

7.70: Massachusetts CO₂ Budget Trading Program

(1) CO₂ Budget Trading Program General Provisions.

(a) Purpose. 310 CMR 7.70 establishes the Massachusetts CO₂ Budget Trading Program, which is designed to reduce anthropogenic emissions of CO₂, a greenhouse gas, from CO₂ budget sources in an economically efficient manner.

(b) Definitions.

Account Number. The identification number given by the Department or its agent to each CO₂ 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 Clean Air Act, 42 U.S.C. 7401 et seq. 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 Department of the number of CO₂ allowances to be recorded in the Voluntary Renewable Energy Account, or the Massachusetts Auction Account.

Allocation Year. A calendar year for which the Department allocates CO₂ allowances pursuant to 310 CMR 7.70(5). The allocation year is the first year a CO₂ allowance or a CO₂ offset allowance can be used to demonstrate compliance with 310 CMR 7.70. The allocation year of each CO₂ allowance is reflected in the unique identification number given to the allowance pursuant to 310 CMR 7.70(6)(d)3.

Allowance Auction or Auction. An auction in which DOER offers CO₂ allowances for sale, in accordance with 225 CMR 13.00: DOER CO₂ Budget Trading Program Auction Regulation.

Automated Data Acquisition and Handling System or DAHS. That component of the continuous emissions monitoring system, or other emissions monitoring system approved for use under 310 CMR 7.70(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 310 CMR 7.70(8).

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.

CO₂ Allowance. A limited authorization by the Department or a participating state under the CO₂ Budget Trading Program to emit up to one ton of CO₂, subject to all applicable limitations contained in 310 CMR 7.70 or equivalent regulations in other participating states.

CO₂ Allowance Deduction or Deduct CO₂ Allowances. The permanent withdrawal of CO₂ allowances by the Department or its agent from a CO₂ Allowance Tracking System (COATS) compliance account to account for the number of tons of CO₂ emitted from a CO₂ budget source for a control period or an interim control period, determined in accordance with 310 CMR 7.70(8), or for the forfeit or retirement of CO₂ allowances as provided by 310 CMR 7.70.

CO₂ Allowances Held. The CO₂ allowances recorded by the Department or its agent,

or submitted to the Department or its agent for recordation, in accordance with 310 CMR 7.70(6) and (7), in a CO₂ Allowance Tracking System (COATS) account.

CO₂ Allowance Tracking System or COATS. The system by which the Department or its agent records allocations, deductions, and transfers of CO₂ allowances under the CO₂ Budget Trading Program. The tracking system may also be used to track CO₂ allowance prices and emissions from affected sources.

CO₂ Allowance Tracking System (COATS)Account. An account in the CO₂ Allowance Tracking System (COATS) established by the Department or its agent for purposes of recording the allocation, holding, transferring, or deducting of CO₂ allowances.

CO₂ Allowance Transfer Deadline. The deadline by which CO₂ allowances shall be submitted for recordation in a CO₂ budget source's compliance account in order for the source to meet the requirements of 310 CMR 7.70(1)(e)3. for a control period or interim control period. The deadline is at midnight of the March 1 occurring after the end of the relevant control period or interim control period. If March 1 is not a business day, the deadline is midnight of the first business day thereafter.

CO₂ Authorized Account Representative. For a CO₂ budget source and each CO₂ budget unit at the source, the natural person who is authorized by the owners and operators of the source and all CO₂ budget units at the source, in accordance with 310 CMR 7.70(2), to represent and legally bind each owner and operator in matters pertaining to the CO₂ Budget Trading Program or, for a general account, the natural person who is authorized, under 310 CMR 7.70(6), to transfer or otherwise dispose of CO₂ allowances held in the general account. If the CO₂ budget source is also subject to the Acid Rain Program then, for a CO₂ Budget Trading Program compliance account, this natural person shall be the same person as the designated representative under the Acid Rain Program.

CO₂ Authorized Alternate Account Representative. For a CO₂ budget source and each CO₂ budget unit at the source, the alternate natural person who is authorized by the owners and operators of the source and all CO₂ budget units at the source, in accordance with 310 CMR 7.70(2), to represent and legally bind each owner and operator in matters pertaining to the CO₂ Budget Trading Program or, for a general account, the alternate natural person who is authorized, under 310 CMR 7.70(6), to transfer or otherwise dispose of CO₂ allowances held in the general account. If the CO₂ budget source is also subject to the Acid Rain Program, then, for a CO₂ Budget Trading Program compliance account, this alternate natural person shall be the same person as the alternate designated representative under the Acid Rain Program.

CO₂ Budget Emissions Control Plan. The legally binding permit issued by the Department pursuant to 310 CMR 7.70(1)(e)1. and (3) to a CO₂ budget source or CO₂ budget unit which specifies the CO₂ Budget Trading Program requirements applicable to the CO₂ budget source, to each CO₂ budget unit at the CO₂ budget source, and to the owners and operators and the CO₂ authorized account representative of the CO₂ budget source and each CO₂ budget unit.

CO₂ Budget Emissions Limitation. For a CO₂ budget source, the tonnage equivalent, in CO₂ emissions in a control period or an interim control period, of the CO₂ allowances available for compliance deduction for the source for a control period or twice the CO₂ allowances available for an interim control period.

CO₂ Budget Source. A source that includes one or more CO₂ budget units.

CO₂ Budget Trading Program. A multi-state CO₂ air pollution control and emissions reduction program established by regulation in several states, including Massachusetts pursuant to 310 CMR 7.70, for the purpose of reducing emissions of CO₂ from CO₂ budget sources.

CO₂ Budget Unit. A unit that is subject to the CO₂ Budget Trading Program requirements under 310 CMR 7.70(1)(d).

CO₂ Cost Containment Reserve Tier 1 Allowance or CO₂ CCR Tier 1 Allowance. A CO₂ allowance that is offered for sale at an auction by DOER in accordance with 225 CMR 13.00: DOER CO₂ Budget Trading Program Auction Regulation for the purpose of containing the cost of CO₂ allowances. CO₂ CCR tier 1 allowances offered for sale at an auction are separate from and additional to CO₂ allowances from the CO₂ Budget Trading Program base budget. CO₂ CCR tier 1 allowances are subject to all applicable limitations contained in 310 CMR 7.70 or equivalent regulations in other participating states.

CO₂ Cost Containment Reserve Tier 2 Allowance or CO₂ CCR Tier 2 Allowance. A CO₂ allowance that is offered for sale at an auction by DOER in accordance with 225 CMR 13.00: DOER CO₂ Budget Trading Program Auction Regulation for the purpose of containing the cost of CO₂ Allowances. CO₂ CCR tier 2 allowances offered for sale at an auction are separate from and additional to CO₂ allowances allocated from the Massachusetts CO₂ Budget Trading Program base and adjusted budgets. CO₂ CCR tier 2 allowances are subject to all applicable limitations contained in 310 CMR 7.70 or equivalent regulations in other participating states.

CO₂ 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 CO₂ CCR tier 1 allowances are offered for sale in an auction. The CCR tier 1 trigger prices shall be established by DOER in 225 CMR 13.03: Table 1.

CO₂ 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 CO₂ CCR tier 2 allowances are offered for sale in an auction. The CCR tier 2 trigger prices shall be established by DOER in 225 CMR 13.03: Table 2.

CO₂ Emissions Offset Project. A historical project that allowed a participating state to determine how many CO₂ Offset Allowances to record in a sponsor's general account related specific emission reductions outside of the electricity sector.

CO₂ Offset Allowance. A CO₂ allowance that is determined by the Department to have been recorded, by a participant state prior to January 1, 2027, in the general account of the sponsor of a CO₂ emissions offset project and is subject to the relevant compliance deduction limitations of section 310 CMR 7.70 (6)(e)1.c.

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.

Combined Heat and Power (CHP) CO₂ Budget Source. A CO₂ Budget Source that contains one or more CO₂ Budget Units which generate electricity and useful thermal energy in a single integrated system.

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, the date of commercial operation shall be when the unit begins 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 CO₂ budget unit under 310 CMR 7.70(1)(d) 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 CO₂ budget unit under 310 CMR 7.70(1)(d) on the date the unit commences commercial operation, the date the unit becomes a CO₂ budget unit under 310 CMR 7.70(1)(d) 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, startup of a unit's combustion chamber. For a unit that is a CO₂ budget unit under 310 CMR 7.70(1)(d) on the date of commencement of operation, 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 CO₂ budget unit under 310 CMR 7.70(1)(d) on the date of commencement of operation, the date the unit becomes a CO₂ budget unit under 310 CMR 7.70(1)(d) shall be the unit's date of commencement of operation

Compliance Account. A CO₂ Allowance Tracking System (COATS) account, established by the Department or its agent for a CO₂ budget source under 310 CMR 7.70(6), in which are held CO₂ allowances available for use by the source for a control period or interim control period for the purpose of meeting the CO₂ requirements of 310 CMR 7.70(1)(e)3.

Continuous Emissions Monitoring System or CEMS. The equipment required under 310 CMR 7.70(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 310 CMR 7.70(8).

Control Period. The control period is a three-calendar-year time period. The first control period is from January 1, 2009, through December 31, 2011. 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.

