7.70: Massachusetts CO_2 Budget Trading Program

(1) CO_2 Budget Trading Program General Provisions.

(a) Purpose. 310 CMR 7.70 establishes the Massachusetts CO_2 Budget Trading Program, which is designed to reduce anthropogenic emissions of CO_2, a greenhouse gas, from CO_2 budget sources in an economically efficient manner.

(b) Definitions.

Account Number. The identification number given by the Department or its agent to each CO_2 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 CO_2 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 ~~or awards~~ CO_2 allowances pursuant to 310 CMR 7.70(5). The allocation year is the first year a CO_2 allowance or a CO_2 offset allowance can be used to demonstrate compliance with 310 CMR 7.70. The allocation year of each CO_2 allowance is reflected in the unique identification number given to the allowance pursuant to 310 CMR 7.70(6)(d)~~4~~3.

Allowance Auction or Auction. An auction in which DOER offers CO_2 allowances for sale, in accordance with 225 CMR 13.00: *DOER CO_2 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).

~~Billing Meter. The measurement device used to measure electric or thermal output for commercial billing under a contract where the facility selling the electric or thermal output has a different owner(s) from the owner(s) of the party purchasing the electric or thermal output.~~

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

CO_2 Allowance. A limited authorization by the Department or a participating state under the CO_2 Budget Trading Program to emit up to one ton of CO_2, subject to all applicable limitations contained in 310 CMR 7.70 or equivalent regulations in other participating states.

CO_2 Allowance Deduction or Deduct CO_2 Allowances. The permanent withdrawal of CO_2 allowances by the Department or its agent from a CO_2 Allowance Tracking

System (COATS) compliance account to account for the number of tons of CO_2 emitted from a CO_2 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 CO_2 allowances as provided by 310 CMR 7.70.

CO_2 Allowances Held~~ or Hold CO_2 Allowances.~~. The CO_2 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 CO_2 Allowance Tracking System (COATS) account.

CO_2 Allowance Tracking System ~~(~~or COATS~~).~~. The system by which the Department or its agent records allocations, deductions, and transfers of CO_2 allowances under the CO_2 Budget Trading Program. The tracking system may also be used to track CO_2 ~~emissions offset projects, CO_2~~ allowance prices and emissions from affected sources.

CO_2 Allowance Tracking System (COATS)Account. An account in the CO_2 Allowance Tracking System (COATS) established by the Department or its agent for purposes of recording the allocation, holding, transferring, or deducting of CO_2 allowances.

CO_2 Allowance Transfer Deadline. ~~Midnight of the March 1st occurring after the end of the relevant control period and each relevant interim control period or, if that March 1st is not a business day, midnight of the first business day thereafter and is the deadline by which CO_2 allowances must~~The deadline by which CO_2 allowances shall be submitted for recordation in a CO_2 budget source's compliance account in order for the source to meet the ~~CO_2~~ requirements ~~under~~of 310 CMR 7.70(1)(e)3. for ~~the~~a control period ~~and each~~or interim control period~~ immediately preceding such~~. 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.

CO_2 Authorized Account Representative. For a CO_2 budget source and each CO_2 budget unit at the source, the natural person who is authorized by the owners and operators of the source and all CO_2 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 CO_2 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 CO_2 allowances held in the general account. If the CO_2 budget source is also subject to the Acid Rain Program then, for a CO_2 Budget Trading Program compliance account, this natural person shall be the same person as the designated representative under the Acid Rain Program.

CO_2 Authorized Alternate Account Representative. For a CO_2 budget source and each CO_2 budget unit at the source, the alternate natural person who is authorized by the owners and operators of the source and all CO_2 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 CO_2 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 CO_2 allowances held in the general account. If the CO_2 budget source is also subject to the Acid Rain Program, then, for a CO_2 Budget Trading Program compliance account, this alternate natural person shall be the same person as the alternate designated representative under the Acid Rain Program.

CO_2 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 CO_2 budget source or CO_2 budget unit which specifies the CO_2 Budget Trading Program requirements applicable to the CO_2 budget source, to each CO_2 budget unit at the CO_2 budget source, and to the owners and operators and the CO_2 authorized account representative of the CO_2 budget source and each CO_2 budget unit.

CO_2 Budget Emissions Limitation. For a CO_2 budget source, the tonnage equivalent, in CO_2 emissions in a control period or an interim control period, of the CO_2 allowances available for compliance deduction for the source for a control period or twice the CO_2 allowances available for an interim control period.

CO_2 Budget Source. A source that includes one or more CO_2 budget units.

CO_2 Budget Trading Program. A multi-state CO_2 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 CO_2 from CO_2 budget sources.

CO_2 Budget Unit. A unit that is subject to the CO_2 Budget Trading Program requirements under 310 CMR 7.70(1)(d).

CO_2 Cost Containment Reserve Tier 1 Allowance or CO_2 CCR Tier 1 Allowance. A CO_2 allowance that is offered for sale at an auction by DOER in accordance with 225 CMR 13.00: *DOER CO_2 Budget Trading Program Auction Regulation* for the purpose of containing the cost of CO_2 allowances. CO_2 CCR tier 1 allowances offered for sale at an auction are separate from and additional to CO_2 allowances from the CO_2 Budget Trading Program base budget. CO_2 CCR tier 1 allowances are subject to all applicable limitations contained in 310 CMR 7.70 or equivalent regulations in other participating states.

CO_2 Cost Containment Reserve ~~(CCR)~~Tier 2 Allowance or CO_2 CCR Tier 2 Allowance. A CO_2 allowance that is offered for sale at an auction by DOER in accordance with 225 CMR 13.00: *DOER CO_2 Budget Trading Program Auction Regulation* for the purpose of containing the cost of CO_2 Allowances. CO_2 CCR tier 2 allowances offered for sale at an auction are separate from and additional to CO_2 allowances allocated from the Massachusetts CO_2 Budget Trading Program base and adjusted budgets. CO_2 CCR tier 2 allowances are subject to all applicable limitations contained in 310 CMR 7.70 or equivalent regulations in other participating states.

CO_2 Cost Containment Reserve Tier 1 Trigger Price~~.~~, or CCR Tier 1 Trigger Price. The CCR tier 1 trigger price is the minimum price at which CO_2 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.

~~CO_2 Emissions Containment Reserve Allowance or CO_2 ECR Allowance. A CO_2 allowance that is withheld from sale at an auction by DOER in accordance with 225 CMR 13.00: *DOER CO_2 Budget Trading Program Auction Regulation* for the purpose of additional emission reduction in the event of lower than anticipated emission reduction costs.~~

~~CO_2 Emissions~~CO_2 Cost Containment Reserve ~~(ECR)~~Tier 2 Trigger Price, or CCR Tier 2 Trigger Price. The ~~ECR~~CCR tier 2 trigger price is the minimum price ~~below~~at which CO_2 CCR tier 2 allowances ~~will be withheld from~~are offered for sale ~~at~~in an auction. The ~~ECR~~CCR tier 2 trigger prices shall be established by DOER in 225 CMR 13.03: Table 2.

CO_2 Emissions Offset Project. A historical project that allowed a participating state to determine how many CO_2 Offset Allowances to record in a sponsor's general account related specific emission reductions outside of the electricity sector.

CO_2 Offset Allowance. A CO_2 allowance that is ~~awarded to the~~ 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 CO_2 emissions offset project ~~in any of the participating states that have an emissions offset program,~~ 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) CO_2 Budget Source. A CO_2 Budget Source that contains one or more CO_2 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, ~~and~~ 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 CO_2 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 CO_2 budget unit under 310 CMR 7.70(1)(d) on the date the unit commences commercial operation, the date the unit becomes a CO_2 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 CO_2 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 CO_2 budget unit under 310 CMR 7.70(1)(d) on the date of commencement of operation, the date the unit becomes a CO_2 budget unit under 310 CMR 7.70(1)(d) shall be the unit's date of commencement of operation

Compliance Account. A CO_2 Allowance Tracking System (COATS) account, established by the Department or its agent for a CO_2 budget source under 310 CMR 7.70(6), in which are held CO_2 allowances available for use by the source for a control period ~~and each~~or interim control period for the purpose of meeting the CO_2 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 ~~sequential~~ 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 CO_2 emitted by a CO_2 budget source during an interim control period that when multiplied by 0.50 ~~that~~ exceeds the CO_2 budget emissions limitation for the source.

~~First Control Period Adjustment for Banked Allowances. An adjustment applied to the CO_2 Budget Trading Program base budget for allocation years 2014 through 2020 to address the surplus allocation year 2009, 2010, and 2011 allowances held in general and compliance accounts, including compliance accounts established pursuant to 310 CMR 7.70(6), but not including accounts opened by participating states, that are in addition to the aggregate quality of first control period CO_2 emissions from all CO_2 budget sources in all of the participating states.~~

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 CO_2 Allowance Tracking System (COATS) account, established under 310 CMR 7.70(6), that is not a compliance account.

~~Gross Generation. The electrical output (in MWe) at the terminals of the generator.~~

Interim Control Period. An interim control period is a one-calendar-year time period, during each of the first and second calendar years of each three year control period. The first interim control period starts on January 1, 2015~~,~~ and ends on December 31, 2015. 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 CO_2 allowances in accordance with 225 CMR 13.00: *DOER CO_2 Budget Trading Program Auction Regulation*.

