

**Chapter 156: CO<sub>2</sub> BUDGET TRADING PROGRAM****TABLE OF CONTENTS**

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**Chapter 156: CO<sub>2</sub> BUDGET TRADING PROGRAM**

**SUMMARY:** This regulation establishes the Maine component of the CO<sub>2</sub> Budget Trading Program, which is designed to ~~stabilize and then~~ reduce anthropogenic emissions of CO<sub>2</sub>, a greenhouse gas, from CO<sub>2</sub> budget sources in an economically efficient manner.

**1. CO<sub>2</sub> Budget Trading Program General Provisions****A. Applicability**

- (1) This regulation applies statewide.
- (2) The CO<sub>2</sub> Budget Trading Program will commence no earlier than January 1, 2009 and only when other states meeting the following criteria have initiated comparable CO<sub>2</sub> budget trading programs:
  - (a) such states have wholesale electricity markets that are administered and overseen by the same Regional transmission organization as are Maine's; and
  - (b) the combined CO<sub>2</sub> emissions budgets from such states total at least 35,000,000 tons per year.

The Department may initiate air emissions licensing of CO<sub>2</sub> budget sources and participate in auctions for the sale of CO<sub>2</sub> allowances prior to commencement of the CO<sub>2</sub> Budget Trading Program.

- (3) This regulation applies to any CO<sub>2</sub> budget unit except as provided for in subsection 1(A)(4) below.
- (4) Limited Exemption. A unit that supplies less than or equal to ten percent (10%) of its gross electrical generation for transmission over the facilities of a transmission and distribution utility on an annual basis shall be exempt from the requirements of this regulation, with the exception of the following sections:
  - (a) Section 1(B) - Definitions;
  - (b) Section 1(G) - Computation of Time; and, as applicable,
  - (c) Section 4(H) - Monitoring, Recordkeeping, and Reporting Requirements as required by the Department to demonstrate that the unit is eligible for the limited exemption.

In determining whether or not the 10% applicability trigger is exceeded, all electricity transmitted over the facilities of a transmission and distribution utility as result of verifiable conservation and demand-side management initiatives or as a result of any emergency mandate from the Regional transmission organization or a lawful order of a governmental authority, is excluded from the calculation.

**B. Definitions**

- (1) **Account number.** "Account number" means the identification number given by the Department or its agent to each CO<sub>2</sub> Allowance Tracking System account.

- (2) **Acid rain emissions limitation.** “Acid rain emissions limitation” as defined in 40 CFR 72.2, means a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the Clean Air Act.
- (3) **Administrator.** “Administrator” means the Administrator of the United States Environmental Protection Agency or the Administrator’s authorized representative.
- (4) **Allocate or allocation.** “Allocate” or “allocation” means the ~~determination by the Department of the~~ number of CO<sub>2</sub> allowances, as determined by the Department, to be credited to a CO<sub>2</sub> budget unit, any general account established by the Department, the Consumer benefit account, or the general account of the sponsor of an approved CO<sub>2</sub> emissions offset project. “Allocate” means to credit such allowances to the appropriate account.
- (5) **Allocation year.** “Allocation year” means a calendar year for which the Department allocates CO<sub>2</sub> allowances pursuant to Sections 2 and 9 of this Chapter. The allocation year of each CO<sub>2</sub> allowance is reflected in the unique identification number given to the allowance pursuant to subsection 7(B)(3) of this Chapter.
- (6) **Anaerobic digester.** “Anaerobic digester” means a device that promotes the decomposition of organic material to simple organics and gaseous biogas products, usually accomplished by means of controlling temperature and volume, and including a methane recovery system.
- (7) **Anaerobic digestion.** “Anaerobic digestion” means the degradation of organic material including manure brought about through the action of microorganisms in the absence of elemental oxygen.
- (8) **Anaerobic storage.** “Anaerobic storage” means storage of organic material in an oxygen-free environment, or under oxygen-free conditions, including but not limited to, holding tanks, ponds, and lagoons.
- (9) **ANSI.** “ANSI” means American National Standards Institute.
- ~~(10) **ASHRAE.** “ASHRAE” means American Society of Heating, Refrigerating and Air-Conditioner Engineers.~~
- ~~(11)~~ **Attribute.** An “attribute” means is a characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, unit vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted, and tracked.
- ~~(12)~~ **Attribute credit.** An “attribute credit” means represents the attributes related to one megawatt-hour of electricity generation.
- ~~(13)~~ **Automated data acquisition and handling system or DAHS.** “Automated data acquisition and handling system” or “DAHS” means that component of the continuous emissions monitoring system, or other emissions monitoring system approved for use under Section 4 of this Chapter, 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 ~~§~~section 4 of this Chapter.

- (1413) **Award.** “Award” means the ~~determination by the Department of the~~ number of offset CO<sub>2</sub> allowances, as determined by the Department, to be recorded in the general account of a project sponsor pursuant to subsection 9(F) of this Chapter. Award is a type of allocation.
- (1514) **Behind-the-meter CO<sub>2</sub> emissions.** “Behind-the-meter CO<sub>2</sub> emissions” means the difference between the total annual CO<sub>2</sub> emissions from a CO<sub>2</sub> budget unit that is a combined heat and power unit at an integrated manufacturing facility and the annual CO<sub>2</sub> emissions associated with the Net electricity that is transmitted over the facilities of a Transmission and distribution utility from such a unit.
- (1615) **Billing meter.** “Billing meter” means a measurement device used to measure electric or thermal output for commercial billing under a contract.
- (1716) **Biogas.** “Biogas” means gas resulting from the decomposition of organic matter under anaerobic conditions. The principle constituents are methane (CH<sub>4</sub>) and CO<sub>2</sub>.
- (1817) **Boiler.** “Boiler” means an enclosed fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.
- (19) ~~**Boiler (commercial).** “Boiler (commercial)” means a self-contained, low pressure appliance for supplying steam or hot water to a commercial building.~~
- (20) ~~**Boiler (residential).** “Boiler (residential)” means a self-contained, low pressure appliance for supplying steam or hot water to a residential building.~~
- (2118) **British thermal unit or Btu.** “British thermal unit” or “Btu” is a measure of energy. One Btu means the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.
- (22) ~~**Building envelope.** “Building envelope” means the elements of a building that separate conditioned space from unconditioned space, or that enclose semi-heated space, through which thermal energy may be transferred to or from the exterior, unconditioned space, or conditioned space. Includes all elements that separate the interior of a building from the outdoor environment, including walls, windows, foundation, basement slab, ceiling, roof, and insulation.~~
- (2319) **Cost containment reserve trigger price or CCR trigger price.** “Cost containment reserve trigger price” or “CCR trigger price” means the minimum price at which CO<sub>2</sub> CCR allowances are offered for sale by the Department or its agent at an auction. The CCR trigger price shall be \$4.00 per CO<sub>2</sub> allowance for calendar year 2014, \$6.00 per CO<sub>2</sub> allowance in calendar year 2015, \$8.00 per CO<sub>2</sub> allowance in calendar year 2016 and \$10.00 per CO<sub>2</sub> allowance in calendar year 2017. Each calendar year thereafter through 2020, the CCR trigger price shall be 1.025 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent. The CCR trigger price in calendar year 2021 shall be \$13.00. Each calendar year thereafter, the CCR

trigger price shall be 1.07 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent.

- (~~24~~20) **CO<sub>2</sub>.** “CO<sub>2</sub>” means carbon dioxide.
- (~~25~~21) **CO<sub>2</sub> allowance.** “CO<sub>2</sub> allowance” means a limited authorization by the Department under the CO<sub>2</sub> Budget Trading Program to emit up to one ton of CO<sub>2</sub>, subject to all applicable limitations contained in this regulation. No provision of this regulation shall be construed to limit the authority of the Department to terminate or limit such authorization to emit. This limited authorization does not constitute a property right.
- (~~26~~22) **CO<sub>2</sub> allowance auction or auction.** “CO<sub>2</sub> allowance auction” or “allowance auction” or “auction” means an auction in which the Department or its agent offers CO<sub>2</sub> allowances for sale.
- (~~27~~23) **CO<sub>2</sub> allowance deduction or deduct CO<sub>2</sub> allowances.** “CO<sub>2</sub> allowance deduction” or “deduct CO<sub>2</sub> allowances” means the permanent withdrawal of CO<sub>2</sub> allowances by the Department or its agent from a CO<sub>2</sub> Allowance Tracking System compliance account to account for the number of tons of CO<sub>2</sub> emitted from a CO<sub>2</sub> budget source for a control period or an interim control period, determined in accordance with ~~§~~section 4 of this Chapter, or for the forfeit or retirement of CO<sub>2</sub> allowances as provided by this regulation.
- (~~28~~24) **CO<sub>2</sub> allowances held or hold CO<sub>2</sub> allowances.** “CO<sub>2</sub> allowances held” or “hold CO<sub>2</sub> allowances” means the CO<sub>2</sub> allowances recorded by the Department or its agent, or submitted to the Department or its agent for recordation, in accordance with ~~§~~sections 7 and 8 of this Chapter, in a CO<sub>2</sub> Allowance Tracking System account.
- (~~29~~25) **CO<sub>2</sub> Allowance Tracking System or COATS.** “CO<sub>2</sub> Allowance Tracking System” or “COATS” means the system by which the Department or its agent records allocations, deductions, and transfers of CO<sub>2</sub> allowances under the CO<sub>2</sub> Budget Trading Program. The tracking system may also be used to track CO<sub>2</sub> emissions offset projects, CO<sub>2</sub> allowance prices, and emissions from affected sources.
- (~~30~~26) **CO<sub>2</sub> Allowance Tracking System account or COATS account.** “CO<sub>2</sub> Allowance Tracking System account” or “COATS account” means an account in the CO<sub>2</sub> Allowance Tracking System established by the Department or its agent for purposes of recording the allocation, holding, transferring, retiring, or deducting of CO<sub>2</sub> allowances.
- (~~31~~27) **CO<sub>2</sub> allowance transfer deadline.** “CO<sub>2</sub> allowance transfer deadline” means midnight of the March 1 occurring after the end of the relevant control period and each relevant interim control period or, if that March 1 is not a business day, midnight of the first business day thereafter. ~~The CO<sub>2</sub> allowance transfer deadline and~~ is the deadline by which CO<sub>2</sub> allowances must be submitted for recordation in a CO<sub>2</sub> budget source’s compliance account in order to meet the source’s CO<sub>2</sub> budget emissions limitation for the control period and each interim control period immediately preceding such deadline.
- (~~32~~28) **CO<sub>2</sub> authorized account representative.** “CO<sub>2</sub> authorized account representative” means, for a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source, the natural person who is authorized by the owners and operators of the source and all CO<sub>2</sub> budget units at the source, in accordance with ~~§~~section 6 of this Chapter, to represent and legally

bind each owner and operator in matters pertaining to the CO<sub>2</sub> Budget Trading Program or, for a general account, the natural person who is authorized, under ~~§~~section 7 of this Chapter, to transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account. If the CO<sub>2</sub> budget source is also subject to the Acid Rain Program, CSAPR NO<sub>x</sub> Annual Trading Program, CSAPR NO<sub>x</sub> Ozone Season Trading Program, CSAPR SO<sub>2</sub> Group 1 Trading Program, or CSAPR SO<sub>2</sub> Group 2 Trading Program, then, for a CO<sub>2</sub> Budget Trading Program compliance account, this natural person shall be the same person as the designated representative as defined in the respective program.

- (29) **CO<sub>2</sub> authorized alternate account representative.** “CO<sub>2</sub> authorized alternate account representative” or “alternate account representative” means, for a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source, the alternate natural person who is authorized by the owners and operators of the source and all CO<sub>2</sub> budget units at the source, in accordance with section 6 of this Chapter, to represent and legally bind each owner and operator in matters pertaining to the CO<sub>2</sub> Budget Trading Program or, for a general account, the alternate natural person who is authorized, under section 7 of this Chapter, to transfer or otherwise dispose of CO<sub>2</sub> allowances held in the general account. If the CO<sub>2</sub> budget source is also subject to the Acid Rain Program, CSAPR NO<sub>x</sub> Annual Trading Program, CSAPR NO<sub>x</sub> Ozone Season Trading Program, CSAPR SO<sub>2</sub> Group 1 Trading Program, or CSAPR SO<sub>2</sub> Group 2 Trading Program, then, for a CO<sub>2</sub> Budget Trading Program compliance account, this alternate natural person shall be the same person as the alternate designated representative as defined in the respective program.
- (3330) **CO<sub>2</sub> budget emissions limitation.** “CO<sub>2</sub> budget emissions limitation” means the tonnage equivalent of the CO<sub>2</sub> allowances required in a control period or interim control period for compliance deduction ~~in~~ under subsection 5(D)(3) of this Chapter for a CO<sub>2</sub> budget source ~~for a control period or an interim control period~~ for that period.
- (3431) **CO<sub>2</sub> budget license.** “CO<sub>2</sub> budget license” means the portion of the legally binding license issued by the Department pursuant to *Major and Minor Source Air Emission License Regulations*, 06-096 CMR 115 (effective December 24, 2005) of the Department’s ~~Regulations~~ Rules to a CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit which specifies the CO<sub>2</sub> Budget Trading Program requirements applicable to the CO<sub>2</sub> budget source, to each CO<sub>2</sub> budget unit at the CO<sub>2</sub> budget source, and to the owners and operators and the CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit.
- (3532) **CO<sub>2</sub> budget source.** “CO<sub>2</sub> budget source” means a source that includes one or more CO<sub>2</sub> budget units.
- (3633) **CO<sub>2</sub> budget source compliance account or ~~c~~Compliance account.** “CO<sub>2</sub> budget unit compliance account” or “~~c~~Compliance account” means ~~the~~ a COATS account established by the Department or its agent for a CO<sub>2</sub> budget source wherein CO<sub>2</sub> allowances are held and available for use by the source for a control period and each interim control period for compliance purposes under this CO<sub>2</sub> Budget Trading Program.
- (3734) **CO<sub>2</sub> Budget Trading Program.** “CO<sub>2</sub> Budget Trading Program” means a multi-state CO<sub>2</sub> air pollution control and emissions reduction program established pursuant to this regulation and corresponding regulations in other states as a means of reducing emissions of CO<sub>2</sub> from CO<sub>2</sub> budget sources.

