<sub>2</sub> Allowance Tracking System (COATS) on March 17, 2014.
- (4) RS% is 0.2237, which is Maryland's 2013 budget divided by the 2013 regional budget.

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

(1) The Department shall determine the Maryland CO<sub>2</sub> Budget Trading Program adjusted budget for the 2014 allocation year by the following formula:

$$AB = BB - FCPIABA$$

Where:

- (a) AB is the Maryland CO<sub>2</sub> Budget Trading Program 2014 adjusted budget;
- (b) BB is the Maryland CO<sub>2</sub> Budget Trading Program 2014 base budget; and
- (c) FCPIABA is the first control period interim adjustment for banked allowances quantity.

(2) On April 15, 2014 the Department shall determine the Maryland CO<sub>2</sub> Budget Trading Program adjusted budgets for the 2015 through 2020 allocation years by the following formula:

$$AB = BB - (FCPIABA + SCPIABA)$$

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;
- (c) FCPIABA is the first control period interim adjustment for banked allowances; and
- (d) SCPIABA is the second control interim adjustment for banked allowances.

(3) After making the determinations required by §G(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 2014 through 2020 allocation years.

[C.] H. General Distribution of CO<sub>2</sub> Allowances.

- (1) (text unchanged)
- (2) On or before January 31 of each calendar year, the Department shall allocate all CO<sub>2</sub> allowances from the CO<sub>2</sub> Budget Trading Program to the Consumer Energy Efficiency Account, except as directed in [§C(3)] §H(3) and (4) of this regulation.
- (3) (text unchanged)

(4) If, on December 31 of each year, allowances have been sold or awarded from a set-aside account such that the number of allowances in the set-aside account falls below the required allocation in [§C(3)(a) — (d)] §H(3)(a) — (d) of this regulation, as applicable, that account shall be replenished from the Consumer Energy Efficiency Account in the following calendar year using allowances from that calendar year.

[D.] I. Demonstrating Compliance.

(1) Unless otherwise specified in this chapter, a CO<sub>2</sub> budget source shall demonstrate compliance with its CO<sub>2</sub> budget emissions limitation by [having] holding one CO<sub>2</sub> allowance in its compliance account for every ton of CO<sub>2</sub> that it emits in a control period, by the allowance transfer deadline for that control period.

(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 source's compliance account for deduction under §I of this regulation, CO<sub>2</sub> allowances for no less than 50 percent of the total CO<sub>2</sub> emissions for the interim control period from all CO<sub>2</sub> budget units at the source.



[(2)] (3) Allowances Available for Compliance Deduction. The following CO<sub>2</sub> allowances may be deducted from a compliance account for purposes of complying with a budget source's CO<sub>2</sub> budget emissions limitation for a [certain] control period *or an interim control period*:

(a) CO<sub>2</sub> allowances that are not CO<sub>2</sub> offset allowances and are identified as allowances falling within a prior control period [or], the same control period, *or the same interim control period* for which the allowances are deducted;

(b) CO<sub>2</sub> allowances that are held or transferred into the CO<sub>2</sub> budget source's compliance account as of the CO<sub>2</sub> allowance transfer deadline for that control period *or for the interim control period contained within that control period*;

(c) CO<sub>2</sub> offset allowances that are available to be deducted for compliance during a control period [may not exceed the following] *or an interim control period where the quantity of allowances is limited to*:

(i) 3.3 percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for that control period; *or*

(ii) [5 percent, if the Department determines that there has been a Stage 1 trigger event; and] *3.3 percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for an interim control period multiplied by 0.50.*

[(iii)] 10 percent, if the Department determines that there has been a Stage 2 trigger event.]

[(3)] (4)(a) The Department shall deduct CO<sub>2</sub> allowances from the CO<sub>2</sub> budget source's compliance account [the number of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions, less any CO<sub>2</sub> emissions attributable to the burning of eligible biomass.] *until*:

(i) *The number of CO<sub>2</sub> allowances deducted equals 50 percent of the total CO<sub>2</sub> emissions for an interim control period; or*

(ii) *The number of CO<sub>2</sub> allowances deducted equals the total CO<sub>2</sub> emissions for the control period.*

(b) *No deduction shall be made for CO<sub>2</sub> emissions attributable to the burning of eligible biomass.*

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

(a) The CO<sub>2</sub> authorized account representative for a source's compliance account may request that specific CO<sub>2</sub> allowances, identified by serial number for a control period *or interim control period*, be deducted; and

(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 [§D(2)(c)] §I(3)(c) of this regulation, any CO<sub>2</sub> offset allowances transferred and recorded in the compliance account, in chronological order; and

(iv) Any CO<sub>2</sub> allowances, other than those identified in [§D(4)(b)(i) — (iii)] §I(5)(b)(i) — (iii) of this regulation, that are available for deduction in the order they were recorded.

