**TITLE 20 ENVIRONMENTAL PROTECTION**
**CHAPTER 2 AIR QUALITY (STATEWIDE)**
**PART 81 WESTERN BACKSTOP SULFUR DIOXIDE TRADING PROGRAM**

**20.2.81.1 ISSUING AGENCY:** Environmental Improvement Board.
[20.2.81.1 NMAC - N, 12/31/03]

**20.2.81.2 SCOPE:** All geographic areas within the jurisdiction of the environmental improvement board.
[20.2.81.2 NMAC - N, 12/31/03]

**20.2.81.3 STATUTORY AUTHORITY:** Environmental Improvement Act, NMSA 1978, Section 74-1-8(A)(4) and (7), and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., including specifically, Section 74-2-5 (A), (B) and (C).
[20.2.81.3 NMAC - N, 12/31/03]

**20.2.81.4 DURATION:** Permanent.
[20.2.81.4 NMAC - N, 12/31/03]

**20.2.81.5 EFFECTIVE DATE:** December 31, 2003, except where a later date is cited at the end of a section.
[20.2.81.5 NMAC - N, 12/31/03]
[The latest effective date of any section in this part is December 31, 2003.]

**20.2.81.6 OBJECTIVE:**

**A.** 20.2.81 NMAC implements the western backstop sulfur dioxide trading program ("WEB trading program") provisions required under the federal regional haze rule, 40 CFR 51.309, and New Mexico's regional haze implementation plan.

**B.** Nothing in 20.2.81 NMAC waives any requirement otherwise in effect or subsequently required under another program, including rules governing new sources.
[20.2.81.6 NMAC - N, 12/31/03]

**20.2.81.7 DEFINITIONS**: In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this part:

**A.** **"account certificate of representation"** means the completed and signed submission required to designate an account representative for a web source or an account representative for a general account;

**B.** **"account representative"** means the individual who is authorized through an account certificate of representation to represent owners and operators of the WEB source with regard to matters under the web trading program or, for a general account, who is authorized through an account certificate of representation to represent the persons having an ownership interest in allowances in the general account with regard to matters concerning the general account;

**C.** **"act"** means the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq.;

**D.** **"actual emissions"** means total annual sulfur dioxide emissions determined in accordance with 20.2.81.106 NMAC, or determined in accordance with 20.2.73 NMAC for sources that are not subject to 20.2.81.106 NMAC;

**E.** **"allocate"** means to assign allowances to a WEB source through Section C1 of the implementation plan;

**F.** **"allowance"** means the limited authorization under the WEB trading program to emit one ton of sulfur dioxide during a specified control period or any control period thereafter subject to the terms and conditions for use of unused allowances as established by 20.2.81 NMAC;

**G.** **"allowance limitation"** means the tonnage of sulfur dioxide emissions authorized by the allowances available for compliance deduction for a WEB source for a control period under 20.2.81.109 NMAC on the allowance transfer deadline for that control period;

**H.** **"allowance tracking system"** means the system developed by the department where allowances under the WEB trading program are recorded, held, transferred and deducted;

**I.** **"allowance tracking system account"** means an account in the allowance tracking system

established for purposes of recording, holding, transferring, and deducting allowances;

**J. "allowance transfer deadline"** means the deadline established in Subsection B of 20.2.81.107 NMAC when allowances must be submitted for recording in a WEB source's compliance account in order to demonstrate compliance for that control period;

**K. "compliance account"** means an account established in the allowance tracking system under Subsection A of 20.2.81.105 NMAC for the purpose of recording allowances that a WEB source might hold to demonstrate compliance with its allowance limitation;

**L. "compliance certification"** means a submission to the department by the account representative as required under Subsection B of 20.2.81.109 NMAC to report a WEB source's compliance or noncompliance with 20.2.81 NMAC;

**M. "control period"** means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive;

**N. "emissions tracking database"** means the central database where sulfur dioxide emissions for WEB sources as recorded and reported in accordance with 20.2.81 NMAC are tracked to determine compliance with allowance limitations;

**O. "emission unit"** means any part of a stationary source that emits or would have the potential to emit any pollutant submitted to regulations under the Clean Air Act;

**P. "existing source"** means, a stationary source that commenced operation before the program trigger date;

**Q. "fugitive emissions"** are those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening;

**R. "general account"** means an account established in the allowance tracking system under 20.2.81.105 NMAC for the purpose of recording allowances held by a person that are not to be used to show compliance with an allowance limitation;

**S. "milestone"** means the maximum level of stationary source regional sulfur dioxide emissions for each year from 2003 to 2018, established according to the procedures in section A of the sulfur dioxide milestones and backstop trading program implementation plan;

**T. "new web source"** means a WEB source that commenced operation on or after the program trigger date;

**U. "new source set-aside"** means a pool of allowances that are available for allocation to new sources in accordance with the provisions of section C (a)1.3 of the sulfur dioxide milestones and backstop trading program implementation plan;

**V. "owner or operator"** means any person who is an owner or who operates, controls or supervises a WEB source, and includes but is not be limited to any holding company, utility system or plant manager;

**W. "part"** means an air quality control regulation under Title 20, Chapter 2 of the New Mexico administrative code, unless otherwise noted, as adopted or amended by the board;

**X. "potential to emit"** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design; any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is enforceable by the EPA administrator;

**Y. "program trigger date"** means the date that the department determines that the WEB trading program has been triggered in accordance with the provisions of section A2 of the sulfur dioxide milestones and backstop trading program implementation plan;

**Z. "program trigger years"** means the years shown in table 1, column 3, of the sulfur dioxide milestones and backstop trading program implementation plan for the applicable milestone if the WEB trading program is triggered as described in section A of the sulfur dioxide milestones and backstop trading program implementation plan;

**AA. "renewable energy resource"** means a resource that generates electricity by non-nuclear and non-fossil technologies that results in low or no air emissions; the term includes electricity generated by wind energy technologies; solar photovoltaic and solar thermal technologies; geothermal technologies; technologies based on landfill gas and biomass sources, and new low-impact hydropower that meets the low-impact hydropower institute criteria; biomass includes agricultural, food and wood wastes; the term does not include pumped storage or biomass from municipal solid waste, black liquor, or treated wood;

**AB. "retired source"** means a WEB source that has received a retired source exemption as provided in Subsection D of 20.2.81.101 NMAC; any retired source resuming operations under Subsection D of 20.2.81.101

NMAC, must submit its exemption as part of its registration materials;

**AC. "serial number"** means, when referring to allowances, the unique identification number assigned to each allowance by the tracking systems administrator, in accordance with Subsection B of 20.2.81.104 NMAC;

**AD. "sulfur dioxide emitting unit"** means any equipment that is located at a WEB source and that emits sulfur dioxide;

**AE "sulfur dioxide milestones and backstop trading program implementation plan"** or "implementation plan" means section C of the New Mexico regional haze state implementation plan revision adopted by the environmental improvement board on November 18, 2003;

**AF. "stationary source"** means any building, structure, facility or installation that emits or may emit any air pollutant subject to regulation under the Clean Air Act;

**AG. "submit"** means sent to the appropriate authority under the signature of the account representative; for purposes of determining when something is submitted, an official U.S. postal service postmark, or equivalent electronic time stamp, shall establish the date of submittal;

**AH. "ton"** means 2000 pounds and, for any control period, any fraction of a ton equaling 1000 pounds or more shall be treated as one ton and any fraction of a ton equaling less than 1000 pounds shall be treated as zero tons;

**AI. "tracking system administrator"** means the person designated by the department as the administrator of the allowance tracking system and the emission tracking database;

**AJ. "web source"** means a stationary source that meets the applicability requirements of 20.2.81.101 NMAC;

**AK. "western backstop sulfur dioxide trading program ("WEB trading program")"** means 20.2.81 NMAC, triggered as a backstop in accordance with the provisions in the sulfur dioxide milestones and backstop trading program implementation plan, if necessary, to ensure that regional sulfur dioxide emissions are reduced.

[20.2.81.7 NMAC - N, 12/31/03]

**20.2.81.8 - 20.2.81.99 [RESERVED]**

**20.2.81.100 WEB TRADING PROGRAM TRIGGER:**

**A.** Except as provided in Subsection B of this section, 20.2.81 NMAC shall become effective on the program trigger date that is established in accordance with the procedures outlined in the sulfur dioxide milestones and backstop trading program implementation plan.

**B.** 20.2.81.110 NMAC, special penalty provisions for year 2018, shall become effective on January 1, 2018 and shall remain effective until the provisions of 20.2.81.110 NMAC have been fully implemented.

**C.** The department shall report to the environmental improvement board every two years following the trigger of this program on the distributions of emissions allowances under the program.

[20.2.81.100 NMAC - N, 12/31/03]

**20.2.81.101 WEB TRADING PROGRAM APPLICABILITY:**

**A. General applicability.** 20.2.81 NMAC applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and which are under the control of the same person or persons under common control, belonging to the same industrial grouping, and that are described in Paragraphs 1 through 4 of Subsection B. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the standard industrial classification manual, 1987.

