

DRAFT
The Western Emissions Budget Trading Program:
Model Rule

This document contains the Model Rule to implement a backstop cap-and-trade program in the event that current programs and voluntary measures are not sufficient to meet the emission reduction targets for the transport region states set forth in the Annex. The Western Emissions Budget Trading Program (hereafter the WEB Program or WEB Trading Program) will be activated to require stationary source SO₂ reductions should any of these regional targets be exceeded.

This model rule specifies the nature of the trading program requirements for sources and is intended to serve as a template for states and tribes in the transport region to adopt their own rules to implement the WEB Trading Program as part of a compliance strategy to address regional haze. In addition to promulgating legislation, states and tribes choosing to participate in the trading program will also be required to sign the Memorandum of Understanding Between the States and Tribes of the Grand Canyon Visibility Transport Region on the Development of a Western Emissions Budget Trading Program to Ensure Continuing Improvement in Visibility (hereafter referred to as the WEB MOU). The WEB MOU states in broad terms the requirements that must be met by the states and tribes -- and by extension, the sources within the jurisdiction of these states and tribes -- opting to participate in a §309 compliance strategy.

THE WESTERN EMISSIONS BUDGET TRADING PROGRAM MODEL RULE

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A1. PURPOSE

(a) This rule establishes the general provisions governing compliance under Section 309 of the regional haze regulations. As such, it includes the regional emissions targets required to demonstrate greater reasonable progress than would be achieved by the application of BART, and backstop WEB Trading Program trigger and compliance procedures should any of these targets be exceeded.

(b) The WEB Trading Program will require reductions in SO₂ emissions from WEB sources in participating transport region states and tribes in the event that the program is triggered in accordance with the provisions delineated in Section B4.

1. Once the trading program is triggered and compliance is required, the annual SO₂ targets become the declining limits on annual regional emissions.

2. The declining limits, or caps, will be implemented by allocations of WEB SO₂ allowances equivalent to the regional targets as prescribed in Section C4.

(c) The trading of WEB allowances between WEB sources in different states and tribes is contingent upon the adoption and implementation of comparable and consistent rules by those states and tribes, and therefore rules mirroring the components set forth in this model rule.

(d) Nothing in this rule waives any SO₂ reduction requirement otherwise in effect or subsequently required under another program, including rules governing new sources.

(e) The following implementation guidance documents shall supplement this rule:

_____ [refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].

A2. DEFINITIONS

The terms used in this rule apply solely to this rule. The following words and phrases shall have meaning in the WEB Trading Program as defined below:

Account Certificate of Representation means the completed and signed submission required to certify the designation of an Authorized Account Representative for a WEB source who is authorized to represent the owners and operators of the source with regard to matters under the WEB Trading Program.

Account number means the identification number given by the Tracking Systems Administrator to an account in which allowances are held in the WEB Allowance Tracking System pursuant to Section C8 of this rule.

Allocate or allocation means the assignment of allowances to a WEB source or set-aside through this rule, and the recordation in the WEB Allowance Tracking System.

Allowance/WEB allowance means the limited authorization under the WEB Trading Program to emit one ton of SO₂ during a specified control period or any control period thereafter subject to the terms and conditions for use of banked allowances as defined by this rule. All allowances shall be allocated, transferred, or used as whole allowances.

Allowance deduction means the withdrawal of allowances for permanent retirement by the Tracking Systems Administrator from a WEB Allowance Tracking System compliance account to account for the number of tons of SO₂ emissions from a WEB source for a control period, determined in accordance with Sections C9 and C10 of this rule, and with any additional requirements delineated in _____ [*refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA*], or for any other allowance surrender obligation under this rule.

Allowance limitation/WEB allowance limitation means, for a WEB source, the SO₂ allowances available for compliance deduction for the source for a control period under Section C11, adjusted by any deductions of such allowances to account for excess emissions for a prior control period under Section C13.1, or to account for any other provisions as may be required by this rule.

Allowances held or hold allowances means the WEB SO₂ allowances recorded by the Tracking Systems Administrator, or submitted to the Tracking Systems Administrator for recordation, in accordance with Sections C6 and C8 of this rule, in a WEB Allowance Tracking System account.

Allowance transfer means the conveyance to another account of one or more allowances by whatever means, including but not limited to purchase, trade, or gift in accordance with the procedures established in Section C6 of this rule, effected by the submission of an allowance transfer request to the Tracking Systems Administrator.

Allowance transfer deadline/WEB allowance transfer deadline means midnight on the date 60 days following the end of the control period, or March 1 of each non-leap year and February 29 of each leap year (or if this date is not a business day, midnight of the first business day thereafter), and is the deadline by which allowances must be submitted for recordation in a source's compliance account for purposes of meeting the requirements of this rule for the preceding control period.

Authorized Account Representative/WEB Authorized Account Representative means the responsible person who is authorized by the Account Certificate of Representation to transfer and otherwise manage allowances as well as certify reports to the WEB Allowance Tracking System and the WEB Emissions Tracking System for purposes of this rule.

Banked allowance means an allowance which is not used to reconcile emissions in the designated year of allocation but which is carried forward for use in a later year.

Banking means the retention of unused allowances from one year for use in a future year.

Best Available Retrofit Technology (BART) means a requirement under Section 169A of the Clean Air Act and the provisions of 40 CFR subpart P.

Clean Air Act means the Clean Air Act, 42 U.S.C. sections 7401, et seq. as amended by Pub. L. No. 101-549 (November 15, 1990).

Commence operation means to have begun any mechanical, chemical, or electronic process.

Compliance account means a WEB Allowance Tracking System account established under Section C8 for each WEB source, in which the SO₂ allowance allocations for the source are initially recorded and in which are held allowances available for use by the source in compliance.

Compliance certification means a submission to the permitting authority and the state or tribe (if an entity other than the state or tribe is the permitting authority) by the Authorized Account Representative as required under Section C12 to report a WEB source's compliance or noncompliance with this rule.

Control period means the period beginning January 1 of each year and ending on December 31 of the same year, inclusive.

Emissions means air pollutants exhausted from a source into the atmosphere as measured, recorded, and reported to the state or tribe by the WEB Authorized Account Representative and as determined by the state or tribe to be in accordance with monitoring and reporting requirements in Sections C9 and C10 and with any additional requirements delineated in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].*

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

Excess emissions means any emissions of SO₂ emitted by a WEB source during a control period that exceeds the WEB allowance limitation for that source.

Existing source means, for purposes of applicability at the start of the program, a source that commences operation before or during the program trigger years. For purposes of allocations, existing source means a source included in the distribution of floor and reducible allocations.

Existing new source means, for purposes of allocations, a source that is an existing source, but not a WEB source under C4.1(a), which subsequently emits 100 tons or more of SO₂ in any year after the program trigger year. Existing new sources have operating data available to provide a basis for allocations.

Floor allocation means the amount of allowances, to be set by each state in their 2003 SIP, that represents, for each source, the minimum necessary for the source to operate under stringent control assumptions (i.e., BACT, BART, or LAER, as appropriate.) The floor allocation for each source will remain constant throughout the program, provided the sum of the floor allocations in the region and the allocation set-asides does not exceed the relevant target.

General account means a WEB Allowance Tracking System account established under Section C8 of this rule that is not a compliance account.

Geographic enhancement means a method, procedure or process to allow a broad regional strategy, such as a milestone or backstop market trading program designed to achieve greater reasonable progress than BART for regional haze, to accommodate BART for reasonably attributable impairment. *[not yet utilized in the rule]*

Grand Canyon Visibility Transport Commission (GCVTC), authorized under section 169B(f) of the Clean Air Act, means the planning body composed of the governors of eight western states (AZ, CA, CO, NM, NV, OR, UT, WY), four tribes (Acoma Pueblo, Hopi, Hualapai, and Navajo), four federal land managers (Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Forest Service, National Park Service), the Columbia River Inter-Tribal Fish Commission, and the Environmental Protection Agency. The Commission was established to recommend methods to preserve and improve visibility on the Colorado Plateau, and submitted recommendations to EPA in June, 1996.

Maximum design heat input means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of a unit.

Modification means any change at a source that would result in an increase in the potential to emit of the source.

Opt-in means to choose to participate in the WEB Trading Program and to comply with the terms and conditions of this rule.

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

Permitting authority means the state or tribal air pollution control agency, local agency, or other agency authorized by the EPA Administrator to issue or revise permits to meet the requirements of the WEB Trading Program in accordance with Sections B2 and C5 of this rule.

Potential to emit means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a 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 only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Potential WEB source means a stationary source subject to the requirements of Part B of this rule.

Program trigger year(s) means the year in which the annual emissions of applicable sources exceed the annual target, or the years in which the average of annual emissions of applicable sources exceeds the average of the associated targets, as applicable, in accordance with Section A3.4.

Recordation, recorded or record means, with regard to WEB SO₂ allowances, the movement of allowances by the Tracking Systems Administrator from one WEB Allowance Tracking System account to another, for purposes of allocation, transfer, or deduction.

Reducible allocation means the amount of allowances that represents, for each source, emissions in excess of a source's floor. The reducible allocation for each source will be reduced as the targets decrease.