- ~~(3835)~~ **CO<sub>2</sub> Budget Trading Program Adjusted Budget.** “CO<sub>2</sub> Budget Trading Program Adjusted Budget” means the budget determined in accordance with Section 2 of this Chapter and is the annual amount of CO<sub>2</sub> in tons available in Maine for allocation in a given allocation year, in accordance with the CO<sub>2</sub> Budget Trading Program. CO<sub>2</sub> offset allowances allocated to project sponsors and CO<sub>2</sub> CCR allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the CO<sub>2</sub> Budget Trading Program adjusted budget.
- ~~(3936)~~ **CO<sub>2</sub> Budget Trading Program Base Budget.** “CO<sub>2</sub> Budget Trading Program Base Budget” means the budget specified in Section 2 of this Chapter. CO<sub>2</sub> offset allowances allocated to project sponsors and CO<sub>2</sub> CCR allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the CO<sub>2</sub> Budget Trading Program Base Budget.
- ~~(4037)~~ **CO<sub>2</sub> budget unit.** “CO<sub>2</sub> budget unit” means any single fossil fuel-fired unit that serves a generator with a nameplate capacity equal to or greater than 25 MW electrical output.
- ~~(4138)~~ **CO<sub>2</sub> cost containment reserve allowance or CO<sub>2</sub> CCR allowance.** “CO<sub>2</sub> cost containment reserve allowance” or “CO<sub>2</sub> CCR allowance” means a CO<sub>2</sub> allowance that is offered for sale at an auction by the Department or its agent for the purpose of containing the cost of CO<sub>2</sub> allowances. CO<sub>2</sub> CCR allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the Maine CO<sub>2</sub> Budget Trading Program base and adjusted budgets. CO<sub>2</sub> CCR allowances are subject to all applicable limitations contained in this Chapter and in Chapter 158 of the Department’s Rules.
- ~~(39)~~ **CO<sub>2</sub> emissions containment reserve allowance or CO<sub>2</sub> ECR allowance.** “CO<sub>2</sub> emissions containment reserve allowance” or “ECR allowance” means a CO<sub>2</sub> allowance that is withheld from sale at an auction by a participating state for the purpose of additional emissions reduction in the event emissions reduction costs are lower than anticipated.
- ~~(40)~~ **CO<sub>2</sub> emissions containment reserve trigger price or ECR trigger price.** “CO<sub>2</sub> emissions containment reserve trigger price” or “ECR trigger price” means the price below which CO<sub>2</sub> allowances may be withheld from sale by a participating state or its agent at an auction. The ECR trigger price in calendar year 2021 shall be \$6.00. Each calendar year thereafter, the ECR trigger price shall be 1.07 multiplied by the ECR trigger price from the previous calendar year, rounded to the nearest whole cent.
- ~~(4241)~~ **CO<sub>2</sub> emissions credit retirement(s).** “CO<sub>2</sub> emissions credit retirement(s)” means the permanent retirement of greenhouse gas allowances or credits issued pursuant to any governmental mandatory carbon constraining program outside the United States that places a specific tonnage limit on greenhouse gas emissions, or certified greenhouse gas emissions reduction credits issued pursuant to the United Nations Framework Convention on Climate Change (UNFCCC) or protocols adopted through the UNFCCC process.
- ~~(4342)~~ **CO<sub>2</sub> emissions offset project or Offset project.** “CO<sub>2</sub> emissions offset project” or “Offset project” means a project that reduces greenhouse gas emissions from a source that is not a CO<sub>2</sub> budget unit. “CO<sub>2</sub> emissions offset project” includes: landfill and agricultural methane

(CH<sub>4</sub>) capture and destruction, ~~reduction in emissions of sulfur hexafluoride,~~ sequestration of carbon due to ~~afforestation~~ reforestation, and avoided methane emissions from ~~agricultural manure management operations,~~ and reduction or avoidance of CO<sub>2</sub> emissions from natural gas, oil or propane end-use combustion due to end-use energy efficiency. A CO<sub>2</sub> emissions offset project includes all equipment, materials, items, or actions directly related to the reduction of CO<sub>2</sub> equivalent emissions or the sequestration of carbon specified in a consistency application submitted pursuant to subsection 9(C)(3) of this Chapter. Equipment, materials, items, or actions unrelated to an offset project's reduction of CO<sub>2</sub> equivalent emissions or the sequestration of carbon, but occurring at a location where an offset project occurs, shall not be considered part of ~~a~~ the CO<sub>2</sub> offset project, unless specified at subsection 9(D) of this Chapter.

- (4443) **CO<sub>2</sub> equivalent or CO<sub>2</sub>e.** “CO<sub>2</sub> equivalent” or “CO<sub>2</sub>e” means the quantity, in tons, of a given greenhouse gas multiplied by its global warming potential (GWP).
- (4544) **CO<sub>2</sub> offset allowance(s).** “CO<sub>2</sub> offset allowance(s)” means a CO<sub>2</sub> allowance that is awarded to the sponsor of a CO<sub>2</sub> emissions offset project pursuant to subsection 9(F) of this Chapter and is subject to the relevant compliance deduction limitations of subsection 5(D)(1)(c) of this Chapter.
- (4645) **Combined cycle system.** “Combined cycle system” means 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.
- (4746) **Combined heat and power unit.** “Combined heat and power unit” means ~~a device~~ an electric generating unit that simultaneously generates electricity and thermal power and that operates at a high level of output efficiency by utilizing the waste heat created as a by-product of electricity generation for domestic, commercial or industrial heating or cooling purposes, and whose useful thermal output equals at least 10% of the fossil fuel energy input of the unit.
- (4847) **Combustion turbine.** “Combustion turbine” means 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 shaft to a generator.
- (4948) **Commence commercial operation.** “Commence commercial operation” means, with regard to a unit that serves a generator, ~~the date the unit began to begin~~ to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. ~~Such~~ For a CO<sub>2</sub> budget unit under section 1(A) of this Chapter, the date on which this occurs shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit under section 1(A) on the date the unit begins production of electricity for sale or use as described above, the date the unit becomes a CO<sub>2</sub> budget unit under section 1(A) shall be the unit's date of commencement of commercial operation.
- (5049) **Commence operation.** “Commence operation” means ~~the date a unit began to begin~~ any mechanical, chemical, or electronic process, including start-up of ~~a~~ the unit's combustion chamber. ~~Such~~ For a CO<sub>2</sub> budget unit under section 1(A) of this Chapter, the date on which this occurs shall remain the unit's date of commencement of operation even if the

unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO<sub>2</sub> budget unit under section 1(A) on the date the unit begins any mechanical, chemical, or electronic process as described above, the date the unit becomes a CO<sub>2</sub> budget unit under section 1(A) shall be the unit's date of commencement of operation.

- (51) ~~**Commercial building.** “Commercial building” means a building to which the provisions of ANSI/ASHRAE/IESNA Standard 90.1 apply, which includes buildings except low-rise residential buildings. Low-rise residential buildings include single family homes, multifamily structures of three stories or fewer above grade, and manufactured homes (modular and mobile).~~
- (52) ~~**Condensing mode.** “Condensing mode” means the design and operation of furnaces or boilers in a mode that leads to the production of condensate in flue gases.~~
- (5350) **Conflict of Interest.** “Conflict of Interest” means a situation that may arise with respect to an individual in relation to any specific project sponsor, CO<sub>2</sub> emissions offset project or category of offset projects, such that the individual's other activities or relationships with other persons or organizations render or may render the individual incapable of providing an impartial certification opinion, or otherwise compromise the individual's objectivity in performing certification functions.
- (5451) **Consumer benefit account.** “Consumer benefit account” means a general account established by the Department or its agent from which CO<sub>2</sub> allowances will be sold or distributed in order to provide funds to encourage and foster the following: promotion of energy efficiency measures, direct mitigation of electricity ratepayer impacts attributable to the implementation of the CO<sub>2</sub> Budget Trading Program, promotion of renewable or non-carbon-emitting energy technologies, stimulation or reward of investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential, promotion and reward for combined heat and power projects, and/or the administration of Maine's component of the CO<sub>2</sub> Budget Trading Program.
- (5552) **Continuous emissions monitoring system or CEMS.** “Continuous emissions monitoring system” or “CEMS” means the equipment required under §section 4 of this Chapter 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 CO<sub>2</sub> concentration (as applicable), in a manner consistent with 40 CFR Part 75 and §section 4 of this Chapter. The following systems are the principal types of continuous emissions monitoring systems required under §section 4 of this Chapter:
- (a) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);
  - (b) A nitrogen oxides emissions rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> concentration, in parts per million (ppm); diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>; and NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu);

- (c) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent water;
  - (d) A CO<sub>2</sub> monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and
  - (e) An oxygen monitoring system, consisting of an oxygen concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of oxygen, in percent oxygen.
- (~~56~~53) **Control period.** “Control period” means a three-calendar-year time period. The first control period is from January 1, 2009 to December 31, 2011, inclusive. 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.
- (~~57~~54) **Cooperating Regulatory Agency.** “Cooperating Regulatory Agency” means a regulatory agency in a state or United States jurisdiction that is not a Participating State that has entered into a memorandum of understanding with the Department to carry out certain obligations relative to CO<sub>2</sub> emissions offset projects in that state or ~~United States~~ jurisdiction, including but not limited to the obligation to perform audits of offset project sites, and report violations of this Chapter.
- (55) **Cross State Air Pollution Rule (CSAPR) NO<sub>x</sub> Annual Trading Program.** “Cross State Air Pollution Rule NO<sub>x</sub> Annual Trading Program” or “CSAPR NO<sub>x</sub> Annual Trading Program” means a multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart AAAAA of 40 CFR Part 97 and 40 CFR 52.38(a) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.38(a)(3) or (4) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.38(a)(5)), as a means of mitigating interstate transport of fine particulates and NO<sub>x</sub>.
- (56) **Cross State Air Pollution Rule (CSAPR) NO<sub>x</sub> Ozone Season Trading Program.** “Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Trading Program” or “CSAPR NO<sub>x</sub> Ozone Season Trading Program” means a multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart BBBBB of 40 CFR Part 97 and 40 CFR 52.38(b) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.38(b)(3) or (4) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.38(b)(5)), as a means of mitigating interstate transport of ozone and NO<sub>x</sub>.
- (57) **Cross State Air Pollution Rule (CSAPR) SO<sub>2</sub> Group 1 Trading Program.** “Cross State Air Pollution Rule SO<sub>2</sub> Group 1 Trading Program” or “CSAPR SO<sub>2</sub> Group 1 Trading Program” means a multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart CCCCC of 40 CFR Part 97 and 40 CFR 52.39(a), (b), (d) through (f), (j), and (k) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.39(d) or (e) or that is

established in a SIP revision approved by the Administrator under 40 CFR 52.39(f), as a means of mitigating interstate transport of fine particulates and SO<sub>2</sub>.

- (58) **Cross State Air Pollution Rule (CSAPR) SO<sub>2</sub> Group 2 Trading Program.** “Cross State Air Pollution Rule SO<sub>2</sub> Group 2 Trading Program” or “CSAPR SO<sub>2</sub> Group 2 Trading Program” means a multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart DDDDD of 40 CFR Part 97 and 40 CFR 52.39(a), (c), and (g) through (k) of this Chapter (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.39(g) or (h) of this Chapter or that is established in a SIP revision approved by the Administrator under 40 CFR 52.39(i) of this Chapter), as a means of mitigating interstate transport of fine particulates and SO<sub>2</sub>.
- (5859) **DAHS.** “DAHS” means data acquisition and handling system.
- (5960) **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, biogas, and other neat liquid biofuels derived from such fuel sources. Sustainability of harvest will be determined by the Department.{Reserved}
- ~~(60) **Energy conservation measure (ECM) or energy efficiency measure (EEM).** “Energy conservation measure (ECM) or energy efficiency measure (EEM)” means a set of activities designed to increase the energy efficiency of a building or improve the management of energy demand. An ECM/EEM may involve one or more of the following: physical changes to facility equipment, modifications to a building, revisions to operating and maintenance procedures, software changes, or new means of training or managing users of the building or operations and maintenance staff.~~
- ~~(61) **Energy performance.** “Energy performance” means a measure of the relative energy efficiency of a building, building equipment, or building components, as measured by the amount of energy required to provide building services. For building equipment and components, a relative measure of the impact of equipment or components on building energy usage.~~
- ~~(62) **Energy services.** “Energy services” means provision of useful services to building occupants, such as heating and hot water, cooling, and lighting.~~
- (6361) **Excess emissions.** “Excess emissions” means any tonnage of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source during a control period that exceeds the CO<sub>2</sub> budget emissions limitation for the source for that control period.
- (6462) **Excess interim emissions.** “Excess interim emissions” means any tonnage of CO<sub>2</sub> emitted by a CO<sub>2</sub> budget source during an interim control period which, when multiplied by 0.50, that exceeds the CO<sub>2</sub> budget emissions limitation for the source for that interim control period.

- (~~65~~63) **First control period ~~interim~~-adjustment for banked allowances.** “First control period ~~interim~~-adjustment for banked allowances” means an adjustment applied to the Maine CO<sub>2</sub> 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 the CO<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states.
- (~~66~~64) **Forest offset project.** “Forest offset project” means an offset project involving reforestation, improved forest management or avoided conversion.
- (~~67~~65) **Forest offset project data report.** “Forest offset project data report” means the report prepared by a project sponsor each year that provides the information and documentation required by this ~~subsection~~-Chapter or the forest offset protocol.
- (~~68~~66) **Forest offset protocol.** “Forest offset protocol” means the protocol titled “Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects”; published by the participating states on June 13, 2013.
- (~~69~~67) **Fossil fuel.** “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.
- (~~70~~68) **Fossil fuel-fired unit.** “Fossil fuel-fired unit” means:
- (a) With regard to a unit that commenced operation prior to January 1, 2005, a unit fueled by the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted ~~constitutes~~comprises, or is projected to comprise, more than 50% of the annual heat input on a ~~British Thermal Unit~~Btu basis during any calendar year; or
  - (b) With regard to a unit that commenced or commences operation on or after January 1, 2005, a unit fueled by the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted ~~constitutes~~comprises, or is projected to comprise, more than 5% of the annual heat input on a ~~British Thermal Unit~~Btu basis during any calendar year.
- (~~71~~) **~~Furnace (residential).~~** “~~Furnace (residential)~~” means a self-contained, indirect-fired ~~appliance that supplies heated air to a residential building through ducts to conditioned spaces.~~
- (~~72~~69) **General account.** “General account” means a CO<sub>2</sub> ~~allowance~~-Allowance tracking ~~Tracking system~~-System (COATS) account, established under ~~S~~section 7 of this Chapter, that is not a compliance account.
- (~~73~~70) **Generator.** “Generator” means a device that produces electricity and is required to be reported as a generating unit pursuant to the United States Department of Energy’s form 860.
- (~~74~~71) **Global warming potential (GWP).** “Global warming potential” or (“GWP”) means a measure of the radiative efficiency (heat-absorbing ability) of a particular gas relative to that of CO<sub>2</sub> after taking into account the decay rate of ~~each~~-the gas (the amount removed

from the atmosphere over a given number of years) relative to that of CO<sub>2</sub>. Global warming potentials used in this regulation are consistent with the values used in the Intergovernmental Panel on Climate Change, ~~Fourth~~ Fifth Assessment Report.

- (~~75~~72) **Gross electrical generation or ~~Gross-gross~~ generation.** “Gross electrical generation” or “~~Gross-gross~~ generation” means the electrical output (in ~~MW~~ or MWe) at the terminals of the generator.
- (~~76~~) **~~HVAC system.~~** “~~HVAC system~~” means ~~the system or systems that provide, either collectively or individually, heating, ventilation, or air conditioning to a building, including the equipment, distribution network, and terminals.~~
- (~~77~~) **~~IESNA.~~** “~~IESNA~~” means ~~Illuminating Engineering Society of North America.~~
- (~~78~~73) **Independent verifier.** “Independent verifier” means an individual that has been approved by the Department or its agent to conduct verification activities with regard to CO<sub>2</sub> emissions offset projects.
- (~~79~~74) **Initiated.** “Initiated” with respect subsection 1(A)(2) of this Chapter means that a state has signed the Regional Greenhouse Gas Initiative Memorandum of Understanding and initiated legislation or rulemaking to implement the program.
- (~~80~~75) **Integrated manufacturing facility.** “Integrated manufacturing facility” means a facility that:
- (a) Received an air emissions license from the Department prior to July 1, 2007;
  - (b) Produces electricity from one or more CO<sub>2</sub> budget units, including one or more combined heat and power units, for transmission over the facilities of a transmission and distribution utility; and
  - (c) Routinely produces one or more other products for sale.
- (~~81~~76) **Integrated manufacturing facility pre-retirement account.** “Integrated manufacturing facility pre-retirement account” means a general account that the Department opens and manages in accordance with the incentive program under this regulation for CO<sub>2</sub> budget units that are ~~c~~Combined heat and power units at ~~Integrated-integrated~~ manufacturing facilities.
- (~~82~~77) **Integrated manufacturing facility retirement account.** “Integrated manufacturing facility retirement account” means a general account that the Department opens and manages in order to permanently retire the CO<sub>2</sub> allowances associated with the incentive program under this regulation for CO<sub>2</sub> budget units that are ~~Combined-combined~~ heat and power units at ~~Integrated-integrated~~ manufacturing facilities.
- (~~83~~78) **Intentional reversal.** “Intentional reversal” means any reversal caused by a forest owner’s negligence, gross negligence or willful intent, including harvesting, development, ~~and or~~ harm to the area within the offset project boundary.
- (~~84~~79) **Interim control period.** “Interim control period” means a one-calendar-year time period that comprises either, during each of the first and or the second calendar years of each a

three year control period. The first interim control period starts on January 1, 2015 and ends on December 31, 2015, inclusive. The second interim control period starts on January 1, 2016 and ends on December 31, 2016, inclusive. Each successive three year control period will have two interim control periods, comprised of each of the first two calendar years of that control period.