**B. The following are WEB sources.**

**(1)** All BART-eligible sources as defined in 40 CFR 51.301 that are BART-eligible due to sulfur dioxide emissions.

**(2)** All stationary sources not meeting the criteria of Paragraph 1 of Subsection B of 20.2.81.101 NMAC, that have actual sulfur dioxide emissions of 100 tons or more per year in the program trigger years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is a WEB source unless the source belongs to one of the following categories of stationary source:

**(a)** coal cleaning plants (with thermal dryers);

**(b)** Kraft pulp mills;

**(c)** Portland cement plants;

**(d)** primary zinc smelters;
**(e)** iron and steel mills;
**(f)** primary aluminum ore reduction plants;
**(g)** primary copper smelters;
**(h)** municipal incinerators capable of charging more than 250 tons of refuse per day;
**(i)** hydrofluoric, sulfuric, or nitric acid plants;
**(j)** petroleum refineries;
**(k)** lime plants;
**(l)** phosphate rock processing plants;
**(m)** coke oven batteries;
**(n)** sulfur recovery plants;
**(o)** carbon black plants (furnace process);
**(p)** primary lead smelters;
**(q)** fuel conversion plants;
**(r)** sintering plants;
**(s)** secondary metal production plants;
**(t)** chemical process plants;
**(u)** fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
**(v)** petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
**(w)** taconite ore processing plants;
**(x)** glass fiber processing plants;
**(y)** charcoal production plants;
**(z)** fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
**(aa)** any other stationary source category, which as of August 7, 1980 is being regulated under Section 111 or 112 of the Clean Air Act.

**(3)** A new source that begins operation after the program trigger date and has the potential to emit 100 tons or more of sulfur dioxide per year.

**(4)** The department may determine on a case-by-case basis, with concurrence from the EPA administrator, that a source defined in Paragraph 2 of Subsection B of 20.2.81.101 NMAC is not a WEB source if the source:
**(a)** in each of the previous five years had actual sulfur dioxide emissions of less than 100 tons per year; and
**(b)** had actual sulfur dioxide emissions of 100 tons or more in a single year due to a temporary emission increase that was caused by a sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, failure of process equipment, or a failure to operate in a normal or usual manner; and
**(c)** took timely and reasonable action to minimize the temporary emission increase; and
**(d)** has corrected the failure of air pollution control equipment, process equipment, or process by the time of the department's determination under this section; or
**(e)** had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances besides cost of such fuels or feedstocks; and
**(f)** a temporary emission increase due to poor maintenance or careless operation does not meet the criteria of this section.

**C. Duration of program participation.** Except as provided for in Subsection D of 20.2.81.101 NMAC, once a source is subject to the WEB trading program, it will remain in the program every year thereafter.

**D. Retired source exemption: application.**

**(1)** Any WEB that is retired shall apply for a retired source exemption. The WEB source may only be considered retired if all sulfur dioxide emitting units at the source are retired. The application shall contain all of the following information:
**(a)** identification of the WEB source, including plant name and an appropriate identification code in a format specified by the department;
**(b)** name of account representative;
**(c)** description of the status of the WEB source, including the date that the WEB source was retired;

**(d)** signed certification that the WEB source is retired and will comply with the requirements of Subsection D of 20.2.81.101 NMAC; and

**(e)** verification that the WEB source has a general account where any unused allowances or future allocations will be recorded.

**(2) Responsibilities of retired sources.** The retired source exemption becomes effective when the department notifies the source that the retired source exemption has been granted.

**(3)** A retired source shall be exempt from 20.2.81.106 NMAC and 20.2.81.109 NMAC, except as provided below.

**(a)** A retired source shall not emit any sulfur dioxide after the date the retired source exemption is effective.

**(b)** A WEB source shall submit sulfur dioxide emissions reports, as required by Subsection O of 20.2.81.106 NMAC for any time period the source was operating prior to the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of 20.2.81.109 NMAC, including the requirement to hold allowances in the source's compliance account to cover all sulfur dioxide emissions prior to the date the source was permanently retired.

**(c)** A retired source that is still in existence but no longer emitting sulfur dioxide shall, for a period of five years from the date the records are created, retain records demonstrating the effective date of the retired source exemption for purposes of this part.

**(4)** Resumption of operations.

**(a)** Should a retired source desire to resume operation, the retired source shall submit registration materials as follows:

**(i)** if the source is required to obtain a new source review permit or operating permit under 20.2.70 NMAC, 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC prior to resuming operation, then the source shall submit registration information as described in 20.2.81.103 NMAC and a copy of the retired source exemption with the application required under 20.2.70 NMAC, 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC; or

**(ii)** if the source is not required to obtain a new source review permit or operating permit under 20.2.70 NMAC, 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC prior to resuming operation, then the source shall submit registration information as described in Subsection A of 20.2.81.103 NMAC and a copy of the retired source exemption to the department at least ninety days prior to resumption of operation.

**(b)** The retired source exemption shall automatically expire on the day the source resumes operation.

**(5)** Loss of future allowances. A WEB source that is retired and that does not apply to the department for a retired source exemption within ninety days of the date that the source is retired shall forfeit any unused and future allowances. The abandoned allowances shall be retired by the tracking system administrator. [20.2.81.101 NMAC - N, 12/31/03]

**20.2.81.102 ACCOUNT REPRESENTATIVE FOR WEB SOURCES:** Each WEB source must identify one account representative and may also identify an alternate account representative who may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

**A. Identification and certification of an account representative.**

**(1)** The account representative and any alternate account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative and any alternate binding on the owners and operators of the WEB source.

**(2)** The account representative shall submit to the department and the tracking system administrator a signed and dated account certificate of representation (certificate) that contains the following elements:

**(a)** identification of the WEB source by plant name, state and an appropriate identification code in a format specified by the department;

**(b)** the name, address, e-mail (if available), telephone and facsimile number of the account representative and any alternate;

**(c)** a list of owners and operators of the WEB source; and

**(d)** information to be part of the emission tracking system database in accordance with the implementation plan. the specific data elements shall be as specified by the department to be consistent with the data system structure, and may include basic facility information that may appear in other reports and notices submitted by the WEB source, such as county location, industrial classification codes, and similar general facility information.

**(e)** the following certification statement: "I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on the owners and operators of the WEB source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB trading program on behalf of the owners and operators of the WEB source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the department regarding the WEB trading program."

**(3)** Upon receipt by the department of the complete certificate, the account representative and any alternate account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each owner and operator of the WEB source in all matters pertaining to the WEB trading program. The owners and operators shall be bound by any decision or order issued by the department regarding the WEB trading program.

**(4)** No WEB allowance tracking system account shall be established for the WEB source until the tracking system administrator has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

**B. Requirements and responsibilities.**

**(1)** The responsibilities of the account representative include, but are not limited to, the transferring of allowances, and the submission of monitoring plans, registrations, certification applications, sulfur dioxide emissions data and compliance reports as required by 20.2.81 NMAC, and representing the source in all matters pertaining to the WEB trading program.

**(2)** Each submission under this program shall be signed and certified by the account representative for the WEB source. Each submission shall include the following truth and accuracy certification statement by the account representative: "I am authorized to make this submission on behalf of the owners and operators of the WEB source for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

**C. Changing the account representative or owners and operators.**

**(1)** Changes to the account representative or the alternate account representative. The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the department and the tracking system administrator under Paragraph 3 of Subsection A of 20.2.81.102 NMAC, with the change taking effect upon receipt of such certificate by the department. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the tracking system administrator receives the superseding certificate shall be binding on the new account representative and the owners and operators of the WEB source.

**(2)** Changes in owners and operators.

**(a)** Within thirty days of any change in the owners and operators of the WEB source, including the addition of a new owner or operator, the account representative shall submit a revised certificate amending the list of owners and operators to include such change.

**(b)** In the event a new owner or operator of a WEB source is not included in the list of owners and operators submitted in the certificate, such new owner or operator shall be deemed to be subject to and bound by the certificate, the representations, actions, inactions, and submissions of the account representative of the WEB source, and the decisions, orders, actions, and inactions of the department as if the new owner or operator were included in such list.

[20.2.81.102 NMAC - N, 12/31/03]

**20.2.81.103 REGISTRATION:**

**A. Deadlines.**

**(1)** Each source that is a WEB source on or before the program trigger date shall register by submitting the initial certificate required in Subsection A of 20.2.81.102 NMAC to the department no later than 180 days after the program trigger date.

**(2)** Any existing source that becomes a WEB source after the program trigger date shall register by submitting the initial certificate required in Subsection A of 20.2.81.102 NMAC to the department no later than September 30 of the year following the inventory year in which the source exceeded the emission threshold.

**(3)** Any new WEB source shall register by submitting the initial certificate required in Subsection A

of 20.2.81.102 NMAC to the department prior to the commencement of operation.

**B. Integration into permits.**

**(1)** Any allocation, transfer or deduction of allowance to or from the compliance account of a WEB source shall not require revision of the WEB source's operating permit under 20.2.70 NMAC.

**(2)** Any WEB source is not required to have a permit under 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC at any time after this rule becomes effective, must at all times possess a permit that includes the requirements of 20.2.81 NMAC. If it does not possess a title V permit under 20.2.70 NMAC , it may satisfy this paragraph's requirements by obtaining or modifying a permit under 20.2.72, NMAC, 20.2.74 NMAC or 20.2.79 NMAC to incorporate the requirements of 20.2.81 NMAC. The source must at all times possess a permit that includes these requirements.

[20.2.81.103 NMAC - N, 12/31/03]

**20.2.81.104 ALLOWANCE ALLOCATIONS:**

**A.** The tracking system administrator shall record the allowances for each WEB source in the compliance account for a WEB source once the allowances are allocated by the department under section C1 of the sulfur dioxide milestones and backstop trading program implementation plan. If applicable, the tracking system administrator shall record a portion of the sulfur dioxide allowances for a WEB source in a special reserve account assigned to the department to account for any allowances to be held by the Department in accordance with Subsection B of 20.2.81.106 NMAC.

**B.** The tracking system administrator shall assign a serial number to each allowance in accordance with section C2 of the sulfur dioxide milestones and backstop trading program implementation plan.