Department. The Massachusetts Department of Environmental Protection (pursuant to St. 1989, c. 240, § 101, "...the department of environmental quality engineering shall be known as the department of environmental protection").

Eligible Biomass. Eligible biomass includes sustainably harvested woody and 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, and biogas derived from such fuel sources. Liquid biofuels do not qualify as eligible biomass. Sustainably harvested shall be determined by the Department.

Excess Emissions. Any tonnage of CO₂ emitted by a CO₂ budget source during a control period that exceeds the CO₂ budget emissions limitation for the source.

Excess Interim Emissions. Any tonnage of CO₂ emitted by a CO₂ budget source during an interim control period that when multiplied by 0.50 exceeds the CO₂ 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.

(a) 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% of the annual heat input on a Btu basis during any year.

(b) 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% of the annual heat input on a Btu basis during any year.

General Account. A CO₂ Allowance Tracking System (COATS) account, established under 310 CMR 7.70(6), that is not a compliance account.

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. 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 three 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:

- (a) For the life of the unit;
- (b) For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or
- (c) For a period equal to or greater than either 25 years, or 70% 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.

Massachusetts Auction Account. An account administered by DOER for purposes of auctioning CO₂ allowances in accordance with 225 CMR 13.00: DOER CO₂ Budget Trading Program Auction Regulation.

Massachusetts CO₂ Budget Trading Program Base Budget. The Massachusetts CO₂ Budget Trading Program base budget is specified in 310 CMR 7.70(5)(a). CO₂ CCR Tier 1 and CO₂ CCR Tier 2 Allowances offered for sale at auction are separate from and additional to CO₂ allowances allocated from the Massachusetts CO₂ Budget Trading Program base budget.

Massachusetts Department of Energy Resources or DOER. The Massachusetts agency established pursuant to M.G.L. c. 25A, §§ 1 through 13.

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 flowrate and either the maximum carbon dioxide concentration (in percent CO₂) or the minimum oxygen concentration (in percent O₂).

Monitoring System. Any monitoring system that meets the requirements of 310 CMR 7.70(8), including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.

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.

Non-CO₂ Budget Unit. A unit that does not meet the applicability criteria of 310 CMR 7.70(1)(d).

Operator. Any person who operates, controls, or supervises a CO₂ budget unit or a CO₂ budget source including, but not limited to, any holding company, utility system, or plant manager of such a unit or source.

Owner. Any of the following persons:

- (a) Any holder of any portion of the legal or equitable title in a CO₂ budget unit; or
- (b) Any holder of a leasehold interest in a CO₂ 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 CO₂ budget unit; or

(c) Any purchaser of power from a CO₂ budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit; or

(d) With respect to any general account, any person who has an ownership interest with respect to the CO₂ allowances held in the general account and who is subject to the binding agreement for the CO₂ authorized account representative to represent that person's ownership interest with respect to the CO₂ allowances.

Participating State. A state that is a member of the CO₂ Budget Trading Program and has promulgated a regulation consistent with 310 CMR 7.70.

Receive or Receipt of. When referring to the Department or its agent, to 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 Department or its agent in the regular course of business.

Recordation, Record, or Recorded. With regard to CO₂ allowances, the movement of CO₂ allowances by the Department or its agent from one CO₂ Allowance Tracking System (COATS) account to another.

Serial Number. When referring to CO₂ allowances, the unique identification number assigned to each CO₂ allowance by the Department or its agent under 310 CMR 7.70(6)(d)3.

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 U.S. 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:

- (a) In person;
- (b) By United States Postal Service;
- (c) By other means of dispatch or transmission and delivery; or
- (d) 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 compliance with the CO₂ requirements of 310 CMR 7.70(1)(e)3., 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 310 CMR 7.70(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 CO₂ Allowances. CO₂ allowances originally allocated to an account pursuant to 310 CMR 7.70(5)(b) 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.

Useful Net Thermal Energy. Energy:

- (a) in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements, excluding thermal energy used in the power production process (e.g., house loads, parasitic loads); and
- (b) for which fuel or electricity would otherwise be consumed.

Useful Thermal Energy Account. An account established for the purpose of retiring allowances pursuant to 310 CMR 7.70(5)(b)4.a.

Unsold CO₂ Allowances. CO₂ allowances that have been made available for sale in an auction conducted by DOER, but not sold.

Voluntary Renewable Energy Account. An account established for the purpose of retiring allowances pursuant to 310 CMR 7.70(5)(b)1.a.iii.

(c) Measurements, Abbreviations and Acronyms. Measurements, abbreviations, and acronyms used in 310 CMR 7.70 are defined as follows:

- 1. CO₂ – 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;
- 8. scf – standard cubic feet.

(d) Applicability. 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 CO₂ budget unit, and any source that includes one or more such units shall be a CO₂ budget source, subject to the requirements of 310 CMR 7.70.

(e) Standard Requirements.

1. CO₂ Budget Emission Control Plan Requirements.

- a. The CO₂ authorized account representative of each CO₂ budget source shall:
 - i. Submit to the Department a complete CO₂ budget emission control plan under 310 CMR 7.70(3)(c) in accordance with the deadlines specified in 310 CMR 7.70(3)(b); and
 - ii. Submit in a timely manner any supplemental information that the Department determines is necessary in order to review and approve or deny the CO₂ budget emission control plan.
- b. The owners and operators of each CO₂ budget source and each CO₂ budget unit for the source shall have an approved CO₂ budget emission control plan and operate the CO₂ budget source and the CO₂ budget unit at the source in compliance with such approved CO₂ budget emission control plan.

2. Monitoring Requirements.

- a. The owners and operators and, to the extent applicable, the CO₂ authorized account representative of each CO₂ budget source and each CO₂ budget unit at the source shall comply with the monitoring requirements of 310 CMR 7.70(8).
- b. The emissions measurements recorded and reported in accordance with 310 CMR 7.70(8) shall be used to determine compliance by the unit with the CO₂ requirements of 310 CMR 7.70(1)(e)3.

3. CO₂ Requirements.

- a. The owners and operators of each CO₂ budget source and each CO₂ budget unit at the source shall hold CO₂ allowances available for compliance deductions under 310 CMR 7.70(6)(e), as of the CO₂ allowance transfer deadline, in the source's compliance account in an amount not less than the total number of tons of CO₂ emissions for the control period from all CO₂ budget units at the source, minus the CO₂ allowances deducted to meet the requirements of 310 CMR 7.70(1)(e)3.b., as determined in accordance with 310 CMR 7.70(6) and (8).
- b. The owners and operators of each CO₂ budget source and each CO₂ budget unit at the source shall hold CO₂ allowances available for compliance

deductions under 310 CMR 7.70(6)(e), as of the CO₂ allowance transfer deadline, in the CO₂ budget source's compliance account in an amount not less than 0.50 times the total number of tons of CO₂ emissions for the interim control period from all CO₂ budget units at the CO₂ budget source, as determined in accordance with 310 CMR 7.70(6) and (8).

c. Each ton of CO₂ emitted in excess of the CO₂ budget emissions limitation for a control period shall constitute a separate violation of 310 CMR 7.70 and applicable state law.

d. Each ton of excess interim emissions shall constitute a separate violation of 310 CMR 7.70 and applicable state law.

e. A CO₂ budget unit shall be subject to the requirements under 310 CMR 7.70(1)(e)3.a. on January 1, 2009, or the date on which the unit commences operation, whichever comes later.

f. CO₂ allowances shall be held in, deducted from, or transferred among CO₂ Allowance Tracking System (COATS) accounts in accordance with 310 CMR 7.70(5) through (7).

g. A CO₂ allowance shall not be deducted in order to comply with the requirements under 310 CMR 7.70(1)(e)3.a. and b. for a control period or interim control period that ends prior to the year for which the CO₂ allowance was allocated. A CO₂ offset allowance shall not be deducted in order to comply with the requirements under 310 CMR 7.70(1)(e)3.a. beyond the applicable percent limitations set out in 310 CMR 7.70(6)(e)1.c.

h. A CO₂ allowance under the CO₂ Budget Trading Program is a limited authorization by the Department or a participating state to emit one ton of CO₂ in accordance with the CO₂ Budget Trading Program. No provision of the CO₂ Budget Trading Program, the application for a CO₂ budget emissions control plan, or the approved CO₂ budget emissions control plan, or any provision of law shall be construed to limit the authority of the State to terminate or limit such authorization.

i. A CO₂ allowance under the CO₂ Budget Trading Program does not constitute a property right.

4. Excess Emissions Requirements. The owners and operators of a CO₂ budget source that has excess emissions in any control period or excess interim emissions in any interim control period shall:

a. Forfeit the CO₂ allowances required for deduction under 310 CMR 7.70(6)(e)4.a., provided CO₂ offset allowances may not be used to cover any part of such excess emissions; and,

b. Pay any fine, penalty, or assessment or comply with any other remedy imposed under 310 CMR 7.70(6)(e)4.b.