- (~~85~~80) **Life-of-the-unit contractual arrangement.** “Life-of-the-unit contractual arrangement” means 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 ~~25~~30 years, including contracts that permit an election for early termination; or
  - (c) for a period equal to or greater than ~~20~~25 years or 70 percent of the economically 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.
- (~~86~~81) **Long-term electricity contract.** “Long-term electricity contract” means, with regards to a CO<sub>2</sub> budget unit at an integrated manufacturing facility, a contract for a period of 3 years or more for the purchase of electricity from that CO<sub>2</sub> budget unit.
- (~~87~~82) **Market penetration rate.** “Market penetration rate” means a measure of the diffusion of a technology, product, or practice in a defined market, as represented by the percentage of annual sales for a product or practice, or as a percentage of the existing installed stock for a product or category of products, or as the percentage of existing installed stock that utilizes a practice. The Department may determine an appropriate market definition and market penetration metric for a category of technology, product or practice, and may issue guidance specifying the technologies, products or practices that meet a specified market penetration rate.
- (~~88~~83) **Maximum potential hourly heat input.** “Maximum potential hourly heat input” means ~~an~~the hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use appendix D of 40 CFR Part 75 to report heat input, this value should be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR Part 75, using the maximum potential flow rate and either the maximum CO<sub>2</sub> concentration (in percent CO<sub>2</sub>) or the minimum oxygen concentration (in percent O<sub>2</sub>).
- (~~89~~84) **Megawatt or MW.** “Megawatt” or “MW” means a unit of energy equal to 1,000 kilowatts or 1,000,000 watts.
- (~~90~~85) **Memorandum of understanding or MOU.** “Memorandum of understanding” or “MOU” means the Regional Greenhouse Gas Initiative Memorandum of Understanding

dated December 20, 2005, as amended, that establishes an electric power sector carbon emissions cap-and-trade program within the northeast region of the United States.

- (9186) **MMBtu.** “MMBtu” means one million British thermal units.
- (9287) **Minimum reserve price.** “Minimum reserve price” means the minimum ~~reserve price for allowances at an auction in which the conditions for the release of CCR allowances are not met.~~ The minimum reserve price in calendar year 2014 shall be \$2.00. Each calendar year thereafter, the minimum reserve price shall be 1.025 multiplied by the minimum reserve price from the previous calendar year, rounded to the nearest whole cent.
- (9388) **Monitoring system.** “Monitoring system” means any monitoring system that meets the requirements of ~~Section 4~~ Section 4 of this Chapter, including a continuous emissions monitoring system, an ~~excepted~~ excepted monitoring system, or an alternative monitoring system.
- (9489) **MWe.** “MWe” means megawatt electrical.
- (9590) **MWh or Megawatt-hour.** “MWh or “Megawatt-hour” means ~~the amount of power (in megawatts) used or produced over a certain period of time (in hours)~~ the equivalent of one megawatt of power used or produced in for one hour.
- (9691) **Nameplate capacity.** “Nameplate capacity” means the maximum electrical generating output, expressed in megawatts, that a generator can sustain over a specified period of time when not restricted by seasonal or other de-ratings as measured in accordance with the United States Department of Energy standards.
- (9792) **Net electricity.** “Net electricity” means the difference between the electricity that is produced at an integrated manufacturing facility and transmitted over the facilities of a ~~Transmission transmission~~ Transmission transmission and distribution utility and the electricity that is purchased over the facilities of a ~~Transmission transmission~~ Transmission transmission and distribution utility and used at the ~~Integrated integrated~~ integrated manufacturing facility.
- (9893) **Non-CO<sub>2</sub> budget unit.** “Non-CO<sub>2</sub> budget unit” means a unit that does not meet the applicability criteria in subsection 1(A) of this Chapter.
- ~~(99) **On-site combustion.** “On-site combustion” means the combustion of fossil fuel at a building to provide building services, such as heating, hot water, or electricity.~~
- (10094) **Operator.** “Operator” means any person who operates, controls, or supervises a CO<sub>2</sub> budget unit or a CO<sub>2</sub> 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.
- (10195) **Owner.** “Owner” means:
- (a) The definition of “owner” associated with the licensing, monitoring, recordkeeping, reporting, and compliance related requirements except those under ~~Section 5~~ Section 5 of this Chapter means:

- (i) any holder of any portion of the legal or equitable title in a CO<sub>2</sub> budget unit;
  - (ii) any holder of a leasehold interest in a CO<sub>2</sub> budget unit, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO<sub>2</sub> budget unit; or
  - (iii) if no person has title or interest in the CO<sub>2</sub> budget unit as described in subparagraphs (i) or (ii) above, the owner is any holder of any portion of the legal or equitable title to the electrical output of a CO<sub>2</sub> budget unit.
- (b) The definition of “owner” for the purpose of obtaining and making available CO<sub>2</sub> allowances for compliance deduction purposes under subsection 5 of this Chapter means:
- (i) any purchaser of electricity transmitted for purposes of resale over the facilities of a transmission and distribution utility who purchases such electricity under a long-term electricity contract from a CO<sub>2</sub> budget unit located at an ~~i~~ntegrated ~~m~~anufacturing ~~f~~acility;
  - (ii) any purchaser of electricity transmitted for purposes of resale over the facilities of a transmission and distribution utility who purchases such electricity under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit from a CO<sub>2</sub> budget unit which is not located at an ~~i~~ntegrated ~~m~~anufacturing ~~f~~acility; or
  - (iii) if in the instance there exists no purchaser of electricity under a long-term electricity contract, and there exists no purchaser of electricity under a life-of-the-unit contractual arrangement, the “owner” for the purpose of obtaining and making available CO<sub>2</sub> allowances for compliance deduction purposes under section 5 of this Chapter is defined as under subparagraphs (a)(i) – (iii) of this definition.
- (c) The definition of “owner” associated with any general account means any person who has an ownership interest with respect to the CO<sub>2</sub> allowances held in the general account and who is subject to the binding agreement for the CO<sub>2</sub> authorized account representative to represent that person’s ownership interest with respect to the CO<sub>2</sub> allowances.
- (d) The definition of “owner” associated with any offset project means any person who has legal or rightful title to the equipment, building, property, or operations associated with the offset project.
- ~~(10296)~~ **Participating state.** “Participating state” means a state that has established a corresponding regulation as part of the CO<sub>2</sub> Budget Trading Program.
- ~~(103)~~ **Passive solar.** ~~“Passive solar” means a combination of building design features and building components that utilize solar energy to reduce or eliminate the need for mechanical heating and cooling and daytime artificial lighting.~~

- (10497) **Permanently retired.** A ~~“Permanently retired”~~ means a greenhouse gas allowance or credit has been “permanently retired” if it has been placed in a retirement account controlled by the jurisdiction that generated the allowance or credit, or has been placed in an allowance retirement account controlled by the Department, or is otherwise deemed unusable by the Department.
- (10598) **Project commencement.** “Project commencement” means, for an offset project involving physical construction, other work at an offset project site, or installation of equipment or materials, the date of the beginning of such activity. For an offset project that involves the implementation of a management activity or protocol, project commencement means the date on which such activity is first implemented or such protocol first utilized. For an offset project involving reforestation, improved forest management, or avoided conversion, project commencement means the date specified in Section 3.2 of the forest offset protocol.
- (10699) **Receive or receipt of.** “Receive” or “receipt of” means, 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~~ The time and date of receipt may be 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.
- (107100) **Recordation, record, or recorded.** “Recordation,” “record,” or “recorded” means, with regard to CO<sub>2</sub> allowances, the movement of CO<sub>2</sub> allowances by the Department or its agent from one CO<sub>2</sub> Allowance Tracking System account to another, for purposes of allocation, transfer, retirement, or deduction.
- (108101) **Regional Greenhouse Gas Initiative.** “Regional Greenhouse Gas Initiative” means the ongoing cooperative effort by the states of Maine, New Hampshire, Vermont, Connecticut, New York, New Jersey, Massachusetts, Rhode Island, Maryland, and Delaware and such other states as may in the future become a part of the program to design and implement a regional CO<sub>2</sub> cap-and-trade program covering CO<sub>2</sub> emissions from CO<sub>2</sub> budget units in the signatory states.
- (109102) **Regional Transmission Organization or RTO.** “Regional Transmission Organization” or “RTO” means ~~the an~~ independent systems operator that administers and oversees wholesale electricity markets.
- (110103) **Regional-type anaerobic digester.** “Regional-type anaerobic digester” means an anaerobic digester using feedstock from more than one agricultural operation, or importing feedstock from more than one agricultural operation. Also referred to as a “community digester” or “centralized digester.”
- (111104) **Renewable energy.** “Renewable energy” means electricity generated from any resource that meets the resource type and vintage for Class I of the Maine Portfolio Requirement 65-407 CMR Chapter 311.
- (112105) **Renewable energy credits or RECs.** A “Renewable energy credits” or “RECs” is a tradable instrument representing means the characteristics associated with the generation of one megawatt-hour of electricity from a renewable energy source, such as its

generation date, facility geographic location, unit vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted, and tracked.

- (~~113~~106) **Renewable portfolio standard or RPS.** “Renewable portfolio standard” or “RPS” means a statutory or regulatory requirement that a load-serving entity provide a certain portion of the electricity it supplies to its customers from renewable energy sources, or any other statutory or regulatory requirement that a certain portion of electricity supplied to the electricity grid be generated from renewable energy sources.
- (~~114~~107) **Reporting period.** “Reporting period” means the period of time covered by a forest offset project data report. The first reporting period for an offset project in an initial crediting period may consist of 6 to 24 consecutive months; all subsequent reporting periods in an initial crediting and all reporting periods in any renewed crediting period must consist of 12 consecutive months.
- (~~115~~108) **Reserve price.** “Reserve price” means the minimum acceptable price for each CO<sub>2</sub> allowance in a specific auction. The reserve price at an auction is either the minimum reserve price or the CCR trigger price, as specified in subsection 2(~~GH~~) of this Chapter.
- (~~116~~) ~~**Residential building.** “Residential building” means a low-rise residential building to which the provisions of ANSI/ASHRAE/IESNA Standard 90.1 do not apply. Includes “Residential building” includes, *inter alia* but is not limited to, single family homes, multifamily structures of three stories or fewer above grade, and manufactured homes (modular and mobile).~~
- (~~117~~) ~~**RESNET.** “RESNET” means Residential Energy Services Network.~~
- (~~118~~109) **Reversal.** “Reversal” means a GHG emission reduction or GHG removal enhancement for which CO<sub>2</sub> offset allowances have been issued that is subsequently released or emitted back into the atmosphere due to any intentional or unintentional circumstances.
- (~~119~~110) **Second control period ~~interim~~ adjustment for banked allowances.** “Second control period ~~interim~~ adjustment for banked allowances” means an adjustment applied to the CO<sub>2</sub> 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<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, that are in ~~addition to~~ ~~excess of~~ the aggregate quantity of 2012 and 2013 emissions from all CO<sub>2</sub> budget sources in all of the participating states.
- (~~120~~111) **Serial number.** “Serial number” means, when referring to CO<sub>2</sub> allowances, the unique identification number assigned to each CO<sub>2</sub> allowance by the Department or its agent under subsection 7(B)(3) of this Chapter.
- (~~121~~) ~~**SF<sub>6</sub>.** “SF<sub>6</sub>” means sulfur hexafluoride.~~
- (~~122~~) ~~**SF<sub>6</sub>-containing operating equipment.** “SF<sub>6</sub>-containing operating equipment” means any equipment used for the transmission and distribution of electricity that contains SF<sub>6</sub>.~~

- (123112) **Source.** “Source” means 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.”
- (124113) **Sponsor or Pproject sponsor.** “Sponsor” or “Pproject sponsor” means any person who meets the requirements of the CO<sub>2</sub> authorized account representative for the general account of an eligible CO<sub>2</sub> emissions offset project or CO<sub>2</sub> emissions credit retirement.
- (125114) **State.** “State” means ~~a State~~ one of the fifty United States of America, 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.
- (126115) **Submit or serve.** “Submit” or “serve” means 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; or
  - (c) by other means of dispatch or transmission and delivery.
- 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.
- (127116) **System benefit fund.** “System benefit fund” means any fund collected directly from retail electricity or natural gas ratepayers.
- (117) **Third adjustment for banked allowances.** “Third adjustment for banked allowances” means an adjustment applied to the Maine CO<sub>2</sub> 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<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, that are in addition to the aggregate quantity of emissions from all CO<sub>2</sub> budget sources in all of the participating states at the end of the fourth control period in 2020, as reflected in the CO<sub>2</sub> Allowance Tracking System on March 17, 2021.
- (128118) **Ton or tonnage.** “Ton” or “tonnage” means any “short ton,” or 2,000 pounds. For the purpose of determining compliance with the CO<sub>2</sub> budget emissions limitation, total tons for a control period and for 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 ~~S~~section 4 of this Chapter, 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.
- (129119) **Total solids.** “Total solids” means the total of all solids in a sample. ~~They include~~ including the total suspended solids, total dissolved solids, and total volatile suspended solids.

- (~~130~~120) **Transmission and distribution utility.** “Transmission and distribution utility” means a transmission and distribution utility as defined in 35-A M.R.S.A §\_3201, subsections 6, 12 or 16.
- (~~131~~121) **Undistributed CO<sub>2</sub> allowances.** “Undistributed CO<sub>2</sub> allowances” means CO<sub>2</sub> allowances originally allocated to a set aside account as pursuant to §section 2 of this Chapter that were not distributed.
- (~~132~~122) **Unintentional Reversal.** “Unintentional Reversal” means any reversal of the emissions reductions achieved through a forest offset project, including but not limited to wildfires or disease that is not the result of the forest owner’s negligence, gross negligence or willful intent.
- (~~133~~123) **Unit.** “Unit” means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.
- (~~134~~124) **Unit operating day.** “Unit operating day” means a calendar day in which a unit combusts any fuel.
- (~~135~~125) **Unsold CO<sub>2</sub> allowances.** “Unsold CO<sub>2</sub> allowances” means CO<sub>2</sub> allowances that have been made available for sale in an auction conducted by the Department or its agent, but not sold.
- (~~136~~126) **Verification.** “Verification” means the determination by an independent verifier that certain parts of a CO<sub>2</sub> emissions offset project application and/or measurement, monitoring or verification report conforms to the requirements of §section 9 of this Chapter.
- (~~137~~127) **Volatile solids.** “Volatile solids” means the fraction of total solids that is comprised primarily of organic matter.
- (~~138~~128) **Voluntary renewable energy purchases.** “Voluntary renewable energy purchases” means the purchase of renewable energy credits (RECs) by a retail electricity customer on a voluntary basis. The renewable energy credits or RECs related to such purchases may not be used by the generator or purchaser to meet any regulatory mandate, such as a renewable portfolio standard ~~(RPS)~~.
- (~~139~~129) **Voluntary renewable energy retirement account.** “Voluntary renewable energy retirement account” means a general account that the Department opens and manages in order to permanently retire CO<sub>2</sub> allowances associated with the vVoluntary renewable energy purchase provisions contained in subsection 2(~~FG~~)(4) of this Chapter.
- (~~140~~130) **Voluntary renewable energy set-aside account.** “Voluntary renewable energy set-aside account” means a general account that the Department opens and manages in accordance with the Voluntary renewable energy purchase provisions contained in subsection 2(~~FG~~)(4) of this Chapter.