Regional cap means the limit on the amount of SO₂ emissions that can be emitted from WEB sources collectively in a given control period in the states and tribes that choose to participate in the WEB Trading Program. Each regional target becomes a regional cap once the program is triggered and compliance is required.

Renewable energy source means electricity generated by non-nuclear and non-fossil low or no air emission technologies using resources that are virtually inexhaustible, reduce haze, and are environmentally beneficial. 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.

Serial number means, when referring to allowances, the unique identification number assigned to each allowance by the Tracking Systems Administrator, in accordance with Section C8.3.

Set-aside means an amount of allowances under the regional cap designated for a specific use each year throughout the trading program. There is one set-aside for new sources and one for tribal allocations.

State trading program budget means the total number of SO₂ tons within the regional cap that are apportioned to all WEB sources in a given state, in accordance with this rule, for use in a given control period.

State means a transport region state (including local agencies and state agencies) which has promulgated the WEB Trading Program provisions.

Stationary source means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

Submit or submitted means sent to the appropriate authority under the signature of the Authorized Account Representative. For purposes of determining when something is submitted, an official U.S. Postal Service postmark, or electronic time stamp, shall establish the date of submittal.

Suspended smelters means smelters that were operating in 1990, but during the year 2000 were under economic suspension of operations despite a permitted capability to operate. Two smelters, Hidalgo in New Mexico and San Manuel in Arizona, are known to fall within this category. If any suspended smelter should resume operation, such smelter will receive allocations from a pool of allowances added to the regional cap in accordance with Section A3.3(a)(2).

Target means the maximum level of regional SO₂ emissions, assessed annually under Section A3.4 beginning in the year 2003, allowable under the regional haze regulations. Each target shall become a regional emissions cap once the trading program is triggered and compliance is required.

Ton or tonnage means any “short ton”(i.e., 2000 pounds). For the purpose of determining compliance with the WEB allowance limitation, total tons for a control period shall be calculated in accordance with Section C9 of this rule and with any additional requirements delineated in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA]*, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

Tracking Systems Administrator means the person or corporation designated by the states and tribes as the administrator of the WEB Allowance Tracking System and the WEB Emissions Tracking System.

Transport region state/transport region tribe means one of the nine states or 211 tribes that is included within the Transport Region addressed by the Grand Canyon Visibility Transport Commission. The states are Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah and Wyoming.

Tribal trading program budget means the total number of SO₂ tons apportioned to all WEB sources in a given tribe in accordance with this rule, for use in a given control period.

Tribe means a transport region tribe which has promulgated the WEB Trading Program provisions.

Trigger/triggered refers to the activation of the backstop trading program in accordance with the regional haze regulations and Section B4. of this rule to require regional SO₂ emissions reductions. The trading program will commence within 12 months of the trigger, and compliance will be required within five years of the trigger.

Truly new source means, for purposes of allocations, a source that lacks relevant operating data on which to base allocations, requiring therefore that assumptions be made in the allocation process. Sources falling into this category are sources that either: 1) commence operation after the program trigger years and are characterized by a potential to emit of 100 tpy or greater, or 2) sources that undergo a modification after the program trigger years and, as a result are characterized by a potential to emit of 100 tpy or greater.

Unit means a stationary boiler, combustion turbine or combined cycle system.

Utilization means the heat input (expressed in mmBtu/time).

WEB allowance means the limited authorization under the WEB Trading Program to emit one ton of SO₂ during a specified control period or any control period thereafter, subject to the terms and conditions for use of banked allowances as defined by this rule. All allowances shall be allocated, 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.

WEB Allowance Tracking System means the system by which the Tracking Systems Administrator records allocations, deductions, and transfers of WEB allowances under the WEB Trading Program.

WEB Allowance Tracking System account means an account in the WEB Allowance Tracking System established by the Tracking Systems Administrator for purposes of recording the allocation, holding, transferring, or deducting of WEB allowances.

WEB MOU means the Memorandum of Understanding Between the States and Tribes of the Grand Canyon Visibility Transport Region on the Development of a Western Emissions Budget

Trading Program to Ensure Continuing Improvement in Visibility, and refers to the signed agreement establishing the WEB Program parameters, including the participating states and tribes.

WEB permit means the legally binding and federally enforceable written document, or portion of such document, issued by the permitting authority under this rule, including any permit revisions, specifying the WEB Trading Program requirements applicable to a WEB source and to the associated owners and operators and Authorized Account Representative.

WEB source means a source subject to the WEB Trading Program requirements under Part C of this rule, including the allowance limitation pursuant to Section C4.

WEB Trading Program/WEB Program means the backstop market trading program set forth in this rule and pursuant to the regional haze regulations that will be triggered, if necessary, according to the provisions in Section B4. of this rule to reduce regional sulfur dioxide emissions.

Western Regional Air Partnership (WRAP) means a collaborative effort of tribal governments, state governments and federal agencies to promote and monitor implementation of recommendations from the GCVTC, and to address other common Western regional air quality issues as raised by its membership.

A3. SULFUR DIOXIDE EMISSIONS TARGETS

A3.1 2018 Target

(a) *Value.* The 2018 target shall be 480,000 tons of SO₂. This target may be increased by a maximum of 30,000 tons of SO₂ to account for the operation of suspended smelters according to the provisions in A3.3(a)(2).

(b) *Ensuring achievement of the 2018 target.*

1. 2013 assessment. If the trading program has not yet been triggered by 2013, states and tribes shall complete a formal assessment of projected regional emissions to determine the feasibility of achieving the 2018 target. Data used to make this forecast shall include projected or actual emission levels for 2013 and projected remaining emission reductions available in the region through 2018. If, based on this survey, the states and tribes determine by consensus that the 2018 target will not be met, the backstop trading program will be triggered.

2. Backstop penalties. If the trading program has not yet been triggered prior to 2018, and the 2018 target is not met according the provisions in Section A3.4(b):

(i) The trading program shall be triggered as required;

(ii) Each state and tribe shall assess excess emissions penalties in accordance with Section C13 to WEB sources based on a comparison of each source's 2018 allocation (as potentially adjusted by trades) to each source's 2018 emissions.

3. The parameters and criteria for the determinations under (1) and (2) of this section are delineated in _____ [insert reference to guidance collaboratively developed by the states, tribes, and EPA, and included in the state and tribal implementation plans under §309].

A3.2 Interim Targets

(a) *Year 2000 target.* The target for 2000 shall be 721,703 tons, a 13% reduction in emissions from 1990 emissions in the transport region.

(b) *Targets for 2003 through 2017.* The interim targets for each year from 2003 to 2017 shall be set as follows, and shall serve as voluntary reduction guidelines until such time as the trading program is triggered in accordance with Section B4. of this rule and compliance requirements begin.

<u>Year</u>	<u>Target*</u>
2003 - 2007	682,000 tons
2008 - 2012	677,000 tons
2013 - 2017	625,000 tons

*Note that the emissions from suspended smelters are not included in target calculations, but that a suspended smelter adjustment may occur to increase the targets in accordance with A3.3(a)(2).

(c) *Utility CEMs adjustment protocol for interim milestones.* As currently crafted the WRAP interim milestones are based on utility emissions projections from 1999 as measured by the current CEMS test method. (Test Method 2). EPA has established several alternative test methods that will be available to utilities on a going-forward basis. These new emission measurement techniques are expected to lower emission level readings from utilities. To account for these changes in utility CEMS emission measurement techniques, the WRAP, working with EPA, will develop a protocol by the end of 2000 to adjust the interim milestones as necessary. This protocol will be submitted to EPA for approval as part of the changes to section 309 that incorporate the Annex.

The protocol must be designed to ensure that utility sources using new CEMS measurement techniques are identified through reporting requirements, and to ensure that the interim milestones are consistent with the new measurement techniques so that compliance is not affected by "paper" emission reductions or emissions increases. The actual magnitude of the adjustments will be determined using a facility specific analysis of those facilities that actually

adopt the new measurement methodologies. The CEMS measurement issue has already been addressed in the 2018 milestone and that milestone will not be affected by this protocol.

A3.3 Revisions to Targets

(a) Once the targets are established as set forth in this section, the values may be automatically modified due to any or all of the following circumstances:

1. The regional haze rule allows the Transport Region States and Tribes to develop SIPs and TIPs under either section 308 or 309 of the rule. It will not be known until 2003 which States will be part of the program, and Tribes may have a longer time period to develop TIPs (the timing of tribal opt-in is pending legal review by EPA). The milestones have been established assuming that all Transport Region States and Tribes are participating in the program. If one or more Transport Region States or one or more Tribes with eligible sources do not participate, then the regional milestone will be adjusted as follows.

(i) A state or tribal budget under the total regional milestone will be determined as described in the allocation section of the Annex. The budgets for all States and Tribes that are participating in the program will be summed to establish the applicable milestone.

(ii) The Tribal Set Aside of 20,000 tons SO₂ as described in the allocation section of the Annex will remain constant and will not be affected by this readjustment of the milestone.

(iii) The new source set-aside will be adjusted proportionately to reflect the states and tribes that are participating in the program.

(iv) The suspended smelter provisions described above in paragraph B.2 will only apply to the extent that the state with jurisdiction over that source participates in the program.