**C.** All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

**D.** An allowance is not a property right, and is a limited authorization to emit one ton of sulfur dioxide valid only for the purpose of meeting the requirements of 20.2.81 NMAC. No provision of this WEB trading program or other law should be construed to limit the authority of the United States or the department to terminate or limit such authorization.

**E. Early reduction bonus allocation.** Any WEB source that reduces permitted annual sulfur dioxide emissions to a level that is below the floor level allocation established for that source in section C1 of the sulfur dioxide milestones and backstop trading program implementation plan between 2003 and the program trigger year may apply to the department for an early reduction bonus allocation. The application shall be submitted no later than ninety days after the program trigger date. Any WEB source that applies and receives early reduction bonus allocations shall retain the records referenced below for a minimum of five years after the early reduction bonus allowance is certified in accordance with section C1.1(a) (3) of the implementation plan. The application for an early reduction bonus allocation shall contain the following information.

**(1)** Copies of all permits or other enforceable documents that include annual sulfur dioxide emissions limits for the WEB source during the period the WEB source was generating the early reductions. Such permits or enforceable documents shall require monitoring for sulfur dioxide emissions that meets the requirements in Subsection A and Subsection C of 20.2.81.106 NMAC and that the monitoring provisions were in effect one year prior to the beginning of the credit generating period.

**(2)** Copies of emissions monitoring reports, for one year prior to the beginning of the credit generating period and for the period the WEB source was generating the early reductions, that documents the actual annual sulfur dioxide emissions. The emissions monitoring reports during the credit generating period must demonstrate that the actual annual sulfur dioxide emissions were below the floor level allocation established for that source in section C1 of the sulfur dioxide milestones and backstop trading program implementation plan.

**(3)** Demonstration that the floor level established for the source in accordance with section C1 of the sulfur dioxide milestones and backstop trading program implementation plan was calculated using data that are consistent with the new monitoring methodology under Subsection A of 20.2.81.106 NMAC. If new monitoring techniques change the floor level for the source, then a demonstration of the new floor level based on new monitoring techniques shall be included in the application.

**F. Request for allowances for new WEB sources or modified WEB sources.**

**(1)** A new WEB source or an existing WEB source that has increased production capacity through a permitted change in operations under 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC may apply to the department for an allocation from the new source set-aside, as outlined in section C1.3 of the implementation plan.

**(a)** A new WEB source is eligible to apply for an annual allocation equal to the permitted

annual sulfur dioxide emission limit for that source after the source has commenced operation.

**(b)** An existing WEB source is eligible to apply for an annual allocation equal to the permitted annual sulfur dioxide emission limit for that source that is attributable to any amount of production capacity that is greater than the permitted production capacity for that source as of January 1, 2003.

**(c)** A source that has received a retired source exemption under Subsection D of 20.2.81.101 NMAC is not eligible to apply for an allocation from the new source set-aside.

**(2)** The application for an allocation from the new source set-aside shall contain the following information:

**(a)** for existing WEB sources, documentation that shows the permitted production capacity of the source before and after the new permit; or

**(b)** for new WEB sources, documentation of the actual date of the commencement of operation and a copy of the permit.

[20.2.81.104 NMAC - N, 12/31/03]

**20.2.81.105 ESTABLISHMENT OF ACCOUNTS:**

**A. Allowance tracking system accounts.** All WEB sources shall open a compliance account. Any person may open a general account for holding and transferring allowances. In addition, if a Web source conducts monitoring under Subsection B of 20.2.81.106 NMAC, the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions. The WEB source and account representative shall have no rights to transfer allowances in or out of such special reserve compliance account. The department shall allocate allowances to the account in accordance with Paragraph 5 of Subsection B of 20.2.81.106 NMAC and all such allowances for each control period shall be retired each year for compliance in accordance with 20.2.81.109 NMAC. To open either type of account; an application that contains the following information shall be submitted:

**(1)** the name, mailing address, e-mail address, telephone number, and facsimile number of the account representative; for a compliance account, include a copy of the account certificate of representation of the account representative and any alternate as required in Paragraph 2 of Subsection A of 20.2.81.102 NMAC; for a general account, include the account certificate of representation of the account representative and any alternate as required in Paragraph 2 of Subsection C or 20.2.81.105 NMAC;

**(2)** the WEB source or organization name;

**(3)** the type of account to be opened; and

**(4)** a signed certification of truth and accuracy by the account representative according to Paragraph 2 of Subsection A of 20.2.81.102 for compliance accounts and for general accounts, certification of truth and accuracy by the account representative according to Subsection D of 20.2.81.105 NMAC.

**B. Account representative for general accounts.** For a general account, one account representative shall be identified and an alternate account representative may be identified and may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative shall be deemed to be a representation, action, inaction or submission by the account representative.

**C. Identification and certification of an account representative for general accounts.**

**(1)** The account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative binding on all persons who have an ownership interest with respect to allowances held in the general account.

**(2)** The account representative shall submit to the department and the tracking system administrator a signed and dated account certificate of representation (certificate) that contains the following elements:

**(a)** the name, address, e-mail (if available), telephone and facsimile number of the account representative and any alternate;

**(b)** the organization name; and

**(c)** the following certification statement: "I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB trading program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the department regarding the general account."

**(3)** Upon receipt by the department of the complete certificate, the account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an

ownership interest in allowances held in the general account with regard to all matters concerning the general account. Such persons shall be bound by any decision or order issued by the department.

**(4)** No WEB allowance tracking system general account shall be established until the tracking system administrator has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

**D. Requirements and responsibilities.** Each submission for the general account shall be signed and certified by the account representative for the general account. Each submission shall include the following truth and accuracy certification statement by the account representative: "I am authorized to make this submission on behalf of all person who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

**E. Changing the account representative.** The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the department and the tracking system administrator under Paragraph 2 of Subsection C of 20.2.81.105 NMAC, with the change taking effect upon receipt of such certificate by the department. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the department receives the superseding certificate shall be binding on the new account representative and all persons having ownership interest with respect to allowances held in the general account.

**F. Changes to the account.** Any change to the information required in the application for an existing account under Subsection A of 20.2.81.105 NMAC shall require a revision of the application.

[20.2.81.105 NMAC - N, 12/31/03]

**20.2.81.106 MONITORING, RECORDKEEPING AND REPORTING - GENERAL REQUIREMENTS ON MONITORING METHODS:**

**A.** For each sulfur dioxide emitting unit at a WEB source shall comply with the following, as applicable, to monitor and record sulfur dioxide mass emissions.

**(1)** If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB trading program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting sulfur dioxide mass emissions.

**(2)** If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB trading program, a unit shall use one of the following monitoring methods, as applicable:

**(a)** a continuous emission monitoring system (CEMS) for sulfur dioxide and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

**(b)** if the unit is a gas- or oil-fired combustion device, the accepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to sulfur dioxide mass emissions only) of Section 75.19 of 40 CFR Part 75;

**(c)** one of the optional WEB protocols, if applicable, in 20.2.81.111 NMAC or 20.2.81.112 NMAC; or

**(d)** a petition for site-specific monitoring that the source submits for approval by the department, and approval by the U.S. environmental protection agency in accordance with Paragraph 5 of Subsection O of 20.2.81.106 NMAC.

**(3)** A permanently retired unit shall not be required to monitor under this section if such unit was permanently retired and had no emissions for the entire period for which the WEB source implements this Paragraph 3 and the account representative certifies in accordance with Subsection B of 20.2.81.109 NMAC that these conditions were met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section 20.2.81.106 NMAC in the same manner as if the unit was a new unit.

**B.** Notwithstanding Subsection A of this section, the WEB source with a unit that meets one of the conditions of Paragraph 1 of Subsection B of 20.2.81.106 NMAC may elect to have the provisions of this Paragraph 1 apply to that unit.

**(1)** Any of the following units may implement Subsection B of 20.2.81.106 NMAC:

**(a)** any smelting operation where all of the emissions from the operation are not ducted to a stack;

**(b)** any flare, except to the extent such flares are used as a fuel gas combustion device at a

petroleum refinery; or

**(c)** any other type of unit without add-on sulfur dioxide control equipment, if no control level was assumed for the WEB source in establishing the floor level (and reducible allocation) provided in section C1 of the implementation plan.

**(2)** For each unit covered by Subsection B of 20.2.81.106 NMAC , the account representative shall submit a notice to request that Subsection B of 20.2.81.106 NMAC apply to one or more sulfur dioxide emitting units at a WEB source. The notice shall be submitted in accordance with the compliance dates specified in Paragraph 1 of Subsection M of 20.2.81.106 NMAC, and shall include the following information (in a format specified by the department with such additional, related information as may be requested):

**(a)** a notice of all units at the applicable source, specifying which of the units are to be covered by Subsection B of 20.2.81.106 NMAC;

**(b)** consistent with the emission estimation methodology used to determine the floor level (and reducible allocation) for the source in accordance with section C1 of the implementation plan, the portion of the WEB source's overall allowance allocation that is attributable to any unit(s) covered by this paragraph; and

**(c)** an identification of any such units that are permanently retired.

**(3)** For each new unit at an existing WEB source for which the WEB source seeks to comply with this Subsection B of 20.2.81.106 NMAC; and for which the account representative applies for an allocation under the new source set-aside provisions of Subsection F of 20.2.81.104 NMAC, the account representative shall submit a modified notice under Paragraph 2 of Subsection B of 20.2.81.106 NMAC, that includes such new sulfur dioxide emitting unit(s). The modified notice shall be submitted in accordance with the compliance dates in Paragraph 1 of Subsection M of 20.2.81.106 NMAC, but no later than the date on which a request is submitted under Paragraph 1 of Subsection F of 20.2.81.104 NMAC for allocations from the set-aside.