- ~~(141) **Whole building energy performance.** “Whole building energy performance” means the overall energy performance of a building, taking into account the integrated impact on energy usage of all building components and systems.~~
- ~~(142) **Whole building retrofit.** “Whole building retrofit” means any building project that involves the replacement of more than one building system, or set of building components, and also requires a building permit.~~
- ~~(143) **Zero net energy building.** “Zero net energy building” means a building designed to produce as much energy as the building is projected to use, as measured on an annual basis.~~

### C. Liability

- (1) No license revision shall excuse any violation of the requirements of the CO<sub>2</sub> Budget Trading Program that occurs prior to the date that the revision takes effect.
- (2) Any provision of the CO<sub>2</sub> Budget Trading Program that applies to a CO<sub>2</sub> budget source (including a provision applicable to the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source) shall also apply to the owners and operators of such source and of the CO<sub>2</sub> budget units at the source.
- (3) Any provision of the CO<sub>2</sub> Budget Trading Program that applies to a CO<sub>2</sub> budget unit (including a provision applicable to the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit) shall also apply to the owners and operators of such unit.

**D. Effect on other authorities.** No provision of the CO<sub>2</sub> Budget Trading Program, a CO<sub>2</sub> budget license application, or a CO<sub>2</sub> budget license, shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source or CO<sub>2</sub> budget unit from compliance with any other provisions of applicable State and federal law and regulations.

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

**F. Enforcement.** Except as provided in ~~the Department’s Rules, 06-096, Chapter 157, CO<sub>2</sub> Budget Trading Program Waiver and Suspension, 06-096, Chapter 157,~~ violations of this ~~C~~chapter are enforceable, and penalties may be imposed in accordance with 38 M.R.S.A. ~~sections §§~~ 347-A, 348, and 349.

### G. Computation of time,

- (1) Unless otherwise stated, any time period scheduled, ~~under the CO<sub>2</sub> Budget Trading Program,~~ to begin on the occurrence of an act or event shall begin on the day the act or event occurs.
- (2) Unless otherwise stated, any time period scheduled, ~~under the CO<sub>2</sub> Budget Trading Program,~~ to begin before the occurrence of an act or event shall be computed so that the period ~~ends~~begins the day before the act or event occurs.

- (3) Unless otherwise stated, if the final day of any time period, under the CO<sub>2</sub> Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

## 2. CO<sub>2</sub> Allowance Allocation Provisions.

### A. Maine CO<sub>2</sub> Budget Trading Program Base Budget

- ~~(1) For 2014 the CO<sub>2</sub> budget trading program base budget is 3,277,250 tons.~~
- ~~(2) For 2015 the CO<sub>2</sub> budget trading program base budget is 3,195,319 tons.~~
- ~~(3) For 2016 the CO<sub>2</sub> budget trading program base budget is 3,115,436 tons.~~
- ~~(4) For 2017 the CO<sub>2</sub> budget trading program base budget is 3,037,550 tons.~~
- ~~(5) For 2018 the CO<sub>2</sub> budget trading program base budget is 2,961,611 tons.~~
- ~~(6) For 2019 the CO<sub>2</sub> budget trading program base budget is 2,887,571 tons.~~
- (7) For 2020 the Maine CO<sub>2</sub> budget trading program base budget is 2,815,382 tons.
- (2) For 2021 the Maine CO<sub>2</sub> budget trading program base budget is 2,733,450 tons.
- (3) For 2022 the Maine CO<sub>2</sub> budget trading program base budget is 2,651,519 tons.
- (4) For 2023 the Maine CO<sub>2</sub> budget trading program base budget is 2,569,587 tons.
- (5) For 2024 the Maine CO<sub>2</sub> budget trading program base budget is 2,487,656 tons.
- (6) For 2025 the Maine CO<sub>2</sub> budget trading program base budget is 2,405,725 tons.
- (7) For 2026 the Maine CO<sub>2</sub> budget trading program base budget is 2,323,794 tons.
- (8) For 2027 the Maine CO<sub>2</sub> budget trading program base budget is 2,241,862 tons.
- (9) For 2028 the Maine CO<sub>2</sub> budget trading program base budget is 2,159,931 tons.
- (10) For 2029 the Maine CO<sub>2</sub> budget trading program base budget is 2,078,000 tons.
- (11) For 2030 the Maine CO<sub>2</sub> budget trading program base budget is 1,996,069 tons.

### B. CO<sub>2</sub> Allowance Allocations

- (1) CO<sub>2</sub> Allowances available for allocation. For allocation years 2018~~4~~ through 2020~~and each year thereafter~~, the CO<sub>2</sub> Budget Trading Program adjusted budget shall be the maximum number of allowances available for allocation in a given allocation year, except for CO<sub>2</sub> offset allowances and CO<sub>2</sub> CCR allowances. In any year in which there is no adjusted budget, the adjusted budget shall equal the base budget.

- (2) Cost Containment Reserve (CCR) allocation. The Department shall allocate CO<sub>2</sub> CCR allowances, separate from and additional to the CO<sub>2</sub> Budget Trading Program base budget set forth in subsection 2(A) of this Chapter, to the auction account. The CCR allocation is for the purpose of containing the cost of CO<sub>2</sub> allowances. The Department shall allocate CO<sub>2</sub> CCR allowances in the following manner:
- (a) The Department shall initially allocate 180,069 CO<sub>2</sub> CCR allowances for calendar year 2014.
  - (b) On or before January 1, 2015 and each calendar year thereafter through 2020, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 360,137 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the prior calendar year.
  - (c) On or before January 1, 2021, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 273,345 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2020.
  - (d) On or before January 1, 2022, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 265,152 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2021.
  - (e) On or before January 1, 2023, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 256,959 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2022.
  - (f) On or before January 1, 2024, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 248,766 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2023.
  - (g) On or before January 1, 2025, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 240,573 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2024.
  - (h) On or before January 1, 2026, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 232,379 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2025.
  - (i) On or before January 1, 2027, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 224,186 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2026.
  - (j) On or before January 1, 2028, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 215,993 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2027.
  - (k) On or before January 1, 2029, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 207,800 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the calendar year 2028.

(1) On or before January 1, 2030, and each year thereafter, the Department shall allocate CO<sub>2</sub> CCR allowances in an amount equal to 196,607 minus the number of CO<sub>2</sub> CCR allowances that remain in the auction account at the end of the previous calendar year.

- (3) First control period interim adjustment for banked allowances. By January 15, 2014, the Department shall determine the first control period interim adjustment for banked allowances quantity for allocation years 2014 through 2020 by the following formula:

$$\text{FCPIABA} = (\text{FCPA}/7) \times \text{RS}\%$$

Where:

FCPIABA is the first control period interim adjustment for banked allowances quantity in tons.

FCPA, the first control period adjustment, is the total quantity of allocation year 2009, 2010 and 2011 CO<sub>2</sub> allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, as reflected in the CO<sub>2</sub> Allowance Tracking System (COATS) on January 1, 2014.

RS% is Maine's 2013 Budget divided by the 2013 Regional Budget.

- (4) Second control period interim adjustment for banked allowances. On March 17, 2014, the Department shall determine the second control period interim adjustment for banked allowances quantity the allocation years 2015 through 2020 by the following formula:

$$\text{SCPIABA} = ((\text{SCPA} - \text{SCPE})/6) \times \text{RS}\%$$

Where:

SCPIABA is the second control period interim adjustment for banked allowances quantity in tons.

SCPA, second control period adjustment, is the total quantity of allocation year 2012 and 2013 CO<sub>2</sub> allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, as reflected in the CO<sub>2</sub> Allowance Tracking System (COATS) on March 17, 2014.

SCPE, second control period emissions, is the total quantity of 2012 and 2013 emissions from all CO<sub>2</sub> budget sources in all participating states, reported pursuant to CO<sub>2</sub> Budget Trading Program as reflected in the CO<sub>2</sub> Allowance Tracking System (COATS) on March 17, 2014.

RS% is Maine's 2013 Budget divided by the 2013 Regional Budget.

- (5) Third adjustment for banked allowances. On March 15, 2021, the Department shall determine the third adjustment for banked allowances quantity for allocation years 2021 through 2025 through the application of the following formula:

$$\text{TABA} = (TA - TAE) / 5 \times \text{RS}\%$$

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<sub>2</sub> Budget Trading Program, but not including accounts opened by participating states, as reflected in the CO<sub>2</sub> Allowance Tracking System on March 15, 2021;

TAE, third adjustment emissions, is the total quantity of 2018, 2019 and 2020 emissions from all CO<sub>2</sub> budget sources in all participating states, reported pursuant to CO<sub>2</sub> Budget Trading Program as reflected in the CO<sub>2</sub> Allowance Tracking System on March 15, 2021; and

RS% is Maine's 2021 budget divided by the 2021 regional budget.

- C. CO<sub>2</sub> Budget Trading Program Adjusted Budget 2014.** The Department shall determine the CO<sub>2</sub> Budget Trading Program adjusted budget for the 2014 allocation year by the following formula:

$$AB = BB - \text{FCPIABA}$$

Where:

AB is the CO<sub>2</sub> Budget Trading Program 2014 adjusted budget.

BB is the CO<sub>2</sub> Budget Trading Program 2014 base budget.

FCPIABA is the first control period interim adjustment for banked allowances quantity.

- D. CO<sub>2</sub> Budget Trading Program Adjusted Budgets for 2015 through 2020.** On April 15, 2014 the Department shall determine the CO<sub>2</sub> Budget Trading Program adjusted budgets for the 2015 through 2020 allocation years by the following formula:

$$AB = BB - (\text{FCPIABA} + \text{SCPIABA})$$

Where:

AB is the CO<sub>2</sub> Budget Trading Program adjusted budget.

BB is the CO<sub>2</sub> Budget Trading Program base budget.

FCPIABA is the first control period interim adjustment for banked allowances.

SCPIABA is the second control interim adjustment for banked allowances.

- E. CO<sub>2</sub> Budget Trading Program Adjusted Budgets for 2021 through 2025.** On or before April 15, 2021, the Department shall establish the Maine CO<sub>2</sub> Budget Trading Program adjusted budgets for the 2021 through 2025 allocation years by the following formula:

$$AB = BB - \text{TABA}$$

Where:

AB is the Maine CO<sub>2</sub> Budget Trading Program adjusted budget;  
BB is the Maine CO<sub>2</sub> Budget Trading Program base budget; and  
TABA is the third adjustment for banked allowances quantity in tons.

- F. Publishing the CO<sub>2</sub> Trading Program Adjusted Budgets.** After making the determinations in subsections 2(C) ~~and through (DE)~~ of this Chapter, the Department or its Agent will publish the CO<sub>2</sub> Trading Program Adjusted Budgets for the 2014 through ~~2020-2025~~ allocation years.
- G. Consumer benefit account allocation.** The Department will allocate one hundred percent (100%) of Maine's CO<sub>2</sub> Budget Trading Program base budget to the ~~c~~Consumer benefit account. A portion of the CO<sub>2</sub> allowances held in the ~~c~~Consumer benefit account will be transferred to an ~~i~~Integrated manufacturing facility pre-retirement account and handled as described in subsections 2(G)(1), (2), and (3) below. A portion, not to exceed 2% of the CO<sub>2</sub> Budget Trading Program base budget, of the CO<sub>2</sub> allowances held in the ~~c~~Consumer benefit account will be transferred to a ~~v~~Voluntary renewable energy set-aside account and handled as described in subsection 2(G)(4) below. CO<sub>2</sub> allowances remaining in the ~~c~~Consumer benefit account will be auctioned for sale by the Department or its agent.
- (1) Incentive for CO<sub>2</sub> budget units that are ~~Combined-combined~~ heat and power units at ~~Integrated-integrated~~ manufacturing facilities. Annually, the Department will transfer a portion of the CO<sub>2</sub> allowances allocated to the ~~Consumer-consumer~~ benefit account to an ~~i~~Integrated manufacturing facility pre-retirement account. Such CO<sub>2</sub> allowances are intended to promote and reward the operation of CO<sub>2</sub> budget units that are ~~Combined-combined~~ heat and power units at ~~Integrated-integrated~~ manufacturing facilities by using the CO<sub>2</sub> allowances to offset the ~~Behind-behind~~-the-meter CO<sub>2</sub> emissions. The methods by which the number of CO<sub>2</sub> allowances will be distributed are described in subsections 2(~~FG~~) (2), (3), and (4) of this Chapter.
  - (2) Reservation of CO<sub>2</sub> allowances for ~~i~~Integrated manufacturing facilities. Integrated manufacturing facilities will be responsible for submitting and the Department will be responsible for approving projections of each CO<sub>2</sub> budget unit's anticipated ~~Behind-behind~~-the-meter CO<sub>2</sub> emissions. The number of CO<sub>2</sub> allowances equal to the total approved projected amount of ~~Behind-behind~~-the-meter CO<sub>2</sub> emissions from the CO<sub>2</sub> budget units will be transferred from the ~~Consumer-consumer~~ benefit account to the ~~Integrated-integrated~~ manufacturing facility pre-retirement account.
  - (3) Balancing of the ~~Integrated-integrated~~ manufacturing facility pre-retirement account. Each calendar year the Department will compare the number of CO<sub>2</sub> allowances held in the ~~Integrated-integrated~~ manufacturing facility pre-retirement account with the total actual reported ~~Behind-behind~~-the-meter CO<sub>2</sub> emissions from each ~~Integrated-integrated~~ manufacturing facility. If there are fewer CO<sub>2</sub> allowances held in the ~~Integrated-integrated~~ manufacturing facility pre-retirement account than needed, additional CO<sub>2</sub> allowances will be added to the next year's predicted number of CO<sub>2</sub> allowances and transferred into the ~~Integrated-integrated~~ manufacturing facility pre-retirement account to balance the account. If there are more CO<sub>2</sub> allowances held in the ~~Integrated-integrated~~ manufacturing facility pre-retirement account than needed, only as many CO<sub>2</sub> allowances will be transferred from next year's ~~Consumer-consumer~~ benefit account as needed to cover future ~~b~~Behind-the-meter CO<sub>2</sub> emissions.

(4) Voluntary renewable energy purchases. The Department will set aside and permanently retire CO<sub>2</sub> allowances to promote and reward the voluntary purchase by consumers in Maine of renewable energy credits generated from within any participating state. The handling of such CO<sub>2</sub> allowances shall be accomplished by the Department as follows:

- (a) ~~Prior to the beginning of each control period,~~ The Department shall transfer up to 2% of the CO<sub>2</sub> Budget Trading Program base budget from each year of the control period from the ~~Consumer-consumer~~ benefit account into the ~~Voluntary-voluntary~~ renewable energy set-aside account.
- (b) ~~By August 31<sup>st</sup> of each year beginning in 2010,~~ The Department shall permanently retire the number of CO<sub>2</sub> allowances equal to the amount of avoided CO<sub>2</sub> emissions from the previous calendar year, determined using the following equation, subject to the limitations in subparagraph (c) and requirements of subparagraphs (d) and (e) of this subsection:

$$AE = \sum_{i=1}^n (MWH_{REC})_i \times (MER)/2000$$

Where,

AE = the amount of avoided CO<sub>2</sub> emissions (in tons rounded to the nearest whole ton).

MWH<sub>REC</sub> = the number of renewable energy credits (RECs) voluntarily purchased by Maine consumers during each calendar year (in equivalent MWhs on a state-by-state basis), which have been generated within a participating state.

MER = the most recently published annual average marginal emission rate (in lbs of CO<sub>2</sub> per MWh) as reported by the corresponding participating state's regional transmission organization.

i = each participating state from which RECs were purchased by Maine consumers.

- (c) If the total amount of avoided CO<sub>2</sub> emissions calculated pursuant to subparagraph (b) of this subsection exceeds the number of CO<sub>2</sub> allowances held in the ~~Voluntary-voluntary~~ renewable energy set-aside account for an associated vintage year, then the number of CO<sub>2</sub> allowances to be retired shall be equal to the total number of CO<sub>2</sub> allowances contained in the ~~Voluntary-voluntary~~ renewable energy set-aside account for that particular vintage year.
- (d) If the total amount of avoided CO<sub>2</sub> emissions calculated pursuant to subparagraph (b) of this subsection is less than the number of CO<sub>2</sub> allowances held in the ~~Voluntary-voluntary~~ renewable energy set-aside account for an associated vintage year, then the number of CO<sub>2</sub> allowances in an amount equal to the calculated avoided CO<sub>2</sub> emissions shall be retired and any excess CO<sub>2</sub> allowances shall be transferred back into the ~~Consumer-consumer~~ benefit account and offered for sale at auction.
- (e) ~~By August 31, 2010 and August 31<sup>st</sup> of each year thereafter,~~ The Department shall retire the number of CO<sub>2</sub> allowances determined pursuant to subparagraphs (c) and (d) of this

subsection by transferring them into the ~~Voluntary~~voluntary renewable energy retirement account.