[(5)] (6) Deductions for Excess Emissions.

(a) If a CO<sub>2</sub> budget source has excess emissions, the Department shall deduct, from the CO<sub>2</sub> budget source's compliance account, CO<sub>2</sub> allowances from allocation years that occur after the control period *or interim control period* in which the [source has] excess emissions *or excess interim emissions occurred*, [that] equal to three times the [number of the source's] excess emissions.

(b) If a [source has] *source's compliance account holds* insufficient CO<sub>2</sub> allowances to cover [three times the number of] the [source's] excess emissions, the source shall immediately transfer sufficient allowances into its compliance account.

(c) (text unchanged)

(d) [Any] *No* CO<sub>2</sub> allowance deduction [does not affect the liability of] *shall relieve* the owners or operators of the CO<sub>2</sub> budget units at the source *of liability* for any fine, penalty, [or] assessment [,] or [their] obligation to comply with any other remedy, for the same violation, as ordered under applicable State law.

[(6)] (7)(a) The following guidelines apply in assessing fines, penalties, or other obligations:

[(a)] (i) For purposes of determining the number of days of violation, if a CO<sub>2</sub> budget unit has excess emissions for a control period *or interim control period*, each day in the control period *or interim control period*, as applicable, constitutes a *separate* day of violation unless the owners or operators of the unit can demonstrate to the satisfaction of the Department that a lesser number of days should be considered; and

[(b)] (ii) (text unchanged)

(b) *Each ton of excess interim emissions is a separate violation.*

[(7)] (8) (text unchanged)

[(8)] (9) Adjustments and Errors.

(a) The Department may review and conduct independent audits concerning any submission under this subtitle and make appropriate adjustments [of] to the information, if necessary.

(b) (text unchanged)

#### **.05 Compliance Certification and Early Reductions.**

##### **A. Compliance Certification Report.**

(1) Applicability and Deadline. For each control period in which a CO<sub>2</sub> budget source is subject to the CO<sub>2</sub> budget emissions limitation, the CO<sub>2</sub> authorized account representative of the source shall submit a compliance certification report by the March 1 following the relevant control period. *A compliance certification report is not required as part of the compliance obligation during an interim control period.*

(2) — (4) (text unchanged)

##### **B. (text unchanged)**

[C.] (proposed for repeal)

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

##### **A. — G. (text unchanged)**

##### **H. Calculation of Long Term Contract Price.**

(1) The Long Term Contract Price (LTCP) in calendar year [2012] *2013* shall be [\$1.93] *\$1.98*.

(2) *The LTCP in calendar year 2014 shall be \$2.00.*

[(2)] (3) For years subsequent to calendar year [2012] *2014*, the LTCP shall be established as of the first day of each calendar year, and [shall be calculated as follows:] *each calendar year thereafter, the LTCP shall be the LTCP from the previous calendar year multiplied by 1.025, rounded to the nearest whole cent.*

[The LTCP for a given year shall be the LTCP for the immediately preceding calendar year multiplied by the quotient of the sum of one plus the difference of the CPI for the given year minus the CPI for the immediately preceding calendar year divided by the CPI for the immediately preceding calendar year,

$LTCP(2012+n) = LTCP(2012+(n-1)) \times \{1 + [CPI(2012+n) - CPI(2012+(n-1))]/CPI(2012+(n-1))\}$ .

(a) "n" means the number of years since 2012

(b) "CPI(...)" means the CPI for the year determined by the calculation within the parentheses; and

(c) "LTCP(...)" means the LTCP for the year determined by the calculation within the parentheses.]