**(4)** The department shall evaluate the information submitted by the WEB source in Paragraphs 2 and 3 of Subsection B of 20.2.81.106 NMAC, and may issue a notice to the source to exclude any units that do not qualify under this Subsection B of 20.2.81.106 NMAC or to adjust the portion of allowances attributable to units that do qualify to be consistent with the emission estimation methodology used to establish the floor level (and reducible allocation) for the source.

**(5)** The department shall allocate allowances equal to the adjusted portion of the WEB source's allowances under Paragraphs 2, 3, and 4 of Subsection B of 20.2.81.106 NMAC in a special reserve compliance account provided that no such treatment of the WEB source's allocation will be required for any unit that is permanently retired and had no emissions for the entire period for which the WEB source implements this Subsection B and the account representative certifies in accordance with 20.2.81.109 NMAC that these conditions are met. In the event that a permanently retired unit recommences operation, the WEB source shall meet the requirements of this Section 20.2.81.106 NMAC in the same manner as if the unit was a new unit.

**(6)** The account representative for a WEB source shall submit an annual emissions statement for each unit under this Subsection B of 20.2.81.106 NMAC in accordance with Subsection O of 20.2.81.106 NMAC. The WEB source shall maintain operating records sufficient to estimate annual emissions in a manner consistent with the emission estimation methodology used to establish the floor level (and reducible allocation) for the source. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account under Paragraph 5 of Subsection B of 20.2.81.106 NMAC for the WEB source, the account representative shall report the excess amount as part of the annual report for the WEB source under 20.2.81.109 NMAC and be required to use other allowances in the standard compliance account for the WEB source to account for such emissions, in accordance with 20.2.81.109 NMAC.

**(7)** The remaining provisions of this section shall not apply to units covered by Subsection B of 20.2.81.106 NMAC except where otherwise noted.

**(8)** A WEB source may opt to modify the monitoring for an sulfur dioxide emitting unit to use monitoring under Subsection A of 20.2.81.106 NMAC, but any such monitoring change shall take effect on January 1 of the next compliance year. In addition, the account representative shall submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with Subsection D of 20.2.81.106 NMAC. The account representative shall also submit a revised notice under Subsection B of 20.2.81.106 NMAC at the same time that the initial monitoring plan is submitted.

**C.** For any monitoring that the WEB source uses under this section (including Paragraph 1), the WEB source (and, as applicable, the account representative) shall implement, certify, and use such monitoring in accordance with this section, and shall record and report the data from such monitoring as required in this section. In addition, the WEB source (and, as applicable, the account representative) shall not:

**(1)** except for an alternative approved by the U.S. EPA administrator for a WEB source that

implements monitoring under Paragraph 1 of Subsection A of 20.2.81.106 NMAC, use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with Paragraph 5 of Subsection O of 20.2.81.106 NMAC;

**(2)** operate an sulfur dioxide emitting unit so as to discharge, or allow to be discharged, sulfur dioxide emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this section;

**(3)** disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording sulfur dioxide mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this section; or

**(4)** retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

**(a)** during a period when the unit is exempt from the requirements of this section, including retirement of a unit as addressed in Paragraph 3 of Subsection A of 20.2.81.106 NMAC;

**(b)** the WEB source is monitoring emissions from the unit with another certified monitoring method approved under this section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

**(c)** the account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this section.

**D. Monitoring plan general provisions.** The WEB source of a sulfur dioxide emitting unit that uses a monitoring method under Paragraph 2 of Subsection A of 20.2.81.106 NMAC shall meet the following requirements:

**(1)** prepare and submit to the department an initial monitoring plan for each monitoring method that the WEB source uses to comply with this section. In accordance with Subsection F of 20.2.81.106 NMAC, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit sulfur dioxide emissions are monitored and reported; the plan shall be submitted in accordance with the compliance deadlines specified in Subsection M of 20.2.81.106 NMAC;

**(2)** prepare, maintain and submit to the department a detailed monitoring plan prior to the first day of certification testing in accordance with the compliance deadline specified in Subsection M of 20.2.81.106 NMAC; the plan shall contain the applicable information required by Subsection D of 20.2.81.106 NMAC. The department may require that the monitoring plan (or portions thereof) be submitted electronically; the department also may require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under Paragraph 1 of Subsection O of 20.2.81.106 NMAC or resubmitted separately within after any change is made to the plan in accordance with the following Paragraph 3 of Subsection D of 20.2.81.106 NMAC; and

**(3)** whenever the WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in Paragraph 2 of Subsection A of 20.2.81.106 NMAC, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan (e.g., a change to serial number for a component of a monitoring system), then the WEB source shall update the monitoring plan in accordance with the compliance deadline specified in Subsection M of 20.2081.106 NMAC.

**E.** A WEB source with a sulfur dioxide emitting unit that uses a method under Paragraph 1 of Subsection A of 20.2.81.106 NMAC (a unit subject to 40 CFR Part 75 under a program other than this WEB trading program) shall meet the requirements of Subsections D-I of 20.2.81.106 NMAC by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75, provided that the WEB source also shall submit the entire monitoring plan to the department upon request.

**F. Initial monitoring plan.** The account representative shall submit an initial monitoring plan for each sulfur dioxide emitting unit (or group of units sharing a common methodology) that, except as otherwise specified in an applicable provision in 20.2.81.111 NMAC, contains the following information.

**(1)** For all sulfur dioxide emitting units involved in the monitoring plan:

**(a)** plant name and location;

**(b)** plant and unit identification numbers assigned by the department;

**(c)** type of unit (or units for a group of units using a common monitoring methodology);

**(d)** identification of all stacks or pipes associated with the monitoring plan;

**(e)** types of fuel(s) fired (or sulfur containing process materials used in the sulfur dioxide emitting unit), and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR

Part 75 methodology;

**(f)** type(s) of emissions controls for sulfur dioxide installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;

**(g)** maximum hourly heat input capacity, or process throughput capacity, if applicable;

**(h)** identification of all units using a common stack; and

**(i)** indicator of whether any stack identified in the plan is a bypass stack.

**(2)** For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a site-specific methodology submitted pursuant to Subparagraph d of Paragraph 2 of Subsection A of 20.2.81.106 NMAC, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations, operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

**(3)** If the WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this section, such petition may be submitted as part of the initial monitoring plan.

**(4)** The department may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this section.

**G. Detailed monitoring plan.** The account representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provisions in 20.2.81.111 NMAC or 20.2.81.112 NMAC, shall contain the following information.

**(1)** Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer or probe) in a CEMS (e.g., sulfur dioxide pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in 20.2.81.111 NMAC or 20.2.81.112 NMAC , including:

**(a)** manufacturer, model number and serial number;

**(b)** component or system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer or probe;

**(c)** designation of the component type and method of sample acquisition or operation (e.g., in situ pollutant concentration monitor or thermal flow monitor);

**(d)** designation of the system as a primary or backup system;

**(e)** first and last dates the system reported data;

**(f)** status of the monitoring component; and

**(g)** parameter monitored.

**(2)** Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

**(a)** hardware components that perform emission calculations or store data for quarterly reporting purposes (provide the manufacturer and model number); and

**(b)** software components (provide the identification of the provider and model or version number).

**(3)** Explicit formulas for each measured emissions parameter, using component or system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas shall contain all constants and factors required to derive mass emissions from component or system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The WEB source with a low mass emissions unit for which the WEB source is using the optional low mass emissions accepted methodology in Section 75.19(c) of 40 CFR Part 75 is not required to report such formulas.

**(4)** Inside cross-sectional area (square feet) at flow monitoring location (for units with flow monitors, only).

**(5)** If using CEMS for sulfur dioxide and flow, for each parameter monitored: scale, maximum potential concentration (and method of calculation), maximum expected concentration (if applicable) (and method of calculation), maximum potential flow rate (and method of calculations), span value, full-scale range, daily calibration units of measure, span effective date and hour, span inactivation date and hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value in standard cubic feet per hour (scfh) for each unit or stack using sulfur dioxide or flow component monitors.

**(6)** If the monitoring system or accepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then the following information for each value of such

parameter shall be included:

**(a)** identification of the parameter;

**(b)** default, maximum, minimum, or constant value, and units of measure for the value;

**(c)** purpose of the value;

**(d)** indicator of use during controlled and uncontrolled hours;

**(e)** types of fuel;

**(f)** source of the value;

**(g)** value effective date and hour;

**(h)** date and hour value is no longer effective (if applicable); and

**(i)** for units using the accepted methodology under Section 75.19 of 40 CFR Part 75, the applicable sulfur dioxide emission factor.

**(7)** Unless otherwise specified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which hardware CEMS are installed:

**(a)** the upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), or thousand of lb/hr of steam, or ft/sec (as applicable);

**(b)** the load or operating level(s) designated as normal in Section 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of pounds per hour lb/hr of steam, or feet per second ft/sec (as applicable);

**(c)** the two load or operating levels (i.e., low, mid, or high) identified in Section 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;

**(d)** the date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load (or operating) levels; and

**(e)** activation and deactivation dates when the normal load or operating level(s) change and are updated.

**(8)** For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in Section 2.1.7 of Appendix D to 40 CFR Part 75 is used:

**(a)** the upper and lower boundaries of the range of operation (as defined in Section 6.5.2.1 of Appendix A to 40 CFR Part 75), expressed in thousand of lb/hr of steam;

**(b)** the load level designated as normal, pursuant to Section 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

**(c)** the date of the load analysis used to determine the normal load level.

**(9)** Information related to quality assurance testing, including (as applicable): identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels (percent of span) for the calibration error test and linearity check; calculations for determining maximum potential concentration, maximum expected concentration (if applicable), maximum potential flow rate, and span;

**(10)** If applicable, apportionment strategies under Sections 75.10 through 75.18 of 40 CFR Part 75.

**(11)** Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

**(a)** a schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and Paragraphs 1 and 3 of Subsection G of 20.2.81.106 NMAC; the schematic diagram must depict the height of any monitor locations; comprehensive or separate schematic diagrams shall be used to describe groups of units using a common stack; and

**(b)** stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

**(12)** A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

**H.** In addition to supplying the information in Subsections F and G above, the WEB source with an sulfur dioxide emitting unit using either of the methodologies in Subparagraph b of Paragraph 2 of Subsection A of 20.2.81.106 NMAC shall include the following information in its monitoring plan for the specific situations described.