- (f) Data for the amount of renewable energy credits voluntarily purchased by Maine consumers and required for the equation specified in subparagraph (b) of this subsection will be obtained from renewable energy credit tracking systems associated with the regional transmission organizations operating in the states where the credits were generated. For credits that originate in areas with no credit tracking system, verifiable evidence of purchases by Maine consumers of renewable energy credits will be obtained from the entity that oversees the electricity transmission system in that area. Renewable energy credit data must be verifiable and document the following information:
- (i) Number of renewable energy credits, in MWh, purchased by retail consumers, by customer class in Maine, during the previous calendar year;
  - (ii) Documentation that the renewable energy credits were procured by the retail provider;
  - (iii) State where the renewable energy credits were generated;
  - (iv) Time period when the renewable energy credits were generated;
  - (v) Any additional information required by the Department necessary to demonstrate that such renewable energy credit purchase is eligible in Maine and not being credited in more than one participating state and is not being credited toward any renewable portfolio standard; and
  - (vi) Annual average marginal CO<sub>2</sub> emission rate for electricity generation, in pounds CO<sub>2</sub>/MWh, as most recently reported by the regional transmission organization or the entity that oversees electricity transmission in areas with no RTO;
- (5) Public notice of the number of CO<sub>2</sub> allowances to be auctioned. Each ~~Calendar~~calendar year the Department or its agent will make public the number of CO<sub>2</sub> allowances that are planned to be auctioned in the coming year and the number of CO<sub>2</sub> allowances that are planned to be transferred to the integrated manufacturing facility pre-retirement account.
- (6) Serial numbers for allocated CO<sub>2</sub> allowances. When allocating CO<sub>2</sub> allowances to and recording them in an account, the Department or its agent will assign each CO<sub>2</sub> allowance a unique identification number that will include digits identifying the year for which the CO<sub>2</sub> allowance is allocated.

#### **H. Auction of CO<sub>2</sub> CCR Allowances.**

- (1) Purpose. The following rules shall apply to each CO<sub>2</sub> allowance auction. The Department or its agent may specify additional information in the auction notice for each auction. Such additional information may include the time and location of the auction, auction rules, registration deadlines and any additional information deemed necessary or useful.
- (2) General requirements

- (a) The Department or its agent shall include the following information in the auction notice for each auction:
- (i) The number of CO<sub>2</sub> allowances offered for sale at the auction, not including any CO<sub>2</sub> CCR allowances;
  - (ii) The number of CO<sub>2</sub> CCR allowances that will be offered for sale at the auction if the condition of subsection 2(~~GH~~)(b)(i) of this Chapter is met;
  - (iii) The minimum reserve price for the auction; ~~and~~
  - (iv) The CCR trigger price for the auction; ~~and~~
  - (v) The maximum number of CO<sub>2</sub> allowances that may be withheld from sale at the auction if the condition of subsection 2(H)(d)(1) of this Chapter is met; and
  - (vi) The ECR trigger price for the auction.
- (b) The Department or its agent shall follow these rules for the sale of CO<sub>2</sub> CCR allowances:
- (i) CO<sub>2</sub> CCR allowances shall only be sold at an auction in which total demand for allowances, above the CCR trigger price, exceeds the number of CO<sub>2</sub> allowances available for purchase at the auction, not including any CO<sub>2</sub> CCR allowances.
  - (ii) If the condition of subsection 2(~~GH~~)(b)(i) of this Chapter is met at an auction, then the number of CO<sub>2</sub> CCR allowances offered for sale by the Department or its agent at the auction shall be equal to the number of CO<sub>2</sub> CCR allowances in the auction account at the time of the auction.
  - (iii) After all of the CO<sub>2</sub> CCR allowances in the auction account have been sold in a given calendar year, no additional CO<sub>2</sub> CCR allowances will be sold at any auction for the remainder of that calendar year, even if the condition of subsection 2(~~GH~~)(b)(i) of this Chapter is met at an auction; ~~and~~.
  - (iv) At an auction in which CO<sub>2</sub> CCR allowances are sold, the reserve price for the auction shall be the CCR trigger price.
  - (v) If the condition of subsection 2(~~GH~~)(b)(i) of this Chapter is not satisfied, no CO<sub>2</sub> CCR allowances shall be offered for sale at the auction, and the reserve price for the auction shall be equal to the minimum reserve prices.
- (c) The Department or its agent shall implement the reserve price in the following manner:
- (i) No allowances shall be sold at any auction for a price below the reserve price for that auction; and
  - (ii) If the total demand for the allowances at an auction is less than or equal to the total number of allowances made available for sale in that auction, then the auction clearing price for the auction shall be the reserve price.

**I. Undistributed and Unsold CO<sub>2</sub> Allowances.**

- (1) The Department may retire undistributed CO<sub>2</sub> allowances at the end of each control period.
- (2) The Department may retire unsold CO<sub>2</sub> allowances at the end of each control period.

**3. Licensing Requirements****A. General CO<sub>2</sub> budget source licensing requirements.**

- (1) Each CO<sub>2</sub> budget source must obtain a CO<sub>2</sub> budget source license to be issued by the Department pursuant to *Major and Minor Source Air Emission License Regulations*, 06-096 CMR 115 (effective December 24, 2005).
- (2) Each CO<sub>2</sub> budget source license shall contain all applicable CO<sub>2</sub> Budget Trading Program requirements and shall be a complete and distinguishable license under subsection 3(A)(1) of this Chapter.

**B. Schedule for submission of license applications.** For any CO<sub>2</sub> budget source, the CO<sub>2</sub> authorized account representative shall submit a complete CO<sub>2</sub> budget source license application under subsection 3(C) of this Chapter covering such CO<sub>2</sub> budget source to the Department by the later of the effective date of this regulation based on the criteria listed in subsection 1(A)(2) of this Chapter or 12 months before the date on which the CO<sub>2</sub> budget source, or a new CO<sub>2</sub> budget unit at the source, commences operation.

**C. Application information requirements.** A complete CO<sub>2</sub> budget source license application shall include the following elements concerning the CO<sub>2</sub> budget source for which the application is submitted, in a format prescribed by the Department:

- (1) Identification of the CO<sub>2</sub> budget source, including plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration of the United States Department of Energy, if applicable;
- (2) Identification of each CO<sub>2</sub> budget unit at the CO<sub>2</sub> budget source; and
- (3) Any supplemental information that the Department determines is necessary in order to review the CO<sub>2</sub> budget source license application and issue or deny a CO<sub>2</sub> budget source license.

**4. Monitoring, Recordkeeping, and Reporting Requirements**

**A. General requirements.** The owners and operators, and to the extent applicable, the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit, shall comply with the monitoring, recordkeeping and reporting requirements as provided in this Chapter and all applicable sections of 40 CFR Part 75. For purposes of complying with such requirements, the definitions in subsection 1(B) of this Chapter and in 40 CFR 72.2 shall apply, and the terms ““affected unit,”” ““designated representative,”” and ““continuous emissions monitoring system”” (or ““CEMS””) in 40 CFR Part 75 shall be replaced by the terms ““CO<sub>2</sub> budget unit,”” ““CO<sub>2</sub>

authorized account representative,”” and ““continuous emissions monitoring system”” (or ““CEMS””), respectively, as defined in subsection 1(B) of this Chapter.

- (1) Requirements for installation, certification, and data accounting. The owner or operator of each CO<sub>2</sub> budget unit must meet the following requirements:
  - (a) Install all monitoring systems required under this section for monitoring CO<sub>2</sub> mass emissions. This includes all systems required to monitor CO<sub>2</sub> concentration, stack gas flow rate, oxygen 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.
  - (b) Successfully complete all certification tests required under subsection 4(B) of this Chapter and meet all other requirements of this section and 40 CFR Part 75 applicable to the monitoring systems under subsection 4(A)(1)(a) of this Chapter.
  - (c) Record, report and quality-assure the data from the monitoring systems under subsection 4(A)(1)(a) of this Chapter.
  
- (2) Compliance dates. The owner or operator shall meet the monitoring system certification and other requirements of subsection 4(A)(1)(a) through 4(A)(1)(c) of this Chapter on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection 4(A)(1)(a) of this Chapter on and after the following dates:
  - (a) The owner or operator of a CO<sub>2</sub> budget unit that commences commercial operation before July 1, 2008, must comply with the requirements of this section by the effective date of this regulation based on the criteria listed in subsection 1(A)(2) of this Chapter.
  - (b) The owner or operator of a CO<sub>2</sub> budget unit that commences commercial operation on or after July 1, 2008 must comply with the requirements of this section by the later of the following dates:
    - (i) The effective date of this regulation based on the criteria listed in subsection 1(A)(2) of this Chapter; or
    - (ii) The earlier of:
      - (A) 90 unit operating days after the date on which the unit commences commercial operation, or
      - (B) 180 calendar days after the date on which the unit commences commercial operation.
  - (c) For the owner or operator of a CO<sub>2</sub> budget unit for which construction of a new stack or flue installation is completed after the applicable deadline under subsection 4(A)(2)(a), ~~or 4(A)(2)(b) or 4(A)(2)(e)~~ of this Chapter 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 subsection 4(A)(3)(b) of this Chapter, the owner or operator of a CO<sub>2</sub> budget unit that does not meet the applicable compliance date set forth in subsection 4(A)(2)(a), 4(A)(2)(b), and 4(A)(2)(c) of this Chapter for any monitoring system under subsection 4(A)(1)(a) of this Chapter shall, for each such monitoring system, determine, record, and report maximum potential (or, as appropriate, minimum potential) values for CO<sub>2</sub> concentration, CO<sub>2</sub> emissions rate, stack gas moisture content, fuel flow rate and any other parameter required to determine CO<sub>2</sub> mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or (c)(3), section 2.4 of appendix D of 40 CFR Part 75 or section 2.5 of appendix G of 40 CFR Part 75 as applicable.
- (b) The owner or operator of a CO<sub>2</sub> budget unit that does not meet the applicable compliance date set forth in subsection 4(A)(2)(c) of this Chapter for any monitoring system under subsection 4(A)(1)(a) of this Chapter shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in Subpart D, or appendix D or appendix E 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 before and after the construction or installation under subsection 4(A)(2)(c) of this Chapter.

## (4) Prohibitions.

- (a) No owner or operator of a CO<sub>2</sub> budget unit or a non-CO<sub>2</sub> budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emissions monitoring system without having obtained prior written approval in accordance with subsection 4(F) of this Chapter.
- (b) No owner or operator of a CO<sub>2</sub> budget unit or a non-CO<sub>2</sub> budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall operate the unit so as to discharge, or allow to be discharged, CO<sub>2</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR Part 75.
- (c) No owner or operator of a CO<sub>2</sub> budget unit or a non-CO<sub>2</sub> budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall disrupt the continuous emissions monitoring system, any portion thereof, or any other approved emissions monitoring method, and thereby avoid monitoring and recording CO<sub>2</sub> 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 this section and 40 CFR Part 75.
- (d) No owner or operator of a CO<sub>2</sub> budget unit or a non-CO<sub>2</sub> budget unit monitored under 40 CFR 75.72(b)(2)(ii) shall retire or permanently discontinue use of the continuous emissions monitoring system, any component thereof, or any other approved emissions monitoring system under this section, 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 this

section 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<sub>2</sub> authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subsection 4(B)(4)(c)(i) of this Chapter.

#### **B. Initial certification and recertification requirements.**

- (1) The owner or operator of a CO<sub>2</sub> budget unit shall be exempt from the initial certification requirements of this section for a monitoring system under subsection 4(A)(1)(a) of this Chapter 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 CFR 75.21 and appendix B, appendix D and appendix E of 40 CFR Part 75 are fully met for the certified monitoring system described in subsection 4(B)(1)(a) of this Chapter.
- (2) The recertification provisions of this section shall apply to a monitoring system under subsection 4(A)(1)(a) of this Chapter exempt from initial certification requirements under subsection 4(B)(1) of this Chapter.
- (3) If the Administrator has previously approved a petition under 40 CFR 75.17(a) or (b) for apportioning the CO<sub>2</sub> emissions rate measured in a common stack; or a petition under 40 CFR 75.66 for an alternative requirement in 40 CFR 75.12, 40 CFR 75.17 or Subpart H of 40 CFR Part 75, the CO<sub>2</sub> authorized account representative shall resubmit the petition to the Department under subsection 4(F)(1) of this Chapter to determine whether the approval applies under this program.
- (4) Except as provided in subsection 4(B)(1) of this Chapter, the owner or operator of a CO<sub>2</sub> budget unit shall comply with the following initial certification and recertification procedures for a continuous emissions monitoring system and an excepted monitoring system under appendices D and E of 40 CFR Part 75 and under subsection 4(A)(1)(a) of this Chapter. The owner or operator of a CO<sub>2</sub> budget unit that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR 75.19 or that qualifies to use an alternative monitoring system under Subpart E of 40 CFR Part 75 shall comply with the procedures in subsection 4(B)(5) or 4(B)(6) of this Chapter, respectively.
  - (a) Requirements for initial certification. ~~The An~~ owner or operator shall ensure that each continuous emissions monitoring system required under subsection 4(A)(1)(a) of this Chapter (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 subsection 4(A)(2) of this Chapter. In addition, whenever ~~the an~~ owner or operator installs a monitoring system in order to meet the requirements of this section 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. Whenever ~~the~~an owner or operator of a CO<sub>2</sub> budget unit makes a replacement, modification, or change in a certified continuous emissions monitoring system under subsection 4(A)(1)(a) of this Chapter that the Administrator or the Department determines significantly affects the ability of the system to accurately measure or record CO<sub>2</sub> mass emissions or heat input 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). Furthermore, whenever ~~the~~an 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. Subsections 4(B)(4)(c)(i) through (iv) of this Chapter apply to both initial certification and recertification of a monitoring system under subsection 4(A)(1)(a) of this Chapter. For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with "recertified," and follow the procedures in 40 CFR 75.20(b)(5) and (g)(7) in lieu of the procedures in subsection 4(B)(4)(c)(v) of this Chapter.
- (i) Notification of certification. The CO<sub>2</sub> 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 subsection 4(D) of this Chapter.
- (ii) Certification application. The CO<sub>2</sub> 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<sub>2</sub> 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 subsection 4(B)(4)(c)(ii) of this Chapter. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured 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 will 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 subsection 4(B)(4)(c)(ii) of this Chapter. In the event the Department does not issue such a notice within such 120-day period, each monitoring system which meets the applicable

performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CO<sub>2</sub> Budget Trading Program.

- (A) 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 will issue a written notice of approval of the certification application within 120 days of receipt.
- (B) Incomplete application notice. If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the CO<sub>2</sub> authorized account representative must submit the additional information required to complete the certification application. If the CO<sub>2</sub> 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 subsection 4(B)(4)(c)(iv) of this Chapter. The 120 day review period shall not begin before receipt of a complete certification application.
- (C) 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 subsection 4(B)(4)(c)(iv) of this Chapter is met, then the Department will 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 subsection 4(B)(4)(c)(v) of this Chapter for each monitoring system or component thereof, ~~which~~ that is disapproved for initial certification.
- (D) Audit decertification. The Department may issue a notice of disapproval of the certification status of a monitor in accordance with subsection 4(C)(2) of this Chapter.
- (v) Procedures for loss of certification. If the Department issues a notice of disapproval of a certification application under subsection 4(B)(4)(c)(iv)(C) or a notice of disapproval of certification status under subsection 4(B)(4)(c)(iv)(D) of this Chapter, then:
  - (A) 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):
    - (I) For units using or intending to monitor for CO<sub>2</sub> 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

- (II) For units intending to monitor for CO<sub>2</sub> mass emissions using a CO<sub>2</sub> pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO<sub>2</sub> and the maximum potential flow rate of the unit under section 2.1 of appendix A of 40 CFR Part 75.
- (B) The CO<sub>2</sub> authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subsections 4(B)(4)(c)(i) and (ii) of this Chapter; and
- (C) 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 40 CFR 75.19. The owner or operator of a CO<sub>2</sub> budget unit qualified to use the low mass emissions excepted methodology under 40 CFR 75.19 shall meet the applicable certification and recertification requirements of 40 CFR 75.19, 40 CFR 75.20(h), and subsection 4(B) of this Chapter. 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 alternative monitoring systems. The CO<sub>2</sub> authorized account of each unit for which the owner or operator intends to use an alternative 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 quality control requirements or data validation requirements of 40 CFR Part 75, data shall be substituted using the applicable procedures in Subpart D, or appendix D, ~~or appendix E~~ 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 subsection 4(B) of this Chapter 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 will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this paragraph, 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 subsection 4(B) of this Chapter for each disapproved monitoring system.