Massachusetts CO_2 Budget Trading Program ~~Adjusted Budget. The Massachusetts CO_2 Budget Trading Program adjusted budget is determined in accordance with 310 CMR 7.70(5)(c)2. CO_2 CCR allowances offered for sale at an auction are separate from and additional to CO_2 allowances allocated from the Massachusetts CO_2 Budget Trading Program adjusted budget.~~

~~Massachusetts CO_2 Budget Trading Program~~ Base Budget. The Massachusetts CO_2

Budget Trading Program base budget is specified in 310 CMR 7.70(5)(a). CO_2 CCR Tier 1 and CO_2 CCR Tier 2 Allowances offered for sale at auction are separate from and additional to CO_2 allowances allocated from the Massachusetts CO_2 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 CO_2) or the minimum oxygen concentration (in percent O_2).

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.

~~Net-electric Output. The amount of gross generation the generator(s) produce (including, but not limited to, output from steam turbine(s), combustion turbine(s), and gas expander(s)), as measured at the generator terminals, less the electricity used to operate the plant (*i.e.*, auxiliary loads); such uses include fuel handling equipment, pumps, fans, pollution control equipment, other electricity needs, and transformer losses as measured at the transmission side of the step up transformer (*e.g.*, the point of sale).~~

Non-CO_2 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 CO_2 budget unit or a CO_2 budget source ~~and shall include~~including, but not~~ be~~ limited to, any holding company, utility system, or plant manager of such a unit or source.

Owner. Any of the following persons:

(a) Any holder of any portion of the legal or equitable title in a CO_2 budget unit; or

(b) Any holder of a leasehold interest in a CO_2 budget unit, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO_2 budget unit; or

(c) Any purchaser of power from a CO_2 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 CO_2 allowances held in the general account and who is subject to the binding agreement for the CO_2 authorized account representative to represent that person's ownership interest with respect to the CO_2 allowances.

Participating State. A state that is a member of the CO_2 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 CO_2 allowances, the movement of CO_2 allowances by the Department or its agent from one CO_2 Allowance Tracking System (COATS) account to another.

~~Second Control Period Adjustment for Banked Allowances. An adjustment applied to the Massachusetts CO_2 Budget Trading Program base budget for allocation years 2015 through 2020 to address the allocation year 2012 and 2013 allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO_2 Budget Trading Program, but not including accounts opened by participating states, that are in addition to the aggregate quantity of 2012 and 2013 emissions from all CO_2 budget sources in all of the participating states.~~

Serial Number. When referring to CO_2 allowances, the unique identification number assigned to each CO_2 allowance by the Department or its agent under 310 CMR 7.70(6)(d)~~4~~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.

~~Third Adjustment for Banked Allowances. An adjustment applied to the Massachusetts CO_2 Budget Trading Program base budget for allocation years 2021 through 2025 to address allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO_2 Budget Trading Program, but not including accounts opened by participating states, that are in addition to the aggregate quantity of emissions from all CO_2 budget sources in all of the participating states at the end of the fourth control period in 2020 and as reflected in the CO_2 Allowance Tracking System on March 15, 2021.~~

Ton or Tonnage. Any "short ton", or 2,000 pounds. For the purpose of compliance with the CO_2 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 CO_2 Allowances. CO_2 allowances originally allocated to an account pursuant to 310 CMR 7.70(5)(~~c~~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)(~~c)5.~~b)4.a.

Unsold CO_2 Allowances. CO_2 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)(~~c~~b)1.a.iii.

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

1. CO_2 – 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 CO_2 budget unit, and any source that includes one or more such units shall be a CO_2 budget source, subject to the requirements of 310 CMR 7.70.

(e) Standard Requirements.

1. CO_2 Budget Emission Control Plan Requirements.

a. The CO_2 authorized account representative of each CO_2 budget source shall:

i. Submit to the Department a complete CO_2 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 CO_2 budget emission control plan.

b. The owners and operators of each CO_2 budget source and each CO_2 budget unit for the source shall have an approved CO_2 budget emission control plan and operate the CO_2 budget source and the CO_2 budget unit at the source in compliance with such approved CO_2 budget emission control plan.

2. Monitoring Requirements.

a. The owners and operators and, to the extent applicable, the CO_2 authorized account representative of each CO_2 budget source and each CO_2 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 CO_2 requirements of 310 CMR 7.70(1)(e)3.

3. CO_2 Requirements.

a. The owners and operators of each CO_2 budget source and each CO_2 budget unit at the source shall hold CO_2 allowances available for compliance deductions under 310 CMR 7.70(6)(e), as of the CO_2 allowance transfer deadline, in the source's compliance account in an amount not less than the total number of tons of CO_2 emissions for the control period from all CO_2 budget units at the source, minus the CO_2 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 CO_2 budget source and each CO_2 budget unit at the source shall hold CO_2 allowances available for compliance deductions under 310 CMR 7.70(6)(e), as of the CO_2 allowance transfer deadline, in the CO_2 budget source's compliance account in an amount not less than 0.50 times the total number of tons of CO_2 emissions for the interim control period from all CO_2 budget units at the CO_2 budget source ~~multiplied by 0.50~~, as determined in accordance with 310 CMR 7.70(6) and (8).

c. Each ton of CO_2 emitted in excess of the CO_2 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 CO_2 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. CO_2 allowances shall be held in, deducted from, or transferred among CO_2 Allowance Tracking System (COATS) accounts in accordance with 310 CMR 7.70(5) through (7).

g. A CO_2 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 CO_2 allowance was allocated. A CO_2 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 CO_2 allowance under the CO_2 Budget Trading Program is a limited authorization by the Department or a participating state to emit one ton of CO_2 in accordance with the CO_2 Budget Trading Program. No provision of the CO_2 Budget Trading Program, the application for a CO_2 budget emissions control plan, or the approved CO_2 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 CO_2 allowance under the CO_2 Budget Trading Program does not constitute a property right.

4. Excess Emissions Requirements. The owners and operators of a CO_2 budget source that has excess emissions in any control period or excess interim emissions in any interim control period shall:

a. Forfeit the CO_2 allowances required for deduction under 310 CMR 7.70(6)(e)4.a., provided CO_2 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 CO_2 budget source and each CO_2 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 CO_2 authorized account representative for the source and each CO_2 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 CO_2 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 CO_2 Budget Trading Program.

~~iv.~~iii. Copies of all documents used to complete an application for a CO_2 budget emissions control plan and any other submission under the CO_2 Budget Trading Program or to demonstrate compliance with the requirements of the CO_2 Budget Trading Program.

b. The CO_2 authorized account representative of a CO_2 budget source and each CO_2 budget unit at the source shall submit the reports and compliance certifications required under the CO_2 Budget Trading Program, including those under 310 CMR 7.70(4).

6. Liability.

a. No revision to a CO_2 budget emissions control plan shall excuse any violation of the requirements of the CO_2 Budget Trading Program that occurs prior to the date that the revision takes effect.

b. Any provision of the CO_2 Budget Trading Program that applies to a CO_2 budget source (including a provision applicable to the CO_2 authorized account representative of a CO_2 budget source) shall also apply to the owners and operators of such source and of the CO_2 budget units at the source.

c. Any provision of the CO_2 Budget Trading Program that applies to a CO_2 budget unit (including a provision applicable to the CO_2 authorized account representative of a CO_2 budget unit) shall also apply to the owners and operators of such unit.

7. Effect on Other Authorities.

a. No provision of the CO_2 Budget Trading Program, a CO_2 budget emissions control plan application, or an approved CO_2 budget emissions control plan, shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the CO_2 authorized account representative of a CO_2 budget source or CO_2 budget unit from compliance with any other provisions of applicable State and Federal ~~law~~laws and regulations.

8. New CO_2 Budget Unit and CO_2 Budget Sources. The owner or operator of a CO_2 budget unit that commences commercial operation on or after July 1, 2008 shall hold CO_2 allowances available for compliance deductions under 310 CMR 7.70(6)(e), in an amount not less than the total CO_2 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~~)(b~~), whichever is earlier.

(f) Computation of Time.

1. Unless otherwise stated, any time period scheduled under the CO_2 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 CO_2 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 CO_2 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 CO_2 Budget Source.

1. Applicability. Notwithstanding 310 CMR 7.70(1)(d), any entity owning, operating, or controlling a combined heat and power CO_2 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 CO_2 emissions recorded for compliance under 310 CMR 7.70(6) the amount of CO_2 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 CO_2 budget source shall comply with the requirements in 310 CMR 7.70(6)(e)2.

~~3.~~ Monitoring and Reporting. Any entity owning, operating, or controlling a combined heat and power CO_2 budget source shall monitor and report the amount of annual CO_2 mass emissions (expressed in tons) associated with the production of useful net thermal energy pursuant to 310 CMR 7.70(8)(~~i~~e) for the control period beginning 2015 and each year thereafter.

~~4. Change to Previously Reported Emissions. Any entity owning, operating, or controlling a combined heat and power CO_2 budget source that previously reported its annual CO_2 emissions for the interim control periods of 2015 and 2016 pursuant to 310 CMR 7.70(4)(a), but did not deduct its CO_2 emissions~~

~~associated with the production of useful net thermal energy as allowed for under 310 CMR 7.70(1)(h), may submit revised compliance certification reports to the Department under 310 CMR 7.70(4)(a)3.d. and e., so that the Department may deduct the amount of CO_2 mass emissions attributable to the production of useful net thermal energy for the interim control periods of 2015 and 2016 as quantified under 310 CMR 7.70(8)(i).~~

(2) CO_2 Authorized Account Representative for CO_2 Budget Sources.

(a) Authorization and Responsibilities of the CO_2 Authorized Account Representative.