#### **.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 Standard Biomass Guidebook, [May 2006] *September 2011*.

**26.09.03 Offset Projects**

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

**.01 Purpose.**

The Department shall provide for the award of CO<sub>2</sub> offset allowances to project sponsors of CO<sub>2</sub> emissions offset projects [or CO<sub>2</sub> emissions credit retirements] that have demonstrated a reduction or avoidance of atmospheric loading of CO<sub>2</sub>, CO<sub>2</sub> equivalent, or sequestered carbon. These requirements ensure that the awarded CO<sub>2</sub> offset allowances represent real, additional, verifiable, enforceable, and permanent CO<sub>2</sub> equivalent emission reductions or carbon sequestration. Subject to the relevant compliance deduction limitations identified in COMAR [26.09.02.03E] *26.09.02.03I*, CO<sub>2</sub> offset allowances may be used by any CO<sub>2</sub> budget source for compliance purposes.

**.02 General Requirements for CO<sub>2</sub> Emission Offset Projects.**

A. Eligible CO<sub>2</sub> Emissions Offset Projects. In order to qualify for the award of CO<sub>2</sub> offset allowances, the following offset projects shall satisfy all applicable requirements identified in this chapter [and initially commence on or after December 20, 2005] :

(1) — (2) (text unchanged)

(3) Sequestration of carbon due to [afforestation] *reforestation, improved forest management, or avoided conversion*;

(4) — (5) (text unchanged)

B. (text unchanged)

[C.] (proposed for repeal)

[D.] C. General Requirements.

(1) Any person may act as the project sponsor of a CO<sub>2</sub> emissions offset project [or CO<sub>2</sub> emissions credit retirement] . The general requirements described in this section apply.

(2) CO<sub>2</sub> offset allowances may not be awarded to an offset project [or CO<sub>2</sub> emissions credit retirement] that is required by any local, state, or federal law, regulation, or administrative or judicial order.

(3) — (5) (text unchanged)

(6) CO<sub>2</sub> offset allowances may not be awarded to an offset project [or CO<sub>2</sub> emissions credit retirement] that is awarded credits or allowances under any other mandatory or voluntary greenhouse gas program, *except for as described in the forest offset protocol*.

[E.] D. Maximum Allocation Periods for CO<sub>2</sub> Emissions Offset Projects.

(1) (text unchanged)

(2) [Afforestation] *Reforestation, Improved Forest Management, or Avoided Conversion* Projects.

(a) The Department may award CO<sub>2</sub> offset allowances for any [afforestation] *reforestation, improved forest management, or avoided conversion* offset project for an initial [20-year] *25-year* allocation period.

(b) At the end of the initial [20-year] *25-year* allocation period, *or any subsequent crediting period,* the Department may award CO<sub>2</sub> offset allowances for a second [20-year] *25-year* allocation period if the project sponsor has submitted a consistency application for the [afforestation] offset project before the expiration of the initial allocation period, and the Department has issued a consistency determination.

(c) At the end of the second 20-year allocation period, the Department may award CO<sub>2</sub> offset allowances for a third 20-year allocation period if the project sponsor has submitted a consistency application for the afforestation offset project before the expiration of

the second allocation period and the Department has issued a consistency determination.

(d) An afforestation offset project may not be awarded CO<sub>2</sub> offset allowances for more than a total of 60 allocation years.]

[F.] E. (text unchanged)

[G.] F. Application Process.

(1) Establishment of a General Account. The project sponsor of an offset project [or CO<sub>2</sub> emissions credit retirement] shall establish a general account. All submissions to the Department required for the award of CO<sub>2</sub> offset allowances shall be provided by the project sponsor.

(2) Consistency Application Deadlines.

(a) For offset projects [commenced before January 1, 2009, the project sponsor shall submit the consistency application by June 30, 2009] *not involving reforestation, improved forest management or avoided conversion, the consistency application must be submitted no later than 6 months following the date the offset project is commenced.*

(b) For offset projects [commenced on or after January 1, 2009, the consistency application shall be submitted by the date that is 6 months after the commencement of the offset project] *involving reforestation, improved forest management or avoided conversion, the consistency application must be submitted no later than 1 year after the date the offset project is commenced, except as described in Regulation .05J of this chapter.*

(c) (text unchanged)

[H.] G. Consistency Application Contents. The consistency application for an offset project shall include the following information:

(1) — (10) (text unchanged)

(11) Disclosure of any voluntary or mandatory programs, other than this subtitle, to which greenhouse gas emissions data related to the offset project has been or will be reported; *and*

(12) For offset projects located in a state or United States jurisdiction that is not a participating state, a demonstration that the project sponsor has complied with all requirements of the cooperating regulatory agency in the state or United States jurisdiction where the offset project is located [; and] .

