NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION
NEW JERSEY ADMINISTRATIVE CODE
TITLE 7
CHAPTER 27
SUBCHAPTER 31

NO_x Budget Program

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Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this rule, set forth in the New Jersey Register. However, should there be any discrepancies between this text and the official version of the rule, the official version will prevail.

7:27-31.1 Purpose and scope

This subchapter establishes a NO_x Budget Program in New Jersey which, beginning in 1999, limits emissions from stationary sources of NO_x. It sets forth requirements for the monitoring, recordkeeping, and reporting of NO_x emissions and for certification of compliance with this program. It makes available a trading mechanism, which allows intrastate 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.

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_x 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 number" means the identification number given by the NATS Administrator to an account in which allowances are held in the NO_x Allowance Tracking System pursuant to N.J.A.C. 7:27-31.13, NO_x Allowance Tracking System.

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

"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_x Allowance Tracking System compliance account or general account.

"Allowance" means a tradeable unit which represents the limited authorization to emit one ton of NO_x during a control period.

"Allowance deduction" means the withdrawal by the NATS Administrator of one or more allowances from a NO_x 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_x 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 midnight of December 31 of a given calendar year, and is 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.

"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 submit allowance transfer requests to the NATS Administrator, and to as certify and submit reports to the NATS and the NETS.

"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."

"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.

"Base budget" or "base emission budget" means the emissions budget for each control period 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. This term when used in respect to:

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

"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_x emission inventory.

"Baseline NO_x 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_x 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_x Budget Program in limiting NO_x 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 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 located in the OTR:

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).

"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 emissions monitoring system" 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);

3. Flow monitoring systems (flue gas flow or fuel flow); and
4. 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.

"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_x 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 of 15 MW capacity or greater which provides electricity for sale or use. This term does not include a waste-to-electricity unit.

"Emissions budget" means a limit or "cap" on the number of tons of NO_x 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.

"Excess emissions" means emissions of NO_x reported by a budget source during a control period which, as of the allowance transfer deadline following the control period, are greater than the emissions value of the allowances in the budget source's compliance account.

"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 at least 51 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, fractioning 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 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 caloric 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_x Allowance Tracking System.

“NATS Administrator” means the agency which is authorized, by New Jersey and the other jurisdictions implementing the NO_x Budget Program, to administer and operate the NATS.

“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_x Emission Tracking System.

"NETS Administrator" means the agency which is authorized, by New Jersey and the other jurisdictions implementing the NO_x Budget Program, to administer and operate the NETS.

"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 current year, meets all of the following three criteria:

1. Is not an opt-in source;
2. Has been permitted to operate; and
3. Has not yet operated for two full May 1 through September 30 periods.

"New Jersey emission budget" means the base emission budget, plus the amount added for any sources that have been opted in to the NO_x 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_x" means oxides of nitrogen.

"NO_x Allowance Tracking System (NATS)" means the system used to track allowances as they are allocated, transferred, used and retired.

"NO_x Emissions Tracking System (NETS)" means the system used to track NO_x 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_x Budget Program and comply with the terms and conditions of this subchapter.

"Opt-in source" means a stationary source which has been opted in the NO_x Budget Program. If the source is located in New Jersey, this source shall have been approved pursuant to N.J.A.C. 7:27-31.4,

Opt in provisions. If the source is located in another jurisdiction in the OTR, this source shall been approved pursuant to the equivalent requirements established in that jurisdiction.

"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_x 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.

"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.

"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.

"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 means, in reference to an allowance transfer or an allowance reduction, 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.

“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.

"USEPA" means the United States Environmental Protection Agency.

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_x Budget Program pursuant to N.J.A.C. 7:27-31.4.

(b) Each jurisdiction in the OTR which is implementing the NO_x 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_x for the years 1999, 2000, 2001, and 2002; and

2. 13,022 tons of NO_x for the year 2003 and each year thereafter.

(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_x Allowance Tracking System (NATS), as described at N.J.A.C. 7:27-31.13, NO_x 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 first reserve 4,822 of the allowances in the base emission budget for New Jersey, by transferring them into the attainment reserve account held by the Department, and shall then allocate the remainder of the allowances in the base budget (that is, 8,200 allowances). 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.