1. Except as provided under 310 CMR 7.70(2)(b), each CO_2 budget source, including all CO_2 budget units at the source, shall have one and only one CO_2 authorized account representative, with regard to all matters under the CO_2 Budget Trading Program concerning the source or any CO_2 budget unit at the source.

2. The CO_2 authorized account representative of the CO_2 budget source shall be selected by an agreement binding on the owners and operators of the source and all CO_2 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 CO_2 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 CO_2 budget source represented and each CO_2 budget unit at the source in all matters pertaining to the CO_2 Budget Trading Program, notwithstanding any agreement between the CO_2 authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CO_2 authorized account representative by the Department or a court regarding the source or unit.

4. No CO_2 budget emissions control plan shall be issued, and no CO_2 Allowance Tracking System (COATS) account shall be established for a CO_2 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 CO_2 authorized account representative of the source and the CO_2 budget units at the source.

5. Each submission under the CO_2 Budget Trading Program shall be submitted, signed, and certified by the CO_2 authorized account representative for each CO_2 budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CO_2 authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO_2 budget sources or CO_2 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 CO_2 budget source or a CO_2 budget unit only if the submission has been made, signed, and certified in accordance with 310 CMR 7.70(2)(a)5.

(b) CO_2 Authorized Alternate Account Representative.

1. An account certificate of representation may designate one and only one CO_2 authorized alternate account representative who may act on behalf of the CO_2 authorized account representative. The agreement by which the CO_2 authorized alternate account representative is selected shall include a procedure for authorizing the CO_2 authorized alternate account representative to act in *lieu* of the CO_2 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 CO_2 authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO_2 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 "CO_2 authorized account representative" is used in 310 CMR 7.70, the term shall be construed to include the CO_2 authorized alternate account representative.

(c) Changing the CO_2 Authorized Account Representative and the CO_2 Authorized Alternate Account Representative; Changes in the Owners and Operators.

1. Changing the CO_2 Authorized Account Representative. The CO_2 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 CO_2 authorized account representative or alternate CO_2 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 CO_2 authorized account representative and the owners and operators of the CO_2 budget source and the CO_2 budget units at the source.

2. Changing the CO_2 Authorized Alternate Account Representative. The CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized alternate account representative and the owners and operators of the CO_2 budget source and the CO_2 budget units at the source.

3. Changes in the Owners and Operators.

a. In the event a new owner or operator of a CO_2 budget source or a CO_2 budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the CO_2 authorized account representative and any CO_2 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 CO_2 budget source or a CO_2 budget unit, including the addition of a new owner or operator, the CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or a CO_2 authorized alternate account representative shall include the following elements in a format prescribed by the Department or its agent:

a. Identification of the CO_2 budget source and each CO_2 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 CO_2 authorized account representative and any CO_2 authorized alternate account representative;

c. A list of the owners and operators of the CO_2 budget source and of each CO_2 budget unit at the source;

d. The following certification statement by the CO_2 authorized account representative and any CO_2 authorized alternate account representative: "I certify that I was selected as the CO_2 authorized account representative or CO_2 authorized alternate account representative, as applicable, by an agreement binding on the owners and operators of the CO_2 budget source and each CO_2 budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO_2 Budget Trading Program on behalf of the owners and operators of the CO_2 budget source and of each CO_2

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 CO_2 authorized account representative and any CO_2 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 CO_2 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 CO_2 authorized account representative shall affect any representation, action, inaction, or submission of the CO_2 authorized account representative or the finality of any decision or order by the Department or its agent under the CO_2 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 CO_2 authorized account representative, including private legal disputes concerning the proceeds of CO_2 allowance transfers.

(f) Delegation by CO_2 Authorized Account Representative and CO_2 Authorized Alternate Account Representative.

1. A CO_2 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 CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 ~~type~~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 CO_2 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 ~~when~~while I am a CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 authorized alternate account representative submitting such notice of delegation.

6. A CO_2 authorized account representative may delegate, to one or more natural persons, his or her authority to review information in the CO_2 allowance tracking system (COATS) under 310 CMR 7.70.

7. A CO_2 authorized alternate account representative may delegate, to one or more natural persons, his or her authority to review information in the CO_2 allowance tracking system (COATS) under 310 CMR 7.70.

8. In order to delegate authority to review information in the CO_2 allowance tracking system (COATS) in accordance with 310 CMR 7.70(2)(f~~) and (g~~), the CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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) ~~or (g)~~ for which reviewing authority is delegated to him or her; and

d. The following certification statements by such CO_2 authorized account representative or CO_2 authorized alternate account representative:

(i) "I agree that any information that is reviewed by a natural person identified in this notice of delegation and of a type listed for such information accessible by the reviewer in this notice of delegation and that is made ~~when~~while I am a CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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) CO_2 Budget Emission Control Plan Requirements.

(a) CO₂ Budget Emission Control Plan Requirements. The owners and operators of CO_2 budget sources shall have an approved CO_2 budget emission control plan issued by the Department pursuant to 310 CMR 7.70(1)(e)1. that contains all applicable CO_2 Budget Trading Program requirements under 310 CMR 7.70(3)(c). Owners and operators of CO_2 budget sources shall comply with the approved CO_2 budget emission control plan.

(b) Submission of CO_2 Budget Emission Control Plan. For any CO_2 budget source, the CO_2 authorized account representative shall submit a complete CO_2 budget emission control plan under 310 CMR 7.70(3)(c) covering such CO_2 budget source to the Department on or before August 1, 2008, or 12 months before the date on which the CO_2 budget source, or a new unit at the source, commences operation, whichever is later.

(c) CO_2 Budget Emission Control Plan Contents. A complete CO_2 budget emission control plan shall include the following elements concerning the CO_2 budget source in a format prescribed by the Department:

1. Identification of the CO_2 budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration of the United States Department of Energy, if applicable;
2. Identification of each CO_2 budget unit at the CO_2 budget source;
3. A compliance account identification number for each CO_2 budget source;
4. For CO_2 budget sources subject to 40 CFR Part 72, a statement that the CO_2 authorized account representative shall ensure that the CO_2 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 CO_2 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 CO_2 budget sources not subject to 40 CFR Part 72, a statement that the CO_2 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 CO_2 budget sources that have an approved output monitoring plan as of March 9, 2018, a statement that the CO_2 budget sources have an output monitoring plan that meets the requirements in 310 CMR 7.70(8);
7. For CO_2 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 CO_2 budget emission control plans. After reviewing the proposed CO_2 budget emissions control plan, the Department shall:

1. Issue a proposed disapproval of the CO_2 budget emission control plan, a proposed approval of the CO_2 budget emissions control plan, or a proposed approval of the CO_2 budget emission control plan with conditions, based on whether the CO_2 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 CO_2 budget emission control plan, the final approval of the CO_2 budget emission control plan with conditions, or a disapproval of the CO_2 budget emission control plan.

(e) CO_2 budget emission control plan approvals issued to a CO_2 budget source that changes ownership are binding upon the new owner.

(f) Revisions to CO_2 Budget Emission Control Plans.

1. At any time, the Department may require a CO_2 budget source to submit a revision to its CO_2 budget emission control plan.
2. If the CO_2 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 CO_2 budget source shall submit a revised monitoring plan

to the Department and obtain approval of the change to the CO_2 budget emission control plan by the Department prior to making the modification. The Department will modify the CO_2 budget emission control plan upon approval of the revised monitoring plan.

3. At any time, a CO_2 budget source may propose a change to its CO_2 budget emissions control plan.

(g) Operating Permits. If the CO_2 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 CO_2 budget source is subject to the CO_2 requirements of 310 CMR 7.70(1)(e)3., the CO_2 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 CO_2 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 CO_2 budget unit at the source;

b. At the CO_2 authorized account representative's option, the serial numbers of the CO_2 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 CO_2 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 CO_2 authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO_2 budget units at the source in compliance with the CO_2 Budget Trading Program, whether the source and each CO_2 budget unit at the source for which the compliance certification is submitted was operated during the calendar years covered by the report in compliance with the requirements of the CO_2 Budget Trading Program, including:

a. Whether the source was operated in compliance with the CO_2 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 CO_2 emissions to the unit, in accordance with 310 CMR 7.70(8);

c. Whether all the CO_2 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 CO_2 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 CO_2 allowances from or transfer CO_2

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) CO_2 Allowance Allocations.

(a) Massachusetts CO_2 Budget Trading Program Base Budget.

~~1. For 2018, the Massachusetts CO_2 Budget Trading Program base budget is 13,083,598 tons.~~

~~2. For 2019, the Massachusetts CO_2 Budget Trading Program base budget is 12,756,508 tons.~~

~~3. For 2020, the Massachusetts CO_2 Budget Trading Program base budget is 12,437,596 tons.~~

~~4. For 2021, the Massachusetts CO_2 Budget Trading Program base budget is 11,944,355 tons.~~

~~5. For 2022, the Massachusetts CO_2 Budget Trading Program base budget is 11,582,404 tons.~~

~~6. For 2023, the Massachusetts CO_2 Budget Trading Program base budget is 11,220,454 tons.~~

~~7. For 2024, the Massachusetts CO_2 Budget Trading Program base budget is 10,858,504 tons.~~

~~8. For 2025, the Massachusetts CO_2 Budget Trading Program base budget is 10,496,554 tons.~~

~~9.~~1. For 2026, the Massachusetts CO_2 Budget Trading Program base budget is 10,134,604 tons.

~~10.~~2. For 2027, the Massachusetts CO_2 Budget Trading Program base budget is 9,~~772,654~~008,537 tons.

