

~~New Rule, R.2000 d.204, effective May 15, 2000 (operative June 6, 2000).  
Sec: 31 N.J.R. 1671(a), 32 N.J.R. 1808(a).~~

**SUBCHAPTER 31. NO<sub>x</sub> BUDGET PROGRAM**

**Authority**  
N.J.S.A. 13:1B-3 and 26:2C-1 et seq.

**Source and Effective Date**

R.1998 d.379, effective July 20, 1998 (operative August 16, 1998).  
See: 29 N.J.R. 3924(b), 29 N.J.R. 4226(a), 30 N.J.R. 2660(a).

**7:27-31.1 Purpose and scope**

This subchapter establishes a NO<sub>x</sub> Budget Program in New Jersey which, beginning in 1999, limits emissions from stationary sources of NO<sub>x</sub>. It sets forth requirements for the monitoring, recordkeeping, and reporting of NO<sub>x</sub> emissions and for certification of compliance with this program. It makes available a trading mechanism, which allows intra-state trading as well as interstate trading. In order to support the trading mechanism, this subchapter establishes rules and procedures for the allocation of the tradeable units (that is, allowances); the transfer, use, and retirement of the allowances; and the tracking of the allowances. The NO<sub>x</sub> Budget Program set forth in this subchapter is intended to confirm with and meet USEPA's NO<sub>x</sub> Budget rules at 40 CFR 96 and meets USEPA's requirements at 40 CFR 51.121 for mitigating the interstate transport of both ozone and nitrogen oxides, a precursor to the formation of ground-level ozone.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).  
Added the last sentence.

**7:27-31.2 Definitions**

The following words, terms, and abbreviations used in this subchapter have the following meanings, unless the context clearly indicates otherwise:

"AAR" means authorized account representative.

"Account" means the place in the NO<sub>x</sub> Allowance Tracking System where allowances are held for a specific person or purpose. Such a place may be a compliance account, a general account, or a retirement account.

"Account certificate of representation" means the completed and signed submission required by N.J.A.C. 7:27-31.13 for certifying the designation of a NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> Budget source or a group of identified NO<sub>x</sub> Budget sources who is authorized to represent the owners and operators of such NO<sub>x</sub> Budget source or sources with regard to matters under this subchapter.

"Account number" means the identification number given by the NATS Administrator to an account in which allowances are held in the NO<sub>x</sub> Allowance Tracking System pursuant to N.J.A.C. 7:27-31.13, NO<sub>x</sub> Allowance Tracking System.

"Acid Rain emissions limitation" means the term as defined at 40 CFR 72.2, which is a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the Clean Air Act.

"Acquiring account" means the account in an allowance transfer to which allowances are conveyed.

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

"Allocate" or "allocation" means:

1. In respect to New Jersey, the assignment of allowances pursuant to N.J.A.C. 7:27-31.7, Annual allowance allocation; or in respect to another jurisdiction, the assignment of allowances pursuant to that jurisdiction's comparable rules; and

2. The recording of the assigned allowances by the NATS Administrator in the appropriate NO<sub>x</sub> Allowance Tracking System compliance account or general account.

"Allowance" means a tradeable unit which represents the limited authorization to emit one ton of NO<sub>x</sub> during a control period.

"Allowance deduction" means the withdrawal by the NATS Administrator of one or more allowances from a NO<sub>x</sub> Allowance Tracking System general account or compliance account and the recording of such allowances in a retirement account. As prescribed in the procedures at N.J.A.C. 7:27-31.17 and 31.19, allowance deduction events relating to end-of-season reconciliation and penalty deductions may only be made from compliance accounts. As prescribed at N.J.A.C. 7:27-31.10, allowance deduction events relating to voluntary retirement may be made from a compliance account or a general account.

"Allowance transfer" means the withdrawal by the NATS Administrator of one or more allowances from a NO<sub>x</sub> Allowance Tracking System general account or compliance account and the recording of such allowances in a different general account or compliance account.

"Allowance transfer deadline" means the deadline by which an allowance transfer request may be submitted to the NATS Administrator to effect an allowance transfer for the purpose of meeting the requirement of N.J.A.C. 7:27-31.3(i) for the year's control period. For each year from 1999 through 2002, this deadline shall be midnight December 31. For the year 2003 and each year thereafter, this deadline shall be midnight November 30, except that for the year 2003 and each year thereafter, if November 30 is not a business day, then the deadline shall be midnight of the first business day after November 30.

"Alternative monitoring system" means a monitoring system other than a CEMS, or component of such a system, that is designed to determine mass emissions per time period, air contaminant concentrations, or volumetric flow of a given source or group of sources, as provided for in N.J.A.C. 7:27-31.14, Emissions monitoring.

"Authorized account representative (AAR)" means the responsible individual designated in writing by the person who holds an account. This individual (or his or her alternate) is the sole person who has the authority, on behalf of the account, to:

1. Submit allowance transfer requests to the NATS Administrator;
2. Certify and submit information required in this subchapter, including reports to the NATS and the NETS; and
3. With respect to a budget source, to represent and legally bind each owner and operator in matters pertaining to the NO<sub>x</sub> Budget Program.

"Banked allowance" means an allowance in a general account or a compliance account which has been neither used to reconcile emissions in the year it was originally allocated nor retired, and which is therefore carried forward in the account into the next year or into successive future years. The NATS Administrator shall flag such an allowance as "banked."

"Base budget" or "base emission budget" means the emissions budget for each control period as prescribed by the USEPA at 40 CFR 51.121, or that has been developed by applying the emission limits, jointly agreed to by the jurisdictions who are signatories of the OTC MOU, to the baseline sources' baseline emissions, whichever is less. This term when used in respect to:

1. A specific jurisdiction, is the emission budget so established for that jurisdiction; and
2. The interstate trading program as a whole, is the sum of the emission budgets so established for all jurisdictions in the region.

"Banking" means the retention in a general account or a compliance account of one or more allowances that were allocated for use in the current or in a previous control period, but have been neither used nor retired. Such allowances may be used or retired in a future control period.

"Baseline" means, when used in reference to the emissions or productivity of a source, one of the following:

1. For an opt-in source, the average emissions or average productivity of that source during the two consecutive May 1 through September 30 periods on which the increase in the New Jersey emission budget made to accommodate the source was based, pursuant to N.J.A.C. 7:27-31.4; or
2. For a baseline source, the emissions or productivity attributed to that source in the 1990 baseline NO<sub>x</sub> emission inventory.

"Baseline NO<sub>x</sub> emission inventory" means the emissions inventory which developed jointly by all jurisdictions in the OTR and which sets forth, for all baseline sources, the NO<sub>x</sub> emissions of these sources for the period May 1 and September 30, 1990. This inventory is the emission baseline from which emission reductions are calculated for purposes of determining the effectiveness of the NO<sub>x</sub> Budget Program in limiting NO<sub>x</sub> emissions.

"Baseline source" means a source which is one of the following and which operated during the May 1 through September 30 period in 1990:

1. A fossil fuel fired boiler or other indirect heat exchanger with a maximum rated heat input capacity of at least 250 MMBtu per hour; or
2. An electric generating unit with a rated output of at least 15 MW.

"Boiler" means an indirect heat exchanger which combusts fossil fuel to produce steam, or to heat water or any other heat transfer medium.

"British Thermal Unit" means the quantity of heat required to raise the temperature of one avoirdupois pound of water one degree Fahrenheit at 39.1 degrees Fahrenheit.

"Btu" means British Thermal Unit.

"Budget source" means any of the following sources:

1. A fossil fuel fired indirect heat exchanger with a maximum rated heat input capacity of at least 250 MMBtu per hour;
2. An electric generating unit with a rated output of at least 15 MW; or
3. Any source that has been approved as an opt-in source.

"CEMS" means continuous emission monitoring system.

"Clean Air Act" means the Federal Clean Air Act as amended in 1990 (42 U.S.C. §§ 7401 through 7626).

"Combustion unit" means a source operation or item of equipment which combusts fuel.

"Commence commercial operation" means, with regard to a source that serves an electric generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. For a source that is a budget source on the date of commencement of commercial operation, the date such production begins shall remain the source's date of commencement of commercial operation even if the source is subsequently modified, reconstructed, or repowered. For a source that is not a budget source on the date the source commences commercial operation, the date the source becomes a budget source shall be the date of commencement of commercial operation, for the purposes of this subchapter.

"Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a source, start-up of a source's combustion chamber. For a source that is a budget source on the date of commencement of operation, such date shall remain the source's date of commencement of operation even if the source is subsequently modified, reconstructed, or repowered. For a source that is not a budget source on the date of commencement of operation, the date the source becomes a budget source shall be the source's date of commencement of operation, for the purposes of this subchapter.

"Common stack" means a single flue through which emissions from two or more sources are exhausted.

"Compliance account" means an account in the NATS where allowances are held in order to be available for use in complying with end-of-season reconciliation requirements pursuant to N.J.A.C. 7:27-31.3(i). The number of allowances in the account will be increased if allowances are allocated to the account or if allowances are transferred into the account from another account. The number of allowances in the account will be decreased if allowances in the account are transferred from the account into another account or if the NATS Administrator makes an allowance deduction for compliance purposes. Each compliance account is associated with a specific budget source.

"Continuous emission monitoring system" or "CEMS" means a system of equipment that samples, analyzes, and determines, on a continuous basis (at least once every 15 minutes), for a given source or group of sources, mass emissions of one or more air contaminants per time period and per heat input, and that records the results in order to provide a permanent record of such data. The following are component parts of a continuous emissions monitoring system required under this subchapter:

1. Nitrogen oxides pollutant concentration monitor;
2. Diluent gas monitor (oxygen or carbon dioxide), when use of such monitor is required by N.J.A.C. 7:27-31.14;
3. Flow monitoring systems (flue gas flow or fuel flow);
4. A continuous moisture monitor, when use of such monitor is required by N.J.A.C. 7:27-31.14; and
5. A data acquisition and handling system.

"Control period" means, for the year 1999 and thereafter, the period beginning May 1 of each year and ending on September 30 of the same year, inclusive.

"Current year" means the present calendar year.

"Data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under N.J.A.C.

7:27-31.14 through 31.16, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by N.J.A.C. 7:27-14.

"Department" means the New Jersey Department of Environmental Protection.

"DER credit" means a discrete emission reduction credit pursuant to N.J.A.C. 7:27-30.

"Early reduction allowance" means an allowance based on NO<sub>x</sub> emission reductions that meet the criteria specified in N.J.A.C. 7:27-31.12, Early reductions, and that occurred during the period May 1 through September 30, 1997, or the period May 1 through September 30, 1998; or that occurred during both such periods.

"Electric generating unit" means any fossil fuel fired combustion unit that serves an electric generator having a nameplate capacity of 15 MW or greater which provides electricity for sale or use.

"Emissions budget" means a limit or "cap" on the number of tons of NO<sub>x</sub> emissions which are allowed to be emitted. This limit is effected by constraining the amount of allowances allocated to a number which does not exceed the number of tons set for the emissions budget.

"Energy efficiency project" means a project which:

1. Is implemented by, or on behalf of, an electric consumer;
2. Reduces the consumer's consumption of electricity;
3. Belongs to a category included in the guidance document "Measurement Protocol for Commercial, Industrial and Residential Facilities," issued by New Jersey's Board of Regulatory Commissioners on April 28, 1993;
4. The electricity savings of the project is quantified in accordance with this measurement protocol; and
5. Does not entail the direct use of combustion equipment.

"Facility" means the combination of all structures, buildings, equipment, storage tanks, source operations, and other operations located on one or more contiguous or adjacent properties, which are under common control of the same person or persons.

"Fossil fuel" means natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived wholly, or in part, from such material.

"Fossil fuel fired" means fueled by greater than 50 percent fossil fuel on an annual heat input basis.

"General account" means an account in the NATS where allowances are held for a specific person. The number of allowances in the account will be increased if allowances are allocated to the account or if allowances are transferred into the account from another account. The number of allowances in the account will be decreased if allowances in the account are transferred from the account into another account. There are two types of general accounts:

1. Accounts associated with a person who requested the creation of the account pursuant to N.J.A.C. 7:27-31.13; and
2. Accounts utilized by the Department in the allocation process described at N.J.A.C. 7:27-31.7.

"Hazardous air pollutant" or "HAP" means an air contaminant listed in or pursuant to 42 U.S.C. § 7412(b).

"Heat input" means the heat derived from the combustion of fuel in a source. This term does not include the heat derived from preheated combustion air, recirculated flue gas, or exhaust from other sources.

"Indirect heat exchanger" means stationary source combustion equipment in which the flame and/or products of combustion are separated from any contact with the principal material in the process by metallic or refractory walls. Such equipment includes, but is not limited to, steam boilers, vaporizers, heat exchangers, column reboilers, fractionating column feed preheaters, reactor feed preheaters, fuel-fired reactors such as steam hydrocarbon reformer heaters and pyrolysis heaters.

"Industrial boiler" means a boiler that meets the following criteria:

1. No steam produced by the boiler is used to produce electricity that is sold or otherwise supplied to any utility power distribution system; and
2. No steam produced by the boiler is sold or otherwise supplied to a steam distribution system for the purpose of providing steam that would produce electrical energy for sale.

"Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a source lacks certified monitors to report heat input. If the intention is to use Appendix D of 40 CFR 75 to report heat input, this value should be calculated, in accordance with 40 CFR 75, using the maximum fuel flow rate and the maximum gross calorific value. If the intention is to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR 75, using the maximum potential flowrate and either the maximum carbon dioxide concentration (in percent CO<sub>2</sub>) or the minimum oxygen concentration (in percent O<sub>2</sub>).

"Maximum potential NO<sub>x</sub> emission rate" means the emission rate of NO<sub>x</sub> (in pounds per MMBtu) calculated in accordance with section 3 of Appendix F of 40 CFR 75, using the maximum potential NO<sub>x</sub> concentration as defined in section 2 of Appendix A of 40 CFR 75, and either the maximum oxygen concentration (in percent O<sub>2</sub>) or the minimum carbon dioxide concentration (in percent CO<sub>2</sub>) under all operating conditions of the source except for start up, shutdown, and upsets.

"Maximum rated heat input capacity" means the maximum amount of fuel that is able to be combusted per unit of time on a steady state basis in a given combustion device as determined by the physical design and characteristics of the combustion device. This amount (usually expressed in MMBtu per hour) is the product of the gross calorific value of the fuel (usually expressed in Btu per mass of fuel) and the fuel feed rate (usually expressed in mass of fuel per hour).

"MMBtu" means one million British Thermal Units.

"MW" means megawatt.

"MW-hr" means megawatt-hour.

"NATS" means NO<sub>x</sub> Allowance Tracking System.

"NATS Administrator" means the agency which is authorized, by New Jersey and the other jurisdictions implementing the NO<sub>x</sub> Budget Program, to administer and operate the NATS. At the request of the member jurisdictions of the OTC, the United States Environmental Protection Agency's Clean Air Markets Division, formerly the Acid Rain Division, has agreed to serve as the NATS Administrator for the purposes of the OTC NO<sub>x</sub> Budget Program during the years 1999 through 2002. The Administrator of USEPA, or its designee, is the NATS Administrator for the purposes of the NO<sub>x</sub> Budget Program pursuant to 40 CFR 51 and 40 CFR 96 during the years 2003 and beyond. As of September 29, 2000, the USEPA Clean Air Markets Division, formerly the Acid Rain Division, has been designated by USEPA to be the NATS Administrator.

"Net electric output" means, for units generating electricity, the net busbar power leaving the plant: that is, the total electrical output generated minus the energy requirements for auxiliaries and emission controls.

"Net useful heat output" means one half of the useful thermal output not associated with neither the energy requirements for auxiliaries and emission controls nor the net electric output performed by the steam generated: that is, one half of the heat output associated with steam delivered to an industrial process.

"NETS" means NO<sub>x</sub> Emission Tracking System.

"NETS Administrator" means the agency which is authorized, by New Jersey and the other jurisdictions implementing the NO<sub>x</sub> Budget Program, to administer and operate the NETS. At the request of the member jurisdictions of the OTC, the United States Environmental Protection Agency's Clean Air Markets Division, formerly the Acid Rain Division, has agreed to serve as the NETS Administrator for the purposes of the OTC NO<sub>x</sub> Budget Program during the years 1999 through 2002. The Administrator of USEPA, or its designee, is the NETS Administrator for the purposes of the NO<sub>x</sub> Budget Program pursuant to 40 CFR 51 and 40 CFR 96 during the years 2003 and beyond. As of September 29, 2000, the USEPA Clean Air Markets Division, formerly the Acid Rain Division, has been designated by USEPA to be the NETS Administrator.

"New budget source" means, in respect to provisions of N.J.A.C. 7:27-31.7, Annual allowance allocation, a budget source that, as of May 1 of the then-current year, meets all of the following three criteria:

1. Is not an opt-in source;
2. Has been permitted to operate; and
3. For each of the years 1999 through 2002, has not yet operated for two full May 1 through September 30 periods, and for the each of the years 2003 and thereafter, has not commenced operation in order to be allocated allowances pursuant to N.J.A.C. 7:27-31.7(l) or (d)3 and 4.

"New Jersey emission budget" means the base emission budget, plus the amount added for any sources that have been opted in to the NO<sub>x</sub> Budget Program pursuant to N.J.A.C. 7:27-31.4, plus the one time amount added only in the year 1999 for any sources that have earned early reduction allowances pursuant to N.J.A.C. 7:27-31.12.

"New Jersey holder" means, with respect to an account in the NATS, any of the following:

1. An owner or operator of a budget source located in New Jersey, for which there is a compliance account in the NATS; or
2. A person who has established a general account in the NATS, and who is located in New Jersey or conducts activities which are subject to this subchapter.

"NO<sub>x</sub>" means oxides of nitrogen.

"NO<sub>x</sub> Allowance Tracking System (NATS)" means the system used to track allowances as they are allocated, transferred, used and retired.

"NO<sub>x</sub> Emissions Tracking System (NETS)" means the system used to track NO<sub>x</sub> emissions from budget sources.

"Non-Part 75 budget source" means any budget source not subject to the requirements for emissions monitoring

adopted pursuant to § 412 of the Clean Air Act Amendments of 1990 and codified at 40 C.F.R. Part 75.

"Opt-in" means voluntarily to choose to have a given source, which otherwise is not mandated to be a budget source, participate in the NO<sub>x</sub> Budget Program and comply with the terms and conditions of this subchapter.

"Opt-in source" means a stationary source which has been opted into the NO<sub>x</sub> Budget Program pursuant to N.J.A.C. 7:27-31.4, Opt in provisions.

"OTC" means Ozone Transport Commission.

"OTC MOU" means the Memorandum of Understanding signed by representatives of States that are members of the OTR and the District of Columbia on September 27, 1994, or later. The signing of this document constituted a commitment by the signatories to develop and implement the NO<sub>x</sub> Budget Program in each of their jurisdictions.

"OTR" means the Ozone Transport Region, as designated by § 184(a) of the Clean Air Act Amendments of 1990. This region is comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont; the District of Columbia; and the following counties of the State of Virginia: Arlington, Fairfax, Loudoun, and Prince William.

"Owner" means any of the following persons:

1. Any holder of any portion of the legal or equitable title in a source;
2. Any holder of a leasehold interest in a source;
3. Any purchaser of power from a source under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, this term shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the source; or
4. With respect to any general account, any person who has an ownership interest with respect to the NO<sub>x</sub> allowances held in the general account and who is subject to the binding agreement for the NO<sub>x</sub> authorized account representative to represent that person's ownership interest with respect to NO<sub>x</sub> allowances.

"Owner or operator" means any person who is an owner or who operates, controls or supervises a source and shall include, but not be limited to, any holding company, utility system or plant manager.

"Oxides of nitrogen" means all oxides of nitrogen, except nitrous oxide, as measured by test methods required under this subchapter.

"Ozone Transport Commission" means the organization established pursuant to § 184(a) of the Clean Air Act Amendments of 1990. The members of this commission include an air pollution control official from each of the following jurisdictions: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Virginia.

"Person" means an individual, public or private corporation, company, international entity, institution, county, municipality, state, interstate body, the United States of America, or any agency, board, commission, employee, agent, officer, or political subdivision of a state, an interstate body, or the United States of America.

"Properly quantified" means, in reference to emission reductions, has been quantified on a reliable and replicable basis that is acceptable to the Department and to the USEPA.

"Real" means, in reference to emission reductions, possessing the following characteristics:

1. Represents a reduction in emissions which is not due to the shutdown or curtailment of the productivity of the source;
2. Has been quantified retrospectively; and
3. Is net of any consequential increase in actual emissions due to any resultant shifting of demand.

"Recorded" means, in reference to an allowance transfer or an allowance deduction, that an account in the NATS has been updated by the NATS Administrator to reflect the details of an allowance transfer or allowance deduction.

"Repowering" means, for the purpose of generating early reduction credit:

1. The installation of equipment which is Qualifying Repowering Technology as defined by 40 C.F.R. Part 72: or
2. The replacement of a budget source either by a new combustion source or by the purchase of heat or power from the owner of a new combustion source provided that:
  - i. The replacement source (regardless of owner) is on the same property or on a contiguous property as the budget source being replaced;
  - ii. The replacement source has a maximum useful heat output rate (including electric power) that is equal to or greater than the maximum heat output rate of the budget source being replaced; and

iii. Relative to the performance of technology in widespread commercial use as of November 15, 1990, the replacement source incorporates technology which better controls the emission of the air contaminants from the combustion process, while simultaneously improving fuel efficiency.

"Retirement account" means a NATS account which holds used or permanently retired allowances. The number of allowances in that account can be increased if additional allowances are transferred into it from another account. The number of allowances in the account shall never decrease, except in the case when an error is being corrected. There are two types of retirements accounts:

1. Accounts into which the NATS administrator deposits allowances deducted from compliance accounts pursuant to the end-of-season reconciliation procedures described at N.J.A.C. 7:27-31.17; and
2. Accounts into which the NATS administrator deposits allowances that are permanently retired at the request of the AAR of a general account or a compliance account.

"Serial number" means, when referring to NO<sub>x</sub> allowances, the unique identification number assigned to each NO<sub>x</sub> allowance by the NATS Administrator.

"State Implementation Plan" or "SIP" means a plan for the attainment of any National Ambient Air Quality Standard, prepared by a state and approved by the USEPA pursuant to Section 110 of the Clean Air Act (42 U.S.C. §§ 1857 et seq.).

"Source operation" or "source" means any process, or any identifiable part thereof, that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere. A source operation may include one or more pieces of equipment or control apparatus.

"Submitted" means signed by the authorized account representative and sent to the appropriate agency. For purposes of determining when a document has been submitted, an official U.S. Postal Service postmark or an equivalent official indication by another mail delivery service shall establish the date of submittal. For purposes of determining when an electronic transmission has been submitted, the electronic time stamp of the receiving agency shall establish the date of submittal.

"Surplus" means, in reference to emission reductions:

1. Not required pursuant to any air quality emission limit or standard in any applicable law, regulation, or order;

2. Not relied upon in a SIP submitted by the State at the time the reduction was made, including in an attainment demonstration that applies to the air quality control region in which the emission reductions occur; and

3. Not required pursuant to a permit, unless the permit expressly states that the emission reductions (or a portion of such reductions) are being made voluntarily and are not the consequence of any requirement.

"Ton" means 2,000 pounds.

"Unit operating day" means a calendar day in which a source combusts any fuel.

"Unit operating hour" means any hour or fraction of an hour during which a source combusts any fuel.

"USEPA" means the United States Environmental Protection Agency.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

Sec: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

Rewrote the section.