**D. Notifications.** The CO<sub>2</sub> authorized account representative for a CO<sub>2</sub> budget unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR 75.61.

**E. Recordkeeping and reporting.**

- (1) General provisions. The CO<sub>2</sub> authorized account representative shall comply with all recordkeeping and reporting requirements in this section, the applicable record-keeping and reporting requirements under 40 CFR 75.73, and ~~with~~ the requirements of subsection 6(A)(5) of this Chapter.
  - (a) Unless otherwise provided, the owners and operators of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall keep on site at the source each of the following documents for a period of 10 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 10 years, in writing by the Department.
    - (i) The account certificate of representation for the CO<sub>2</sub> authorized account representative for the source and each CO<sub>2</sub> budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with subsection 6(D) of this Chapter; provided that the certificate and documents shall be retained on site at the source beyond such 10-year period until such documents are superseded because of the submission of a new account certificate of representation.
    - (ii) All emissions monitoring information, in accordance with ~~S~~section 4 of this Chapter.
    - (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CO<sub>2</sub> Budget Trading Program.
    - (iv) Copies of all documents used to complete a CO<sub>2</sub> budget license application, any other submission under the CO<sub>2</sub> Budget Trading Program, and all documents used to demonstrate compliance with the requirements of the CO<sub>2</sub> Budget Trading Program.
  - (b) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall submit the reports and compliance certifications required under the CO<sub>2</sub> Budget Trading Program, including those under ~~S~~section 5 of this Chapter.
- (2) Monitoring plans. The owner or operator of a CO<sub>2</sub> budget unit shall comply with requirements of 40 CFR 75.62.
- (3) Certification applications. The CO<sub>2</sub> authorized account representative shall submit an application to the Department within 45 days after completing all initial certification or recertification tests required under subsection 4(B) of this Chapter including the information required under CFR 75.63 and 40 CFR 75.73 (c) and (e)-.
- (4) Quarterly reports. The CO<sub>2</sub> authorized account representative shall submit quarterly reports, as follows:

- (a) The CO<sub>2</sub> authorized account representative shall report the CO<sub>2</sub> mass emissions data and heat input data for the CO<sub>2</sub> budget unit, in an electronic format prescribed by the Department for each calendar quarter beginning with:
- (i) for a unit that commences commercial operation before July 1, 2008, the earlier of the calendar quarter covering January 1, 2009 through March 31, 2009 or the first full calendar quarter following the effective date of this regulation based on the criteria listed in subsection 1(A)(2) of this Chapter; 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 subsection 4(A)(2) of this Chapter or, unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 through March 31, 2009 or the first full calendar quarter following the effective date of this regulation based on the criteria listed in subsection 1(A)(2) of this Chapter.
- (b) The CO<sub>2</sub> authorized account representative shall submit each quarterly report to the Department or its 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 include all of the data and information required in Subpart H of 40 CFR Part 75 for each CO<sub>2</sub> budget unit (or group of units using a common stack) as well as information required in Subpart G of 40 CFR Part 75, except for opacity and SO<sub>2</sub> provisions.
- (c) Compliance certification. The CO<sub>2</sub> authorized account representative shall submit to 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:
- (i) the monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR Part 75, including the quality assurance procedures and specifications; ~~and~~
  - (ii) for a unit with add-on CO<sub>2</sub> emissions controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1)-, the add-on emissions controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B of 40 CFR Part 75 and the substitute values do not systematically underestimate CO<sub>2</sub> emissions; and
  - (iii) the CO<sub>2</sub> concentration values substituted for missing data under Subpart D of 40 CFR Part 75 do not systematically underestimate CO<sub>2</sub> emissions.

#### **F. Petitions.**

- (1) Except as provided in subsection 4(F)(3) of this Chapter, the CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR 75.66 to the Administrator requesting approval to apply an alternative to any requirement of this Chapter. Application of an alternative to any

- requirement of this Chapter is in accordance with this Chapter only to the extent that the petition is approved in writing by both the Department and the Administrator, ~~in consultation with the Department.~~
- (2) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is not subject to an Acid Rain emissions limitation may submit a petition under 40 CFR 75.66 to the Administrator requesting approval to apply an alternative to any requirement of this Chapter. Application of an alternative to any requirement of this Chapter is in accordance with this Chapter only to the extent that the petition is approved in writing by both the Department and the Administrator.
  - (3) The CO<sub>2</sub> authorized account representative of a CO<sub>2</sub> budget unit that is subject to an Acid Rain emissions limitation may submit a petition under 40 CFR 75.66 to the Administrator requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72 or a CO<sub>2</sub> concentration CEMS used under 40 CFR 75.71(a)(2). Application of an alternative to any requirement of this Chapter is in accordance with this Chapter only to the extent the petition is approved in writing by both the Department and the Administrator.

**G. CO<sub>2</sub> budget units that co-fire eligible biomass.** *[Reserved]*

**H. Additional requirements to provide output data.**

- (1) In a state that requires the use of information submitted to the Regional Transmission Organization (RTO) to document megawatt-hours (MWh), the CO<sub>2</sub> budget unit shall submit to the Department or its agent the same MWh value submitted to the RTO and a statement certifying that the MWh of electrical output reported reflects the total actual electrical output for all CO<sub>2</sub> budget units at the facility used by the RTO to determine settlement resources of energy market participants.
- (2) A CO<sub>2</sub> budget unit in a state that requires gross output to be used, that also reports gross output in hourly MWh to the Administrator, shall use the same electronic data report (EDR) gross output (in MWh), as submitted to the Administrator, for ~~the hour times operating time in the each~~ hour, added for all hours in a year. A CO<sub>2</sub> budget unit that does not report gross output in hourly MWh to the Administrator shall submit to the Department or its agent information in accordance with subsection 4(H)(5)(a) of this Chapter.
- (3) A CO<sub>2</sub> budget unit in a state that requires net electrical output, shall submit to the Department or its agent information in accordance with subsection 4(H)(5)(a) of this Chapter. A CO<sub>2</sub> budget source whose electrical output is not used in RTO energy market settlement determinations shall propose to the Department a method for quantification of net electrical output.
- (4) CO<sub>2</sub> budget sources selling steam should use billing meters to determine net steam output. A CO<sub>2</sub> budget source whose steam output is not measured by billing meters or whose steam output is combined with output from a non-CO<sub>2</sub> budget unit prior to measurement by the billing meter shall propose to the Department an alternative method for quantification of net steam output. If data for steam output is not available, the CO<sub>2</sub> budget source may report heat input providing useful steam output as a surrogate for steam output.

- (5) Monitoring. The owner or operator of each CO<sub>2</sub> budget unit, in a state that requires the CO<sub>2</sub> budget unit's net output, must meet the following requirements. Each CO<sub>2</sub> budget source must provide a description of the net output monitoring approach in an output monitoring plan. The output monitoring plan application must include a description and diagram as stated below.
- (a) Submit a diagram of the electrical and/or steam system for which output is being monitored, specifically including the following:
- (i) If the CO<sub>2</sub> budget unit monitors net electric output, the diagram should contain all CO<sub>2</sub> budget units and all generators served by each CO<sub>2</sub> budget unit and the relationship between CO<sub>2</sub> budget units and generators. If a generator served by a CO<sub>2</sub> budget unit is also served by a non-affected unit, the non-affected unit and its relationship to each generator should be indicated on the diagram as well. The diagram should indicate where the net electric output is measured and should include all electrical inputs and outputs to and from the plant. If net electric output is determined using a billing meter, the diagram should show each billing meter used to determine net sales of electricity and should show that all electricity measured at the point of sale is generated by the CO<sub>2</sub> budget units.
- (ii) If the CO<sub>2</sub> budget unit monitors net thermal output, the diagram should include all steam or hot water coming into the net steam system, including steam from CO<sub>2</sub> budget units and non-affected units, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream ~~will~~should have an estimated temperature, pressure and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system should identify all useful loads, house loads, parasitic loads, any other steam loads, and all boiler feedwater returns. The diagram ~~will~~should represent all energy losses in the system as either usable or unusable losses. The diagram ~~will~~should 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) Submit a description of each output monitoring system. The description of the output monitoring system should include a written description of the output system and the equations used to calculate output. For net thermal output systems, descriptions and justifications of each useful load should be included.
- (c) Submit a detailed description of all quality assurance/quality control activities that will be performed to maintain the output system in accordance with subsection 4(H)(7) of this Chapter.
- (d) Submit documentation supporting any output value(s) to be used as a missing data value(s) should there be periods of invalid output data. The missing data output value must be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under this subsection.
- (6) Initial Certification. A certification statement must be submitted by the CO<sub>2</sub> authorized account representative stating either 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 listed in subsection 4(H)(6)(b) of this Chapter. This statement may be submitted with the certification application required under subsection 4(E)(3) of this Chapter.

- (a) Billing Meters. The billing meter must record the electric or thermal output. Any electric or thermal output values that the facility reports must be the same as the values used in billing for the output. Any output measurement equipment used as a billing meter in commercial transactions requires no additional certification or testing ~~requirements~~.
  - (b) Non-Billing Meters. For non-billing meters, the output monitoring system must either meet an accuracy of within 10% of the reference value, or each component monitor for the output system must meet an accuracy of within 3% of the full scale value, whichever is less stringent.
    - (i) System approach to accuracy. The system approach to accuracy must include a determination of how the system accuracy of 10% is achieved using the individual components in the system and should include data loggers and any watt meters used to calculate the final net electric output data and/or any flow meters for steam or condensate, temperature measurement devices, absolute pressure measurement devices, and differential pressure devices used for measuring thermal energy.
    - (ii) ~~A-e~~Component approach to accuracy. If testing a piece of output measurement equipment shows that the output readings are not accurate to within ~~3%-0 percent~~ or less of the full scale value, the equipment must be retested or replaced, ~~the measurement equipment and meet that requirement~~. 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.
- (7) Ongoing QA/QC. 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 ~~venture-venturi~~ type meters, and the primary element of an orifice plate, only require an initial certification of calibration and do not require periodic recalibration unless the equipment is physically changed. However, the pressure and temperature transmitters accompanying an orifice plate will require periodic retesting in accordance with manufacturers' recommendations. For other types of equipment, ~~either recalibrate or re-verify~~ the meter accuracy must be recalibrated or re-certified at least once every two years (i.e., every eight calendar quarters), unless a consensus standard allows for less frequent calibrations or accuracy tests. For non-billing meters, the output monitoring system must either meet an accuracy of within 10% of the reference value, or each component monitor for the output system must meet an accuracy of within 3% of the full scale value, whichever is less stringent. If testing a piece of output measurement equipment shows that the output readings are not accurate to within ~~3.0 percent~~ of the full scale value, then the equipment should be repaired or replaced to meet that requirement.

(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. ~~Omit the~~ All invalid data and must be replaced by report 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 subsection 4(H)(5) of this Chapter.

(8) Recordkeeping and Reporting.

- (a) General provisions. The CO<sub>2</sub> authorized account representative shall comply with all recordkeeping and reporting requirements in subsection 4(H) of this Chapter and with the requirements of subsection 6(A)(5) of this Chapter.
- (b) Recordkeeping. Facilities shall retain data used to monitor, determine, or calculate net generation for ten years.
- (c) Annual reports. The CO<sub>2</sub> authorized account representative shall submit annual net output reports, as follows. The data must be sent both electronically and in hardcopy by March 1 of each year for the immediately preceding control period or interim control period to the Department or its agent. The annual report shall include unit level MWh, all useful steam output, and a certification statement from the CO<sub>2</sub> authorized account representative stating the following: “I am authorized to make this submission on behalf of the owners and operators of the CO<sub>2</sub> budget sources or CO<sub>2</sub> budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

## 5. Compliance Requirements

### A. Compliance Certification Report.

- (1) Applicability and deadline. For each control period in which a CO<sub>2</sub> budget source is subject to the CO<sub>2</sub> budget emissions limitation, the CO<sub>2</sub> authorized account representative of the source shall submit to the Department by the March 1 following the relevant control period, a compliance certification report. A compliance certification report is not required as part of the compliance obligation during an interim control period.
- (2) Contents of report. The CO<sub>2</sub> authorized account representative shall include in the compliance certification report under subsection 5(A)(1) of this Chapter the following elements, in a format prescribed by the Department:
- (a) identification of the source and each CO<sub>2</sub> budget unit at the source;

- (b) at the CO<sub>2</sub> authorized account representative's option, the serial numbers of the CO<sub>2</sub> allowances that are to be deducted from the source's compliance account under subsection 5(D) of this Chapter for the control period, including the serial numbers of any CO<sub>2</sub> offset allowances that are to be deducted subject to the limitations of subsection 5(D)(1)(c) of this Chapter; and
  - (c) the compliance certification under subsection 5(A)(3) of this Chapter.
- (3) Compliance certification. In the compliance certification report under subsection 5(A)(1) of this Chapter, the CO<sub>2</sub> authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO<sub>2</sub> budget units at the source in compliance with the CO<sub>2</sub> Budget Trading Program, whether the source and each CO<sub>2</sub> budget unit at the source for which the compliance certification is submitted was operated during the calendar years covered by the report in compliance with the requirements of the CO<sub>2</sub> Budget Trading Program, including:
- (a) whether the source was operated in compliance with the CO<sub>2</sub> budget emissions limitation;
  - (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<sub>2</sub> emissions to the unit, in accordance with Section 4 of this Chapter;
  - (c) whether all the CO<sub>2</sub> emissions from the units at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with Section 4 of this Chapter. 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 Section 4 of this Chapter of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under Section 4 of this Chapter, if any, have changed; and
  - (e) if a change is required to be reported under subsection 5(A)(3)(d) of this Chapter, 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~~ required monitor recertification.

## **B. Department 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<sub>2</sub> Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

- (2) The Department or its agent may deduct CO<sub>2</sub> allowances from or transfer CO<sub>2</sub> allowances to a source's compliance account based on the information in the compliance certifications or other submissions, as adjusted under subsection 5(B)(1) of this Chapter.