~~11.~~3. For 2028, the Massachusetts CO_2 Budget Trading Program base budget is ~~9,410,704~~7,882,470 tons.

~~12.~~4. For 2029, the Massachusetts CO_2 Budget Trading Program base budget is ~~9,048,753~~6,756,403 tons.

~~13.~~5. For 2030, the Massachusetts CO_2 Budget Trading Program base budget is ~~8,686,803~~5,630,336 tons.

6. ~~For~~ 2031, the Massachusetts CO_2 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.

~~14.~~12. For 2037, and ~~future years~~each calendar year thereafter, the Massachusetts CO2 Budget Trading Program base budget will be ~~established through amendments following future program review~~965,200 tons.

(b) CO_2 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. CO_2 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 CO_2 emission rate for electricity generation, in lbs. CO_2/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 CO_2 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)(~~c~~b)1.a.ii.(iii).

iii. After review of ~~the~~a certified report submitted to the Department pursuant to 310 CMR 7.70(5)(~~c~~b)1.a.ii., the Department will allocate to the VRE Account the number of CO_2 allowances reported pursuant to 310 CMR 7.70(5)(~~c~~b)1.a.ii.(iii),~~ ~~or 200,000 CO_2 allowances, whichever is fewer.

~~iv. The Department will periodically review provisions related to the VRE Account in consultation with DOER.~~

b. Massachusetts Auction Account.

i. The Department shall establish a Massachusetts Auction Account.

ii. The Department shall allocate all CO_2 allowances not allocated under 310 CMR 7.70(5)(~~c~~b)1.a. or 4. to the Massachusetts Auction Account.

iii. ~~The~~On or before January 1, 2027, and each year thereafter the Department shall allocate into the Massachusetts Auction Account current vintage year CO_2 CCR tier 1 and current vintage year CO_2 CCR tier 2 Allowances in the quantity specified in 310 CMR 7.70(5)(~~c)3~~b)2.

c. CO_2 Allowances Available for Allocation. For allocation ~~years 2014 through 2020~~year 2027 and each succeeding calendar year, the Massachusetts CO_2 Budget Trading Program ~~adjusted~~base budget shall be the maximum number of allowances available for allocation in a given allocation year, except for CO_2 CCR tier 1 and CO_2 CCR tier 2 allowances.

~~2. Determination of 2014 through 2020 Adjusted Budgets.~~

~~a. First Control Period Adjustment for Banked Allowances. By January 15, 2014, the Department established the first control period adjustment for banked allowances quantity for allocation years 2014 through 2020. Those adjustment quantities are shown in the following table:~~

~~First Control Period Adjustment for Banked Allowances~~						
~~2014~~	~~2015~~	~~2016~~	~~2017~~	~~2018~~	~~2019~~	~~2020~~
~~1,324,595~~	~~1,324,595~~	~~1,324,595~~	~~1,324,595~~	~~1,324,595~~	~~1,324,595~~	~~1,324,595~~

~~b. Second Control Period Adjustment for Banked Allowances. On March 15, 2014, the Department established the second control period adjustment for banked allowances quantity for allocation years 2015 through 2020. Those adjustment quantities are shown in the following table:~~

~~Second Control Period Adjustment for Banked Allowances~~					
~~2015~~	~~2016~~	~~2017~~	~~2018~~	~~2019~~	~~2020~~
~~2,208,353~~	~~2,208,353~~	~~2,208,353~~	~~2,208,353~~	~~2,208,353~~	~~2,208,353~~

~~c. Third Adjustment for Banked Allowances. On March 15, 2021, the Department shall establish the third adjustment for banked allowances quantity for allocation years 2021 through 2025 through the application of the following formula:~~

~~TABA = ((TA - TAE)/5) x RS%~~

~~Where:~~

~~TABA is the third adjustment for banked allowances quantity in tons.~~

~~TA, third adjustment, is the total quantity of allowances of vintage years prior to 2021 held in general and compliance accounts, including compliance accounts established pursuant to the CO_2 Budget Trading Program, but not including accounts opened by participating states, as reflected in the CO_2 Allowance Tracking System on March 15, 2021.~~

~~TAE, third adjustment emissions, is the total quantity of 2018, 2019 and 2020 emissions from all CO_2 budget sources in all participating states, reported~~

~~pursuant to CO_2 Budget Trading Program as reflected in the CO_2 Allowance Tracking System on March 15, 2021.~~

~~RS% is the Massachusetts 2021 Base Budget/The total of the 2021 Base Budgets for all the Participating States.~~

~~d. CO_2 Budget Trading Program Adjusted Budgets for 2018 through 2020. On April 15, 2014 the Department established the Massachusetts CO_2 Budget Trading Program adjusted budgets for allocation years 2018 through 2020. Those Adjusted Budgets are shown in the following table:~~

~~Massachusetts CO_2 Budget Trading Adjusted Budgets~~		
~~2018~~	~~2019~~	~~2020~~
~~9,550,650~~	~~9,223,560~~	~~8,904,648~~

~~e. CO_2 Budget Trading Program Adjusted Budgets for 2021 through 2025. On April 15, 2021 the Department shall establish the Massachusetts CO_2 Budget Trading Program adjusted budgets for the 2021 through 2025 allocation years by the following formula:~~

~~AB = BB - TABA~~

~~Where:~~

~~AB is the Massachusetts CO_2 Budget Trading Program adjusted~~

~~budget. BB is the Massachusetts CO_2 Budget Trading Program base~~

~~budget.~~

~~TABA is the third adjustment for banked allowances quantity in tons.~~

~~f. After making the determinations in 310 CMR 7.70(5)(c)2., the Department or its agent will publish on the Department's website the CO_2 trading program adjusted base budgets for the 2021 through 2025 allocation years.~~

~~3.~~ Cost Containment Reserve (CCR) Allocation. ~~Starting in the calendar year 2014 and each calendar year thereafter, the~~The Department shall allocate CO_2 CCR tier 1 and CO_2 CCR tier 2 allowances~~ into the Massachusetts Auction Account~~, separate from and additional to~~, the CO_2 allowances allocated under the~~ Massachusetts CO_2 Budget Trading Program base budget set forth in 310 CMR 7.70(5)(a~~). The CCR allocation is for the purpose of containing the cost of CO_2 allowances. ~~)., into the Massachusetts Auction Account. The Department shall allocate CO_2 CCR tier 1 and CO_2 CCR tier 2 allowances ~~into the Massachusetts Auction Account~~ in the following manner:

~~a. The Department shall initially allocate 806,984 CO_2 CCR allowances for calendar year 2014.~~

~~b.~~2. On or before January 1, ~~2015~~2027, and ~~of~~ each ~~calendar~~ year thereafter ~~through 2020,~~, the Department shall allocate 1,515,860 current vintage year CO_2 CCR tier 1 and 1,515,860 CO_2 CCR tier 2 allowances ~~in an amount equal to 1,613,968, minus~~and shall withdraw the number of CO_2 CCR tier 1 and CO_2 CCR tier 2 allowances that remain in the Massachusetts Auction Account at the end of the prior calendar year.~~ CO2 CCR allowances that remain in the Massachusetts Auction Account at the end of the calendar year will be converted into new, current vintage year CO2 CCR allowances pursuant to 310 CMR 7.70(5)(c)3.f.~~

~~c. On or before January 1, 2021 and each year thereafter, the Department shall allocate current vintage year CO2 CCR allowances equal to the quantity in the table below, minus the number of CO2 CCR allowances that remain in the Massachusetts Auction Account at the end of the prior calendar year that are converted into new CO2 CCR allowances pursuant to 310 CMR 7.70(5)(c)3.f.~~

~~d.~~a. ~~CO_2 CCR~~CO_2 CCR tier 1 and CO_2 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 CO_2 allowances available for purchase at the auction, not including any CO_2 CCR tier 1 and CO_2 CCR tier 2 allowances.

~~e.~~b. After all of the CO_2 CCR tier 1 and CCR tier 2 allowances in the Massachusetts Auction Account have been sold in a given calendar year, no additional CO_2 CCR allowances will be transferred into the Massachusetts Auction Account that calendar year.

~~f. At the end of the calendar year, the Department shall calculate the quantity of undistributed CO_2 CCR allowances remaining in the Massachusetts Auction Account. CO_2 CCR allowances equal to or less than the size of the CCR allowances limit in 310 CMR 7.70(5)(c)3.b. or c. for the following calendar year shall be converted into CO_2 CCR allowances for the following year. Any remaining CO_2 CCR allowances in the Massachusetts Auction Account not converted into CO_2 CCR allowances for the following year shall be transferred into the Cost Containment Reserve Retirement Account established pursuant to 310 CMR 7.70(5)(c)7.~~

~~Table 1. Massachusetts CCR Allowances from 2021 Forward~~									
~~2021~~	~~2022~~	~~2023~~	~~2024~~	~~2025~~	~~2026~~	~~2027~~	~~2028~~	~~2029~~	~~2030 and each year thereafter~~
~~1,194,435~~	~~1,158,240~~	~~1,122,045~~	~~1,085,850~~	~~1,049,655~~	~~1,013,460~~	~~977,265~~	~~941,070~~	~~904,875~~	~~868,680~~

~~4. Emissions Containment Reserve (ECR) Withholding. Starting in calendar year 2021 and each year thereafter, DOER shall withhold CO_2 allowances from sale at an auction for the purpose of additional emission reductions in the event of lower than anticipated emission reduction costs. CO_2 allowances shall be withheld in accordance with the following:~~

~~a. CO_2 allowances shall be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the ECR trigger price shown in 225 CMR 13.03: *Table 2*.~~