### 7:27-31.3 Applicability and general provisions

(a) The provisions of this subchapter apply to the owner or operator of any budget source located in New Jersey. This shall include the owner or operator of any baseline source and of any source "opted-in" to the NO<sub>x</sub> Budget Program pursuant to N.J.A.C. 7:27-31.4.

(b) Each jurisdiction in the OTR which is implementing the NO<sub>x</sub> Budget Program is establishing a base emission budget for the control period in each year, commencing with the year 1999. The base emission budget for New Jersey is as follows:

1. 17,340 tons of NO<sub>x</sub> for the years 1999, 2000, 2001, and 2002; and

2. 13,022 tons of NO<sub>x</sub> for the year 2003 and each year thereafter, unless the USEPA revises the number of allowances that could be allocated to budget sources in New Jersey pursuant to 40 CFR 51.121 to an amount less than 13,022 tons. In such case, the number of tons shall be equal to the number of allowances that USEPA assigns to New Jersey applicable to budget sources.

(c) Beginning in 1999, the Department shall allocate each year a number of allowances not exceeding the number of tons in the base emission budget for that year, plus an additional number of allowances added to accommodate opt-in sources, pursuant to N.J.A.C. 7:27-31.4. For each year the NATS Administrator shall initially assign allowances equal to New Jersey's base emission budget, plus the allowances for the opt-in sources, to New Jersey's "authority" account in the NATS. This "authority" account contains the Department's authority to create a fixed number of allowances, upon which the allowances will be assigned

serial numbers and upon which they will be transferred into the Department's "primary" account. This "primary" account is a general account held by the Department from which it allocates allowances.

(d) All allowances shall be held in accounts within the NO<sub>x</sub> Allowance Tracking System (NATS), as described at N.J.A.C. 7:27-31.13, NO<sub>x</sub> Allowance Tracking System. These allowances shall include only the following:

1. Allowances which reflect each year's base emission budget;

2. Allowances created to accommodate opt-in sources pursuant to N.J.A.C. 7:27-31.4; and

3. Allowances based on early reduction credits pursuant to N.J.A.C. 7:27-31.12.

(e) In the years 1999 through 2002, the Department shall allocate all the allowances comprising the base emission budget for New Jersey in accordance with N.J.A.C. 7:27-31.7, Annual allowance allocation. In the year 2003 and each year thereafter, the Department shall allocate no more than 8,200 allowances and shall reserve the remaining allowances in the base emission budget for New Jersey, in accordance with N.J.A.C. 7:27-31.7. In the judgement of the Commissioner, the Department shall only either retire an allowance deposited in the attainment reserve or use it for any other purpose which would contribute toward the attainment or maintenance of the National Ambient Air Quality Standard for ozone in New Jersey. If the Department intends to use any allowance in the attainment reserve account for any purpose other than retirement, the Department shall publish a notice in the New Jersey Register. This notice shall provide the public an opportunity for comment regarding the intended use. This public comment period shall be at least 30 days from publication of the notice. In no case shall the Department use any allowance in the attainment reserve account for any purpose other than retirement if the use would cause the total State NO<sub>x</sub> emissions to exceed the level committed to by the Department in its SIP Submission to USEPA under 40 CFR 51.121.

(f) A New Jersey holder of an account in the NATS is subject to the applicable requirements of this subchapter. This includes the requirement, set forth at N.J.A.C. 7:27-31.13, NO<sub>x</sub> Allowance Tracking System, to designate an authorized account representative (AAR). Only the AAR of an account may authorize the transfer of an allowance from the account to another account in accordance with the procedures set forth at N.J.A.C. 7:27-31.10, Allowance transfer, use, and retirement.

(g) Pursuant to N.J.A.C. 7:27-31.16(c), the owner or operator of each budget source located in New Jersey shall monitor the emissions of each budget source in accordance to the monitoring plan approved by the Department pursuant to N.J.A.C. 7:27-31.14, Emissions monitoring, and re-

port the source's actual NO<sub>x</sub> emissions during that year's control period to the NETS Administrator. Correspondence for NETS Administrator shall be addressed as follows:

ATTN: NO<sub>x</sub> BUDGET PROGRAM  
 United States Environmental Protection Agency  
 Clean Air Markets Division—Mail Code 6204J  
 401 M Street SW  
 Washington, DC 20460

(h) The date of a submission to the NATS or NETS shall be considered to be the date indicated by the official U.S. Postal Service postmark on the envelope in which the document is mailed or, if the submission is made electronically, the electronic time stamp of the receiving agency.

(i) In the year 1999 and in each year thereafter, the owner or operator of a budget source shall ensure that, by the allowance transfer deadline, the allowances which are held for the budget source in a compliance account and which are valid for use in the current year are equal to or greater than the allowances to be deducted from the account pursuant to N.J.A.C. 7:27-31.17, End-of-season reconciliation. An owner or operator who fails to comply with this requirement is subject to the excess emission deduction provisions at N.J.A.C. 7:27-31.19 and to the civil administrative penalties provisions at N.J.A.C. 7:27A-3.10.

(j) Following each year's control period, the NATS administrator shall deduct and permanently retire allowances from each budget source's compliance account to reconcile the emissions of the budget source during the preceding control period pursuant to N.J.A.C. 7:27-31.17, End-of-season reconciliation.

(k) All allowances shall be allocated, transferred, used, or retired as whole allowances. Unless otherwise specified, in any computation to determine the number of whole allowances to be allocated, transferred, used or retired, the amount of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater. Also, unless otherwise specified, in any computation to calculate emissions, including emissions during the May 1 and September 30 period in 1990 under N.J.A.C. 7:27-31.4, Opt-in provisions or N.J.A.C. 7:27-31.12, Early reductions, the NO<sub>x</sub> emissions shall be rounded down to the nearest ton for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(l) Allowances are valid only for the purposes of meeting the requirements of this subchapter and cannot be used to authorize the exceedance of the limitations of a permit or of another applicable rule or regulation. The provision does not prohibit the use of allowances that are issued through this subchapter for the purpose of complying with the provisions of another state's rules implementing either the OTC MOU or the USEPA SIP Call at 40 CFR 51.121.

(m) An allowance shall not constitute a security and does not constitute or convey a property right. Nothing in this subchapter shall be construed to limit the authority of the Department to condition, limit, suspend or terminate any allowances or authorization to emit which said allowance represents.

(n) Nothing in this subchapter waives any Federal or State requirement that otherwise applies to a budget source, including, but not limited to: the Reasonably Available Control Technology standards for NO<sub>x</sub> at N.J.A.C. 7:27-19; requirements pertaining to the construction of new or modified sources at N.J.A.C. 7:27-8, 18 and 22; and the requirements pertaining to the Federal acid rain program at 40 C.F.R. Parts 72 through 78.

(o) Any person who submits information to the Department may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. Emissions information, as defined at N.J.A.C. 7:27-1.4, is not confidential. The Department shall process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

Rewrote (b)2, (e) and (i): in (g), substituted a reference to the Clean Air Markets Division for a reference to the Acid Rain Division; and in (f), added a second sentence.

#### 7:27-31.4 Opt-in provisions

(a) An owner or operator of a stationary source, that vents all of its NO<sub>x</sub> emissions to one or more stacks and is neither a fossil fuel fired indirect heat exchanger with a maximum rated heat input capacity of at least 250 MMBtu per hour nor an electric generating unit with a rated output of at least 15 MW, may request approval from the Department to opt the source into the NO<sub>x</sub> Budget Program in accordance with the provisions of this section.

(b) Any person seeking to opt a stationary source into the NO<sub>x</sub> Budget Program shall submit the information required by this section, on application forms obtained from the Department, to the following address:

ATTN: NO<sub>x</sub> BUDGET OPT-IN  
 New Jersey Department of Environmental Protection  
 Office of Air Quality Management  
 401 East State Street  
 PO Box 418  
 Trenton, NJ 08625-0418

(c) An application submitted pursuant to (b) above shall include the following information:

1. Identification of the owner of the proposed opt-in source, including the name of the company, its mailing address, and telephone number;

2. Identification of the proposed opt-in source, including the facility identification number, source identification number, fuels allowed to be burned, heat input capacity of the source, lowest allowable NO<sub>x</sub> emission rate for each type of fuel allowed to be burned, any other applicable limits on operation;

3. Information regarding the operation of the proposed opt-in source during the period May 1 through September 30 for each of the five preceding years. This information will be used by the Department in order to determine the baseline emissions. Such information includes, for each type of fuel burned, and for each of the five previous control periods (or, if the source has operated for less than five years, for the control periods in each year of operation):

- i. The source's actual heat input, expressed in MMBtu;
- ii. The source's NO<sub>x</sub> emissions, expressed in pounds;
- iii. The total productivity of the source expressed in MW-hr of net electric output and, for source that produces useful heat, in MMBtu of net useful heat output; and
- iv. Documentation as to how (c)3i through iii above were determined;

4. An emission monitoring plan for the source operation consistent with the requirements at N.J.A.C. 7:27-31.14;

5. Designation of an AAR pursuant to N.J.A.C. 7:27-31.13; and

6. Any other information requested by the Department for use in its review of the application.

(d) Based on the information submitted pursuant to (b) above, the Department shall determine the amount of allowances that would be added to the New Jersey emission budget each year to accommodate the source, if it is approved as an opt-in source. This amount shall be determined in accordance with (j) below. This amount shall only be added for the years following approval of the source as an opt-in source.

(e) The Department shall not approve an application for an opt-in if:

1. The applicant fails to:
  - i. Provide the information required pursuant to (c) above; or
  - ii. Propose in the monitoring plan a method for quantifying emissions from the source of sufficient accuracy and reliability on which to base determination of the source's compliance each year with N.J.A.C. 7:27-31.3(i);

2. The proposed opt-in source is not a type of source for which an emissions monitoring plan consistent with the requirements at N.J.A.C. 7:27-31.14 can be developed; or

3. The proposed opt-in source is not operating, is shutdown, or had previously been a budget source.

(f) If the Department reaches a preliminary determination to approve an opt-in application, the Department shall publish notice of this intent in the New Jersey Register and provide the interested public an opportunity to comment. In addition, the Department will seek comment from the members of the OTC who are also implementing NO<sub>x</sub> Budget Programs. The notice shall specify the amount by which the Department intends to increase the New Jersey emission budget each year to accommodate the proposed opt-in source. The comment period shall be at least 30 days commencing with the Register's date of publication. The Department shall take into consideration the comment received during the public comment period when making its final determination as to whether to approve the opt-in application.

(g) Upon approval of the opt-in application, the source shall be considered a budget source and shall be subject to all terms and conditions of the NO<sub>x</sub> Budget Program, including requirements for allowance transfer or use, emissions monitoring, record keeping, reporting, and penalties.

(h) If, at the time of approval of an opt-in application, the amount by which the Department increases the New Jersey emission budget in any given year to accommodate the opt-in source is more than the amount specified in New Jersey Register notice, published pursuant to (f) above, the Department shall publish a second notice in which it specifies this revised amount and sets forth the reasons for this revision.

(i) (Reserved)

(j) The number of allowances to be added to the New Jersey emission budget to accommodate the source for the years following approval of a source as an opt-in source shall be determined as follows:

1. Select the two consecutive annual May 1 through September 30 periods, from the five years preceding the opt-in application, during which the actual operation of the source best represents, in the judgement of the Department, normal activity;

2. Determine the source's actual average baseline heat input and average baseline NO<sub>x</sub> emissions during the two consecutive May 1 through September 30 periods selected pursuant to (j)1 above;

3. The number of allowances to be added to the New Jersey emission budget shall be the amount which is the least of the following:

- i. The source's average baseline NO<sub>x</sub> emissions, as determined in (j)2 above;

ii. The sum of the products obtained by multiplying the lowest allowable NO<sub>x</sub> emission rate applicable at the time of the application for each fuel by the actual average baseline heat input for that fuel; and

iii. The maximum allowable NO<sub>x</sub> emissions during a control period as established by any permit or any law or rule.

(k) The total amount of allowances allocated to an opt-in source in any given year shall not exceed the final amount approved for the source, pursuant to (f) or (h) above. If the productivity of the source is curtailed, an amount of allowances shall be deducted pursuant to N.J.A.C. 7:27-31.17(g)3.

(l) The Department shall reduce the total amount by which the New Jersey emission budget is increased each year to accommodate a source, if a new rule or law establishes an applicable maximum allowable emission rate which is more stringent than the rate originally used to determine, under (d) and (h) above, the amount the budget would be increased to accommodate the source.

(m) For any opt-in source which is subsequently repowered or replaced, the amount by which the New Jersey emission budget is increased in any given year to accommodate the source shall continue to be the final amount originally approved for the opt-in source pursuant to (f) and (g) above. The source which is repowering or replacing the opt-in source shall continue to be allocated the full amount, provided that the productivity of the repowered or replaced source is at least as great as that of the original opt-in source and no new law or rule establishes a lower allowable emissions limit applicable to the original opt-in source. Otherwise the amount shall be adjusted pursuant to (k) or (l) above, as applicable.

(n) Each year, prior to December 31, the Department shall provide the following information to the NATS Administrator and to USEPA, Region II:

1. A list of all sources that are opt-in sources, including any new opt-in sources approved that year; and
2. The number of allowances by which the current year New Jersey emission budget has been increased, for each opt-in source, to accommodate that source.

(o) An owner or operator who elects to opt a source into the NO<sub>x</sub> Budget Program shall not opt the source out of the program. The source shall remain in the program and remain subject to the requirements of this subchapter until:

1. The source has ceased to operate and:
  - i. Any permits and certificates issued for the source pursuant to N.J.A.C. 7:27-8 have been canceled; and
  - ii. The provisions of any operating permit issued pursuant to N.J.A.C. 7:27-22 pertaining to the source have been removed; or
2. The source has been replaced, in which case the replacement source shall become a budget source.

(p) If an opt-in source is subsequently modified, such that it becomes either a fossil fuel fired indirect heat exchanger with a maximum rated heat input capacity of at least 250 MMBtu per hour or an electric generating unit with a rated output of at least 15 MW, then the regulatory status of the source shall change as of the date of the commencement of operation of the modified source. As of that date, the source shall be a budget source, but no longer an opt-in source. Within 30 days of the date, the authorized account representative shall notify in writing the Department and the NATS Administrator of the change in the source's regulatory status. The NATS Administrator shall deduct allowances from the compliance account of the former opt-in source in a manner consistent with 40 CFR 96.87(b).

(q) Notwithstanding the provisions of this section, any person who seeks to opt a source into the NO<sub>x</sub> Budget Program so that it would become an opt-in source in the year 2003 or thereafter shall comply with 40 CFR 96.84.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

In (a), inserted "vents all of its NO<sub>x</sub> emissions into one or more stacks and" following "that"; in (c)4 and (e)2, deleted "the 'Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program'"; inserted (e)3; and added (p) and (q).

#### 7:27-31.5 Interface with the emission offset program

(a) Any owner or operator of a new or modified budget source which is subject to the emission offset requirements at N.J.A.C. 7:27-18 shall meet the applicable emission offset requirements of that subchapter as well as the requirements of this subchapter. Obtaining and holding sufficient allowances for a source under this subchapter does not relieve an owner or operator from the obligation also to obtain any required emission offsets.

(b) Allowances shall be allocated from New Jersey's emissions budget to a new or modified budget source in accordance with N.J.A.C. 7:27-31.7. New Jersey's base emission budget is established at N.J.A.C. 7:27-31.3(b), and shall not be increased to accommodate the new or modified source.

(c) If a budget source's emission reductions, which are creditable emission reductions under N.J.A.C. 7:27-18.5, are secured for use, by the owner or operator of the budget source or by another person, as NO<sub>x</sub> emission offsets for a source which is not a budget source, the owner or operator of the budget source shall report this to the Department. The NATS administrator shall deduct allowances from the budget source's compliance account commensurate in value, in terms of control period emissions, to the emission offsets secured for use by the source which is not a budget source, unless the owner or operator of the source using the emission offsets opts the source for which the emission offsets are being secured into the NO<sub>x</sub> Budget Program prior to the date the Department approves a permit for that source. However, if creditable emission reductions generated by a budget source are secured for use as NO<sub>x</sub> emission offsets by another budget source, no such deduction will be made.

**7:27-31.6 Interface with the open market emissions trading program**

(a) A person may, under the following conditions, convert one or more NO<sub>x</sub> Budget allowances into DER credits which may be transferred, retired or used pursuant to the Open Market Emissions Trading Program:

1. The person identifies the allowance(s) to be converted into DER credits. The allowances shall be one of the following:

i. Allowance(s) allocated for a given control period to the owner or operator of a budget source located in New Jersey, provided that:

(1) The person converting the allowance(s) into DER credits is the person to whom the allowance(s) were allocated;

(2) The first and last days of the control period for which the allowance(s) were allocated under the NO<sub>x</sub> Budget Program is given as the first and last days of the generation period under the Open Market Emissions Trading Program; and

(3) The budget source achieved, during the control period, NO<sub>x</sub> emission reductions that:

(A) Are equal to or greater than the emissions value of the allowance(s) being converted; and

(B) Satisfy the requirements that apply to emission reductions to be used as the basis for a DER credit under N.J.A.C. 7:27-30.4, 30.5 and 30.6; or

ii. An incentive allowance allocated pursuant to N.J.A.C. 7:27-31.7(c)3 or (e)3 to an electric consumer that reduced its electricity consumption through implementation of an energy efficiency measure;

2. The person's AAR submits an Allowance Transfer Form to the NATS Administrator indicating that the identified allowance(s) are to be transferred to the NATS Account Number NJ0000000300, which is a retirement account established by the Department;

3. The person determines the number of DER credits generated in accordance with N.J.A.C. 7:27-30.5. However, instead of calculating the quantity of emission reductions on which the DER credits are based pursuant to N.J.A.C. 7:27-30.5(c), the person shall take as given that this quantity equals the emissions value of the retired allowance(s). This given quantity shall be subject to discounting, as applicable, under N.J.A.C. 7:27-30.5(h). The number of DER credits generated shall then be calculated pursuant to N.J.A.C. 7:27-30.5(i); and

4. The person submits a Notice of DER Generation pursuant to N.J.A.C. 7:27-30.7 and 30.19 for the generation of DER credits based on the retirement of the allowances.

(b) Except as provided in the provisions for early reductions at N.J.A.C. 7:27-31.12, Early reductions, DER credits shall not be converted to allowances and used to satisfy the requirements of this subchapter.

Amended by R.2000 d.204, effective May 15, 2000 (operative June 6, 2000).

See: 31 N.J.R. 1671(a), 32 N.J.R. 1808(a)

Rewrote (a); and deleted a former (c)

**7:27-31.7 Annual allowance allocation**

(a) Beginning in 1999, the Department shall allocate allowances each year in accordance with this section. For the years 1999, 2000, 2001 and 2002, the Department shall allocate the New Jersey emission budget in accordance with (b) and (c) below; for the year 2003 and each year thereafter, the Department shall allocate the New Jersey emission budget in accordance with (d) and (e) below. In addition, in each of these years, the Department shall allocate additional allowances to opt-in sources in accordance with (f) below. Also, in the year 1999, the Department shall allocate allowances in accordance with (g) below to sources which have been approved to receive early reduction allowances pursuant to N.J.A.C. 7:27-31.12.

(b) By April 1 in each of the years 1999, 2000, 2001, and 2002, the Department shall allocate 17,340 allowances of the New Jersey emission budget, minus any allowances that have been previously allocated pursuant to (c)3ii or (i) below, or pursuant to N.J.A.C. 7:27-31.17(h). This subsection does not apply to opt-in sources; opt-in sources are addressed separately in (f) below. The Department shall allocate allowances in accordance with the following steps:

1. Step 1: This step determines the number of allowances which are to be allocated to the New Source Reserve. The purpose of this reserve is to hold aside a pool of allowances, so that they are available for distribution after the control period to new budget sources which have not operated for two full May 1 through September 30 periods. The number of allowances to be allocated to this reserve in this step is based on each new budget source's allowable emissions for the control period. For each new budget source, the Department shall allocate allowances from the New Jersey NO<sub>x</sub> emission budget into the New Source Reserve in accordance with the following equation:

$$\text{Allowances} = \frac{\text{Allowable Emission Rate} \times \text{Allowable Activity}}{2,000}$$

Where:

**Allowable Emission Rate =** The allowable emission rate, expressed in pounds per unit of activity. If more than one fuel is allowed to be used, the allowable emission rate shall be the weighted average of the allowable emission rates for each fuel type; the weighting of this average shall be based on the maximum allowable consumption of the fuel associated with the highest allowable NO<sub>x</sub> emission rate. If the allowable emission rate for a given fuel is greater than 0.15 lb/MMBtu, then 0.15 lb/MMBtu shall be used as the allowable emission rate for the purpose of this equation;

**Allowable Activity =** The maximum allowable activity of the source for the control period which is based on the lesser of the maximum capacity and any limit on the activity during the control period as established by any law, rule or permit; and

**2,000 =** The factor converting pounds into tons;

2. Step 2: This step determines the number of allowances which are to be allocated to the Growth Reserve. The purpose of this reserve is to hold aside a pool of allowances, so that they are available for distribution after the control period to certain budget sources to accommodate an increase in fuel use. The number of allowances to be allocated to this reserve in this step is based on up to a 50 percent increase in the average heat input of budget sources having emission rates not greater than 0.15 pounds per MMBtu. The number of allowances to be allocated to the reserve is calculated in accordance with the following procedure for each budget source that is not a new budget source:

i. Calculate the average NO<sub>x</sub> emission rate (ER<sub>NO<sub>x</sub></sub>) of the source, expressed in pounds per MMBtu, in accordance with the following equation:

$$ER_{NO_x} = \frac{E1 + E2}{H1 + H2}$$

Where:

**E1 =** The total actual NO<sub>x</sub> emissions, expressed in pounds, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;

**E2 =** The total actual NO<sub>x</sub> emissions, expressed in pounds, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input;

**H1 =** The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input; and

**H2 =** The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input;

ii. If the average NO<sub>x</sub> emission rate (ER<sub>NO<sub>x</sub></sub>) of the source as calculated in (b)2i above is greater than 0.15 pounds of NO<sub>x</sub> per MMBtu, then no allowances shall be allocated to the Growth Reserve with respect to the source.

iii. If the average NO<sub>x</sub> emission rate (ER<sub>NO<sub>x</sub></sub>) of the source as calculated in (b)2i above is not greater than 0.15 pounds of NO<sub>x</sub> per MMBtu, then allowances shall be allocated to the Growth Reserve in accordance with the following procedure:

(1) Calculate 150 percent of the average actual heat input of the two control periods, out of the last three years, which had the highest heat input in accordance with the following equation:

$$H_{150\%} = 1.5 \times \left( \frac{H1 + H2}{2} \right)$$

Where:

**H<sub>150%</sub> =** 150 percent of the average actual heat input of the two control periods, out of the last three years, which had the highest heat input;

**H1 =** The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input; and

**H2 =** The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input;

(2) If H<sub>150%</sub>, as determined in (b)2iii(1) above, is not greater than the maximum allowable heat input of the source during the control period, then number of allowances to be allocated to the reserve is calculated in accordance with the following equation:

$$\text{Allowances} = ER_{NO_x} \times 0.5 \times \frac{(H1 + H2)}{2} \times \frac{1}{2,000}$$

Where:

**ER<sub>NO<sub>x</sub></sub> =** The average actual NO<sub>x</sub> emission rate, expressed in pounds per MMBtu, as calculated in (b)2i above;

