



## Facts About...

### *Chapter COMAR 26.11.40 - NO<sub>x</sub> Ozone Season Emission Caps for Non-trading Large NO<sub>x</sub> Units Amendments*

June 26, 2023

#### Purpose

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The purpose of this action is to propose **amendments to Regulations .02 - .03** under **Chapter COMAR 26.11.40 - NO<sub>x</sub> Ozone Season Emission Caps for Non-trading Large NO<sub>x</sub> Units** to update certain facilities ozone season emission caps and update a reference to the EPA's Cross State Air Pollution Rule trading program.

#### Submission to EPA as Revision to Maryland's State Implementation Plan (SIP)

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This action will be submitted to the U.S. Environmental Protection Agency (EPA) for approval as part of Maryland's SIP.

#### Background

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The Maryland Department of the Environment (MDE or the Department) will re-allocate the NO<sub>x</sub> ozone season emission caps under COMAR 26.11.40.03 due to one large industrial source shutting down. The origination of the NO<sub>x</sub> ozone season emissions budget is described below.

In 1998, EPA promulgated the NO<sub>x</sub> Budget Trading Program (NBP) as a central component of the broader NO<sub>x</sub> SIP Call. The NO<sub>x</sub> SIP Call was designed to mitigate significant transport of NO<sub>x</sub> in the eastern United States during the warm summer months, referred to as the ozone season, when ground-level ozone concentrations are highest.

In 2000, Maryland had two regulations that satisfied EPA's NO<sub>x</sub> SIP Call requirements. At that time, COMAR 26.11.29 - NO<sub>x</sub> Reduction and Trading Program and COMAR 26.11.30 - Policies and Procedures Relating to Maryland's NO<sub>x</sub> Reduction and Trading Program were part of Maryland's SIP (MDE Revision #00-05). Under this SIP, all large sources of NO<sub>x</sub> were to report ozone season NO<sub>x</sub> emission tonnage to EPA. EPA allocated each State a specific NO<sub>x</sub> ozone season emission budget cap to satisfy 40 CFR §51.121. Under the NO<sub>x</sub> SIP Call, EPA named the large sources of NO<sub>x</sub> either electric generating units (EGU) or Non-EGU. However, these terms and definitions have since been revised or replaced. The large sources of NO<sub>x</sub> were boilers and combustion turbines that either met an applicability threshold of being over 25 MW or over 250 MMBtu/hr.

Since 2000, Maryland and the EPA have revised and developed additional regulations that deal with NO<sub>x</sub> reductions from these same NO<sub>x</sub> SIP Call sources. The EPA NO<sub>x</sub> Budget Trading Program evolved into the Trading Programs for large NO<sub>x</sub> sources. The EPA requirements are under 40 CFR Part 96 "NO<sub>x</sub> Budget Trading Program and Clean Air Interstate Rule (CAIR) NO<sub>x</sub> and SO<sub>2</sub> Trading Programs for SIPs" and Part 97 "Federal NO<sub>x</sub> Budget Trading Program, CAIR NO<sub>x</sub> and SO<sub>2</sub> Trading Programs, and Cross-State Air Pollution Rule (CSAPR) NO<sub>x</sub> and SO<sub>2</sub> Trading Programs". The EPA's CAIR and CSAPR programs were developed to limit emissions from fossil fuel-fired sources that are part of the electricity grid and are > 25 MW (EGUs). Each affected State was tasked with preparing a plan to address the Non-trading units – or boilers, combustion turbines or combined cycle units with a maximum design heat input greater than 250mmBtu/hr – that do not meet the applicability criteria under the CAIR or CSAPR trading programs. The NO<sub>x</sub> budget that Maryland must meet for the Non-trading large NO<sub>x</sub> units was established in Maryland's SIP revision to comply with the NO<sub>x</sub> SIP Call and matches the budget for those units listed



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under 40 CFR Appendix C to Subpart E of Part 97 “Final Section 126 Rule: Trading Budget” Table. The Non-EGU (column 2) is the NO<sub>x</sub> tonnage cap that the State must meet for all applicable Non-trading large NO<sub>x</sub> units. This table shows a NO<sub>x</sub> budget of 1,013 tons for Non-trading units in Maryland.