~~b. If the CO_2 ECR trigger price is met, then the maximum quantity of CO_2 allowances that may be withheld from that auction will be equal to the quantity shown in the following table, minus the total quantity of CO_2 allowances that have been withheld from any prior auction in that calendar year.~~

~~Table 2. Massachusetts ECR Allowances 2021 Forward~~									
~~2021~~	~~2022~~	~~2023~~	~~2024~~	~~2025~~	~~2026~~	~~2027~~	~~2028~~	~~2029~~	~~2030 and each year thereafter~~
~~1,194,436~~	~~1,158,240~~	~~1,122,045~~	~~1,085,850~~	~~1,049,655~~	~~1,013,460~~	~~977,265~~	~~941,070~~	~~904,875~~	~~868,680~~

~~c. CO_2 allowances withheld from the auction because the ECR trigger price was met shall not be resold in any future auction.~~

~~d. At the end of the calendar year, DOER shall submit to the Department a report documenting the number of CO_2 allowances withheld from the auction in the preceding year because of a trigger of the Emission Containment Reserve and the Department shall transfer any CO_2 allowances withheld from the auction in that year into the Emission Containment Reserve Retirement Account established pursuant to 310 CMR 7.70(5)(c)8.~~

~~5.~~3. Undistributed and Unsold CO_2 Allowances.

a. The Department or DOER may retire undistributed CO_2 allowances at the end of each control period.

b. The Department or DOER may retire unsold CO_2 allowances at the end of each control period.

c. The Department may create one or more retirement accounts in the CO_2 Allowance Tracking System for the purpose of retiring CO_2 allowances. CO_2 allowances transferred into retirement accounts cannot be removed, unless they are transferred in error.

~~6.~~4. Useful Net Thermal Energy Retirement Account.

a. Pursuant to 310 CMR 7.70(5)(~~c)4~~b)3.c., the Department shall create a useful net thermal energy retirement account in the RGGI CO_2 Allowance Tracking System for the purpose of retiring CO_2 allowances equal to the amount of CO_2 emissions attributable to the production of useful net thermal energy from combined heat and power CO_2 budget sources.

b. Each year, the Department shall retire CO_2 allowances equal to the amount of CO_2 emissions attributed to the production of useful net thermal energy during the prior calendar year, as quantified and reported by the CO_2 authorized account representative pursuant to under 310 CMR 7.70(8)(~~i~~e).

~~7.~~5. Pursuant to 310 CMR 7.70(5)(~~c~~b)3.~~f~~c., the Department shall create a Cost Containment Reserve Retirement Account in the RGGI CO_2 Allowance Tracking System (COATS) for the purpose of retiring CO_2 CCR allowances not converted into CO_2 CCR allowances for the following year ~~pursuant to 310 CMR 7.70(5)(c)3.f~~.

~~8. Pursuant to 310 CMR 7.70(5)(c)4.d., the Department shall create an Emission Containment Reserve Retirement Account in the RGGI CO_2 Allowance Tracking System for the purpose of retiring CO_2 allowances equal to the amount of CO_2 allowances withheld from auction pursuant to 310 CMR 7.70(5)(c)4.d.~~

(6) CO_2 Allowance Tracking System (COATS).

~~(6)~~ CO_2 Allowance Tracking System~~.~~

(a) ~~CO_2 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 CO_2 budget source. Deductions or transfers of CO_2 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 CO_2 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 CO_2 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 CO_2 allowances. An application for a general account may designate one and only one CO_2 authorized account representative and one and only one CO_2 authorized alternate account representative who may act on behalf of the CO_2 authorized account representative. The agreement by which the CO_2 authorized alternate account representative is selected shall include a procedure for authorizing the CO_2 authorized alternate account representative to act in *lieu* of the CO_2 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 CO_2 authorized account representative and any CO_2 authorized alternate account representative;

ii. At the option of the CO_2 authorized account representative, organization name and type of organization;

iii. A list of all persons subject to a binding agreement for the CO_2 authorized account representative or any CO_2 authorized alternate account representative to represent their ownership interest with respect to the CO_2 allowances held in the general account;

iv. The following certification statement by the CO_2 authorized account representative and any CO_2 authorized alternate account representative: "I certify that I was selected as the CO_2 authorized account representative or the CO_2 alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CO_2 allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO_2 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 CO_2 authorized account representative and any CO_2 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 CO_2 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 CO_2 authorized account representative and any CO_2 authorized alternate account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CO_2 allowances held in the general account in all matters pertaining to the CO_2 Budget Trading Program, notwithstanding any agreement between the CO_2 authorized account representative or any CO_2 authorized alternate account representative and such person. Any such person shall be bound by any order or decision issued to the CO_2 authorized account representative or any CO_2 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 CO_2 authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO_2 authorized account representative.

ii. Each submission concerning the general account shall be submitted, signed, and certified by the CO_2 authorized account representative or any CO_2 authorized alternate account representative for the persons having an ownership interest with respect to CO_2 allowances held in the general account. Each such submission shall include the following certification statement by the CO_2 authorized account representative or any CO_2 authorized alternate account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO_2 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 CO_2 Authorized Account Representative and CO_2 Authorized Alternate Account Representative; Changes in Persons with Ownership Interest.

i. The CO_2 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 CO_2 authorized alternate account representative, or the previous CO_2 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 CO_2 authorized account representative and the persons with an ownership interest with respect to the CO_2 allowances in the general account.

ii. The CO_2 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 CO_2 authorized alternate account representative, or the previous CO_2 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 CO_2 authorized alternate account representative and the persons with an ownership interest with respect to the CO_2 allowances in the general account.

iii. In the event a new person having an ownership interest with respect to CO_2 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 CO_2 authorized account representative and any CO_2 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 CO_2 allowances in the general account, including the addition or deletion of persons, the CO_2 authorized account representative or any CO_2 authorized alternate account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CO_2 allowances in the general account to include the change.

d. Objections Concerning CO_2 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 CO_2 authorized account representative or any CO_2 authorized alternate account representative for a general account shall affect any representation, action, inaction, or submission of the CO_2 authorized account representative or any CO_2 authorized alternate account representative or the finality of any decision or order by the Department or its agent under the CO_2 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 CO_2 authorized account representative or any CO_2 authorized alternate account representative for a general account, including private legal disputes concerning the proceeds of CO_2 allowance transfers.

e. Delegation by CO_2 Authorized Account Representative and CO_2 Authorized Alternate Account Representative.

i. A CO_2 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 CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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 CO_2 authorized account representative or CO_2 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) CO_2 Allowance Tracking System Responsibilities of CO_2 Authorized Account ~~Repre- sentative.~~Representative. Following the establishment of a CO_2 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 CO_2 allowances in the account, shall be made only by the CO_2 authorized account representative for the account.

(d) Recordation of CO_2 Allowance Allocations.

1. On or before January 31st of each year, the Department or its agent shall record in the Massachusetts Auction Account the CO_2 allowances for that calendar year.

2. On or before January 31st of each year, the Department or its agent shall record CO_2 allowances allocated pursuant to 310 CMR 7.70(5)(~~c~~b)1.a. in the Voluntary Renewable Energy (VRE) Account for the allocation year three years in the future.

3. Serial Numbers for Allocated CO_2 Allowances. When allocating CO_2 allowances to, and recording them in, an account, the Department or its agent shall assign each CO_2 allowance a unique identification number that includes digits identifying the year for which the CO_2 allowance is allocated.

(e) Compliance.

1. Allowances Available for Compliance Deduction. CO_2 allowances that meet the following criteria are available to be deducted in order for a CO_2 budget source to comply with the CO_2 requirements of 310 CMR 7.70(1)(e)3. for a control period or an interim control period.

a. The CO_2 ~~allowances, other than CO_2 offset~~ 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 CO_2 allowances are held in the CO_2 budget source's compliance account as of the CO_2 allowance transfer deadline for that control period or interim control period are transferred into the compliance account by a CO_2 allowance transfer correctly submitted for recordation under 310 CMR 7.70(7)(a) by the CO_2 allowance transfer deadline for that control period or interim control period.

c. For CO_2 offset allowances, the number of CO_2 offset allowances that are available to be deducted in order for a CO_2 budget source to comply with the CO_2 requirements of 310 CMR 7.70(1)(e)3. for a control period or interim control period may not exceed 3.3% of the CO_2 budget source's CO_2 emissions for that control period, or 3.3% of 0.50 times the CO_2 budget source's emissions for an interim control period, as determined in accordance with 310 CMR 7.70(6) and (8); and

d. The CO_2 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 CO_2 allowance transfers submitted for recordation in the CO_2 budget source's compliance account by the CO_2 allowance transfer deadline for a control period or interim control period, the Department or its agent shall deduct CO_2 allowances available under 310 CMR 7.70(6)(e)1. to cover the source's CO_2 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 CO_2 allowances deducted equals the number of tons of total CO_2 emissions (or 0.50 times the number of tons of total CO_2 emissions for the interim control period), less any CO_2 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 CO_2 budget units at the CO_2 budget source for the control period or interim control period; or

b. If there are insufficient CO_2 allowances to complete the deductions in 310 CMR 7.70(6)(e)2.a., until no more CO_2 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 CO_2 authorized account representative if it believes that the CO_2 budget source exceeded its CO_2 budget emissions limitation.