**H1 =** The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;

**H2 =** The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and

**2,000 =** The factor for converting pounds into tons;

(3) If the result of (b)2iii(1) above is greater than the maximum allowable heat input of the source during the control period, then number of allowances to be allocated to the reserve is calculated in accordance with the following equation:

$$\text{Allowances} = ER_{NOx} \times H_{Maximum} \left( \frac{H1 + H2}{2} \right) \times \frac{1}{2,000}$$

Where:

$ER_{NOx}$  = The average actual  $NO_x$  emission rate, expressed in pounds per MMBtu, as calculated in (b)2i above;

$H_{Maximum}$  = The maximum allowable heat input of the source for the control period which is based on the lesser of the maximum heat input capacity and any limit on the heat input during the control period as established by any law, rule or permit;

H1 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;

H2 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and

2,000 = The factor for converting pounds into tons;

3. (Reserved)

4. Step 3: This step is a preliminary determination of the number of allowances which are to be allocated in (b)5 (Step 4) below to each budget source that is not a new budget source. For this step, the Department shall use the following procedure:

i. If the average  $NO_x$  emission rate ( $ER_{NOx}$ ) of the source as calculated in (b)2i above is greater than 0.15 pounds of  $NO_x$  per MMBtu, then the number of allowances determined in this step is calculated in accordance with the following equation:

$$\text{Allowances} = \frac{0.20}{2,000} \times \left( \frac{H1 + H2}{2} \right)$$

Where:

0.15 = The allocation rate, expressed in pounds per MMBtu, which is the maximum rate to be used for the allocation of allowances in this step;

H1 = The heat input, expressed in MMBtu, during the following control period: of the most recent three

control periods, the control period during which the source had the greatest actual heat input;  
 H2 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and  
 2,000 = The factor for converting pounds into tons;

ii. If the average  $NO_x$  emission rate ( $ER_{NOx}$ ) of the source as calculated in (b)2i above is not greater than 0.15 pounds of  $NO_x$  per MMBtu, then the preliminary determination of the number of allowances to be allocated to the source is calculated in accordance with the following procedure:

(1) If the weighted allowable emission rate as calculated in Equation 1 below is less than 0.15 pounds of  $NO_x$  per MMBtu, then the preliminary determination of the number of allowances to be allocated to the source is calculated in accordance with the Equation 2 below:

$$ER_{Allowance} = \frac{\sum_{i=1}^n (AER_i \times (H1_i + H2_i))}{\sum_{i=1}^n (H1_i + H2_i)} \quad \text{Equation 1}$$

Where:

n = The number of types of fuel burned during the two control periods out of the last three which had the greatest heat input;

AER<sub>i</sub> = The lowest allowable emission rate, expressed in pounds per MMBtu, for the source for each type of fuel burned during the two control periods out of the last three which had the greatest heat input;

H1<sub>i</sub> = The heat input, expressed in MMBtu, for each type of fuel burned during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input, and

H2<sub>i</sub> = The heat input, expressed in MMBtu, for each type of fuel burned during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input.

$$\text{Allowances} = \frac{(ER_{NOx} + ER_{Allowance})}{2} \times \frac{(H1 + H2)}{2} \times \frac{1}{2,000} \quad \text{Equation 2}$$

Where:

- ER<sub>NOx</sub> = The average NO<sub>x</sub> emission rate, expressed in pounds per MMBtu, as calculated in (b)2i above;
- ER<sub>allowable</sub> = The weighted allowable emission rate, expressed in pounds per MMBtu, as calculated in Equation 1 above;
- H1 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;
- H2 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and
- 2,000 = The factor for converting pounds into tons;

(2) If the weighted allowable emission rate as calculated in Equation 1 of (b)4ii(1) above is not less than 0.15 pounds per MMBtu, then the preliminary determination of the number of allowances to be allocated to the source is calculated in accordance with the following equation:

$$\text{Allowances} = \frac{(ER_{NOx} + 0.15)}{2} \times \frac{(H1 + H2)}{2} \times \frac{1}{2,000}$$

Where:

- ER<sub>NOx</sub> = The average NO<sub>x</sub> emission rate, expressed in pounds per MMBtu, as calculated in (b)2i above;
- 0.15 = 0.15 pounds per MMBtu, which is the maximum rate at which allowances are allocated in this step;
- H1 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;
- H2 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and
- 2,000 = The factor for converting pounds into tons; and

5. Step 4: The Department shall allocate the remainder of the allowances as follows:

i. The sum of the following shall be determined:

- (1) The number of allowances allocated to the New Source Reserve in (b)1 (Step 1) above;
- (2) The number of allowances allocated to the Growth Reserve in (b)2 (Step 2) above;
- (3) The number of allowances that have been previously allocated pursuant to (c)3ii or (i) below, or pursuant to N.J.A.C. 7:27-31.17(h); and
- (4) The number of allowances preliminarily determined in (b)4 (Step 3) above to be allocated to each budget source that is not a new budget source;

ii. If the sum in (b)5i above is less than or equal to 17,340, then the Department shall allocate allowances as follows:

(1) Allowances shall be allocated to each budget source that is not a new budget source, as preliminarily determined in (b)4 (Step 3) above; and

(2) The remaining allowances shall be allocated to companies which operated budget sources in 1990. These companies are listed in Table 1 below. The number of allowances to be allocated to a given company shall be determined in accordance with the following equation:

$$\text{Allowances} = \frac{C_x}{100} \times A_R$$

Where:

- C<sub>x</sub> = The percent that activity of a given company contributes to the 17,054 allowances of the emission budget for New Jersey for the years 1999 through 2002 as listed in Table 1 below; and
- A<sub>R</sub> = The remaining number of allowances, which have not been allocated in (b)1 through 3 (Steps 1 through 3) and (b)5ii(1) above.

TABLE 1

Company	Percent of Total
Atlantic Electric	15.93175%
Chevron Products Company	0.12314%
CIBA GEIGY	0.13487%
Coastal Corporation	2.36895%
Cogen Technologies Energy Group	0.39287%
General Public Utilities Corporation	5.55881%
Milford Power, Limited Partnership	0.32250%
Mobil Oil Corporation	1.97021%
Prime Energy	1.33107%
Public Service Electric and Gas Company	67.46804%
Roche Vitamins Incorporated	2.33376%
Tosco Refinery	1.74153%
City of Vinland Electric Utility	0.32250%
Total	100.00000%

iii. If the sum determined in (b)5i above is greater than 17,340, then the Department shall allocate the remaining allowances to budget sources in proportion to the amount of preliminarily determined in (b)4 (Step 3) above. The proportional share to be allocated to each shall be determined as follows:

$$\text{Allowances} = \frac{17,340 - A0 - A1 - A2}{PA_{Total}} \times PA$$

Where:

- A0 = The total number of allowances that have been previously allocated pursuant to (c)3ii or (i) below, or pursuant to N.J.A.C. 7:27-31.17(h);
- A1 = The total number of allowances allocated to the New Source Reserve in (b)1 (Step 1) above;
- A2 = The total number of allowances allocated to the Growth Reserve in (b)2 (Step 2) above;

**PA =** The number of allowances preliminarily determined for allocation to the source as determined in (b)4 (Step 3) above; and

**PA<sub>Total</sub> =** The sum of all allowances preliminarily determined for allocation to all budget sources in (b)4 (Step 3) above.

(c) For the years 1999, 2000, 2001, and 2002, after each control period, the Department shall allocate allowances from the New Source Reserve, the Growth Reserve, and Incentive Allowances as follows:

1. The Department shall allocate the allowances in the New Source Reserve by November 30 of the current year as follows:

i. For any new budget source, the Department shall allocate allowances equal to the number of tons of NO<sub>x</sub> emitted by the source during the control period, unless the emissions exceed the lesser of 0.15 lb/MMBtu or the lowest allowable emissions limit during the control period, in which case the allowances allocated to the source will be reduced by difference between the actual NO<sub>x</sub> emission and the emissions at the lesser of the allowable emission rate or 0.15 lb/MMBtu during the period in which the source exceeded this condition within the control period; and

ii. If there are allowances remaining in the New Source Reserve after the allocation of allowances in accordance with (c)1i above, the Department shall allocate these allowances to companies which operated budget sources in 1990. These companies are listed in Table 1 above. The number of allowances to be allocated to a given company shall be determined in accordance with the following equation:

$$\text{Allowances} = \frac{C_i}{100} \times A_R$$

Where:

**C<sub>i</sub> =** The percent that activity of a given company contributes to the 17,054 allowances of the base emission budget for New Jersey for the years 1999 through 2002 as listed in Table 1 above and

**A<sub>R</sub> =** The remaining number of allowances in the New Source Reserve, which have not been allocated in (c)1i above;

2. The Department shall allocate allowances in the Growth Reserve by November 30 of the current year as follows:

i. For each budget source that is not a new budget source and that operated at an average actual emission rate of 0.15 pounds of NO<sub>x</sub> per MMBtu or less during the control period, the Department shall allocate allowances according to the following procedure:

(1) Calculate the average actual emission rate for the control period of the current year (ER<sub>Actual</sub>) in accordance with the following equation:

$$ER_{\text{Actual}} = \frac{EA}{HA}$$

Where:

**EA =** Actual emissions during the control period, expressed in pounds of NO<sub>x</sub>; and

**HA =** Actual heat input during the control period, expressed in MMBtu;

(2) If the average actual emission rate (ER<sub>Actual</sub>) for the budget source as calculated in accordance with (c)2i(1) above is greater than 0.15 pounds per MMBtu or if the actual emissions during the control period is less than the number of allowances allocated to the source pursuant to (b)5ii(1) or (b)5iii above, then the Department shall allocate no allowances from the Growth Reserve to the budget source:

(3) Except as provided in (c)2iii below, if the average actual emission rate (ER<sub>Actual</sub>) for the budget source as calculated in accordance with (c)2i(1) above is not greater than 0.15 pounds per MMBtu and if the actual emissions during the control period is greater than the number of allowances allocated to the source pursuant to (b)5ii(1) or (b)5iii above, then the Department shall allocate allowances from the Growth Reserve to the budget source in accordance with the following equation:

$$\text{Allowances} = E_{\text{Actual}} - A$$

Where:

**E<sub>Actual</sub> =** The total NO<sub>x</sub> emissions, expressed in tons, of the source during the control period, minus any emissions due to the exceedance of an applicable maximum allowable emissions limit; and

**A =** The number of allowances allocated to the source pursuant to (b)5ii(1) or (b)5iii above;

ii. If there are allowances remaining in the Growth Reserve after the allocation of allowances in accordance with (c)2i above, the Department shall allocate these allowances to companies which operated budget sources in 1990. These companies are listed in Table 1 above. The number of allowances to be allocated to a given company shall be determined in accordance with the following equation:

$$\text{Allowances} = \frac{C_i}{100} \times A_R$$

Where:

**C<sub>i</sub> =** The percent that activity of a given company contributes to the 17,054 allowances of the base emission budget for New Jersey for the years 1999 through 2002 as listed in Table 1 above; and

**A<sub>R</sub> =** The remaining number of allowances in the Growth Reserve which have not been allocated in (c)2i above;

iii. If there are not enough allowances in the Growth Reserve to allocate allowances to all of the eligible sources accordance with (c)2i above, then the Department shall prorate the allocations to each source according to the amount of allowances each source

would have otherwise received in accordance with the following equation:

$$\text{Allowances} = \frac{A_{\text{Source}}}{A_{\text{Total}}} \times A_{\text{Reserve}}$$

Where:

- $A_{\text{Source}}$  = The number of allowances as determined in (c)2i above for each source;  
 $A_{\text{Total}}$  = The total number of allowances as determined in (c)2i above for all of the eligible sources; and  
 $A_{\text{Reserve}}$  = The number of allowances in the Growth Reserve;

3. The Department shall allocate allowances to each approved claimant for the implementation of environmentally beneficial techniques which save or generate energy as follows:

i. The Department shall allocate allowances to meet each claim which was submitted to the Department by October 30 of the current year and which has been approved by the Department pursuant to N.J.A.C. 7:27-31.8. The number of allowances to be allocated shall be calculated in accordance with the following equation:

$$\text{Allowances} = \frac{1.50}{2,000} \times E$$

Where:

- 1.50 = The rate, expressed in pounds per MW-hr, at which allowances are allocated for the implementation of environmentally beneficial techniques that result in the saving or generation of electricity;  
 $E$  = The amount of saved or generated electricity, expressed in MW-hr, in the approved claim pursuant to N.J.A.C. 7:27-31.8; and  
 2,000 = The factor for converting pounds into tons;

ii. For the years 1999, 2000, and 2001, the Department shall allocate allowances from the next year's base emission budget for New Jersey until all claims are met; and

iii. For the year 2002, the number of allowances determined in (c)3i above shall constitute a preliminary determination of the number of allowances to be allocated to a claimant, and the following shall apply:

(1) If the sum of allowances preliminarily determined under (c)3i above to be allocated to all approved claimants is less than or equal to the total number of allowances in the Incentive Reserve for 2003, as established pursuant to (d)2 below, then the Department shall allocate a number of allowances to each of the claimants equal to that claimant's preliminary determination. If any allowances remain in the Incentive Reserve after the allowances have been allocated to all claimants, these remaining allowances shall be held in the Incentive Reserve for use in the following year; and

(2) If the sum of allowances preliminarily determined under (c)3i above to be allocated to all approved claimants is greater than the total number of allowances in the Incentive Reserve for 2003, as established pursuant to (d)2 below, then the Department shall allocate all the allowances in the 2003 Incentive Reserve and each claimant shall receive a number of allowances equal to its prorated share determined in accordance with the following equation:

$$\text{Allowances} = \frac{A_{\text{Claim}}}{A_{\text{Total}}} \times A_{\text{Reserve}}$$

Where:

- $A_{\text{Claim}}$  = The number of allowances preliminarily determined to be allocated to the claimant, as determined in (c)3i above;  
 $A_{\text{Total}}$  = The sum of allowances preliminarily determined to be allocated to each of the claimants, as determined in (c)3i above; and  
 $A_{\text{Reserve}}$  = The number of allowances in the Incentive Reserve.

(d) For the control period in the year 2003, allowances are allocated in accordance with (1) below. For the control period in the year 2004 and in each year thereafter, the Department shall allocate allowances by submitting allocation information to the NATS Administrator by the applicable allocation deadline (that is, by April 1, 2001, for the allowances to be allocated for the 2004 control period, and by the April 1 which is three years before the beginning of each control period for each control period thereafter). Prior to the allocation deadline, the Department shall transfer allowances from New Jersey's base emission budget for the control period for which allowances are being allocated into the attainment reserve account held by the Department, such that 8,200 allowances remain to be allocated. If the USEPA requires that allowances representing less than 8,200 tons of  $\text{NO}_x$  be allocated to budget sources in New Jersey pursuant to 40 CFR 51.121, then no allowances shall be transferred into the attainment reserve account and then all references to 8,200 allowances in this subsection and (e) below shall be replaced with the USEPA budget figure. The Department shall allocate the remaining 8,200 allowances in accordance with the following steps:

1. Step 1: Allocation to the New Source/Growth Reserve. The first purpose of this reserve is to hold aside allowances, so that they are available for distribution after the control period to new budget sources. The second purpose of this reserve is to hold aside allowances for budget sources that have low  $\text{NO}_x$  emission rates so the allowances are available for distribution after the control period to any of these low  $\text{NO}_x$  emission rates sources that emit more tons of  $\text{NO}_x$  than the number of allowances allocated for the sources for the particular control period. The Department shall allocate 820 allowances into this reserve.

2. Step 2: Allocation to the Incentive Reserve. The purpose of this reserve is to hold aside allowances so that they are available for distribution after the control period to persons who claim incentive allowances, based on their saving or generation of electricity through the implementation of certain environmentally beneficial techniques pursuant to N.J.A.C. 7:27-31.8. The Department shall allocate 410 allowances to this reserve.

3. Step 3: Except as provided in (j) below, this step is a preliminary determination of the number of allowances which are to be allocated in (d)4 (Step 4) below to each budget source that is not a new budget source or an opt-in source. In this step, the Department shall preliminarily determine the number of allowances to be allocated to each budget source that is not a new budget source or an opt-in source, in accordance with the following procedure:

i. Calculate the average NO<sub>x</sub> emission rate (ER<sub>NO<sub>x</sub></sub>) of the source, expressed in pounds per MMBtu, in accordance with the following equation:

$$ER_{NO_x} = \frac{E1 \ E2}{H1 + H2}$$

Where:

- E1 = The total actual NO<sub>x</sub> emissions, expressed in pounds, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;
- E2 = The total actual NO<sub>x</sub> emissions, expressed in pounds, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input;
- H1 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input; and
- H2 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input;

ii. If the source is an industrial boiler or a process heater, the number of allowances to be allocated to the source is preliminarily determined in this step in accordance with the following procedure:

(1) If the average NO<sub>x</sub> emission rate (ER<sub>NO<sub>x</sub></sub>) of the source as calculated in (d)3i above is greater than 0.20 pounds of NO<sub>x</sub> per MMBtu, then the number of allowances to be allocated to the source is preliminarily determined in accordance with the following equation:

$$Allowances = \frac{0.20}{2,000} \times \left( \frac{H1 + H2}{2} \right)$$

Where:

- 0.20 = The allocation rate, expressed in pounds per MMBtu;
- H1 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input;
- H2 = The heat input, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and
- 2,000 = The factor for converting pounds into tons;

(2) If the average NO<sub>x</sub> emission rate as calculated in (d)3i above is not greater than 0.20 pounds of NO<sub>x</sub> per MMBtu, then the number of allowances to be allocated to the source is preliminarily determined in accordance with the following equations:

$$Preliminary \ Allowances = \frac{E_{allowable} + E_{actual}}{2} \tag{Equation 1}$$

Where

- E<sub>allowable</sub> = The average allowable emissions for the source, as determined in Equation 2 below, and
- E<sub>actual</sub> = The average actual emissions for the source, as determined in Equation 3 below.

$$E_{allowable} = \frac{\sum_{i=1}^n (AER_i \times (H1_i + H2_i))}{2} \times \frac{1}{2,000} \tag{Equation 2}$$

Where

- n = The number of type of fuel burned during the two greatest heat input control periods during the last three years.
- AER<sub>i</sub> = The lesser of 0.20 pounds per MMBtu or the lowest allowable emission rate expressed in pounds per MMBtu for the source for each type of fuel burned during the two greatest heat input control periods.
- H1<sub>i</sub> = The heat input, expressed in MMBtu, for each type of fuel during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input.
- H2<sub>i</sub> = The heat input, expressed in MMBtu, for each type of fuel during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input, and
- 2,000 = The factor for converting pounds into tons.

$$E_{actual} = \frac{E_1 + E_2}{2} \times \frac{1}{2,000} \tag{Equation 3}$$

Where

- E1 = The total actual NO<sub>x</sub> emissions, expressed in pounds, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual heat input.
- E2 = The total actual NO<sub>x</sub> emissions, expressed in pounds, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual heat input, and
- 2,000 = The factor for converting pounds into tons, and

iii. If the source is utilized for the purpose of electric generation alone or for the purpose of generation of a combination electricity and useful heat, the number of allowances to be allocated to the source is preliminarily determined in accordance with the following procedure:

(1) If the average  $\text{NO}_x$  emission rate ( $\text{ER}_{\text{NO}_x}$ ) of the source as calculated in (d)3i above is greater than 0.15 pounds of  $\text{NO}_x$  per MMBtu, then for allocating year 2003 and 2004 allowances, the number of allowances for the source shall be preliminarily determined in accordance with the equation at (b)4i above, and then for allocating the allowances for the year 2005 and each year thereafter, the number of allowances for the source is preliminarily determined in accordance with the following equation:

$$\text{Allowances} = \frac{1.50 \times \left( \frac{\text{OE1} + \text{OE2}}{2} \right) + 0.44 \times \left( \frac{\text{OS1} + \text{OS2}}{2} \right)}{2.000}$$

Where:

- 1.50 = The allocation rate, expressed in pounds per MW-hr.  
 OE1 = The net electric output, expressed in MW-hr. during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual net electric output;  
 OE2 = The net electric output, expressed in MW-hr. during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual net electric output;  
 0.44 = The allocation rate, expressed in pounds per MMBtu output, which is approximately equivalent to the allocation rate of 1.50 pounds per MW-hr.  
 OS1 = The net useful heat output, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the greatest actual net electric output.  
 OS2 = The net useful heat output, expressed in MMBtu, during the following control period: of the most recent three control periods, the control period during which the source had the second greatest actual net electric output; and  
 2.000 = The factor for converting pounds into tons; and

(2) If the average  $\text{NO}_x$  emission rate ( $\text{ER}_{\text{NO}_x}$ ) of the source as calculated in (d)3i above is not greater than 0.15 pounds of  $\text{NO}_x$  per MMBtu, then the number of allowances to be allocated to the source is preliminarily determined in accordance with the following equations:

$$\text{Allowances} = \frac{E_{\text{Allowable}} + E_{\text{Actual}}}{2} \quad \text{Equation 1}$$

Where:

$E_{\text{Allowable}}$  = The average allowable emissions for the source, as determined in Equation 2 below if the allowable emission rate is expressed on a heat input basis or in a similar manner if the allowable emission rate is expressed on an output basis; and

$E_{\text{Actual}}$  = The average actual emissions for the source, as determined in Equation 3 below; and

$$E_{\text{Allowable}} = \frac{\sum_{i=1}^n \left( \text{AER}_i \times (\text{H1}_i + \text{H2}_i) \right)}{2} \times \frac{1}{2.000} \quad \text{Equation 2}$$

Where:

$n$  = The number of type of fuel burned during the two greatest heat input control periods during the last three years.

$\text{AER}_i$  = The lesser of 0.15 pounds per MMBtu or the lowest allowable emission rate expressed in pounds per MMBtu for the source for each type of fuel burned during the two greatest heat input control periods;

$\text{H1}_i$  = The heat input, expressed in MMBtu, for each type of fuel during the following control period of the most recent three control periods, the control period during which the source had the greatest actual heat input.

$\text{H2}_i$  = The heat input, expressed in MMBtu, for each type of fuel during the following control period of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and

2.000 = The factor for converting pounds into tons;

$$E_{\text{Actual}} = \frac{E1 + E2}{2} \times \frac{1}{2.000} \quad \text{Equation 3}$$

Where:

E1 = The total actual  $\text{NO}_x$  emissions, expressed in pounds, during the following control period of the most recent three control periods, the control period during which the source had the greatest actual heat input.

E2 = The total actual  $\text{NO}_x$  emissions, expressed in pounds, during the following control period of the most recent three control periods, the control period during which the source had the second greatest actual heat input; and

2.000 = The factor for converting pounds into tons; and

4. Step 4: The Department shall allocate the remainder of the allowances as follows:

i. The sum of the following shall be determined:

(1) The number of allowances allocated to the New Source/Growth Reserve in (d)1 (Step 1) above;

(2) The number of allowances allocated to the Incentive Reserve in (d)2 (Step 2) above;

(3) The number of allowances that have been previously allocated pursuant to (i) below, or pursuant to N.J.A.C. 7:27-31.17(h); and

(4) The number of allowances preliminarily determined in (d)3 (Step 3) above to be allocated to each budget source that is not a new budget source;

ii. If the sum in (d)4i above is less than or equal to 8,200, then the Department shall allocate allowances as follows:

(1) Allowances shall be allocated to each budget source that is not a new budget source, as preliminarily determined in (d)3 (Step 3) above; and

(2) Any remaining allowances that were not allocated in (d)1 (Step 1), (d)2 (Step 2), or (d)4ii(1) above shall be allocated to the Department's attainment reserve account; or

iii. If the sum determined in (d)4i above is greater than 8,200, then the Department shall allocate the remaining allowances to budget sources in proportion to the amount of preliminarily determined in (d)3 (Step 3) above. The proportional share to be allocated to each shall be determined as follows:

$$\text{Allowances} = \frac{8,200 - A0 - A1 - A2}{PA_{\text{Total}}} \times PA$$

Where:

- A0 = The total number of allowances that have been previously allocated pursuant to (i) below or pursuant to N.J.A.C. 7:27-31.17(h)
- A1 = The total number of allowances allocated to the New Source Reserve in (d)1 (Step 1) above;
- A2 = The total number of allowances allocated to the Growth Reserve in (d)2 (Step 2) above;
- PA = The number of allowances preliminarily determined for allocation to the source as determined in (d)3 (Step 3) above; and
- PA<sub>Total</sub> = The sum of all allowances preliminarily determined for allocation to all budget sources in (d)3 (Step 3) above.