Note: Because the allocation methodology may not be fully consistent with the methodology used to determine the BART level emission reductions, if the allocation methodology is used as the basis for adjusting the milestones in the event that a state opts out of the program, it will be necessary to review the adjusted milestones that are applicable to those states remaining in the program to ensure that the better reasonable progress than BART requirement is met for those states.

2. Suspended smelters. There are currently two copper smelters in the nine-state Visibility Transport Region that are temporarily suspended due to economic conditions. These smelters are fully permitted, and may resume full operation at any time. EPA policies will determine whether a suspended source resumes operations under its existing permit or alternatively goes through new source review to receive a new permit. If one

or both of the smelters resume operation, then the milestones will be adjusted as described below. Once the adjustments have been made, the milestone will not be changed due to future suspensions or changes in plant operations, except as provided below.

(i) If one or both smelters resume operations under their existing permits, the milestone will automatically be adjusted upward for each smelter respectively by the following maximum amounts:

- (A) Phelps Dodge Corporation, Hidalgo Smelter, 22,000 tons SO₂
- (B) BHP, San Manuel Smelter, 16,000 tons SO₂
- (C) For the milestones of 2013 and 2018, the maximum increase will be 30,000 tons.

If either smelter resumes operation in a substantially different manner than historic operations (for example, only operating a portion of the plant), the appropriate permitting authority will scale the emission estimates listed above to reflect current conditions. If the smelter resumes “normal” operations at a later date then the full adjustment described above will be applied.

(ii) If one or both smelters resume operations after going through new source review, the appropriate permitting authority will determine the appropriate SO₂ emission levels for that source. The guidelines established in the model rule for new source allocations will be used to determine the appropriate emission levels. The milestone will automatically be adjusted upward by this amount, but in no instance may the adjustment to the milestones exceed 22,000 tons per year for the Hidalgo Smelter or 16,000 tons per year for the San Manuel Smelter.

(iii) If one or both smelters do not resume operation, each of the remaining existing smelters will be given a facility specific set-aside as described in Table 2. This set-aside will only be available for use if emissions from a remaining copper smelter are above its assumed year 2000 baseline level in any particular year. The actual emissions that are above the assumed baseline level up to the level specified as the set-aside for each smelter will be added to the milestone to account for the increased capacity. The set-aside will not be available for use by other source categories and may not be traded.

Table 2. Smelter-Specific Set Aside

Company / Smelter	Baseline Level	Smelter-specific Set-aside
BHP San Manuel	16,000	1,500
Asarco Hayden	23,000	3,000

Phelps Dodge Chino	16,000	3,000
Phelps Dodge Hidalgo	22,000	4,000
Phelps Dodge Miami	8,000	2,000
Kennecott Salt Lake	1,000	100
TOTAL	86,000	13,600

(b) Once the targets are established as set forth in this section, the values may be modified due to any or all of the following circumstances through the process of State and Tribal Implementation Plan revisions.

1. Individual source opt-in. Following the WEB Program trigger, allocations for individual sources choosing to join the program according to the requirements set forth in Section C1.2 will be added to the regional targets to establish a new regional cap.
2. Periodic review and audits. If the periodic reviews, including modeling and other analyses as stipulated in Sections B5 and C14, performed by the states and tribes indicate that additional reductions are required to demonstrate reasonable progress towards achievement of the national visibility goal under the regional haze regulations, then the targets may require adjustment.
3. New measurement techniques/CEMS adjustment protocol. If new measurement techniques are implemented or data collection techniques are improved, the targets may require adjustment for purposes of accuracy. _____ [refer to guidance developed collaboratively by the states, tribes and EPA following submission of this model rule to EPA]
4. Non-complying emission limits. If a state(s) or tribe(s) determines that any target is based on emissions exceeding those allowed under law, an appropriate adjustment will be made to decrease the targets pursuant to procedures developed and codified in the state and tribal implementation plans.

(c) Any changes to the targets must be authorized by the states and tribes. Any modification of the targets shall be recorded and maintained by each state and tribe, and submitted to the Tracking Systems Administrator and to the EPA on an annual basis. Modifications to the targets shall be subject to public notice of at least 30 days and the opportunity for public comment should a hearing request be received within the notice period. Further, revisions to the targets must be codified in Section 309 and in the state and tribal implementation plans, as applicable.

A3.4 Compliance With Targets

(a) Compliance with interim targets.

Compliance with the interim targets will be assessed annually beginning with the 2003 target. The source of the actual emissions for the year(s) included in the comparison shall be the final state and tribal emission inventories. The comparison will occur in the year following the year under assessment.

1. Basis for compliance determination. If the annual emissions are greater than the annual targets under (i), or the average emissions are greater than the average targets under (ii) or (iii), as applicable, the trading program will be triggered in accordance with B4.(a)(1).

(i) 2003. Compliance with the 2003 target shall be determined based on a comparison of the regional sum of emissions from potential WEB sources in 2003 to the 2003 target.

(ii) 2004. Compliance with the 2004 target shall be determined based on a comparison of the average of the regional emissions in 2003 and 2004 from potential WEB sources to an average of the 2003 and 2004 targets.

(iii) 2005 through 2017. The regional sum of emissions from potential WEB sources for the year under assessment and the two previous years shall be averaged and compared to the average of the three associated targets.

2. Special provisions for Mojave (provided Nevada is included in the WEB Program). Prior to the installation of the SO₂ controls scheduled for 2006 under the Mojave Generating Station Consent Decree, the emissions from Mojave will be calculated using the 0.15 lb/mmBtu emission rate stipulated by the Decree for 2006. These calculated emissions will be substituted for Mojave's actual emissions in 2003, 2004, 2005, and on a pro-rated basis in 2006, for the purpose of determining compliance with the targets.

(b) Compliance with 2018 target.

In the event that the trading program has not been triggered by 2018, compliance with the 2018 target will be assessed in 2019 by comparison of the regional sum of emissions from potential WEB sources in 2018 to the 2018 target. If the annual emissions are found to be greater than the annual target, the trading program will be triggered in accordance with Section B4.(a)(1) and penalties will apply in accordance with Section C13.

PART B – PRE-TRIGGER REQUIREMENTS

B1. APPLICABILITY

All stationary sources in a state or tribe which record actual emissions of 100 tons or more of sulfur dioxide in the year 2000, or in any subsequent year, shall be potential WEB sources, and therefore subject to the requirements of Part B of this rule.

B2. PERMIT TRACKING REQUIREMENTS

(a) General requirements.

1. For each potential WEB source required to have a federally enforceable permit, such permit shall conform to requirements of this section to track emissions for purposes of regional assessment of compliance with the targets.
2. any potential WEB source is not already required to have a federally enforceable permit, Section B of this rule, as adopted by the state or tribe and approved by EPA, shall serve as the federally enforceable mechanism to ensure emissions are tracked appropriately.

(b) Duty to Apply. Any potential WEB source required to have a federally enforceable permit shall submit to the permitting authority a complete Regional Tracking permit application by the applicable deadline in paragraph (c) of this section. Each such permit application shall include the following elements in a format prescribed by the permitting authority:

1. Identification of the source, including plant name and AIRS code;
2. A statement obligating the source to monitor and report emissions in accordance with the current inventory requirements as delineated in each state's or tribe's implementation plan and as codified in the Code of Federal Regulations, to enable state and tribal compilation of an accurate and complete regional emissions inventory for purposes of tracking regional emissions and assessing compliance with the targets.

(c) Deadlines.

1. Any potential WEB source in a state or tribe at the time of the promulgation of the state or tribal WEB Program rule shall submit an application in conjunction with the next reopening of the source's permit by the permitting authority following promulgation of the state or tribal WEB Program rule. This submission shall in no case be later than five years after the promulgation of the rule.
2. Any stationary source that becomes a potential WEB source after the promulgation of the WEB Program rule, but prior to the program trigger, shall submit an application in conjunction with the next reopening of the source's permit by the permitting authority. This submission shall in no case be later than five years after the stationary source becomes a potential WEB source.

B3. EMISSIONS MONITORING AND REPORTING REQUIREMENTS

(a) *Sources.* Each potential WEB source shall report emissions to the state or tribe in accordance with the current inventory requirements in each state's and tribe's implementation plan, as codified in the Code of Federal Regulations.

(b) *States and tribes.*

1. The states and tribes shall compile emissions information annually to create an accurate and complete regional emissions inventory to assess compliance with the emission reduction targets delineated in Section A3.
2. The states and tribes shall publish this information and make a joint finding each year in accordance with subsequent explicit guidelines collaboratively developed by the states, tribes and EPA as to whether emissions have exceeded the relevant target. When a finding is made in the affirmative under Section B4(a)(1), the trading program shall be triggered.
3. If the trading program has not yet been triggered by 2013, the states and tribes shall perform an assessment of projected regional emissions in accordance with Section A3.1(b).

B4. PROGRAM TRIGGER

(a) The backstop trading program will automatically commence within 12 months when either of the following occurs as a trigger:

1. The collective emissions for applicable sources in states participating in the WEB Trading Program are determined to exceed the applicable SO₂ emission reduction target in accordance with Section A3.4(a) or A3.4(b), as applicable. The trading program can be triggered in any year from 2003 through 2018 based on this comparison.
2. The state and tribal 2013 checkpoint assessment projects that the 2018 target will not be achieved in accordance with Section A3.1(b)(1).

