

# The Regional Greenhouse Gas Initiative

an initiative of the New England and Mid-Atlantic States of the U.S.

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## Subpart XX-1 CO<sub>2</sub> Budget Trading Program General Provisions

### XX-1.1 Purpose.

This Part establishes the NAME OF RELEVANT RGGI STATE component of the CO<sub>2</sub> Budget Trading Program, which is designed to reduce anthropogenic emissions of CO<sub>2</sub>, a greenhouse gas, from CO<sub>2</sub> budget sources in an economically efficient manner.

### XX-1.2 Definitions.

*Account Number.* The identification number given by the REGULATORY AGENCY or its agent to each CO<sub>2</sub> Allowance Tracking System (COATS) account.

*Acid rain emissions limitation.* As defined in 40 CFR 72.2, a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under title IV of the Clean Air Act.

*Acid Rain Program.* Acid Rain Program means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under title IV of the CAA and 40 CFR Parts 72 through 78.

*Administrator.* Administrator means the Administrator of the United States Environmental Protection Agency or the administrator's authorized representative.

*Allocate or allocation.* The determination by the REGULATORY AGENCY of the number of CO<sub>2</sub> allowances to be recorded in the compliance account of a CO<sub>2</sub> budget unit, an allocation set-aside account, or the consumer benefit or strategic energy purpose account.

**[The reference to the consumer benefit or strategic energy purpose account illustrates how this account could be labeled and does not necessarily represent what an individual RGGI State will propose.]**

*Allocation year.* A calendar year for which the REGULATORY AGENCY allocates CO<sub>2</sub>

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allowances pursuant to Subparts XX-5. The allocation year of each CO<sub>2</sub> allowance is reflected in the unique identification number given to the allowance pursuant to subdivision XX-6.4(c).

*Allowance auction or auction.* An auction in which the REGULATORY AGENCY offers CO<sub>2</sub> allowances for sale.

*Attribute.* A characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, unit vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted for, and tracked.

*Attribute credit.* An attribute credit represents the attributes related to one megawatt-hour of electricity generation.

*Automated Data Acquisition and Handling System (DAHS).* That component of the continuous emissions monitoring system, or other emissions monitoring system approved for use under Subpart XX-8, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by Subpart XX-8.

*Billing Meter.* A measurement device used to measure electric or thermal output for commercial billing under a contract. The owners of the facility selling the electric or thermal output must be different from the owners of the party purchasing the electric or thermal output.

*Boiler.* An enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

*CO<sub>2</sub> allowance.* A limited authorization by the REGULATORY AGENCY or a participating state under the CO<sub>2</sub> Budget Trading Program to emit up to one ton of CO<sub>2</sub>, subject to all applicable limitations contained in this Part.

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*CO<sub>2</sub> allowance deduction or deduct CO<sub>2</sub> allowances.* The permanent withdrawal of CO<sub>2</sub> allowances by the REGULATORY AGENCY or its agent from a CO<sub>2</sub> Allowance Tracking System (COATS) compliance account to account for the number of tons of CO<sub>2</sub> emitted from a CO<sub>2</sub> budget source for a control period or an interim control period, determined in accordance with Subpart XX-8, or for the forfeit or retirement of CO<sub>2</sub> allowances as provided by this Part.

*CO<sub>2</sub> allowances held.* The CO<sub>2</sub> allowances recorded by the REGULATORY AGENCY or its agent, or submitted to the REGULATORY AGENCY or its agent for recordation, in accordance with Subparts XX-6 and XX-7, in a CO<sub>2</sub> Allowance Tracking System (COATS) account.

*CO<sub>2</sub> Allowance Tracking System (COATS).* A system by which the REGULATORY AGENCY or its agent-records allocations, deductions, and transfers of CO<sub>2</sub> allowances under the CO<sub>2</sub> Budget Trading Program. The tracking system may also be used to track CO<sub>2</sub> allowance prices and emissions from affected sources.

*CO<sub>2</sub> Allowance Tracking System (COATS) account.* An account in the CO<sub>2</sub> Allowance Tracking System (COATS) established by the REGULATORY AGENCY or its agent for purposes of recording the allocation, holding, transferring, or deducting of CO<sub>2</sub> allowances.

*CO<sub>2</sub> allowance transfer deadline.* The deadline by which CO<sub>2</sub> allowances must be submitted for recordation in a CO<sub>2</sub> budget source's compliance account in order for the source to meet the requirements of XX-1.5(c) for a control period or interim control period. Deadlines are at midnight of the March 1 occurring after the end of the relevant control period or interim control period. If the relevant March 1 is not a business day, the deadline is midnight of the first business day thereafter.

*CO<sub>2</sub> authorized account representative.* For a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source, the natural person who is authorized by the owners and operators of the source and all CO<sub>2</sub> budget units at the source, in accordance with



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Subpart XX-2, to represent and legally bind each owner and operator in matters pertaining to the CO<sub>2</sub> Budget Trading Program or, for a general account, the natural person who is authorized, under Subpart XX-6, to transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account. If the CO<sub>2</sub> budget source is also subject to the Acid Rain Program, CSAPR NO<sub>x</sub> Annual Trading Program, CSAPR NO<sub>x</sub> Ozone Season Trading Program, CSAPR SO<sub>2</sub> Group 1 Trading Program or CSAPR SO<sub>2</sub> Group 2 Trading Program then, for a CO<sub>2</sub> Budget Trading Program compliance account, this natural person shall be the same person as the designated representative as defined in the respective program.

*CO<sub>2</sub> authorized alternate account representative.* For a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source, the alternate natural person who is authorized by the owners and operators of the source and all CO<sub>2</sub> budget units at the source, in accordance with Subpart XX-2, to represent and legally bind each owner and operator in matters pertaining to the CO<sub>2</sub> Budget Trading Program or, for a general account, the alternate natural person who is authorized, under Subpart XX-6, to transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account. If the CO<sub>2</sub> budget source is also subject to the Acid Rain Program, CSAPR NO<sub>x</sub> Annual Trading Program, CSAPR NO<sub>x</sub> Ozone Season Trading Program, CSAPR SO<sub>2</sub> Group 1 Trading Program or CSAPR SO<sub>2</sub> Group 2 Trading Program then, for a CO<sub>2</sub> Budget Trading Program compliance account, this alternate natural person shall be the same person as the alternate designated representative as defined in the respective program.

*CO<sub>2</sub> budget emissions limitation.* For a CO<sub>2</sub> budget source, the tonnage equivalent, in CO<sub>2</sub> emissions in a control period or an interim control period, of the CO<sub>2</sub> allowances available for compliance deduction for the source for a control period or twice the CO<sub>2</sub> allowances available for an interim control period.

*CO<sub>2</sub> budget permit.* The portion of the legally binding permit issued by the REGULATORY AGENCY pursuant to **[Insert Reference to State's Permitting Regulation(s)]** to a CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit which specifies the CO<sub>2</sub> Budget Trading Program requirements applicable to the CO<sub>2</sub> budget source or CO<sub>2</sub>

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budget unit, and to the owners and operators and the CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit.

*CO<sub>2</sub> budget source.* A source that includes one or more CO<sub>2</sub> budget units.

*CO<sub>2</sub> Budget Trading Program.* A multi-state CO<sub>2</sub> air pollution control and emissions reduction program established pursuant to this Part and corresponding regulations in other participating states as a means of reducing emissions of CO<sub>2</sub> from CO<sub>2</sub> budget sources.

*CO<sub>2</sub> budget unit.* A unit that is subject to the CO<sub>2</sub> Budget Trading Program requirements under section XX-1.4.

*CO<sub>2</sub> cost containment reserve tier 1 allowance or CO<sub>2</sub> CCR tier 1 allowance.* A CO<sub>2</sub> allowance that is offered for sale at an auction by the REGULATORY AGENCY for the purpose of containing the cost of CO<sub>2</sub> allowances. CO<sub>2</sub> CCR tier 1 allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program budgets. CO<sub>2</sub> CCR tier 1 allowances are subject to all applicable limitations contained in this Part.

*CO<sub>2</sub> cost containment reserve tier 2 allowance or CO<sub>2</sub> CCR tier 2 allowance.* A CO<sub>2</sub> allowance that is offered for sale at an auction by the REGULATORY AGENCY for the purpose of containing the cost of CO<sub>2</sub> Allowances. CO<sub>2</sub> CCR tier 2 allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program budgets. CO<sub>2</sub> CCR tier 2 allowances are subject to all applicable limitations contained in this Part.

*CO<sub>2</sub> cost containment reserve tier 1 trigger price, or CCR tier 1 trigger price.* The CCR tier 1 trigger price is the minimum price at which CO<sub>2</sub> CCR tier 1 allowances are offered for sale by the REGULATORY AGENCY at an auction. The CCR tier 1 trigger price shall be \$19.50 per CO<sub>2</sub> allowance in calendar year 2027. Each calendar year thereafter, the CCR tier 1 trigger price shall be 1.07 multiplied by the CCR tier 1 trigger



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price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 1.

Table 1. CO<sub>2</sub> CCR Tier 1 Trigger Price

2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
\$19.50	\$20.87	\$22.33	\$23.89	\$25.56	\$27.35	\$29.26	\$31.31	\$33.50	\$35.85	\$38.36

*CO<sub>2</sub> cost containment reserve tier 2 trigger price, or CCR tier 2 trigger price.* The CCR tier 2 trigger price is the minimum price at which CO<sub>2</sub> CCR tier 2 allowances are offered for sale by the REGULATORY AGENCY at an auction. The CCR tier 2 trigger price shall be \$29.25 per CO<sub>2</sub> allowance in calendar year 2027. Each calendar year thereafter, the CCR tier 2 trigger price shall be 1.07 multiplied by the CCR tier 2 trigger price from the previous calendar year, rounded to the nearest whole cent as shown in Table 2.

Table 2. CO<sub>2</sub> CCR Tier 2 Trigger Price

2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
\$29.25	\$31.30	\$33.49	\$35.83	\$38.34	\$41.02	\$43.89	\$46.96	\$50.25	\$53.77	\$57.53

*CO<sub>2</sub> emissions offset project.* A historical project that allowed the REGULATORY AGENCY to determine how many CO<sub>2</sub> Offset Allowances to record in a sponsor's general account related specific emission reductions outside of the electricity sector. These projects can no longer be approved for the CO<sub>2</sub> Budget trading program, but the CO<sub>2</sub> offset allowances created before January 1, 2027, are eligible to meet the compliance deduction as limited under section XX-6.5(a)(3).

*CO<sub>2</sub> offset allowance.* A CO<sub>2</sub> allowance that is determined by the REGULATORY AGENCY to have been recorded, by a participating state prior to January 1, 2027, in

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the general account of the sponsor of a CO<sub>2</sub> emissions offset project and is subject to the relevant compliance deduction limitations of section XX-6.5(a)(3).

*Combined cycle system.* A system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

**[This definition of CHP unit illustrates how this could be defined and does not necessarily represent what an individual RGGI State will propose]**

*Combined heat and power unit or CHP unit, (also known as “cogeneration unit”).* An electric generating unit that uses a steam-generating unit or stationary combustion turbine to simultaneously produce both electric (or mechanical) and useful thermal output from the same primary energy facility.

*Combustion turbine.* An enclosed fossil or other fuel-fired device that is comprised of a compressor (if applicable), a combustor, and a turbine, in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

*Commence commercial operation.* With regard to a unit that serves a generator, to begin to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. For a unit that is a CO<sub>2</sub> budget unit under section XX-1.4 on the date the unit commences commercial operation, such date shall remain the unit’s date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit under section XX-1.4 on the date the unit commences commercial operation, the date the unit becomes a CO<sub>2</sub> budget unit under section XX-1.4 shall be the unit’s date of commencement of commercial operation.

*Commence operation.* To begin any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit’s combustion chamber. For a unit that is a CO<sub>2</sub> budget unit under section XX-1.4 on the date of commencement of operation,

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such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit under section XX-1.4 on the date of commencement of operation, the date the unit becomes a CO<sub>2</sub> budget unit under section XX-1.4 shall be the unit's date of commencement of operation.

*Compliance account.* A CO<sub>2</sub> Allowance Tracking System (COATS) account, established by the REGULATORY AGENCY or its agent for a CO<sub>2</sub> budget source under Subpart XX-6, in which are held CO<sub>2</sub> allowances available for use by the source for a control period or interim control period for the purpose of meeting the CO<sub>2</sub> requirements of XX-1.5(c).

**[This definition for the consumer benefit or strategic energy purpose account illustrates how this account could be defined and does not necessarily represent what an individual RGGI State will propose.]**

*Consumer benefit or strategic energy purpose account.* A general account established by the REGULATORY AGENCY or its agent from which allowances will be sold or distributed in order to provide funds to encourage and foster the following: promotion of energy efficiency measures, direct mitigation of electricity ratepayer impacts attributable to the implementation of the CO<sub>2</sub> Budget Trading Program, promotion of renewable or non- carbon-emitting energy technologies, stimulation or reward of investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential, and/or the administration of NAME OF RELEVANT RGGI STATE's component of the CO<sub>2</sub> Budget Trading Program.