(c) For the control period of the year 2003 and of each year thereafter, the Department shall allocate allowances from the New Source/Growth Reserve, and Incentive Allowances by submitting allocation information to the NATS Administrator as follows:

1. The Department shall preliminarily determine the number of allowances to be allocated from the New Source/Growth Reserve as follows:

i. For any new budget source, the Department shall preliminarily determine the number of allowances to be allocated to each new source from the New Source/Growth Reserve. This number shall equal the number of tons of NO<sub>x</sub> emitted by the source during the control period, unless the emissions exceed:

(1) For an industrial boiler or process heater, the lesser of 0.20 lb/MMBtu or the lowest allowable emissions limit during the control period, in which case the allowances allocated to the source will be reduced by difference between the actual NO<sub>x</sub> emission and the emissions at the lesser of the allowable emission rate or 0.020 lb/MMBtu during the period

in which the source exceeded this condition within the control period; or

(2) For a source that is not an industrial boiler nor a process heater, the lesser of 0.15lb/MMBtu or the lowest allowable emissions limit during the control period, in which case the allowances allocated to the source will be reduced by difference between the actual NO<sub>x</sub> emission and the emissions at the lesser of the allowable emission rate or 0.15lb/MMBtu during the period in which the source exceeded this condition within the control period;

ii. For any eligible budget source, if the number of tons of the source's NO<sub>x</sub> emissions during the past control period was greater than the number of allowances allocated for the source for that control period, then the Department shall preliminarily determine the number of allowances to be allocated to the source from the New Source/Growth Reserve. Under this subparagraph, the budget sources that are eligible are industrial boilers or process heaters that emitted NO<sub>x</sub> at a rate less than or equal to 0.20 pounds per MMBtu heat input and other budget sources that emitted NO<sub>x</sub> at a rate less than or equal to 0.15 pounds per MMBtu heat input, except that no new source and no opt-in source is eligible. The preliminary number of allowances shall be determined in accordance with the following procedure:

(1) Calculate the average actual emission rate of the source for the control period of the current year (ER<sub>Actual</sub>) in accordance with the following equation:

$$ER_{\text{Actual}} = \frac{EA}{HA}$$

Where:

- EA = Actual emissions during the control period, expressed in pounds of NO<sub>x</sub>; and
- HA = Actual heat input during the control period, expressed in MMBtu;

(2) If the average actual emission rate (ER<sub>Actual</sub>) for the budget source as calculated in accordance with (c)2i(1) above is greater than 0.20 pounds per MMBtu for industrial boilers or process heaters or 0.15 pounds per MMBtu for any other budget source, then the Department shall allocate no allowances from the New Source/Growth Reserve to the budget source:

(3) If the average actual emission rate (ER<sub>Actual</sub>) for the budget source as calculated in accordance with (c)2i(1) above is not greater than 0.20 pounds per MMBtu for industrial boilers or process heaters or 0.15 pounds per MMBtu for any other budget source, and if the actual emissions during the control period is greater than the number of allowances allocated to the source pursuant to (d)4ii(1) or (d)4iii above, then the Department shall determine the preliminary number of allowances from the New Source/

Growth Reserve to the budget source to be allocated in accordance with the following equation:

$$\text{Allowances} = E_{\text{Actual}} - A$$

Where:

$E_{\text{Actual}}$  = The total  $\text{NO}_x$  emissions, expressed in tons, of the source during the control period, minus any emissions due to the exceedance of an applicable maximum allowable emissions limit; and

A = The number of allowances that had been allocated to the source pursuant to (d)4ii(1) or (d)5iii above;

2. The Department shall allocate allowances from the New Source/Growth Reserve after October 30 and before the allowance transfer deadline following the current year's control period as follows:

i. If the sum of all allowances preliminarily determined to be allocated from the New Source/Growth Reserve under (e)1 above is less than or equal to the number of allowances contained in the reserve, then the Department shall allocate the number of allowances to each source equal to the number of allowances preliminarily determined to be allocated to that source;

ii. If there are allowances left in the New Source/Growth Reserve after distributing the allowances in accordance with (e)2i above, then the Department shall allocate the remaining allowances in accordance with (e)4 below;

iii. If the sum of allowances preliminarily determined in accordance with (e)1 above to be allocated to sources from the New Source/Growth Reserve is greater than the number of allowances contained in the reserve, then the Department shall allocate all the allowances in the reserve, and each source shall receive a number of allowances equal to its prorated share determined in accordance with the following equation:

$$\text{Allowances} = \frac{A_{\text{Source}}}{A_{\text{Total}}} \times A_{\text{Reserve}}$$

Where:

$A_{\text{Source}}$  = The number of allowances preliminarily determined to be allocated to the source, as determined in (e) 1 above;

$A_{\text{Total}}$  = The total number of allowances preliminarily determined to be allocated to all sources, as determined in (e) 1 above; and

$A_{\text{Reserve}}$  = The number of allowances in the New Source/Growth Reserve;

3. The Department shall allocate the allowances from the Incentive Reserve for the implementation of environmentally beneficial techniques which save or generate energy as follows:

i. The Department shall preliminarily determine the number of allowances to be allocated to each claimant who submitted to the Department by October 30 of the current year which has been approved by the Department pursuant to N.J.A.C. 7:27-31.8. This number shall be determined in accordance with the following equation:

$$\text{Allowances} = \frac{1.50}{2,000} \times E$$

Where:

1.50 = The rate, expressed in pounds per MW-hr, at which allowances are allocated for the implementation of environmentally beneficial techniques that result in the saving or generation of electricity;

E = The amount of saved or generated electricity, expressed in MW-hr, in the approved claim; and

2,000 = The factor for converting pounds into tons;

ii. If the sum of all allowances preliminarily determined to be allocated to claimants from the Incentive Reserve under (e)3i above is less than or equal to the number of allowances in the reserve, then the Department shall allocate to each claimant, the number of allowances preliminarily determined to be allocated to that claimant;

iii. If there are allowances left in the Incentive Reserve after distributing the allowances in accordance with (e)3ii above, then the Department shall allocate such allowances in accordance with (e)4 below;

iv. If the sum of all allowances preliminarily determined to be allocated to claimants from the Incentive Reserve under (e)3i above is greater than the number of allowances in the reserve, then the Department shall allocate all allowances in the reserve and each claimant shall receive a number of allowances equal to its prorated share determined in accordance with the following equation:

$$\text{Allowances} = \frac{A_{\text{Claim}}}{A_{\text{Total}}} \times A_{\text{Reserve}}$$

Where:

$A_{\text{Claim}}$  = The number of allowances preliminarily determined to be allocated to the claimant, as determined in (e)3i above;

$A_{\text{Total}}$  = The sum of allowances preliminarily determined to be allocated to each of the claimants, as determined in (e)3i above; and

$A_{\text{Reserve}}$  = The number of allowances in the Incentive Reserve.

4. If there are any allowances remaining in the New Source Reserve/ Growth Reserve and/or the Incentive Reserve, after allowances are allocated in accordance with (e)1 through 3 above, the Department shall allocate the remaining allowances in accordance with the following procedure:

i. If there are allowances remaining in the Incentive Reserve after the allowances are allocated in accordance with (e)3 above, and if the number of allowances in the New Source/Growth Reserve were less than the total number of allowances preliminarily determined to be allocated under (e)1 above for the current year's control period, then the Department shall allocate allowances remaining in the Incentive Reserve to the sources being allocated allowances from the New Source/Growth Reserve. The number of allowances to be allocated to each source shall be proportional to the number that each source was underallocated, relative to the number of preliminarily determined allowances under (e)1, until the remaining allowances in the Incentive Reserve have all been allocated or until each source is no longer underallocated, whichever comes first. Any remaining allowances left in the Incentive Reserve after this procedure takes place shall be allocated pursuant to (e)4iii below.

ii. If there are allowances remaining in the New Source/Growth Reserve after the allowances are allocated in accordance with (e)2 above, and if the number of allowances in the Incentive Reserve were less than the total number of allowances preliminarily determined to be allocated to claimants under (e)3 above for the current year's control period, then the Department shall allocate allowances remaining in the New Source/Growth Reserve to the claimants being allocated allowances from the Incentive Reserve. The number of allowances to be allocated to each claimant shall be proportional to the number of allowances that each claimant was underallocated, relative to the number preliminarily determined to be allocated to the claimant under (e)3i above, until the remaining allowances in the New Source/Growth Reserve have all been allocated or until each claimant is no longer underallocated, whichever comes first. Any remaining allowances left in the New Source/Growth Reserve after this procedure takes place shall be allocated pursuant to (e)4iii below.

iii. The Department shall allocate any allowances remaining in the two reserves as follows:

(1) If the sum determined at (d)4i is greater than 8,200 allowances, then the Department shall allocate allowances remaining in the reserves to budget sources. The number of allowances to be allocated to each budget source shall be proportional to the number that each source was underallocated, relative to the number preliminarily determined to be allocated to the source under (d)3, until the remaining allowances in the reserves have all been allocated or until each source is no longer underallocated, whichever comes first. Any remaining allowances left in the reserves after this procedure takes place shall be allocated pursuant to (e)4iii(2) below; and

(2) Any allowances remaining in the reserves that have not been allocated under (d)4iii(1) above shall

be remain in the Incentive Reserve or the New Source/Growth Reserve to be available for allocation in the next year.

(f) The procedures of this subsection, and not those in (c) and (d) above, shall govern the allocation of allowances to opt-in sources. Each year, beginning in the year 1999, the Department shall allocate a number of allowances prior to the control period into the compliance account of each opt-in source equal to the amount of allowances added to the New Jersey emission budget to accommodate the opt-in source pursuant to N.J.A.C. 7:27-31.4, Opt-in provisions. As of September 29, 2000, the Department shall allocate allowances to opt-in sources up to three years in advance of each control period. However, if the productivity of the source is curtailed during the control period, then a number of allowances shall be deducted accordingly from the source's compliance account during the end-of-season reconciliation process and be permanently retired, pursuant to N.J.A.C. 7:27-31.17(g)3.

(g) Before the control period of 1999, the Department shall allocate a quantity of allowances to the compliance account of each source equal to the amount of early reductions for which the Department has approved the creation of early reduction allowances pursuant to N.J.A.C. 7:31.12, Early reductions.

(h) In the computations at (b)5ii(2), (b)5iii, (c)1ii, (c)2ii, (c)2iii, (d)4iii, (e)2iii, (e)4ii and (e)4iii(1) above to determine the number of whole allowances to be allocated or distributed, individual quantities of allowances with the highest decimals shall be rounded up and the remaining quantities of allowances with lower decimals shall be rounded down, such that the total amount of allowances allocated or distributed under the provision equals the total number of allowances available.

(i) The Department reserves the right, in any year, prior to carrying out the allocation process in (b) or (d) above, to allocate to another jurisdiction a limited number of current year allowances, not to exceed two percent of the base emission budget for the year. The Department shall exercise this right only if implementation of the OTC MOU result has the anomalous outcome of the other jurisdiction having insufficient allowances to meet the needs of even its low-emitting budget sources. In the year 2003 and thereafter, the Department shall take these allowances from its attainment reserve account.

(j) Notwithstanding the provisions of (d) and (e) above, as of September 29, 2000, the Department shall not allocate any allowances to a budget source that is no longer in operation at the time that allowances are being allocated.

(k) Notwithstanding the provisions of (b)2i, (b)2iii, (b)4i, (b)4ii(1), (d)3i and (d)3ii, for the purpose of preliminarily determining the number of allowances to be allocated to a budget source, any two control periods in the last three

years may be used (not just the two control periods in which the source used the most fuel) provided that the source's Authorized Account Representative submits a designation of the two periods to be used to the Department at least 60 days prior to the applicable allocation deadline. If two alternate control periods are designated, the Department shall use both the source's actual NO<sub>x</sub> emissions and the source's heat input from those two periods in preliminarily determining the number of allowances to be allocated to the budget source.

(f) By September 29, 2000, the Department shall allocate allowances for the control period of the year 2003 by submitting allocation information to the NATS Administrator in accordance with the following table:

NATS Unit Account	Company	Plant	Description	Allowances
	NJDEP		Incentive Reserve	410
	NJDEP		Growth/New Source Reserve	820
2378000001	CONNECTIV	B.L. ENGLAND	BLE—UNIT #1	268
2378000002	CONNECTIV	B.L. ENGLAND	BLE—UNIT #2	340
2378000003	CONNECTIV	B.L. ENGLAND	BLE—UNIT #3	99
2379002001	CONNECTIV	CARLL'S CORNER STATION	CARLLS CORNER CT#1	5
2379003001	CONNECTIV	CARLL'S CORNER STATION	CARLLS CORNER CT#2	11
2380002001	CONNECTIV	CEDAR STATION	WEST GENERATOR ON CEDAR #1 TURBINE	1
2380003001	CONNECTIV	CEDAR STATION	EAST GENERATOR ON CEDAR #1 TURBINE	1
2380004001	CONNECTIV	CEDAR STATION	CEDAR #2 TURBINE	3
2382003001	CONNECTIV	MIDDLE ST	MIDDLE CT #1	3
2382004001	CONNECTIV	MIDDLE ST	MIDDLE CT #2	2
2382005001	CONNECTIV	MIDDLE ST	MIDDLE CT #3	4
2383010001	CONNECTIV	MISSOURI	MISSOURI AV. CT #B	2
2383011001	CONNECTIV	MISSOURI	MISSOURI AV. CT #C	2
2383012001	CONNECTIV	MISSOURI	MISSOURI AV. CT #D	2
2384000001	CONNECTIV	DEEPWATER	DW BOILER #1	37
2384000004	CONNECTIV	DEEPWATER	DW—BOILER #4	4
2384000006	CONNECTIV	DEEPWATER	B & W BOILER #6	1
2384000008	CONNECTIV	DEEPWATER	DW BOILER #8	170
2384009001	CONNECTIV	DEEPWATER	DW CT A	5
2385000004	GPU	WERNER GE	Unit 4 (B & W Boiler)	2
2385009001	GPU	WERNER GE	Turbine (501AA) CT#1	7
2385010001	GPU	WERNER GE	Turbine (501AA) CT#2	7
2385011001	GPU	WERNER GE	Turbine (501AA) CT#3	7
2385012001	GPU	WERNER GE	Turbine (501AA) CT#4	6
2390000007	GPU	SAYREVILLE	Unit 7, Cyclone (#6 FUEL)	20
2390000008	GPU	SAYREVILLE	Unit 8, Cyclone (#6 FUEL)	26
2390012001	GPU	SAYREVILLE	Turbine (501AA) OIL FIRED C-4	12
2390014001	GPU	SAYREVILLE	Turbine (501AA) OIL FIRED C-3	8
2390015001	GPU	SAYREVILLE	Turbine (501AA) OIL FIRED C-2	8
2390016001	GPU	SAYREVILLE	Turbine (501AA) OIL FIRED C-1	14
2393000003	GPU	GILBERT	Boiler 3	13
2393000004	GPU	GILBERT	C/C STAG 4 GT	52
2393000005	GPU	GILBERT	C/C STAG 5 GT	47
2393000006	GPU	GILBERT	C/C STAG 6 GT	50
2393000007	GPU	GILBERT	C/C STAG 7 GT	51
2393000009	GPU	GILBERT	CT 9	35
2393015001	GPU	GILBERT	C-1 GT (CT 251)	2
2393016001	GPU	GILBERT	C-2 GT (CT 251)	2
2393017001	GPU	GILBERT	C-3 GT (CT 251)	2
2393018001	GPU	GILBERT	C-4 GT (CT 251)	3
002397A01001	PSE & G	BAYONNE	UNIT NO. 1 (GAS TURBINE)	1
002397A02001	PSE & G	BAYONNE	UNIT NO. 2 (GAS TURBINE)	1
2398001101	PSE & G	BERGEN	UNIT NO. 1-1101 (GAS TURBINE)	39
2398001201	PSE & G	BERGEN	UNIT NO. 1-1201 (GAS TURBINE)	49
2398001301	PSE & G	BERGEN	UNIT NO. 1-1301 (GAS TURBINE)	38
2398001401	PSE & G	BERGEN	UNIT NO. 1-1401 (GAS TURBINE)	39
2398003001	PSE & G	BERGEN	UNIT NO. 3 (GAS TURBINE)	1
2399000101	PSE & G	BURLINGTON	UNIT NO. 10-1 (GAS TURBINE)	4
2399000102	PSE & G	BURLINGTON	UNIT NO. 10-2 (GAS TURBINE)	5
2399000103	PSE & G	BURLINGTON	UNIT NO. 10-3 (GAS TURBINE)	5
2399000104	PSE & G	BURLINGTON	UNIT NO. 10-4 (GAS TURBINE)	6
2399004001	PSE & G	BURLINGTON	UNIT NO. 8 (GAS TURBINE)	1
2399012001	PSE & G	BURLINGTON	UNIT NO. 9-1A & B (GAS TURBINE) NJ Stack IDs 12 and 13	3

NATS Unit Account	Company	Plant	Description	Allowances
2399014001	PSE & G	BURLINGTON	UNIT NO. 9-2A & B (GAS TURBINE) NJ Stack IDs 14 and 15	3
2399016001	PSE & G	BURLINGTON	UNIT NO. 9-3A & B (GAS TURBINE) NJ Stack IDs 16 and 17	3
2399018001	PSE & G	BURLINGTON	UNIT NO. 9-4A & B (GAS TURBINE) NJ Stack IDs 18 and 19	3
2399028001	PSE & G	BURLINGTON	UNIT NO. 11-1A & B (GAS TURBINE) NJ Stack IDs 28 and 29	2
2399030001	PSE & G	BURLINGTON	UNIT NO. 11-2A & B (GAS TURBINE) NJ Stack IDs 30 and 31	2
2399032001	PSE & G	BURLINGTON	UNIT NO. 11-3A & B (GAS TURBINE) NJ Stack IDs 32 and 33	2
2399034001	PSE & G	BURLINGTON	UNIT NO. 11-4A & B (GAS TURBINE) NJ Stack IDs 34 and 35	2
2400001001	PSE & G	EDISON	UNIT NO. 1-1A & B (GAS TURBINE) NJ Stack IDs 1 and 2	3
2400003001	PSE & G	EDISON	UNIT NO. 1-2A & B (GAS TURBINE) NJ Stack IDs 3 and 4	3
2400005001	PSE & G	EDISON	UNIT NO. 1-3A & B (GAS TURBINE) NJ Stack IDs 5 and 6	3
2400007001	PSE & G	EDISON	UNIT NO. 1-4A & B (GAS TURBINE) NJ Stack IDs 7 and 8	3
2400009001	PSE & G	EDISON	UNIT NO. 2-1A & B (GAS TURBINE) NJ Stack IDs 9 and 10	6
2400011001	PSE & G	EDISON	UNIT NO. 2-2A & B (GAS TURBINE) NJ Stack IDs 11 and 12	6
2400013001	PSE & G	EDISON	UNIT NO. 2-3A & B (GAS TURBINE) NJ Stack IDs 13 and 14	6
2400015001	PSE & G	EDISON	UNIT NO. 2-4A & B (GAS TURBINE) NJ Stack IDs 15 and 16	6
2400017001	PSE & G	EDISON	UNIT NO. 3-1A & B (GAS TURBINE) NJ Stack IDs 17 and 18	6
2400019001	PSE & G	EDISON	UNIT NO. 3-2A & B (GAS TURBINE) NJ Stack IDs 19 and 20	6
2400021001	PSE & G	EDISON	UNIT NO. 3-3A & B (GAS TURBINE) NJ Stack IDs 21 and 22	6
2400023001	PSE & G	EDISON	UNIT NO. 3-4A & B (GAS TURBINE) NJ Stack IDs 23 and 24	6
2401002001	PSE & G	ESSEX	UNIT NO. 10-1A & B (GAS TURBINE) NJ Stack IDs 2 and 3	6
2401004001	PSE & G	ESSEX	UNIT NO. 10-2A & B (GAS TURBINE) NJ Stack IDs 4 and 7	6
2401010001	PSE & G	ESSEX	UNIT NO. 10-3A & B (GAS TURBINE) NJ Stack IDs 10 and 11	6
2401012001	PSE & G	ESSEX	UNIT NO. 10-4A & B (GAS TURBINE) NJ Stack IDs 12 and 13	6
2401014001	PSE & G	ESSEX	UNIT NO. 11-1A & B (GAS TURBINE) NJ Stack IDs 14 and 15	5
2401016001	PSE & G	ESSEX	UNIT NO. 11-2A & B (GAS TURBINE) NJ Stack IDs 16 and 17	5
2401018001	PSE & G	ESSEX	UNIT NO. 11-3A & B (GAS TURBINE) NJ Stack IDs 18 and 19	5
2401020001	PSE & G	ESSEX	UNIT NO. 11-4A & B (GAS TURBINE) NJ Stack IDs 20 and 21	5
2401022001	PSE & G	ESSEX	UNIT NO. 12-1A & B (GAS TURBINE) NJ Stack IDs 22 and 23	10
2401024001	PSE & G	ESSEX	UNIT NO. 12-2A & B (GAS TURBINE) NJ Stack IDs 24 and 25	10
2401026001	PSE & G	ESSEX	UNIT NO. 12-3A & B (GAS TURBINE) NJ Stack IDs 26 and 27	10
2401028001	PSE & G	ESSEX	UNIT NO. 12-4A & B (GAS TURBINE) NJ Stack IDs 28 and 29	10
2401035001	PSE & G	ESSEX	UNIT NO. 9 (GAS TURBINE)	29
2403000001	PSE & G	HUDSON	UNIT NO. 1 (BOILER)	130
2403000002	PSE & G	HUDSON	UNIT NO. 2 (BOILER)	738
2403008001	PSE & G	HUDSON	UNIT NO. 3 (GAS TURBINE) Module 1,2,3,4 A+B Engines NJ Source IDs 1 through 8	3
2404000007	PSE & G	KEARNY	UNIT NO. 7 (BOILER)	23
2404000008	PSE & G	KEARNY	UNIT NO. 8 (BOILER)	8
2404005001	PSE & G	KEARNY	UNIT NO. 12-1A & B (GAS TURBINE) NJ Stack IDs 5 and 6	2