5. Recordkeeping and Reporting Requirements.

a. Unless otherwise provided, the owners and operators of the CO₂ budget source and each CO₂ budget unit at the source shall keep on site at the source each of the following documents for a period of ten years from the date the document is created. This period may be extended for cause, at any time prior to the end of ten years, in writing by the Department.

i. The account certificate of representation for the CO₂ authorized account representative for the source and each CO₂ budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with 310 CMR 7.70(2)(d), provided that the certificate and documents shall be retained on site at the source beyond such ten- year period until such documents are superseded because of the submission of a new account certificate of representation changing the CO₂ authorized account representative.

ii. All emissions monitoring information, in accordance with 310 CMR 7.70(8) and 40 CFR 75.57.

iii. Copies of all reports, compliance certifications, and other submissions and all records made or required under the CO₂ Budget Trading Program. Copies of all documents used to complete an application for a CO₂ budget emissions control plan and any other submission under the CO₂ Budget Trading Program or to demonstrate compliance with the requirements of the CO₂ Budget Trading Program.

- b. The CO₂ authorized account representative of a CO₂ budget source and each CO₂ budget unit at the source shall submit the reports and compliance certifications required under the CO₂ Budget Trading Program, including those under 310 CMR 7.70(4).
 6. Liability.
 - a. No revision to a CO₂ budget emissions control plan shall excuse any violation of the requirements of the CO₂ Budget Trading Program that occurs prior to the date that the revision takes effect.
 - b. Any provision of the CO₂ Budget Trading Program that applies to a CO₂ budget source (including a provision applicable to the CO₂ authorized account representative of a CO₂ budget source) shall also apply to the owners and operators of such source and of the CO₂ budget units at the source.
 - c. Any provision of the CO₂ Budget Trading Program that applies to a CO₂ budget unit (including a provision applicable to the CO₂ authorized account representative of a CO₂ budget unit) shall also apply to the owners and operators of such unit.
 7. Effect on Other Authorities.
 - a. No provision of the CO₂ Budget Trading Program, a CO₂ budget emissions control plan application, or an approved CO₂ budget emissions control plan, shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget source or CO₂ budget unit from compliance with any other provisions of applicable State and Federal laws and regulations.
 8. New CO₂ Budget Unit and CO₂ Budget Sources. The owner or operator of a CO₂ budget unit that commences commercial operation on or after July 1, 2008 shall hold CO₂ allowances available for compliance deductions under 310 CMR 7.70(6)(e), in an amount not less than the total CO₂ emissions from the date of the initial certification of the monitor or the date of the provisional certification of the monitor, as required under 310 CMR 7.70(8), whichever is earlier.
 - (f) Computation of Time.
 1. Unless otherwise stated, any time period scheduled under the CO₂ Budget Trading Program to begin on the occurrence of an act or event shall begin on the day the act or event occurs.
 2. Unless otherwise stated, any time period scheduled under the CO₂ 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.
 3. Unless otherwise stated, if the final day of any time period under the CO₂ Budget Trading Program falls on a weekend or a Massachusetts or Federal holiday, the time period shall be extended to the next business day.
 - (g) Severability. If any provision of 310 CMR 7.70, or its application to any particular person or circumstances, is held invalid, the remainder of 310 CMR 7.70, and the application thereof to other persons or circumstances, shall not be affected thereby.
 - (h) Exemption for Any Combined Heat and Power CO₂ Budget Source.
 1. Applicability. Notwithstanding 310 CMR 7.70(1)(d), any entity owning, operating, or controlling a combined heat and power CO₂ budget source that sells its useful net thermal energy shall comply with all of the provisions of 310 CMR 7.70, except that it may subtract from its total CO₂ emissions recorded for compliance under 310 CMR 7.70(6) the amount of CO₂ emissions attributable to the production of useful net thermal energy as long as it complies with all of the provisions in 310 CMR 7.70(1)(h).
 2. Compliance. Any entity owning, operating, or controlling a combined heat power CO₂ budget source shall comply with the requirements in 310 CMR 7.70(6)(e)2.
- (2) Monitoring and Reporting. Any entity owning, operating, or controlling a combined heat and power CO₂ budget source shall monitor and report the amount of annual CO₂ mass emissions (expressed in tons) associated with the production of useful net thermal energy pursuant to 310 CMR 7.70(8)(e) for the control period beginning 2015 and each year thereafter.
- CO₂ Authorized Account Representative for CO₂ Budget Sources.
- (a) Authorization and Responsibilities of the CO₂ Authorized Account Representative.
 1. Except as provided under 310 CMR 7.70(2)(b), each CO₂ budget source, including all CO₂ budget units at the source, shall have one and only one CO₂ authorized account representative, with regard to all matters under the CO₂

Budget Trading Program concerning the source or any CO₂ budget unit at the source.

2. The CO₂ authorized account representative of the CO₂ budget source shall be selected by an agreement binding on the owners and operators of the source and all CO₂ budget units at the source and shall act in accordance with the certificate of representation under 310 CMR 7.70(2)(d).

3. Upon receipt by the Department or its agent of a complete account certificate of representation under 310 CMR 7.70(2)(d), the CO₂ authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CO₂ budget source represented and each CO₂ budget unit at the source in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CO₂ authorized account representative by the Department or a court regarding the source or unit.

4. No CO₂ budget emissions control plan shall be issued, and no CO₂ Allowance Tracking System (COATS) account shall be established for a CO₂ budget source, until the Department or its agent has received a complete account certificate of representation under 310 CMR 7.70(2)(d) for a CO₂ authorized account representative of the source and the CO₂ budget units at the source.

5. Each submission under the CO₂ Budget Trading Program shall be submitted, signed, and certified by the CO₂ authorized account representative for each CO₂ budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CO₂ authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget sources or CO₂ 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."

6. The Department or its agent shall accept or act on a submission made on behalf of owners or operators of a CO₂ budget source or a CO₂ budget unit only if the submission has been made, signed, and certified in accordance with 310 CMR 7.70(2)(a)5.

(b) CO₂ Authorized Alternate Account Representative.

1. An account certificate of representation may designate one and only one CO₂ authorized alternate account representative who may act on behalf of the CO₂ authorized account representative. The agreement by which the CO₂ authorized alternate account representative is selected shall include a procedure for authorizing the CO₂ authorized alternate account representative to act in lieu of the CO₂ authorized account representative.

2. Upon receipt by the Department or its agent of a complete account certificate of representation under 310 CMR 7.70(2)(d), any representation, action, inaction, or submission by the CO₂ authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO₂ authorized account representative.

3. Except in 310 CMR 7.70(2)(b) and 310 CMR 7.70(2)(a)1., (c), (d), and (6)(b), whenever the term "CO₂ authorized account representative" is used in 310 CMR 7.70, the term shall be construed to include the CO₂ authorized alternate account representative.

(c) Changing the CO₂ Authorized Account Representative and the CO₂ Authorized Alternate Account Representative; Changes in the Owners and Operators.

1. Changing the CO₂ Authorized Account Representative. The CO₂ authorized account representative may be changed at any time upon receipt by the Department or its agent of a superseding complete account certificate of representation under 310 CMR 7.70(2)(d). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂

authorized account representative or alternate CO₂ authorized account representative prior to the time and date when the Department or its agent receives the superseding account certificate of representation shall be binding on the new CO₂ authorized account representative and the owners and operators of the CO₂ budget source and the CO₂ budget units at the source.

2. Changing the CO₂ Authorized Alternate Account Representative. The CO₂ authorized alternate account representative may be changed at any time upon receipt by the Department or its agent of a superseding complete account certificate of representation under 310 CMR 7.70(2)(d). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized account representative or CO₂ authorized alternate account representative prior to the time and date when the Department or its agent receives the superseding account certificate of representation shall be binding on the new CO₂ authorized alternate account representative and the owners and operators of the CO₂ budget source and the CO₂ budget units at the source.

3. Changes in the Owners and Operators.

a. In the event a new owner or operator of a CO₂ budget source or a CO₂ 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 CO₂ authorized account representative and any CO₂ authorized alternate account representative of the source or unit, and the decisions, orders, actions, and inactions of the Department, as if the new owner or operator were included in such list.

b. Within 30 days following any change in the owners and operators of a CO₂ budget source or a CO₂ budget unit, including the addition of a new owner or operator, the CO₂ authorized account representative or CO₂ authorized alternate account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

(d) Account Certificate of Representation.

1. A complete account certificate of representation for a CO₂ authorized account representative or a CO₂ authorized alternate account representative shall include the following elements in a format prescribed by the Department or its agent:

a. Identification of the CO₂ budget source and each CO₂ budget unit at the source for which the account certificate of representation is submitted;

b. The name, address, email address, telephone number, and facsimile transmission number of the CO₂ authorized account representative and any CO₂ authorized alternate account representative;

c. A list of the owners and operators of the CO₂ budget source and of each CO₂ budget unit at the source;

d. The following certification statement by the CO₂ authorized account representative and any CO₂ authorized alternate account representative: "I certify that I was selected as the CO₂ authorized account representative or CO₂ authorized alternate account representative, as applicable, by an agreement binding on the owners and operators of the CO₂ budget source and each CO₂ budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of the owners and operators of the CO₂ budget source and of each CO₂ 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 Department or a court regarding the source or unit."; and,

e. The signature of the CO₂ authorized account representative and any CO₂ authorized alternate account representative and the dates signed.

2. Unless otherwise required by the Department or its agent, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or its agent. Neither the Department nor its agent shall be under any obligation to review or evaluate the sufficiency of such documents, whether or not submitted.