**(1)** For each gas-fired or oil-fired sulfur dioxide emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR Part 75 for sulfur dioxide mass emissions, the WEB source shall include the following information in the monitoring plan:

**(a)** parameter monitored;

**(b)** type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate (i.e., upper range value or unit maximum) for each fuel flowmeter;

**(c)** test method used to check the accuracy of each fuel flowmeter;

**(d)** submission status of the data;

**(e)** monitoring system identification code;

**(f)** the method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;

**(g)** a schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeter(s), and the stack(s); the schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling location(s); comprehensive and separate schematic diagrams shall be used to describe groups of units using a common pipe;

**(h)** for units using the optional default sulfur dioxide emission rate for "pipeline natural gas" or "natural gas" in Appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either Section 2.3.1.4 or 2.3.2.4 of Appendix D to 40 CFR Part 75;

**(i)** for units using the 720 hour test under Section 2.3.6 of Appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

**(j)** for units using the 720 hour test under Section 2.3.5 of Appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

**(2)** For each sulfur dioxide emitting unit for which the WEB source uses the low mass emission accepted methodology of Section 75.19 to 40 CFR Part 75, the WEB source shall include the following information in the monitoring plan that accompanies the initial certification application:

**(a)** the results of the analysis performed to qualify as a low mass emissions unit under Section 75.19(c) to 40 CFR Part 75; this report shall include either the previous three years actual or projected emissions; the following items shall be included: a) current calendar year of application; b) type of qualification; c) years one, two, and three; d) annual measured, estimated or projected sulfur dioxide mass emissions for years one, two, and three; and e). annual operating hours for years one, two, and three;

**(b)** a schematic diagram identifying the relationship between the unit, all fuel supply lines and tanks, any fuel flowmeter(s), and the stack(s); comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

**(c)** for units which use the long term fuel flow methodology under Section 75.19(c)(3) to 40 CFR Part 75, a diagram of the fuel flow to each unit or group of units and a detailed description of the procedures used to determine the long term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units;

**(d)** a statement that the unit burns only gaseous fuel(s) and/or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only gaseous fuel(s) and/or fuel oil and a list of the fuels that are projected to be burned;

**(e)** a statement that the unit meets the applicability requirements in Sections 75.19(a) and (b) to 40 CFR Part 75 with respect to sulfur dioxide emissions; and

**(f)** any unit historical actual, estimated and projected sulfur dioxide emissions data and calculated sulfur dioxide emissions data demonstrating that the unit qualifies as a low mass emissions unit under Sections 75.19(a) and (b) to 40 CFR Part 75.

**(3)** For each gas-fired unit the WEB source shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in Section 72.2 of 40 CFR Part 72, and an indication of whether the data are actual or projected data.

**I.** The specific elements of a monitoring plan under Subsection D of 20.2.81.106 NMAC shall not be part of an operating permit for a WEB source issued in accordance with the title V of the Clean Air Act, and modifications to the elements of the plan shall not require a permit modification.

**J. Certification and recertification.**

**(1)** All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75, 20.2.81.111 NMAC or ; 20.2.81.112 NMAC. Certification or recertification of a monitoring system by the U.S. environmental protection agency for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from 20.2.81 NMAC shall constitute certification under the WEB trading program.

**(2)** The WEB source with a sulfur dioxide emitting unit not otherwise subject to 40 CFR Part 75 that monitors sulfur dioxide mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this section shall perform all of the tests required by that regulation and shall submit the following:

**(a)** a test notice, not later than 21 days before the certification testing of the monitoring system, provided that the department may establish additional requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under Subsection F of 20.2.81.106 NMAC;

**(b)** an initial certification application within 45 days after testing is complete;

**(c)** a monitoring system shall be considered provisionally certified while the application is pending, and the system shall be deemed certified if the department does not approve or disapprove the system within six months after the date on which the application is submitted; and

**(d)** whenever an audit of any monitoring certified under 20.2.81 NMAC, and a review of the initial certification or recertification application, reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement of 20.2.81 NMAC, both at the time of the initial certification or recertification application submission and at the time of the audit, the department will issue a notice of disapproval of the certification status of such system or component; for the purposes of this paragraph, an audit shall be either a field audit of the facility or an audit of any information submitted to the department regarding the facility; by issuing the notice of disapproval, the certification status is revoked prospectively, and the data measured and recorded shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the WEB source completes subsequently approved initial certification or recertification tests in accordance with the procedures in Subsection J of 20.2.81.106 NMAC; the WEB source shall apply the substitute data procedures in Paragraph 2 of Subsection L of 20.2.81.106 NMAC to replace, prospectively, all of the invalid, non-quality-assured data for each disapproved system or component.

**K. Ongoing quality assurance and quality control.** The WEB source shall satisfy the applicable quality assurance and quality control requirements of Part 75 or, if the WEB source is subject to a WEB protocol in 20.2.81.111 NMAC , the applicable quality assurance and quality control requirements in 20.2.81.111 NMAC on and after the date that certification testing commences.

**L. Substitute data procedures.**

**(1)** For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with 20.2.81 NMAC, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in 20.2.81.111 NMAC or 20.2.81.112 NMAC , with substitute data in accordance with 20.2.81.111 NMAC.

**(2)** For a sulfur dioxide emitting unit that does not have a certified or provisionally certified monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB trading program, the WEB source shall:

**(a)** if the WEB Source will use a CEMS to comply with this section, substitute the maximum potential concentration of sulfur dioxide for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75; the procedures for conditional data validation under Section 75.20(b)(3) may be used for any monitoring system under 20.2.81 NMAC that uses these 40 CFR Part 75 procedures, as applicable;

**(b)** if the WEB source will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with Section 2.4 of Appendix D to 40 CFR Part 75;

**(c)** if the WEB source will use the 40 CFR Part 75 methodology for low mass emissions units, substitute the sulfur dioxide emission factor required for the unit as specified in 40 CFR 75.19 and the maximum rated hourly heat input, as defined in 40 CFR 72.2; or

**(d)** if using a protocol in 20.2.81.111 NMAC or 20.2.81.112 NMAC , follow the procedures in the applicable protocol.

**M. Compliance Deadline.**

**(1)** The initial monitoring plan shall be submitted by the following dates.

**(a)** For each source that is a WEB source on or before the program trigger date, the monitoring plan shall be submitted 180 days after such program trigger date.

**(b)** For any existing source that becomes a WEB source after the program trigger date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.

**(c)** For any new WEB source, the monitoring plan shall be included with the permit application under 20.2.70 NMAC, 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC.

**(2)** A detailed monitoring plan under Subsection E of 20.2.81.106 NMAC shall be submitted no later than 45 days prior to commencing certification with the following Paragraph 3.

**(3)** Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of this 20.2.81.106 NMAC (including any referenced in 20.2.81.111 NMAC or 20.2.81.112 NMAC ) by the following dates.

**(a)** For each source that is a WEB source on or before the program trigger date, two years prior to the start of the first control period as described in 20.2.81.109 NMAC.

**(b)** For any existing source that becomes a WEB source after the program trigger date, one year after the due date for the monitoring plan under Subparagraph b of Paragraph 2 of Subsection M of 20.2.81.106 NMAC.

**(c)** For any new WEB source, (or any new unit at a WEB source under Paragraph 3 Subparagraph a or b, the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.

**(4)** The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in Paragraph 2 of Subsection J of 20.2.81.106 NMAC.

**(5)** For each applicable control period, the WEB source shall submit each quarterly report under Subsection O of 20.2.81.106 NMAC by no later than 30 days after the end of each calendar quarter and shall submit the annual report under Subsection O of 20.2.81.106 NMAC no later than 60 days after the end of each calendar year.

**N. Recordkeeping.**

**(1)** Except as provided in Paragraph 2 of Subsection N of 20.2.81.106 NMAC, the WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under 20.2.81 NMAC for a period of five years. In addition, the WEB source shall keep a copy of all account certificates of representation. Unless otherwise requested by the WEB source and approved by the department, the copies shall be kept on site at the source.

**(2)** The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for sulfur dioxide, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this section , 20.2.81.111 NMAC or in 20.2.81.112 NMAC. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any sulfur dioxide emitting unit that uses a Part 75 monitoring method to meet the requirements of this section.

**O. Reporting.**

**(1)** Quarterly reports. For each sulfur dioxide emitting unit, the account representative shall submit a quarterly report within thirty days after the end of each calendar quarter. The report shall be in a format specified by the department to include hourly and quality assurance activity information and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB trading program. If the WEB source submits a quarterly report under 40 CFR Part 75 to the U.S. EPA administrator, no additional report under this paragraph shall be required, provided, however, that the department may require that a copy of that report (or a separate statement of quarterly and cumulative annual sulfur dioxide mass emissions) be submitted separately to the department.