[(13) For a CO<sub>2</sub> emissions credit retirement, sufficient information to demonstrate that the CO<sub>2</sub> emissions credit is eligible, was lawfully held by the project sponsor, and has been permanently and irrevocably retired.]

[I.] H. — [J.] I. (text unchanged)

**.04 Reduction in Emissions of Sulfur Hexafluoride (SF<sub>6</sub>) Project Standards.**

A. — C. (text unchanged)

D. Emissions Baseline Determination.

(1) (text unchanged)

[(2) If the consistency application is filed by June 30, 2009, the baseline year may be 2005 or later.]

[(3)] (2) — [(6)] (5) (text unchanged)

E. (text unchanged)

**.05 Sequestration of Carbon due to [Afforestation] Reforestation, Improved Forest Management, or Avoided Conversion.**

A. [Afforestation] *Forest Offset* Project Standards. Offset projects that [sequester carbon through the conversion of land from a nonforested to a forested condition] *involve reforestation, improved forest management, or avoided conversion* shall qualify for the award of CO<sub>2</sub> allowances if they meet the requirements of this regulation *and the forest offset protocol*.

B. Eligibility. *Eligible forest offset projects shall satisfy all eligibility requirements of the forest offset protocol and this regulation.*

(1) Eligible offset projects shall occur on land that has been in a nonforested or partially forested state for at least 10 years preceding the commencement of the offset project.

(2) Eligible offset projects shall be:

(a) Managed in accordance with widely accepted environmentally sustainable forestry practices; and

(b) Designed to promote the restoration of native forests by using mainly native species and avoiding the introduction of invasive nonnative species.

(3) If commercial timber harvest activities are to occur, certification shall be obtained before any harvest activities at the site through the Forest Stewardship Council (FSC), Sustainable Forestry Institute (SFI), American Tree Farm System (ATFS), or other similar organizations approved by the Department.]

C. Offset Project Description. [The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of §B of this regulation and the following information:] *The offset project sponsor shall provide a detailed narrative of the offset project actions taken, including documentation that the offset project meets the eligibility requirements of this regulation. The offset project description must include all information identified in sections 8.1 and 9.1 of the forest offset protocol, and any other information deemed necessary by the Department.*

(1) Owner of the land within the offset project boundary;

(2) Detailed map of the land within the offset project boundary and areas adjacent to the offset project boundary;

(3) A copy of the permanent conservation easement or other documentation of permanent protection;

(4) For offset projects located in a state or United States jurisdiction that is not a participating state, a written statement from the cooperating regulatory agency confirming the enforceability of the permanent conservation easement or other permanent protection agreement; and

(5) Plant species to be planted or established via natural regeneration and a forest management plan.]

D. Carbon Sequestration Baseline Determination. *Baseline onsite carbon stocks shall be determined as required in sections 6.1.1, 6.1.2, 6.2.1, 6.2.2, 6.2.3, 6.3.1, and 6.3.2 of the forest offset protocol, as applicable.*

(1) The existing sequestered carbon within the offset project boundary shall be calculated before commencement of the offset project. The carbon sequestration baseline shall be determined based on a sum of measurements of the carbon content of the carbon pools described in this section, made not more than 12 months before offset project commencement.

(2) The carbon content shall be calculated for live above-ground tree biomass, live below-ground tree biomass, soil carbon, dead organic matter, and coarse woody debris, unless the baseline measurement for this carbon pool is at or near zero, in which case measurement of this carbon pool during the allocation period is optional.

(3) The carbon content may be calculated for live above-ground nontree biomass and dead organic matter forest floor.

(4) The carbon content shall be calculated individually for each carbon pool within the offset project boundary.

(5) To increase the accuracy of measurement and verification, the area within the offset project boundary shall be divided into sub-populations that form relatively homogenous units. When defining sub-populations, the project sponsor shall consider:

(a) Vegetation and tree species, including existing vegetation and trees and those to be utilized as part of the offset project activity; and

(b) Site factors, including soil type, elevation, slope, age class, and other factors as warranted.

(6) Calculation of sequestered carbon for each carbon pool in each reporting sub-population shall be based on the following:

$$CO_2 \text{ tons} = [(A \times C/ha)(44/12)] / 0.9072$$

where:

(a) A = Area in hectares within each reporting sub-population;

(b) C = Carbon content (metric tons of carbon for each carbon pool); and

(c) C/ha = Mean carbon content per hectare for each carbon pool.