(e) Objections Concerning the CO₂ Authorized Account Representative.

1. Once a complete account certificate of representation under 310 CMR 7.70(2)(d) has been submitted and received, the Department and its agent shall rely on the account certificate of representation unless and until the Department or its agent receives a superseding complete account certificate of representation under 310 CMR 7.70(2)(d).
2. Except as provided in 310 CMR 7.70(2)(c)1. or 2., no objection or other communication submitted to the Department or its agent concerning the authorization, or any representation, action, inaction, or submission of the CO₂ authorized account representative shall affect any representation, action, inaction, or submission of the CO₂ authorized account representative or the finality of any decision or order by the Department or its agent under the CO₂ Budget Trading Program.
3. Neither the Department nor its agent shall adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CO₂ authorized account representative, including private legal disputes concerning the proceeds of CO₂ allowance transfers.

(f) Delegation by CO₂ Authorized Account Representative and CO₂ Authorized Alternate Account Representative.

1. A CO₂ authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent under 310 CMR 7.70.
2. A CO₂ authorized alternate account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent under 310 CMR 7.70.
3. In order to delegate authority to make an electronic submission to the Department or its agent in accordance with 310 CMR 7.70(2)(f)1. and 2., the CO₂ authorized account representative or CO₂ authorized alternate account representative, as appropriate, shall submit to the Department or its agent a notice of delegation, in a format prescribed by the Department that includes the following elements:
 - a. The name, address, email address, telephone number, and facsimile transmission number of such CO₂ authorized account representative or CO₂ authorized alternate account representative;
 - b. The name, address, email address, telephone number and facsimile transmission number of each such natural person, herein referred to as the “electronic submission agent”;
 - c. For each such natural person, a list of the types of electronic submissions under 310 CMR 7.70(2)(f)1. and 2. for which authority is delegated to him or her; and,
 - d. The following certification statements by such CO₂ authorized account representative or CO₂ authorized alternate account representative:
 - i. “I agree that any electronic submission to the Department 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 CO₂ authorized account representative or CO₂ authorized alternate account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 310 CMR 7.70(2)(f)4. shall be deemed to be an electronic submission by me.”
 - ii. “Until this notice of delegation is superseded by another notice of delegation under 310 CMR 7.70(2)(f)4., I agree to maintain an email account and to notify the Department or its agent immediately of any change in my email address unless all delegation authority by me under 310 CMR 7.70(2)(f) is terminated.”
4. A notice of delegation submitted under 310 CMR 7.70(2)(f)3. shall be effective, with regard to the CO₂ authorized account representative or CO₂ authorized alternate account representative identified in such notice, upon receipt of such notice by the Department or its agent and until receipt by the Department or its agent of a superseding notice of delegation by such CO₂ authorized account representative or CO₂ 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.

5. Any electronic submission covered by the certification in 310 CMR 7.70(2)(f)3.d.i. and made in accordance with a notice of delegation effective under 310 CMR 7.70(2)(f)4. shall be deemed to be an electronic submission by the CO₂ authorized account representative or CO₂ authorized alternate account representative submitting such notice of delegation.

6. A CO₂ authorized account representative may delegate, to one or more natural persons, his or her authority to review information in the CO₂ allowance tracking system (COATS) under 310 CMR 7.70.

7. A CO₂ authorized alternate account representative may delegate, to one or more natural persons, his or her authority to review information in the CO₂ allowance tracking system (COATS) under 310 CMR 7.70.

8. In order to delegate authority to review information in the CO₂ allowance tracking system (COATS) in accordance with 310 CMR 7.70(2)(f), the CO₂ authorized account representative or CO₂ authorized alternate account representative, as appropriate, must submit to the Department or its agent a notice of delegation, in a format prescribed by the Department that includes the following elements:

- a. The name, address, e-mail address, telephone number, and facsimile transmission number of such CO₂ authorized account representative or CO₂ authorized alternate account representative;
- b. The name, address, e-mail address, telephone number and facsimile transmission number of each such natural person, herein referred to as the "reviewer";
- c. For each such natural person, a list of the type of information under 310 CMR 7.70(2)(f) for which reviewing authority is delegated to him or her; and
- d. The following certification statements by such CO₂ authorized account representative or CO₂ 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 while I am a CO₂ authorized account representative or CO₂ authorized alternate account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 310 CMR 7.70(2)(f)9. shall be deemed to be a reviewer by me."
 - (ii) "Until this notice of delegation is superseded by another notice of delegation under 310 CMR 7.70(2)(f)9., I agree to maintain an email account and to notify the Department or its agent immediately of any change in my e-mail address unless all delegation authority by me under section 310 CMR 7.70(2)(f) is terminated."

9. A notice of delegation submitted under 310 CMR 7.70(2)(f)8. shall be effective, with regard to the CO₂ authorized account representative or CO₂ authorized alternate account representative identified in such notice, upon receipt of such notice by the Department or its agent and until receipt by the Department or its agent of a superseding notice of delegation by such CO₂ authorized account representative or CO₂ 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.

(3) CO₂ Budget Emission Control Plan Requirements.

(a) CO₂ Budget Emission Control Plan Requirements. The owners and operators of CO₂ budget sources shall have an approved CO₂ budget emission control plan issued by the Department pursuant to 310 CMR 7.70(1)(e)1. that contains all applicable CO₂ Budget Trading Program requirements under 310 CMR 7.70(3)(c). Owners and operators of CO₂ budget sources shall comply with the approved CO₂ budget emission control plan.

(b) Submission of CO₂ Budget Emission Control Plan. For any CO₂ budget source, the CO₂ authorized account representative shall submit a complete CO₂ budget emission control plan under 310 CMR 7.70(3)(c) covering such CO₂ budget source to the Department on or before August 1, 2008, or 12 months before the date on which the CO₂ budget source, or a new unit at the source, commences operation, whichever is later.

(c) CO₂ Budget Emission Control Plan Contents. A complete CO₂ budget emission control plan shall include the following elements concerning the CO₂ budget source in a format prescribed by the Department:

1. Identification of the CO₂ 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 CO₂ budget unit at the CO₂ budget source;
3. A compliance account identification number for each CO₂ budget source;
4. For CO₂ budget sources subject to 40 CFR Part 72, a statement that the CO₂ authorized account representative shall ensure that the CO₂ budget unit will have an EPA approved monitoring plan in place that meets the requirements of 310 CMR 7.70(8) prior to operation. Any modification to a CO₂ budget unit's monitoring methodology approved pursuant to the requirements of 40 CFR Part 72, and meeting the requirements of 310 CMR 7.70(8), are hereby incorporated into the approved emission control plan under 310 CMR 7.70;
5. For CO₂ budget sources not subject to 40 CFR Part 72, a statement that the CO₂ authorized account representative shall ensure that the CO₂ budget unit will have an EPA approved monitoring plan in place that meets the requirements of 310 CMR 7.70(8) prior to operation;
6. For CO₂ budget sources that have an approved output monitoring plan as of March 9, 2018, a statement that the CO₂ budget sources have an output monitoring plan that meets the requirements in 310 CMR 7.70(8);
7. For CO₂ budget sources that do not have an approved output monitoring plan as of March 9, 2018, a detailed output monitoring plan that meets the requirements of 310 CMR 7.70(8);
8. The standard requirements under 310 CMR 7.70(1)(e); and
9. Any other information requested by the Department.

(d) Approval of CO₂ budget emission control plans. After reviewing the proposed CO₂ budget emissions control plan, the Department shall:

1. Issue a proposed disapproval of the CO₂ budget emission control plan, a proposed approval of the CO₂ budget emissions control plan, or a proposed approval of the CO₂ budget emission control plan with conditions, based on whether the CO₂ budget emission control plan as submitted meets the requirements of 310 CMR 7.70;
2. Notify the public of the Department's proposed action by publishing a notice in the Environmental Monitor;
3. Make available on its website all related materials;
4. Allow not less than 21 days for public comment;
5. Make all comments available for public inspection; and
6. Notify the applicant and publish on the Department's website the final approval of the CO₂ budget emission control plan, the final approval of the CO₂ budget emission control plan with conditions, or a disapproval of the CO₂ budget emission control plan.

(e) CO₂ budget emission control plan approvals issued to a CO₂ budget source that changes ownership are binding upon the new owner.

(f) Revisions to CO₂ Budget Emission Control Plans.

1. At any time, the Department may require a CO₂ budget source to submit a revision to its CO₂ budget emission control plan.
2. If the CO₂ budget source required to submit a detailed monitoring plan pursuant to 310 CMR 7.70(3)(c)5. or 7. proposes a change in the monitoring methodology, then that CO₂ budget source shall submit a revised monitoring plan to the Department and obtain approval of the change to the CO₂ budget emission control plan by the Department prior to making the modification. The Department will modify the CO₂ budget emission control plan upon approval of the revised monitoring plan.
3. At any time, a CO₂ budget source may propose a change to its CO₂ budget emissions control plan.

(g) Operating Permits. If the CO₂ budget source is required to have an Operating Permit under 310 CMR 7.00: Appendix C, such Operating Permit shall be modified in accordance with the procedures in 310 CMR 7.00: Appendix C(8).

(4) Compliance Certification.