(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_x 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 report the source's actual NO_x emissions during that year's control period to the NETS Administrator. At the request of the member jurisdictions of the OTC, the United States Environmental Protection Agency's Acid Rain Division has agreed to serve as the NETS Administrator. Correspondence for NETS Administrator shall be addressed as follows:

ATTN: NOX BUDGET PROGRAM
United States Environmental Protection Agency
Acid Rain 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. The number of allowances to be deducted is equal to the total number of tons NO_x actually emitted from the budget source during that year's control period as reported pursuant to (g) above.

(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_x 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.

(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_x 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 will process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

7:27-31.4 Opt-in provisions

(a) An owner or operator of a stationary source, that 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_x Budget Program in accordance with the provisions of this section.

(b) Any person seeking to opt a stationary source into the NO_x Budget Program shall submit the information required by this section, on application forms obtained from the Department, to the following address:

ATTN: NOX BUDGET OPT-IN
New Jersey Department of Environmental Protection
Office of Air Quality Management
401 East State Street -- P.O. 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_x 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_x 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 and the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program;"

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); or

2. The proposed opt-in source is not a type of source for which an emissions monitoring plan consistent with the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program" and the requirements at N.J.A.C. 7:27-31.14 can be developed.

(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_x 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_x Budget Program, including requirements for allowance transfer or use, emissions monitoring, recordkeeping, 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 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_x 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_x emissions, as determined in (j)2 above;

   ii. The sum of the products obtained by multiplying the lowest allowable NO_x 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_x 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 Administrator of the NATS 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_x 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.

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_x 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_x 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_x 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) NO_x emission reductions made by a budget source during any control period may not be used as the basis for a DER credit under N.J.A.C. 7:27-30.

(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.

(c) Allowances shall not be converted to DER credits and used pursuant to the Open Market Trading Program rules at N.J.A.C. 7:27-30, except as provided at N.J.A.C. 7:27-31.8, which allows electric consumers who earn allowances by saving electricity through energy efficiency projects to elect to receive DER credits, instead of allowances. In such case the NATS Administrator shall permanently retire the allowances that would otherwise have been provided to the electric consumer.

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_x 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 NOx emission rate. If the allowable emission rate for a given fuel is greater than 0.15#/MMBtu, then 0.15#/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_x emission rate (ER_{NOx}) of the source, expressed in pounds per MMBtu, in accordance with the following equation:

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

   Where:

   E1 = The total actual 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 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;

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_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 no allowances shall be allocated to the Growth Reserve with respect to the source.

iii. 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 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:

$H_{150\%}$ = 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 $H_{150\%}$, 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:

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

Where:

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

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:

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

Where:

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

$H_{Allowable}$ = 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:

$$\text{Allowances} = \frac{0.15}{2{,}000} \times \left(\frac{H1 + H2}{2} \right)$$

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:

$$ER_{Allowable} = \frac{\sum_{i=1}^{n} \left(AER_i \times (H1_i + H2_i) \right)}{\sum_{i=1}^{n} \left(H1_i + H2_i \right)} \qquad \text{Equation 1}$$

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_i = 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;

$H1_i$ = 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

$H2_i$ = 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;

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

Where:

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

$ER_{Allowable}$ = 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 (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_{NOx} = The average NO_x 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:

$$\text{Allowances} = \frac{C_{\%}}{100} \times A_R$$

Where:

$C_{\%}$ = 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_R = 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 VINELAND 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_{Total} = 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_x emitted by the source during the control period, unless the emissions exceed the lesser of 0.15#/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 NOx emission and the emissions at the lesser of the allowable emission rate or 0.15#/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:

$$\text{Allowances} = \frac{C_{\%}}{100} \times A_R$$

Where:

$C_{\%}$ = 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_R = 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_x 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_{Actual}) in accordance with the following equation:

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

Where:
EA = Actual emissions during the control period, expressed in pounds of NO_x; and
HA = Actual heat input during the control period, expressed in MMBtu;

(2) If the average actual emission rate (ER_{Actual}) 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_{Actual}) 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 then than the number of allowances allocated to the source pursuant to 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:

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

Where:

E_{Actual} = The total 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 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:

$$\text{Allowances} = \frac{C_{\%}}{100} \times A_R$$

Where:

$C_{\%}$ = 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_R = 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:

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

Where:

A_{Source} = The number of allowances as determined in (c)2i above for each source;

A_{Total} = The total number of allowances as determined in (c)2i above for all of the eligible sources; and

$A_{Reserve}$ = The number of allowances in the Growth Reserve;

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

i. The Department shall allocate allowances to meet claims which were submitted to the Department by October 15 of the current year and which have been approved by the Department pursuant to N.J.A.C. 7:27-31.8 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. The Department shall allocate allowances from the next year's base emission budget for New Jersey until all claims are met.