3. Identification of Available CO_2 Allowances by Serial Number; Default Compliance Deductions.

a. The CO_2 authorized account representative for a source's compliance account may request that specific CO_2 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 CO_2 allowances for a control period or interim control period from the CO_2 budget source's compliance account, in the absence of an identification or in the case of a partial identification of available CO_2 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., CO_2 offset allowances. CO_2 offset allowances shall be deducted in chronological order (i.e., CO_2 offset allowances from earlier allocation years shall be deducted before CO_2 offset allowances from later allocation years). In the event that some, but not all, CO_2 offset allowances from a particular allocation year are to be deducted, CO_2 offset allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

ii. Second, any CO_2 allowances, other than CO_2 offset allowances, that are available for deduction under 310 CMR 7.70(6)(e)1. CO_2 allowances shall be deducted in chronological order (i.e., CO_2 allowances from earlier allocation years shall be deducted before CO_2 allowances from later allocation years). In the event that some, but not all, CO_2 allowances from a particular allocation year are to be deducted, CO_2 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 CO_2 budget source's compliance account a number of CO_2 allowances, equal to three times the number of the source's excess emissions. In the event that a source has insufficient CO_2 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 CO_2 offset allowances may be deducted to account for the source's excess emissions.

b. Any CO_2 allowance deduction required under 310 CMR 7.70(6)(e)4.a. shall not affect the liability of the owners and operators of the CO_2 budget source or the CO_2 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 CO_2 budget source had excess emissions and the concomitant deduction of CO_2 allowances from that CO_2 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 CO_2 allowances resulting from the Department's original determination that the relevant CO_2 budget source has had excess emissions. Should the Department revise its determination of the existence or extent of the CO_2 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 CO_2 budget source's compliance account no longer exist, the CO_2 allowances shall be provided to a general account selected by the owner or operator of the CO_2 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 CO_2 Budget Trading Program and make appropriate adjustments of the information in the submissions.

b. The Department may deduct CO_2 allowances from or transfer CO_2 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 CO_2 allowance that is held in a compliance account or a general account shall remain in such account unless and until the CO_2 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 CO_2 Allowance Tracking System (COATS) account. Within ten business days of making such correction, the Department or its agent shall notify the CO_2 authorized account representative for the account.

2. At any time the CO_2 authorized account representative may notify the Department if it believes that a mistake has been made.

(h) Closing of General Accounts.

1. A CO_2 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 CO_2 Allowance Tracking System (COATS) and by correctly submitting for recordation under 310 CMR 7.70(7)(a) a CO_2 allowance transfer of all CO_2 allowances in the account to one or more other CO_2 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 CO_2 allowances, the Department or its agent may notify the CO_2 authorized account representative for the account that the account shall be closed in the CO_2 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 CO_2 allowances into the account under 310 CMR 7.70(7)(a) or a statement submitted by the CO_2 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 ~~owner or operator~~CO_2 authorized account representative of the ~~unit~~account demonstrated that the account should not be closed.

(7) CO_2 Allowance Transfers.

(a) Submission of CO_2 Allowance Transfers. The CO_2 authorized account representative who is the transferor shall submit the transfer to the Department or its agent. To be considered correctly submitted, the CO_2 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 CO_2 allowance to be transferred;
3. The printed name and signature of the CO_2 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 CO_2 allowance transfer, except as provided in 310 CMR 7.70(7)(b)2., the Department or its agent shall record a CO_2 allowance transfer by moving each CO_2 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 CO_2 allowance identified by serial number in the transfer.

2. A CO_2 allowance transfer into or out of a compliance account that is submitted for recordation following the CO_2 allowance transfer deadline and that includes any CO_2 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 CO_2 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 CO_2 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 CO_2 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 CO_2 authorized account representatives of both the transferor and transferee accounts.

2. Notification of Non-recordation. Within ten business days of receipt of a CO_2 allowance transfer that fails to meet the requirements of 310 CMR 7.70(7)(b)1., the Department or its agent shall notify the CO_2 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 CO_2 allowance transfer for recordation following notification of non-recordation.

(8) Monitoring and Reporting.

(a) ~~(a)~~ General Requirements. The owners and operators, and to the extent applicable, the CO_2 authorized account representative of a CO_2 budget unit, shall comply with the monitoring, recordkeeping and reporting requirements as provided in ~~310 CMR 7.70(8)~~this Subpart and all applicable sections of 40 CFR ~~Part~~part 75. ~~Where referenced in 310 CMR 7.70(8), the monitoring requirements of 40 CFR Part 75 shall be adhered to in a manner consistent with the purpose of monitoring and reporting CO_2 mass emissions pursuant to 310 CMR 7.70.~~ 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~~part 75 shall be replaced by the terms ''CO_2 budget unit,'' ''CO_2 authorized account representative,'' and ''continuous emissions monitoring system'' (or ''CEMS''), respectively, as defined in section 310 CMR 7.70(1)(b). ~~For units not subject to an acid rain emissions limitation, the term "Administrator" in 40 CFR Part 75 shall be replaced with "the Department or its agent." Owners or operators of a CO_2 budget unit who monitor a non-CO_2 budget unit pursuant to the common, multiple, or bypass stack procedures in 40 CFR 75.72(b)(2)(ii), or 40 CFR 75.16 (b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for purposes of complying with 310 CMR 7.70, shall monitor and report CO_2 mass emissions from such non-CO_2 budget units according to the procedures for CO_2 budget units established in 310 CMR 7.70(8)(a) through (g).~~

1. ~~1.~~ Requirements for Installation, Certification, and ~~Data~~ Accounting. The owner or operator of each CO_2 budget unit ~~shall~~must meet the following requirements~~:~~.

~~a.~~ Install all monitoring systems ~~necessary to monitor CO_2 mass emissions~~required under this subpart for monitoring CO_2 mass emissions. This includes all systems required to monitor CO2 concentration, stack gas flow, O_2 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 CO_2 emissions under ~~310 CMR 7.70(8). This may require systems to monitor CO_2 concentration, stack gas flow rate, O_2 concentration, heat input, and fuel flow rate;~~

~~b.~~a. ~~Successfully complete all certification tests required under 310 CMR 7.70(8)(b)and meet all other requirements of 310 CMR 7.70(8) and 40 CFR~~this Part ~~75 applicable to the monitoring systems under 310 CMR 7.70(8)(a)1.a.; and,~~.

~~c.~~ Record, report and quality-assure the data from the monitoring systems ~~under310 CMR 7.70(8)(~~under paragraph (a)1.~~a.~~

~~2. Compliance Dates. The owner or operator~~ of ~~a CO_2 budget unit shall meet the monitoring system certification and other requirements of 310 CMR 7.70(8)(a)1.a. through 1.c. on or before the following dates. The owner or operator of a CO_2 budget unit shall record, report and quality-assure the data from the monitoring systems under 310 CMR 7.70(8)(a)1.a. on and after the following dates.~~

~~a. The owner or operator of a CO_2 budget unit, except for a CO_2 budget unit under 310 CMR 7.70(8)(a)2.b., that commences commercial operation before July 1, 2008, must comply with the requirements of 310 CMR 7.70(8) by January 1, 2009.~~

~~b. The owner or operator of a CO_2 budget unit that commences commercial operation on or after July 1, 2008 must comply with the requirements of 310 CMR 7.70(8) by the later of the following dates:~~

~~i. January 1, 2009; or ii. 180 calendar days after the date on which the unit commences commercial operation.~~

~~c. For the owner or operator of a CO_2 budget unit for which construction of a new stack or flue installation is completed after the applicable deadline under 310 CMR 7.70(8)(a)2.a. or 2.b. by the earlier of:~~

~~i. 90 unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue; or, ii. 180 calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue.~~

~~3. Reporting Data.~~

~~a. Except as provided in 310 CMR 7.70(8)(a)3.b., the owner or operator of a CO_2 budget unit that does not meet the applicable compliance date set forth in 310 CMR 7.70(8)(a)2.a., 2.b., and 2.c. for any monitoring system under 310 CMR 7.70(8)(a)1.a. shall, for each such monitoring system, determine, record, and report maximum potential (or as appropriate minimum potential) values for CO_2 concentration, CO_2 emissions rate, stack gas moisture content, fuel flow rate, heat input, and any other parameter required to determine CO_2 mass emissions in accordance with 40 CFR~~

~~75.31(b)(2) or (c)(3), or~~this section ~~2.4 of Appendix D of 40 CFR Part 75, as applicable.~~

~~b. The owner or operator of a CO_2 budget unit that does not meet the applicable compliance date set forth in 310 CMR 7.70(8)(a)2.c. for any monitoring system under 310 CMR 7.70(8)(a)1.a. shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in Subpart D or Appendix D of 40 CFR Part 75, in *lieu* of the maximum potential (or as appropriate minimum potential) values for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter c. Low Mass Emissions (LME) Units.~~

~~i. CO_2 budget units subject to an acid rain emissions limitation that qualify for the optional SO_2, NO_x, and CO_2 emissions calculations for low mass emissions (LME) units under 40 CFR 75.19 and report emissions for such programs using the calculations under 40 CFR 75.19, shall also use the CO_2 emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with 310 CMR 7.70.~~

~~ii. CO_2 budget units subject to an acid rain emissions limitation that do not qualify for the optional SO_2, NO_x, and CO_2 emissions calculations for LME units under 40 CFR 75.19, shall not use the CO_2 emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with 310 CMR 7.70.~~

~~iii. CO_2 budget units not subject to an acid rain emissions limitation shall qualify for the optional CO_2 emissions calculation for LME units under 40 CFR 75.19, provided that they emit less than 100 tons of NO_x annually and no more than 25 tons of SO_2 annually.~~