NATS Unit Account	Company	Plant	Description	Allowances
2404007001	PSE & G	KEARNY	UNIT NO. 12-2A & B (GAS TURBINE) NJ Stack IDs 7 and 8	2
2404009001	PSE & G	KEARNY	UNIT NO. 12-3A & B (GAS TURBINE) NJ Stack IDs 8 and 10	2
2404011001	PSE & G	KEARNY	UNIT NO. 12-4A & B (GAS TURBINE) NJ Stack IDs 11 and 12	2
2404015001	PSE & G	KEARNY	UNIT NO. 9 (GAS TURBINE)	2
2404016001	PSE & G	KEARNY	UNIT NO. 10 (GAS TURBINE) Module 1,2,3,4 A & B Engines NJ Source IDs 1 through 8	6
2404017001	PSE & G	KEARNY	UNIT NO. 11-(GAS TURBINE) Module 1,2,3,4 A & B Engines NJ Source IDs 1 through 8	11
2406000002	PSE & G	LINDEN	UNIT NO. 2-1 & 2-2 (BOILER)	27
2406000007	PSE & G	LINDEN	UNIT NO. 7 (GAS TURBINE)	14
2406000008	PSE & G	LINDEN	UNIT NO. 8 (GAS TURBINE)	16
2406000012	PSE & G	LINDEN	UNIT NO. 1-2 (BOILER)	5
2406000013	PSE & G	LINDEN	UNIT NO. 1-3 (BOILER)	8
2406007001	PSE & G	LINDEN	UNIT NO. 3 (GAS TURBINE)	2
2406008001	PSE & G	LINDEN	UNIT NO. 5 (GAS TURBINE)	2
2406009001	PSE & G	LINDEN	UNIT NO. 6 (GAS TURBINE)	2
2408000001	PSE & G	MERCER	UNIT NO. 1 (BOILER)	425
2408000002	PSE & G	MERCER	UNIT NO. 2 (BOILER)	485
2408007001	PSE & G	MERCER	UNIT NO. 3 (GAS TURBINE) Module 1,2,3,4 A & B Engines NJ Source IDs 1 through 8	1
2410002001	PSE & G	SALEM	UNIT NO. 3A & B (GAS TURBINE) NJ Stack IDs 2 and 3	3
2411000001	PSE & G	SEAWAREN	UNIT NO. 1 (BOILER)	27
2411000002	PSE & G	SEAWAREN	UNIT NO. 2 (BOILER)	25
2411000003	PSE & G	SEAWAREN	UNIT NO. 3 (BOILER)	33
2411000004	PSE & G	SEAWAREN	UNIT NO. 4 (BOILER)	56
2411012001	PSE & G	SEAWAREN	UNIT NO. 6 (GAS TURBINE) Module 1-4 A + B Engines NJ Stack IDs 12 through 19	1
2434005001	VINELAND MEU	HOWARD M	BOILER #9 COMBUSTION ENG. 180000 LB/HR 1	9
2434006001	VINELAND MEU	HOWARD M	COMBUSTION OF FOSSILE FUEL UTILIBOILER-E	26
2434006001	VINELAND MEU	HOWARD M	COMBUSTION OF FOSSILE FUEL UTILIBOILER-E	26
5083004001	CONECTIV	CUMBERLAND	CUMBERLAND-C.T. #1	8
6776002001	VINELAND MEU	WEST STAT	COMBUSTION TURBINE WESTING- HOUSE S/N17A-2	7
7138002001	GPU	FORKED RIVER	CT-1	12
7138003001	GPU	FORKED RIVER	CT-2	13
7288000001	CONECTIV	SHERMAN AV STATION	SHERMAN-C.T. #1	25
8008001001	CONECTIV	MICKELTON	MICKELTON CT	10
8227003001	GPU	GLEN GARDNER	A1 CT (JET TURBINE)	4
8227004001	GPU	GLEN GARDNER	A2 CT (JET TURBINE)	4
8227005001	GPU	GLEN GARDNER	A3 CT (JET TURBINE)	4
8227006001	GPU	GLEN GARDNER	A4 CT (JET TURBINE)	4
8227007001	GPU	GLEN GARDNER	B5 CT (JET TURBINE)	5
8227008001	GPU	GLEN GARDNER	B6 CT (JET TURBINE)	5
8227009001	GPU	GLEN GARDNER	B7 CT (JET TURBINE)	4
8227010001	GPU	GLEN GARDNER	B8 CT (JET TURBINE)	4
10043001001	LOGAN GENERAT- ING COMPANY, L.P.	LOGAN GENERATING PLANT	PULVERIZED COAL FIRED	358
10099001001	CONECTIV	PEDRICKTOWN COGEN	GENERAL ELECTRIC FRAME 7EA GAS TURBINE	26
10308001001	NORTH JERSEY ENERGY ASSOCI- ATES	JERSEY	CT-1 COMBUSTION TURBINE	167
10308001002	NORTH JERSEY ENERGY ASSOCI- ATES	JERSEY	CT-2 COMBUSTION TURBINE	172
10566001001	CHAMBERS CO- GENERATION L.P.	CARNEY'S POINT PLANT	PC BOILER 2	203
10566002001	CHAMBERS CO- GENERATION L.P.	CARNEY'S POINT PLANT	PC BOILER 1	204
10616001001	KAMINE/MILFORD	MILFORD	COMBUSTION TURBINE	91
10616001002	KAMINE/MILFORD	MILFORD	DUCT BURNER	4

NATS Unit Account	Company	Plant	Description	Allowances
10751002001	COGEN TECHNOLOGIES	CAMDEN	GENERAL ELECTRIC FRAME 7 EA	66
10805002001	KENILWORTH/SITHE	EF KENILWORTH	GAS TURBINE NATURAL GAS	54
50006005001	COGEN TECHNOLOGIES	LINDEN	GT/HRSG NO. 500 & DB	39
50006006001	COGEN TECHNOLOGIES	LINDEN	GT/HRSG NO. 400 & DB	38
50006007001	COGEN TECHNOLOGIES	LINDEN	GT/HRSG NO. 300 & DB	39
50006008001	COGEN TECHNOLOGIES	LINDEN	GT/HRSG NO. 200 & DB	40
50006009001	COGEN TECHNOLOGIES	LINDEN	GT/HRSG NO. 100 & DB	39
50385001001	NEWARK BAY COGEN	NEWARK BAY COGEN	GAS TURBINE GENERATOR WITH WASTEHEAT STE	21
50385002001	NEWARK BAY COGEN	NEWARK BAY COGEN	GAS TURBINE GENERATOR WITH WASTEHEAT STE	21
50497001001	COGEN TECHNOLOGIES	BAYONNE	GT/HRSG #1 EXHAUST STACK	26
50497002001	COGEN TECHNOLOGIES	BAYONNE	GT/HRSG NO. 2 EXHAUST STACK	27
50497004001	COGEN TECHNOLOGIES	BAYONNE	GT/HRSG NO. 3 EXHAUST STACK	26
50561001001	COASTAL EPCP	EAGLE POINT COGEN	CT A	161
50561001002	COASTAL EPCP	EAGLE POINT COGEN	DB A	21
50561002001	COASTAL EPCP	EAGLE POINT COGEN	CT B	161
50561002002	COASTAL EPCP	EAGLE POINT COGEN	DB B	21
50561086001	COASTAL Eagle Point	WESTVILLE REFINERY	ONE FW WATER WALL BOX BOILER	62
50561087001	COASTAL Eagle Point	WESTVILLE REFINERY	ONE FW WATER WALL BOX BOILER	67
50561088001	COASTAL Eagle Point	WESTVILLE REFINERY	PROCESS HEATER	36
50628748001	VALERO (MOBIL)	PAULSBORO	STEAM BOILER #1	36
50628749001	VALERO (MOBIL)	PAULSBORO	GAS TURBINE	67
50628749002	VALERO (MOBIL)	PAULSBORO	DUCT BURNER	44
50628751001	VALERO (MOBIL)	PAULSBORO	STEAM BOILER #2	35
50628752001	VALERO (MOBIL)	PAULSBORO	STEAM BOILER #	37
50797001001	CogenAmerica	NEWARK	COGEN	56
50799001001	CogenAmerica	PARLIN	40 MW GAS FIRED TURBINE #2	19
50799003001	CogenAmerica	PARLIN	40 MW GAS FIRED TURBINE #1	18
50852002001	PRIME ENERGY	ELMWOOD	E COGENERATION SYSTEM	106
54416189001	ROCHE VITAMINS	BELVIDERE	COGENERATION & DB	91
54640001001	CNG LAKEWOOD	CNG LAKEWOOD	GAS TURBINE GENERATOR #1	16
54640002001	CNG LAKEWOOD	CNG LAKEWOOD	GAS TURBINE GENERATOR #2	16
54807001001	CONECTIV	VINELAND COGEN	GENERAL ELECTRIC LM6000 GAS TURBINE	7
880016010001	TOSCO (BAYWAY)		F701 - NO 7 ATMOSPHERIC PIPESTILL FURNACE	129
880016010003	TOSCO (BAYWAY)		F702 - NO. 7 PIPESTILL OUTBOARD FLASH TOWER FURNACE	137
880016A03001	TOSCO (BAYWAY)		F251 - CAT PLANT FEED PREHEAT FURNACE	45

Administrative correction.

See: 31 N.J.R. 2203(a).

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

Rewrote the section.

### 7:27-31.8 Claims for incentive allowances

(a) In order to provide an incentive for the saving or generation of electricity through the implementation of certain environmentally beneficial techniques, pursuant to N.J.A.C. 7:27-31.7(c)3 or (e)3, the Department shall distribute allowances each year to persons who have demonstrated, in accordance with the procedures of this section, that they

have saved or generated electricity through the implementation of such techniques.

(b) Distribution of allowances pursuant to N.J.A.C. 7:27-31.7(c)3 or (e)3 shall be based on claims submitted by the persons who have saved or generated the electricity. No such incentive allowances shall be allocated for any claim that is not received by the Department by October 30 of the year in which the electricity savings or generation occurred during the control period.

(c) The following persons are eligible to submit a claim for incentive allowances:

## 1. A New Jersey electric consumer who:

i. Purchases its electricity from an electricity supplier licensed in New Jersey; and

ii. Reduces its electricity consumption at a facility located in New Jersey through implementation of an energy efficiency measure, initiated in 1992 or thereafter, which:

(1) Belongs to a class to which the following quantification guidance document applies: "Measurement Protocol for Commercial, Industrial and Residential Facilities," issued by New Jersey's board of Regulatory Commissioners on April 28, 1993;

(2) Does not result in the construction, installation, or operation of a new emission source or increase the emissions of any existing emission source at the facility;

(3) Does not cause an increase in emissions of any HAP; and

(4) Does not cause an increase, which is greater than five tons per year, in the emission of any regulated air contaminant other than NO<sub>x</sub>;

2. The owner or operator of equipment that is not a budget source, which commenced operation in 1992 or thereafter and which generates electricity through one of the following environmentally beneficial techniques:

i. Generation through the burning of landfill gas or digester gas;

ii. Generation by a fuel cell; or

iii. Generation using solar energy or wind power; and

3. The owner or operator of equipment that generates electricity by another environmentally beneficial technique approved by the Department.

(d) A person eligible to receive an incentive allocation may, pursuant to the Open Market Emissions Trading (OMET) Program rules at N.J.A.C. 7:27-30, elect to receive DER credits instead. In such case, the person shall also file a Notice of DER Credit Generation as required by the OMET Program rules, and the Department shall request that the NATS Administrator transfer any allowance that would otherwise have been allocated to the claimant into a retirement account.

(c) Prior to filing a claim under this section, a person shall establish a general account in the NATS pursuant to the procedures at N.J.A.C. 7:27-31.13.

(f) A claim for incentive allowances shall include:

1. Documentation that the person submitting the claim is eligible to submit a claim for incentive allowances pursuant to (c) above;

2. Specification of the amount of electric generation or savings during the control period that is being claimed, expressed in MW-hr as calculated pursuant to (g) below;

3. The calculations made to determine the amount of electricity generation or savings being claimed and a report of the data and the methods on which the calculations are based;

4. Citation of the unique identification number assigned to a general account held by the claimant in the NATS;

5. Specification as to whether the claimant wishes to receive credit for the electric generation or savings as allowances or as DER credits. If the claimant wishes to receive DER credits, the claimant shall include the total number of DER credits claimed to have been generated pursuant to N.J.A.C. 7:27-30 during the control period; and

6. Certification in accordance with N.J.A.C. 7:27-1.39.

(g) The amount of electric generation or savings being claimed shall be determined consistent with the following:

1. For energy efficiency measures, the amount of electricity claimed to be saved shall be calculated pursuant to the guidance document: "Measurement Protocol for Commercial, Industrial and Residential Facilities," incorporated by reference at N.J.A.C. 7:27-31.21; and

2. For energy generation using an environmentally beneficial technique listed in (c)2 or 3 above, if the technique entails the supplemental use of conventional fuels (such as oil, gas, or coal), the total amount of electricity generated shall not include any amount of electricity generated by the use of such fuels.

(h) A claim shall be submitted to the Department by October 30 of the year in which the control period occurred on which the claim is based to the following address:

ATTN: NO<sub>x</sub> BUDGET INCENTIVE ALLOWANCE CLAIM

New Jersey Department of Environmental Protection

Office of Air Quality Management

401 East State Street

PO Box 418

Trenton, NJ 08625-0418

(i) No incentive allowances shall be allocated unless the Department approves the claim. Bases for disapproval of a claim include the following:

1. The claim was not received by the Department by October 30 of the year in which the control period occurred on which the claim is based;

2. The claim does not include all of the items required at (d) and (f) above;

3. The amount of electricity claimed to have been generated or saved was calculated incorrectly;

4. The person submitting the claim is not eligible as specified at (c) above; and

5. The person submitting the claim did not establish a general account in the ATS pursuant to (e) above.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

In (c)1i, substituted "an electricity supplier licensed" for "a company which owns a NO<sub>x</sub> Budget source located".

#### 7:27-31.9 Permits

(a) The owner or operator of a budget source shall ensure that the operating permit issued under N.J.A.C. 7:27-22 which applies to the budget source shall incorporate all applicable requirements and provisions of this subchapter, including but not limited to the following:

1. The requirement at N.J.A.C. 7:27-31.3(i) to have, by the allowance transfer deadline, a number of allowances in a budget source's compliance account which is at least equal, in emissions value, to the NO<sub>x</sub> emissions of the source during the current year control period;

2. The requirement at N.J.A.C. 7:27-31.3(f) for the owner or operator of a budget source to designate a responsible person who will be the authorized account representative for the budget source and have the authority to submit transfer requests to the NATS Administrator and certify and submit reports to the NATS and the NETS that pertain to the budget source; and

3. The requirement at N.J.A.C. 7:27-31.14(a) and 31.16 for the owner or operator of a budget source to monitor and report NO<sub>x</sub> emissions from the budget source.

(b) Holding allowances in a budget source's compliance account in order to authorize emissions of NO<sub>x</sub> pursuant to this subchapter does not relieve or waive a permittee's responsibility to comply with any of the following:

1. Any applicable NO<sub>x</sub> emission standard established at N.J.A.C. 7:27-19;

2. Any permit limit or condition; or

3. Any other emission limit that applies to the budget source.

(c) A permittee does not need to change an operating permit, or a preconstruction permit and certificate, to reflect the transfer of allowances into or out of a budget source's compliance account.

(d) With respect to compliance with (a) above, if an application pertaining to the budget source had previously been submitted to the Department prior to August 16, 1998:

1. A seven-day notice, significant modification, or renewal shall be submitted to the Department by 90 days after the Department approves the monitoring plan pur-

suant to N.J.A.C. 7:27-31.14 if the Department had already approved the operating permit application; or

2. An update to the operating permit application shall be submitted to the Department by 90 days after the Department approves the monitoring plan pursuant to N.J.A.C. 7:27-14 if the Department had not yet approved the operating permit application.

(e) If an opt-in source is located at a facility subject to the operating permit requirements at N.J.A.C. 7:27-22, the owner or operator of the source shall incorporate the opt-in approval of the source into the operating permit, in accordance with (a) above. This shall be done through the initial application for the operating permit, through a seven-day notice or an application for a minor modification or a significant modification, or through an application for a renewal, whichever applies pursuant to N.J.A.C. 7:27-22. The application shall specify this subchapter as an applicable requirement, in accordance with N.J.A.C. 7:27-22.6(f)6. Such incorporation shall include incorporation of the requirement established under this subchapter for the owner or operator to prevent emissions from the source from exceeding, in any year, the allowances held for the source.

(f) In accordance with the provisions at N.J.A.C. 7:27-22, any change made to a budget source which is at a facility subject to the operating permit requirements shall be incorporated into the operating permit and shall be adequately addressed in the compliance plan.

(g) The owner or operator of a budget source required to obtain an operating permit pursuant to N.J.A.C. 7:27-22 shall comply with (a) above when applying for renewal of the operating permit.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a)

In (a), substituted "the allowance transfer deadline" for "December 31 of each year beginning in 1999", and added (g)

#### 7:27-31.10 Allowance use, transfer and retirement

(a) An allowance may be used, in a given year, to meet a budget source's NO<sub>x</sub> Budget Program compliance obligations pursuant to N.J.A.C. 7:27-31.3(i) only if:

1. The allowance has been allocated or transferred to the source's compliance account by the allowance transfer deadline for that year; and

2. The allowance is valid in the then-current year for use for compliance with the end-of-season reconciliation requirements. The serial number assigned to an allowance by the NATS Administrator indicates the initial year in which the allowance may be used. The allowance may be used in the initial year or in any year thereafter.

(b) An allowance may be used to meet the compliance obligations of a budget source located in New Jersey, even though the allowance was initially allocated in another jurisdiction, provided that the transfer of the allowance to the budget source's compliance account is carried out in a manner consistent with the requirements of this section.

(c) At any time between the end of the reconciliation process and the allowance transfer deadline during any year, an authorized account representative may authorize the transfer of one or more allowances from the represented account to another account. During the period between the day after the allowance transfer deadline and the end of the reconciliation process, only allowances that are incapable of being used during such reconciliation process may be transferred. The only allowances that are effectively frozen during the reconciliation period are those allowances in compliance accounts that have serial numbers indicating that they could be used during the ongoing reconciliation process. Such a transaction is initiated by the submission of an allowance transfer request to the NATS Administrator in accordance with (d) below. Such transfers of allowances are voluntary actions on the part of authorized account representatives and reflect that:

1. The holding of the allowance(s) has passed from one person to another by whatever means, including, but not limited to, a sale, a gift, auction, a barter arrangement, or other terms of exchange; or
2. The person holding the allowance(s) has elected to move the allowance(s) from one account to another account also under the person's control.

(d) The following procedures shall be carried out to effect an allowance transfer:

1. The transfer shall be documented on a transfer request form obtained from the NATS Administrator:

2. The documentation shall include, at a minimum, the following information:

- i. The NATS account numbers for both the originating account and the acquiring account;
- ii. The name, telephone number, fax number, and address of the persons to which the originating account and the acquiring account are assigned; and
- iii. The serial number of each allowance being transferred;

3. The transfer request shall include a statement of certification which must be signed by the AAR for the originating account. This statement of certification shall be:

- i. Until the NATS Administration provides a revised form for use for the years 2003 and thereafter: "I am authorized to make this submission on behalf of the owners and operators of the budget source (or in the case of general accounts, the parties with an ownership interest in the allowances held in the account) 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, I believe the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment"; or

- ii. Once the NATS Administrator provides the revised form, the certification statement provided on the revised form.

4. The transfer request form shall be submitted on paper, unless the NATS Administrator establishes procedures which allow the form to be submitted electronically; and

5. The AAR for the originating account shall provide a copy of the transfer request to each owner or operator of the budget source.

(e) Transfer requests shall be processed by the NATS Administrator in order of receipt. Within five business days of receiving a NO<sub>x</sub> allowance transfer request, except as provided in (f) below, the NATS Administrator will record the NO<sub>x</sub> allowance transfer by moving each NO<sub>x</sub> allowance from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is correctly submitted in accordance with the procedures set forth in (d) above;

2. Each NO<sub>x</sub> allowance identified by serial number in the transfer request is in the transferor's account; and

3. The transfer meets all other applicable requirements of this subchapter.

(f) If a NO<sub>x</sub> allowance transfer request submitted to the NATS Administrator fails to meet the requirements of (d) above, the NATS Administrator shall not record the transfer. Also, the NATS Administrator shall not record a transfer until after the reconciliation process has been completed, if the NO<sub>x</sub> allowance transfer request is submitted on or after the NO<sub>x</sub> allowance transfer deadline and the request includes any NO<sub>x</sub> allowance which was allocated for the prior year's control period or for the control period for the current year (that is, the control period to which the NO<sub>x</sub> allowance transfer deadline applies).

(g) After a transfer request is determined to be valid by the NATS Administrator, the transfer shall be recorded in the NATS as follows: the allowance(s) with the serial number(s) specified in the transfer request shall be deducted from the originating account and added to the acquiring account.

(h) The NATS Administrator shall provide notification of the transfer within five business days of its recording of the transfer to the AAR of the originating account, to the AAR of the acquiring account, and to the Department. Within 10 business days of receipt of a NO<sub>x</sub> allowance transfer request that fails to meet the requirements of (d) above, the NATS Administrator shall notify the NO<sub>x</sub> authorized account representatives of both the originating and acquiring accounts of its decision not to record the transfer and the reasons for this decision.

(i) If the acquiring account or originating account is assigned to a person located in a jurisdiction outside of New Jersey, the NATS Administrator shall also provide notification of the transfer to the environmental agency serving the other jurisdiction.

(j) Notification pursuant to (g) or (h) above shall, at a minimum, include the following:

1. The effective date of the transfer;
2. The NATS account numbers for both the originating account and the acquiring account;
3. The name and address of the persons to which the originating account and the acquiring account are assigned; and
4. The total number of allowances transferred, and the serial number of each allowance.

(k) This section allows the interstate and interjurisdictional transfer of allowances. However, the transfer of an allowance initially allocated by the Department pursuant to N.J.A.C. 7:27-31.7 to the compliance account of a budget source located in another jurisdiction is prohibited, until the other jurisdiction has also adopted rules which allow the interstate trading of allowances and is implementing a NO<sub>x</sub> Budget Program, in a manner consistent with the agreements in the OTC MOU or consistent with USEPA's NO<sub>x</sub> SIP Call. NO<sub>x</sub> allowances allocated by other jurisdictions may be used to comply with this subchapter, provided the other jurisdiction has adopted and implemented a NO<sub>x</sub> allowance program consistent with this subchapter as determined by the Department and the USEPA.

(l) At any time between January 31 and December 31 during any year, a person who holds an allowance in an account may elect to permanently retire that allowance. In order to permanently retire one or more allowances, the AAR of the account in which the allowance is held shall submit to the NATS Administrator a retirement request, that is, a request to transfer the allowance to a retirement account. A retirement request shall conform to the same procedures for a transfer request given at (c) above. The NATS Administrator shall process the retirement request following the same procedures as set forth for transfer requests at (d) through (i) above.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).  
Rewrote the section.

#### 7:27-31.11 Allowance banking

(a) If an allowance held in a general account or a compliance account is not used to satisfy the compliance requirement at N.J.A.C. 7:27-31.3(i), is not otherwise deducted from the account pursuant to N.J.A.C. 7:27-31.17 or 31.19, and is not permanently retired pursuant to N.J.A.C. 7:27-31.10, then that allowance may continue to be held in

the account until the next or subsequent control periods. This retention of one or more allowances in an account from one year to a future year is referred to as "banking."

(b) Each year the NATS Administrator shall flag allowances that remain in an account as of the allowance transfer deadline as "banked" allowances.

(c) By March 1 of the years 2000 through 2003 inclusive, and by May 1 of the year 2004 and each year thereafter, the NATS Administrator shall:

1. Determine whether the total number of allowances banked in the NATS as of January 1 of the current year exceeds 10 percent of the total regional base emission budget for the current year control period; and

2. Announce that for the current year control period:

- i. If the banked allowances are determined to be equal to or less than 10 percent of the total regional base emission budget, all banked allowances can be used in the current year on a one-for-one basis; or

- ii. If the banked allowances are determined to be greater than 10 percent, the constraints on use of banked allowances as set forth in (d) below apply.