**(2)** Annual report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source. The annual report shall identify the total emissions for all units monitored in accordance with Subsection A of 20.2.81.106 NMAC and the total emissions for all units with emissions estimated in accordance with Subsection B of 20.2.81.106 NMAC. The annual report shall be submitted within 60 days after the end of a control period.

**(3)** If the department so directs that any monitoring plan, report, certification, recertification, or emissions data required to be submitted under this section be submitted to the tracking system administrator.

**(4)** The department may review and reject any report submitted under this Subsection O of 20.2.81.106 NMAC that contains errors or fails to satisfy the requirements of this section, and the account representative shall resubmit the report to correct any deficiencies.

**(5)** A WEB source may petition for an alternative to any requirement specified in Paragraph 2 of Subsection A of 20.2.81.106 NMAC. The petition shall require approval of the department and the U.S. EPA administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

**(a)** identification of the WEB source and applicable sulfur dioxide emitting unit(s);

**(b)** a detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

**(c)** a description and diagram of any equipment and procedures used in the proposed alternative, if applicable;

**(d)** a demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed and is consistent with the purposes of 20.2.81 NMAC and that any adverse effect of approving such alternative will be de minimis; and

**(e)** any other relevant information that the department may require.

**(6)** For any monitoring plans, reports, or other information submitted under 20.2.81.106 NMAC, the WEB source shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate of representation for the WEB source submitted under 20.2.81.102 NMAC.

[20.2.81.106 NMAC - N, 12/31/03]

**20.2.81.107 ALLOWANCE TRANSFERS:**

**A. Procedure.** To transfer allowances, the account representative shall submit the following information to the tracking system administrator:

**(1)** the transfer account number(s) identifying the transferor account;

**(2)** the transfer account number(s) identifying the transferee account;

**(3)** the serial number of each allowance to be transferred; and

**(4)** the transferor's account representative's name and signature and date of submission.

**B. Deadline.** The allowance transfer deadline is midnight Pacific standard time March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the control period. By this time, the transfer of the allowances into the WEB source's compliance account must be correctly submitted to the tracking system administrator in order to demonstrate compliance under Subsection A of 20.2.81.109 NMAC for that control period.

**C. Retirement of Allowances.** To transfer allowances for the purpose of retirement, the account representative shall submit the following information to the tracking system administrator:

**(1)** the transfer account number(s) identifying the transferor account;

**(2)** the serial number of each allowance to be retired; and

**(3)** the transferor's account representative's name and signature and date of submission accompanied by a signed statement acknowledging that each retired allowance as no longer available for future transfers from or to any account.

[20.2.81.107 NMAC - N, 12/31/03]

**20.2.81.108 USE OF ALLOWANCES FROM A PREVIOUS YEAR:**

**A.** Any allowance that is held in a compliance account or general account shall remain in such an account unless and until the allowance is deducted in conjunction with the compliance process, or transferred to another account.

**B.** In order to demonstrate compliance under Subsection A of 20.2.81.109 NMAC for a control period, WEB sources shall only use allowances allocated for that current control period or any previous year. Because all allowances held in a special reserve compliance account for a WEB source that monitors certain units in accordance with Subsection B of 20.2.81.106 NMAC will be deducted for compliance for each control period, no banking of such allowances for use in a subsequent year is permitted by 20.2.81 NMAC.

**C.** If flow control procedures for the current control period have been triggered as outlined in section C4.2 of the sulfur dioxide milestones and backstop trading program implementation plan, then the use of allowances that were allocated for any previous year shall be limited as follows.

**(1)** The number of allowances that are held in each compliance account and general account as of the allowance transfer deadline for the immediately previous year and that were allocated for any previous year shall be determined.

**(2)** The number determined in Paragraph 1 shall be multiplied by the flow control ratio established in accordance with section C4.2 of the sulfur dioxide milestones and backstop trading program implementation plan to determine the number of allowances that were allocated for a previous year that can be used without restriction for the current control period.

**(3)** Allowances that were allocated for a previous year in excess of the number determined in (2) may also be used for the current control period. If such allowances are used to make a deduction, two allowances shall be deducted for each deduction of one allowance required under 20.2.81.109 NMAC.

**D.** Special provisions for the year 2018. After compliance with the 2017 allowance limitation has been determined in accordance with Subsection A of 20.2.81.109 NMAC, allowances allocated for any year prior to 2018 shall not be used for determining compliance with the 2018 allowance limitation or any future allowance

limitation.
[20.2.81.108 NMAC - N, 12/31/03]

**20.2.81.109 COMPLIANCE:**

**A.** Compliance with Allowance Limitations.

**(1)** The WEB source shall hold allowances, in accordance with Paragraph 2 of Subsection A of 20.2.81.109 NMAC and 20.2.81.108 NMAC, as of the allowance transfer deadline in the WEB source's compliance account (together with any current control year allowances held for the WEB source by the department under Subsection B of 20.2.81.106 NMAC in an amount not less than the total sulfur dioxide emissions for the control period from the WEB source, as determined under the monitoring and reporting requirements of 20.2.81.106 NMAC.

**(a)** For each source that is a WEB source on or before the program trigger date, the first control period is the calendar year that is six years following the calendar year for which sulfur dioxide emissions exceeded the milestone in accordance with procedures in section A of the sulfur dioxide milestones and backstop trading program implementation plan.

**(b)** For any existing source that becomes a WEB source after the program trigger date, the first control period is the calendar year that is four years following the inventory year in which the source exceeded the sulfur dioxide emissions threshold.

**(c)** For any new WEB source after the program trigger date the first control period is the first full calendar year that the source is in operation.

**(d)** If the WEB trading program is triggered in accordance with the 2013 review procedures in section A4 of the sulfur dioxide milestones and backstop trading program implementation plan, the first control period for each source that is a WEB source on or before the program trigger date is the year 2018.

**(2)** Allowance transfer deadline. An allowance may only be deducted from the WEB source's compliance account if:

**(a)** the allowance was allocated for the current control period or meets the requirements in 20.2.81.108 NMAC for use of allowances from a previous control period; and

**(b)** the allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.

**(3)** Compliance with allowance limitations shall be determined as follows.

**(a)** The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Subsection B of 20.2.81.106 NMAC, as reported by the source in Paragraph 2 or 4 of Subsection O of 20.2.81.106 NMAC, and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with 20.2.81.108 NMAC. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceeds the allowances in such special reserve account, the WEB source shall account for such excess emissions in the following Subparagraph b.

**(b)** The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under Subsection A of 20.2.81.106 NMAC, as reported by the source in Paragraph 2 or 4 of Subsection O of 20.2.81.106 NMAC, and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding Subparagraph a, shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with 20.2.81.108 NMAC.

**(4)** Other than allowances in a special reserve compliance account for units monitored under Subsection B of 20.2.81.106 NMAC, to the extent consistent with 20.2.81.108 NMAC, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's account representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to Subsection B of 20.2.81.106 NMAC shall be deducted as specified in Subparagraph a of Paragraph 3 of Subsection A of 20.2.81.109 NMAC.

**B. Certification of compliance.**

**(1)** For each control period in which a WEB source is subject to the allowance limitation, the account

representative of the source shall submit to the department a compliance certification report for the source.

**(2)** The compliance certification report shall be submitted no later than the allowance transfer deadline of each control period, and shall contain the following:

**(a)** identification of each WEB source;

**(b)** at the account representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account for compliance with the allowance limitation; and

**(c)** the compliance certification report according to Paragraph 3 of this section.

**(3)** In the compliance certification report, the account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB trading program, whether the WEB source for which the compliance certification is submitted was operated during the control period covered by the report in compliance with the requirements of the WEB trading program applicable to the source including:

**(a)** whether the WEB source operated in compliance with the sulfur dioxide allowance limitation;

**(b)** whether sulfur dioxide emissions data has been submitted to the department in accordance with Subsection A of 20.2.81.106 NMAC and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the sulfur dioxide allowance tracking system for recording;

**(c)** whether the monitoring plan that governs the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute sulfur dioxide emissions to the source, in accordance with Subsection a of 20.2.81.106 NMAC;

**(d)** whether all the sulfur dioxide emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;

**(e)** if applicable, whether any sulfur dioxide emitting unit for which the WEB source is not required to monitor in accordance with Paragraph 3 of Subsection A of 20.2.81.106 NMAC remained permanently retired and had no emissions for the entire applicable period; and

**(f)** whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification; if there were any such changes, the report shall specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine sulfur dioxide emissions.

**C. Penalties for any WEB source exceeding its allowance limitations.**

**(1)** Allowance deduction penalties.

**(a)** If emissions from a WEB source exceed the allowance limitation for a control period, as determined in accordance with Subsection A of 20.2.81.109 NMAC , the source's allowance held in its compliance account will be reduced by an amount equal to two times the source's tons of excess emissions. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances shall be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.

**(b)** Any allowance deduction required under this section shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy, for the same violation, as ordered under the Clean Air Act, implementing regulations or applicable state or tribal law. Accordingly, a violation can be assessed each day of the control period for each ton of sulfur dioxide emissions in excess of its allowance limitation if the department so chooses.

**(2)** Financial penalties. A financial penalty of $5,000 per ton of sulfur dioxide emissions in excess of the WEB source's allowance limitation shall be levied. Each ton represents a separate violation.

**D. Liability.**

**(1)** WEB source liability for non-compliance. Separate and regardless of any automatic penalties assessed for allowance deduction penalty and financial penalty, a WEB source that violates any requirement of 20.2.81 NMAC is subject to civil and criminal penalties under the Air Quality Control Act and the Clean Air Act. Each day of the control period is a separate violation, and each ton of sulfur dioxide emissions in excess of a source's allowance limitation is a separate violation.