~~4. Prohibitions.~~

~~a. No owner or operator of a CO_2 budget unit shall use any alternate monitoring system, alternate reference method, or any other alternate for the required continuous emissions monitoring system without having obtained prior written approval in accordance with 310 CMR 7.70(8)(f).~~

~~b. No owner or operator of a CO_2 budget unit shall operate the unit so as to discharge, or allow to be discharged, CO_2 emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of 310 CMR 7.70(8) and 40 CFR Part 75.~~

~~c. No owner or operator of a CO_2 budget unit shall disrupt the continuous emissions monitoring system, any portion thereof, or any other approved emissions monitoring method, and thereby avoid monitoring and recording CO_2 mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of 310 CMR 7.70(8) and 40 CFR Part 75.~~

~~d. No owner or operator of a CO_2 budget unit shall retire or permanently discontinue use of the continuous emissions monitoring system, any component thereof, or any other approved emissions monitoring system under 310 CMR 7.70(8), except under any one of the following circumstances:~~

~~i. The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of 310 CMR 7.70(8) and 40 CFR Part 75, by the Department for use at that unit that provides emissions data for the same pollutant or parameter as the retired or discontinued monitoring system; or, ii. The CO_2 authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with 310 CMR 7.70(8)(b)4.c.i.~~

~~(b) Initial Certification and Recertification Procedures.~~

~~1. The owner or operator of a CO_2 budget unit shall be exempt from the initial certification requirements of 310 CMR 7.70(8)(b) for a monitoring system under 310 CMR 7.70(8)(a)1.a. if the following conditions are met:~~

~~a. The monitoring system has been previously certified in accordance with 40 CFR~~
~~Part 75; and,~~

~~b. The applicable quality assurance and quality-control requirements of 40 CFR75.21 and Appendix B and Appendix D of 40 CFR Part 75 are fully met for the certified monitoring system described in 310 CMR 7.70(8)(b)1.a.~~

~~2. The recertification provisions of 310 CMR 7.70(8)(b) shall apply to a monitoringsystem under 310 CMR 7.70(8)(a)1.a. exempt from initial certification requirements under 310 CMR 7.70(8)(b)1.~~

~~3. Notwithstanding 310 CMR 7.70(8)(b)1., if the Administrator has previously approved a petition under 40 CFR 75.72(b)(2)(ii), or 40 CFR 75.16(b)(2)(ii)(B) as pursuant to 40 CFR 75.13 for apportioning the CO_2 emissions rate measured in a common stack or a petition under 40 CFR 75.66 for an alternate requirement in 40 CFR Part 75, the CO_2 authorized account representative shall submit the petition to the Department under 310 CMR 7.70(8)(f)1. to determine whether the approval applies under this program.~~

~~4. Except as provided in 310 CMR 7.70(8)(b)1., the owner or operator of a CO_2 budget unit shall comply with the following initial certification and recertification procedures for a continuous emissions monitoring system and an excepted monitoring system under Appendix D of 40 CFR Part 75 and under 310 CMR 7.70(8)(a)1.a. The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR 75.19 or that qualifies to use an alternate monitoring system under Subpart E of 40 CFR Part 75 shall comply with the procedures in 310 CMR 7.70(8)(b)5. or 6., respectively.~~

~~a. Requirements for Initial Certification. The owner or operator shall ensure that each continuous emissions monitoring system required under 310 CMR~~
~~7.70(8)(a)1.a. (which includes the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadlines specified in 310 CMR 7.70(8)(a)2. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of 310 CMR 7.70(8) in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.~~

~~b. Requirements for Recertification.~~

~~(i) Whenever the owner or operator makes a replacement, modification, orchange in a certified continuous emissions monitoring system under 310 CMR 7.70(8)(a)1.a. that the Administrator or the Department determines significantly affects the ability of the system to accurately measure or record CO_2 mass emissions or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or Appendix B to 40 CFR Part 75, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b).~~

~~(ii) For systems using stack measurements such as stack flow, stack moisturecontent, or CO_2 or O_2 monitors, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling~~

~~system or the unit's operation that the Administrator or the Department determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system according to 40 CFR 75.20(b). Examples of changes which require recertification include: replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.~~

~~c. Approval Process for Initial Certifications and Recertification. 310 CMR 7.70(8)(b)4.c.i through iv. apply to both initial certification and recertification of a monitoring system under 310 CMR 7.70(8)(a)1.a. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with "recertified," and proceed in the manner prescribed in 40 CFR 75.20(b)(5) and (g)(7) in *lieu* of 310 CMR 7.70(8)(b)4.c.v.~~

~~i. Notification of Certification. The CO_2 authorized account representative shall submit to the Department or its agent, the appropriate EPA Regional Office, and the Administrator a written notice of the dates of certification in accordance with 310 CMR 7.70(8)(d).~~

~~ii. Certification Application. The CO_2 authorized account representative shall submit to the Department or its agent a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63.~~

~~iii. Provisional Certification Data. The provisional certification date for a monitor shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitor may be used under the CO_2 Budget Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under 310 CMR 7.70(8)(b)4.c.ii. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR Part 75, shall be considered valid qualityassured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department.~~

~~iv. Certification Application Approval Process. The Department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under 310 CMR 7.70(8)(b)4.c.ii. In the event the Department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application shall be deemed certified for use under the CO_2 Budget Trading Program.~~

~~(i) Approval Notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the Department shall issue a written notice of approval of the certification application within 120 days of receipt. (ii) Incomplete Application Notice. If the certification application is not complete, then the Department shall issue a written notice of incompleteness that sets a reasonable date by which the CO_2 authorized account representative must submit the additional information required to complete the certification application. If the CO_2 authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under 310 CMR 7.70(8)(b)4.c.iv.(iii). The 120-day review period shall not begin before receipt of a complete certification application.~~

~~(iii) Disapproval Notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of 40 CFR Part 75, or if the certification application is incomplete and the requirement for disapproval under 310 CMR 7.70(8)(b)4.c.iv.(ii) is met, then the Department shall issue a written notice of disapproval of the certification application. Upon issuance of such~~

~~notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in 310 CMR 7.70(8)(b)4.c.v. for each monitoring system, or component thereof, which is disapproved for initial certification.~~

~~(iv) Audit Decertification. The Department may issue a notice of disapproval of the certification status of a monitor in accordance with 310 CMR 7.70(8)(c)2.~~

~~v. Procedures for Loss of Certification. If the Department issues a notice of disapproval of a certification application under 310 CMR 7.70(8)(b)4.c.iv.(iii) or a notice of disapproval of certification status under 310 CMR 7.70(8)(b)4.c.iv.(iv), then:~~

~~(i) The owner or operator shall substitute the following values for each disapproved monitoring system, for each hour of unit operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i) or 40 CFR 75.20(g)(7):~~

~~1. For units monitoring, or intending to monitor, for CO_2 mass emissions using heat input or for units using the low mass emissions excepted methodology under 40 CFR 75.19, the maximum potential hourly heat input of the unit; or~~

~~2. For units monitoring, or intending to monitor, for CO_2 mass emissions using a CO_2 pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO_2 and the maximum potential flow rate of the unit under section 2.1 of Appendix A of 40 CFR Part 75.~~

~~(ii) The CO_2 authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with 310 CMR 7.70(8)(b)4.c.i. and ii.; and~~

~~(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.~~

~~5. Initial Certification and Recertification Procedures for Low Mass Emissions Units Using the Excepted Methodologies under 310 CMR 7.70(8)(a)3.c. The owner or operator of a unit qualified to use the low mass emissions excepted methodology under 310 CMR 7.70(8)(a)3.c. shall meet the applicable certification and recertification requirements of 40 CFR 75.19(a)(2), 40 CFR 75.20(h) and 310 CMR 7.70(8)(b). If the owner or operator of such a unit elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).~~

~~6. Certification/Recertification Procedures for Alternate Monitoring Systems. The CO_2 authorized account representative for each unit for which the owner or operator intends to use an alternate monitoring system approved by the Administrator and, if applicable, the Department under Subpart E of 40 CFR Part 75 shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).~~

~~(c) Out-of-control Periods.~~

~~1. Whenever any monitoring system fails to meet the quality assurance and qualitycontrol requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable procedures in Subpart D or Appendix D of 40 CFR Part 75.~~

~~2. Audit Decertification. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 310 CMR 7.70(8)(b) or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department or Administrator shall issue a notice of disapproval of the certification~~

~~status of such monitoring system. For the purposes of this 310 CMR 7.70(8)(c)2., an audit shall be either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department or Administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the initial certification or recertification procedures in 310 CMR 7.70(8)(b) for each disapproved monitoring system.~~

~~(d)~~b. Notifications~~. The CO_2 authorized account representative for a CO_2 budget unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR 75.61~~.

~~(e)~~(b) Recordkeeping and Reporting.

1. General Provisions. The CO_2 authorized account representative shall comply with all recordkeeping and reporting requirements in 310 CMR 7.70(8)(~~e~~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 CO_2 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 CO_2 authorized account representative shall submit an application to the Administrator, and the Department within 45 days after completing all CO_2 monitoring system initial certification or recertification tests required under ~~310 CMR 7.70(8)(b) including the information required under~~ 40 CFR 75.63 and 40 CFR 75.53(e) and (f).

4. Quarterly Reports. The CO_2 authorized account representative shall submit quarterly reports, as follows:

a. The CO_2 authorized account representative shall report the CO_2 mass emissions data for the CO_2 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~~)2.~~).

b. The CO_2 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 CO_2 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 SO_2 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 CO_2 emissions controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emissions controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B of 40 CFR Part 75 and the substitute values do not systematically underestimate CO_2 emissions; and

ii. The CO_2 concentration values substituted for missing data under Subpart D of 40 CFR Part 75 do not systematically underestimate CO_2

emissions.