(b) As required by the regional haze regulations, all WEB sources must be in compliance with program requirements beginning January 1 of the year five years after the program trigger. At this time, the annual targets become the annual regional cap on SO₂ emissions for WEB sources.

B5. AUDITS AND REPORTS

(a) States and tribes shall conduct an audit every three years beginning in 2006 to ensure that the program is providing expected performance and meeting the requirements of the regional haze regulations. This evaluation is additional to the implementation plan assessments required by the regional haze regulations in 2008, 2013, and 2018, and must include at least the following:

1. Summary of emissions information reported under B3 of this section;
2. Confirmation of emissions monitoring and reporting accuracy, including performance of monitoring systems;
3. Environmental assessment of progress, including modeling and other analyses.

(b) The public shall have an opportunity to participate in this program evaluation.

(c) The states and tribes reserve the right to request a third party audit of the program's efficacy.

(d) In the event that any audit result in recommendations for program revisions, the states and tribes, in consultation with the WRAP, may propose the appropriate revisions as changes to current procedures or modifications to this rule.

PART C – POST-TRIGGER REQUIREMENTS (BACKSTOP TRADING PROGRAM)

C1. APPLICABILITY

C1.1 General Applicability

(a) The following stationary sources in a state or tribe will be WEB sources, and therefore subject to the requirements of Part C of this rule from the time compliance with the trading program is required:

1. All BART-eligible sources as defined in 40 CFR 51.301.
2. All existing stationary sources that emit SO₂ in an amount greater than or equal to 100 tons per year in any of the program trigger years.

(b) The following stationary sources in a state or tribe will be WEB sources, and therefore subject to the requirements of Part C of this rule, beginning January 1 of the year following the commencement of operation or the modification, reconstruction or repowering, as applicable. The targets will not be affected by the addition of these sources.

1. Any source that commences operation in any year following the program trigger years, and which emits or has the potential to emit 100 tons per year or more of sulfur dioxide.
2. Any source which is modified, reconstructed or repowered in any year following the program trigger years, and which emits or has the potential to emit 100 tons per year or more of sulfur dioxide.

(c) The following stationary sources in a state or tribe will be WEB sources, and therefore subject to the requirements of Part C of this rule beginning January 1 of the year no later than two years following the regulatory deadline for the relevant five year SIP review required under the regional haze regulations: any existing source that emits SO₂ in an amount greater than or equal to 100 tons per year any year following the program trigger years. The relevant five-year SIP review for such a source will be the deadline for the first review following the year in which the source's emissions are in excess of 100 tons of SO₂. The targets will not be affected by the addition of these sources.

(d) Once a source is included in the program as a result of the applicability requirements, the source will remain in the program thereafter.

(e) The WEB Trading Program will apply in its entirety to the owner or operator of any WEB source.

C1.2 Opt-in Provisions

(a) Any owner or operator of a stationary source that is not a WEB source under Section C1.1, but that is operating within the jurisdiction of a participating state or tribe will have the option to voluntarily opt-in to the WEB Trading Program according to the following parameters:

1. Any person who owns, operates, leases or controls a stationary source that voluntarily opts in to the WEB Program will be considered a WEB source upon approval of the opt-in application and will be subject to all terms and conditions of the WEB Program, including requirements for WEB allowance transfer and use, emissions monitoring, recordkeeping, reporting, and penalties.

2. To opt into the WEB Program, the owner or operator of a stationary source shall submit to the permitting authority the following:

(i) Permit application under Section C5.2 of this rule;

(ii) Monitoring plan in accordance with Section C9 of this rule;

(iii) Complete Account Certificate of Representation under Section C3;

(iv) Documentation of the baseline control period emissions. Baseline control period emissions are a representative average of the actual emissions of two consecutive control periods within the five years preceding the opt-in application. In no event may the baseline be greater than allowable emissions for that source as established by state permit or rule.

3. The permitting authority will assess the completeness and adequacy of the application in accordance with Section C5.2 and Section C9 of this rule. If the application is

determined sufficient, a permit will be issued, and will become effective January 1 of the first control period following the issuance of the permit. The permit will include applicability of this program, authority to trade allowances, and authority to emit in accordance with allowances allocated or obtained by the allowance transfer deadline.

(b) Opt-in allocations will be added to the regional cap as defined by the targets after the start of the program in accordance with the procedures in Section A3.3, and will be assigned by each state or tribe to any source that chooses to opt into the program. The allowance allocation for an opt-in source shall be equivalent to the baseline control period emissions, or the permitted allowable SO₂ emissions from the source, whichever is less. In no case will allocation of allowances to a source opting into the program require adjustments to the allocation of allowances to sources already included in the WEB Program. Any person who chooses to opt into the WEB Program, and who subsequently chooses to cease or curtail operations, will be subject to an allowance adjustment which represents emissions equivalent to those reduced through the cessation or curtailment of emitting operations.

C1.2 Retired Source Exemption

(a) General provisions. Any WEB source, other than a WEB opt-in source, that is permanently retired shall be exempt from the WEB Trading Program except for the provisions of this section, effective the day on which the source is permanently retired. A WEB source shall be considered permanently retired only in the event that all emitting units at the source are permanently retired.

1. Within 30 days of permanent retirement, the WEB Authorized Account Representative shall submit a statement to the permitting authority otherwise responsible for administering any WEB permit for the source. The statement shall state that the source is permanently retired and will comply with the requirements of paragraph (b) of this section.
2. After receipt of this notice, the permitting authority will amend any permit covering the source to add the provisions and requirements of the exemption under paragraph (b) of this section.

(b) Special provisions.

1. A source exempt under this section shall not emit any SO₂, starting on the date that the exemption takes effect. The owners and operators of the source will be allocated allowances in accordance with Section C4 of this rule.
2. Should a source desire to resume operation, the Authorized Account Representative of the source must submit a complete WEB Program permit application for the source not less than 18 months (or such lesser time provided under the permitting authority's rules for final action on a permit application) prior to the date on which the source is to first resume operation.

3. The owners and operators and, to the extent applicable, the WEB Authorized Account Representative of a source exempt under this section shall comply with the requirements of the WEB Program in accordance with Section C2 for all periods in which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

4. A source that is exempt under this section is not eligible to be a WEB opt-in source.

5. For a period of 5 years from the date the records are created, the owners and operators of a source exempt under this section shall retain at the source records demonstrating that the source is permanently retired.

C2. STANDARD REQUIREMENTS

C2.1 Trigger of Program Requirements

The requirements listed in this Section C2 will not become applicable unless and until the backstop trading program is triggered in accordance with Section B4 and compliance is required.

C2.2 Permit Requirements

(a) Each WEB source that is required to have a federally enforceable permit will be required to include permit conditions for the WEB Trading Program. Each WEB source that is not otherwise required to have a federally enforceable permit will not require a permit for purposes of the WEB Program and this rule as adopted by the state or tribe, as applicable, and as approved by EPA, shall serve as the federally enforceable mechanism.

(b) The Authorized Account Representative of each WEB source required to have a federally enforceable permit will do the following:

1. Submit to the permitting authority a complete WEB permit application as explained in Section C5.2.
2. Submit any supplemental information that the permitting authority determines is necessary in order to review a permit application and issue or deny a WEB permit.

C2.3 Monitoring Requirements

(a) The owners and operators and, to the extent applicable, the Authorized Account Representative of each WEB source are required to comply with the monitoring requirements of Section C9 of this rule, and with any additional requirements delineated in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].*

(b) The emissions measurements recorded and reported in accordance with Sections C9 and C10 of this model rule shall be used to determine compliance for each WEB source with the WEB allowance limitation under 2.4 of this section.

C2.4 SO₂ Requirements

(a) A WEB SO₂ allowance is a limited authorization to emit one ton of SO₂, valid only for the purpose of meeting the requirements of this rule. No provision of the WEB Trading Program or other law should be construed to limit the authority of the United States or the state or tribe to terminate or limit such authorization.

(b) Allowances will be allocated in accordance with the provisions in Section C4. A source that begins operation after the initial allocation must have allowances in order to operate.

(c) Upon recordation by the Tracking Systems Administrator, every allocation, transfer, or deduction of a WEB allowance to or from a compliance account is deemed to amend automatically the WEB permit of a WEB source without any further review.

(d) The owners and operators of each WEB source shall hold SO₂ allowances as of the allowance transfer deadline in the source's compliance account in an amount not less than the total SO₂ emissions from the source for the control period, as determined in accordance with the monitoring and reporting protocols of this rule.

(e) Each ton of SO₂ emitted in excess of a WEB source's allowance limitation can constitute a separate violation of this part, the Clean Air Act or implementing regulations, and applicable state and tribal law.

C2.5 Excess Emission Requirements

The owners and operators of a WEB source that has excess emissions in any control period will be required to:

(a) Surrender the SO₂ allowances required for deduction under Section C13.1(a), and

(b) Pay any fine, penalty, or assessment, or comply with any other remedy imposed under Section C13.1(b).