**(2)** General liability.

**(a)** Any provision of the WEB trading program that applies to a source or an account representative shall apply also to the owners and operators of such source.

**(b)** Any person who violates any requirement or prohibition of the WEB trading program shall be subject to enforcement pursuant to applicable state, tribal or federal law.

**(c)** Any person who knowingly makes a false material statement in any record, submission, or report under this WEB trading program shall be subject to criminal enforcement pursuant to the applicable state, tribal or federal law.

[20.2.81.109 NMAC - N, 12/31/03]

**20.2.81.110 SPECIAL PENALTY PROVISIONS FOR YEAR 2018:**

**A.** If the WEB trading program is triggered as outlined in section A of the sulfur dioxide milestones and backstop trading program implementation plan, and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.

**(1)** All WEB sources shall register, and open a compliance account within 180 days after the program trigger date, in accordance with Subsection A of 20.2.81.103 NMAC and 20.2.81.105 NMAC.

**(2)** The tracking system administrator shall record the allowances for the 2018 control period for each WEB source in the source's compliance account once the department allocates the 2018 allowances under section C1 and D1 of the sulfur dioxide milestones and backstop trading program implementation plan.

**(3)** The allowance transfer deadline is midnight Pacific standard time on May 30, 2021. WEB sources may transfer allowances as provided in Subsection A of 20.2.81.107 NMAC until the allowance transfer deadline.

**(4)** A WEB source shall hold allowances allocated for 2018 including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for 2018. Emissions shall be determined using the pre-trigger monitoring provisions in section B of the sulfur dioxide milestones and backstop trading program implementation plan, and 20.2.73 NMAC.

**(5)** An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with Subsection D of 20.2.8.108 NMAC, Paragraph 4 of Subsection A of 20.2.81.109 NMAC and Subsection C of 20.2.81.109 NMAC except that sulfur dioxide emissions shall be determined under Paragraph 4 of Subsection A of 20.2.81.110 NMAC.

**B.** The provisions in 20.2.81.110 NMAC shall continue to apply for each year after the 2018 emission year until:

**(1)** the first control period under the WEB trading program; or

**(2)** the department determined, in accordance with section A3.10 of the implementation plan, that the 2018 sulfur dioxide milestone has been met.

**C.** If 20.2.81.110 NMAC was implemented, the following shall apply to each emissions year after the 2018 emissions year.

**(1)** The tracking system administrator will record the allowances for the control period for the specific year for each WEB source in the source's compliance account once the department allocates the allowances under section C1 of the sulfur dioxide milestones and backstop trading program implementation plan.

**(2)** The allowance transfer deadline is midnight Pacific standard time on March 1 of each year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the specific emissions year. WEB sources may transfer allowances as provided in Subsection A of 20.2.81.107 NMAC until the allowance transfer deadline.

**(3)** A WEB source must hold allowances allocated for that specific emissions year, or any year after 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for the specific emissions year. Emissions are determined using the pre-trigger monitoring provisions in section B of the sulfur dioxide milestones and backstop trading program implementation plan, and 20.2.73 NMAC.

**(4)** An allowance deduction penalty and financial penalty shall be assessed and levied in accordance with Subsection D of 20.2.81.108 NMAC, Paragraph 4 of Subsection A of 20.2.81.109 NMAC, and Subsection C of 20.2.81.109 NMAC, except that sulfur dioxide emissions shall be determined under Paragraph 3 of Subsection C of 20.2.81.110 NMAC.

[20.2.81.110 NMAC - N, 12/31/03]

**20.2.81.111 NMAC SULFUR DIOXIDE MONITORING OF FUEL GAS COMBUSTION DEVICES:**

**A. Applicability.**

**(1)** The provisions of this protocol are applicable to fuel gas combustion devices at petroleum refineries.

**(2)** Fuel gas combustion devices include boilers, process heaters, and flares used to burn fuel gas generated at a petroleum refinery.

**(3)** Fuel gas means any gas which is generated and combusted at a petroleum refinery. Fuel gas does not include:

**(a)** natural gas, unless combined with other gases generated at a petroleum refinery;

**(b)** gases generated by a catalytic cracking unit catalyst regenerator;

**(c)** gases generated by fluid coking burners;

**(d)** gases combusted to produce sulfur or sulfuric acid; or

**(e)** process upset gases generated due to startup, shutdown, or malfunctions.

**B. Monitoring Requirements.**

**(1)** Except as provided in Paragraphs 2 and 3 of 20.2.81.111 NMAC, fuel gas combustion devices shall use a continuous fuel gas monitoring system (CFGMS) to determine the total sulfur content (reported as H2S) of the fuel gas mixture prior to combustion, and continuous fuel flow meters to determine the amount of fuel gas burned.

**(a)** Fuel gas combustion devices having a common source of fuel gas may be monitored for sulfur content at one location, if monitoring at that location is representative of the sulfur content of the fuel gas being burned in any fuel gas combustion device.

**(b)** The CFGMS shall meet the performance requirements in Performance Specification 2 in Appendix B to 40 CFR Part 60, and the following.

**(i)** Continuously monitor and record the concentration by volume of total sulfur compounds in the gaseous fuel reported as ppmv $H_2S$.

**(ii)** Have the span value set so that the majority of readings fall between 10 and 95 percent of the range.

**(iii)** Record negative values of zero drift, for initial certification and daily calibration error tests.

**(iv)** Calibration drift shall be 5.0 percent of the span.

**(v)** Methods 15A, 16, or approved alternatives for total sulfur, are the reference methods for the relative accuracy test. The relative accuracy test shall include a bias test in accordance with Paragraph 3 of Subsection D of 20.2.81.111 NMAC.

**(c)** All continuous fuel flow meters shall comply with the provisions of Section 2.1.5 of Appendix D to 40 CFR Part 75.

**(d)** The hourly mass sulfur dioxide emissions rate for all the fuel combustion devices monitored by this approach shall be calculated using the following equation:

$E_t = (C_S)(Q_f)(K)$

where: $E_t$ = Total sulfur dioxide emissions in lb/hr from applicable fuel gas combustion devices

$C_S$ = Sulfur content of the fuel gas as $H_2S$(ppmv)

$Q_f$ = Fuel gas flow rate to the applicable fuel gas combustion devices (scf/hr)

$K = 1.660 \times 10^{-7}$ (lb/scf)/ppmv

**(2)** In place of a CFGMS in Paragraph 1 of Subsection B of 20.2.81.111 NMAC, fuel gas combustion devices having a common source of fuel gas may be monitored with an sulfur dioxide CEMS flow CEMS and (if necessary) a moisture monitoring system at only one location, if the CEMS monitoring at that location is representative of the sulfur dioxide emission rate (lb sulfur dioxide/scf fuel gas burned) of all applicable fuel gas combustion devices. Continuous fuel flow meters shall be used in accordance with Paragraph 2 of Subsection B of 20.2.81.111 NMAC, and the fuel gas combustion device monitored by a CEMS shall have separate fuel metering.

**(a)** Each CEMS for sulfur dioxide and flow, and (if applicable) moisture, shall comply with the operating requirements, performance specifications, and quality assurance requirements of 40 CFR Part 75.

**(b)** All continuous fuel flow meters shall comply with the provisions of Section 2.1.5 of Appendix D to 40 CFR Part 75.

**(c)** The sulfur dioxide hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the amount of fuel gas burned by the CEMS-monitored fuel gas combustion device to the total fuel gas burned by all applicable fuel gas combustion devices using the following equation:

$E_t = (E_m)(Q_t)/(Q_m)$

where: $E_t$ = Total sulfur dioxide emissions in lb/hr from applicable fuel gas combustion devices.

$E_m$ = sulfur dioxide emissions in lb/hr from the CEMS-monitored fuel gas combustion device, calculated using Equation F-1 or (if applicable) F-2 in Appendix F to 40 CFR Part 75

$Q_t$ = Fuel gas flow rate (scf/hr) from applicable fuel gas combustion devices.

$Q_m$ = Fuel gas flow rate (scf/hr) to the CEMS-monitored fuel gas combustion device.

**(3)** In place of a CFGMS in Paragraph 1 of Subsection B of 20.2.81.111 NMAC, fuel gas combustion devices having a common source of fuel gas may be monitored with an sulfur dioxide - diluent CEMS at only one location, if the CEMS monitoring at that location is representative of the sulfur dioxide emission rate (lb sulfur dioxide/mmBtu) of all applicable fuel gas combustion devices. If this option is selected, the owner or operator shall conduct fuel gas sampling and analysis for gross calorific value (GCV), and shall use continuous fuel flow metering in accordance with Paragraph 1 of Subsection B of 20.2.81.111 NMAC, with separate fuel metering for the CEMS-monitored fuel gas combustion device.

**(a)** Each sulfur dioxide - diluent CEMS shall comply with the applicable provisions for sulfur dioxide monitors and diluent monitors in 40 CFR Part 75, and shall use the procedures in Section 3 of Appendix F to Part 75 for determining sulfur dioxide emission rate (lb/mmBtu) by substituting the term sulfur dioxide for $no_x$ in that section, and using a K factor of $1.660 \times 10^{-7}$ (lb/scf) ppmv instead of the $NO_x$ K factor.

**(b)** All continuous fuel flow meters and fuel gas sampling and analysis for GCV to determine the heat input ratio shall comply with the applicable provisions of Section 2.1.5 and 2.3.4 of Appendix D to 40 CFR Part 75.