In 2010, under COMAR 26.11.14.07, the Department allocated all of the Non-trading large NO<sub>x</sub> units budget tonnage to the only identified source subject to these requirements. This source was the Luke Paper Mill, a kraft pulp papermill in operation since 1959. Also in 2010, Maryland removed the NO<sub>x</sub> SIP call regulations COMAR 26.11.29 and COMAR 26.11.30. (Of note, in 2010 & 2015 COMAR Chapter 29 & Chapter 30 were re-codified and now cover requirements for Natural Gas Compression Stations and Cement Plants, respectively.)

In 2018, the Department reviewed State sources that could be subject to the Non-trading large unit requirements of the NO<sub>x</sub> SIP Call and created a new COMAR chapter 26.11.40 to address additional facilities that fall under the Non-trading large NO<sub>x</sub> unit requirements of the NO<sub>x</sub> SIP Call. Four affected sources, including the Luke Paper Mill, were allocated an NO<sub>x</sub> ozone season emissions cap and the remainder of the budget was applied to a new unit set aside for future sources.

In addition to establishing an ozone season NO<sub>x</sub> budget tonnage cap, the regulations also require “Part 75” monitoring for Non-trading large NO<sub>x</sub> units. Per 40 CFR §51.121(i)(4), applicable sources are required to comply with the monitoring provisions of 40 CFR Part 75 Continuous Emissions Monitor (CEM), Subpart H (§§ 75.70 – 75.75). Subpart H is titled “NO<sub>x</sub> Mass Emissions Provisions” and details the CEM recording and record keeping requirements that Non-trading large NO<sub>x</sub> units must employ. Under COMAR 26.11.01.11E(2), the Department specifies additional CEM Data Reporting Requirements.

In 2020, the affected source Luke Paper Mill, VERSO Corporation, located in Luke, Maryland: Units No. 24, 25 and 26 shut down. Therefore, the Department proposes to re-allocate NO<sub>x</sub> ozone season tonnage caps by removing the Luke Paper Mill, as well as correct the references for the trading program. The Department proposes the amendments to remain current with the requirements under 40 CFR §51.121 “Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen”.

### Sources Affected and Location

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This regulation is applicable throughout the entire State.

The following “Affected Sources and Units” have been identified in Maryland.

- American Sugar Refining (Domino Sugar), located in Baltimore, Maryland: Unit No. C6;
- Cove Point LNG Terminal, Dominion Energy, located in Lusby, Maryland: Units No. Frame 5-1 (Turbine S009), Frame 5-2 (Turbine S010), Frame 7-A, Frame 7-B, Aux A and Aux B;
- National Institutes of Health, Located in Bethesda, Maryland: Unit 1156; and
- A person who owns or operates a new unit subject to this Chapter.

### Requirements

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In 2018, COMAR 26.11.40 established NO<sub>x</sub> ozone season tonnage caps and NO<sub>x</sub> monitoring requirements for large NO<sub>x</sub> sources in the state of Maryland that are not covered under the CSAPR trading program.



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Now, the Department is proposing amendments to update certain facilities ozone season emission caps and update a reference to the EPA's CSAPR trading program.

COMAR 26.11.40.02 currently identifies the CSAPR trading program that was in effect in 2018. In 2019, the EPA updated the CSAPR program and created a new trading group; the CSAPR NO<sub>x</sub> Ozone Season Group 3 Trading Program, with revisions in 2021. Since the CSAPR program is ever evolving, the Department proposes to change the CSAPR trading program reference to a more generic reference that will incorporate future changes. The CSAPR trading program reference helps distinguish sources that are regulated under the CSAPR EGU program versus the Non-trading program.

COMAR 26.11.40.03 identifies the existing sources and gives each source a NO<sub>x</sub> emission tonnage cap so that the non-trading large NO<sub>x</sub> unit emissions for the entire State does not exceed 1,013 tons as required under Maryland's SIP revision addressing the NO<sub>x</sub> SIP Call. Each affected source is required to limit their ozone season NO<sub>x</sub> emissions to meet or be under the NO<sub>x</sub> ozone season tonnage cap in the table under COMAR 26.11.40.03.B. The proposed amendments remove one source that has permanently shut down and revises the new unit set aside allocations. The remaining affected facilities will not see a change in their emission cap.