C2.6 Recordkeeping and Reporting Requirements

Unless otherwise provided, the owners and operators of each WEB source will keep on site at the source each of the following documents for a period of 5 years from the date the document is created:

(a) Copies of all reports, compliance certifications, and other submissions or records under the WEB Trading Program, including those under Sections C9, C10, and C12.

- (b) Copies of all documents used to complete a WEB Program permit application.
- (c) All emissions monitoring information, in accordance with Section C9 of this part.
- (d) The Account Certificate of Representation for the Authorized Account Representative for the source.

C2.7 Liability

- (a) Each WEB source shall meet the requirements of the WEB Trading Program.
- (b) Any provision of the WEB Program that applies to a WEB source and/or a WEB Authorized Account Representative shall apply also to the owners and operators of such source.
- (c) Any person who knowingly violates any requirement or prohibition of the WEB Trading Program or a WEB permit will be subject to enforcement pursuant to applicable state, tribal or federal law.
- (d) Any person who knowingly makes a false material statement in any record, submission, or report under the WEB Trading Program shall be subject to criminal enforcement pursuant to the applicable state, tribal or federal law.

C2.8 Effect on Other Rules

The restrictions and requirements of state, tribal and local rules, as well as state, tribal and federal law, remain applicable. No provision of the WEB Trading Program should be construed as exempting any source from compliance with any other provision of the applicable, approved state implementation plan, tribal implementation plan, a federally enforceable permit, the CAA or implementing federal regulations. Allowances under the WEB Trading Program may not be used to exceed the limitations of a permit or rule unrelated to this program as further explained in Section C15 of this rule.

C3. AUTHORIZED ACCOUNT REPRESENTATIVE

C3.1 Requirements and Responsibilities

- (a) Each WEB source must have one WEB Authorized Account Representative selected by the owners and operators of the source, with regard to all matters under the WEB Trading Program. Each WEB source may also have an alternate Authorized Account Representative who may act on behalf of the primary Authorized Account Representative, though all correspondence related to the WEB Trading Program will be directed to the primary Authorized Account Representative. Any representation, action or submission by the alternate Authorized Account Representative will be deemed to be a representation, action or submission by the primary Authorized Account Representative.

(b) The WEB Authorized Account Representative shall be selected by an agreement binding on the owners and operators of the source.

(c) Each submission under the WEB Trading Program shall be submitted, signed and certified by the WEB Authorized Account Representative for each WEB source on behalf of which the submission is made. Each such submission shall include the following certification statement by the WEB Authorized 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."

(d) The Authorized Account Representative's responsibilities include, but are not limited to: holding and transferring allowances and submitting permit applications, monitoring plans, certification applications, emissions data and compliance reports as required by this rule.

C3.2 Certification of an Authorized Account Representative

(a) Upon receipt by the state or tribe of a complete Account Certificate of Representation, the WEB Authorized Account Representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the WEB source represented in all matters pertaining to the WEB Trading Program. The owners and operators shall be bound by any decision or order issued to the WEB Authorized Account Representative by the permitting authority, the state or tribe, the EPA Administrator, or a court regarding the source.

(b) No WEB Program permit shall be issued, and no WEB Allowance Tracking System account shall be established for a WEB source until the state or tribe has received a complete Account Certificate of Representation.

(c) The Account Certificate of Representation must include at least the following elements:

1. Identification of the WEB source by plant name, state, and AIRS code for which the certificate of representation is submitted;
2. The name, address, e-mail (if available), telephone and facsimile number of the Authorized Account Representative and any alternate;
3. A list of owners and operators of the WEB source;

4. The following certification statement: “I certify that I was selected as the Authorized Account Representative or alternate Authorized 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 Western Emissions Budget Trading Program on behalf of the owners and operators of the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the permitting authority, the state or tribe, the EPA Administrator, or a court regarding the source.”

5. The signature of the Authorized Account Representative and any alternate Authorized Account Representative and the dates signed.

(d) Once a complete Account Certificate of Representation under this section has been submitted and received, the permitting authority and the state or tribe (if an entity other than the state or tribe is the permitting authority) will rely on the Account Certificate of Representation unless and until a superseding complete Account Certificate of Representation under this section is received by the state or tribe.

C3.3 Changing the Authorized Account Representative or Owners and Operators

(a) Changes of the WEB Authorized Account Representative or alternate.

The WEB Authorized Account Representative or alternate may be changed at any time upon receipt by the state or tribe of a superseding complete Account Certificate of Representation under Section C3.2. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous WEB Authorized Account Representative or alternate prior to the time and date when the state or tribe receives the superseding Account Certificate of Representation shall be binding on the new WEB Authorized Account Representative and the owners and operators of the WEB source.

(b) Changes in owners and operators.

1. 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 Account Certificate of Representation, such new owner or operator shall be deemed to be subject to and bound by the Account Certificate of Representation, the representations, actions, inactions, and submissions of the WEB Authorized Account Representative and any alternate of the source, and the decisions, orders, actions, and inactions of the permitting authority and the state or tribe, as if the new owner or operator were included in such list.

2. Within 30 days following any change in the owners and operators of a WEB source, including the addition of a new owner or operator, the WEB Authorized Account Representative or alternate shall submit a revision to the Account Certificate of Representation amending the list of owners and operators to include the change.

C4. WEB SO₂ ALLOWANCE ALLOCATIONS

C4.1 General Distribution and Timing

(a) Each state and tribe shall include in their respective 2003 state or tribal implementation plan preliminary allocations for all existing WEB sources within their state or tribe based on the targets also included in the implementation plans. Individual source allocations shall not be considered final until such time as the trading program is triggered, since final allocations are dependent upon the sources involved in triggering the program.

(b) Allowances in the amount of each target, beginning with the target under which compliance is first required, will be disaggregated into three major segments:

1. Regional tribal set-aside in accordance with Section C4.2;
2. Regional new source set-aside in accordance with Section C4.3;
3. State and tribal trading program budgets for existing sources in accordance with Section C4.4.

(c) Twelve months following the trigger, the state or tribe shall submit to the Tracking Systems Administrator an initial allocation of SO₂ allowances in accordance with Section C4.2 – 4.4 for the first five years of compliance under the trading program (or until allowances are allocated through 2018, whichever is shorter). This allocation shall be less than or equal to the applicable state or tribal trading program budget for each of the allocation years.

(d) By December 1 of the year five years after the initial allocation, the state or tribe will submit to the Tracking Systems Administrator the WEB SO₂ allowance allocations in accordance with Section C4.2 – 4.4 for the control periods beginning five years after the year of the deadline for this submission. This will continue until allowances have been allocated through 2018. This allocation shall at all times be less than or equal to the applicable state or tribal trading program budget for each of the allocation years.

C4.2 Regional Tribal Set-aside

(a) The Tracking Systems Administrator shall transfer 20,000 WEB SO₂ allowances to the tribal set-aside each year in which allowances are allocated under the WEB Trading Program, in accordance with the timing prescribed in 4.1 of this section.

(b) The tribal caucus shall determine the means for distributing the allowances among the tribes.

(c) The tribal set-aside allowances are bonus allowances for the tribes and as such, are separate and additional to any allowances tribes may receive under 4.3 and 4.4 of this section, or under C1.2 of this rule.

C4.3 Regional New Source Set-aside

(a) *Size.* There shall be 27,000 allowances available to new sources from 2003 to 2018, assuming approximately 9,000 tons per year for each of the three five-year periods under the 2003 –2018 planning period delineated by the regional haze regulations. Should any states and tribes choose not to participate, the set-aside shall be adjusted downward based on the new source growth projections of those entities opting out.

1. In conjunction with the initial allocation under C4.1(c), the Tracking Systems Administrator shall note the total amount of allowances for the first year of compliance that are allocated to sources commencing operation during or after 2003.
2. Because these sources will be included in the initial allocation and thus will not need allowances from the new source set-aside, the Tracking Administrator shall subtract the number determined in (1) from 27,000 to determine the amount of allowances available to be distributed to new sources under the trading program.
3. The amount of allowances available shall be divided equally across the remaining allocation periods from the first year of compliance until 2018.
4. The Tracking Systems Administrator shall transfer the amount of allowances determined for each of the remaining allocation periods in (3) to the new source set-aside each year in which allowances are allocated under the WEB Trading Program, in accordance with the timing prescribed in 4.1 of this section.

(b) *Allocation process.* New sources shall request floor allocations via the state or tribe according to the following criteria until all allowances are awarded. Allowances shall be awarded on a first-come, first-served basis for the number of years remaining until the next allocation:

1. Truly new source.
 - (i) For the first three year of allocations, multiply the lower of the NSPS or permitted emission rate by the maximum design heat input (utility sources) or by the maximum hours of operation or equivalent measure (non-utility sources). Each source will be required to surrender allowances additional to those needed for compliance purposes following each control period.
 - (ii) If a source is eligible for more than three years of allowances from the new source set-aside (determined by the timing of the commencement of operation as related to the next five-year allocation), the source is eligible to receive allowances in accordance with (b)(2) of this section.
2. Existing new source. Multiply the lower of the NSPS or permitted emission rate by the average heat input of the higher two of the last three years (utility sources) or by the average hours of operation or equivalent measure of the higher two of the last three years (non-utility sources).