*Continuous Emissions Monitoring System (CEMS).* The equipment required under Subpart XX-8 to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes (using an automated DAHS), a permanent record of stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration (as applicable), in a manner consistent with 40 CFR Part 75 and Subpart XX-8. The following systems are types of continuous emissions

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monitoring systems required under Subpart XX-8.

- (1) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);
- (2) A nitrogen oxides emissions rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> concentration, in parts per million (ppm), diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>; and NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu);
- (3) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O;
- (4) A carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and
- (5) An oxygen monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub>, in percent O<sub>2</sub>.

*Control period.* The control period is a three-calendar-year time period. The first control period is from January 1, 2009 to December 31, 2011, inclusive. Each subsequent three-calendar-year period is a separate control period. The first two calendar years of each control period are each defined as an interim control period, beginning on January 1, 2015.

*Cross State Air Pollution Rule (CSAPR) NO<sub>x</sub> Annual Trading Program.* A multi-state

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NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart AAAAA of 40 CFR Part 97 and 40 CFR 52.38(a) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.38(a)(3) or (4) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.38(a)(5)), as a means of mitigating interstate transport of fine particulates and NO<sub>x</sub>.

*Cross State Air Pollution Rule (CSAPR) NO<sub>x</sub> Ozone Season Trading Program.* A multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart BBBB of 40 CFR Part 97 and 40 CFR 52.38(b) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.38(b)(3) or (4) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.38(b)(5)), as a means of mitigating interstate transport of ozone and NO<sub>x</sub>.

*Cross State Air Pollution Rule (CSAPR) SO<sub>2</sub> Group 1 Trading Program.* A multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart CCCCC of 40 CFR Part 97 and 40 CFR 52.39(a), (b), (d) through (f), (j), and (k) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.39(d) or (e) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.39(f)), as a means of mitigating interstate transport of fine particulates and SO<sub>2</sub>.

*Cross State Air Pollution Rule (CSAPR) SO<sub>2</sub> Group 2 Trading Program.* A multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart DDDDD of 40 CFR Part 97 and 40 CFR 52.39(a), (c), and (g) through (k) of this chapter (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.39(g) or (h) of this chapter or that is established in a SIP revision approved by the Administrator under 40 CFR 52.39(i) of this chapter), as a means of mitigating interstate transport of fine particulates and SO<sub>2</sub>.

*Eligible biomass.* Eligible biomass includes sustainably harvested woody and



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herbaceous fuel sources that are available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes, biogas, and other neat liquid biofuels derived from such fuel sources. Sustainably harvested will be determined by the REGULATORY AGENCY.

*Excess emissions.* Any tonnage of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source during a control period that exceeds the CO<sub>2</sub> budget emissions limitation for the source.

*Excess interim emissions.* Any tonnage of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source during an interim control period that when multiplied by 0.50 exceeds the CO<sub>2</sub> budget emissions limitation for the source.

*Fossil fuel.* Natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

*Fossil fuel-fired.*

- (1) With regard to a unit that commenced operation prior to January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than 50 percent of the annual heat input on a Btu basis during any year.
- (2) With regard to a unit that commenced or commences operation on or after January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than 5 percent of the annual heat input on a Btu basis during any year.

*General account.* A CO<sub>2</sub> Allowance Tracking System (COATS) account, established under Subpart XX-6, that is not a compliance account.



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*Gross generation.* The electrical output (in MWe) at the terminals of the generator.

*Interim control period.* An interim control period is a one-calendar-year time period, during each of the first and second calendar years of each three year control period. The first interim control period starts on January 1, 2015 and ends on December 31, 2015, inclusive. The second interim control period starts on January 1, 2016 and ends on December 31, 2016, inclusive. Each successive three year control period will have two interim control periods, comprised of each of the first two calendar years of that control period.

*Life-of-the-unit contractual arrangement.* A unit participation power sales agreement under which a customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and/or associated energy from any specified unit pursuant to a contract:

- (1) For the life of the unit;
- (2) For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or
- (3) For a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

*Maximum potential hourly heat input.* An hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use appendix D of 40 CFR Part 75 to report heat input, this value should be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR Part 75, using the maximum potential flow rate and either the maximum carbon dioxide concentration (in percent CO<sub>2</sub>) or the minimum oxygen concentration (in percent O<sub>2</sub>).

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*Minimum reserve price.* The minimum reserve price in calendar year 2027 shall be \$9.00. Each calendar year thereafter, the minimum reserve price shall be 1.07 multiplied by the minimum reserve price from the previous calendar year, rounded to the nearest whole cent, as shown in table 3.

Table 3. Minimum Reserve Price

2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
\$9.00	\$9.63	\$10.30	\$11.02	\$11.79	\$12.62	\$13.50	\$14.45	\$15.46	\$16.54	\$17.70

*Monitoring system.* Any monitoring system that meets the requirements of Subpart XX-8, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

*NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program Base Budget.* The NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is specified in section XX-5.1. CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program Base Budget.

*Nameplate capacity.* The maximum electrical output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

**[This definition for Net-Electric Output illustrates how this could be defined and does not necessarily represent what an individual RGGI State will propose.]**

*Net-electric output.* The amount of gross generation the generator(s) produce (including, but not limited to, output from steam turbine(s), combustion turbine(s), and gas expander(s)), as measured at the generator terminals, less the electricity used to

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operate the plant (i.e., auxiliary loads); such uses include fuel handling equipment, pumps, fans, pollution control equipment, other electricity needs, and transformer losses as measured at the transmission side of the step up transformer (e.g., the point of sale).

*Non-CO<sub>2</sub> budget unit.* A unit that does not meet the applicability criteria of Section XX-1.4 of this Part.

*Operator.* Any person who operates, controls, or supervises a CO<sub>2</sub> budget unit or a CO<sub>2</sub> budget source, including, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

*Owner.* Any of the following persons:

- (1) Any holder of any portion of the legal or equitable title in a CO<sub>2</sub> budget unit; or
- (2) Any holder of a leasehold interest in a CO<sub>2</sub> budget unit, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO<sub>2</sub> budget unit; or
- (3) Any purchaser of power from a CO<sub>2</sub> budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit; or
- (4) With respect to any general account, any person who has an ownership interest with respect to the CO<sub>2</sub> allowances held in the general account and who is subject to the binding agreement for the CO<sub>2</sub> authorized account representative to represent that person's ownership interest with respect to the CO<sub>2</sub> allowances.

*Participating state.* A state that has established a corresponding regulation as part of the CO<sub>2</sub> Budget Trading Program.

*Receive or receipt of.* When referring to the REGULATORY AGENCY or its agent, to

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come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the REGULATORY AGENCY or its agent in the regular course of business.

*Recordation, record, or recorded.* With regard to CO<sub>2</sub> allowances, the movement of CO<sub>2</sub> allowances by the REGULATORY AGENCY or its agent from one CO<sub>2</sub> Allowance Tracking System (COATS) account to another, for purposes of allocation, transfer, or deduction.

*Reserve price.* The minimum acceptable price for each CO<sub>2</sub> allowance in a specific auction. The reserve price at an auction is either the minimum reserve price, the CCR tier 1 trigger price, or the CCR tier 2 trigger price, as specified in Subpart XX-9.

*Serial number.* When referring to CO<sub>2</sub> allowances, the unique identification number assigned to each CO<sub>2</sub> allowance by the REGULATORY AGENCY or its agent under section XX-6.4(c).

*Source.* Any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any air pollutant. A source, including a source with multiple units, shall be considered a single facility.

*State.* A State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

*Submit or serve.* To send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

- (1) In person;
- (2) By United States Postal Service;
- (3) By other means of dispatch or transmission and delivery.

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Compliance with any “submission,” “service,” or “mailing” deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

*Ton or tonnage.* Any “short ton”, or 2,000 pounds. For the purpose of determining compliance with the CO<sub>2</sub> requirements of XX-1.5(c), total tons for a control period and each interim control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with Subpart XX-8, 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. A short ton is equal to 0.9072 metric tons.

*Undistributed CO<sub>2</sub> allowances.* CO<sub>2</sub> allowances originally allocated to a set aside account as pursuant to XX-5.3 that were not distributed.

*Unit.* A fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

*Unit operating day.* A calendar day in which a unit combusts any fuel.

*Unsold CO<sub>2</sub> allowances.* CO<sub>2</sub> allowances that have been made available for sale in an auction conducted by the REGULATORY AGENCY but not sold.

*Voluntary renewable energy purchase.* A purchase of electricity from renewable energy generation or renewable energy attribute credits by a retail electricity customer on a voluntary basis. Renewable energy includes electricity generated from biomass, wind, solar thermal, photovoltaic, geothermal, hydroelectric facilities certified by the Low Impact Hydropower Institute, wave and tidal action, and fuel cells powered by renewable fuels. The renewable energy generation or renewable energy attribute credits related to such purchases may not be used by the generator or purchaser to meet any regulatory mandate, such as a renewable portfolio standard.

**[The above subdivision is an optional definition that complements the optional voluntary renewable energy market set-aside provision at XX-5.3(e).]**

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### **XX-1.3 Measurements, abbreviations and acronyms.**

Measurements, abbreviations, and acronyms used in this Part are defined as follows:

- (1) CO<sub>2</sub>: carbon dioxide.
- (2) hr: hour.
- (3) lb: pounds.
- (4) MMBtu: one million British thermal units
- (5) MW: megawatt
- (6) MWe: megawatt electrical.
- (7) MWh: megawatt hours

### **XX-1.4 Applicability.**

(a) *Units.* Any unit that, at any time on or after January 1, 2005, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe shall be a CO<sub>2</sub> budget unit, and any source that includes one or more such units shall be a CO<sub>2</sub> budget source, subject to the requirements of this Part.

**[The following subdivision is optional. The text of this subdivision illustrates how a participating state might provide for an exemption for units with electrical output to the electric grid restricted by permit conditions. Upon exemption, the tons attributable to sources in a state's initial inventory shall be removed the state's budget under Section XX-5.3.]**

(b) *Limited exemption for units with electrical output to the electric grid restricted by permit conditions.*

- (1) *Applicability.* Notwithstanding subdivision (a) of this section, a unit under subdivision (a) of this section that has a permit containing a condition restricting the supply of the unit's annual electrical output to the electric grid to less than or equal to 10 percent of the annual gross generation of



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the unit, and which complies with the provisions in paragraph (b)(3) of this section, shall be exempt from the requirements of this Part, except for the provisions of this section, section XX-1.2, section XX-1.3, section XX-1.6 and, if applicable because of the allocation of CO<sub>2</sub> allowances during the pre-exemption time period, Subparts XX-5, XX-6 and XX-7.

- (2) *Effective date.* The exemption under paragraph (b)(1) of this section shall become effective as of the January 1 that is on or after the date on which the restriction on the percentage of annual gross generation that may be supplied to the electric grid and the provisions in the permit required under paragraph (b)(1) of this section become final.
- (3) *Compliance.*
  - (i) A unit exempt under paragraph (b)(1) of this section shall comply with the restriction on percentage of annual gross generation that may be supplied to the electric grid described in paragraph (b)(1) of this section.
  - (ii) A unit exempt under paragraph (b)(1) shall report to the REGULATORY AGENCY the amount of annual gross generation and the amount of annual gross generation supplied to the electric grid during the year by the following February 1.
  - (iii) For a period of 10 years from the date the records are created, the owners and operators of a unit exempt under paragraph (b)(1) of this section shall retain, at the source that includes the unit, records demonstrating that the conditions of the permit under paragraph (b)(1) of this section were met. The 10-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the REGULATORY AGENCY. The owners and operators bear the burden of proof that the unit met the restriction on the percentage of annual gross generation that may be supplied to the electric grid.
  - (iv) The owners and operators and, to the extent applicable, the CO<sub>2</sub>

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authorized account representative of a unit exempt under paragraph (b)(1) of this section shall comply with all the requirements of this Part concerning all time periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(v) On the earlier of the following dates, a unit exempt under paragraph (b)(1) of this section shall lose its exemption:

(a) The date on which the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in paragraph (b)(1) of this section is removed from the unit's permit or otherwise becomes no longer applicable in any year that commences on or after January 1, 2009; or

(b) The first date on which the unit fails to comply, or on which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in paragraph (b)(1) of this section during any year that commences on or after January 1, 2009.

(vi) A unit that loses its exemption in accordance with subparagraph (b)(3)(v) of this section shall be subject to the requirements of this Part. For the purpose of applying permitting requirements under Subpart XX-3, allocating allowances under Subpart XX-5, and applying monitoring requirements under Subpart XX-8, the unit shall be treated as commencing operation on the date the unit loses its exemption.

(4) *Deduction of allowances from NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program limited industrial exemption set-aside account.*  
In the event that the REGULATORY AGENCY grants an exemption under

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this subdivision to a CO<sub>2</sub> source, with one or more units that on January 1, 2005, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe, the REGULATORY AGENCY shall retire for each subsequent allocation year the number of CO<sub>2</sub> allowances equal to the exempt source's average annual emissions over the most recent three calendar years for which data are available. The retired allowances shall be taken from the set-aside account established for such purpose under section XX-5.3.