(d) Prior to the control period in the year 2003 and in each year thereafter, the Department shall transfer 4,822 allowances from the base emission budget for New Jersey into the attainment reserve account held by the Department, leaving 8,200 of 13,022 allowances of the base budget for New Jersey to be allocated. The Department shall allocate 8,200 allowances minus any allowances that have been previously allocated pursuant to (c)3ii above, (e)3ii below, (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 subsection (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 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 NOx emission rate. If the allowable emission rate for a given fuel is greater than 0.15#/MMBtu, then 0.15#/MMBtu shall be used as the allowable emission rate for the purpose of this equation. If the allowable emission rate for a given fuel for an industrial boiler or process heater is greater than 0.20#/MMBtu, then 0.20#/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_x emission rate (ER_{NOx}) of the source, expressed in pounds per MMBtu, in accordance with the following equation:

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

   Where:

   E1 = The total actual 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 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;

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 Growth Reserve is determined in accordance with the following procedure:

(1) If the average NO_x emission rate (ER_{NOx}) of the source as calculated in (d)2i above is greater than 0.20 pounds of NO_x per MMBtu, then no allowances shall be allocated to the Growth Reserve with respect to that source; and

(2) If the NO_x emission rate as calculated in (d)2i above is not greater than 0.20 pounds of NO_x per MMBtu, then allowances shall be allocated to the Growth Reserve in accordance with (d)2iv below;

iii. If the source is utilized for the purpose of electric or steam generation or both and is not an industrial boiler nor a process heater, the number of allowances to be allocated to the Growth Reserve is determined in accordance with the following procedure:

(1) If the average NO_x emission rate (ER_{NOx}) of the source as calculated in (d)2i above is greater than 0.15 pounds of NO_x per MMBtu, then no allowances shall be allocated to the Growth Reserve with respect to that source;

(2) If the average NO_x emission rate (ER_{NOx}) of the source as calculated in (d)2i above is not greater than 0.15 pounds of NO_x per MMBtu, then allowances shall be allocated to the Growth Reserve in accordance with (d)2iv below;

iv. The number of allowances to be allocated to the Growth Reserve pursuant to ii(2) and iii(2) above shall be calculated 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:

$H_{150\%}$ = 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 $H_{150\%}$, as determined in (d)2iv(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:

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

Where:

ER_{NOx} = The average actual NO_x emission rate, expressed in pounds per MMBtu, as calculated in(d)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; and

(3) If the result of (d)2iv(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:

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

Where:

ER_{NOx} = The average actual NO_x emission rate, expressed in pounds per MMBtu, as calculated in (d)1i above;

$H_{Allowable}$ = 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 (d)5 (Step 4) below to each budget source that is not a new budget 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, in accordance with the following procedure:

i. 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_x emission rate (ER_{NOx}) of the source as calculated in (d)2i above is greater than 0.20 pounds of NO_x per MMBtu, then the number of allowances to be allocated to the source is preliminarily determined in accordance with the following equation:

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

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_x emission rate as calculated in (d)2i above is not greater than 0.20 pounds of NO_x per MMBtu, then the number of allowances to be allocated to the source is preliminarily determined in accordance with the following equations:

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

Where:

$E_{Allowable}$ = The average allowable emissions for the source, as determined inequation 2 below; and

E_{Actual} = The average actual emissions for the source, as determined in equation 3 below;

$$E_{Allowable} = \frac{\sum_{i=1}^{n} \left(AER_i \times (H1_i + H2_i)\right)}{2} \times \frac{1}{2{,}000} \qquad \text{Equation 2}$$

Where:

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

AER_i = 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;

$H1_i$ = 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;

$H2_i$ = 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;

$$E_{Actual} = \frac{E_1 + E_2}{2} \times \frac{1}{2{,}000} \qquad \text{Equation 3}$$

Where:

E1 = The total actual 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 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

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

$$\text{Allowances} = \frac{1.50 \times \left(\frac{OE1 + OE2}{2}\right) + 0.44 \times \left(\frac{OS1 + OS2}{2}\right)}{2{,}000}$$

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 NO_x emission rate (ER_{NOx}) of the source as calculated in (d)2i above is not greater than 0.15 pounds of NO_x per MMBtu, then the number of allowances to be allocated to the source is preliminarily determined in accordance with the following equations:

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

Where:

$E_{Allowable}$ = 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_{Actual} = The average actual emissions for the source, as determined in equation 3 below; and

$$E_{Allowable} = \frac{\sum_{i=1}^{n} \left(AER_i \times (H1_i + H2_i)\right)}{2} \times \frac{1}{2,000} \qquad \text{Equation 2}$$

Where:

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

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;

$H1_i$ = 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;

$H2_i$ = 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;

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

Where:

E1 = The total actual 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 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

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 (d)1 (Step 1) above;

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

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

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

   ii. If the sum in (d)5i 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)4 (Step 3) above; and

      (2) Any remaining allowances that were not allocated in (d)1 (Step 1), (d)2 (Step 2), or (d)5ii(1) above shall be allocated to the Department's attainment reserve account; or

iii. If the sum determined in (d)5i 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)4 (Step 3) above. The proportional share to be allocated to each shall be determined as follows:

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

Where:

A0 = The total number of allowances that have been previously allocated pursuant to (c)3ii above, (e)3ii below, (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)4 (Step 3) above; and

PA_{Total} = The sum of all allowances preliminarily determined for allocation to all budget sources in (d)4 (Step 3) above.

(e) After the control period of the year 2003 and of each year thereafter, 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_x 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#/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 NOx emission and the emissions at the lesser of the allowable emission rate or 0.20#/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 0.15#/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 NOx emission and the emissions at the lesser of the allowable emission rate or

0.15#/MMBtu during the period in which the source exceeded this condition within the control period; and

ii. If there are allowances left in the New Source Reserve after distributing the allowances in accordance with (e)1i above, then the Department shall allocate such allowances in accordance with (e)4 below;

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

i. The only sources that are eligible to be allocated allowances from the Growth Reserve in this subparagraph are industrial boilers or process heaters that emitted NOx at a rate less than or equal to 0.20 pounds per MMBtu heat input and other budget sources that emitted NO_x at a rate less than or equal to 0.15 pounds per MMBtu heat input. For each budget source that is not a new budget source, the Department shall allocate allowances 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_{Actual}) in accordance with the following equation:

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

Where:
EA = Actual emissions during the control period, expressed in pounds of NO_x; and
HA = Actual heat input during the control period, expressed in MMBtu;

(2) If the average actual emission rate (ER_{Actual}) for the budget source as calculated in accordance with (e)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 Growth Reserve to the budget source;

(3) Except as provided in (e)2iii below, if the average actual emission rate (ER_{Actual}) for the budget source as calculated in accordance with (e)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)5ii(1) or (d)5iii above, then the Department

shall allocate allowances from the Growth Reserve to the budget source in accordance with the following equation:

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

Where:

E_{Actual} = The total 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 allocated to the source pursuant to (d)5ii(1) or (d)5iii above;

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

iii. If there are not enough allowances in the Growth Reserve to allocate allowances to all of the eligible sources accordance with (e)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:

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

Where:

A_{Source} = The number of allowances as determined in (e)2i above for each source;

A_{Total} = The total number of allowances as determined in (e)2i above for all of the eligible sources; and

$A_{Reserve}$ = The number of allowances in the Growth Reserve;

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

i. The Department shall allocate allowances to meet claims which were submitted to the Department by October 15 of the current year and which have been approved by the Department pursuant to N.J.A.C. 7:27-31.8 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. The Department shall allocate allowances from the next year's base emission budget for New Jersey until all claims are met.

4. If there are any allowances remaining in the New Source Reserve or Growth Reserve, after allowances are allocated in accordance with (e)1i and 2i above, the Department shall allocate the remaining allowances in accordance with the following procedure:

i. The Department shall first compare the number of allowances that remain in the two reserves, with the difference between the following:

(1) The number of allowances preliminarily determined to be allocated in (d)4 above; and

(2) The number of allowances actually allocated to budget sources in (d)5 above;

ii. If, pursuant to (e)4i above, the number of allowances that remain in the two reserves is less than the difference, then the Department shall allocate all of the allowances remaining in the two reserves to each budget source in accordance with the following equation:

$$\text{Allowances} = \frac{A_R}{PA_{Total}} \times PA$$

Where:

A_R = The total number of allowances remaining in the two reserves;

PA = The number of allowances preliminarily determined for allocation to the source in (d)4 above; and