(a) Compliance Certification Report.

1. Applicability and Deadline. For each control period in which a CO₂ budget

source is subject to the CO₂ requirements of 310 CMR 7.70(1)(e)3., the CO₂ authorized account representative of the source shall submit to the Department, by the March 1st 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.

2. Contents of Report. The CO₂ authorized account representative shall include in the compliance certification report under 310 CMR 7.70(4)(a)1. the following elements, in a format prescribed by the Department:

- a. Identification of the source and each CO₂ budget unit at the source;
- b. At the CO₂ authorized account representative's option, the serial numbers of the CO₂ allowances that are to be deducted from the source's compliance account under 310 CMR 7.70(6)(e) for the control period, including the serial numbers of any CO₂ offset allowances that are to be deducted subject to the limitations of 310 CMR 7.70(6)(e)1.c.; and
- c. The compliance certification under 310 CMR 7.70(4)(a)3.

3. Compliance Certification. In the compliance certification report under 310 CMR 7.70(4)(a)1., the CO₂ authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO₂ budget units at the source in compliance with the CO₂ Budget Trading Program, whether the source and each CO₂ 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 CO₂ Budget Trading Program, including:

- a. Whether the source was operated in compliance with the CO₂ requirements of 310 CMR 7.70(1)(e)3.;
- b. 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 CO₂ emissions to the unit, in accordance with 310 CMR 7.70(8);
- c. Whether all the CO₂ 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 310 CMR 7.70(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;
- d. Whether the facts that form the basis for certification under 310 CMR 7.70(8) of each monitor at each unit at the source, or for using an excepted monitoring method or alternate monitoring method approved under 310 CMR 7.70(8), if any, have changed; and
- e. If a change is required to be reported under 310 CMR 7.70(4)(a)3.d., 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.

(b) Department's Action on Compliance Certifications.

1. The Department or its agent may review and conduct independent audits concerning any compliance certification or any other submission under the CO₂ Budget Trading Program and make appropriate adjustments to the information in the compliance certifications or other submissions.
2. The Department or its agent may deduct CO₂ allowances from or transfer CO₂ allowances to a source's compliance account based on the information in the compliance certifications or other submissions, as adjusted under 310 CMR 7.70(4)(b)1.

(5) CO₂ Allowance Allocations.

(a) Massachusetts CO₂ Budget Trading Program Base Budget.

1. For 2026, the Massachusetts CO₂ Budget Trading Program base budget is 10,134,604 tons.
2. For 2027, the Massachusetts CO₂ Budget Trading Program base budget is 9,008,537 tons.
3. For 2028, the Massachusetts CO₂ Budget Trading Program base budget is 7,882,470 tons.
4. For 2029, the Massachusetts CO₂ Budget Trading Program base budget is

6,756,403 tons.

5. For 2030, the Massachusetts CO₂ Budget Trading Program base budget is 5,630,336 tons.

6. 2031, the Massachusetts CO₂ Budget Trading Program base budget is 4,504,268 tons.

7. 2032, the Massachusetts CO₂ Budget Trading Program base budget is 3,378,201 tons.

8. 2033, the Massachusetts CO₂ Budget Trading Program base budget is 2,252,134 tons.

9. 2034, the Massachusetts CO₂ Budget Trading Program base budget is 1,930,401 tons.

10. 2035, the Massachusetts CO₂ Budget Trading Program base budget is 1,608,667 tons.

11. 2036, the Massachusetts CO₂ Budget Trading Program base budget is 1,286,934 tons.

12. For 2037, and each calendar year thereafter, the Massachusetts CO₂ Budget Trading Program base budget will be 965,200 tons.

(b) CO₂ Allowance Allocations.

1. General Allocations.

a. Voluntary Renewable Energy (VRE) Account.

i. The Department shall establish a retirement account to address the voluntary purchase of Massachusetts RPS-eligible Renewable Energy Certificates by retail customers in Massachusetts. CO₂ allowances transferred into this account cannot be removed, unless they are transferred in error.

ii. Beginning in 2010 and ending in 2026, DOER will submit to the Department a report, certified by DOER, documenting:

- (i) The number of Massachusetts RPS-eligible Renewable Energy Certificates purchased voluntarily by retail customers in Massachusetts in the preceding year, in Mwh;
- (ii) The annual average CO₂ emission rate for electricity generation, in lbs. CO₂/MWh as provided in the most recently available version of the ISO New England Electric Generator Air Emissions Report published annually by the Independent System Operator of New England;
- (iii) The total number of CO₂ allowances to be retired for such voluntary purchases in Massachusetts of said Massachusetts RPS-eligible Renewable Energy Certificates; and,
- (iv) All calculations used to determine the amount referenced in 310 CMR 7.70(5)(b)1.a.ii.(iii).

iii. After review of a certified report submitted to the Department pursuant to 310 CMR 7.70(5)(b)1.a.ii., the Department will allocate to the VRE Account the number of CO₂ allowances reported pursuant to 310 CMR 7.70(5)(b)1.a.ii.(iii), or 200,000 CO₂ allowances, whichever is fewer.

b. Massachusetts Auction Account.

i. The Department shall establish a Massachusetts Auction Account.

ii. The Department shall allocate all CO₂ allowances not allocated under 310 CMR 7.70(5)(b)1.a. or 4. to the Massachusetts Auction Account.

iii. On or before January 1, 2027, and each year thereafter the Department shall allocate into the Massachusetts Auction Account current vintage year CO₂ CCR tier 1 and current vintage year CO₂ CCR tier 2 Allowances in the quantity specified in 310 CMR 7.70(5)(b)2.

c. CO₂ Allowances Available for Allocation. For allocation year 2027 and each succeeding calendar year, the Massachusetts CO₂ Budget Trading Program base budget shall be the maximum number of allowances available for allocation in a given allocation year, except for CO₂ CCR tier 1 and CO₂ CCR tier 2 allowances.

2. Cost Containment Reserve (CCR) Allocation. The Department shall allocate CO₂ CCR tier 1 and CO₂ CCR tier 2 allowances, separate from and additional to Massachusetts CO₂ Budget Trading Program base budget set forth in 310 CMR 7.70(5)(a)., into the Massachusetts Auction Account. The Department shall allocate CO₂ CCR tier 1 and CO₂ CCR tier 2 allowances in the following manner: On or before January 1, 2027, and each year thereafter, the Department shall allocate 1,515,860 current vintage year CO₂ CCR tier 1 and 1,515,860 CO₂ CCR

- tier 2 allowances and shall withdraw the number of CO₂ CCR tier 1 and CO₂ CCR tier 2 allowances that remain in the Massachusetts Auction Account at the end of the prior calendar year.
- a. CO₂ CCR tier 1 and CO₂ CCR tier 2 allowances shall be offered for sale at an auction in which total demand for allowances, above the CCR trigger price, exceeds the number of CO₂ allowances available for purchase at the auction, not including any CO₂ CCR tier 1 and CO₂ CCR tier 2 allowances.
 - b. After all of the CO₂ CCR tier 1 and CCR tier 2 allowances in the Massachusetts Auction Account have been sold in a given calendar year, no additional CO₂ CCR allowances will be transferred into the Massachusetts Auction Account that calendar year.
3. Undistributed and Unsold CO₂ Allowances.
 - a. The Department or DOER may retire undistributed CO₂ allowances at the end of each control period.
 - b. The Department or DOER may retire unsold CO₂ allowances at the end of each control period.
 - c. The Department may create one or more retirement accounts in the CO₂ Allowance Tracking System for the purpose of retiring CO₂ allowances. CO₂ allowances transferred into retirement accounts cannot be removed, unless they are transferred in error.
 4. Useful Net Thermal Energy Retirement Account.
 - a. Pursuant to 310 CMR 7.70(5)(b)3.c., the Department shall create a useful net thermal energy retirement account in the RGGI CO₂ Allowance Tracking System for the purpose of retiring CO₂ allowances equal to the amount of CO₂ emissions attributable to the production of useful net thermal energy from combined heat and power CO₂ budget sources.
 - b. Each year, the Department shall retire CO₂ allowances equal to the amount of CO₂ emissions attributed to the production of useful net thermal energy during the prior calendar year, as quantified and reported by the CO₂ authorized account representative pursuant to under 310 CMR 7.70(8)(e).
 5. Pursuant to 310 CMR 7.70(5)(b)3.c., the Department shall create a Cost Containment Reserve Retirement Account in the RGGI CO₂ Allowance Tracking System (COATS) for the purpose of retiring CO₂ CCR allowances not converted into CO₂ CCR allowances for the following year.
- (6) CO₂ Allowance Tracking System (COATS).
- (a) CO₂ Allowance Tracking System (COATS) Accounts.
 1. Compliance Accounts. Consistent with 310 CMR 7.70(6)(b)1., the Department or its agent shall establish one compliance account for each CO₂ budget source. Deductions or transfers of CO₂ allowances pursuant to 310 CMR 7.70(4)(b), (6)(e), (6)(g), or (7) shall be recorded in the compliance accounts in accordance with 310 CMR 7.70(6).
 2. General Accounts. Consistent with 310 CMR 7.70(6)(b)2., the Department or its agent shall establish, upon request, a general account for any person. Transfers of CO₂ allowances pursuant to 310 CMR 7.70(7) shall be recorded in the general account in accordance with 310 CMR 7.70(6).
 - (b) Establishment of Accounts.
 1. Compliance Accounts. Upon receipt of a complete account certificate of representation under 310 CMR 7.70(2)(d), the Department or its agent shall establish a compliance account for each CO₂ budget source for which the account certificate of representation was submitted.
 2. General Accounts.
 - a. Application for General Account. Any person may apply to open a general account for the purpose of holding and transferring CO₂ allowances. An application for a general account may designate one and only one CO₂ authorized account representative and one and only one CO₂ authorized alternate account representative who may act on behalf of the CO₂ authorized account representative. The agreement by which the CO₂ authorized alternate account representative is selected shall include a procedure for authorizing the CO₂ authorized alternate account representative to act in lieu of the CO₂ authorized account representative. A complete application for a general account shall be submitted to the Department or its agent and shall include the following elements in a format prescribed by the Department or its agent:
 - i. Name, address, email address, telephone number, and facsimile transmission number of the CO₂ authorized account representative and