The Department proposes to remove the Luke Paper Mill and their 656 tons and add the 656 tons to the New Unit Set Aside for the NO<sub>x</sub> ozone season tonnage emission cap. The New Unit Set Aside NO<sub>x</sub> ozone season tonnage emission cap will be 752 tons.

Should a new source with a Non-trading large unit wish to open in Maryland, there will be 752 tons of NO<sub>x</sub> available from the new unit set aside. Additionally, existing affected sources may use the new unit set aside for an expansion with approval.

The NO<sub>x</sub> ozone season tonnage cap for each facility was calculated using permit conditions, regulatory emission rates and capacity factors. The Department worked with the facilities to determine an appropriate unit tonnage. Each facility has been allocated a cap based on the calculations. The new unit set aside is the remaining tons available to any new source identified to meet the applicability of COMAR 26.11.40.02. Ozone season NO<sub>x</sub> emissions from new sources applicable to this chapter may not exceed the new unit set aside allocations as identified in the table under proposed COMAR 26.11.40.03.B.

### Projected Emission Reductions

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The NO<sub>x</sub> SIP Call requirements have been in place within Maryland for several decades and the NO<sub>x</sub> emission benefits have already been realized. This proposed action satisfies the NO<sub>x</sub> SIP Call requirements and maintains a NO<sub>x</sub> cap for affected sources. No additional NO<sub>x</sub> emission reductions are projected.

### Economic Impact on Affected Sources, the Department, other State Agencies, Local Government, other Industries or Trade Groups, the Public

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This action will not have an economic impact on affected sources, State agencies or local governments.



**Maryland**  
Department of  
the Environment

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#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses. The facilities subject to this regulation are not small businesses.

# Title 26 DEPARTMENT OF THE ENVIRONMENT

## Subtitle 11 AIR QUALITY

### Chapter 40 NO<sub>x</sub> Ozone Season Emission Caps for Non-trading Large NO<sub>x</sub> Units

Authority: Environment Article, §§1-404, 2-103, and 2-301—2-303, Annotated Code of Maryland

#### .01 (text unchanged)

#### .02 Applicability.

A. The owner or operator of a non-trading large NO<sub>x</sub> unit, that is not a unit subject to [the federal Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Group 2 Trading Program established under 40 CFR Part 97, Subpart EEEEE] *a federal trading program for ozone season emissions of NO<sub>x</sub> established under 40 CFR Part 97 to address interstate transport of ozone and NO<sub>x</sub> in accordance with 40 CFR 52.38(b), or a state trading program for ozone season emissions of NO<sub>x</sub> approved by the EPA Administrator as meeting the requirements of 40 CFR 52.38(b)*, shall comply with the ozone season NO<sub>x</sub> emission limitation, monitoring, record keeping, and reporting requirements for ozone season emissions of NO<sub>x</sub> set forth in this chapter.

B. (text unchanged)

C. Affected Sources and Units.

(1) — (2) (text unchanged)

[(3) Luke Paper Mill Units No. 24, 25 and 26;]

[(4)] (3) National Institutes of Health Unit 5-1156; and

[(5)] (4) A person who owns or operates a new unit subject to this chapter.

#### .03 NO<sub>x</sub> Ozone Season Emission Caps.

A. (text unchanged)

B. NO<sub>x</sub> Ozone Season Emission Caps.

(1) (text unchanged)

(2) Table — NO<sub>x</sub> Ozone Season Emission Caps.

| Affected Sources              | NO <sub>x</sub> Ozone Season Emission Caps [Beginning May 1, 2018] |
|-------------------------------|--|
| American Sugar                | 24 tons  |
| Cove Point LNG                | 214 tons   |
| [Luke Paper Mill]             | [656 tons]   |
| National Institutes of Health | 23 tons  |
| New Unit Set Aside            | [96] 752 tons  |
| Total                         | 1013 tons  |

C. (text unchanged)

#### .04 (text unchanged)