(c) *Under-subscription.* If any WEB allowances remain in the new source set-aside following a control period, these allowances shall be carried over as banked allowances added to the set-aside for potential distribution to new sources in the subsequent control period.

(d) *Over-subscription.* Should there be insufficient allowances remaining in the new source set-aside to cover a new source's allocation, the allowances required to cover operations must be purchased in the market.

C4.4 Allocations to States and Tribes for Existing Sources

(a) Each state and tribe shall have the authority to submit to the Tracking Systems Administrator allocations in the amount of the applicable state or tribal trading program budget. The state/tribal trading program budgets do not represent limits on the aggregate emissions of sources in any state or tribe.

(b) The state and tribal program budget shall be determined at the time of the initial allocation, and again at the time of the subsequent allocations. The determination will be based upon the portion of allowances ascribed to sources in each state or tribe in the floor and reducible allocations calculations in Section C4.5. The sum of the state and tribal trading program budgets as determined through an aggregation of the source calculations in C4.5 and the regional new source and tribal set-asides must be no greater than the applicable target.

(c) The states and tribes shall submit allocations to the Tracking Systems Administrator for recordation in accordance with the process outlined in 4.5 of this section, and also in accordance with the determination of the state and tribal budgets.

C4.5 Allocations to Existing Sources

(a) *Floor Allocations.* A floor allocation shall be provided to each WEB source. The floor for each source will remain fixed throughout the life of the WEB Program.

1. California RECLAIM program allocation. California shall be allocated 3,462 WEB allowances to represent the aggregate floor for RECLAIM sources each year in which allowances are allocated under the WEB Trading Program. No additional allowances under 4.5(b) shall be allotted to the state for these sources. Additional allowances shall be awarded to the state for WEB sources which are not RECLAIM sources, and therefore not covered by this allocation.

2. Individual source floor allocation.

(i) Non-utility sources. A floor allocation shall be calculated for each non-utility WEB source based on a specified level of control (i.e., BACT, BART, LAER), and a 100% utilization assumption.

(ii) Utility sources. *Yet to be determined.*

(iii) The floor allocation shall not be greater than the permitted emission level for

the source.

(b) *Reducible Allocations.* The early reduction and renewable energy allocations shall be awarded from the reducible portion of the allocations. The remainder of the reducible portion will then be allocated to the existing sources.

1. Early Reduction Allocations.

(i) Any year prior to the trigger, a source may earn bonus SO₂ allowances by demonstrating emissions below that source's 2018 allocation as projected in the relevant state or tribal implementation plan. The allowance award shall be based upon the magnitude of the reductions in relation to the 2018 allocation and the number of years for which a reduction is verified.

(ii) Within 90 days after the trigger, a source seeking early reduction allocations must submit a request to the appropriate state or tribe for certification.

Certification requires that reductions be:

- A. Real and quantifiable;
- B. Representative of control measures and not utilization shifts;
- C. Monitored according to protocols prescribed in Sections C9 and C10 of this rule.

(iii) The sum of reductions that are certified as meeting the requirements of this section shall be divided by ten (or the number of years remaining until 2018, inclusive, whichever is less) and distributed to eligible sources for each of the first ten years (or the number of years remaining until 2018, inclusive, whichever is less) of allocations under the WEB program. The award of the first five years of early reduction credits shall occur in conjunction with the initial allocation, and the second five years shall occur in conjunction with the subsequent allocation five years later.

2. Eligible renewable energy resources that begin operation after October 1, 2000, will receive 2.5 tons of SO₂ allocations per MW of installed nameplate capacity per year. A source beginning operation prior to the program trigger will receive its SO₂ allowance as part of the initial allocation. The allocation will be retroactive to the time of initial operation. Sources beginning operation after the program begins will be awarded allowances for each year of operation at the time of the five-year allocations (including retroactive coverage of prior year operations). An emitting eligible renewable energy source would receive allowances from the new source set-aside and an additional 2.5 allowances per MW of capacity from the reducible portion of the allocations.

3. Source-specific Reducible Allocations. The remainder of the allowances available under the level of the target shall be distributed to existing non-utility sources based on each source's relative contribution to reducible emissions during 1996 and 1998, and to

existing utility sources based on each source's relative contribution to reducible emissions during 1995 through 1999.

C4.6 Allocations to Existing Sources Subject to an Enforcement Action

Should a source be subject to an enforcement action, that source's emissions shall be limited to the appropriate level prescribed by that action, and the allocation methodology will acknowledge that limitation by limiting the sources allowances accordingly. The difference between the source's allocation prior to and following the enforcement action shall be removed from the allocation pool.

C5. PERMITS

C5.1 General

(a) For each WEB source required to have a federally enforceable permit, such permit shall be required to contain all applicable WEB Trading Program requirements under Section C2 and conform to the requirements under 5.2 of this section prior to the beginning of compliance requirements.

(b) If any WEB source is not already required to have a federally enforceable permit, this rule shall serve as the federally enforceable mechanism for the WEB Trading Program.

C5.2 WEB Trading Program Permit Applications and Revisions

(a) Duty to Apply. The WEB Authorized Account Representative of any WEB source required to have a federally enforceable permit shall submit to the permitting authority a complete WEB permit application by the applicable deadline in paragraph (b) of this section. Each WEB permit application shall include the following elements in a format prescribed by the permitting authority:

1. Identification of the source, including plant name and AIRS code;
2. The standard requirements under Section C2 of this rule; and
3. For each opt-in source, certification by the Authorized Account Representative that the source is not a WEB source under Section C1.1 and is not covered by a retired source exemption.

(b) Deadlines.

1. Any source that is a WEB source under Section C1.1(a) shall submit a WEB permit application to the permitting authority at least 18 months before compliance with the trading program is required.
2. Any source that is a WEB source under Section C1.1(b) shall possess a WEB permit

prior to initial commencement of operation or commencement of operation following a modification, reconstruction or repowering, as applicable.

3. Any source that is a WEB source under Section C1.1(c) shall submit a WEB permit application to the permitting authority within six months after the regulatory deadline for the submission of the five-year SIP review concluding the source is a WEB source.

(c) Contents.

Each WEB permit is deemed to automatically incorporate the definitions of terms, and upon recordation by the Tracking Systems Administrator, every allocation, transfer or deduction of a WEB allowance to or from the compliance account of the WEB sources covered by the permit.

(d) Revisions.

Revisions to a WEB permit shall occur in accordance with the permitting authority's operating permits rules governing permit revisions.

C6. ALLOWANCE TRANSFERS

C6.1 Submission of WEB Allowance Transfers

To enact an allowance transfer, the WEB Authorized Account Representative shall submit the transfer to the Tracking Systems Administrator, including the following elements in a specified format:

- (a) The numbers identifying both the transferor and transferee accounts;
- (b) A specification by serial number of the allowances to be transferred; and
- (c) The printed name and signature of the Authorized Account Representative of the transferor account and the date signed.

C6.2 Recordation

- (a) Within 5 business days of receiving an allowance transfer, except as provided in paragraph
- (b) of this section, the Tracking Systems Administrator will record an allowance transfer by moving each WEB allowance from the transferor account to the transferee account as specified by the request, provided that:
 - 1. The transfer is correctly submitted;
 - 2. The transferor account includes each WEB allowance identified in the transfer; and
 - 3. The transfer meets all other requirements of this part.

(b) Any allowance transfer that is submitted for recordation following the WEB allowance transfer deadline and that includes any WEB allowances allocated for a control period prior to or the same as the control period to which the WEB allowance transfer deadline applies, will not be recorded until after completion of the compliance process.

(c) Where a WEB allowance transfer submitted for recordation fails to meet the requirements of paragraph (a) of this section, the Tracking Systems Administrator will not record such transfer.

C6.3 Notification

(a) Notification of recordation.

1. Within 5 business days of recordation of a WEB allowance transfer under C6.2, the Tracking Systems Administrator will notify the Authorized Account Representatives of both the transferor and transferee accounts, and also notify the designated state or tribal officials where the accounts are located; and
2. The Tracking Systems Administrator shall make transfer information publicly available on the Internet.

(b) Notification of non-recordation. Within 10 business days of receipt of an allowance transfer that fails to meet the requirements of C6.2, the Tracking Systems Administrator will notify the WEB Authorized Account Representatives of both accounts of:

1. A decision not to record the transfer, and
2. The reasons for such non-recordation.

C7. BANKING PROVISIONS

(a) WEB allowances may be banked for future use or transfer in a compliance account or a general account, as follows:

1. Any allowance that is held in a compliance account or a general account will remain in such account unless and until the allowance is deducted in conjunction with the compliance process or transferred to another account.
2. After the Tracking Systems Administrator has made all deductions for a given control period from the compliance account pursuant to Section C11, any allowance that remains in any compliance account or general account shall be designated as “banked.”

(b) Each year beginning with the year following the first year in which compliance with the WEB Trading Program is required, after completion of the designation of banked WEB allowances in (a), the Tracking Systems Administrator will report the extent to which banked

WEB allowances may be used for compliance in the current control period according to the following process:

1. Identify the total number of banked WEB allowances held in compliance accounts or general accounts.
2. If the total number of banked WEB allowances is less than or equal to 10% of the regional cap in the control period, any banked WEB allowance may be deducted for compliance for the control period in accordance with Section C11.
3. If the total number of banked WEB allowances exceeds 10% of the regional cap for the control period, banked allowances may be used for compliance in accordance with the following:

(i) The Tracking Systems Administrator will determine the following ratio: 0.10 multiplied by the regional cap for the control period divided by the total number of banked WEB allowances determined under paragraph (b)(1) of this section.

