

1 **20.2.81.110 SPECIAL PENALTY PROVISIONS FOR THE [YEAR] 2018 MILESTONE:**

2 A. If the WEB trading program is triggered as outlined in section A of the sulfur dioxide milestones  
3 and backstop trading program implementation plan, and the first control period will not occur until after the year  
4 2018, the following provisions shall apply for the 2018 emissions year.

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

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

10 (3) The allowance transfer deadline is midnight Pacific standard time on May ~~30~~ 31, 2021 (or if this  
11 date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as  
12 provided in Subsection A of 20.2.81.107 NMAC until the allowance transfer deadline. For each control period after  
13 2018 that the special penalty provisions are assessed, the dates for the 2019 control period will be adjusted forward  
14 by one year.

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

20 (5) ~~[An allowance deduction penalty and financial penalty shall be assessed and levied in accordance~~  
21 ~~with Subsection D of 20.2.8.108 NMAC, Paragraph 4 of Subsection A of 20.2.81.109 NMAC and Subsection C of~~  
22 ~~20.2.81.109 NMAC except that sulfur dioxide emissions shall be determined under Paragraph 4 of Subsection A of~~  
23 ~~20.2.81.110 NMAC.]~~ In accordance with Subsection D of 20.2.81.108 NMAC and Paragraph 4 of Subsection A of  
24 20.2.81.110 NMAC, the department shall seek at least the minimum financial penalty of \$5,000 per ton of sulfur  
25 dioxide emissions in excess of the WEB source's allowance limitation.

26 (a) Any source may resolve its excess emissions violation by agreeing to a streamline  
27 settlement approach where the source pays a penalty of \$5,000 per ton or partial ton of excess emissions, and  
28 payment is received within 90 calendar days after the issuance of a notice of violation.

29 (b) Any source that does not resolve its excess emissions violation in accordance with the  
30 streamlined settlement approach in Subparagraph a of this paragraph will be subject to civil enforcement action, in  
31 which the department shall seek a financial penalty for the excess emissions based on the state's statutory maximum  
32 civil penalties.

33 (6) Each ton of sulfur dioxide emissions in excess of a source's allowance limitation is a separate  
34 violation and each day of a control period is a separate violation.

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

37 (1) the first control period under the WEB trading program under Paragraph 1 of Subsection A of  
38 20.2.81.109 NMAC; or

39 (2) the department ~~[determined]~~ determines, in accordance with section A3.10 of the implementation  
40 plan, that the 2018 sulfur dioxide milestone has been met.

41 C. If 20.2.81.110 NMAC was implemented, the following shall apply to each emissions year after the  
42 2018 emissions year.

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

46 (2) ~~[The allowance transfer deadline is midnight Pacific standard time on [March 1] May 31 of each~~  
47 ~~year (or if this date is not a business day, midnight of the first business day thereafter) following the end of the~~  
48 ~~specific emissions year. WEB sources may transfer allowances as provided in Subsection A of 20.2.81.107 NMAC~~  
49 ~~until the allowance transfer deadline.]~~ The allowance transfer deadline for the 2019 emissions year shall be midnight  
50 Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day  
51 thereafter); and for each control period after 2018 that the special penalty provisions are assessed, the May 31, 2021  
52 allowance transfer deadline for the 2019 control period will be adjusted forward by one year.

53 (3) A WEB source must hold allowances allocated for that specific emissions year, or any year after  
54 2018, including those transferred into the compliance account by an allowance transfer correctly submitted by the  
55 allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for the

1 specific emissions year. Emissions are determined using the pre-trigger monitoring provisions in section B of the  
2 sulfur dioxide milestones and backstop trading program implementation plan, and 20.2.73 NMAC.

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

7 [20.2.81.110 NMAC - N, 12/31/03]