(7) Total carbon contained within the offset project boundary shall be calculated as follows:

$$TC_{pb} = TC_{latb} + TC_{lbtb} + TC_s [+ TC_{lantb} + TC_{doff} + TC_{docwd}]$$

where:

(a)  $TC_{pb}$  = Total carbon content within the offset project boundary (sum of carbon content of all carbon pools in all reporting sub-populations);

(b)  $TC_{latb}$  = Sum of carbon content of live above-ground tree biomass in all reporting sub-populations;

(c)  $TC_{lbtb}$  = Sum of carbon content of live below-ground tree biomass in all reporting sub-populations;

(d)  $TC_s$  = Sum of carbon content of soil carbon in all reporting sub-populations;

(e)  $TC_{lantb}$  [option] = Sum of carbon content of live above-ground non-tree biomass in all reporting sub-populations;

(f)  $TC_{doff}$  [option] = Sum of carbon content of dead organic matter, forest floor in all reporting sub-populations; and

(g)  $TC_{docwd}$  = Sum of carbon content of dead organic matter, coarse woody debris in all reporting sub-populations.

(8) Each individual carbon pool to be measured shall be directly measured using a measurement protocol and sample size that achieves a demonstrated quantified accuracy for the combined carbon pool measurement such that there is 95 percent confidence that the resulting reported value is within 10 percent of the true mean. Measurement and sampling practices shall meet the following requirements:

(a) An adequate sample size that meets the requirements; and

(b) The minimum number of required sampling plots for each sub-population shall be determined based on the following:

$$n = (s \times 1.960) / (\text{mean} \times re)^2$$

where:

(i) n = Required number of sample plots for each reporting sub-population;

(ii) s = Standard deviation;

(iii) mean = Mean reported carbon content for the sample population; and

(iv) re = Level of sampling error (0.08) to assure a total maximum error of 10 percent for the 95 percent confidence interval, which assumes total error due to measurement error of 0.02.

(9) Direct measurement procedures shall be consistent with current forestry good practice and the guidance contained in U.S. Department of Energy, Office of Policy and International Affairs, Technical Guidelines, Voluntary Reporting of Greenhouse Gases (1605(b)) Program, "Section 3, Measurement Protocols for Forest Carbon Sequestration," in Chapter 1 (Emissions Inventories) Part I Appendix (Forestry).]

E. Calculating Carbon Sequestered. *Net GHG reductions and GHG removal enhancements shall be calculated as required by section 6 of the forest offset protocol. The project's risk reversal rating shall be calculated as required by Appendix D of the forest offset protocol.*

(1) Carbon sequestration shall be determined using a base year approach, where the amount of carbon sequestered is measured as a net increase in carbon relative to the base year measurement.

(2) Carbon sequestration shall be the amount of net additional carbon sequestered during each reporting period, based upon aggregate carbon uptake and carbon emissions for the sum of carbon pools, relative to the baseline carbon content or the carbon content as of the previous reporting period, if above the baseline carbon content, as applicable.

(3) CO<sub>2</sub> offset allowances shall be issued based on the amount of net additional carbon sequestered within the offset project boundary during each reporting period, as represented in tons of CO<sub>2</sub>.

(4) Stock-Change Approach.

(a) Sequestered carbon shall be calculated using a stock-change approach as follows:

$$NCS_t = I_t - I_{t-1}$$

where:

(i) NCS<sub>t</sub> = Net carbon sequestered in reporting period t;

(ii) I<sub>t</sub> = Inventory of carbon stock for all carbon pools in all reporting sub-populations within the offset project boundary in reporting period t; and

(iii) I<sub>t-1</sub> = Inventory of carbon stock for all carbon pools in all reporting sub-populations within the offset project boundary in the reporting period immediately preceding reporting period t.

(b) Each of the carbon pools that were measured as part of the baseline determination shall be remeasured using the same methodology and to the same or better quantified precision as that used for the baseline determination.

(c) The net change in each carbon pool's carbon stock in each reporting sub-population is calculated by subtracting the baseline carbon stock, or carbon stock at the previous monitoring, if above the baseline carbon content, from the carbon stock at the time of the current monitoring.

(d) Net carbon stock change for the offset project is the sum of the net changes in the carbon stock of all applicable pools in all reporting sub-populations within the offset project boundary, less 10 percent to account for potential losses of sequestered carbon. This 10 percent discount may not be required if the project sponsor retains long-term insurance, approved by the Department, that guarantees replacement of any lost sequestered carbon for which CO<sub>2</sub> offset allowances were awarded.]