### C. CO<sub>2</sub> Budget Unit Compliance Account Requirements

- (1) ~~The~~ For each control period, the owners and operators of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall hold CO<sub>2</sub> allowances available for compliance deductions under subsection 5(D) of this Chapter, as of the CO<sub>2</sub> allowance transfer deadline, in the source's compliance account in an amount not less than the total CO<sub>2</sub> emissions for the control period from all CO<sub>2</sub> budget units at the source, less the CO<sub>2</sub> allowances deducted to meet the requirements of subsection 5(C)(2) of this Chapter, with respect to the previous two interim control periods, as determined in accordance with ~~S~~sections 7-4 and 4-7 of this Chapter.
- (2) ~~The~~ For each interim control period, the owners and operators of each CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source shall hold CO<sub>2</sub> allowances available for compliance deductions under subsection 5(D) of this Chapter, as of the CO<sub>2</sub> allowance transfer deadline, in the source's compliance account in an amount not less than 50% of the total CO<sub>2</sub> emissions for the interim control period from all CO<sub>2</sub> budget units at the source ~~multiplied by 0.50~~, as determined in accordance with ~~S~~sections 7-4 and 4-7 of this Chapter.
- (3) Each ton of CO<sub>2</sub> emitted in excess of the CO<sub>2</sub> budget emissions limitation for a control period shall constitute a separate violation of this Chapter and applicable state law.
- (4) Each ton of excess interim emissions shall constitute a separate violation of this Chapter and applicable state law.
- (5) A CO<sub>2</sub> budget unit shall be subject to the requirements under subsection 5(C)(1) of this Chapter starting on the later of January 1, 2009, the first full calendar quarter following the effective date of this regulation based on the criteria listed in subsection 1(A)(2) of this Chapter, or the date on which the unit commences operation.
- (6) CO<sub>2</sub> allowances shall be held in, deducted from, or transferred among CO<sub>2</sub> Allowance Tracking System accounts in accordance with ~~S~~sections 2, 7, and 8, and with subsection 9(F) of this Chapter.
- (7) A CO<sub>2</sub> allowance shall not be deducted, in order to comply with the requirements under subsection 5(C)(1) or (2) of this Chapter, for a control period or interim control period that ends prior to the year for which the CO<sub>2</sub> allowance was allocated. A CO<sub>2</sub> offset allowance shall not be deducted, in order to comply with the requirements under subsection 5(C)(1) or (2) of this Chapter, to cover emissions beyond the applicable percentage limitations set out in subsection 5(D)(1)(c) of this Chapter.
- (8) A CO<sub>2</sub> allowance under the CO<sub>2</sub> Budget Trading Program is a limited authorization by the Department to emit one ton of CO<sub>2</sub> in accordance with the CO<sub>2</sub> Budget Trading Program. No provision of the CO<sub>2</sub> Budget Trading Program, the CO<sub>2</sub> budget license application, or the CO<sub>2</sub> budget license, or any provision of law shall be construed to limit the authority of the ~~State Department~~ to terminate or limit such authorization.

- (9) A CO<sub>2</sub> allowance under the CO<sub>2</sub> Budget Trading Program does not constitute a property right.

#### D. Compliance Deductions

- (1) Allowances available for compliance deduction. CO<sub>2</sub> allowances that meet the following criteria are available to be deducted for compliance with a CO<sub>2</sub> budget source's CO<sub>2</sub> budget emissions limitation for a control period or an interim control period.
- (a) The CO<sub>2</sub> allowances, other than CO<sub>2</sub> 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. Allowances from allocation years that fall after an interim control period may not be used for compliance deduction for that interim control period.
  - (b) The CO<sub>2</sub> allowances are held in the CO<sub>2</sub> budget source's compliance account as of the CO<sub>2</sub> allowance transfer deadline for that control period or interim control period, or are transferred into the compliance account by a CO<sub>2</sub> allowance transfer correctly submitted for recordation under subsection 8(A) of this Chapter by the CO<sub>2</sub> allowance transfer deadline for that control period or interim control period.
  - (c) For CO<sub>2</sub> offset allowances, the number of CO<sub>2</sub> offset allowances that are available to be deducted for compliance with a CO<sub>2</sub> budget source's CO<sub>2</sub> budget emissions limitation for a control period or interim control period may not exceed -3.3 percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for that control period, or 3.3 percent 0.50 times of one half of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for an interim control period, as determined in accordance with ~~§~~sections ~~7-4~~ and ~~4-7~~ of this Chapter.
  - (d) The CO<sub>2</sub> allowances are not necessary for deductions for excess emissions for a prior control period under subsection 5(D)(4) of this Chapter.
- (2) Deductions for compliance. ~~Following the recordation, in accordance with subsection 8(B) of this Chapter, of CO<sub>2</sub> allowance transfers submitted for recordation in the CO<sub>2</sub> budget source's compliance account by the CO<sub>2</sub> allowance transfer deadline for a control period or interim control period, the Department or its agent will deduct CO<sub>2</sub> allowances available under subsection 5(D)(1) of this Chapter to cover the source's CO<sub>2</sub> emissions (as determined in accordance with §section 4 of this Chapter) for the control period or interim control period, as follows:~~
- (a) until the amount of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions (or 0.50 times the number of tons of total CO<sub>2</sub> emissions for an interim control period), as determined in accordance with §section 4 of this Chapter, from all CO<sub>2</sub> budget units at the CO<sub>2</sub> budget source for the control period or interim control period; or
  - (b) if there are insufficient CO<sub>2</sub> allowances to complete the deductions in subsection 5(D)(2)(a) of this Chapter, until no more CO<sub>2</sub> allowances available under subsection 5(D)(1) of this Chapter remain in the compliance account.
- (3) Identification of available CO<sub>2</sub> allowances by serial number and default compliance deductions.

- (a) The CO<sub>2</sub> authorized account representative for a source's compliance account may request that specific CO<sub>2</sub> allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period or interim control period in accordance with either subsection 5(D)(2) or 5(D)(4) of this Chapter. Such identification shall be made in the compliance certification report submitted in accordance with subsection 5(A) of this Chapter.
- (b) The Department or its agent will deduct CO<sub>2</sub> allowances for a control period or interim control period from the CO<sub>2</sub> budget source's compliance account, in the absence of an identification or in the case of a partial identification of available CO<sub>2</sub> allowances by serial number under subsection 5(D)(3)(a) of this Chapter, in the following descending order:
- (i) First, subject to the relevant compliance deduction limitations under subsection 5(D)(1)(c) of this Chapter, any CO<sub>2</sub> offset allowances transferred and recorded in the compliance account pursuant to section 8 of this Chapter. CO<sub>2</sub> offset allowances shall be deducted in chronological order (i.e., CO<sub>2</sub> offset allowances from earlier allocation years shall be deducted before those from later allocation years). In the event that some, but not all, CO<sub>2</sub> offset allowances from a particular year are to be deducted, the CO<sub>2</sub> offset allowances from that allocation year shall be deducted in order according to serial number, with lower-numbered allowances deducted before higher-numbered allowances. any CO<sub>2</sub> allowances, other than CO<sub>2</sub> offset allowances, that are available for deduction under subsection 5(D)(1) of this Chapter and were allocated to the units at the source, in the order of recordation; and then
  - (ii) Second, any CO<sub>2</sub> allowances, other than CO<sub>2</sub> offset allowances, that are available for deduction under subsection 5(D)(1) of this Chapter. CO<sub>2</sub> allowances shall be deducted in chronological order (i.e., CO<sub>2</sub> allowances from earlier allocation years shall be deducted before those from later allocation years). In the event that some, but not all, CO<sub>2</sub> allowances from a particular year are to be deducted, the CO<sub>2</sub> allowances from that allocation year shall be deducted in order according to serial number, with lower-numbered allowances deducted before higher-numbered allowances. and were allocated other than to units at the source and transferred and recorded in the compliance account pursuant to Section 8 of this Chapter, in the chronological order of recordation(i.e., allowances from earlier allocation years shall be deducted before allowances from later allocation years); and then
  - (iii) subject to the relevant compliance deduction limitations under subsection 5(D)(1)(c) of this Chapter, any CO<sub>2</sub> offset allowances transferred and recorded in the compliance account pursuant to Section 8 of this Chapter, in the order of recordation.
- (4) Deductions for excess emissions.
- (a) After making the deductions for compliance under subsection 5(D)(2) of this Chapter, the Department or its agent will deduct from the CO<sub>2</sub> budget source's compliance account a number of CO<sub>2</sub> allowances, ~~allocated for allocation years that occur after the control period in which the source has excess emissions,~~ equal to three times the number of the source's excess emissions in tons of CO<sub>2</sub>. In the event that ~~a~~ the source's compliance account has insufficient CO<sub>2</sub> allowances to cover three times the number of the ~~source's~~ source's tons of excess emissions, the source shall be required immediately to deposit

transfer sufficient allowances into its compliance account. No CO<sub>2</sub> offset allowances may be deducted to account for the source's excess emissions.

- (b) Any CO<sub>2</sub> allowance deduction required under subsection 5(D)(4)(a) of this Chapter shall not affect the liability of the owners and operators of the CO<sub>2</sub> budget source or the CO<sub>2</sub> units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under applicable State law. The following guidelines will be followed in assessing fines, penalties, or other obligations:-
- (i) For purposes of determining the number of days of violation, if a CO<sub>2</sub> budget source has excess emissions for a control period, each day in the control period constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.
  - (ii) Each ton of excess emissions is a separate violation.
  - (iii) For purposes of determining the number of days of violation, if a CO<sub>2</sub> budget source has excess interim emissions for an interim control period, each day in the interim control period constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.
  - (iv) Each ton of excess interim emissions is a separate violation.
- (c) The propriety of the Department's determination that a CO<sub>2</sub> budget source had excess emissions and the concomitant deduction of CO<sub>2</sub> allowances from that CO<sub>2</sub> budget source's compliance account may be later challenged in the context of the initial administrative enforcement, or any civil or criminal judicial action arising from or encompassing that excess emissions violation. The commencement or pendency of any administrative enforcement, or civil or criminal judicial action arising from or encompassing that excess emissions violation will not act to prevent the Department or its agent from initially deducting the CO<sub>2</sub> allowances resulting from the Department's original determination that the relevant CO<sub>2</sub> budget source has had excess emissions. Should the Department's determination of the existence or extent of the CO<sub>2</sub> budget source's excess emissions be revised either by a settlement or final conclusion of any administrative or judicial action, the Department will act as follows:-
- (i) In any instance where the Department's determination of the extent of excess emissions was too low, the Department will take further action under subsections 5(D)(4)(a) and (b) of this Chapter 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 will distribute to the relevant CO<sub>2</sub> budget source a number of CO<sub>2</sub> allowances equaling the number of CO<sub>2</sub> allowances deducted which are attributable to the difference between the original and final quantity of excess emissions. Should ~~such the~~ CO<sub>2</sub> budget source's compliance account no longer exist, the CO<sub>2</sub> allowances will be provided to a general account selected by the owner or operator of the CO<sub>2</sub> budget source from which they were originally deducted.

#### **E. Action by the Department on submissions**

- (1) The Department may review and conduct independent audits concerning any submission under the CO<sub>2</sub> Budget Trading Program and make appropriate adjustments of the information in the submissions.
- (2) The Department may deduct CO<sub>2</sub> allowances from or transfer CO<sub>2</sub> allowances to a source's compliance account based on information in ~~the~~a submissions, as adjusted under subsection 5(~~DE~~)(61)(a) of this Chapter.

## 6. CO<sub>2</sub> Authorized Account Representative Provisions

### A. Authorization and responsibilities.

- (1) Except as provided under subsection 6(B) of this Chapter, each CO<sub>2</sub> budget source, including all CO<sub>2</sub> budget units at the source, shall have one and only one CO<sub>2</sub> authorized account representative, with regard to all matters under the CO<sub>2</sub> Budget Trading Program concerning the source or any CO<sub>2</sub> budget unit at the source.
- (2) The CO<sub>2</sub> authorized account representative of the CO<sub>2</sub> budget source shall be ~~selected~~ by designated in an agreement binding on the owners and operators of the source and all CO<sub>2</sub> budget units at the source, and must act in accordance with the certificate of representation under section 6(D) of this Chapter.
- (3) Upon receipt by the Department or its agent of a complete account certificate of representation under subsection 6(D) of this Chapter, the CO<sub>2</sub> 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<sub>2</sub> budget source represented and each CO<sub>2</sub> budget unit at the source in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CO<sub>2</sub> authorized account representative by the Department or a court regarding the source or unit.
- (4) No CO<sub>2</sub> budget ~~permit license~~ shall be issued, and no CO<sub>2</sub> Allowance Tracking System account shall be established for a CO<sub>2</sub> budget source, until the Department or its agent has received a complete account certificate of representation under subsection 6(D) of this Chapter for a CO<sub>2</sub> authorized account representative of the source and ~~the all~~ CO<sub>2</sub> budget units at the source. Each submission under the CO<sub>2</sub> Budget Trading Program shall be submitted, signed, and certified by the CO<sub>2</sub> authorized account representative for each CO<sub>2</sub> budget source on behalf of which the submission is made.
- (5) ~~Each submission under the CO<sub>2</sub> Budget Trading Program shall be submitted, signed, and certified by the CO<sub>2</sub> authorized account representative for each CO<sub>2</sub> budget source on behalf of which the submission is made.~~ Each such submission shall include the following certification statement by the CO<sub>2</sub> authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO<sub>2</sub> budget sources or CO<sub>2</sub> budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are

to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

- (6) The Department or its agent will accept or act on a submission made on behalf of owners or operators of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit only if the submission has been made, signed, and certified in accordance with subsection 6(A)(5) of this Chapter.

**B. ~~Alternate~~-CO<sub>2</sub> authorized alternate account representative**

- (1) An account certificate of representation may designate one and only one ~~alternate~~-CO<sub>2</sub> authorized alternate account representative who may act on behalf of the CO<sub>2</sub> authorized account representative. The agreement by which the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative is selected shall include a procedure for authorizing the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative to act in lieu of the CO<sub>2</sub> authorized account representative.
- (2) Upon receipt by the Department or its agent of a complete account certificate of representation under subsection 6(D) of this Chapter, any representation, action, inaction, or submission by the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> authorized account representative.
- (3) Except in this section and subsections 6(A)(1), 6(C), 6(D), and 7(B) of this Chapter, whenever the term “CO<sub>2</sub> authorized account representative” is used in this Chapter, the term shall be construed to include the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative.

**C. Changing the account certificate of representation**

- (1) Changing the CO<sub>2</sub> authorized account representative. The CO<sub>2</sub> authorized account representative may be changed at any time upon receipt by the Department or its agent of a ~~superseding~~ complete account certificate of representation under subsection 6(D) of this Chapter superseding the certificate on file. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> 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<sub>2</sub> authorized account representative and the owners and operators of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source.
- (2) Changing the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative. The ~~alternate~~-CO<sub>2</sub> 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 subsection 6(D) of this Chapter superseding the certificate on file. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous ~~alternate~~ CO<sub>2</sub> 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 ~~alternate~~-CO<sub>2</sub> authorized alternate account representative and the owners and operators of the CO<sub>2</sub> budget source and the CO<sub>2</sub> budget units at the source.

- (3) Changes in the owners or operators.
- (a) In the event a new owner or operator of a CO<sub>2</sub> budget source or a CO<sub>2</sub> budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> 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<sub>2</sub> budget source or a CO<sub>2</sub> budget unit, including the addition of a new owner or operator, the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> 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<sub>2</sub> authorized account representative or an ~~alternate~~-CO<sub>2</sub> authorized alternate account representative shall include the following elements in a format prescribed by the Department or its agent:
  - (a) identification of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source for which the account certificate of representation is submitted;
  - (b) the name, address, e-mail address, and telephone number, ~~and facsimile transmission number~~ of the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative;
  - (c) a list of the owners and operators of the CO<sub>2</sub> budget source and of each CO<sub>2</sub> budget unit at the source;
  - (d) the following certification statement by the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative: "I certify that I was selected as the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative, as applicable, by an agreement binding on the owners and operators of the CO<sub>2</sub> budget source and each CO<sub>2</sub> budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of the owners and operators of the CO<sub>2</sub> budget source and of each CO<sub>2</sub> budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department or a court regarding the source or unit."; and
  - (e) the signature of the CO<sub>2</sub> authorized account representative ~~or and any alternate~~-CO<sub>2</sub> authorized alternate account representative, as applicable, 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, if submitted.

#### **E. Objections concerning the CO<sub>2</sub> authorized account representative**

- (1) Once a complete account certificate of representation under subsection 6(D) of this Chapter has been submitted and received, the Department and its agent will rely on the account certificate of representation unless and until the Department or its agent receives a superseding complete account certificate of representation under subsection 6(D) of this Chapter.
- (2) Except as provided in subsections 6(C)(1) or (2) of this Chapter, 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<sub>2</sub> authorized account representative shall affect any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or the finality of any decision or order by the Department or its agent under the CO<sub>2</sub> Budget Trading Program.
- (3) Neither the Department nor its agent will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CO<sub>2</sub> authorized account representative, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.