### XX-1.5 Standard requirements.

(a) *Permit requirements.* **[Each state's text for this subdivision will likely be different because the states have unique permitting requirements. The text below illustrates how this subdivision could be drafted and does not necessarily represent what an individual RGGI state will propose.]**

- (1) The CO<sub>2</sub> authorized account representative of each CO<sub>2</sub> budget source required to have an operating permit pursuant to **[Insert Reference to state's Permitting Regulation(s)]** of this Title and each CO<sub>2</sub> budget unit required to have an operating permit pursuant to **[Insert Reference to state's Permitting Regulation(s)]** of this Title shall:
  - (i) Submit to the REGULATORY AGENCY a complete CO<sub>2</sub> budget permit application under section XX-3.3 in accordance with the deadlines specified in section XX-3.2; and
  - (ii) Submit in a timely manner any supplemental information that the REGULATORY AGENCY determines is necessary in order to review the CO<sub>2</sub> budget permit application and issue or deny a CO<sub>2</sub> budget permit.
- (2) The owners and operators of each CO<sub>2</sub> budget source required to have an operating permit pursuant to **[Insert Reference to state's Permitting Regulation(s)]** of this Title and each CO<sub>2</sub> budget unit required to have an

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operating permit pursuant to **[Insert Reference to state's Permitting Regulation(s)]** of this Title for the source shall have a CO<sub>2</sub> budget permit and operate the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget unit at the source in compliance with such CO<sub>2</sub> budget permit.

(b) *Monitoring requirements.*

- (1) The owners and operators and, to the extent applicable, the CO<sub>2</sub> authorized account representative of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall comply with the monitoring requirements of Subpart XX-8.
- (2) The emissions measurements recorded and reported in accordance with Subpart XX-8 shall be used to determine compliance by the unit with the CO<sub>2</sub> requirements under subdivision (c) of this section.

(c) *CO<sub>2</sub> requirements.*

- (1) The owners and operators of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall hold CO<sub>2</sub> allowances available for compliance deductions under section XX-6.5, as of the CO<sub>2</sub> allowance transfer deadline, in the source's compliance account in an amount not less than the total number of tons of CO<sub>2</sub> emissions for the control period from all CO<sub>2</sub> budget units at the source, less the CO<sub>2</sub> allowances deducted to meet the requirements of paragraph XX-1.5(c)(2), with respect to the previous two interim control periods, as determined in accordance with Subparts XX-6 and XX-8.
- (2) The owners and operators of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall hold CO<sub>2</sub> allowances available for compliance deductions under section XX-6.5, as of the CO<sub>2</sub> allowance transfer deadline, in the source's compliance account in an amount not less than 0.50 times the total number of tons of CO<sub>2</sub> emissions for the interim control period from all CO<sub>2</sub> budget units at the source, as determined in accordance with Subparts XX-6 and XX-8.

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- (3) Each ton of CO<sub>2</sub> emitted in excess of the CO<sub>2</sub> budget emissions limitation for a control period shall constitute a separate violation of this Part and applicable federal and state law.
  - (4) Each ton of excess interim emissions shall constitute a separate violation of this Part and applicable state law.
  - (5) A CO<sub>2</sub> budget unit shall be subject to the requirements under paragraph (c)(1) of this section starting on the later, of January 1, 2009 or the date on which the unit commences operation.
  - (6) CO<sub>2</sub> allowances shall be held in, deducted from, or transferred among CO<sub>2</sub> Allowance Tracking System (COATS) accounts in accordance with Subparts XX-5, XX-6, and XX-7, and section XX-10.7.
  - (7) A CO<sub>2</sub> allowance shall not be deducted, in order to comply with the requirements under paragraph (c)(1) or (2) of this section, for a control period or interim control period that ends prior to the year for which the CO<sub>2</sub> allowance was allocated. A CO<sub>2</sub> offset allowance shall not be deducted, in order to comply with the requirements under paragraph (c)(1) or (2) of this section, beyond the applicable percent limitations set out in paragraph XX-6.5(a)(3).
  - (8) A CO<sub>2</sub> allowance under the CO<sub>2</sub> Budget Trading Program is a limited authorization by the REGULATORY AGENCY or a participating state to emit one ton of CO<sub>2</sub> in accordance with the CO<sub>2</sub> Budget Trading Program. No provision of the CO<sub>2</sub> Budget Trading Program, the CO<sub>2</sub> budget permit application, or the CO<sub>2</sub> budget permit or any provision of law shall be construed to limit the authority of the REGULATORY AGENCY or a participating state to terminate or limit such authorization.
  - (9) A CO<sub>2</sub> allowance under the CO<sub>2</sub> Budget Trading Program does not constitute a property right.
- (d) *Excess emissions requirements.* The owners and operators of a CO<sub>2</sub> budget source that has excess emissions in any control period, or excess interim emissions for any interim control period, shall:

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- (1) Forfeit the CO<sub>2</sub> allowances required for deduction under paragraph XX-6.5(d)(1), provided CO<sub>2</sub> offset allowances may not be used to cover any part of such excess emissions; and
  - (2) Pay any fine, penalty, or assessment or comply with any other remedy imposed under paragraph XX-6.5(d)(2).
- (e) *Recordkeeping and reporting requirements.*
  - (1) Unless otherwise provided, the owners and operators of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall keep on site at the source each of the following documents for a period of 10 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 10 years, in writing by the REGULATORY AGENCY.
    - (i) The account certificate of representation for the CO<sub>2</sub> authorized account representative for the source and each CO<sub>2</sub> budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with section XX-2.4, provided that the certificate and documents shall be retained on site at the source beyond such 10-year period until such documents are superseded because of the submission of a new account certificate of representation changing the CO<sub>2</sub> authorized account representative.
    - (ii) All emissions monitoring information, in accordance with Subpart XX-8 and 40 CFR 75.57.
    - (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CO<sub>2</sub> Budget Trading Program.
    - (iv) Copies of all documents used to complete a CO<sub>2</sub> budget permit application and any other submission under the CO<sub>2</sub> Budget Trading Program, or to demonstrate compliance with the



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requirements of the CO<sub>2</sub> Budget Trading Program.

- (2) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall submit the reports and compliance certifications required under the CO<sub>2</sub> Budget Trading Program, including those under Subpart XX-4.
- (f) *Liability.*
- (1) No permit revision shall excuse any violation of the requirements of the CO<sub>2</sub> Budget Trading Program that occurs prior to the date that the revision takes effect.
  - (2) Any provision of the CO<sub>2</sub> Budget Trading Program that applies to a CO<sub>2</sub> budget source (including a provision applicable to the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source) shall also apply to the owners and operators of such source and of the CO<sub>2</sub> budget units at the source.
  - (3) Any provision of the CO<sub>2</sub> Budget Trading Program that applies to a CO<sub>2</sub> budget unit (including a provision applicable to the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit) shall also apply to the owners and operators of such unit.
- (g) *Effect on other authorities.* No provision of the CO<sub>2</sub> Budget Trading Program, a CO<sub>2</sub> budget permit application, or a CO<sub>2</sub> budget permit, shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit, from compliance with any other provisions of applicable State and federal laws and regulations.

## **XX-1.6 Computation of time.**

- (a) Unless otherwise stated, any time period scheduled under the CO<sub>2</sub> Budget Trading Program to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

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- (b) Unless otherwise stated, any time period scheduled under the CO<sub>2</sub> Budget Trading Program to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.
- (c) Unless otherwise stated, if the final day of any time period under the CO<sub>2</sub> Budget Trading Program falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

### **XX-1.7 Severability.**

If any provision of this Part, or its application to any particular person or circumstances, is held invalid, the remainder of this Part, and the application thereof to other persons or circumstances, shall not be affected thereby.

### **Subpart XX-2 CO<sub>2</sub> Authorized Account Representative for CO<sub>2</sub> Budget Sources**

#### **XX-2.1 Authorization and responsibilities of the CO<sub>2</sub> authorized account representative.**

- (a) Except as provided under section XX-2.2, each CO<sub>2</sub> budget source, including all CO<sub>2</sub> budget units at the source, shall have one and only one CO<sub>2</sub> authorized account representative, with regard to all matters under the CO<sub>2</sub> Budget Trading Program concerning the source or any CO<sub>2</sub> budget unit at the source.
- (b) The CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source shall be selected by an agreement binding on the owners and operators of the source and all CO<sub>2</sub> budget units at the source and must act in accordance with the certificate of representation under section XX-2.4.
- (c) Upon receipt by the REGULATORY AGENCY or its agent of a complete account certificate of representation under section XX-2.4, the CO<sub>2</sub> authorized account

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representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CO<sub>2</sub> budget source represented and each CO<sub>2</sub> budget unit at the source in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CO<sub>2</sub> authorized account representative by the REGULATORY AGENCY or a court regarding the source or unit.

(d) No CO<sub>2</sub> budget permit shall be issued, and no CO<sub>2</sub> Allowance Tracking System (COATS) account shall be established for a CO<sub>2</sub> budget source, until the REGULATORY AGENCY or its agent has received a complete account certificate of representation under section XX-2.4 for a CO<sub>2</sub> authorized account representative of the source and the CO<sub>2</sub> budget units at the source. Each submission under the CO<sub>2</sub> Budget Trading Program shall be submitted, signed, and certified by the CO<sub>2</sub> authorized account representative for each CO<sub>2</sub> budget source on behalf of which the submission is made.

(e) Each such submission shall include the following certification statement by the CO<sub>2</sub> authorized account representative:

*"I am authorized to make this submission on behalf of the owners and Operators of the CO<sub>2</sub> budget sources or CO<sub>2</sub> budget units 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."*

(f) The REGULATORY AGENCY or its agent will accept or act on a submission made on behalf of owners or operators of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit only if the submission has been made, signed, and certified in accordance with

subdivision (e) of this section.

**XX-2.2 CO<sub>2</sub> authorized alternate account representative.**

(a) An account certificate of representation may designate one and only one CO<sub>2</sub> authorized alternate account representative who may act on behalf of the CO<sub>2</sub> authorized account representative. The agreement by which the CO<sub>2</sub> authorized alternate account representative is selected shall include a procedure for authorizing the CO<sub>2</sub> authorized alternate account representative to act in lieu of the CO<sub>2</sub> authorized account representative.

(b) Upon receipt by the REGULATORY AGENCY or its agent of a complete account certificate of representation under section XX-2.4, any representation, action, inaction, or submission by the CO<sub>2</sub> authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> authorized account representative.

(c) Except in this section and subdivision XX-2.1(a), section XX-2.3, section XX-2.4, and section XX-6.2, whenever the term “CO<sub>2</sub> authorized account representative” is used in this Part, the term shall be construed to include the CO<sub>2</sub> authorized alternate account representative.

**XX-2.3 Changing the CO<sub>2</sub> authorized account representative and the CO<sub>2</sub> authorized alternate account representative; changes in the owners and operators.**

(a) *Changing the CO<sub>2</sub> authorized account representative.* The CO<sub>2</sub> authorized account representative may be changed at any time upon receipt by the REGULATORY AGENCY or its agent of a superseding complete account certificate of representation under section XX-2.4. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> authorized account representative or

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CO<sub>2</sub> authorized alternate account representative prior to the time and date when the REGULATORY AGENCY or its agent receives the superseding account certificate of representation shall be binding on the new CO<sub>2</sub> authorized account representative and the owners and operators of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source.

(b) *Changing the CO<sub>2</sub> authorized alternate account representative.* The CO<sub>2</sub> authorized alternate account representative may be changed at any time upon receipt by the REGULATORY AGENCY or its agent of a superseding complete account certificate of representation under section XX-2.4. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous or CO<sub>2</sub> authorized alternate account representative or CO<sub>2</sub> authorized alternate account representative prior to the time and date when the REGULATORY AGENCY or its agent receives the superseding account certificate of representation shall be binding on the new CO<sub>2</sub> authorized alternate account representative and the owners and operators of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source.

(c) *Changes in the owners and operators.*

- (1) In the event a new owner or operator of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit 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 CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative of the source or unit, and the decisions, orders, actions, and inactions of the REGULATORY AGENCY, 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 CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit, including the addition of a new owner or operator, the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized

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alternate account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

### **XX-2.4 Account certificate of representation.**

(a) A complete account certificate of representation for a CO<sub>2</sub> authorized account representative or a CO<sub>2</sub> authorized alternate account representative shall include the following elements in a format prescribed by the REGULATORY AGENCY or its agent:

- (1) Identification of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source for which the account certificate of representation is submitted;
- (2) The name, address, e-mail address, and telephone number of the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative;
- (3) A list of the owners and operators of the CO<sub>2</sub> budget source and of each CO<sub>2</sub> budget unit at the source;
- (4) The following certification statement by the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative:  
*“I certify that I was selected as the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative, as applicable, by an agreement binding on the owners and operators of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of the owners and operators of the CO<sub>2</sub> budget source and of each CO<sub>2</sub> budget unit at 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 REGULATORY AGENCY or a court regarding the source or unit.”*; and
- (5) The signature of the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub>



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authorized alternate account representative and the dates signed.