- any CO₂ authorized alternate account representative;
 - ii. At the option of the CO₂ authorized account representative, organization name and type of organization;
 - iii. A list of all persons subject to a binding agreement for the CO₂ authorized account representative or any CO₂ authorized alternate account representative to represent their ownership interest with respect to the CO₂ allowances held in the general account;
 - iv. The following certification statement by the CO₂ authorized account representative and any CO₂ authorized alternate account representative: "I certify that I was selected as the CO₂ authorized account representative or the CO₂ alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CO₂ allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ 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 Department or its agent or a court regarding the general account.";
 - v. The signature of the CO₂ authorized account representative and any CO₂ authorized alternate account representative and the dates signed; and
 - vi. Unless otherwise required by the Department or its agent, documents of agreement referred to in the application for a general account shall not be submitted to the Department or its agent. Neither the Department nor its agent shall be under any obligation to review or evaluate the sufficiency of such documents, whether or not submitted.
- b. Authorization of CO₂ Authorized Account Representative.
- i. Upon receipt by the Department or its agent of a complete application for a general account under 310 CMR 7.70(6)(b)2.a.:
 - (i) The Department or its agent shall establish a general account for the person or persons for whom the application is submitted.
 - (ii) The CO₂ authorized account representative and any CO₂ 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 CO₂ allowances held in the general account in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative or any CO₂ authorized alternate account representative and such person. Any such person shall be bound by any order or decision issued to the CO₂ authorized account representative or any CO₂ authorized alternate account representative by the Department or its agent or a court regarding the general account.
 - (iii) Any representation, action, inaction, or submission by any CO₂ authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO₂ authorized account representative.
 - ii. Each submission concerning the general account shall be submitted, signed, and certified by the CO₂ authorized account representative or any CO₂ authorized alternate account representative for the persons having an ownership interest with respect to CO₂ allowances held in the general account. Each such submission shall include the following certification statement by the CO₂ authorized account representative or any CO₂ authorized alternate account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO₂ 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 Department or its agent shall accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with 310 CMR 7.70(6)(b)2.b.ii.

c. Changing CO₂ Authorized Account Representative and CO₂ Authorized Alternate Account Representative; Changes in Persons with Ownership Interest.

i. The CO₂ authorized account representative for a general account may be changed at any time upon receipt by the Department or its agent of a superseding complete application for a general account under 310 CMR 7.70(6)(b)2.a. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized alternate account representative, or the previous CO₂ authorized alternate account representative, prior to the time and date when the Department or its agent receives the superseding application for a general account shall be binding on the new CO₂ authorized account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account.

ii. The CO₂ authorized alternate account representative for a general account may be changed at any time upon receipt by the Department or its agent of a superseding complete application for a general account under 310 CMR 7.70(6)(b)2.a. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized alternate account representative, or the previous CO₂ authorized alternate account representative, prior to the time and date when the Department or its agent receives the superseding application for a general account shall be binding on the new CO₂ authorized alternate account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account.

iii. In the event a new person having an ownership interest with respect to CO₂ allowances in the general account is not included in the list of such persons in the application for a general account, such new person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions, and submissions of the CO₂ authorized account representative and any CO₂ authorized alternate account representative, and the decisions, orders, actions, and inactions of the Department 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 CO₂ allowances in the general account, including the addition or deletion of persons, the CO₂ authorized account representative or any CO₂ 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 CO₂ allowances in the general account to include the change.

d. Objections Concerning CO₂ Authorized Account Representative.

i. Once a complete application for a general account has been submitted and received under 310 CMR 7.70(6)(b)2.a., the Department or its agent shall rely on the application unless and until a superseding complete application for a general account under 310 CMR 7.70(6)(b)2.a. is received by the Department or its agent.

ii. Except as provided in 310 CMR 7.70(6)(b)2.c.i. and ii., no objection or other communication submitted to the Department or its agent concerning the authorization, or any representation, action, inaction, or submission of the CO₂ authorized account representative or any CO₂ authorized alternate account representative for a general account shall affect any representation, action, inaction, or submission of the CO₂ authorized account representative or any CO₂ authorized alternate account representative or the finality of any decision or order by the Department or its agent under the CO₂ Budget Trading Program.

iii. Neither the Department nor its agent shall adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CO₂ authorized account representative or

any CO₂ authorized alternate account representative for a general account, including private legal disputes concerning the proceeds of CO₂ allowance transfers.

e. Delegation by CO₂ Authorized Account Representative and CO₂ Authorized Alternate Account Representative.

i. A CO₂ authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent provided for under 310 CMR 7.70(6) and (7).

ii. A CO₂ authorized alternate account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent provided for under 310 CMR 7.70(6) and (7).

iii. In order to delegate authority to make an electronic submission to the Department or its agent in accordance with 310 CMR 7.70(6)(b)2.e.i and ii., the CO₂ authorized account representative or CO₂ authorized alternate account representative, as appropriate, must submit to the Department or its agent a notice of delegation, in a format prescribed by the Department that includes the following elements:

(i) The name, address, e-mail address, telephone number, and facsimile transmission number of such CO₂ authorized account representative or CO₂ authorized alternate account representative;

(ii) The name, address, e-mail address, telephone number and facsimile transmission number of each such natural person, herein referred to as “electronic submission agent”;

(iii) For each such natural person, a list of the type of electronic submissions under 310 CMR 7.70(6)(b)2.e.i. or ii. for which authority is delegated to him or her; and

(iv) The following certification statements by such CO₂ authorized account representative or CO₂ authorized alternate account representative:

-1. “I agree that any electronic submission to the Department 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 CO₂ authorized account representative or CO₂ authorized alternate account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 310 CMR 7.70(6)(b)2.e.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 310 CMR 7.70(6)(b)2.e.iv., I agree to maintain an email account and to notify the Department or its agent immediately of any change in my email address unless all delegation authority by me under 310 CMR 7.70(6)(b)2.e. is terminated.”

iv. A notice of delegation submitted under 310 CMR 7.70(6)(b)2.e.iii. shall be effective, with regard to the CO₂ authorized account representative or CO₂ authorized alternate account representative identified in such notice, upon receipt of such notice by the Department or its agent and until receipt by the Department or its agent of a superseding notice of delegation by such CO₂ authorized account representative or CO₂ 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 310 CMR 7.70(6)(b)2.e.iii.(iv)-1. and made in accordance with a notice of delegation effective under 310 CMR 7.70(6)(b)2.e.iv. shall be deemed to be an electronic submission by the CO₂ authorized account representative or CO₂ authorized alternate account representative submitting such notice of delegation.

3. Account Identification. The Department or its agent shall assign a unique identifying number to each account established under 310 CMR 7.70(6)(b)1. or 2.
(c) CO₂ Allowance Tracking System Responsibilities of CO₂ Authorized Account Representative. Following the establishment of a CO₂ Allowance Tracking System

(COATS) account, all submissions to the Department or its agent pertaining to the account including, but not limited to, submissions concerning the deduction or transfer of CO₂ allowances in the account, shall be made only by the CO₂ authorized account representative for the account.

(d) Recordation of CO₂ Allowance Allocations.

1. On or before January 31st of each year, the Department or its agent shall record in the Massachusetts Auction Account the CO₂ allowances for that calendar year.
2. On or before January 31st of each year, the Department or its agent shall record CO₂ allowances allocated pursuant to 310 CMR 7.70(5)(b)1.a. in the Voluntary Renewable Energy (VRE) Account for the allocation year three years in the future.
3. Serial Numbers for Allocated CO₂ Allowances. When allocating CO₂ allowances to, and recording them in, an account, the Department or its agent shall assign each CO₂ allowance a unique identification number that includes digits identifying the year for which the CO₂ allowance is allocated.

(e) Compliance.

1. Allowances Available for Compliance Deduction. CO₂ allowances that meet the following criteria are available to be deducted in order for a CO₂ budget source to comply with the CO₂ requirements of 310 CMR 7.70(1)(e)3. for a control period or an interim control period.

- a. The CO₂ 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.

- b. The CO₂ allowances are held in the CO₂ budget source's compliance account as of the CO₂ allowance transfer deadline for that control period or interim control period are transferred into the compliance account by a CO₂ allowance transfer correctly submitted for recordation under 310 CMR 7.70(7)(a) by the CO₂ allowance transfer deadline for that control period or interim control period.