PA_{Total} = The total number of allowances preliminary determined for allocation to all budget sources in (d)4 above; and

iii. If, pursuant to (e)4i above, the number of allowances that remain in the two reserves is equal to or greater than the difference, then the Department shall allocate the remaining allowances according to the following procedure:

(1) The Department shall allocate allowances to each budget source in accordance with the following equation:

$$\text{Allowances} = \frac{PA_{Total} - A5}{PA_{Total}} \times PA$$

Where:

A5 = The total number of allowances allocated to budget sources in (d)5 above;

PA = The number of allowances preliminarily determined for allocation to each source as determined in (d)4 above; and

PA_{Total} = The total number of allowances preliminarily determined for allocation to all sources in (d)4 above; and

(2) The Department shall transfer any allowances that still remain unallocated to the Department's attainment reserve account.

(f) 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. 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)5iii, (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.

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 a company which owns a NO_x Budget source located 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_x;

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.

(e) 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 (c)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: NOX BUDGET INCENTIVE ALLOWANCE CLAIM
New Jersey Department of Environmental Protection
Office of Air Quality Management
401 East State Street -- P.O. 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 NATS pursuant to (e) above.

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 December 31 of each year beginning in 1999, a number of allowances in a budget source's compliance account which is at least equal, in emissions value, to the NO_x 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_x emissions from the budget source.

(b) Holding allowances in a budget source's compliance account in order to authorize emissions of NOx pursuant to this subchapter does not relieve or waive a permittee's responsibility to comply with any of the following:

1. Any applicable NO_x 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 pursuant 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 an budget source which is at a facility subject to the operating permit requirements must be incorporated into the operating permit and must be adequately addressed in the compliance plan.

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_x 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 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 December 31 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 January 1 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 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"

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.

(f) The transfer request is determined to be valid when the following has been verified by the NATS Administrator:

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

2. The person acquiring the allowances has an account in the NATS; and

3. The transfer request has been certified and submitted by the person named as AAR for the originating account.

(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 to the AAR of the originating account, to the AAR of the acquiring account, and to the Department.

(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_x Budget Program, in a manner consistent with the agreements in the OTC MOU.

(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. 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.

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 (that is, December 31) as "banked" allowances.

(c) By March 1 of each year, 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_R = The annual regional base NO_x emissions budget; and
A_B = 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.

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: NOX BUDGET EARLY REDUCTION CLAIM
New Jersey Department of Environmental Protection
Office of Air Quality Management
P.O. 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_x 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_x 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_x 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_x 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_x 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_x 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_x per MMBtu or 35 percent of the 1990 actual NO_x baseline emission rate of the source (expressed in pounds per MMBtu, and determined by dividing the total NO_x 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_x baseline emission rate, determined by dividing the total NO_x 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

   iii. The lowest allowable NO_x 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 NOx 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_x emission rate of the source shall be a heat input weighted average of lowest allowable NO_x emission rate for each fuel type; and

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 (e)2 above; and

4. The total baseline emissions (E_B) to be used in (d) above shall be the average baseline emissions calculated in (e)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 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 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 (P_p) 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_x 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 Administrator of the NATS 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.

7:27-31.13 NO_x Allowance Tracking System (NATS)

(a) The NO_x Allowance Tracking System (NATS) is the official electronic database serving the NO_x 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 establish and maintain accounts in the NO_x 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; and

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.

(d) In addition to the accounts described in (c) above, the NATS Administrator shall establish a general account for any person who completes and submits a General Account Information form to the NATS Administrator.

(e) At the request of the member jurisdictions of the OTC, the United States Environmental Protection Agency's Acid Rain Division has agreed to serve as the NATS Administrator. Requests for the establishment of an account and any other communication directed to the NATS Administrator shall be addressed as follows:

ATTN: NOX BUDGET PROGRAM
United States Environmental Protection Agency
Acid Rain Division - Mail Code 6204J
401 M Street SW
Washington, DC 20460

(f) (Reserved.)

(g) The holder of a compliance account shall designate an authorized account representative and one alternate authorized account representative for the account in accordance with (i) through (j) below. The authorized account representative and the alternate authorized account representative shall be the sole persons who have the authorities and responsibilities set forth in (l) through (n) below.

(h) 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.

(i) 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. If the account is a compliance account for a specific budget source, 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. If the account is a compliance account for a specific budget source, 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;

iv. If the account is a compliance account for a specific budget source, a list of the owners and operators of the budget source, or the list of the owners and operators of the entity applying for the general account;

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

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.