(d) If the NATS Administrator determines that the total number of banked allowances exceeds 10 percent of the regional base emission budget for the current year control period, a portion of the banked allowances shall be allowed to be used on a one-for-one basis, but the remainder of the banked allowances shall be required to be used on a two-for-one basis. The NATS Administrator shall determine which banked allowances fall in each class in accordance with the following:

1. The NATS Administrator shall determine the ratio to be used to determine which banked allowances may be used on a one-for-one basis, as follows:

$$\text{Ratio} = \frac{0.10 \times B_R}{A_B}$$

Where:

B<sub>R</sub> = The annual regional base NO<sub>x</sub> emissions budget; and  
A<sub>B</sub> = The total number of banked allowances in all NATS accounts; and

2. As prescribed at N.J.A.C. 7:27-31.17(g), during the reconciliation process, the NATS Administrator shall apply the ratio calculated in (d)1 above to the number of banked allowances in each account to determine the number of banked allowances in the account which can be used in the current year control period on a one-for-one basis. The remaining number of banked allowances in each account shall be used on a two-for-one basis.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

In (b), deleted "(that is, December 31)" following "deadline"; and in (c), substituted "the years 2000 through 2003 inclusive, and by May 1 of

the year 2004 and each year thereafter" for "each year" in the introductory paragraph.

#### 7:27-31.12 Early reductions

(a) Pursuant to this section, the owner or operator of a budget source may claim early reduction credit based on certain reductions in the emissions from a budget source during 1997 and 1998. If the claim is approved, the Department shall subsequently convert such emission reductions into allowances.

(b) The owner or operator of a budget source who wishes to claim early reductions pursuant to this section shall submit the information specified in (c) below to the Department by October 31, 1998 to the following address:

ATTN: NO<sub>x</sub> BUDGET EARLY REDUCTION CLAIM  
New Jersey Department of Environmental Protection  
Office of Air Quality Management  
PO Box 418  
Trenton, NJ 08625-0418

(c) A claim shall include the following information:

1. Identification of the source, including the rated heat input capacity and type of combustion unit;
2. Specification of the period(s) for which early reductions are being claimed. Early reductions may be claimed for the period from May 1 through September 30 in either the year 1997, 1998, or in both years;
3. The following information pertaining to the source's operation during the period(s) specified in (c)2 above:
  - i. For each type of fuel allowed to be combusted in the source, the lowest allowable NO<sub>x</sub> emission rate applicable during the period(s), expressed in pounds per MMBtu;
  - ii. For each type of fuel allowed to be combusted in the source, the total amount of each type combusted in the source during the period(s), expressed in MMBtu; and
  - iii. The total heat input to the source during the period(s), expressed in MMBtu;
4. The following information pertaining to the source's operation during the period of the May 1 through September 30, during two previous years. This information shall be submitted for the two years immediately preceding the submission of the claim, unless the owner or operator can demonstrate that the May 1 through September 30 periods in two other consecutive years within the last five years are more representative of normal source operation. In such case, the information shall be submitted for the May 1 through September 30 period in each of the five years immediately preceding the submission:

i. The total NO<sub>x</sub> emissions of the source during each May 1 through September 30 period, expressed in pounds;

ii. The total heat input to the source during each May 1 through September 30 period, expressed in MMBtu;

iii. The net electric output of source during each period, expressed in MW-hr;

iv. The net useful heat output of the source, during each period, expressed in MMBtu.

5. If the source operated in 1990:

i. The total NO<sub>x</sub> emissions of source during the period of May 1 through September 30, 1990, expressed in pounds; and

ii. The total heat input to the source during the period of May 1 through September 30, 1990, expressed in MMBtu;

6. If the early reductions are being realized as a result of repowering or replacing a budget source which operated in 1990:

i. Proof that the original budget source which operated in 1990 permanently shut down prior to September 30, 1998, and the date on which shutdown occurred;

ii. Proof that a permit for construction for the repowered or replacement source has been issued and the date on which operation of the repowered or replacement source commenced is after October 1, 1990;

iii. The NO<sub>x</sub> emissions of source that has been repowered or replaced during the period of May 1 through September 30, 1990, expressed in pounds; and

iv. The total heat input to the original source during the period of May 1 through September 30, 1990, expressed in MMBtu;

7. If the source commenced operation after 1990, but (c)6 above does not apply:

i. The total heat input to the source during each May 1 through September 30 period for the most recent five years of operation; and

ii. The total NO<sub>x</sub> emissions of the source during each May 1 through September 30 period for the most recent five years of operation;

8. A detailed description of the method by which each piece of data specified in (c)3 through 7 above was collected and calculated, including all assumptions upon which the methods were based;

9. Estimates of the level of inaccuracy and degree of uncertainty of each piece of data specified in (c)3 through 7 above, and an explanation of any adjustment factor(s) applied to correct for any significant resulting inaccuracy;

10. The calculations made to determine the number of early reduction credits claimed specified in (d), (e), and (f) below as applicable;

11. One of the following:

i. A statement that the 1997 and/or 1998 emission reductions on which the claim for early reductions is being based have not been used and will not be used, in whole or in part, as a basis for generating DER credits pursuant to N.J.A.C. 7:27-30 or emission offsets pursuant to N.J.A.C. 7:27-18; or

ii. Proof of permanent retirement of any DER credits generated pursuant to N.J.A.C. 7:27-30 and of any emission offsets created pursuant to N.J.A.C. 7:27-18 which are based in whole or in part, on the 1997 and/or 1998 emission reductions which are the basis for the early reduction being claimed; and

12. Certification pursuant to N.J.A.C. 7:27-1.39.

(d) The amount of early reductions eligible to be claimed for a given May 1 through September 30 period, by a source calculated in accordance with the following, with adjustments made for inaccuracy and uncertainty in accordance with (j) below:

$$\text{Early Reductions} = \left( \frac{E_B}{P_B} - \frac{E_P}{P_P} \right) \times P_P$$

Where

- $E_B$  = The total baseline NO<sub>x</sub> emissions of the source as determined in accordance with (e) below, expressed in tons.
- $P_B$  = The total baseline productivity of the source as determined in accordance with (f) below;
- $E_P$  = The total emissions of the source during the May 1 through September 30 period for which early reductions are being claimed as determined in accordance with (g) below, expressed in tons, and
- $P_P$  = The total productivity of the source during the May 1 through September 30 period for which early reductions are being claimed as determined in accordance with (h) below.

(e) The total baseline emissions ( $E_B$ ) for the purpose of calculation in (d) above shall be determined in accordance with the following:

1. Determine the baseline emission rate. This rate shall be expressed in pounds per MMBtu and shall be the lowest of the following rates:

i. If the source is a fossil fuel fired indirect heat exchanger with a maximum rated heat input capacity of at least 250 MMBtu per hour, the greater of 0.20 pounds NO<sub>x</sub> per MMBtu or 35 percent of the 1990 actual NO<sub>x</sub> baseline emission rate of the source (expressed in pounds per MMBtu) and determined by dividing the total NO<sub>x</sub> emissions of the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5i above, by the total heat input to the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5ii above;

ii. The source's actual 1990 NO<sub>x</sub> baseline emission rate, determined by dividing the total NO<sub>x</sub> emissions of the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5i above, by the total heat input to the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5ii above; or if the source had commenced operation after 1990, the average actual emission rate during the May 1 through September periods selected pursuant to (e)2 below; or

iii. The lowest allowable NO<sub>x</sub> emission rate of the source for the period May 1 through September 30 of the year for which early reductions are being calculated. If the lowest allowable NO<sub>x</sub> emission rate of the source is a RACT Alternative Emission Limit, then the RACT emission limit as specified at N.J.A.C. 7:27-19 shall be the baseline emission rate. If more than one type of fuel was combusted during the period, then the lowest allowable NO<sub>x</sub> emission rate of the source shall be a heat input weighted average of lowest allowable NO<sub>x</sub> emission rate for each fuel type;

2. Determine the utilization for the source in accordance one of the following three methods:

i. If the May 1 through September 30 period during the two years immediately preceding the submission of the claim are representative of normal source operation, the utilization shall be an average of the actual heat input to the source during the two consecutive May 1 through September 30 periods;

ii. If the owner or operator can demonstrate that two other May 1 through September 30 periods within the last five years are more representative of normal source operation, the utilization shall be an average of the actual heat input to the source during these other two consecutive May 1 through September 30 periods; or

iii. If the owner or operator of the source can document that the source had not operated during one of the two consecutive May 1 through September 30 periods preceding the submission of the claim, the utilization shall be the total heat input to the source during the single previous May 1 through September 30 periods immediately preceding the submission of the claim;

3. Calculate the source's average baseline emissions by multiplying the baseline emission rate determined in 1 above by the utilization determined in (c)2 above; and

4. The total baseline emissions ( $E_B$ ) to be used in (d) above shall be the average baseline emissions calculated in (c)3 above, unless the source was operating in 1990 and this average is greater than the source's actual 1990 emissions during the period May 1 through September 30, 1990 as reported pursuant to (c)5i above. In such case, the total baseline emissions ( $E_B$ ) shall be the source's actual 1990 emissions during the period May 1 through September 30, 1990.

(f) The total productivity ( $P_B$ ) for the purpose of calculation in (d) above shall be determined in accordance with the following:

1. Establish the applicable productivity period. If the baseline emissions ( $E_B$ ) determined in (e) above is calculated using a value of utilization based on:

i. Emissions in 1990, the applicable productivity period is May 1 through September 30, 1990;

ii. Emissions in two consecutive years, the applicable productivity period is the two May 1 through September 30 periods in those two consecutive years; or

iii. Emissions during the single May 1 through September 30 period immediately preceding the submission of the claim, the applicable productivity period is that single period;

2. For sources that produce electricity, the baseline productivity is:

i. If the applicable period is a two consecutive years period, the average net electric output, expressed in MW-hr, of the source during the two consecutive periods; and

ii. If the applicable productivity period is a single May 1 through September 30 period in 1990 or in a most recent year, the average net electric output, expressed in MW-hr, during the period in that single year;

3. For sources that produce useful energy other than electricity, the baseline productivity is:

i. If the applicable period is a two consecutive years period, the average net useful heat output, expressed in MW-hr, of the source during the two consecutive periods; and

ii. If the applicable productivity period is a single May 1 through September 30 period in 1990 or in a most recent year, the average net useful heat output, expressed in MW-hr, during the period in that single year;

4. For sources that produce both electricity and other useful energy, the sum of the results of (f)2 and 3 above.

(g) The source's total emissions ( $E_p$ ) during the May 1 through September 30 period for which early reductions are being claimed, for the purposes of the calculation in (d) above, shall be the total  $\text{NO}_x$  emissions as reported under (c)4i above.

(h) The total productivity of the source ( $P_p$ ), during the May 1 through September 30 period for which early reductions are being claimed, for the purposes of the calculation in (d) above, shall be determined in accordance with the following:

1. For sources that produce electricity, the total net electric output, expressed in MW-hr, during the May 1 through September 30 period for which early reductions are being claimed;

2. For sources that produce useful energy other than electricity, the total net useful heat output, expressed in MW-hr, during the May 1 through September 30 period for which early reductions are being claimed; and

3. For sources that produce both electricity and other useful energy, the sum of the results of (h)1 and 2 above.

(i) The amount of early reductions eligible to be claimed by a source which has been repowered or by a new source which has replaced a budget source shall be calculated in accordance with (d) above, except that:

1. The total baseline emissions of the source ( $E_B$ ) and the baseline productivity of the source ( $P_B$ ) shall be based on the original source; and

2. The determination of the total productivity and the source's total emissions ( $E_p$ ) during the May 1 through September 30 period (PP) shall be based on the operation of the repowered source or the new replacement source.

(j) (Reserved)

(k) The Department shall approve all claims for early reduction credits upon verification by the Department that the reductions are real, properly quantified, and surplus. If the information submitted pursuant to (c) above is reviewed and found by the Department as true, accurate and complete, and if the early reduction credits are calculated in accordance with the procedures in (d) above, then the early reduction credits shall be considered real, properly quantified, and surplus.

(l) The Department shall deny any claim for early reduction credits if:

1. The claim is not submitted in accordance with (b) above;

2. The claim is missing any information required in (c) above;

3. The claim contains any piece of information that the Department determines is not true, accurate or complete; or

4. The number of credits being claimed have not been calculated properly in accordance with (d) above.

(m) Notwithstanding (l)4 above, if during its review of a claim, the Department finds that the claimant has claimed an inappropriate number of early reduction credits due to a clear computational error, the Department shall so inform the claimant and adjust the number early reduction credits in lieu of denying the claim.

(n) On or before May 1, 1999, in order to provide the interested public an opportunity to comment, the Department shall publish a notice in the New Jersey Register which sets forth the number of early reduction credits the Department intends to convert into allowances, and lists each owner or operator who generated credits. In addition, the Department shall seek comment from the members of the OTC who are also implementing NO<sub>x</sub> Budget Programs.

(o) The notice published in accordance with (n) above shall provide a comment period of at least 30 days commencing with the New Jersey Register's date of publication. The Department shall take into consideration all relevant comments received during the comment period when making its final determination as to whether to approve the claim for early reduction credit. If, at the time of approval of a claim for early reduction credits, the amount of early reduction allowances is more than the amount specified in the notice of intent to approve published in the New Jersey Register, pursuant to (n) above, the Department shall publish a second notice in which it specifies this revised amount and sets forth the reasons for this revision.

(p) The Department shall provide the following information to the NATS Administrator and to USEPA, Region II.

1. A list of all sources that have generated approved early reduction credits;
2. The number of early reduction allowances approved for each source; and
3. Specification of whether each owner or operator has elected to receive the allowances or to accept an amount of DER credits, equivalent in value to the early reduction allowances.

Public Notice: NO<sub>x</sub> Budget Program early reduction claim approval.  
See: 31 N.J.R. 1108(b).  
Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).  
See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).  
In (e)1i, added "if the source had commenced operation after 1990, the average actual emission rate during the May 1 through September periods selected pursuant to (e)2 below, or" at the end.

#### 7:27-31.13 NO<sub>x</sub> Allowance Tracking System (NATS)

(a) The NO<sub>x</sub> Allowance Tracking System (NATS) is the official electronic database serving the NO<sub>x</sub> Budget Program which tracks all allowance transfer, use and retirement. The NATS shall keep track of each allowance held in each account and shall provide information for a specific time period such as the following:

1. The allowances transferred to and from each account;
2. The allowances retired; and
3. The allowances deducted for end-of season reconciliation purposes.

(b) Each allowance tracked in the NATS shall have a unique identification number, assigned by the NATS Administrator. The serial number of each allowance shall indicate the initial year the allowance may be used for compliance with the end-of-season reconciliation requirements.

(c) The NATS Administrator shall associate the following information, at minimum, with each account: name of account owner(s) and operator(s), name of the authorized account representative, name of the alternative authorized account representative, mailing address of the authorized account representative, phone number of the authorized account representative, and the State in which the budget source is located (if applicable). This information shall be gathered from the form used to create the account.

(d) The NATS Administrator shall establish and maintain accounts in the NO<sub>x</sub> Allowance Tracking System (NATS), including:

1. On behalf of the owner or operator of each budget source, a source-specific compliance account for each budget source;
2. On behalf of the Department, general accounts that will serve as the Department's "primary" account and other "reserve" accounts for allocation purposes pursuant to N.J.A.C. 7:27-31.7;
3. A retirement account to which allowances that have been deducted for end-of-season reconciliation shall be transferred, a retirement account to which allowances used for penalty purposes will be transferred, and a retirement account to which allowances which are voluntarily retired shall be transferred; and
4. A general account for a person who submits a complete General Account Information form in accordance with (o) below.

(e) Requests for the establishment of an account and any other communication directed to the NATS Administrator shall be addressed as follows:

ATTN: NO<sub>x</sub> BUDGET PROGRAM  
United States Environmental Protection Agency  
Clean Air Markets Division—Mail Code 6204J  
401 M Street SW  
Washington, DC 20460

(f) The NATS Administrator may, at upon its discretion and on its own motion, correct any error in any NO<sub>x</sub> Allowance Tracking System account. Within 10 business days of making such correction, the NATS Administrator shall notify the authorized account representative for the account.

(g) The holder of a compliance account shall designate an authorized account representative and one alternate authorized account representative for the account in accor-

dance with (j) below. The NATS Administrator shall assign each authorized account representative a unique identification number.

(h) The authorized account representative and the alternate authorized account representative are the sole persons who may submit:

1. A request for a transfer of one or more allowances from the NATS account they are authorized to represent to another account; or
2. A report to the NATS on behalf of an account, as required pursuant to N.J.A.C. 7:27-31.16, Reporting.

(i) Even though a request or a report may be submitted by the alternate authorized account representative pursuant to (l) above, the "primary" authorized account representative remains responsible for all allowance transfer requests and for all required reports.

(j) A person may replace an individual who has been previously designated as an authorized account representative or an alternate authorized account representative for a compliance account with another individual. This shall be done through the submission of a new "Account Certificate of Representation" form. Within 30 days following any change in the owner(s) and/or operator(s) of a budget source, including the addition of a new owner or operator, the authorized account representative or alternate authorized account representative shall submit a revision to the account certificate of representation up-dating the list of owners and operators. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous AAR or alternate AAR prior to the time and date when the NATS Administrator receives the superseding account certificate of representation shall be binding on the new AAR, alternate AAR and the owners and operators of the facility and the budget units at the facility.

(k) All correspondence from the NATS Administrator to the holder of an account shall be directed to the primary authorized account representative of the account.

(l) The designation of an authorized account representative for compliance account shall be submitted to the Department no later than when any monitoring plan is due to be submitted to the Department pursuant to N.J.A.C. 7:27-31.14 or, if applicable, when an opt-in application is submitted to the Department pursuant to N.J.A.C. 7:27-31.4.

(m) The following procedure shall be used for the designation of an authorized account representative or an alternate authorized account representative of a compliance account:

1. The holder of the account shall obtain from the NATS Administrator the form entitled "Account Certificate of Representation";

2. The holder of the account shall provide the information requested on the form. This shall include, at a minimum, the following:

- i. A brief description of the budget source, the name of the facility at which the source is located, and the state in which the budget source is located;
- ii. The identification numbers for the budget source, including any number assigned by the state and any number assigned by the facility;
- iii. The name, mailing address, telephone and facsimile number of the authorized account representative and of any alternate authorized account representative; and
- iv. A list of the owners and operators of the budget source;

3. The "Account Certificate of Representation" form shall contain the following statement of certification, and the authorized account representative shall sign the form and, in doing so, shall attest to this certification:

i. Until the NATS Administration provides a revised form for use for the years 2003 and thereafter: "I certify that I, \_\_\_\_\_ (name) \_\_\_\_\_, was selected as the authorized account representative as applicable by an agreement binding on the owners and operators of the budget source legally designated as \_\_\_\_\_ (name of source) \_\_\_\_\_."

ii. Once the NATS Administrator provides the revised form: "I certify that I was selected as the NO<sub>x</sub> authorized account representative or alternate NO<sub>x</sub> authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO<sub>x</sub> Budget source and each NO<sub>x</sub> Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO<sub>x</sub> Budget Trading Program on behalf of the owners and operators of the NO<sub>x</sub> Budget source and of each NO<sub>x</sub> Budget unit at the 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 permitting authority, the Administrator, or a court regarding the source or unit."

4. The authorized account representative shall submit the completed and signed form to the NATS Administrator at the address listed on the form or the instructions to the form. A completed and signed form constitutes the agreement of representation. Upon receipt of the form by the NATS Administrator, the named individual(s) are officially designated the authorized account representative and the alternate authorized account representative; and

5. Once the NATS Administrator has recorded the designation of the named individual as authorized account representative or the alternate authorized account representative, the NATS Administrator shall confirm the designation to the holder of the account.

(n) Unless a specific certification statement is otherwise specified in this subchapter or unless a specific certification statement is otherwise pre-printed on a form issued by the NATS Administrator, for any submission relating to compliance with this subchapter for the year 2003 and thereafter, the following certification from the AAR of a compliance account shall accompany the submission: "I am authorized to make this submission on behalf of the owners and operators of the NO<sub>x</sub> Budget sources or NO<sub>x</sub> Budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(o) The following disclaimers apply concerning compliance accounts:

1. Once a complete account certificate of representation has been submitted and received, the Department and the NATS Administrator will rely on the account certificate of representation unless and until a superseding complete account certificate of representation is received by the NATS Administrator.

2. Except as provided in (j) above, no objection or other communication submitted to the Department or the NATS Administrator concerning the authorization, or any representation, action, inaction, or submission of the NO<sub>x</sub> authorized account representative shall affect any representation, action, inaction, or submission of the NO<sub>x</sub> authorized account representative or the finality of any decision or order by the Department or the NATS Administrator under the NO<sub>x</sub> Budget Trading Program.

3. Neither the Department nor the NATS Administrator shall adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO<sub>x</sub> authorized account representative, including private legal disputes concerning the proceeds of NO<sub>x</sub> allowance transfers.

(p) The NATS Administrator shall establish a general account for any person who completes and submits a General Account Information form to the NATS Administrator in accordance with the following:

1. To establish a general account for the purpose of holding and transferring allowances, a person shall submit

a complete application for a general account to the NATS Administrator and shall include the following elements in a format prescribed by the NATS Administrator:

i. The name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the AAR and any alternate AAR;

ii. At the option of the AAR, the organization name and type of organization;

iii. A list of all persons subject to a binding agreement for the AAR or any alternate AAR to represent their ownership interest with respect to the allowances held in the general account;

iv. The following certification statement by the AAR and any alternate AAR: "I certify that I was selected as the NO<sub>x</sub> authorized account representative or the NO<sub>x</sub> alternate authorized account representative, as applicable, by an agreement binding that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO<sub>x</sub> Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator, or a court regarding the general account";

v. The signature of the AAR and any alternate AAR and the dates signed; and

vi. Unless otherwise required by the Department or the NATS Administrator, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or the NATS Administrator. Neither the Department nor the NATS Administrator shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted; and

2. Upon receipt by the NATS Administrator of a complete application for a general account under (o)1 above:

i. The NATS Administrator will establish a general account for the person or persons for whom the application is submitted;

ii. The AAR and any alternate AAR for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO<sub>x</sub> allowances held in the general account in all matters pertaining to the NO<sub>x</sub> Budget Trading Program, notwithstanding any agreement between the AAR or any alternate AAR and such person. Any such person shall be bound by any order or decision issued to the AAR or any alternate AAR by the NATS Administrator or a court regarding the general account;

iii. Each submission concerning the general account shall be submitted, signed, and certified by the AAR or any alternate AAR for the persons having an ownership interest with respect to NO<sub>x</sub> allowances held in the general account. Each such submission shall include the following certification statement by the AAR or any alternate AAR: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO<sub>x</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment"; and

iv. The NATS Administrator will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with (o)2iii above;

3. The following apply to the establishment of an alternate AAR for a general account and to the submissions to the NATS Administrator from an alternative AAR.

i. An application for a general account may designate one and only one AAR and one and only one alternate AAR who may act on behalf of the AAR. The agreement by which the alternate AAR is selected shall include a procedure for authorizing the alternate AAR to act in lieu of the AAR;

ii. Upon receipt by the NATS Administrator of a complete application for a general account under (o)1 above, any representation, action, inaction, or submission by any alternate AAR shall be deemed to be a representation, action, inaction, or submission by the AAR;

4. The following pertain to the changing of information associated with a general account:

i. The AAR for a general account may be changed at any time upon receipt by the NATS Administrator of a superseding complete application for a general account in accordance with (o)1 above. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous AAR prior to the time and date when the NATS Administrator receives the superseding application for a general account shall be binding on the new AAR and the persons with an ownership interest with respect to the allowances in the general account;

ii. The alternate AAR for a general account may be changed at any time upon receipt by the NATS Administrator of a superseding complete application for a general account in accordance with (o)1 above. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate AAR prior to the time and date when the NATS Administrator receives the superseding application for a general account shall be binding on the new alternate AAR and the persons with an ownership interest with respect to the allowances in the general account;

iii. The following pertain to the changing of ownership of a general account:

(1) In the event a new person having an ownership interest with respect to NO<sub>x</sub> allowances in the general account is not included in the list of such persons in the account certificate of representation, such new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the AAR and any alternate AAR of the source or unit, and the decisions, orders, actions, and inactions of the NATS Administrator, as if the new person were included in such list;

(2) Within 30 days following any change in the persons having an ownership interest with respect to NO<sub>x</sub> allowances in the general account, including the addition of persons, the AAR or any alternate AAR shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to NO<sub>x</sub> allowances in the general account to include the change;

5. The following disclaimers apply concerning general accounts:

i. Once a complete application for a general account pursuant to (o)1 above has been submitted and received, the NATS Administrator will rely on the application unless and until a superseding complete application for a general account pursuant to (o)1 above is received by the NATS Administrator.

ii. Except as provided at (o)4 above, no objection or other communication submitted to the NATS Administrator concerning the authorization, or any representation, action, inaction, or submission of the AAR or any alternate AAR for a general account shall affect any representation, action, inaction, or submission of the AAR or any alternate AAR or the finality of any decision or order by the NATS Administrator under the NO<sub>x</sub> Budget Trading Program.

iii. The NATS Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO<sub>x</sub> authorized account representative or any alternate NO<sub>x</sub> authorized account representative for a general account, including private legal disputes concerning the proceeds of NO<sub>x</sub> allowance transfers.