- c. For CO₂ offset allowances, the number of CO₂ offset allowances that are available to be deducted in order for a CO₂ budget source to comply with the CO₂ requirements of 310 CMR 7.70(1)(e)3. for a control period or interim control period may not exceed 3.3% of the CO₂ budget source's CO₂ emissions for that control period, or 3.3% of 0.50 times the CO₂ budget source's emissions for an interim control period, as determined in accordance with 310 CMR 7.70(6) and (8); and

- d. The CO₂ allowances that are not necessary for deductions for excess emissions for a prior control period under 310 CMR 7.70(6)(e)4.

2. Deductions for Compliance. Following the recordation, in accordance with 310 CMR 7.70(7)(b), any CO₂ allowance transfers submitted for recordation in the CO₂ budget source's compliance account by the CO₂ allowance transfer deadline for a control period or interim control period, the Department or its agent shall deduct CO₂ allowances available under 310 CMR 7.70(6)(e)1. to cover the source's CO₂ emissions (as determined in accordance with 310 CMR 7.70(8)) for the control period or interim control period, as follows:

- a. Until the amount of CO₂ allowances deducted equals the number of tons of total CO₂ emissions (or 0.50 times the number of tons of total CO₂ emissions for the interim control period), less any CO₂ emissions attributable to the burning of eligible biomass or the production of useful net thermal energy, determined in accordance with 310 CMR 7.70(8), from all CO₂ budget units at the CO₂ budget source for the control period or interim control period; or

- b. If there are insufficient CO₂ allowances to complete the deductions in 310 CMR 7.70(6)(e)2.a., until no more CO₂ allowances available under 310 CMR 7.70(6)(e)1. remain in the compliance account.

- c. After making the deductions for compliance, the Department or its agent shall notify the CO₂ authorized account representative if it believes that the CO₂ budget source exceeded its CO₂ budget emissions limitation.

3. Identification of Available CO₂ Allowances by Serial Number; Default Compliance Deductions.

- a. The CO₂ authorized account representative for a source's compliance account may request that specific CO₂ 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 310 CMR 7.70(6)(e)2. or 4. Such identification shall be made in the compliance

certification report submitted in accordance with 310 CMR 7.70(4)(a).

b. The Department or its agent shall deduct CO₂ allowances for a control period or interim control period from the CO₂ budget source's compliance account, in the absence of an identification or in the case of a partial identification of available CO₂ allowances by serial number under 310 CMR 7.70(6)(e)3.a., in the following descending order:

- i. First, subject to the relevant compliance deduction limitations under 310 CMR 7.70(6)(e)1.c. and 4.a., CO₂ offset allowances. CO₂ offset allowances shall be deducted in chronological order (i.e., CO₂ offset allowances from earlier allocation years shall be deducted before CO₂ offset allowances from later allocation years). In the event that some, but not all, CO₂ offset allowances from a particular allocation year are to be deducted, CO₂ offset allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.
- ii. Second, any CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under 310 CMR 7.70(6)(e)1. CO₂ allowances shall be deducted in chronological order (i.e., CO₂ allowances from earlier allocation years shall be deducted before CO₂ allowances from later allocation years). In the event that some, but not all, CO₂ allowances from a particular allocation year are to be deducted, CO₂ allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

4. Deductions for Excess Emissions.

a. After completing the procedures in 310 CMR 7.70(6)(e)2., the Department or its agent shall deduct from the CO₂ budget source's compliance account a number of CO₂ allowances, equal to three times the number of the source's excess emissions. In the event that a source has insufficient CO₂ allowances to cover three times the number of the source's excess emissions, the source shall be required within 14 calendar days of receipt of notice by the Department or its agent to transfer sufficient allowances into its compliance account. No CO₂ offset allowances may be deducted to account for the source's excess emissions.

b. Any CO₂ allowance deduction required under 310 CMR 7.70(6)(e)4.a. shall not affect the liability of the owners and operators of the CO₂ budget source or the CO₂ 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. In assessing fines, penalties or other obligations, each ton of excess emissions or excess interim emissions is a separate violation.

c. The propriety of the Department's determination that a CO₂ budget source had excess emissions and the concomitant deduction of CO₂ allowances from that CO₂ 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, shall not act to prevent the Department or its agent from initially deducting the CO₂ allowances resulting from the Department's original determination that the relevant CO₂ budget source has had excess emissions. Should the Department revise its determination of the existence or extent of the CO₂ budget source's excess emissions either by a settlement or final conclusion of any administrative or judicial action, the Department shall act as follows.

- i. In any instance where the Department's determination of the extent of excess emissions was too low, the Department shall take further action under 310 CMR 7.70(6)(e)4.a. and b. to address the expanded violation.
- ii. In any instance where the Department's determination of the extent of excess emissions was too high, the Department shall distribute to the relevant CO₂ budget source a number of CO₂ allowances equaling the number of CO₂ allowances deducted which are attributable to the

difference between the original and final quantity of excess emissions. Should such CO₂ budget source's compliance account no longer exist, the CO₂ allowances shall be provided to a general account selected by the owner or operator of the CO₂ budget source.

5. The Department or its agent shall record in the appropriate compliance account all deductions from such an account pursuant to 310 CMR 7.70(6)(e)2. and 4.

6. Action by the Department on Submissions.

a. The Department may review and conduct independent audits concerning any submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the submissions.

b. The Department may deduct CO₂ allowances from or transfer CO₂ allowances to a source's compliance account based on information in the submissions, as adjusted under 310 CMR 7.70(6)(e)6.a.

(f) Banking. Each CO₂ allowance that is held in a compliance account or a general account shall remain in such account unless and until the CO₂ allowance is deducted or transferred under 310 CMR 7.70(4)(b), (6)(e), (6)(g), or (7).

(g) Account Error.

1. The Department or its agent may, at its sole discretion and on its own motion, correct any error in any CO₂ Allowance Tracking System (COATS) account. Within ten business days of making such correction, the Department or its agent shall notify the CO₂ authorized account representative for the account.

2. At any time the CO₂ authorized account representative may notify the Department if it believes that a mistake has been made.

(h) Closing of General Accounts.

1. A CO₂ authorized account representative of a general account may instruct the Department or its agent to close the account by submitting a statement requesting deletion of the account from the CO₂ Allowance Tracking System (COATS) and by correctly submitting for recordation under 310 CMR 7.70(7)(a) a CO₂ allowance transfer of all CO₂ allowances in the account to one or more other CO₂ Allowance Tracking System accounts.

2. If a general account shows no activity for a period of one year or more and does not contain any CO₂ allowances, the Department or its agent may notify the CO₂ authorized account representative for the account that the account shall be closed in the CO₂ Allowance Tracking System (COATS) 30 business days after the notice is sent. The account shall be closed after the 30-day period unless before the end of the 30-day period the Department or its agent receives a correctly submitted transfer of CO₂ allowances into the account under 310 CMR 7.70(7)(a) or a statement submitted by the CO₂ authorized account representative demonstrating to the satisfaction of the Department or its agent good cause as to why the account should not be closed. The Department or its agent will have sole discretion to determine if the CO₂ authorized account representative of the account demonstrated that the account should not be closed.

(7) CO₂ Allowance Transfers.

(a) Submission of CO₂ Allowance Transfers. The CO₂ authorized account representative who is the transferor shall submit the transfer to the Department or its agent. To be considered correctly submitted, the CO₂ allowance transfer shall include the following elements in a format specified by the Department or its agent:

1. The numbers identifying both the transferor and transferee accounts;
2. A specification by serial number of each CO₂ allowance to be transferred;
3. The printed name and signature of the CO₂ authorized account representative of the transferor account and the date signed;
4. The date of the completion of the last sale or purchase transaction for the allowance, if any; and
5. The purchase or sale price of the allowance that is the subject of a sale or purchase transaction under 310 CMR 7.70(7)(a)4.

(b) Recordation.

1. Within five business days of receiving a CO₂ allowance transfer, except as provided in 310 CMR 7.70(7)(b)2., the Department or its agent shall record a CO₂ allowance transfer by moving each CO₂ allowance from the transferor account to the transferee account as specified by the request, provided that:

- a. The transfer is correctly submitted under 310 CMR 7.70(7)(a); and
- b. The transferor account includes each CO₂ allowance identified by serial number in the transfer.