(ii) The Tracking Systems Administrator will apply this ratio to each account, multiply the resulting number in (i) by the number of banked WEB allowances in each compliance account. The resulting product is the number of banked WEB allowances in each account that may be deducted for compliance in accordance with Section C11. Any banked WEB allowances in excess of the resulting product may also be deducted for compliance, but if such allowances are used to make a deduction, two WEB allowances must be deducted for each deduction of one WEB allowance required under Section C11.

C8. WEB ALLOWANCE TRACKING SYSTEM (WATS)

C8.1 Accounts

(a) Compliance accounts.

1. Upon receipt of a complete Account Certificate of Representation under Section C3.2, the Tracking Systems Administrator will establish a compliance account for each WEB source for which the Account Certificate of Representation was submitted, and will record the associated information.
2. Allocations of WEB allowances and deductions or transfers will be recorded in the compliance accounts in accordance with this subpart.

(b) General accounts.

1. Any person may apply to open a general account for the purpose of holding and

transferring allowances by submitting a complete application for a general account to the Tracking Systems Administrator. This application shall including the following elements in a prescribed format:

- (i) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the WEB Authorized Account Representative and any alternate;
- (ii) At the option of the WEB Authorized Account Representative, the organization name and type of organization;
- (iii) A list of all persons subject to a binding agreement for the WEB Authorized Account Representative or any alternate to represent their ownership interest with respect to the allowances held in the general account;
- (iv) The following certification statement by the WEB Authorized Account Representative and any alternate: "I certify that I was selected as the WEB Authorized Account Representative or the WEB alternate Authorized Account Representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the state or tribe, as applicable, or a court regarding the general account."
- (v) The signature of the WEB Authorized Account Representative and any alternate and the dates signed.

2. Upon receipt of a complete application for a general account, the Tracking Systems Administrator will establish a general account for the person or persons for whom the application is submitted. At this time:

- (i) The WEB Authorized Account Representative and any alternate shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to WEB allowances held in the general account in all matters pertaining to the WEB Trading Program. Any such person shall be bound by any order or decision issued to the WEB Authorized Account Representative or any alternate by the state or tribe, as applicable, or a court regarding the general account.
- (ii) Each submission concerning the general account shall be submitted, signed, and certified by the WEB Authorized Account Representative or any alternate. Each submission shall include the following certification statement by the WEB Authorized Account Representative or any alternate: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the WEB 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.”

3. Changes.

(i) The WEB Authorized Account Representative or alternate for a general account may be changed at any time upon receipt by the Tracking Systems Administrator of a superseding complete application for a general account under this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous WEB Authorized Account Representative prior to the time and date when the Tracking Systems Administrator receives the superseding application for a general account shall be binding on the new WEB Authorized Account Representative and the persons with an ownership interest with respect to the allowances in the general account.

(ii) In the event a new person having an ownership interest with respect to WEB allowances in the general account is not included in the list of such persons in the application for a general account, such new person shall be deemed to be subject to and bound by the Account Certificate of Representation. Within 30 days following any change in the persons having an ownership interest with respect to WEB allowances in the general account, including the addition of persons, the WEB Authorized Account Representative or any alternate shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the WEB allowances in the general account to include the change.

(c) Account identification. The Tracking Systems Administrator will assign a unique identifying number to each account established under paragraph (a) or (b) of this section.

C8.2 Responsibilities of a WEB Authorized Account Representative in the WEB Allowance Tracking System

(a) Following the establishment of any WEB Allowance Tracking System account, all submissions to the Tracking Systems Administrator pertaining to the account, including submissions concerning the deduction or transfer of WEB allowances in the account, shall be made only by the WEB Authorized Account Representative for the account.

(b) The Tracking Systems Administrator will assign a unique identifying number to each WEB Authorized Account Representative.

C8.3 Recordation of WEB Allowance Allocations.

(a) *Initial allocation.* The Tracking Systems Administrator will record the WEB allowances as allocated under Section C4 in the WEB sources' compliance accounts and allocation set-asides within twelve months of the program trigger.

(b) *Subsequent allocations.* Every five years following the initial allocation of WEB allowances -- after making all deductions from a WEB source's compliance account pursuant to Section C11 -- or until allowances have been allocated through 2018, the Tracking Systems Administrator will record five years of WEB allowance allocations beginning with the year following the last year for which allowances were previously allocated to a source, in accordance with Section C4 of this part. Every five years, or until allowances have been allocated through 2018, the Tracking Systems Administrator will also record WEB allowances, as allocated under Section C4 of this part, in the allocation set-asides for the five years following the last year for which allowances were previously allocated to each allocation set-aside.

(c) *Serial numbers for WEB allowances.* When allocating WEB allowances and recording such allowances in an account, the Tracking Systems Administrator will assign each WEB allowance a unique identification number that will include digits identifying the year in which each allowance is first eligible for use in compliance.

C8.4 Integrity and Public Availability of WEB Allowance Tracking System Information

The WEB Allowance Tracking System shall be a secure and transparent system, as verified by double-entry accounting and periodic audits by the states and tribes. The Tracking Systems Administrator shall provide to states, tribes, sources, and other interested parties an official record of initial allowance allocations, current holdings, transfers, and/or deductions for compliance under the WEB Trading Program as requested and through frequent electronic updates or Internet postings.

C9. EMISSIONS MONITORING

The owners and operators, and to the extent applicable, the WEB Authorized Account Representative of each WEB source shall comply with the following requirements, as applicable:

(a) SO₂ emissions from each WEB source, and each unit at the WEB source, if applicable, shall be monitored as specified by this section, by 40 CFR part 75, and by requirements delineated in _____ [refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA], as applicable.

(b) By January 1 of the year two years prior to the beginning of compliance requirements under the WEB Trading Program, the owner or operator of each WEB source shall submit to the state or tribe a monitoring plan in accordance with these specifications.

(c) Emission monitoring systems, as required and specified by this section and in _____ [refer to guidance specifying non-utility requirements, developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA], shall be installed, operational and shall have met all of the certification testing requirements in accordance with the following deadlines:

1. For WEB sources under C1.1(a), by no later than January 1 of the year one year prior to the beginning of compliance requirements under the WEB Trading Program.
2. For WEB sources under C1.1(b), by no later than January 1 of the year following the date when modifications were completed or operations commenced, as applicable.
3. For WEB sources under C1.1(c), by no later than January 1 of the year following the five-year SIP review concluding the source is a WEB source.

(d) All monitoring systems are subject to initial performance testing and periodic calibration, accuracy testing and quality assurance/quality control testing as specified in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].*

(e) During a period when valid data is not being recorded by monitoring devices approved for use to demonstrate compliance with this rule, missing or invalid data shall be replaced with representative default data in accordance with the provisions of 40 CFR part 75 and any additional requirements delineated in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].*

(f) SO₂ emissions data shall be reported to the states or tribes in accordance with provisions of Section C10 of this rule and in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].* The states and tribes shall quality assure and finalize the data in accordance with these provisions for submission to the WEB Emissions Tracking System.

(g) The states and tribes shall agree to a deadline for finalizing and submitting data to the WEB Emissions Tracking System to ensure compliance is determined in a timely manner.

(h) The WEB Emissions Tracking System shall be a secure and transparent system, as verified by double-entry accounting and periodic audits by the states and tribes.

C9.1 Utilities - Part 75 Sources

The owner or operator of each WEB source subject to 40 CFR part 75 shall demonstrate compliance with the WEB Program with a certified part 75 monitoring system.

C9.2 Non-utilities - Non-Part 75 Sources

The owner or operator of each WEB source not subject to 40 CFR part 75 shall demonstrate compliance with the WEB Program through the current methodologies delineated in the Title V permit as adjusted to achieve a level of accuracy comparable to part 75, or _____ *[refer to non-utility requirements developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].*

C10. EMISSIONS RECORDKEEPING AND REPORTING

(a) *Recordkeeping.* The owner or operator of any WEB source, unless otherwise provided, shall keep on site at the source each of the following documents for a period of 5 years from the date

the document is created:

1. Copies of all reports, compliance certifications, and other submissions or records under the WEB Trading Program.
2. Copies of all documents used to complete a WEB Program permit application.
3. All emissions monitoring information, in accordance with Section C9 of this part, unless otherwise indicated by Section C9 or _____ [refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA]. Additionally, sources will be required to maintain emissions records from 1996 through 1999 in order to support the allocation process.
4. The Account Certificate of Representation for the Authorized Account Representative for the source.

(b) Reporting.