(b) Unless otherwise required by the REGULATORY AGENCY or its agent, documents of agreement referred to in the account certificate of representation shall not be submitted to the REGULATORY AGENCY or its agent. Neither the REGULATORY AGENCY nor its agent shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

### **XX-2.5 Objections concerning the CO<sub>2</sub> authorized account representative.**

(a) Once a complete account certificate of representation under section XX-2.4 has been submitted and received, the REGULATORY AGENCY and its agent will rely on the account certificate of representation unless and until the REGULATORY AGENCY or its agent receives a superseding complete account certificate of representation under section XX-2.4.

(b) Except as provided in subdivision XX-2.3(a) or (b), no objection or other communication submitted to the REGULATORY AGENCY or its agent concerning the authorization, or any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative shall affect any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or the finality of any decision or order by the REGULATORY AGENCY or its agent under the CO<sub>2</sub> Budget Trading Program.

(c) Neither the REGULATORY AGENCY nor its agent will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CO<sub>2</sub> authorized account representative, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.

### **XX-2.6 Delegation by CO<sub>2</sub> authorized account representative and CO<sub>2</sub> authorized alternate account representative.**

(a) A CO<sub>2</sub> authorized account representative may delegate, to one or more natural

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persons, his or her authority to make an electronic submission to the REGULATORY AGENCY or its agent under this Part.

(b) A CO<sub>2</sub> authorized alternate account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the REGULATORY AGENCY or its agent under this part.

(c) In order to delegate authority to make an electronic submission to the REGULATORY AGENCY or its agent in accordance with subdivision (a) and (b) of this section, the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative, as appropriate, must submit to the REGULATORY AGENCY or its agent a notice of delegation, in a format prescribed by the REGULATORY AGENCY that includes the following elements:

- (1) The name, address, e-mail address, and telephone number of such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative;
- (2) The name, address, e-mail address, and telephone number of each such natural person, herein referred to as the “electronic submission agent”;
- (3) For each such natural person, a list of the types of electronic submissions under subdivision (a) or (b) of this section for which authority is delegated to him or her; and
- (4) The following certification statements by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative:
  - (i) *“I agree that any electronic submission to the REGULATORY AGENCY or its agent that is by a natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made while I am a CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under subdivision XX-2.6(d)[insert reference to individual state’s*

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*regulation] shall be deemed to be an electronic submission by me.”*

- (ii) *“Until this notice of delegation is superseded by another notice of delegation under subdivision XX-2.6(d), I agree to maintain an e-mail account and to notify the REGULATORY AGENCY or its agent immediately of any change in my e-mail address unless all delegation authority by me under section XX-2.6 is terminated.”*

(d) A notice of delegation submitted under subdivision (c) of this section shall be effective, with regard to the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative identified in such notice, upon receipt of such notice by the REGULATORY AGENCY or its agent and until receipt by the REGULATORY AGENCY or its agent of a superseding notice of delegation by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative as appropriate. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

(e) Any electronic submission covered by the certification in subparagraph (c)(4)(i) of this section and made in accordance with a notice of delegation effective under subdivision (d) of this section shall be deemed to be an electronic submission by the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative submitting such notice of delegation.

(f) A CO<sub>2</sub> authorized account representative may delegate, to one or more natural persons, his or her authority to review information in the CO<sub>2</sub> Allowance Tracking System (COATS) under this part.

(g) A CO<sub>2</sub> authorized alternate account representative may delegate, to one or more natural persons, his or her authority to review information in the CO<sub>2</sub> Allowance Tracking System (COATS) under this part.

(h) In order to delegate authority to review information in the CO<sub>2</sub> Allowance Tracking System (COATS) in accordance with subdivision (f) and (g) of this section, the CO<sub>2</sub>

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authorized account representative or CO<sub>2</sub> authorized alternate account representative, as appropriate, must submit to the REGULATORY AGENCY or its agent a notice of delegation, in a format prescribed by the REGULATORY AGENCY that includes the following elements:

- (1) The name, address, e-mail address, and telephone number of such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative;
  - (2) The name, address, e-mail address, and telephone number of each such natural person, herein referred to as the “reviewer”;
  - (3) For each such natural person, a list of the type of information under subdivision (f) or (g) of this section for which reviewing authority is delegated to him or her; and
  - (4) The following certification statements by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative:
    - (i) *“I agree that any information that is reviewed by a natural person identified in this notice of delegation and of a type listed for such information accessible by the reviewer in this notice of delegation and that is made when I am a CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under subdivision XX-2.6(i)[insert reference to individual state’s regulation] shall be deemed to be a reviewer by me.”*
    - (ii) *“Until this notice of delegation is superseded by another notice of delegation under subdivision XX-2.6(i), I agree to maintain an e-mail account and to notify the REGULATORY AGENCY or its agent immediately of any change in my e-mail address unless all delegation authority by me under section XX-2.6 is terminated.”*
- (i) A notice of delegation submitted under subdivision (h) of this section shall be

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effective, with regard to the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative identified in such notice, upon receipt of such notice by the REGULATORY AGENCY or its agent and until receipt by the REGULATORY AGENCY or its agent of a superseding notice of delegation by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative as appropriate. The superseding notice of delegation may replace any previously identified reviewer, add a new reviewer, or eliminate entirely any delegation of authority.

### Subpart XX-3      Permits

**[Each state's text for this Subpart will likely be different because states have unique permitting requirements. The text below illustrates how this Subpart could be drafted and does not necessarily represent what an individual RGGI state will propose.]**

#### XX-3.1      CO<sub>2</sub> budget permit requirements.

- (a) Each CO<sub>2</sub> budget source must have a permit issued by the REGULATORY AGENCY pursuant to **[Insert Reference to State's Permitting Regulation(s)]** of this Title.
- (b) Each CO<sub>2</sub> budget permit shall contain all applicable CO<sub>2</sub> Budget Trading Program requirements and shall be a complete and distinguishable portion of the permit under subdivision (a) of this section.

#### XX-3.2      Submission of CO<sub>2</sub> budget permit applications.

For any CO<sub>2</sub> budget source, the CO<sub>2</sub> authorized account representative shall submit a complete CO<sub>2</sub> budget permit application under section XX-3.3 covering such CO<sub>2</sub> budget source to the REGULATORY AGENCY by the later of January 1, 2009 or 12

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months before the date on which the CO<sub>2</sub> budget source, or a new unit at the source, commences operation.

### **XX-3.3 Information requirements for CO<sub>2</sub> budget permit applications.**

(a) A complete CO<sub>2</sub> budget permit application shall include the following elements concerning the CO<sub>2</sub> budget source for which the application is submitted, in a format prescribed by the REGULATORY AGENCY:

- (1) Identification of the CO<sub>2</sub> budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration of the United States Department of Energy, if applicable;
- (2) Identification of each CO<sub>2</sub> budget unit at the CO<sub>2</sub> budget source; and
- (3) The standard requirements under section XX-1.5.

### **Subpart XX-4 Compliance Certification**

#### **XX-4.1 Compliance certification report.**

(a) *Applicability and deadline.* For each control period in which a CO<sub>2</sub> budget source is subject to the CO<sub>2</sub> requirements of XX-1.5(c), the CO<sub>2</sub> authorized account representative of the source shall submit to the REGULATORY AGENCY by the March 1 following the relevant control period, a compliance certification report. A compliance certification report is not required as part of the compliance obligation during an interim control period.

(b) *Contents of report.* The CO<sub>2</sub> authorized account representative shall include in the compliance certification report under subdivision (a) of this section the following elements, in a format prescribed by the REGULATORY AGENCY:

- (1) Identification of the source and each CO<sub>2</sub> budget unit at the source;



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- (2) At the CO<sub>2</sub> authorized account representative's option, the serial numbers of the CO<sub>2</sub> allowances that are to be deducted from the source's compliance account under section XX-6.5 for the control period, including the serial numbers of any CO<sub>2</sub> offset allowances that are to be deducted subject to the limitations of paragraph XX-6.5(a)(3); and
  - (3) The compliance certification under subdivision (c) of this section.
- (c) *Compliance certification.* In the compliance certification report under subdivision (a) of this section, the CO<sub>2</sub> authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO<sub>2</sub> budget units at the source in compliance with the CO<sub>2</sub> Budget Trading Program, whether the source and each CO<sub>2</sub> budget unit at the source for which the compliance certification is submitted was operated during the calendar years covered by the report in compliance with the requirements of the CO<sub>2</sub> Budget Trading Program , including:
  - (1) Whether the source was operated in compliance with the CO<sub>2</sub> requirements of XX-1.5(c);
  - (2) Whether the monitoring plan applicable to each unit at the source has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute CO<sub>2</sub> emissions to the unit, in accordance with Subpart XX-8;
  - (3) Whether all the CO<sub>2</sub> emissions from the units at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with Subpart XX- 8. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made;
  - (4) Whether the facts that form the basis for certification under Subpart XX-8

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of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under Subpart XX-8, if any, have changed; and

- (5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's 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.

### **XX-4.2 REGULATORY AGENCY's action on compliance certifications.**

(a) The REGULATORY AGENCY or its agent may review and conduct independent audits concerning any compliance certification or any other submission under the CO<sub>2</sub> Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(b) The REGULATORY AGENCY or its agent may deduct CO<sub>2</sub> allowances from or transfer CO<sub>2</sub> allowances to a source's compliance account based on the information in the compliance certifications or other submissions, as adjusted under subdivision (a) of this section.

### **Subpart XX-5 CO<sub>2</sub> Allowance Allocations**

#### **XX-5.1 NAME OF RELEVANT RGGI STATE CO<sub>2</sub> trading program base budget.**

(a) For 2027, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.

(b) For 2028, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.

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- (c) For 2029, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (d) For 2030, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (e) For 2031, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (f) For 2032, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (g) For 2033, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (h) For 2034, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (i) For 2035, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (j) For 2036, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.
- (k) For 2037 and each succeeding calendar year, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget is \_\_\_\_ tons.

**[...or as established in a future program adjustment.]**

### **XX-5.2 Undistributed and unsold CO<sub>2</sub> allowances**

- (a) REGULATORY AGENCY may retire undistributed CO<sub>2</sub> allowances at the end of each control period.

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(b) REGULATORY AGENCY may retire unsold CO<sub>2</sub> allowances at the end of each control period.

### **XX-5.3 CO<sub>2</sub> allowance allocations.**

(a) *General allocations.* **[Allocation provisions will vary from state to state, provided at least 25% of the allocations will go to a consumer benefit or strategic energy purpose.]**

(b) *Consumer benefit or strategic energy purpose allocation.* The REGULATORY AGENCY will allocate a minimum of twenty-five percent of the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget to the consumer benefit or strategic energy purpose set-aside account.

**[The reference to the consumer benefit or strategic energy purpose account illustrates how this account could be labeled and does not necessarily represent what an individual RGGI state will propose.]**

(c) *CO<sub>2</sub> Allowances available for allocation.* For the allocation year 2027 and each succeeding calendar year, the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget shall be the maximum number of allowances available for allocation in a given allocation year, except for CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances.

(d) *Cost Containment Reserve (CCR) allocation.* The REGULATORY AGENCY shall allocate CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances, separate from and additional to the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget set forth in section XX-5.1, to the RELEVANT STATE AUCTION ACCOUNT. The CCR allocation is for the purpose of containing the cost of CO<sub>2</sub> allowances. The REGULATORY AGENCY shall allocate CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances in the following manner:

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On or before January 1, 2027 and each year thereafter, the REGULATORY AGENCY shall allocate \_\_\_\_ current vintage year CO<sub>2</sub> CCR tier 1 and \_\_\_\_ CO<sub>2</sub> CCR tier 2 allowances, and withdraw the number of CO<sub>2</sub> CCR tier 1 and CO<sub>2</sub> CCR tier 2 allowances that remain in the RELEVANT STATE AUCTION ACCOUNT at the end of the prior calendar year.

**[The following subdivision is an optional voluntary renewable energy market set-aside provision. It represents one way a state could implement such a set-aside.]**

(e) *Voluntary renewable energy market set-aside allocation.* For each control period, the REGULATORY AGENCY shall allocate to the voluntary renewable energy market set-aside account a certain number of allowances, calculated as set forth in this subdivision, from the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget set forth in section XX-5.1, as applicable. The REGULATORY AGENCY shall administer the voluntary renewable energy set-aside in accordance with this subdivision.

(1) The REGULATORY AGENCY will open and manage a general account for the voluntary renewable energy market set-aside for each control period.

(2) The number of allowances that will be allocated to the voluntary renewable energy market set-aside account in a specific control period will be determined as set out in this paragraph.

(i) Any person may submit data to the REGULATORY AGENCY documenting purchases of voluntary renewable energy that meet the requirements of this subdivision by no later than the July 30 prior to the beginning of a control period. Such data must be from reputable sources, which may include retail electricity providers, organizations that certify renewable energy products, and other parties as determined by the REGULATORY AGENCY. To be considered, data must be verifiable and document the following for voluntary renewable energy purchases.

(a) Documentation of voluntary renewable energy or renewable

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energy attribute credit purchases by retail customers, by customer class, in the State during the most recent three-year period for which data are available.