(q) The authorized account representative of a general account may instruct the NATS Administrator to close the account by submitting both a statement requesting deletion of the account from the NO<sub>x</sub> Allowance Tracking System and a correct and complete allowance transfer request for the transfer of all allowances in the account to one or more other NO<sub>x</sub> Allowance Tracking System accounts.

(r) If a general account shows no activity for a period of a year or more and does not contain any allowances, the NATS Administrator may notify the authorized account representative for the account that the account will be closed and deleted from the NO<sub>x</sub> Allowance Tracking System following 20 business days after the notice is sent. The NATS Administrator will close the account after the 20-day period unless before the end of the 20-day period the NATS Administrator receives a correct and complete allowance transfer request for transfer of allowances into the account or a statement submitted by the authorized account representative demonstrating to the satisfaction of the NATS Administrator good cause as to why the account should not be closed.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

Sec. 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

Rewrote the section.

#### 7:27-31.14 Emissions monitoring

(a) For the years 1999 through 2002, the owner or operator of each budget source shall monitor the NO<sub>x</sub> emissions from each budget source as specified by this section, by the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program," the "Electronic Data Reporting: Acid Rain Program/NO<sub>x</sub> Budget Program—Version 2.0," and the "NO<sub>x</sub> Budget Program Monitoring Certification and Reporting Instructions." For the years 2003 and beyond, the owner or operator of each budget source shall monitor the NO<sub>x</sub> emissions from each budget source as specified in (i) below and by 40 CFR Part 75.

(b) By August 16, 1998, the owner or operator of each budget source that commenced operation as of August 16, 1998 shall submit to the Department a total of three copies of the monitoring plan, which includes diskette and papercopy attachments, in accordance with the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program" and this section. The monitoring plan shall be submitted to the following address:

ATTN: NO<sub>x</sub> BUDGET MONITORING PLAN  
New Jersey Department of Environmental Protection  
Bureau of Technical Services  
380 Scotch Road  
PO Box 411  
Trenton, NJ 08625-0411

(c) The owner or operator of each budget source that commenced operation as of August 16, 1998 shall install and commence operation of the emission monitoring systems set forth in the approved plan by no later than 60 days after the Department approves the monitoring plan or no later than a date otherwise specified in the approval of the monitoring plan. The owner or operator of each budget source shall ensure that the emission monitoring systems meet all the certification testing requirements specified in the "Guidance for Implementation of Emission Monitoring Requirements of the NO<sub>x</sub> Budget Program" by no later than April 30, 1999. Notification of testing and test protocols shall be submitted to the Department's Bureau of Technical Services at least 30 days (preferably 60 days) in advance of any certification testing.

(d) The owner or operator of each budget source that commences operation after August 16, 1998 shall:

1. Submit a monitoring plan to the address listed in (b) above in accordance with the following schedule:

i. If the permit application for the source has already been submitted to the Department as of August 16, 1998, the plan shall be submitted as of August 16, 1998; and

ii. If the permit application for the source has not been submitted to the Department as of August 16, 1998, the plan shall be submitted at the time specified by the Department in the conditions of the permit approval.

2. Install and operate the emission monitoring systems and ensure that they have met all of the certification testing requirements as required by this section by no later than May 1 of the year following the date when operation of the source commences.

(e) For the years 1999 through 2002, the owner or operator shall perform initial testing and periodic calibration, accuracy testing and quality assurance/quality control testing of all monitoring systems for each budget source as specified in the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(f) During a period when valid data is not being recorded by monitoring devices approved for use to demonstrate compliance with this subchapter, missing or invalid data shall be replaced with representative data in accordance with the missing data provisions of 40 C.F.R. Part 75 and, for the years 1999 through 2002, the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(g) Notwithstanding (f) above, during the period from when monitoring systems are required to be installed and operated through the earlier of the provisional certification date of the monitors and April 30, 1999, data regarding the source shall be reported, and the owner or operator shall provide an assessment, based on sound engineering judg-

ment, as to whether the data meets the quality assurance tests in the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program" and is representative of actual data based on sound engineering judgement. During any other periods when the source is operating or if the data does not meet existing State quality assurance requirements, invalid data shall be replaced with representative data in accordance with the missing data provisions of 40 C.F.R. Part 75 and, for the years 1999 through 2002, the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program."

(h) Only for monitoring to take place during the years 1999 through 2002, as part of the monitoring plan submittal to the Department, the owner or operator of a budget source may petition the Department to use an alternative monitoring system to what is otherwise specifically applicable and specifically prescribed to a particular unit as indicated in the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program." If the Department determines that the accuracy or reliability of a method is not comparable to other approved methods, the Department may disallow the use of such method or may require the use of corrective factors to be included in the method. The Department shall not approve an alternative method for determining NO<sub>x</sub> emission rate if the source has installed or is required to install and operate a NO<sub>x</sub> CEMS. The Department will provide an opportunity for review by USEPA and other State environmental agencies before approving any alternative monitoring systems. The Department shall submit any approved monitoring plans containing alternative methods to the USEPA.

(i) Subsections (j) through (aa) below generally apply to the monitoring and reporting of NO<sub>x</sub> emissions from budget sources during the 2003 control period and thereafter. For purposes of complying with the provisions below which require compliance with monitoring and/or reporting requirements in 40 CFR part 75, the definitions in N.J.A.C. 7:27-31.2 shall be applied to the use of terms in 40 CFR 75: and the terms "affected unit," "designated representative" and "continuous emission monitoring system" as used in 40 CFR part 75 shall be considered to have the meanings of the terms "budget source," "authorized account representative" and "continuous emission monitoring system" respectively as these terms are defined in N.J.A.C. 7:27-31.2.

(j) Regarding installation, certification of monitoring systems, and data accounting, the owner or operator of each budget source shall meet the requirements in (j)1 through 4 below. These provisions also apply to a source for which an application for a NO<sub>x</sub> Budget opt-in permit is submitted and not denied or withdrawn, as provided at N.J.A.C. 7:27-31.4. The owner or operator shall:

1. Install all monitoring systems required under this section for monitoring NO<sub>x</sub> mass. This includes all systems required to monitor NO<sub>x</sub> emission rate, NO<sub>x</sub> concentration, heat input, and flow, in accordance with 40 C.F.R. 75.72 and 75.76;

2. Install all monitoring systems for monitoring heat input;

3. Successfully complete all certification tests required pursuant to (n) through (q) below and meet all other provisions of this section and 40 CFR 75 applicable to the monitoring systems under (j)1 and 2 above; and

4. Record and report data from the monitoring systems under (j)1 and 2 above.

(k) The owner or operator shall meet the requirements of (j)1 through 3 above on or before the following dates and shall record and report data on and after the following dates:

1. Budget sources that commence operation before January 1, 2002, shall comply with the requirements of this section by May 1, 2002;

2. Budget sources that commence operation on or after January 1, 2002 and that report on an annual basis under (x) below must comply with the requirements of this section by the later of the following dates:

i. May 1, 2002; or

ii. The earlier of:

(1) 180 days after the date on which the source commences operation; or

(2) For any source that, any time on or after January 1, 1995, serves an electric generator with a nameplate capacity greater than 25 MW and sells any amount of electricity, 90 days after the date on which the source commences commercial operation;

3. Budget sources that commence operation on or after January 1, 2002 and that report on a control season basis under (x) below shall comply with the requirements of this section by the later of the following dates:

i. The earlier of:

(1) 180 days after the date on which the source commences operation; or

(2) For any source that, any time on or after January 1, 1995, serves an electric generator with a nameplate capacity greater than 25 MW and sells any amount of electricity, 90 days after the date on which the source commences commercial operation; or

ii. If the applicable deadline under (k)3i above does not occur during a control period, the May 1 immediately following the date determined in accordance with (k)3i above;

4. For a budget source with a new stack or flue for which construction is completed after the applicable deadline under (k)1, 2 or 3 above or N.J.A.C. 7:27-31.4:

i. Ninety days after the date on which emissions first exit to the atmosphere through the new stack or flue; or

ii. If the source reports on a control season basis under (x) below and the applicable deadline under (k)4i above does not occur during the control period, the May 1 immediately following the applicable deadline in (k)4i above; and

5. For a source for which an application for a NO<sub>x</sub> Budget opt-in permit is submitted and not denied or withdrawn, the compliance dates specified N.J.A.C. 7:27-31.4.

(l) The owner or operator of a budget source under (k)3 or 4 above shall determine, record and report NO<sub>x</sub> mass, heat input and any other values required to determine NO<sub>x</sub> mass (for example, NO<sub>x</sub> emission rate and heat input or NO<sub>x</sub> concentration and stack flow) using the provisions of 40 CFR 75.70(g), from the date and hour that the source starts operating until all required certification tests are successfully completed.

(m) No owner or operator of a budget source or a non-budget source monitored under 40 CFR 75.72(b)(2)(ii) shall:

1. Use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with (y) and (z) below:

2. Operate the source so as to discharge, or allow to be discharged, NO<sub>x</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75, except as provided for in 40 CFR 75.74;

3. Disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO<sub>x</sub> mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75 of this chapter, except as provided for in 40 CFR 75.74; and

4. Retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this section, except under any one of the following circumstances:

i. During the period that the source is covered by a retired source exemption that is in effect;

ii. The owner or operator is monitoring emissions from the source with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75, by the Department for use at that source that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

iii. The authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with (o)2 below.

(n) The owner or operator of a budget source that is subject to an acid rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR 75, except that:

1. If, prior to January 1, 1998, the NETS Administrator approved a petition under 40 CFR 75.17(a) or (b) for apportioning the NO<sub>x</sub> emission rate measured in a common stack or a petition under 40 CFR 75.66 for an alternative to a requirement in 40 CFR 75.17, the authorized account representative shall resubmit the petition to the NETS Administrator under 40 CFR 96.75(a) to determine if the approval applies under the NO<sub>x</sub> Budget Program; and

2. For any additional CEMS required under the common stack provisions in 40 CFR 75.72, or for any NO<sub>x</sub> concentration CEMS used under the provisions of 40 CFR 75.71(a)(2), the owner or operator shall meet the requirements of (b) above.

(o) The owner or operator of a budget source that is not subject to an acid rain emissions limitation shall comply with the following initial certification and recertification procedures, except that the owner or operator of a source that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 shall also meet the requirements of (p) below and the owner or operator of a source that qualifies to use an alternative monitoring system under subpart E of 40 CFR 75 shall also meet the requirements of (q) below. The owner or operator of a budget source that is subject to an acid rain emissions limitation, but requires additional CEMS under the common stack provisions in 40 CFR 75.72, or that uses a NO<sub>x</sub> concentration CEMS under 40 CFR 75.71(a)(2) shall also comply with the following initial certification and recertification procedures:

1. The owner or operator shall ensure that each monitoring system required by subpart H of 40 CFR 75 (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in 40 CFR 96.70(b). In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this subchapter in a location where no such monitoring system was previously installed, initial certification according to 40 CFR 75.20 is required:

2. Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that the NETS Administrator or the Department determines significantly affects the ability of the system to

accurately measure or record NO<sub>x</sub> mass emissions or heat input or to meet the requirements of 40 CFR 75.21 or Appendix B of 40 CFR 75, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the source's operation that the NETS Administrator or the Department determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to 40 CFR 75.20(b). Examples of changes which require recertification include, but are not limited to: replacement of the analyzer or change in location or orientation of the sampling probe or site; and

3. The certification approval process for initial certifications and recertification is as follows:

i. The authorized account representative shall submit to the Department and the USEPA Regional Office a written notice of the dates of certification in accordance with (t) below;

ii. The authorized account representative shall submit to the Department a certification application for each monitoring system required under subpart H of 40 CFR 75. A complete certification application shall include the information specified in subpart H of 40 CFR 75;

iii. Except for sources using the low mass emission excepted methodology under 40 CFR 75.19, the provisional certification date for a monitor shall be determined using the procedures set forth in 40 CFR 75.20(a)(3). A provisionally certified monitor may be used under the NO<sub>x</sub> Budget Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under paragraph (o)3ii above. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department;

iv. The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under (o)3ii above. In the event the Department does not issue such a notice within such 120-day period, each monitoring system included in the certification application as having met the applicable performance requirements of 40 CFR 75 will be deemed certified for use under the NO<sub>x</sub> Budget Program. The approval process is as follows:

(1) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75, then the Department will issue a written notice of approval of the certification application within 120 days of receipt;

(2) A certification application will be considered complete when all of the applicable information required to be submitted under (o)3ii above has been received by the Department. If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the authorized account representative must submit the additional information required to complete the certification application. If the authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under (o)3iv(3) below;

(3) If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this subchapter, or if the certification application is incomplete and the requirement for disapproval under (o)3iv(2) above has been met, the Department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in (o)3v below for each monitoring system or component thereof which is disapproved for initial certification; and

(4) The Department may issue a notice of disapproval of the certification status of a monitor in accordance with (s) below; and

v. If the Department issues a notice of disapproval of a certification application under (o)3iv(3) or a notice of disapproval of certification status under (o)3iv(4) above, then:

(1) The owner or operator shall substitute the following values, for each unit operating hour during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i):

(A) For sources using or intending to monitor for NO<sub>x</sub> emission rate and heat input or for sources using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential NO<sub>x</sub> emission rate and the maximum potential hourly heat input of the source; and

(B) For sources intending to monitor for NO<sub>x</sub> mass emissions using a NO<sub>x</sub> pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO<sub>x</sub> and the maximum potential flow rate of the source under section 2.1 of Appendix A of 40 CFR 75;

(2) The authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with (o)3i and ii above; and

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

(p) The owner or operator of a gas-fired or oil-fired source using the low mass emissions excepted methodology under 40 CFR 75.19 shall meet the applicable general operating requirements of 40 CFR 75.10, the applicable requirements of 40 CFR 75.19, and the applicable certification requirements of (n) above through (q) below, except that the excepted methodology shall be deemed provisionally certified for use under the NO<sub>x</sub> Budget Program, as of the following dates:

1. For sources that are reporting on an annual basis under (x) below:

i. For a source that has commenced operation before its compliance deadline under (o) above, from January 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the Department review; or

ii. For a source that commenced operation after its compliance deadline under (o) above, the date of submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for Department review;

2. For sources that are reporting on a control period basis under (x)3ii below:

i. For a source that commenced operation before its compliance deadline under (o) above, where the certification application is submitted before May 1, from May 1 of the year of the submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the Department review; or

ii. For a source that commenced operation before its compliance deadline under (o) above, where the certification application is submitted after May 1, from May 1 of the year following submission of the certifica-

tion application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the Department review;

3. For a source that commences operation after its compliance deadline under (o) above, where the source commences operation before May 1, from May 1 of the year that the source commenced operation, until the completion of the period for the Department's review; and

4. For a source that has not operated after its compliance deadline under (o) above, where the certification application is submitted after May 1, but before October 1st, from the date of submission of a certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the Department's review.

(q) The authorized account representative representing the owner or operator of each source applying to monitor using an alternative monitoring system approved by the NETS Administrator (and, if applicable, the Department) under subpart E of 40 CFR 75 shall apply for certification to the Department prior to use of the system under the NO<sub>x</sub> Budget Program. The authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in (o) above. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in (o)3 above and 40 CFR 75.20(f).

(r) Whenever any monitoring system fails to meet the quality assurance requirements of Appendix B of 40 CFR 75, data shall be substituted using the applicable procedures in Subpart D, Appendix D, or Appendix E of 40 CFR 75.

(s) Whenever an audit of a monitoring system and/or a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it is presently not certifiable or because it did not or does not currently meet a particular performance specification or other requirement under (n) through (q) above or the applicable provisions of 40 CFR 75, either at the time of the initial certification or recertification application submission or at the time of the audit, the Department shall issue a notice of disapproval of the certification status of such system or component. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the Department or the NETS Administrator. By issuing the notice of disapproval, the Department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certifica-

tion or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in 40 CFR 96.71 for each disapproved system.

(t) The authorized account representative for a budget source shall submit written notice to the Department and the NETS Administrator in accordance with 40 CFR 75.61, except that if the source is not subject to an acid rain emissions limitation, the notification is only required to be sent to the Department.

(u) General recordkeeping and reporting provisions are as follows:

1. An authorized account representative shall comply with all recordkeeping and reporting requirements in this section and with the requirements N.J.A.C. 7:27-31.13(o); and

2. If the authorized account representative for a budget source subject to an acid rain emission limitation who signed and certified any submission that is made under subpart F or G of 40 CFR 75 and which includes data and information required under this section or subpart H of 40 CFR 75 is not the same person as the designated representative or the alternative designated representative for the source under 40 CFR Part 72, the submission shall also be signed by the designated representative or the alternative designated representative.

(v) The following apply to monitoring plans:

1. The owner or operator of a source subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62, except that the monitoring plan shall also include all of the information required by Subpart H of 40 CFR 75; and

2. The owner or operator of a source that is not subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62, except that the monitoring plan is only required to include the information required by Subpart H of 40 CFR 75.

(w) The authorized account representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under 40 CFR 96.71 including the information required under Subpart H of 40 CFR 75.

(x) The authorized account representative shall submit quarterly reports, as follows:

1. If a source is subject to an acid rain emission limitation or if the owner or operator of the budget source chooses to meet the annual reporting requirements of this section, the authorized account representative shall submit a quarterly report for each calendar quarter beginning with:

i. For sources commencing operation prior to May 1, 2002, the earlier of the calendar quarter that includes the date of initial provisional certification under (o)3iii above or, if the certification tests are not completed by May 1, 2002, the partial calendar quarter from May 1, 2002 through June 30, 2002. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2002; or

ii. For a source that commences operation after May 1, 2002, the calendar quarter in which the source commences operation, data shall be reported from the date and hour corresponding to when the source commenced operation;

2. If a budget source is not subject to an acid rain emission limitation, then the authorized account representative shall either:

i. Meet all of the requirements of 40 CFR 75 related to monitoring and reporting NO<sub>x</sub> mass emissions during the entire year and meet the reporting deadlines specified in (x)1 above; or

ii. Submit quarterly reports only for the periods from the earlier of May 1 or the date and hour that the owner or operator successfully completes all of the recertification tests required under 40 CFR 75.74(d)(3) through September 30 of each year in accordance with the provisions of 40 CFR 75.74(b). The authorized account representative shall submit a quarterly report for each calendar quarter, beginning with:

(1) For sources commencing operation prior to May 1, 2002, the earlier of the calendar quarter that includes the date of initial provisional certification under (o)3iii above or, if the certification tests are not completed by May 1, 2002, the partial calendar quarter from May 1, 2002 through June 30, 2002. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, 2002;

(2) For the sources that commence operation after May 1, 2002 during the control period, the calendar quarter in which the source commences operation. Data shall be reported from the date and hour corresponding to when the source commenced operation;

(3) For sources that commence operation after May 1, 2002 and before May 1 of the year in which the source commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under (o)3iii above or, if the certification tests are not completed by May 1 of the year in which the source commences operation, May 1 of the year in which the source commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the source commences operation; and

(4) For sources that commence operation after May 1, 2002 and after September 30 of the year in which the source commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under (o)3iii above or, if the certification tests are not completed by May 1 of the year after the source commences operation, May 1 of the year after the source commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the source commences operation;

3. The authorized account representative shall submit each quarterly report to the NETS Administrator within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in Subpart H of 40 CFR 75 and 40 CFR 75.64 and in accordance with the following:

i. For sources subject to an acid rain emissions limitation, quarterly reports shall include all of the data and information required in Subpart H of 40 CFR 75 for each budget source (or group of sources using a common stack) as well as information required in Subpart G of 40 CFR 75; and

ii. For sources not subject to an acid rain emissions limitation, quarterly reports are only required to include all of the data and information required in Subpart H of 40 CFR 75 for each budget source (or group of sources using a common stack); and

4. The authorized account representative shall submit to the NETS Administrator a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the source's emissions are correctly and fully monitored. The certification shall state that:

i. The monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75, including the quality assurance procedures and specifications;

ii. For a source with add-on NO<sub>x</sub> emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the monitoring plan and the substitute values do not systematically underestimate NO<sub>x</sub> emissions; and

iii. For a source that is reporting on a control period basis under (x) above, the NO<sub>x</sub> emission rate and NO<sub>x</sub> concentration values substituted for missing data under subpart D of 40 CFR 75 are calculated using only values from a control period and do not systematically underestimate NO<sub>x</sub> emissions.

(y) The authorized account representative of a budget source that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the NETS

Administrator requesting approval to apply an alternative to any requirement of this section and shall conform with the following:

1. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved by the NETS Administrator, in consultation with the Department; and

2. Notwithstanding (y)1 above, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72, the petition is governed by (z) below.

(z) The following apply to any petition requesting approval to apply for an alternative to any emissions monitoring requirement in this section:

1. The authorized account representative of a budget source that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the Department and the NETS Administrator requesting approval to apply an alternative to any requirement of this section;

2. The authorized account representative of a budget source that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the Department and the NETS Administrator requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72 or a NO<sub>x</sub> concentration CEMS used under 40 CFR 75.71(a)(2); and

3. Application of an alternative to any requirement of this section is in accordance with this section only to the extent the petition under this subsection is approved by both the Department and the NETS Administrator.

(aa) The owner or operator of a source that elects to monitor and report NO<sub>x</sub> Mass emissions using a NO<sub>x</sub> concentration system and a flow system shall also monitor and report heat input at the source level using the procedures set forth in 40 CFR 75.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000)

Sec: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a)

Rewrote the section

#### 7:27-31.15 Recordkeeping

The owner or operator of any budget source shall maintain for each budget source and for five years, a file of all measurements, data, calculations, and reports and other information required by this subchapter.