1. The WEB Authorized Account Representative for each WEB source shall submit emissions and operations information each control period on a quarterly basis and in accordance with standards specified in 40 CFR part 75, subpart G, or in any other suitable format as specified by _____ [refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA].
2. WEB sources subject to 40 CFR part 75 shall submit data to the state or tribe in conjunction with the quarterly reports submitted to Environmental Protection Agency for the purpose of compliance with 40 CFR part 75.
3. WEB sources not subject to 40 CFR part 75 shall submit quarterly reports within 30 days of the end of each of the calendar quarters according to guidelines specified in _____ [refer to requirements developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA] for equivalency with part 75.

C11. COMPLIANCE

Monitored emissions data as reported by the WEB source to the state or tribe, adjusted as necessary to be in accordance with Section C9 and _____ [refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA], and recorded in the WEB Emissions Tracking System, combined with allowance allocations and transfers recorded in the WEB Allowance Tracking System, shall provide the basis for determination of compliance with this rule.

(a) Allowance transfer deadline. WEB allowances are available to be deducted for compliance with a source's WEB allowance limitation for a control period only if the WEB allowances:

1. Were allocated for a control period in a prior year or the same year; and

2. Are held in the source's compliance account as of the WEB allowance transfer deadline for that control period, or are transferred into the compliance account by a WEB allowance transfer correctly submitted for recordation under Section C8 by the WEB allowance transfer deadline for that control period.

(b) Deductions for compliance.

1. Following the recordation of WEB allowance transfers submitted by the WEB allowance transfer deadline, the Tracking Systems Administrator will deduct WEB allowances available under paragraph (a) of this section to cover the source's SO₂ emissions for the control period as determined in accordance with Section C9 from the source's compliance account.

2. The Tracking Systems Administrator will deduct WEB allowances:

(i) Until the number of WEB allowances deducted for the control period equals the number of tons of WEB emissions from the source for the control period for which compliance is being determined; or

(ii) Until no more WEB allowances available under paragraph (a) of this section remain in the respective account.

(c) Order of deductions. The WEB Authorized Account Representative for each compliance account may identify by serial number the WEB allowances to be deducted from the source's compliance account in the compliance certification report submitted under Section C12. In the absence of such identification, the Tracking Systems Administrator will deduct WEB allowances for a control period from the compliance account on a first-in, first-out (FIFO) accounting basis in the following order:

1. Those WEB allowances that were allocated for the control period to the source, or that were allocated for the control period to any source and transferred and recorded in the account;

2. Those WEB allowances that were allocated for a prior control period to the source or that were allocated for a prior control period to any source and transferred and recorded in the account.

(d) Failure by a WEB source to obtain and hold in its compliance account, for any control period, sufficient allowances equal to or exceeding its WEB allowance limitation for the control period, shall result in enforcement action and penalties pursuant to Section C13 of this rule.

C12. COMPLIANCE CERTIFICATION

(a) For each control period in which a WEB source is subject to the WEB allowance limitation, the WEB Authorized Account Representative of the source shall submit to the permitting authority and the state or tribe (if an entity other than the state or tribe is the permitting authority), a compliance certification report for the source.

(b) The compliance certification report shall be submitted no later than the allowance transfer deadline of each control period.

(c) The compliance certification report shall contain at least the following elements concerning each source subject to the WEB allowance limitation for the control period covered by the report:

1. Identification of each WEB source;
2. At the WEB Authorized Account Representative's option, the serial numbers of the WEB allowances that are to be deducted from a source's compliance account; and
3. The compliance certification under paragraph (d) of this section.

(d) In the compliance certification report, the WEB Authorized 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 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:

1. Whether the source was operated in compliance with the WEB allowance limitation;
2. Whether emissions data has been submitted to the states and tribes in accordance with the procedures established in Section C10 of this rule and other applicable guidance, for review, revision as necessary, and finalization for forwarding to the WEB Emissions Tracking System for recordation;
3. Whether the monitoring plan that governs the source, and units at the source, if applicable, has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute SO₂ emissions to the source, in accordance with the requirements in Section C9 of this rule, and any additional requirements delineated in _____ *[refer to guidance developed collaboratively by the states, tribes, and EPA following submission of this Model Rule to EPA]*;
4. Whether all the SO₂ emissions from the source, and units at the source, if applicable, were monitored or accounted for, either through the applicable monitoring or through application of the appropriate missing data procedures; and
5. Whether there were any changes in the method of operating or monitoring the source, and units at the source, if applicable. If there were any changes, the report must specify the nature of the change, the reason for the change, when the change occurred, and how compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

(e) The permitting authority and the state or tribe (if an entity other than the state or tribe is the permitting authority) may review and conduct independent audits concerning any compliance certification or any other submission under the WEB Trading Program and make appropriate adjustments to the information. Compliance may be verified by whatever means necessary, including but not limited to:

1. Inspection of operating records;
2. Testing of emission monitoring devices; and
3. Testing of emissions under supervision of the permitting authority and the state or tribe (if an entity other than the state or tribe is the permitting authority).

C13. PENALTIES

The states and tribes shall retain all enforcement authority under the WEB Trading Program, except as delegated to the Tracking Systems Administrator under Section C13.1 for deduction of allowances for excess emissions.

C13.1 Excess Emissions

(a) Allowance deduction penalties.

1. For a WEB source exceeding its WEB allowance limitation, the Tracking Systems Administrator will deduct from the source's compliance account an amount of SO₂ allowances equal to two times the number of the source's tons of excess emissions, after making the deductions for compliance under Section C11. The allowances will be deducted from the control period after the control period in which the source has excess emissions. If there are not sufficient allowances to cover the excess emissions in the compliance account for the next control period, the Tracking Systems Administrator will deduct the required number of SO₂ allowances, regardless of the control period for which they were allocated, whenever allowances are recorded in the account.
2. 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 excess emissions if the state or tribe so chooses.

(b) Financial penalties. For a WEB source exceeding its allowance limitation, a financial penalty of \$5,000 per ton of excess emissions, indexed to inflation from the year 2000, shall be levied.

(c) State, tribal and federal administrative procedures are applicable, including those pertaining to hearings and appeals of enforcement actions.

C13.2 Other Violations

(a) The states and tribes shall have the authority to enforce the provisions of this rule pursuant to all applicable state, tribal and federal law and regulations, including civil and criminal penalties in conjunction with the Clean Air Act.

(b) State, tribal and federal administrative procedures are applicable including those pertaining to hearings and appeals of enforcement actions.

C14. AUDITS AND REPORTS

C14.1 Annual reports

(a) Beginning with the year following the year in which compliance with the trading program is first required, the Tracking Systems Administrator shall provide an annual report detailing the results of the compliance process, including at least the following:

1. The level of compliance program-wide;
2. Review of allowance transfer and use, both geographically and temporally;
3. A source-by-source accounting of allocations compared to emissions;
4. Report on the use of banked allowances in compliance and extent to which banked allowances have, or have not, contributed to emissions in excess of the cap.
5. The number of WEB sources and changes to covered universe (opt-in, retirement, etc.)

C14.2 Triennial Audits

(a) States and tribes shall conduct an audit of the WEB Trading Program every three years beginning with the third year following the year in which compliance with the trading program is first required to ensure that the program is providing expected performance and meeting the requirements of the regional haze regulations. This evaluation is additional to the implementation plan assessments required by the regional haze regulations in 2008, 2013, and 2018, and must include at least the following:

1. Summary information required in Section C14.1;
2. Regional emission levels as compared to allocations;
3. Confirmation of emissions monitoring and reporting accuracy, including performance of monitoring systems;
4. Confirmation of market integrity and report on performance, including statistics from the WEB Allowance Tracking System and projection of cost savings; and

5. Environmental assessment of progress, including modeling and other analyses.

(b) The public shall have an opportunity to participate in this program evaluation.

(c) The states and tribes reserve the right to request a third party audit of the program's efficacy.

(d) In the event that any audit result in recommendations for program revisions, the states and tribes, in consultation with the WRAP, may propose the appropriate revisions as changes to current procedures or modifications to this rule. If the program is not meeting its emission reduction goals, such revisions will be required.

C15. INTEGRATION WITH OTHER PROGRAMS

(a) The restrictions and requirements of state, tribal and local rules, as well as state, tribal and federal law, remain applicable. No provision of the WEB Trading Program should be construed as exempting any source from compliance with any other provision of state or local law, the applicable, approved state implementation plan, tribal implementation plan, a federally enforceable permit, the Clean Air Act, or implementing regulations under the Clean Air Act.

(b) Allowances under the WEB Trading Program may not be used to exceed the limitations of a permit or rule unrelated to this program, and may not be used outside the WEB Trading Program, except as explained below:

1. Title IV and RECLAIM. WEB sources which are also RECLAIM and/or Title IV affected sources will hold allowances or credits, as applicable, for compliance with each program. Allowances or credits are only redeemable consistent with the applicable requirements that apply to the specific programs.

2. New Source Review. Offset requirements will continue to apply to sources as a separate requirement. Accordingly, offsets required for new and modified sources subject to New Source Review must be obtained in accordance with state and tribal rules and subject to the offset requirements of Section 173 of the Clean Air Act. Should a WEB source reduce emissions and transfer said emission reductions as offsets to sources outside the WEB Trading Program, that source will be subject to a deduction of allowances commensurate with the emission reductions moved off-budget.

3. RACT limits and other permitted requirements. In no case shall a source legally be allowed to operate above their permitted emissions.