- (b) Documentation that the renewable energy or renewable energy attributes related to voluntary renewable energy or renewable energy attribute credit sales was procured by the retail provider.
  - (c) Time period when the retail purchase(s) was made.
  - (d) State where the electricity was generated or the renewable energy attribute credit was created, including documentation of facility name, unique generator identification number, and fuel type.
  - (e) Time period when the electricity was generated or the renewable energy attribute credit was created.
- (ii) Subject to the timely receipt of adequate data pursuant to subparagraph (i) of this paragraph, and based on such data, the REGULATORY AGENCY shall project the voluntary renewable energy purchases in the State during a control period that represents renewable energy generation in one or more participating states. The megawatt-hours (MWh) of projected voluntary renewable energy purchases in a control period shall be multiplied by the marginal CO<sub>2</sub> emissions rate (lbs. CO<sub>2</sub>/MWh) in the control area where the generation occurred, as determined by the REGULATORY AGENCY. If data to determine the marginal emissions rate is unavailable, the average emissions rate shall be used, as determined by the REGULATORY AGENCY.
- (iii) The CO<sub>2</sub> allowances to be allocated to the voluntary renewable energy set-aside account shall be calculated as follows:

$$\text{CO}_2 \text{ tons} = \text{MP} \times \text{EF}$$



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Where:

CO<sub>2</sub> tons, rounded down to the nearest whole ton, is the number of allowances to be placed in the reserve account;

MP is the projected MWh of voluntary renewable energy purchases in the State during the future control period that meets the requirements of this subdivision; and

EF is the CO<sub>2</sub> emissions factor for the control area where the electricity represented by the sale was generated.

- (iv) If following the end of a control period, the number of CO<sub>2</sub> allowances allocated to the voluntary renewable energy set-aside account is less than the number of CO<sub>2</sub> tons represented by the actual MWh of voluntary renewable energy purchases during the control period, the REGULATORY AGENCY will add the difference between CO<sub>2</sub> tons represented by actual purchases, as calculated in accordance with subparagraph (iii) of this paragraph, and CO<sub>2</sub> allowances held in the set-aside account to the projection for the following control period, pursuant to paragraph (2) of this subdivision. If following the end of a control period, the number of CO<sub>2</sub> allowances allocated to the voluntary renewable energy set-aside account is greater than the number of CO<sub>2</sub> tons represented by the actual MWh of voluntary renewable energy purchases during the control period, the REGULATORY AGENCY will subtract the difference between CO<sub>2</sub> tons represented by actual purchases, as calculated in accordance with subparagraph (iii) of this paragraph, and CO<sub>2</sub> allowances held in the set-aside account from the projection for the following control period, pursuant to paragraph (2) of this subdivision. In no event shall the size of the voluntary renewable set-aside exceed \_\_\_\_ allowances.

- (3) As of the December 31 following the end of a control period for which an

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allocation has been made to the voluntary renewable energy set-aside account, the REGULATORY AGENCY shall determine the actual MWh of voluntary renewable energy purchases that occurred during the control period. The REGULATORY AGENCY shall retire CO<sub>2</sub> allowances in the voluntary renewable energy set-aside account in an amount up to the number of tons of CO<sub>2</sub> represented by actual voluntary renewable energy purchases, based on actual MWh purchases and the emissions factor determined pursuant to paragraph (2) of this subdivision.

**[The following subdivision is an optional limited industrial exemptions set-aside allocation provision. It represents one way a state could implement such a set-aside.]**

(f) *Limited industrial exemption set-aside allocation.* The limited industrial exemption set-aside allocation will consist of \_\_\_\_ allowances from the NAME OF RELEVANT RGGI STATE CO<sub>2</sub> Budget Trading Program base budget set forth in section XX-5.1, as applicable.

For each control period, the REGULATORY AGENCY will determine CO<sub>2</sub> allowance allocations in accordance with the following procedures.

- (1) The REGULATORY AGENCY will open and manage a general account for the limited exemption set-aside for each control period.
- (2) As of the January 1 following the date that an exemption under subdivision XX-1.4(b) has been granted, for each allocation year the REGULATORY AGENCY will retire CO<sub>2</sub> allowances in the limited industrial exemption set-aside general account as determined pursuant to paragraph XX-1.4(b)(4).
- (3) After retirement of allowances pursuant to paragraph (2) of this subdivision, the REGULATORY AGENCY will determine whether any CO<sub>2</sub> allowances remain in the limited industrial exemption set-aside general account for the control period. The REGULATORY AGENCY will transfer any such remaining CO<sub>2</sub> allowances from the limited industrial exemption set-aside

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allocation general account to the compliance account of each CO<sub>2</sub> budget source that was allocated allowances pursuant to subdivision (a) of this section using the following methodology:

Existing CO<sub>2</sub> budget unit's share of the CO<sub>2</sub> allowances remaining in the limited industrial exemption set-aside general account =  $\frac{\text{Total CO}_2 \text{ allowances remaining in the limited industrial exemption set-aside general account} \times (\text{The individual CO}_2 \text{ budget unit's CO}_2 \text{ allowance allocation determined in accordance with subdivision (a) of this section})}{(\text{The NAME OF RELEVANT RGGI STATE CO}_2 \text{ Budget Trading Program annual base budget, as applicable})}$

Where:

“Total CO<sub>2</sub> allowances remaining in the limited industrial exemption set-aside allocation general account” is the total number of CO<sub>2</sub> allowances remaining in the limited industrial exemption set-aside allocation general account (established under paragraph (e)(1) of this section) for the particular control period to which the limited industrial exemption set-aside allocation applies; and

“The individual CO<sub>2</sub> budget unit's CO<sub>2</sub> allowance allocation” is the number of CO<sub>2</sub> allowances allocated under subdivision (a) of this section to the individual CO<sub>2</sub> budget unit for the control period to which the limited industrial exemption set-aside allocation applies.

The REGULATORY AGENCY will only transfer CO<sub>2</sub> allowances in whole allowance increments. The REGULATORY AGENCY will continue to hold any fractional shares of CO<sub>2</sub> allowances in the name of the CO<sub>2</sub> budget unit as banked CO<sub>2</sub> allowances until they may be combined with other fractional shares of CO<sub>2</sub> allowances in future years and then transferred as whole allowance increments.

**Subpart XX-6      CO<sub>2</sub> Allowance Tracking System (COATS)**

**XX-6.1      CO<sub>2</sub> Allowance Tracking System (COATS) accounts.**

(a) *Nature and function of compliance accounts.* Consistent with subdivision XX-6.2(a), the REGULATORY AGENCY or its agent will establish one compliance account for each CO<sub>2</sub> budget source. Allocations of CO<sub>2</sub> allowances pursuant to Subpart XX-5 and deductions or transfers of CO<sub>2</sub> allowances pursuant to sections XX-4.2, XX-6.5, XX-6.7, or Subpart XX-7 will be recorded in the compliance accounts in accordance with this Subpart.

(b) *Nature and function of general accounts.* Consistent with subdivision XX-6.2(b), the REGULATORY AGENCY or its agent will establish, upon request, a general account for any person. Transfers of CO<sub>2</sub> allowances pursuant to Subpart XX-7 will be recorded in the general account in accordance with this Subpart.

**XX-6.2      Establishment of accounts.**

(a) *Compliance accounts.* Upon receipt of a complete account certificate of representation under section XX-2.4, the REGULATORY AGENCY or its agent will establish a compliance account for each CO<sub>2</sub> budget source for which the account certificate of representation was submitted.

(b) *General accounts.*

(1) *Application for general account.* Any person may apply to open a general account for the purpose of holding and transferring CO<sub>2</sub> allowances. An application for a general account may designate one and only one CO<sub>2</sub> authorized account representative and one and only one CO<sub>2</sub> authorized alternate account representative who may act on behalf of the CO<sub>2</sub>

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authorized account representative. The agreement by which the CO<sub>2</sub> authorized alternate account representative is selected shall include a procedure for authorizing the CO<sub>2</sub> authorized alternate account representative to act in lieu of the CO<sub>2</sub> authorized account representative. A complete application for a general account shall be submitted to the REGULATORY AGENCY or its agent and shall include the following elements in a format prescribed by the REGULATORY AGENCY or its agent:

- (i) Name, address, e-mail address, and telephone number of the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative;
- (ii) At the option of the CO<sub>2</sub> authorized account representative, organization name and type of organization;
- (iii) A list of all persons subject to a binding agreement for the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative to represent their ownership interest with respect to the CO<sub>2</sub> allowances held in the general account;
- (iv) The following certification statement by the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative:

*"I certify that I was selected as the CO<sub>2</sub> authorized account representative or the CO<sub>2</sub> authorized alternate account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget 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 REGULATORY AGENCY or its agent or a court*

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*regarding the general account.”;*

- (v) The signature of the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative and the dates signed; and
  - (vi) Unless otherwise required by the REGULATORY AGENCY or its agent, documents of agreement referred to in the application for a general account shall not be submitted to the REGULATORY AGENCY or its agent. Neither the REGULATORY AGENCY nor its agent shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
- (2) *Authorization of CO<sub>2</sub> authorized account representative.*
- (i) Upon receipt by the REGULATORY AGENCY or its agent of a complete application for a general account under paragraph (b)(1) of this section:
    - (a) The REGULATORY AGENCY or its agent will establish a general account for the person or persons for whom the application is submitted.
    - (b) The CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CO<sub>2</sub> allowances held in the general account in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative and such person. Any such person shall be bound by any order or decision issued to the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative by the REGULATORY



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AGENCY or its agent or a court regarding the general account.

- (c) Any representation, action, inaction, or submission by any CO<sub>2</sub> authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> authorized account representative.
- (ii) Each submission concerning the general account shall be submitted, signed, and certified by the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative for the persons having an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative:

*“I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO<sub>2</sub> 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.”*
- (iii) The REGULATORY AGENCY or its agent will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subparagraph (b)(2)(ii) of this section.

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- (3) *Changing CO<sub>2</sub> authorized account representative and CO<sub>2</sub> authorized alternate account representative; changes in persons with ownership interest.*
- (i) The CO<sub>2</sub> authorized account representative for a general account may be changed at any time upon receipt by the REGULATORY AGENCY or its agent of a superseding complete application for a general account under paragraph (b)(1) of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> authorized account representative, or the previous CO<sub>2</sub> authorized alternate account representative, prior to the time and date when the REGULATORY AGENCY or its agent receives the superseding application for a general account shall be binding on the new CO<sub>2</sub> authorized account representative and the persons with an ownership interest with respect to the CO<sub>2</sub> allowances in the general account.
- (ii) The CO<sub>2</sub> authorized alternate account representative for a general account may be changed at any time upon receipt by the REGULATORY AGENCY or its agent of a superseding complete application for a general account under paragraph (b)(1) of this section. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> authorized account representative, or the previous CO<sub>2</sub> authorized alternate account representative, prior to the time and date when the REGULATORY AGENCY or its agent receives the superseding application for a general account shall be binding on the new CO<sub>2</sub> authorized alternate account representative and the persons with an ownership interest with respect to the CO<sub>2</sub> allowances in the general account.
- (iii) In the event a new person having an ownership interest with respect to CO<sub>2</sub> allowances in the general account is not included in the list

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of such persons in the application for a general account, such new person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions, and submissions of the CO<sub>2</sub> authorized account representative and any CO<sub>2</sub> authorized alternate account representative, and the decisions, orders, actions, and inactions of the REGULATORY AGENCY or its agent, as if the new person were included in such list.

- (iv) Within 30 days following any change in the persons having an ownership interest with respect to CO<sub>2</sub> allowances in the general account, including the addition or deletion of persons, the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CO<sub>2</sub> allowances in the general account to include the change.

(4) *Objections concerning CO<sub>2</sub> authorized account representative.*

- (i) Once a complete application for a general account under paragraph (b)(1) of this section has been submitted and received, the REGULATORY AGENCY or its agent will rely on the application unless and until a superseding complete application for a general account under paragraph (b)(1) of this section is received by the REGULATORY AGENCY or its agent.
- (ii) Except as provided in subparagraphs (b)(3)(i) and (ii) of this section, no objection or other communication submitted to the REGULATORY AGENCY or its agent concerning the authorization, or any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative for a general account shall affect any representation, action, inaction, or submission of the CO<sub>2</sub>

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authorized account representative or any CO<sub>2</sub> authorized alternate account representative or the finality of any decision or order by the REGULATORY AGENCY or its agent under the CO<sub>2</sub> Budget Trading Program.

- (iii) Neither the REGULATORY AGENCY nor its agent will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or any CO<sub>2</sub> authorized alternate account representative for a general account, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.