**(c)** The sulfur dioxide hourly mass emissions rate for all the fuel gas combustion devices monitored by this approach shall be determined by the ratio of the fuel gas heat input to the CEMS-monitored fuel gas combustion device to the total fuel gas heat input to all applicable fuel gas combustion devices using the following equation:

$E_t = (E_m)(Q_t)/(GCV) / 10^6$

where: $E_t$ = Total sulfur dioxide emissions in lbs/hr from applicable fuel gas combustion devices.

$E_m$ = sulfur dioxide emissions in lb/mmBtu from the CEMS - monitored fuel gas combustion device.

$Q_t$ = Fuel gas flow rate (scf/hr) to the applicable fuel gas combustion devices.

GCV = Fuel Gross Calorific Value (Btu/scf)

$10^6$ = Conversion from Btu to million Btu

**(d)** The owner or operator shall calculate total sulfur dioxide mass emissions for each calendar quarter and each calendar year based on the emissions in lb/hr and equations F-3 and F-4 in Appendix F to 40 CFR Part 75, Appendix F.

**C. Certification and recertification requirements.** All monitoring systems are subject to initial certification and recertification testing as follows.

**(1)** The owner or operator shall comply with the initial testing and calibration requirements in performance specification 2 in Appendix B of 40 CFR Part 60 and Subparagraph b of Paragraph 1 of Subsection B of 20.2.81.111 NMAC for each CFGMS.

**(2)** Each CEMS for sulfur dioxide and flow or each sulfur dioxide-diluent CEMS shall comply with the testing and calibration requirements specified in 40 CFR Part 75, Section 75.20 and appendices A and B, except that each sulfur dioxide-diluent CEMS shall meet the relative accuracy requirements for a NOx-diluent CEMS (lb/mmBtu).

**(3)** A continuous fuel flow meter shall comply with certification requirements in Section 2.1.5 of Appendix D of 40 CFR Part 75.

**D. Quality assurance/quality control requirements.**

**(1)** A quality assurance and quality control (QA/QC) plan shall be developed and implemented for each CEMS for sulfur dioxide and flow or the sulfur dioxide-diluent CEMS in compliance with Sections 1, 1.1, and 1.2 of Appendix B of 40 CFR Part 75.

**(2)** A quality assurance and quality control plan shall be developed and implemented for each continuous fuel flow meter and fuel sampling and analysis in compliance with Sections 1, 1.1, and 1.3 Appendix B of 40 CFR Part 75. The owner or operator shall meet the requirements in Section 2.1.6 of Appendix D to 40 CFR Part 75, and may use the procedures set forth in Section 2.1.7 of that appendix.

**(3)** A quality assurance and quality control plan shall be developed and implemented for each CFGMS in compliance with Sections 1 and 1.1 of Appendix B to 40 CFR Part 75, and the following.

**(a)** Perform a daily calibration error test of each CFGMS at two gas concentrations, one low level and one high level. Calculate the calibration error as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the error is greater than 5.0 percent of the span value.

**(b)** In addition to the daily calibration error test, an additional calibration error test shall be performed whenever a daily calibration error test is failed, whenever a monitoring system is returned to service following repairs or corrective actions that may affect the monitor measurements, or after making manual calibration adjustments.

**(c)** Perform a linearity test once every operating quarter. Calculate the linearity as described in

Appendix A to 40 CFR Part 75. An out of control period occurs whenever the linearity error is greater than 5.0 percent of a reference value, and the absolute value of the difference between average monitor response values and a reference value is greater than 5.0 ppm.

**(d)** Perform a relative accuracy test audit once every four operating quarters. Calculate the relative accuracy as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the relative accuracy is greater than 20.0 percent of the mean value of the reference method measurements.

**(e)** Using the results of the relative accuracy test audit, conduct a bias test in accordance with Appendix A to 40 CFR Part 75, and calculate and apply a bias adjustment factor if required.

**E. Missing data procedures.**

**(1)** For any period in which valid data are not being recorded by an sulfur dioxide CEMS or flow CEMS specified in this section, missing or invalid data shall be replaced with substitute data in accordance with the requirements in subpart D of 40 CFR Part 75.

**(2)** For any period in which valid data are not being recorded by an sulfur dioxide-diluent CEMS specified in this section, missing or invalid data shall be replaced with substitute data on a rate basis (lb/mmBtu) in accordance with the requirements for sulfur dioxide monitors in subpart D of 40 CFR Part 75.

**(3)** For any period in which valid data are not being recorded by a continuous fuel flow meter or for fuel gas GCV sampling and analysis specified in this section, missing or invalid data shall be replaced with substitute data in accordance with missing data requirements in Section 2.4 of Appendix D to 40 CFR Part 75.

**(4)** For any period in which valid data are not being recorded by the CFGMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the missing data requirements for units performing hourly gaseous fuel sulfur sampling in Section 2.4 of Appendix D to 40 CFR Part 75.

**F. Monitoring plan and reporting requirements.** In addition to the general monitoring plan and reporting requirements of 20.2.81.106 NMAC, the owner or operator shall meet the following additional requirements.

**(1)** The monitoring plan shall identify each group of units that are monitored by a single monitoring system under this 20.2.81.111 NMAC, and the plan shall designate an identifier for the group of units for emissions reporting purposes. For purpose of submitting emissions reports, no apportionment of emissions to the individual units within the group is required.

**(2)** If the provisions of Paragraph 2 or 3 of Subsection B of 20.2.81.111 NMAC are used, provide documentation and an explanation to demonstrate that the sulfur dioxide emission rate from the monitored unit is representative of the rate from non-monitored units.

[20.2.81.111 NMAC - N, 12/31/03]]

**20.2.81.112 NMAC PREDICTIVE FLOW MONITORING SYSTEMS FOR KILNS WITH POSITIVE PRESSURE FABRIC FILTER:**

**A. Applicability.** The provisions of this protocol are applicable to cement kilns or lime kilns that:

**(1)** are controlled by a positive pressure fabric filter;

**(2)** combust only a single fuel, no fuel blends; and

**(3)** have operating conditions upstream of the fabric filter that the WEB source documents would reasonably prevent reliable flow monitor measurements; this protocol does not modify the sulfur dioxide monitoring requirements in 20.2.81.106 NMAC.

**B.** Monitoring requirements.

**(1)** A cement or lime kiln with a positive pressure fabric filter shall use a predictive flow monitoring system (PFMS) to determine the hourly kiln exhaust gas flow.

**(2)** A PFMS is the total equipment necessary for the determination of exhaust gas flow using process or control device operating parameter measurements and a conversion equation, a graph, or computer program to produce results in cubic feet per hour.

**(3)** The PFMS shall meet the following performance specifications.

**(a)** Sensors readings and conversion of sensor data to flow in cubic feet per hour must be automated.

**(b)** The PFMS must allow for the automatic or manual determination of failed monitors. At a minimum a daily determination must be performed.

**(c)** The PFMS shall have provisions to check the calibration error of each parameter that is individually measured. The owner or operator shall propose appropriate performance specifications in the initial monitoring plan for all parameters used in the PFMS comparable to the degree of accuracy required for other

monitoring systems used to comply with 20.2.81 NMAC. The parameters shall be tested at two levels, low: 0 to 20 percent of full scale, and high: 50 to 100 percent of full scale. The reference value need not be certified.

**(d)** The relative accuracy of the PFMS must be ≤ 10.0 percent of the reference method average value, and include a bias test in accordance with Paragraph 3 of Subsection D of 20.2.81.112 NMAC.

**C. Certification Requirements.** The PFMS is subject to initial certification testing. The source owner or operator shall:

**(1)** demonstrate the ability of the PFMS to identify automatically or manually a failed monitor;

**(2)** provide evidence of calibration testing of all monitoring equipment. Any tests conducted within the previous 12 months of operation that are consistent with the QA/QC plan for the PFMS are acceptable for initial certification purposes; and

**(3)** perform an relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy (and bias adjustment factor) as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0 percent of the mean value of the reference method.

**D. Quality assurance and quality control requirements.** A quality assurance and quality control plan shall be developed and implemented for each PFMS in compliance with Sections 1 and 1.1 of Appendix B of 40 CFR Part 75, and the following:

**(1)** perform a daily monitor failure check;

**(2)** perform calibration tests of all monitors for each parameter included in the PFMS. At a minimum, calibrations shall be conducted prior to each relative accuracy test audit; and

**(3)** perform a relative accuracy test audit and accompanying bias test once every four operating quarters. Calculate the relative accuracy (and bias adjustment factor) as described in Appendix A to 40 CFR Part 75. An out of control period occurs whenever the flow relative accuracy is greater than 10.0 percent of the mean value of the reference method.

**E. Missing data.** For any period in which valid data are not being recorded by the PFMS specified in this section, hourly missing or invalid data shall be replaced with substitute data in accordance with the flow monitor missing data requirements for non-load based units in subpart D of 40 CFR Part 75.

**F. Monitoring plan requirements.** In addition to the general monitoring plan requirements of 20.2.81.106 NMAC, the owner or operator shall meet the following additional requirements.

**(1)** The monitoring plan shall document the reasons why stack flow measurements upstream of the fabric filter are unlikely to provide reliable flow measurements over time.

**(2)** The initial monitoring plan shall explain the relationship of the proposed parameters and stack flow, and discuss other parameters considered and the reasons for not using those parameters in the PFMS. The department may require that the subsequent monitoring plan include additional explanation and documentation for the reasonableness of the proposed PFMS.

[20.2.81.112 NMAC - N, 12/31/03]

**HISTORY OF 20.2.81 NMAC:**

**Pre-NMAC History:** None.

**History of Repealed Material:** [RESERVED]

**Other History:** [RESERVED]