F. Monitoring and Verification Requirements. [Total carbon stock within the offset project boundary shall be calculated not less than every 5 years. Monitoring and verification are as follows:] *Monitoring and verification is subject to the following requirements:*

(1) [Monitoring and verification reports shall include data from direct measurement of carbon content for all plots used to determine baseline and reporting period carbon content] *Monitoring and verification reports shall include all forest offset project data reports submitted to the Department, including any additional data required by section 9.2.2 of the forest offset protocol; [and]*

(2) [The consistency application shall include a monitoring and verification plan certified by the Department or an independent accredited verifier, including:] *The consistency application shall include a monitoring and verification plan certified by an independent verifier accredited pursuant to Regulation .08 of this chapter, which shall consist of a forest carbon inventory program, as required by section 8.1 of the forest offset protocol; and*

[a) Direct carbon measurement procedures, the designation of sub-populations, and the determination of the minimum number of sampling plots; and

(b) If commercial timber harvest activities have occurred or will occur, an assessment of management practices to ensure that the offset project has been or will be managed in accordance with environmentally sustainable forestry practices consistent with the Forest Stewardship Council (FSC), Sustainable Forestry Institute (SFI), American Tree Farm System (ATFS), or other similar organizations approved by the Department.]

(3) *Monitoring and verification reports shall be submitted not less than every 6 years, except that the first monitoring and verification report for reforestation projects must be submitted within 12 years of project commencement.*

G. *Forest Offset Project Data Reports.* A project sponsor shall submit a forest offset Project data report to the Department for each reporting period that shall meet the following:

(1) *Each forest offset project data report must cover a single reporting period;*

(2) *Reporting periods must be contiguous; and*

(3) *There must be no gaps in reporting once the first reporting period has commenced.*

H. *Prior to the award of CO<sub>2</sub> offset allowances pursuant to Regulation .09 of this chapter, or to any surrender of allowances pursuant to §1 of this regulation, any quantity expressed in metric tons, or metric tons of CO<sub>2</sub> equivalent, shall be converted to tons using the conversion factor specified in COMAR 26.09.01.02B(93).*

[G.] I. *Carbon Sequestration Permanence.* The offset project shall meet the following requirements to address [permanence] reversals of sequestered carbon:

(1) [The project sponsor shall place the land within the offset project boundary under a legally binding permanent conservation easement, approved by the Department, that requires the land to be maintained in a forested state in perpetuity;] *Unintentional reversals. Requirements for unintentional reversals are as follows:*

(a) *The project sponsor must notify the Department of the reversal and provide an explanation for the nature of the unintentional reversal within 30 calendar days of its discovery; and*

(b) *The project sponsor must submit to the Department a verified estimate of current carbon stocks within the offset project boundary within 1 year of the discovery of the unintentional reversal.*

(2) [The conservation easement shall include a requirement that the carbon density within the offset project boundary be maintained at long-term levels at or above that achieved as of the end of the CO<sub>2</sub> offset crediting period; and] *Intentional Reversals. Requirements for intentional reversals are as follows:*

(a) *If an intentional reversal occurs, the project sponsor shall, within 30 calendar days of the intentional reversal:*

(i) *Provide notice, in writing, to the Department of the intentional reversal; and*

(ii) *Provide a written description and explanation of the intentional reversal to the Department.*

(b) *Within 1 year of the occurrence of an intentional reversal, the project sponsor shall submit to the Department a verified estimate of current carbon stocks within the offset project boundary.*

(c) *If an intentional reversal occurs, and CO<sub>2</sub> offset allowances have been awarded to the offset project, within 6 months following notification by the Department, the forest owner must surrender to the Department for retirement, the number of CO<sub>2</sub> allowances corresponding to the quantity of CO<sub>2</sub> equivalent tons reversed.*

(i) *Notification by the Department will occur after the verified estimate of carbon stocks has been submitted to the Department, or after 1 year has elapsed since the occurrence of the reversal if the project sponsor fails to submit the verified estimate of carbon stocks; and*

(ii) *If the forest owner does not surrender valid CO<sub>2</sub> allowances to the Department within 6 months following notification by the Department, the forest owner will be subject to an enforcement action and each CO<sub>2</sub> equivalent ton of carbon sequestration reversed will constitute a separate violation of this regulation and applicable State law.*