(5) *Delegation by CO<sub>2</sub> authorized account representative and CO<sub>2</sub> authorized alternate account representative.*

- (i) A CO<sub>2</sub> authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the REGULATORY AGENCY or its agent provided for under Subparts XX-6 and XX-7.
- (ii) A CO<sub>2</sub> authorized alternate account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the REGULATORY AGENCY or its agent provided for under Subparts XX-6 and XX-7.
- (iii) In order to delegate authority to make an electronic submission to the REGULATORY AGENCY or its agent in accordance with subparagraphs (i) and (ii) of this paragraph, the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative, as appropriate, must submit to the REGULATORY AGENCY or its agent a notice of delegation, in a format prescribed by the REGULATORY AGENCY that includes the following elements:
  - (a) The name, address, e-mail address, and telephone number of such CO<sub>2</sub> authorized account representative or CO<sub>2</sub>

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authorized alternate account representative;

- (b) The name, address, e-mail address, and telephone number of each such natural person, herein referred to as “electronic submission agent”;
- (c) For each such natural person, a list of the type of electronic submissions under subdivision (a) or (b) of this section for which authority is delegated to him or her; and
- (d) The following certification statements by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative:

- (1) *“I agree that any electronic submission to the REGULATORY AGENCY or its agent that is by a natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under subparagraph XX- 6.2(b)(5)(iv) shall be deemed to be an electronic submission by me.”*

- (2) *“Until this notice of delegation is superseded by another notice of delegation under subparagraph XX- 6.2(b)(5)(iv), I agree to maintain an e-mail account and to notify the REGULATORY AGENCY or its agent immediately of any change in my e-mail address unless all delegation authority by me under paragraph XX-6.2(b)(5) is terminated.”*

- (iv) A notice of delegation submitted under subparagraph (iii) of this paragraph shall be effective, with regard to the CO<sub>2</sub> authorized

account representative or CO<sub>2</sub> authorized alternate account representative identified in such notice, upon receipt of such notice by the REGULATORY AGENCY or its agent and until receipt by the REGULATORY AGENCY or its agent of a superseding notice of delegation by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative as appropriate.

The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

- (v) Any electronic submission covered by the certification in sub-clause (iii)(d)(1) of this paragraph and made in accordance with a notice of delegation effective under subparagraph (iv) of this paragraph shall be deemed to be an electronic submission by the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative submitting such notice of delegation.

(c) *Account identification.* The REGULATORY AGENCY or its agent will assign a unique identifying number to each account established under subdivisions (a) or (b) of this section.

### **XX-6.3 CO<sub>2</sub> Allowance Tracking System (COATS) responsibilities of CO<sub>2</sub> authorized account representative.**

Following the establishment of a CO<sub>2</sub> Allowance Tracking System (COATS) account, all submissions to the REGULATORY AGENCY or its agent pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CO<sub>2</sub> allowances in the account, shall be made only by the CO<sub>2</sub> authorized account representative for the account.

### **XX-6.4 Recordation of CO<sub>2</sub> allowance allocations.**



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(a) By January 1 of each calendar year, the REGULATORY AGENCY or its agent will record in the following accounts:

- (1) In each CO<sub>2</sub> budget source's compliance account, the CO<sub>2</sub> allowances allocated for CO<sub>2</sub> budget units at the source (if any) under subdivision XX-5.3(a); and
- (2) The CO<sub>2</sub> allowances allocated for the consumer benefit or strategic energy purpose account under subdivision XX-5.3(b).

**[Should states wish to establish other set-aside allocations (for new sources, for example), they would be referred to (at least generically) in the above subdivision.]**

(b) Each year the REGULATORY AGENCY or its agent will record CO<sub>2</sub> allowances, as allocated to the unit under Subpart XX-5, in the compliance account for the year after the last year for which CO<sub>2</sub> allowances were previously allocated to the compliance account. Each year, the REGULATORY AGENCY or its agent will also record CO<sub>2</sub> allowances, as allocated under Subpart XX-5, in an allocation set-aside account for the year after the last year for which CO<sub>2</sub> allowances were previously allocated to an allocation set-aside account.

(c) Serial numbers for allocated CO<sub>2</sub> allowances. When allocating CO<sub>2</sub> allowances to and recording them in an account, the REGULATORY AGENCY or its agent will assign each CO<sub>2</sub> allowance a unique identification number that will include digits identifying the year for which the CO<sub>2</sub> allowance is allocated.

### **XX-6.5 Compliance.**

(a) *Allowances available for compliance deduction.* CO<sub>2</sub> allowances that meet the following criteria are available to be deducted in order for a CO<sub>2</sub> budget source to comply with the CO<sub>2</sub> requirements of XX-1.5(c) for a control period or an interim control period.

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- (1) The CO<sub>2</sub> allowances are of allocation years that fall within a prior control period, the same control period, or the same interim control period for which the allowances will be deducted.
  - (2) The CO<sub>2</sub> allowances are held in the CO<sub>2</sub> budget source's compliance account as of the CO<sub>2</sub> allowance transfer deadline for that control period or interim control period, or are transferred into the compliance account by a CO<sub>2</sub> allowance transfer correctly submitted for recordation under section XX-7.1 by the CO<sub>2</sub> allowance transfer deadline for that control period or interim control period.
  - (3) For CO<sub>2</sub> offset allowances, the number of CO<sub>2</sub> offset allowances that are available to be deducted in order for a CO<sub>2</sub> budget source to comply with the CO<sub>2</sub> requirements of XX-1.5(c) for a control period or an interim control period may not exceed 3.3 percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for that control period, or 3.3 percent of 0.50 times the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for an interim control period, as determined in accordance with Subparts XX-6 and XX-8.
  - (4) The CO<sub>2</sub> allowances are not necessary for deductions for excess emissions for a prior control period under subdivision (d) of this section.
- (b) *Deductions for compliance.* Following the recordation, in accordance with section XX-7.2, of any CO<sub>2</sub> allowance transfers submitted for recordation in the CO<sub>2</sub> budget source's compliance account by the CO<sub>2</sub> allowance transfer deadline for a control period or interim control period, the REGULATORY AGENCY or its agent will deduct CO<sub>2</sub> allowances available under subdivision (a) of this section to cover the source's CO<sub>2</sub> emissions (as determined in accordance with Subpart XX-8) for the control period or interim control period, as follows:
- (1) Until the amount of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions (or 0.50 times the number of tons of total CO<sub>2</sub> emissions for an interim control period), less any CO<sub>2</sub> emissions attributable to the burning of eligible biomass, determined in accordance with Subpart XX-8, from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source for

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the control period or interim control period; or

- (2) If there are insufficient CO<sub>2</sub> allowances to complete the deductions in paragraph (b)(1) of this section, until no more CO<sub>2</sub> allowances available under subdivision (a) of this section remain in the compliance account.

(c) *Identification of available CO<sub>2</sub> allowances by serial number; default compliance deductions.*

- (1) The CO<sub>2</sub> authorized account representative for a source's compliance account may request that specific CO<sub>2</sub> allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period or interim control period in accordance with subdivision (b), or (d) of this section. Such identification shall be made in the compliance certification report submitted in accordance with section XX-4.1.
- (2) The REGULATORY AGENCY or its agent will deduct CO<sub>2</sub> allowances for a control period or interim control period from the CO<sub>2</sub> budget source's compliance account, in the absence of an identification or in the case of a partial identification of available CO<sub>2</sub> allowances by serial number under paragraph (c)(1) of this section, in the following order:
  - (i) First, subject to the relevant compliance deduction limitations under XX-6.5(a)(3) and (d)(1), CO<sub>2</sub> offset allowances. CO<sub>2</sub> offset allowances shall be deducted in chronological order (i.e., CO<sub>2</sub> offset allowances from earlier allocation years shall be deducted before CO<sub>2</sub> offset allowances from later allocation years). In the event that some, but not all, CO<sub>2</sub> offset allowances from a particular allocation year are to be deducted, CO<sub>2</sub> offset allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.
  - (ii) Second, any CO<sub>2</sub> allowances, other than CO<sub>2</sub> offset allowances, that are available for deduction under subdivision (a) of this section. CO<sub>2</sub> allowances shall be deducted in chronological order (i.e., CO<sub>2</sub>

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allowances from earlier allocation years shall be deducted before CO<sub>2</sub> allowances from later allocation years). In the event that some, but not all, CO<sub>2</sub> allowances from a particular allocation year are to be deducted, CO<sub>2</sub> allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

(d) *Deductions for excess emissions.*

- (1) After making the deductions for compliance under subdivision (b) of this section, the REGULATORY AGENCY or its agent will deduct from the CO<sub>2</sub> budget source's compliance account a number of CO<sub>2</sub> allowances equal to three times the number of the source's excess emissions. In the event that a source has insufficient CO<sub>2</sub> allowances to cover three times the number of the source's excess emissions, the source shall be required to immediately transfer sufficient allowances into its compliance account. No CO<sub>2</sub> offset allowances may be deducted to account for the source's excess emissions.
- (2) Any CO<sub>2</sub> allowance deduction required under paragraph (d)(1) of this section shall not affect the liability of the owners and operators of the CO<sub>2</sub> budget source or the CO<sub>2</sub> units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under applicable State law. The following guidelines will be followed in assessing fines, penalties or other obligations.
  - (i) For purposes of determining the number of days of violation, if a CO<sub>2</sub> budget source has excess emissions for a control period, each day in the control period constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.
  - (ii) Each ton of excess emissions is a separate violation.

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- (iii) For purposes of determining the number of days of violation, if a CO<sub>2</sub> budget source has excess interim emissions for an interim control period, each day in the interim control period constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.
  - (iv) Each ton of excess interim emissions is a separate violation.
- (3) The propriety of the REGULATORY AGENCY's determination that a CO<sub>2</sub> budget source had excess emissions and the concomitant deduction of CO<sub>2</sub> allowances from that CO<sub>2</sub> budget source's account may be later challenged in the context of the initial administrative enforcement, or any civil or criminal judicial action arising from or encompassing that excess emissions violation. The commencement or pendency of any administrative enforcement, or civil or criminal judicial action arising from or encompassing that excess emissions violation will not act to prevent the REGULATORY AGENCY or its agent from initially deducting the CO<sub>2</sub> allowances resulting from the REGULATORY AGENCY's original determination that the relevant CO<sub>2</sub> budget source has had excess emissions. Should the REGULATORY AGENCY's determination of the existence or extent of the CO<sub>2</sub> budget source's excess emissions be revised either by a settlement or final conclusion of any administrative or judicial action, the REGULATORY AGENCY will act as follows.
  - (i) In any instance where the REGULATORY AGENCY's determination of the extent of excess emissions was too low, the REGULATORY AGENCY will take further action under paragraphs (d)(1) and (2) of this section to address the expanded violation.
  - (ii) In any instance where the REGULATORY AGENCY's determination of the extent of excess emissions was too high, the REGULATORY AGENCY will distribute to the relevant CO<sub>2</sub>

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budget source a number of CO<sub>2</sub> allowances equaling the number of CO<sub>2</sub> allowances deducted which are attributable to the difference between the original and final quantity of excess emissions. Should such CO<sub>2</sub> budget source's compliance account no longer exist, the CO<sub>2</sub> allowances will be provided to a general account selected by the owner or operator of the CO<sub>2</sub> budget source from which they were originally deducted.

(e) The REGULATORY AGENCY or its agent will record in the appropriate compliance account all deductions from such an account pursuant to subdivisions (b) and (d) of this section.

(f) *Action by the REGULATORY AGENCY on submissions.*

- (1) The REGULATORY AGENCY may review and conduct independent audits concerning any submission under the CO<sub>2</sub> Budget Trading Program and make appropriate adjustments of the information in the submissions.
- (2) The REGULATORY AGENCY may deduct CO<sub>2</sub> allowances from or transfer CO<sub>2</sub> allowances to a source's compliance account based on information in the submissions, as adjusted under paragraph (f)(1) of this section.

### **XX-6.6 Banking.**

Each CO<sub>2</sub> allowance that is held in a compliance account or a general account will remain in such account unless and until the CO<sub>2</sub> allowance is deducted or transferred under section XX-4.2, section XX-6.5, section XX-6.7, or Subpart XX-7.

### **XX-6.7 Account error.**

The REGULATORY AGENCY or its agent may, at its sole discretion and on his or her own motion, correct any error in any CO<sub>2</sub> Allowance Tracking System (COATS)



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account. Within 10 business days of making such correction, the REGULATORY AGENCY or its agent will notify the CO<sub>2</sub> authorized account representative for the account.

### **XX-6.8 Closing of general accounts.**

(a) A CO<sub>2</sub> authorized account representative of a general account may instruct the REGULATORY AGENCY or its agent to close the account by submitting a statement requesting deletion of the account from the CO<sub>2</sub> Allowance Tracking System (COATS) and by correctly submitting for recordation under section XX-7.1 a CO<sub>2</sub> allowance transfer of all CO<sub>2</sub> allowances in the account to one or more other CO<sub>2</sub> Allowance Tracking System accounts.

(b) If a general account shows no activity for a period of one year or more and does not contain any CO<sub>2</sub> allowances, the REGULATORY AGENCY or its agent may notify the CO<sub>2</sub> authorized account representative for the account that the account will be closed in the CO<sub>2</sub> Allowance Tracking System (COATS) 30 business days after the notice is sent. The account will be closed after the 30-day period unless before the end of the 30-day period the REGULATORY AGENCY or its agent receives a correctly submitted transfer of CO<sub>2</sub> allowances into the account under section XX-7.1 or a statement submitted by the CO<sub>2</sub> authorized account representative demonstrating to the satisfaction of the REGULATORY AGENCY or its agent good cause as to why the account should not be closed. The REGULATORY AGENCY or its agent will have sole discretion to determine if the CO<sub>2</sub> authorized account representative of the account demonstrated that the account should not be closed.