#### 7:27-31.16 Reporting

(a) In order to allocate allowances pursuant to N.J.A.C. 7:27-31.7, Annual allowance allocation, the Department shall need to rely on information reported by the owners or

operators of budget sources regarding the operation of the sources during May 1 through September 30 of the years 1996, 1997, and 1998. Therefore, the owner or operator of a budget source shall submit the following information, relating to the operation of the source during the May 1 through September 30 of the years 1996, 1997, and 1998 as follows:

1. By October 30, 1998, the owner or operator of a budget source shall submit the information specified in (a)2 below for May 1 through September 30 periods for the years 1996, 1997, and 1998, to the Department at the address listed in (b) below;
2. The following information is required for each of the three years to be submitted for each source for each type of fuel burned on forms available from the Department at the address listed in (b) below:
  - i. Information identifying the budget source and type of combustion unit;
  - ii. The rated fuel capacity of the source (expressed in MMBtu per hour);
  - iii. Whether a restriction on heat input or hours of operation exists, and if so, specify how much fuel or how many hours and specify the period of time for which the restriction applies;
  - iv. For each May 1 through September 30 period:
    - (1) For each type of fuel burned, the heat input, expressed in MMBtu; and
    - (2) For each type of fuel burned, the total actual NO<sub>x</sub> emissions, expressed in pounds;
  - v. For each type of fuel burned, the most stringent applicable allowable NO<sub>x</sub> emission rate, expressed in pounds per MMBtu;
  - vi. Any other information requested by the Department for allocating allowances pursuant to N.J.A.C. 7:27-31.7, Annual allowance allocation; and
  - vii. Certification pursuant to N.J.A.C. 7:27-1.39.

(b) Information submitted to the Department in accordance with (a) above shall be mailed to the following address:

ATTN: NO<sub>x</sub> BUDGET PROGRAM  
 New Jersey Department of Environmental Protection  
 Office of Air Quality Management  
 401 East State Street  
 PO Box 418  
 Trenton, NJ 08625-0418

(c) Within 30 days after the end of the calendar quarter in which monitoring systems are required to be installed and operated pursuant to N.J.A.C. 7:27-31.14(c), and within 30 days of the end of each quarter thereafter for data monitored using CEMS, and within 30 days of the end of each second and third calendar quarter thereafter for data measured or estimated using non-CEMS based methodologies, the authorized account representative for each budget source shall submit, in electronic format which meets the requirements of the USEPA's Electronic Data Reporting (EDR) convention, all information specified in:

1. The "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program" relating to emissions reporting, which includes but is not limited to: NO<sub>x</sub> emission in pounds per hour for every hour during the control period and the total NO<sub>x</sub> emission data for the quarter and the control period in pounds; and
2. The "Electronic Data Reporting: Acid Rain Program/NO<sub>x</sub> Budget Program—Version 2.0" and the "NO<sub>x</sub> Budget Program Monitoring Certification and Reporting Instructions."

(d) In order for the Department to obtain data necessary for the allocation of allowances pursuant to N.J.A.C. 7:27-31.7, in the quarterly EDR submissions to the NETS for each third calendar quarter, the AAR for a budget source shall submit the following information for each budget source regardless as to whether the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program" specifies the reporting of the information:

1. The total heat input, expressed in MMBtu, to the source during the control period if the hourly heat input to the source is not reported in the EDR; and
2. Commencing in the EDR submission for the third quarter 2000, and in each third quarter EDR submission thereafter, the total net electric output and the total net useful heat output for the control period.

(e) After a budget source is permanently shutdown, the AAR for the source may obtain from the Department an exemption from the requirements pertaining to that source at N.J.A.C. 7:27-31.14, Emissions monitoring, 31.15, Recordkeeping, and 31.16, Reporting, in accordance with the following procedures:

1. To obtain an exemption, the AAR shall submit a written request to the Department for exemption at the address:

ATTN: NO<sub>x</sub> BUDGET SHUTDOWN  
 New Jersey Department of Environmental Protection  
 Office of Air Quality Management  
 401 East State Street  
 PO Box 418  
 Trenton, NJ 08625-0418

2. A request for an exemption shall include identification of the budget source and the date of shutdown of the budget source;

3. Upon verification that the source has been permanently shut down, the Department shall approve the request and shall send written approval of exemption from the requirements of N.J.A.C. 7:27-31.14, Emissions monitoring, 31.15, Recordkeeping, and 31.16, Reporting, pertaining to the source to the authorized account representative, and the NETS Administrator. Such approval may contain conditions as deemed necessary by the Department; and

4. If the Department verifies that the source has not been permanently shut down, the Department shall deny the request and shall send written notification of such denial to the AAR of the source.

(f) The AAR of an account from which allowances were transferred pursuant to N.J.A.C. 7:27-31.10, Allowance use, transfer, and retirement, shall make available to the Department upon request information regarding the transaction cost of the transfer and the price received per allowance transferred.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

Added (d)2.

#### 7:27-31.17 End-of-season reconciliation

(a) After each control period, in accordance with the procedures in this section, the NETS Administrator shall conduct the end-of-season reconciliation, during which allowances, equal in emissions value to the source's emissions during the control period, are deducted from each budget source's compliance account.

(b) No allowance may be used during the reconciliation process to satisfy current year compliance obligations if the allowance is identified with a serial number indicating that the first year it may be used is a future year.

(c) For each budget source, the basis for a determination of compliance in the reconciliation process shall be the following:

1. Monitored emissions data as reported by the budget source to the NETS Administrator, as reported to the NETS Administrator pursuant to N.J.A.C. 7:27-31.16, and as adjusted by the NETS Administrator to be in accordance with N.J.A.C. 7:27-31.14, Emissions monitoring; and

2. The balance in the compliance account of the budget source. This balance shall be the total number of allowances available for use in the account as of the allowance transfer deadline after all applicable allowance allocations have been made and after all transfers have been recorded in the NATS.

(d) No allowance that is in a general account, in a retirement account, or in a compliance account for another source shall be used to determine a budget source's compliance with the requirements of N.J.A.C. 7:27-31.3(i) during the end-of-season reconciliation process.

(e) Each year during the period November 1 through the allowance transfer deadline, inclusive, the authorized account representative may request the NATS Administrator to deduct allowances from the compliance account during the reconciliation process for that year's control period in a specific order. This request shall be submitted by the AAR to the NATS Administrator by no sooner than November 1 and no later than the allowance transfer deadline. In the request, the AAR shall identify the account number of the compliance account from which the deductions shall be made and the serial numbers of the allowances to be deducted in order of deduction.

(f) If an AAR fails to submit a request pursuant to (e) above for the compliance account of a budget source, the NATS Administrator shall deduct allowances in the following order:

1. First, those allowances that were allocated directly to the account for the control period;
2. Second, those allowances that were allocated for the control period to another account and subsequently transferred in the account, in order of their date of transfer;
3. Third, those allowances that were allocated directly to the account for a prior control period; and
4. Fourth, those allowances that were allocated for a prior control period to another account and subsequently transferred in the account, in order of their date of transfer.

(g) The NATS Administrator shall reconcile allowances with the NO<sub>x</sub> emissions from each budget source as follows:

1. First, for each opt-in source, if the actual heat input for the control period is less than the heat input used to determine the number of allowances created for the source pursuant to N.J.A.C. 7:27-31.4, then a number of allowances shall be deducted from the compliance account as determined in accordance with the following equation:

$$\text{Allowances} = \frac{E}{HI} \times (HI_B - HI) \times \frac{1}{2,000}$$

Where:

- E = The total NO<sub>x</sub> emission of the source during the control period, expressed in pounds;
- HI = The total heat input to the source, expressed in MMBtu;
- HI<sub>B</sub> = The average heat input used to calculate the number of allowances as determined at N.J.A.C. 7:27-31.4(j)1, expressed in MMBtu; and
- 2,000 = The factor converting pounds into tons;

2. If the NATS Administrator had announced that all banked allowances may be used on a one-for-one basis pursuant to N.J.A.C. 7:27-31.11(c)2i, then one allowance shall be deducted from each budget source's compliance account for each ton of NO<sub>x</sub> emitted from the source during the control period; and

3. If the NATS Administrator had announced that a certain proportion of banked allowances may be used on a one-for-one basis pursuant to N.J.A.C. 7:27-31.11(c)2ii:

i. First, one current year allowance shall be deducted from each budget source's compliance account for each ton of NO<sub>x</sub> emitted from the source during the control period until all NO<sub>x</sub> emissions are accounted for or until no current year allowances remain in the compliance account whichever occurs first;

ii. Second, one banked allowance shall be deducted from each budget source's compliance account for each remaining ton of NO<sub>x</sub> emitted from the source during the control period until all NO<sub>x</sub> emissions are accounted for or until the number of banked allowances that are permitted to be used on a one-for-one basis are exhausted from the compliance account whichever occurs first; and

iii. Third, two banked allowances shall be deducted from each budget source's compliance account for each remaining ton of NO<sub>x</sub> emitted from the source during the control period.

(h) The Department shall notify the holder of an account if it is determined that during the current year or in any preceding year, too many or too few allowances were allocated to an account, due to an error or due to reliance on data that has been subsequently shown to be inaccurate. For any such discrepancy, upon direction from the Department, the NATS Administrator shall deduct or add allowances to the account during the reconciliation process in order to eliminate the discrepancy. If allowances are to be deducted, the holder of the account is responsible for having sufficient allowances in the account by the allowance transfer deadline to cover the deduction. If allowances are to be added, and there are no current year allowances or allowances in an applicable reserve account available, the allowances the NATS Administrator adds shall be taken from the next year's base emission budget.

(i) If during the reconciliation process, there are not enough allowances in a source's compliance account to satisfy the provisions of (g) and (h) above, the owner or operator of the budget source is subject to N.J.A.C. 7:27-31.19, Excess emissions deduction, and to penalties as set forth at N.J.A.C. 7:27A-3, Air Administrative Procedures and Penalties.

(j) In the case of more than one budget source sharing a common stack and having emissions that are not separately monitored or apportioned, the following shall apply:

1. The authorized account representative of the units may identify the percentage of NO<sub>x</sub> allowances to be deducted from each such unit's compliance account to cover the unit's share of NO<sub>x</sub> emissions from the common stack for a control period. Such identification shall be made in the compliance certification report submitted in accordance with N.J.A.C. 7:27-31.18; and

2. The NATS Administrator shall deduct NO<sub>x</sub> allowances for each such budget source until the number of allowances deducted equals the source's identified percentage of the number of tons of NO<sub>x</sub> emissions from the common stack for the control period for which compliance is being determined or, if no percentage is identified, an equal percentage for each such unit.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

In (c), inserted "NETS" preceding "Administrator" in 1, and inserted "available for use" following "allowances" in the second sentence of 2; in (e), deleted references to December 31 throughout, and inserted a reference to the allowance transfer deadline in the first sentence; rewrote (f) and (g); and added (j)

#### 7:27-31.18 Compliance certification

(a) For each control period, the authorized account representative for the budget source shall submit an annual compliance certification to the Department and to the NETS Administrator.

(b) The compliance certification shall be submitted no later than the allowance transfer deadline of each year to the NETS Administrator at the address on the compliance certification form and to the Department at the following address:

ATTN: NO<sub>x</sub> BUDGET COMPLIANCE CERTIFICATION

New Jersey Department of Environmental Protection

Office of Air Quality Management

401 East State Street—PO Box 418

Trenton, NJ 08625-0418

(c) The compliance certification shall be submitted on the NO<sub>x</sub> Annual Compliance Certification Report obtained from the Department or the NETS Administrator or from <http://www.epa.gov/acidrain/otc/otcmain.html> and shall contain, at a minimum:

1. Identification of the budget source, including name, address, name of authorized account representative and NATS account number;

2. A statement indicating whether emissions data has been submitted to the NETS in accordance with the procedures established in N.J.A.C. 7:27-31.16, Reporting, and in conformance with the requirements of the NETS Administrator;

3. A statement indicating whether sufficient allowances are held in the budget source's compliance account as of the allowance transfer deadline to properly account for the budget source's NO<sub>x</sub> emissions during the control period, as determined pursuant to the provisions of N.J.A.C. 7:27-31.17;

4. A statement indicating whether the monitoring plan which governs the budget source was maintained to reflect actual operation of the budget source;

5. A statement verifying that all NO<sub>x</sub> emissions from the budget source were accounted for, either through the applicable monitoring or through application of the appropriate missing data procedures; and

6. Certification pursuant to N.J.A.C. 7:27-31.13(o) or as otherwise indicated on the form.

(d) The Department reserves the right to verify compliance by whatever means necessary, including, but not limited to:

1. Inspection of facility operating records;
2. Obtaining information on allowance deduction and transfers from the NATS;
3. Obtaining information on emissions from the NETS;
4. Testing emission monitoring devices; and
5. Requiring the budget source to conduct emissions testing under the supervision of the Department.

(e) The Department or the NATS Administrator may review and conduct independent audits concerning any compliance certification submitted pursuant to this section or any other submission under the NO<sub>x</sub> Budget Program and make appropriate adjustments of the information in the compliance certifications or other submissions. The NATS Administrator shall deduct NO<sub>x</sub> allowances from or transfer NO<sub>x</sub> allowances to a unit's compliance account based on the information in the compliance certifications or other submissions, as adjusted by the Department or the NATS Administrator pursuant to this subsection.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

Rewrote the section.

#### 7:27-31.19 Excess emissions deduction

(a) If, through the reconciliation process pursuant to N.J.A.C. 7:27-31.17, the NATS Administrator determines that there are not enough allowances in a budget source's compliance account to properly account for the emissions of that source during the control period, the NATS Administrator shall automatically deduct three allowances for each ton of NO<sub>x</sub> emitted for which no allowances were held as of the allowance transfer deadline.

(b) A deduction, made pursuant to (a) above, shall occur when allowances are first available in the compliance account. If allowances are not available at the time of reconciliation, the deduction shall occur when allowances are next allocated pursuant to N.J.A.C. 7:27-31.7 or when allowances are next transferred into the compliance account pursuant to N.J.A.C. 7:27-31.10.

#### 7:27-31.20 Program audit

(a) The Department shall conduct an audit of the NO<sub>x</sub> Budget Program in 2002 and every three years thereafter to ensure that the program is providing expected performance in regards to emissions monitoring and allowance use. Such audits shall include, as appropriate, confirmation of emissions reporting accuracy through validation of CEMS and data acquisition systems at the budget source, and review of allowance transfer and use by budget sources (geographically and temporally). Each periodic audit shall examine the extent to which use of banked allowances has, or has not, contributed to emissions in excess of the budget for each year preceding the audit. The periodic audit shall further provide an assessments to whether the effect of the program is consistent with the requirements for demonstration of reasonable further progress toward or the attainment and maintenance of the National Ambient Air Quality Standard for ozone.

(b) As an alternative, in whole or in part, to the Department's conduct of an audit pursuant to (a) above, the Department reserves the right to request a third party audit of the program. Such third party audit could be implemented on a state by state basis or could be performed on a region-wide basis under the supervision of the Ozone Transport Commission.

(c) If an audit results in one or more recommendations for revision of New Jersey's NO<sub>x</sub> Budget Program, the Department shall consider the audit recommendations, in consultation with the other participating jurisdictions in the OTR. If the Department determines that it is necessary or appropriate, the Department shall propose or recommend to the NATS and NETS Administrator the appropriate changes to current procedures.

#### 7:27-31.21 Guidance documents and sources incorporated by reference

(a) The following documents are incorporated by reference in this subchapter, as are any subsequent revisions thereto:

1. "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program," issued by the Ozone Transport Commission, 444 North Capital Street, NW, Washington, DC 20001, January 28, 1997;

2. "Electronic Data Reporting: Acid Rain Program/NO<sub>x</sub> Budget Program—Version 2.0," issued by the

United States Environmental Protection Agency, July 3, 1997;

3. "NO<sub>x</sub> Budget Program Monitoring Certification and Reporting Instructions," issued by the Ozone Transport Commission, 444 North Capital Street, NW, Washington, DC 20001, July 3, 1997; and

4. "Measurement Protocol for Commercial, Industrial and Residential Facilities," issued by New Jersey's Board of Regulatory Commissioners on April 28, 1993.

(b) Copies of the documents listed at (a)1 through 3 above may be downloaded from USEPA Clean Air Markets Division's world wide web page, at <<http://www.epa.gov/acidrain/otc/otcmain.html>>. Copies of the documents referenced in (a) above may be obtained by sending a written request to the following address:

New Jersey Department of Environmental Protection  
Office of Air Quality Management—Rule Development Section  
401 East State Street—7th floor  
PO Box 418  
Trenton, New Jersey 08625-0418

(c) With respect to any revision of the documents incorporated by reference in (a) above, the Department shall:

1. Publish a notice in the New Jersey Register;
2. Provide at least 30 days for any interested party to submit written comment; and
3. Submit the revised reference to EPA for incorporation into the SIP.

Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).

Sec: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

In (b), substituted "Clean Air Markets" for "Acid Rain".

#### 7:27-31.22 Compliance supplement pool

(a) As authorized under the USEPA SIP Call at 40 CFR 51.121, New Jersey's compliance supplement pool is 1,550 allowances pursuant to the USEPA's publication in the Federal Register on March 2, 2000, at 65 FR 11228. If the USEPA publishes a different figure for New Jersey's compliance supplement pool subsequent to March 2, 2000, and prior to allocation of the compliance supplement pool pursuant to this section, then the total amount of allowances in New Jersey's compliance supplement pool shall be the figure cited in such publication rather than 1,550 allowances. Such allowances are only valid to be used to authorize the NO<sub>x</sub> emissions of a budget source during the control periods of the years 2003 and 2004.

(b) The Department shall allocate the compliance supplement pool by May 1, 2003, in accordance with the following:

1. The Department shall determine the number of banked allowances of year 2000 through 2002 vintage held in New Jersey compliance accounts as of April 1, 2003;

2. If the total number of allowances determined in (b)1 above is less than or equal to the total number of allowances in New Jersey's compliance supplement pool, then:

i. The Department shall allocate one allowance from the compliance supplement pool to each compliance account in exchange for each banked allowance having a 2000, 2001, or 2002 vintage; and

ii. The Department shall allocate any allowances remaining in the compliance supplement pool in accordance with (b)4 below.

3. If the total number of banked allowances determined in (b)1 above is greater than the total number of allowances in New Jersey's compliance supplement pool, then the Department shall allocate allowances from the compliance supplement pool to each compliance account in exchange for banked allowances in accordance with the following equation:

$$\text{Allowances} = \frac{\text{CSP}}{A_{\text{Total}}} \times A$$

Where:

CSP = The total number of allowances in the compliance supplement pool;  
A = The number of allowances of year 2000 through 2002 vintage in each compliance account; and  
A<sub>Total</sub> = The total number of banked allowances of year 2000 through 2002 vintage in all New Jersey compliance accounts; and

4. After allocating allowances pursuant to (b)2i above, the Department shall allocate any remaining allowances to the owner or operator of each budget source that has been approved to receive compliance supplement pool allowances as specified in (b)6 and 7 below. If there are not enough allowances to satisfy these approvals in full, then the Department shall allocate all the remaining allowances, and each owner or operator shall receive a number of allowances equal to its prorated share of the remaining allowances.

5. If there still are allowances remaining in the compliance supplement pool after allocating allowances pursuant to (b)4 above, then the Department shall retire any allowances remaining in the compliance supplement pool.

6. By November 30, 2001, the owner or operator of a budget source may submit to the Department a request to receive allowances from the compliance supplement pool by demonstrating all of the following:

i. For a source used to generate electricity, compliance with this subchapter for the 2003 control period by May 1, 2003 would create undue risk for the reliability of the electricity supply. This demonstration shall include a showing that it would not be feasible to import electricity from other electricity generation systems during the installation of the control technologies necessary to comply with this subchapter;

ii. For a source not used to generate electricity, compliance with this subchapter for the 2003 control period by May 1, 2003 would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in (b)6i above;

iii. It would not be possible for the source to comply with this subchapter by generating early reduction allowances or acquiring early reduction allowances from other sources;

iv. It would not be possible to comply with this subchapter by acquiring sufficient allowances from other persons who hold allowances; and

v. The owner or operator has made a written commitment to the Department to install advanced NO<sub>x</sub> control systems or to repower, either of which is designed to achieve a 90 percent NO<sub>x</sub> emission rate reduction.

7. The Department shall review all requests made pursuant to (b)6 above, and shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of the allocating compliance supplement pool allowances to the requests interimly approved by the Department before allocating the allowances pursuant to (b)4 above.

New Rule, R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).  
 Sec: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).

**7:27-31.23 Replacement of the NO<sub>x</sub> Budget Program**

(a) N.J.A.C. 7:27-31.1 through 31.22 shall not apply to any source as of the control period beginning in 2009 and any control period thereafter.

(b) For a CAIR unit, as defined at N.J.A.C. 7:27-30.2, that has been determined to have held insufficient allowances in its NO<sub>x</sub> Budget Program compliance account for the 2008 ozone season, the USEPA shall deduct the excess emissions from the unit's compliance account in the CAIR NO<sub>x</sub> Ozone Season Trading Program pursuant 40 CFR Part 97 Subpart EEEE.

(c) A NO<sub>x</sub> Budget unit that is not a CAIR unit and that has been determined to have held insufficient allowances in its NO<sub>x</sub> Budget Program compliance account for the 2008 ozone season shall purchase three vintage 2009 CAIR NO<sub>x</sub> ozone season allowances, as defined at N.J.A.C. 7:27-30.2, for each ton of excess emission and shall transfer the allowances to the USEPA to cover the deficiency.

New Rule, R.2007 d.223, effective July 16, 2007 (operative August 17, 2007).  
 Sec: 39 N.J.R. 300(a), 39 N.J.R. 2637(a).

**APPENDIX**  
**CHEMICALS DEFINING SYNTHETIC ORGANIC**  
**CHEMICAL AND POLYMER**  
**MANUFACTURING**

CAS #	Chemical
105-57-7	Acetal
75-07-0	Acetaldehyde
107-89-1	Acetaldol
60-35-5	Acetamide
103-84-4	Acetanilide
64-19-7	Acetic acid
108-24-7	Acetic anhydride
67-64-1	Acetone
75-86-5	Acetone cyanohydrin
75-05-8	Acetonitrile
96-86-2	Acetophenone
75-36-5	Acetyl chloride
74-86-2	Acetylene
107-02-8	Acrolein
79-06-1	Acrylamide
79-10-7	Acrylic acid
107-13-1	Acrylonitrile
124-04-9	Adipic acid
111-69-3	Adiponitrile
††	Alkyl naphthalenes
107-18-6	Allyl alcohol
107-05-1	Allyl chloride
1321-11-5	Aminobenzoic acid
111-41-1	Aminoethyl ethanolamine
123-30-8	p-Aminophenol
628-63-7, 123-92-2	Amyl acetates
71-41-0, †	Amyl alcohols
110-58-7	Amyl amine
543-59-9	Amyl chloride
110-66-7, †	Amyl mercaptans
1322-06-1	Amyl phenol
62-53-3	Aniline
142-04-1	Aniline hydrochloride
29191-52-4	Anisidine
100-66-3	Anisole
118-92-3	Anthranilic acid
84-65-1	Anthraquinone
100-52-7	Benzaldehyde
55-21-0	Benzamide
71-43-2	Benzene
98-48-6	Benzenedisulfonic acid
98-11-3	Benzenesulfonic acid
134-81-6	Benzil
76-93-7	Benzilic acid
65-85-0	Benzoic acid
119-53-9	Benzoin
100-47-0	Benzonitrile
119-61-9	Benzophenone
98-07-7	Benzotrichloride
98-85-4	Benzoyl chloride
100-51-6	Benzyl alcohol