(j) Each account in the NATS shall have a unique identification number. Utilizing the information provided on the "Account Certificate of Representation" form for a compliance account or on the General Account Information form for a general account, 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).

(k) A person may replace an individual who has been previously designated as an authorized account representative or an alternate authorized account representative with another individual. This shall be done through the submittal of a new "Account Certificate of Representation" form for a compliance account or of a new General Account Information form for a general account.

(l) 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.

(m) Even through 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.

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

7:27-31.14 Emissions monitoring

(a) The owner or operator of each budget source shall monitor the NO_x emissions from each budget source as specified by this section, by the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program," the "Electronic Data Reporting: Acid Rain Program/NO_x Budget Program -- Version 2.0," and the "NO_x Budget Program Monitoring Certification and Reporting Instructions."

(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 (3) 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_x Budget Program" and this section. The monitoring plan shall be submitted to the following address:

ATTN: NOX BUDGET MONITORING PLAN
New Jersey Department of Environmental Protection
Bureau of Technical Services
380 Scotch Road -- P.O. 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_x Budget Program" by no later than April 30, 1999. Notification of testing and test protocols must 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) 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_x 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 the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(g) Not withstanding (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 judgement, as to whether the data meets the quality assurance tests in the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x 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 the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(h) 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 method 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 NOx Budget Program." If the Department determines that the accuracy or reliability of a method is not comparable to other approved methods, the Department may disallowed 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 NOx emission rate if the

source has installed or is required to install and operate a NOx CEMS. The Department will provide an opportunity for review by USEPA and other State environmental agencies before approving any alternative monitoring methods. The Department shall submit any approved monitoring plans containing alternative methods to the USEPA.

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 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; and

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_x emissions, expressed in pounds;

v. For each type of fuel burned, the most stringent applicable allowable NO_x 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: NOX BUDGET PROGRAM
New Jersey Department of Environmental Protection
Office of Air Quality Management
401 East State Street -- P.O. 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_x Budget Program" relating to emissions reporting, which includes but is not limited to: NO_x emission in pounds per hour for every hour during the control period and the total NO_x emission data for the quarter and the control period in pounds; and

2. The "Electronic Data Reporting: Acid Rain Program/NO_x Budget Program -- Version 2.0" and the "NO_x 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_x 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 sourceis not reported in the EDR;

2.-5. (Reserved.)

(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, N.J.A.C. 7:27-31.15, Recordkeeping, and N.J.A.C. 7:27-31.16, 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: NOX BUDGET SHUTDOWN
   New Jersey Department of Environmental Protection
   Office of Air Quality Management
   401 East State Street -- P.O. 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, N.J.A.C. 7:27-31.15, Recordkeeping, and N.J.A.C. 7:27-31.16, 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.

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 above, and as adjusted by the 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 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 December 31, 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 (December 31). 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 first deduct allowances with serial numbers indicating the current year in the order in which they were deposited into the account, then shall deduct banked allowances in the order in which they were deposited into the account.

(g) The NATS Administrator shall reconcile allowances with the NO_x emissions from each budget source as follows:

1. 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_x emitted from the source during the control period;

2. 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_x emitted from the source during the control period until all NO_x 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_x emitted from the source during the control period until all NO_x 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

ii Third, two banked allowances shall be deducted from each budget source's compliance account for each remaining ton of NO_x emitted from the source during the control period.

3. In addition to (g)1 or 2 above, 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:

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

Where:

E = The total NO_x emission of the source during the control period, expressed in pounds

HI = The total heat input to the source, expressed in MMBtu

HI_B = 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

2,000 = The factor converting pounds into tons

(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.

7:27-31.18 Compliance certification

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

(b) The compliance certification shall be submitted no later than the allowance transfer deadline (December 31) of each year to the following address:

ATTN: NOX BUDGET COMPLIANCE CERTIFICATION
New Jersey Department of Environmental Protection
Office of Air Quality Management
401 East State Street -- P.O. Box 418
Trenton, NJ 08625-0418

(c) The compliance certification 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_x emissions during the control period;

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_x 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. 7:27-1.39.

(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.

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_x 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 will 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_x 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_x 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_x 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_x Budget Program -- Version 2.0," issued by the United States Environmental Protection Agency, July 3, 1997;

3. "NO_x 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)1-3 above may be downloaded from USEPA Acid Rain 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
P.O. 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