### **Subpart XX-7 CO<sub>2</sub> Allowance Transfers**

#### **XX-7.1 Submission of CO<sub>2</sub> allowance transfers.**

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The CO<sub>2</sub> authorized account representatives seeking recordation of a CO<sub>2</sub> allowance transfer shall submit the transfer to the REGULATORY AGENCY or its agent. To be considered correctly submitted, the CO<sub>2</sub> allowance transfer shall include the following elements in a format specified by the REGULATORY AGENCY or its agent:

- (a) The numbers identifying both the transferor and transferee accounts;
- (b) A specification by serial number of each CO<sub>2</sub> allowance to be transferred;
- (c) The printed name and signature of the CO<sub>2</sub> authorized account representative of the transferor account and the date signed;
- (d) The date of the completion of the last sale or purchase transaction for the allowance, if any; and
- (e) The purchase or sale price of the allowance that is the subject of a sale or purchase transaction under subdivision (d) of this section.

### **XX-7.2 Recordation.**

(a) Within 5 business days of receiving a CO<sub>2</sub> allowance transfer, except as provided in subdivision (b) of this section, the REGULATORY AGENCY or its agent will record a CO<sub>2</sub> allowance transfer by moving each CO<sub>2</sub> allowance from the transferor account to the transferee account as specified by the request, provided that the transfer is correctly submitted under section XX-7.1; and

- (1) The transferor account includes each CO<sub>2</sub> allowance identified by serial number in the transfer.
- (2) A CO<sub>2</sub> allowance transfer into or out of a compliance account that is submitted for recordation following the CO<sub>2</sub> allowance transfer deadline and that includes any CO<sub>2</sub> allowances that are of allocation years that fall within a control period or interim control period prior to or the same as the

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control period or interim control period to which the CO<sub>2</sub> allowance transfer deadline applies will not be recorded until after completion of the process pursuant to XX-6.5(b).

(b) Where a CO<sub>2</sub> allowance transfer submitted for recordation fails to meet the requirements of subdivision (a) of this section, the REGULATORY AGENCY or its agent will not record such transfer.

### **XX-7.3 Notification.**

(a) *Notification of recordation.* Within 5 business days of recordation of a CO<sub>2</sub> allowance transfer under section XX-7.2, the REGULATORY AGENCY or its agent will notify each party to the transfer. Notice will be given to the CO<sub>2</sub> authorized account representatives of both the transferor and transferee accounts.

(b) *Notification of non-recordation.* Within 10 business days of receipt of a CO<sub>2</sub> allowance transfer that fails to meet the requirements of subdivision XX-7.2(a), the REGULATORY AGENCY or its agent will notify the CO<sub>2</sub> authorized account representatives of both accounts subject to the transfer of:

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

(c) Nothing in this section shall preclude the submission of a CO<sub>2</sub> allowance transfer for recordation following notification of non-recordation.

## **Subpart XX-8 Monitoring, Reporting & Recordkeeping**

### **XX-8.1 General requirements.**

The owners and operators, and to the extent applicable, the CO<sub>2</sub> authorized

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account representative of a CO<sub>2</sub> budget unit, shall comply with the monitoring, recordkeeping and reporting requirements as provided in this Subpart and all applicable sections of 40 CFR part 75. For purposes of complying with such requirements, the definitions in section XX-1.2 and in 40 CFR 72.2 shall apply, and the terms “affected unit,” “designated representative,” and “continuous emissions monitoring system” (or “CEMS”) in 40 CFR part 75 shall be replaced by the terms “CO<sub>2</sub> budget unit,” “CO<sub>2</sub> authorized account representative,” and “continuous emissions monitoring system” (or “CEMS”), respectively, as defined in section XX-1.2.

(a) *Requirements for installation, certification, and data accounting.* The owner or operator of each CO<sub>2</sub> budget unit must meet the following requirements.

(1) Install all monitoring systems required under this subpart for monitoring CO<sub>2</sub> mass emissions. This includes all systems required to monitor CO<sub>2</sub> concentration, stack gas flow, O<sub>2</sub> concentration, heat input, and fuel flow rate, as applicable, in accordance with 40 CFR 75.13, 75.71, and 75.72 and all portions of appendix G of 40 CFR Part 75, except for equation G-1 in 40 CFR Part 75. Equation G-1 in Appendix G shall not be used to determine CO<sub>2</sub> emissions under this Part.

(2) Record, report and quality-assure the data from the monitoring systems under paragraph (a)(1) of this section.

**XX-8.2        RESERVED**

**XX-8.3        RESERVED**

**XX-8.4        RESERVED**

**XX-8.5        Recordkeeping and reporting.**

(a) *General provisions.* The CO<sub>2</sub> authorized account representative shall comply with

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all recordkeeping and reporting requirements in this section, the applicable record keeping and reporting requirements under 40 CFR 75.73, and with the requirements of subdivision XX-2.1(e).

- (b) *Monitoring plans.* The owner or operator of a CO<sub>2</sub> budget unit shall submit a monitoring plan in the manner prescribed in 40 CFR 75.62.
- (c) *Certification applications.* The CO<sub>2</sub> authorized account representative shall submit an application to the Administrator, and the REGULATORY AGENCY within 45 days after completing all CO<sub>2</sub> monitoring system initial certification or recertification tests required under 40 CFR 75.63 and 40 CFR 75.53(g) and (h).
- (d) *Quarterly reports.* The CO<sub>2</sub> authorized account representative shall submit quarterly reports, as follows:
  - (1) The CO<sub>2</sub> authorized account representative shall report the CO<sub>2</sub> mass emissions data for the CO<sub>2</sub> budget unit, in an electronic format prescribed by the Administrator unless otherwise prescribed by the Administrator, and the REGULATORY AGENCY for each calendar quarter beginning with:
    - (i) For a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009 through March 31, 2009; or
    - (ii) For a unit commencing commercial operation on or after July 1, 2008, the calendar quarter corresponding to, the earlier of the date of provisional certification or the applicable deadline for initial certification under subdivision XX-8.1(b) or, unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 through March 31, 2009.
  - (2) The CO<sub>2</sub> authorized account representative shall submit each quarterly report to the Administrator, and the REGULATORY AGENCY or its agent

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within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in Subpart H of 40 CFR part 75 and 40 CFR 75.64. Quarterly reports shall be submitted for each CO<sub>2</sub> budget unit (or group of units using a common stack), and shall include all of the data and information required in Subpart G of 40 CFR part 75, except for opacity, heat input, NO<sub>x</sub>, and SO<sub>2</sub> provisions.

- (3) *Compliance certification.* The CO<sub>2</sub> authorized account representative shall submit to the Administrator, and the REGULATORY AGENCY or its agent a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored.

The certification shall state that:

- (i) The monitoring data submitted were recorded in accordance with the applicable requirements of this Subpart and 40 CFR part 75, including the quality assurance procedures and specifications;
- (ii) For a unit with add-on CO<sub>2</sub> emissions controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1)-, the add-on emissions controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B of 40 CFR part 75, and the substitute values do not systematically underestimate CO<sub>2</sub> emissions; and
- (iii) The CO<sub>2</sub> concentration values substituted for missing data under Subpart D of 40 CFR part 75 do not systematically underestimate CO<sub>2</sub> emissions.

### **XX-8.6      Petitions.**

- (a) Except as provided in subdivision (c) of this section, the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is subject to an Acid Rain emissions limitation



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may submit a petition to the Administrator under 40 CFR 75.66 and to the REGULATORY AGENCY requesting approval to apply an alternative to any requirement of 40 CFR Part 75. Application of an alternative to any requirement of 40 CFR Part 75 is in accordance with this Subpart only to the extent that the petition is approved in writing by the Administrator, and subsequently approved in writing by the REGULATORY AGENCY.

(b) Petitions for a CO<sub>2</sub> budget unit that is not subject to an Acid Rain emissions limitation.

(1) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is not subject to an Acid Rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the REGULATORY AGENCY requesting approval to apply an alternative to any requirement of 40 CFR PART 75. Application of an alternative to any requirement of 40 CFR PART 75 is in accordance with this Subpart only to the extent that the petition is approved in writing by the Administrator and subsequently approved in writing by the REGULATORY AGENCY.

(2) In the event that the Administrator declines to review a petition under 40 CFR 75.66 as described in XX- 8.6(b)(1), the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is not subject to an Acid Rain emissions limitation may submit a petition to the REGULATORY AGENCY requesting approval to apply an alternative to any requirement of XX-8. That petition shall contain all of the relevant information specified in 40 CFR 75.66. Application of an alternative to any requirement of XX-8 is in accordance with XX-8 only to the extent that the petition is approved in writing by the REGULATORY AGENCY.

(c) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is subject to an Acid Rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the REGULATORY AGENCY requesting approval to apply an

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alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72 or a CO<sub>2</sub> concentration CEMS used under 40 CFR 75.71(a)(2). Application of an alternative to any such requirement is in accordance with this Subpart only to the extent the petition is approved in writing by the Administrator and subsequently approved in writing by the REGULATORY AGENCY.

### **XX-8.7 CO<sub>2</sub> budget units that co-fire eligible biomass.**

(a) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that co-fires eligible biomass as a compliance mechanism under XX shall report the following information to the REGULATORY AGENCY or its agent for each calendar quarter:

- (1) For each shipment of solid eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the total eligible biomass fuel input, on an as-fired basis, in pounds;
- (2) For each shipment of solid eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the moisture content, on an as-fired basis, as a fraction by weight;
- (3) For each distinct type of gaseous eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the density of the biogas, on an as-fired basis, in pounds per standard cubic foot;
- (4) For each distinct type of gaseous eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the moisture content of the biogas, as a fraction by total weight;
- (5) For each distinct type of gaseous eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the total eligible biomass fuel input, in standard cubic feet;
- (6) For each distinct type of eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the dry basis carbon content of the fuel type, as a fraction by dry weight;
- (7) For each distinct type of eligible biomass fuel fired at the CO<sub>2</sub> budget unit the dry basis higher heating value, in MMBtu per dry pound;
- (8) For each distinct type of eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the total dry basis eligible biomass fuel input, in pounds, calculated in accordance with XX-8.7(b);

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- (9) The total amount of CO<sub>2</sub> emitted from the CO<sub>2</sub> budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with XX-8.7(c);
  - (10) For each distinct type of eligible biomass fuel fired at the CO<sub>2</sub> budget unit, the total eligible biomass fuel heat input, in MMBtu, calculated in accordance with XX-8.7(d)(1).
  - (11) The total amount of heat input to the CO<sub>2</sub> budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with XX-8.7(d)(2);
  - (12) Description and documentation of monitoring technology employed, and description and documentation of fuel sampling methodology employed, including sampling frequency; and
  - (13) For each distinct type of eligible biomass fuel fired at the CO<sub>2</sub> budget unit, chemical analysis, including heating value and carbon content.
- (b) An owner or operator of a CO<sub>2</sub> budget unit shall calculate and submit to the REGULATORY AGENCY or its agent on a quarterly basis the total dry weight for each distinct type of eligible biomass fired by the CO<sub>2</sub> budget unit during the reporting quarter. The total dry weight shall be determined for each fuel type as follows:
- (1) For solid fuel types:

$$F_j = \sum_{i=1}^m (1 - M_i) \times F_i$$

Where:

$F_j$  = Total eligible biomass dry basis fuel input (lbs) for fuel type  $j$ ;

$F_i$  = Eligible biomass as fired fuel input (lbs) for fired shipment  $i$ ;

$M_i$  = Moisture content (fraction) for fired shipment  $i$ ;

$i$  = Fired fuel shipment;

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$j$  = Fuel type; and

$m$  = Number of shipments.

(2) For gaseous fuel types:

$$F_j = D_j \times V_j \times (1 - M_j)$$

Where:

$F_j$  = Total eligible biomass dry basis fuel input (lbs) for fuel type  $j$ ;

$D_j$  = Density of biogas (lbs/scf) for fuel type  $j$ ;

$V_j$  = Total volume (scf) for fuel type  $j$ ;

$M_j$  = Moisture content (fraction) for fuel type  $j$ ;

$j$  = Fuel type.

(c) CO<sub>2</sub> emissions due to firing of eligible biomass shall be determined as follows:

(1) For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO<sub>2</sub> budget unit, as measured and recorded in accordance with XX-8.1 through XX-8.6; or

For any full calendar quarter during which fuels other than eligible biomass are combusted at the CO<sub>2</sub> budget unit, as determined using the following equation:

$$CO_2 \text{ tons} = \sum_{j=1}^n F_j \times C_j \times O_j \times \frac{44}{12} \times 0.0005$$

Where:

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CO<sub>2</sub> tons = CO<sub>2</sub> emissions due to firing of eligible biomass for the reporting quarter;

$F_j$  = Total eligible biomass dry basis fuel input (lbs) for fuel type  $j$ , as calculated in XX-8.7(b);

$C_j$  = Carbon fraction (dry basis) for fuel type  $j$ ;

$O_j$  = Oxidation factor for eligible biomass fuel type  $j$ , derived for solid fuels based on the ash content of the eligible biomass fired and the carbon content of this ash, as determined pursuant to XX-8.7(a)(12); for gaseous eligible biomass fuels, a default oxidation factor of 0.995 may be used;

44/12 = The number of tons of carbon dioxide that are created when one ton of carbon is combusted (44/12);

0.0005 = The number of short tons which is equal to one pound;

$j$  = Fuel type; and

$n$  = Number of distinct fuel types.