2. A CO₂ allowance transfer into or out of a compliance account that is submitted for recordation following the CO₂ allowance transfer deadline and that includes any CO₂ allowances that are of allocation years that fall within a control period prior or interim control period or the same as the control period or interim control period to which the CO₂ allowance transfer deadline applies shall not be recorded until after completion of the process pursuant to 310 CMR 7.70(6)(e)2.
 3. Where a CO₂ allowance transfer submitted for recordation fails to meet the requirements of 310 CMR 7.70(7)(b)1., the Department or its agent shall not record such transfer.
- (c) Notification.
1. Notification of Recordation. Within five business days of recordation of a CO₂ allowance transfer under 310 CMR 7.70(7)(b), the Department or its agent shall notify each party to the transfer. Notice shall be given to the CO₂ authorized account representatives of both the transferor and transferee accounts.
 2. Notification of Non-recordation. Within ten business days of receipt of a CO₂ allowance transfer that fails to meet the requirements of 310 CMR 7.70(7)(b)1., the Department or its agent shall notify the CO₂ authorized account representatives of both accounts subject to the transfer of:
 - a. A decision not to record the transfer; and
 - b. The reasons for such non-recordation.
 3. Nothing in 310 CMR 7.70(7) shall preclude the submission of a CO₂ allowance transfer for recordation following notification of non-recordation.
- (8) Monitoring and Reporting.
- (a) General Requirements. The owners and operators, and to the extent applicable, the CO₂ authorized account representative of a CO₂ 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 310 CMR 7.70(1)(b) 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 “CO₂ budget unit,” “CO₂ authorized account representative,” and “continuous emissions monitoring system” (or “CEMS”), respectively, as defined in section 310 CMR 7.70(1)(b).
1. Requirements for Installation, Certification, and Accounting. The owner or operator of each CO₂ budget unit must meet the following requirements.
 - a. Install all monitoring systems required under this subpart for monitoring CO₂ mass emissions. This includes all systems required to monitor CO₂ concentration, stack gas flow, O₂ 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 CCR Part 75. Equation G-1 in Appendix G shall not be used to determine CO₂ emissions under this Part.
 - b. Record, report and quality-assure the data from the monitoring systems under paragraph (a)1. of this section.
- (b) Recordkeeping and Reporting.
1. General Provisions. The CO₂ authorized account representative shall comply with all recordkeeping and reporting requirements in 310 CMR 7.70(8)(b), the applicable record keeping and reporting requirements under 40 CFR 75.73 and with the requirements of 310 CMR 7.70(2)(a)5.
 2. Monitoring Plans. The owner or operator of a CO₂ budget unit required to submit a monitoring plan shall submit such monitoring plan in the manner prescribed in 40 CFR 75.62.
 3. Certification Applications. The CO₂ authorized account representative shall submit an application to the Administrator, and the Department within 45 days after completing all CO₂ monitoring system initial certification or recertification tests required under 40 CFR 75.63 and 40 CFR 75.53(e) and (f).
 4. Quarterly Reports. The CO₂ authorized account representative shall submit quarterly reports, as follows:
 - a. The CO₂ authorized account representative shall report the CO₂ mass emissions data for the CO₂ budget unit, in an electronic format prescribed by the Administrator, unless otherwise prescribed by the Department, 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 310 CMR 7.70(8)(a).

b. The CO₂ authorized account representative shall submit each quarterly report to the Administrator, and the Department's agent 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 CO₂ 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, NO_x and SO₂ provisions.

c. Compliance Certification. The CO₂ authorized account representative shall submit to the Administrator, and the Department 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: The monitoring data submitted were recorded in accordance with the applicable requirements of 310 CMR 7.70(8) and 40 CFR Part 75, including the quality assurance procedures and specifications;

i. For a unit with add-on CO₂ 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 CO₂ emissions; and

ii. The CO₂ concentration values substituted for missing data under Subpart D of 40 CFR Part 75 do not systematically underestimate CO₂ emissions.

(c) Petitions.

1. Except as provided in 310 CMR 7.70(8)(c)3., the CO₂ authorized account representative of a CO₂ 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 Department requesting approval to apply an alternate to any requirement of 310 CMR 7.70(8). Application of an alternate to any requirement of 40 CFR Part 75 is in accordance with 310 CMR 7.70(8) only to the extent that the petition is approved in writing by the Administrator, and subsequently approved in writing by the Department.

2. Petitions for a CO₂ budget unit that is not subject to an Acid Rain emissions limitation.

a. The CO₂ authorized account representative of a CO₂ 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 Department requesting approval to apply an alternate to any requirement of 40 CFR Part 75. Application of an alternate to any requirement of 40 CFR Part 75 is in accordance with 310 CMR 7.70(8) only to the extent that the petition is approved in writing by the Administrator, and subsequently approved in writing by the Department.

b. In the event that the Administrator declines to review a petition under 40 CFR 75.66 as described in 310 CMR 7.70(8)(c)2.a., the CO₂ authorized account representative of a CO₂ budget unit that is not subject to an Acid Rain emissions limitation may submit a petition to the Department requesting approval to apply an alternate to any requirement of 310 CMR 7.70(8). That petition shall contain all of the relevant information specified in 40 CFR 75.66. Application of an alternate to any requirement of 310 CMR 7.70(8) is in accordance with 310 CMR 7.70(8) only to the extent that the petition is approved in writing by the Department.

3. The CO₂ authorized account representative of a CO₂ 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 Department requesting approval to apply an alternate to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR

75.72 or a CO₂ concentration CEMS used under 40 CFR 75.71(a)(2). Application of

an alternate to any such requirement is in accordance with 310 CMR 7.70(8) only to the extent the petition is approved in writing by the Administrator, and subsequently approved in writing by the Department.

(d) CO₂ Budget Units That Co-fire Eligible Biomass.

1. The CO₂ authorized account representative of a CO₂ budget unit that co-fires eligible biomass as a compliance mechanism under 310 CMR 7.70 shall report the following information to the Department or its agent for each calendar quarter:

- a. For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel input, on an as-fired basis, in pounds.
- b. For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit, the moisture content, on an as-fired basis, as a fraction by weight.
- c. For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the density of the biogas, on an as-fired basis, in pounds per standard cubic foot.
- d. For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the moisture content of the biogas, as a fraction by total weight.
- e. For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel input, in standard cubic feet.
- f. For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the dry basis carbon content of the fuel type, as a fraction by dry weight.
- g. For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the dry basis higher heating value, in MMBtu per dry pound.
- h. For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the total dry basis eligible biomass fuel input, in pounds, calculated in accordance with 310 CMR 7.70(8)(d)2.
- i. The total amount of CO₂ emitted from the CO₂ budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with 310 CMR 7.70(8)(d)3.
- j. For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel heat input, in MMBtu, calculated in accordance with 310 CMR 7.70(8)(d)4.a.
- k. The total amount of heat input to the CO₂ budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with 310 CMR 7.70(8)(d)4.b.
- l. Description and documentation of monitoring technology employed, and description and documentation of fuel sampling methodology employed, including sampling frequency; and
- m. For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, chemical analysis, including heating value and carbon content.

2. An owner or operator of a CO₂ budget unit shall calculate and submit to the Department or its agent on a quarterly basis the total dry weight for each distinct type of eligible biomass fired by the CO₂ budget unit during the reporting quarter. The total dry weight shall be determined for each fuel type as follows:

a. 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;

j = fuel type; and

m = number of shipments.

b. 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.

3. CO₂ emissions due to firing of eligible biomass shall be determined as follows:
- For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO₂ budget unit, as measured and recorded in accordance with 310 CMR 7.70(8)(a) through (c); or
 - For any full calendar quarter during which fuels other than eligible biomass are combusted at the CO₂ budget unit, as determined using the following equation:

$$\text{CO}_2 \text{ tons} = \sum_{j=1}^n F_j \times C_j \times O_j \times 44/12 \times 0.0005$$

where:

CO₂ tons = CO₂ 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 310 CMR 7.70(8)(d)2.;

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 310 CMR 7.70(8)(d)1.l. 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.

4. Heat input due to firing of eligible biomass for each quarter shall be determined as follows:

a. For Each Distinct Fuel Type

$$H_j = F_j \times \text{HHV}_j$$

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 310 CMR 7.70(8)(d)2.;

HHV_j = Higher heating value (MMBtu/lb), dry basis, for fuel type j, as determined through chemical analysis;

j = fuel type.

b. For All Fuel Types:

$$\text{Heat Input MMBtu} = \sum_{j=1}^n H_j$$

where:

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

j = fuel type; and,

n = number of distinct fuel types.

5. Fuel sampling methods and fuel sampling technology shall be consistent with the New York State Renewable Portfolio Standard Biomass Guidebook, September 2011,

(e) CO₂ Budget Units That Generate Useful Net Thermal Energy.

1. The CO₂ authorized account representative of a combined heat and power CO₂ budget source that generates useful net thermal energy shall report the following information for the combined heat and power CO₂ budget source to the Department or its agent for each calendar quarter:
 - a. The total amount of useful net thermal energy output produced by CO₂ budget units expressed in MMBtu, the total volume of steam output produced by CO₂ budget units expressed in cubic feet, the average pressure of the steam output produced by CO₂ budget units expressed in pounds per square inch, and the average temperature of the steam expressed in degrees Fahrenheit. The amount of useful net thermal energy output shall be determined in a manner as approved by the Department in the CO₂ Budget Emission Control Plan consistent with the requirements of 310 CMR 7.70(3) and (8).
 - b. The total amount of CO₂ emissions from CO₂ budget units attributable to the production of useful net thermal energy, in tons, calculated in accordance with 310 CMR 7.70(8)(e)2.
2. The quantity of CO₂ emissions attributable to the production of useful net thermal energy shall be determined by the following equation (rounded to the nearest whole ton):

UNTE/.80 x

122

lb/MMBtu

2000

lb/ton

Where:

UNTE = useful net thermal energy (in MMBtu output) generated by CO₂ budget units at the combined heat and power CO₂ budget source during each calendar quarter.