~~(b)~~(c) Petitions.

1. Except as provided in 310 CMR 7.70(8)(~~f~~c)3., the CO_2 authorized account representative of a CO_2 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 CO_2 budget unit that is not subject to an Acid Rain emissions limitation.

a. The CO_2 authorized account representative of a CO_2 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)(~~f~~c)2.a., the CO_2 authorized account representative of a CO_2 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 CO_2 authorized account representative of a CO_2 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 CO_2 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.

~~(c)~~(d) CO_2 Budget Units That Co-fire Eligible Biomass.

1. The CO_2 authorized account representative of a CO_2 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 CO_2 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 CO_2 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 CO_2 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 CO_2 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 CO_2 budget unit, the total eligible biomass fuel input, in standard cubic feet.

f. For each distinct type of eligible biomass fuel fired at the CO_2 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 CO_2 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 CO_2 budget unit, the total dry basis eligible biomass fuel input, in pounds, calculated in accordance with 310 CMR 7.70(8)(~~g~~d)2.

i. The total amount of CO_2 emitted from the CO_2 budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with 310 CMR

7.70(8)(~~g~~d)3.

j. For each distinct type of eligible biomass fuel fired at the CO_2 budget unit, the total eligible biomass fuel heat input, in MMBtu, calculated in accordance with 310 CMR 7.~~71~~70(8)(~~g~~d)4.a.

k. The total amount of heat input to the CO_2 budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with 310 CMR 7.~~71~~70(8)(~~g~~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 CO_2 budget unit, chemical analysis, including heating value and carbon content.

2. An owner or operator of a CO_2 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 CO_2 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: $F_j = Dj \times Vj \times (1 - Mj)$

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. CO_2 emissions due to firing of eligible biomass shall be determined as follows:

a. For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO_2 budget unit, as measured and recorded in accordance with 310 CMR 7.70(8)(a) through (~~f~~c); or

b. For any full calendar quarter during which fuels other than eligible biomass are combusted at the CO_2 budget unit, as determined using the following equation:

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

where:

CO_2 tons = CO_2 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)(~~g~~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)(~~g~~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

$$H_j = F_j \times HHV_j$$

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.~~71~~70(8)(~~g~~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*, ~~May 2006.~~September 2011,

~~(d) Additional Requirements to Provide Output Data.~~

~~1. CO_2 budget source shall submit to the Department or its agent net electrical output.~~

~~2. CO_2 budget sources selling steam should use billing meters to determine net steam output. A CO_2 budget source whose steam output is not measured by billing meters or whose steam output is combined with output from a non-CO_2 budget unit prior to measurement by the billing meter shall propose to the Department an alternate method for quantification of net steam output. If data for steam output is not available, the CO_2 budget source may report heat input providing useful steam output as a surrogate for steam output.~~

~~3. Monitoring. The owner or operator of each CO_2 budget unit required to submit an output monitoring plan pursuant to 310 CMR 7.70(3)(c) shall propose a method for quantification of net energy output in such output monitoring plan, including: A diagram that includes the following features where applicable:~~

~~i. All CO_2 budget units and all generators served by each CO_2 budget unit and the relationship between CO_2 budget units and generators. If a generator served by a CO_2 budget unit is also served by a non-CO_2 budget unit, the non-CO_2 budget unit and its relationship to each generator should be indicated on the diagram as well. The diagram should indicate where the net electric output is measured and should include all electrical inputs and outputs to and from the CO_2 budget source. If net electric output is determined using a billing meter, the diagram should show each billing meter used to determine net sales of electricity and should show that all electricity measured at the point of sale is generated by the CO_2 budget units.~~

~~ii. If the CO_2 budget unit monitors net thermal output, the diagram should include all steam or hot water coming into the net steam system, including steam from CO_2 budget units and non-CO_2 budget units, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream shall have an estimated temperature, pressure and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system should identify all useful loads, house loads, parasitic loads, any other steam loads and all boiler feedwater returns. The diagram shall represent all energy losses in the system as either usable or unusable losses. The diagram shall also indicate all flow meters,~~

~~temperature or pressure sensors or other equipment used to calculate gross thermal output. If a sales agreement is used to determine net thermal output, the diagram should show the monitoring equipment used to determine the sales of steam.~~

~~b. A description of each output monitoring system. The description of the output monitoring system shall include a written description of the output system and the equations used to calculate output. For net thermal output systems, descriptions and justifications of each useful load shall be included.~~

~~c. A detailed description of all quality assurance/quality control activities that will be performed to maintain the output system in accordance with 310 CMR 7.70(8)(h)5.~~

~~d. Documentation supporting any output value(s) to be used as a missing data value should there be periods of invalid output data. The missing data output value shall be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under 310 CMR 7.70(8)(h)3.~~

~~4. Initial Certification. A certification statement shall be submitted by the CO_2 authorized account representative stating that either the output monitoring system consists entirely of billing meters or that the output monitoring system meets one of the accuracy requirements for non-billing meters at 310 CMR 7.70(8)(h)4.b. The certification shall be submitted in accordance with the compliance deadlines established in 310 CMR 7.70(3)(b).~~

~~a. Billing Meters. The billing meter shall record the electric or thermal output. Any electric or thermal output values that the facility reports shall be the same as the values used in billing for the output. Any output measurement equipment used as a billing meter in commercial transactions requires no additional certification or testing.~~

~~b. Non-billing Meters. For non-billing meters and systems that include a mixture of billing meters and non-billing meters, the output monitoring system shall meet either of the accuracy criteria in 310 CMR 7.70(8)(h)4i. and ii.~~

~~i. System Approach to Accuracy. The system approach to accuracy shall include a determination of how the system accuracy of within less than or equal to 10% of the reference value is achieved using the individual components in the system and should include data loggers and any wattmeters used to calculate the final net electric output data and/or any flowmeters for steam or condensate, temperature~~

~~measurement devices, absolute pressure measurement devices, and differential pressure devices used for measuring thermal energy.~~

~~ii. Component Approach to Accuracy. If testing a piece of output measurement equipment shows that the output readings are not accurate to within less than or equal to 3.0% of the full scale value, then the equipment shall be repaired or replaced to meet that requirement. Data shall remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test.~~

~~5. Ongoing QA/QC. The following ongoing quality assurance/quality control activities must be performed in order to maintain the output system:~~

~~a. Billing Meters. In the case where billing meters are used to determine output, no QA/QC activities beyond what are already performed are required.~~

~~b. Non-billing Meters. Certain types of equipment such as potential transformers, current transformers, nozzle and venturi type meters, and the primary element of an orifice plate only require an initial certification of calibration and do not require periodic recalibration unless the equipment is physically changed. However, the pressure and temperature transmitters accompanying an orifice plate shall require periodic retesting. For such pressure and temperature transmitters, and other types of equipment, either recalibrate or reverify the meter accuracy at least once every two years (*i.e.*, every eight calendar quarters), unless a consensus standard allows for less frequent calibrations or accuracy tests. The output monitoring system shall either meet an accuracy of within 10% of the reference value, or each component monitor for the output system shall meet an accuracy of within 3.0% of the full scale value, whichever is less stringent. If testing a piece of output measurement equipment shows that the output readings are not accurate to within 3.0% of the full scale value, then the equipment should be repaired or replaced to meet that requirement.~~

~~c. Out-of-control Periods. If testing a piece of output measurement equipment shows that the output readings are not accurate to the certification value, data remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test. All invalid data shall be replaced by either zero or an output value that is likely to be lower than a measured value~~

~~and that is approved as part of the monitoring plan required under 310 CMR 7.70(8)(h)3.~~

~~6. Recordkeeping and Reporting.~~

~~a. General Provisions. The CO_2 authorized account representative shall comply with all recordkeeping and reporting requirements in 310 CMR 7.70(8)(h) and with the requirements of 310 CMR 7.70(1)(e)5. and (2)(a)5.~~

~~b. Recordkeeping. Facilities shall retain data used to monitor, determine, or calculate net generation for ten years from the date reported.~~

~~c. Annual Reports. The CO_2 authorized account representative shall submit annual output reports in a spreadsheet, as follows. The data shall be sent both electronically and in hardcopy by March 1st for the immediately preceding calendar year to the Department or its agent. The annual report shall include the annual total unit level MWh, the annual total useful steam output and a certification statement from the CO_2 authorized account representative stating the following, "I am authorized to make this submission on behalf of the owners and operators of the CO_2 budget sources or CO_2 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."~~

(e) CO_2 Budget Units That Generate Useful Net Thermal Energy.

1. The CO_2 authorized account representative of a combined heat and power CO_2 budget source that generates useful net thermal energy shall report the following information for the combined heat and power CO_2 budget source to the Department or its agent for each calendar quarter:

a. The total amount of useful net thermal energy output produced by CO_2 budget units expressed in MMBtu, the total volume of steam output produced by CO_2 budget units expressed in cubic feet, the average pressure of the steam output produced by CO_2 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 CO_2 Budget Emission Control Plan consistent with the requirements of 310 CMR 7.70(3) and (8~~)(h~~).

b. The total amount of CO_2 emissions from CO_2 budget units attributable to the production of useful net thermal energy, in tons, calculated in accordance with 310 CMR 7.70(8)(~~i~~e)2.

2. The quantity of CO_2 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 CO_2 budget units at the combined heat and power CO_2 budget source during each calendar quarter.