(d) Heat input due to firing of eligible biomass for each quarter shall be determined as follows:

(1) For each distinct fuel type:

$$H_j = F_j \times HHV_j$$

Where:

$H_j$  = Heat input (MMBtu) for fuel type  $j$ ;

$F_j$  = Total eligible biomass dry basis fuel input (lbs) for fuel type  $j$ , as

calculated in XX-8.7(b);

HHV<sub>j</sub> = Higher heating value (MMBtu/lb), dry basis, for fuel type j, as determined through chemical analysis; and

j = fuel type.

- (2) For all fuel types:

$$\text{Heat input MMBtu} = \sum_{i=1}^n H_j$$

Where:

H<sub>j</sub> = Heat input (MMBtu) for fuel type j;

j = fuel type; and

n = number of distinct fuel types.

- (e) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State Renewable Energy Standard Biomass Power Guide, June 2018.

#### **XX-8.8 Additional requirements to provide output data.**

- (a) A CO<sub>2</sub> budget unit in a state that requires the use of information submitted to the Independent System Operator (ISO) to document megawatt-hours (MWh) the CO<sub>2</sub> budget unit produces shall submit to the REGULATORY AGENCY or its agent the same MWh value submitted to the ISO and a statement certifying that the MWh of electrical output reported reflects the total actual electrical output for all CO<sub>2</sub> budget units at the facility used by the ISO to determine settlement resources of energy market participants.



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- (b) A CO<sub>2</sub> budget unit in a state that requires gross output to be used that also reports gross hourly MW to the Administrator, shall use the same electronic data report (EDR) gross output (in MW), as submitted to the Administrator, for the hour times operating time in the hour, added for all hours in a year. A CO<sub>2</sub> budget unit that does not report gross hourly MW to the Administrator shall submit to the REGULATORY AGENCY or its agent information in accordance with paragraph XX-8.8(e)(1).
- (c) A CO<sub>2</sub> budget unit in a state that requires net electrical output to be used, shall submit to the REGULATORY AGENCY or its agent information in accordance with paragraph XX- 8.8(e)(1). A CO<sub>2</sub> budget source whose electrical output is not used in ISO energy market settlement determinations shall propose to the REGULATORY AGENCY a method for quantification of net electrical output.
- (d) CO<sub>2</sub> budget sources selling steam should use billing meters to determine net steam output. A CO<sub>2</sub> budget source whose steam output is not measured by billing meters or whose steam output is combined with output from a non-CO<sub>2</sub> budget unit prior to measurement by the billing meter shall propose to the REGULATORY AGENCY an alternative method for quantification of net steam output. If data for steam output is not available, the CO<sub>2</sub> budget source may report heat input providing useful steam output as a surrogate for steam output.
- (e) *Monitoring.* The owner or operator of each CO<sub>2</sub> budget unit, in a state that requires the CO<sub>2</sub> budget unit's net output, must meet the following requirements. Each CO<sub>2</sub> budget source must submit an output monitoring plan. The output monitoring plan must include a description and diagram as stated below.
- (1) Submit a diagram of the electrical and/or steam system for which output is being monitored, specifically including the following.
    - (i) If the CO<sub>2</sub> budget unit monitors net electric output, the diagram should contain all CO<sub>2</sub> budget units and all generators served by each CO<sub>2</sub> budget unit and the relationship between CO<sub>2</sub> budget units and generators. If a generator served by a CO<sub>2</sub> budget unit is also served by a non-affected unit, the non-affected unit and its

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relationship to each generator should be indicated on the diagram as well. The diagram should indicate where the net electric output is measured and should include all electrical inputs and outputs to and from the plant. If net electric output is determined using a billing meter, the diagram should show each billing meter used to determine net sales of electricity and should show that all electricity measured at the point of sale is generated by the CO<sub>2</sub> budget units.

- (ii) If the CO<sub>2</sub> budget unit monitors net thermal output, the diagram should include all steam or hot water coming into the net steam system, including steam from CO<sub>2</sub> budget units and non-affected units, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream will have an estimated temperature, pressure and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system should identify all useful loads, house loads, parasitic loads, any other steam loads and all boiler feedwater returns. The diagram will represent all energy losses in the system as either usable or unusable losses. The diagram will also indicate all flow meters, temperature or pressure sensors or other equipment used to calculate gross thermal output. If a sales agreement is used to determine net thermal output, the diagram should show the monitoring equipment used to determine the sales of steam.
- (2) Submit a description of each output monitoring system. The description of the output monitoring system should include a written description of the output system and the equations used to calculate output. For net thermal output systems descriptions and justifications of each useful load should be included.
- (3) Submit a detailed description of all quality assurance/quality control activities that will be performed to maintain the output system in accordance with subdivision XX-8.8(g).

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- (4) Submit documentation supporting any output value(s) to be used as a missing data value should there be periods of invalid output data. The missing data output value must be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under this subdivision.
- (f) *Initial certification.* A certification statement must be submitted by the CO<sub>2</sub> authorized account representative stating that either the output monitoring system consists entirely of billing meters or that the output monitoring system meets one of the accuracy requirements for non-billing meters at paragraph (2) of this subdivision. This statement may be submitted with the certification application required under subdivision XX-8.5(c).
- (1) *Billing meters.* The billing meter must record the electric or thermal output. Any electric or thermal output values that the facility reports must be the same as the values used in billing for the output. Any output measurement equipment used as a billing meter in commercial transactions requires no additional certification or testing.
  - (2) *Non-billing meters.* For non-billing meters, the output monitoring system must either meet an accuracy of within 10% of the reference value, or each component monitor for the output system must meet an accuracy of within 3% of the full scale value, whichever is less stringent.
    - (i) *System approach to accuracy.* The system approach to accuracy must include a determination of how the system accuracy of 10% is achieved using the individual components in the system and should include data loggers and any watt meters used to calculate the final net electric output data and/or any flow meters for steam or condensate, temperature measurement devices, absolute pressure measurement devices, and differential pressure devices used for measuring thermal energy.
    - (ii) *Component approach to accuracy.* If testing a piece of output

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measurement equipment shows that the output readings are not accurate to within 3.0 percent of the full scale value, then the equipment should be repaired or replaced to meet that requirement. Data shall remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test.

- (g) *Ongoing QA/QC.* Ongoing quality assurance/quality control activities must be performed in order to maintain the output system.
- (1) *Billing meters.* In the case where billing meters are used to determine output, no QA/QC activities beyond what are already performed are required.
  - (2) *Non-billing meters.* Certain types of equipment such as potential transformers, current transformers, nozzle and venturi type meters, and the primary element of an orifice plate only require an initial certification of calibration and do not require periodic recalibration unless the equipment is physically changed. However, the pressure and temperature transmitters accompanying an orifice plate will require periodic retesting. For other types of equipment, the meter must be either recalibrated or re-verified for accuracy at least once every two years (i.e., every eight calendar quarters), unless a consensus standard allows for less frequent calibrations or accuracy tests. For non-billing meters, the output monitoring system must either meet an accuracy of within 10% of the reference value, or each component monitor for the output system must meet an accuracy of within 3% of the full scale value, whichever is less stringent. If testing a piece of output measurement equipment shows that the output readings are not accurate to within 3.0 percent of the full scale value, then the equipment should be repaired or replaced to meet that requirement.
  - (3) *Out-of-control periods.* If testing a piece of output measurement equipment shows that the output readings are not accurate to the

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certification value, data remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test. All invalid data shall be replaced by either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under subdivision XX-8.8(e).

(h) *Recordkeeping and reporting.*

- (1) *General provisions.* The CO<sub>2</sub> authorized account representative shall comply with all recordkeeping and reporting requirements in this section and with the requirements of subdivisions XX-1.5(e) and XX-2.1(e).
- (2) *Recordkeeping.* Facilities shall retain data used to monitor, determine, or calculate net generation for ten years.
- (3) *Annual reports.* The CO<sub>2</sub> authorized account representative shall submit annual output reports, as follows. The data must be sent both electronically and in hardcopy by March 1 for the immediately preceding calendar year to the REGULATORY AGENCY or its agent. The annual report shall include unit level MWh, all useful steam output and a certification statement from the CO<sub>2</sub> authorized account representative stating the following:

*"I am authorized to make this submission on behalf of the owners and operators of the CO<sub>2</sub> budget sources or CO<sub>2</sub> budget units 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.”*

## **Subpart XX-9      Auction of CO<sub>2</sub> and CCR Allowances**

### **XX-9.1      Purpose**

The following rules shall apply to each allowance auction. The REGULATORY AGENCY may specify additional information in the auction notice for each auction. Such additional information may include the time and location of the auction, auction rules, registration deadlines, and any additional information deemed necessary or useful.

### **XX-9.2      General Requirements**

(a) The REGULATORY AGENCY shall include the following information in the auction notice for each auction:

- (1) The number of CO<sub>2</sub> allowances offered for sale at the auction, not including any CO<sub>2</sub> CCR tier 1 or CO<sub>2</sub> CCR tier 2 allowances;
- (2) The number of CO<sub>2</sub> CCR tier 1 allowances that will be offered for sale at the auction if the condition of paragraph (b)(1) of this section is met;
- (3) The number of CO<sub>2</sub> CCR tier 2 allowances that will be offered for sale at the auction if the condition of paragraph (b)(3) of this section is met;
- (4) The minimum reserve price for the auction;
- (5) The CCR tier 1 trigger price for the auction; and-
- (6) The CCR tier 2 trigger price for the auction.

(b) The REGULATORY AGENCY shall follow these rules for the sale of CO<sub>2</sub> CCR allowances:



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- (1) CO<sub>2</sub> CCR tier 1 allowances shall only be sold at an auction in which total demand for allowances, above the CCR tier 1 trigger price, exceeds the number of CO<sub>2</sub> allowances available for purchase at the auction, not including any CO<sub>2</sub> CCR tier 1 or tier 2 allowances.
- (2) If the condition of paragraph (1) of this subdivision is met at an auction, then the number of CO<sub>2</sub> CCR tier 1 allowances offered for sale by the REGULATORY AGENCY at the auction shall be equal to the number of CO<sub>2</sub> CCR tier 1 allowances in the RELEVANT STATE AUCTION ACCOUNT at the time of the auction.
- (3) CO<sub>2</sub> CCR tier 2 allowances shall only be sold at an auction in which total demand for allowances, above the CCR tier 2 trigger price, exceeds the number of CO<sub>2</sub> allowances available for purchase at the auction, not including any CO<sub>2</sub> CCR tier 2 allowances.
- (4) If the condition of paragraph (3) of this subdivision is met at an auction, then the number of CO<sub>2</sub> CCR tier 2 allowances offered for sale by the REGULATORY AGENCY at the auction shall be equal to the number of CO<sub>2</sub> CCR tier 2 allowances in the RELEVANT STATE AUCTION ACCOUNT at the time of the auction.
- (5) After all of the CO<sub>2</sub> CCR tier 1 allowances in the RELEVANT STATE AUCTION ACCOUNT have been sold in a given calendar year, no additional CO<sub>2</sub> CCR tier 1 allowances will be sold at any auction for the remainder of that calendar year, even if the condition of paragraph (1) of this subdivision is met at an auction; and
- (6) After all of the CO<sub>2</sub> CCR tier 2 allowances in the RELEVANT STATE AUCTION ACCOUNT have been sold in a given calendar year, no additional CO<sub>2</sub> CCR tier 2 allowances will be sold at any auction for the remainder of that calendar year, even if the condition of paragraph (3) of this subdivision is met at an auction.
- (7) At an auction in which CO<sub>2</sub> CCR tier 1 allowances are sold, but no CO<sub>2</sub> CCR tier 2 allowances are sold, the reserve price for the auction shall be

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the CCR tier 1 trigger price.

- (8) At an auction in which CO<sub>2</sub> CCR tier 2 allowances are sold, the reserve price for the auction shall be the CCR tier 2 trigger price.
  - (9) If the condition of paragraph (1) of this subdivision is not satisfied, no CO<sub>2</sub> CCR tier 1 or CO<sub>2</sub> CCR tier 2 allowances shall be offered for sale at the auction, and the reserve price for the auction shall be equal to the minimum reserve price.
  - (10) If the condition of paragraph (3) of this subdivision is not satisfied, no CO<sub>2</sub> CCR tier 2 allowances shall be offered for sale at the auction, and the reserve price for the auction shall be determined as follows:
    - (i) If the condition of paragraph (1) of this subdivision is met, the reserve price shall be equal to the CCR tier 1 trigger price.
    - (ii) If the condition of paragraph (1) of this subdivision is not met, the reserve price shall be equal to the minimum reserve price.
- (c) The REGULATORY AGENCY shall implement the reserve price in the following manner:
- (1) No allowances shall be sold at any auction for a price below the reserve price for that auction; and
  - (2) If the total demand for allowances at an auction is less than or equal to the total number of allowances made available for sale in that auction, then the auction clearing price for the auction shall be the reserve price.