(d) *Project Termination. Requirements for project termination are as follows:*

(i) *Within 6 months of project termination, the project sponsor shall surrender to the Department or its agent for retirement, a quantity of CO<sub>2</sub> allowances in the amount calculated pursuant to project termination provisions in the forest offset protocol; and*

(ii) *If the project sponsor fails to surrender to the Department a quantity of CO<sub>2</sub> Allowances in the amount calculated pursuant to project termination provisions in the forest offset protocol within 6 months following project termination, the project sponsor shall be subject to enforcement action and each CO<sub>2</sub> offset allowance not surrendered will constitute a separate violation of this regulation and applicable State law.*

(3) [The conservation easement shall require that the land be managed in accordance with environmentally sustainable forestry practices] *Disposition of Forest Sequestration Projects After a Reversal. If a reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks, the forest offset project will be terminated by the Department.*

*J. Timing of Forest Offset Projects. The Department may award CO<sub>2</sub> offset allowances under Regulation .09 of this chapter only for forest offset projects that are initially commenced on or after January 1, 2014.*

*K. Projects that Have Been Awarded Credits Under a Voluntary Greenhouse Gas Reduction Program.*

(1) *For projects that have been awarded credits under a voluntary greenhouse gas reduction program, the number of CO<sub>2</sub> Offset Allowances will be calculated pursuant to the requirements of this regulation, without regard to the number of credits that were awarded to the project under the voluntary program.*

(2) *The provisions of Regulation .02C(6) and F(2)(b) may not apply to forest projects that have been awarded credits under a voluntary greenhouse gas reduction program provided that the following conditions are satisfied:*

(a) *The project satisfies all other general requirements of this chapter, including all specific requirements of this regulation, for all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO<sub>2</sub> offset allowances pursuant to Regulation .09 of this chapter;*

(b) *At the time of submittal of the consistency application for the project, the project sponsor submits forest offset data reports and a monitoring and verification report meeting all requirements of §§F and G of this regulation that covers all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also seeks an award of CO<sub>2</sub> offset allowances pursuant to Regulation .09 of this chapter; and*

(c) *The voluntary greenhouse gas program has published information on its website to allow the Department to verify the information included in the consistency application, and the consistency application includes information sufficient to allow the Department to make the following determinations:*

(i) *The offset project has met all legal and contractual requirements to allow it to terminate its relationship with the voluntary greenhouse gas program, and such termination has been completed; and*

(ii) *The project sponsor or voluntary greenhouse gas program has cancelled or retired all credits that were awarded for carbon sequestration that occurred during the time periods for which the project intends to be awarded CO<sub>2</sub> offset allowances pursuant to Regulation .09 of this chapter, and such credits were cancelled or required for the sole purpose of allowing the project to be awarded CO<sub>2</sub> offset allowances pursuant to Regulation .09 of this chapter.*

#### **.09 Awarding and Recording of CO<sub>2</sub> Offset Allowances.**

A. (text unchanged)

[B. CO<sub>2</sub> Emissions Credit Retirement. If a project sponsor received a consistency determination, one CO<sub>2</sub> offset allowance shall be awarded for each ton of reduction of CO<sub>2</sub> or CO<sub>2</sub>e or sequestration of CO<sub>2</sub>, represented by the relevant credits or allowances retired.]

[C.] B. — [G.] F. (text unchanged)

### **26.09.04 Auctions**

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

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

A. *The following rules shall apply to each allowance auction. The Department may specify additional information in the auction notice for each auction. Such additional information may include the time and location of the auction, auction rules, registration deadlines, and any additional information deemed necessary or useful.*

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 allowances;*

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

(c) *The minimum reserve price for the auction; and*

(d) *The CCR 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 allowances shall only be sold at an auction in which total demand for allowances, above the CCR 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 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 allowances offered for sale by the Department at the auction shall be equal to the number of CO<sub>2</sub> CCR allowances in the Consumer Energy Efficiency Account at the time of the auction;*

(c) *After all of the CO<sub>2</sub> CCR allowances in the Consumer Energy Efficiency Account have been sold in a given calendar year, no additional 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)(a) of this regulation is met at an auction;*

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

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

(3) *The Department shall implement the reserve price in the following manner:*

(a) *No allowances shall be sold at any auction for a price below the reserve price for that auction; and*

(b) *If the total demand for allowances at an auction is less than or equal to the total number of allowances made available for sale in that auction, then the auction clearing price for the auction shall be the reserve price.*

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