#### **F. Delegation of account representative responsibilities**

- (1) A CO<sub>2</sub> authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent under this Chapter.
- (2) ~~An alternate~~ CO<sub>2</sub> authorized alternate account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent under this ~~section~~ Chapter.
- (3) In order to delegate authority to make an electronic submission to the Department or its agent in accordance with subsections 6(F)(1) and (2) of this Chapter, the CO<sub>2</sub> authorized account representative or ~~alternate~~ CO<sub>2</sub> 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, and telephone number, ~~and facsimile transmission number~~ of such CO<sub>2</sub> authorized account representative or ~~alternate~~ CO<sub>2</sub> authorized alternate account representative;
  - (b) The name, address, e-mail address, and telephone number ~~and facsimile transmission number~~ of each ~~such~~ natural person to whom submission authority is delegated as described in subsection 6(F)(1) or 6(F)(2) of this Chapter, herein referred to as the “electronic submission agent”;

- (c) For each ~~such natural person~~ electronic submission agent, a list of the type of electronic submissions under either subsection 6(F)(1) or 6(F)(2) of this Chapter for which authority is delegated to him or her; and
- (d) The following certification statements by such CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative:
- (i) “I agree that any electronic submission to the Department or its agent that is made by an ~~natural person~~ electronic submission agent identified in this notice of delegation and that is of a type listed for ~~such electronic submission~~ that agent in this notice of delegation and that is made ~~when~~ while I am ~~a~~ the CO<sub>2</sub> authorized account representative (or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative, as appropriate), and before this notice of delegation is superseded by another notice of delegation under subsection 6(F)(4) of ~~this~~ the Department’s Rules, 06-096, Chapter 156, “CO<sub>2</sub> Budget Trading Program.” ~~06—096 Chapter XX(6)(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 subsection 6(F)(4) of ~~this~~ the Department’s Rules, 06-096, Chapter 156, “CO<sub>2</sub> Budget Trading Program ~~06—096 Chapter XX(6)(F)(4)~~,” I agree to maintain an e-mail 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 subsection 6(F) of ~~this~~ Chapter 156 ~~CO<sub>2</sub> Budget Trading Program 06—096 Chapter XX(6)(F)~~ of the is terminated.”
- (4) A notice of delegation submitted under subsection 6(F)(3) of this Chapter shall be effective, with regard to the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> 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<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative as appropriate, superseding the notice on file. The superseding notice of delegation may replace any previously identified electronic submission agent, add a one or more new electronic submission agents, or eliminate entirely any delegation of authority.
- (5) Any electronic submission covered by the certification in subsection 6(F)(3)(d)(i) of this Chapter and made in accordance with a notice of delegation effective under subsection 6(F)(4) of this Chapter shall be deemed to be an electronic submission by the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative submitting such notice of delegation.
- (6) A CO<sub>2</sub> authorized account representative may delegate, to one or more natural persons, his or her authority to review information in the CO<sub>2</sub> Allowance Tracking System under this Chapter.
- (7) A CO<sub>2</sub> authorized alternate account representative may delegate, to one or more natural persons, his or her authority to review information in the CO<sub>2</sub> Allowance Tracking System under this Chapter.

- (8) In order to delegate authority to review information in the CO<sub>2</sub> Allowance Tracking System in accordance with subsections 6(F)(6) and 6(F)(7) of this Chapter, the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> 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, and telephone number of such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative;
  - (b) The name, address, e-mail address, and telephone number of each such natural person to whom authority is delegated under subsections 6(F)(6) and 6(F)(7) of this Chapter, herein referred to as the “reviewer”;
  - (c) For each such reviewer, a list of the type of information for which review authority is delegated to him or her under subsection 6(F)(6) or 6(F)(7) of this Chapter; and
  - (d) The following certification statements by the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative delegating the review authority:
    - (i) “I agree that any information that is reviewed by a reviewer identified in this notice of delegation, and that is of a type listed for such reviewer in this notice, and that is reviewed while I am the CO<sub>2</sub> authorized account representative (or CO<sub>2</sub> authorized alternate account representative, as appropriate), and before this notice of delegation is superseded by another notice of delegation under subsection 6(F)(9) of the Department’s Rules, 06-096, Chapter 156, “CO<sub>2</sub> Budget Trading Program” shall be deemed to have been reviewed by me.”
    - (ii) “Until this notice of delegation is superseded by another notice of delegation under subsection 6(F)(9) of the Department’s rules, 06-096, Chapter 156, “CO<sub>2</sub> Budget Trading Program,” I agree to maintain an e-mail account and to notify the Department or its agent immediately of any change in my e-mail address unless all delegation authority granted to me under subsections 6(F)(6) and 6(F)(7) of Chapter 156 is terminated.”
- (9) A notice of delegation submitted under subsection 6(F)(8) of this Chapter shall be effective, with regard to the CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative identified in such notice, upon receipt of such notice by the Department or its agent and until receipt by the Department or its agent of a notice of delegation by such CO<sub>2</sub> authorized account representative or CO<sub>2</sub> authorized alternate account representative as appropriate superseding the notice on file. The superseding notice of delegation may replace any previously identified reviewer, add one or more new reviewers, or eliminate entirely any delegation of authority.

## **7. CO<sub>2</sub> Allowance Tracking System**

### **A. CO<sub>2</sub> Allowance Tracking System accounts.**

- (1) Any person wishing to purchase or otherwise hold CO<sub>2</sub> allowances must open a compliance or general account.

- (2) Nature and function of compliance accounts. Consistent with subsection 7(B)(1) of this Chapter, the Department or its agent will establish one compliance account for each CO<sub>2</sub> budget source. Allocations of CO<sub>2</sub> allowances pursuant to ~~S~~section 2 of this Chapter and deductions or transfers of CO<sub>2</sub> allowances pursuant to subsections 5(B), 5(D), 7(F), or ~~S~~section 8 of this Chapter will be recorded in the compliance accounts in accordance with this section.
- (3) Nature and function of general accounts. Consistent with subsection 7(B)(2) of this Chapter, the Department or its agent will establish, upon request, a general account for any person. Transfers of CO<sub>2</sub> allowances pursuant to ~~S~~section 8 of this Chapter will be recorded in the general account in accordance with this section.

#### **B. Establishment of accounts.**

- (1) Compliance accounts. Upon receipt of a complete account certificate of representation under subsection 6(D) of this Chapter, the Department or its agent will establish a compliance account for each CO<sub>2</sub> budget source for which the account certificate of representation was submitted.
- (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<sub>2</sub> allowances. An application for a general account may designate one and only one CO<sub>2</sub> authorized account representative and one and only one ~~alternate~~-CO<sub>2</sub> authorized alternate account representative who may act on behalf of the CO<sub>2</sub> authorized account representative. The agreement by which the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative is ~~selected~~ designated shall include a procedure for authorizing the ~~alternate~~-CO<sub>2</sub> authorized alternate account representative to act in lieu of the CO<sub>2</sub> authorized account representative. A complete application for a general account shall be submitted to the Department or its agent and ~~may~~ shall include, at a minimum, but not be limited to the following elements in a format prescribed by the Department or its agent:
    - (i) name, address, e-mail address, and telephone number, ~~and facsimile transmission number~~ of the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative;
    - (ii) at the option of the CO<sub>2</sub> authorized account representative, the organization name and type of organization;
    - (iii) a list of all persons subject to a binding agreement for the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative to represent their ownership interest with respect to the CO<sub>2</sub> allowances held in the general account;
    - (iv) the following certification statement by the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative: "I certify that I was selected as the CO<sub>2</sub> authorized account representative (or the CO<sub>2</sub> ~~alternate~~

authorized alternate account representative, as applicable), by an agreement that is binding on all persons who have an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO<sub>2</sub> Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Department or its agent or a court regarding the general account.”;

- (v) the signature of the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> 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; if submitted.
- (b) Authorization of CO<sub>2</sub> authorized account representative
- (i) Upon receipt by the Department or its agent of a complete application for a general account under subsection 7(B)(2)(a) of this Chapter:
    - (A) The Department or its agent will establish a general account for the person or persons for whom the application is submitted.
    - (B) The CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CO<sub>2</sub> allowances held in the general account in all matters pertaining to the CO<sub>2</sub> Budget Trading Program, notwithstanding any agreement between the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative and such person. Any such person shall be bound by any order or decision issued to the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative by the Department or its agent or a court regarding the general account.
    - (C) Any representation, action, inaction, or submission by any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative shall be deemed to be a representation, action, inaction, or submission by the CO<sub>2</sub> authorized account representative.
  - (ii) Each submission concerning the general account shall be submitted, signed, and certified by the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative for the persons having an ownership interest with respect to CO<sub>2</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative: “I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO<sub>2</sub> allowances held in the general account. I certify under

penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

- (iii) The Department or its agent will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with subsection 7(B)(2)(b)(ii) of this Chapter.
- (c) Changing CO<sub>2</sub> authorized account representative and ~~alternate~~-CO<sub>2</sub> authorized alternate account representative; changes in persons with ownership interest.
- (i) The CO<sub>2</sub> authorized account representative for a general account may be changed at any time upon receipt by the Department or its agent upon receipt of a ~~superseding~~ complete application for a general account under subsection 7(B)(2)(a) of this Chapter superseding the application on file. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO<sub>2</sub> authorized account representative, or the previous CO<sub>2</sub> authorized alternate account representative, prior to the time and date when the Department or its agent receives the superseding application for ~~a~~-the general account shall be binding on the new CO<sub>2</sub> authorized account representative and the persons with an ownership interest with respect to the CO<sub>2</sub> allowances in the general account.
  - (ii) The ~~alternate~~-CO<sub>2</sub> 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 subsection 7(B)(2)(a) of this Chapter superseding the application on file. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous ~~alternate~~-CO<sub>2</sub> authorized alternate account representative prior to the time and date when the Department or its agent receives the superseding application for ~~a~~-the general account shall be binding on the new ~~alternate~~-CO<sub>2</sub> authorized alternate account representative and the persons with an ownership interest with respect to the CO<sub>2</sub> allowances in the general account.
  - (iii) In the event a new person ~~having~~-acquires an ownership interest with respect to CO<sub>2</sub> allowances in the general account and 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~~-the general account, the representations, actions, inactions, and submissions of the CO<sub>2</sub> authorized account representative and any ~~alternate~~-CO<sub>2</sub> 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<sub>2</sub> allowances in the general account, including the addition of persons, the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative shall submit a revision to the application for ~~a~~-the

general account amending the list of persons having an ownership interest with respect to the CO<sub>2</sub> allowances in the general account to include the change.

- (d) Objections concerning a CO<sub>2</sub> authorized account representative
- (i) Once a complete application for a general account under subsection 7(B)(2)(a) of this Chapter has been submitted and received, the Department or its agent will rely on the application unless and until a ~~superseding~~ complete application for a general account under subsection 7(B)(2)(a) of this Chapter superseding the application on file is received by the Department or its agent.
  - (ii) Except as provided in subsections 7(B)(2)(c)(i) and (ii) of this Chapter, 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<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative for a general account shall affect any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative or the finality of any decision or order by the Department or its agent under the CO<sub>2</sub> Budget Trading Program.
  - (iii) Neither the Department nor its agent will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CO<sub>2</sub> authorized account representative or any ~~alternate~~-CO<sub>2</sub> authorized alternate account representative for a general account, including private legal disputes concerning the proceeds of CO<sub>2</sub> allowance transfers.
- (e) Delegation by CO<sub>2</sub> authorized account representative and ~~alternate~~-CO<sub>2</sub> authorized alternate account representative.
- (i) A CO<sub>2</sub> authorized account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent provided for under ~~S~~sections 7 and 8 of this Chapter.
  - (ii) An ~~alternate~~-CO<sub>2</sub> authorized alternate account representative may delegate, to one or more natural persons, his or her authority to make an electronic submission to the Department or its agent provided for under ~~S~~sections 7 and 8 of this Chapter.
  - (iii) In order to delegate authority to make an electronic submission to the Department or its agent in accordance with subsections 7(B)(2)(~~e~~)(i) and (ii) of this Chapter, the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> 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 at a minimum the following elements:
    - (A) The name, address, e-mail address, and telephone number, ~~and facsimile transmission number~~ of such CO<sub>2</sub> authorized account representative or ~~alternate~~ CO<sub>2</sub> authorized alternate account representative;

- (B) The name, address, e-mail address, and telephone number ~~and facsimile transmission number~~ of each such natural person, herein referred to as “electronic submission agent”;
- (C) For each such natural person, a list of the type of electronic submissions under either subsection 7(B)(1) or 7(B)(2) of this Chapter for which authority is delegated to him or her; and
- (D) The following certification statements by such CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative:
- (I) “I agree that any electronic submission to the Department or its agent that is by a ~~natural person~~ an electronic submission agent 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<sub>2</sub> authorized account representative (or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative, as appropriate), and before this notice of delegation is superseded by another notice of delegation under the Department’s Rules, 06-096, Chapter 156, “CO<sub>2</sub> Budget Trading Program,” ~~06—096 Chapter XX~~ section 7(B)(2)(e)(iv) shall be deemed to be an electronic submission by me.”
- (II) “Until this notice of delegation is superseded by another notice of delegation under the Department’s Rules, 06-096, Chapter 156, “CO<sub>2</sub> Budget Trading Program” ~~06—096 Chapter XX~~ section 7(B)(2)(e)(iv), I agree to maintain an e-mail 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 ~~CO<sub>2</sub> Budget Trading Program 06—096 Chapter XX~~ section 7(B)(2)(e) of Chapter 156 is terminated.”
- (iv) A notice of delegation submitted under subsection 7(B)(2)(e)(iii) of this Chapter shall be effective, with regard to the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> 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~~ superseding notice of delegation by such CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative as appropriate superseding the notice on file. The superseding notice of delegation may replace any previously identified electronic submission agent, add a one or more new electronic submission agents, or eliminate entirely any delegation of authority.
- (v) Any electronic submission covered by the certification in subsection 7(B)(2)(e)(iii)(D)(I) of this Chapter and made in accordance with a notice of delegation effective under subsection 7(B)(2)(e)(iv) of this Chapter shall be deemed to be an electronic submission by the CO<sub>2</sub> authorized account representative or ~~alternate~~-CO<sub>2</sub> authorized alternate account representative submitting such notice of delegation.
- (3) Account identification. The Department or its agent will assign a unique identifying number to each account established under subsections 7(B)(1) or (2) of this Chapter.

- C. CO<sub>2</sub> authorized account representative responsibilities.** Following the establishment of a CO<sub>2</sub> Allowance Tracking System 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<sub>2</sub> allowances in the account, shall be made only by the CO<sub>2</sub> authorized account representative for the account.
- D. Banking.** Each CO<sub>2</sub> allowance that is held in a compliance account or a general account will remain in such account unless and until the CO<sub>2</sub> allowance is deducted or transferred under subsections 5(B), 5(D), 7(F), or ~~Section~~ 8 of this Chapter. CO<sub>2</sub> allowances that are held in a compliance account or a general account may be used by a CO<sub>2</sub> budget unit to meet the requirements of this Chapter in any subsequent control period regardless of the year the CO<sub>2</sub> allowance originated.
- E. Account error.** The Department or its agent may, at its sole discretion and on ~~his or her~~ its own motion, correct any error in any CO<sub>2</sub> Allowance Tracking System account. Within 10 business days of making such a correction, the Department or its agent will notify the CO<sub>2</sub> authorized account representative for the account.
- F. Closing of general accounts.**
- (1) A CO<sub>2</sub> 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<sub>2</sub> Allowance Tracking System and ~~by~~ correctly submitting for recordation under subsection 8(A) of this Chapter a CO<sub>2</sub> allowance transfer of all CO<sub>2</sub> allowances in the account to one or more other CO<sub>2</sub> Allowance Tracking System accounts.
  - (2) If a general account shows no activity for a period of ~~six years~~ one year or more and does not contain any CO<sub>2</sub> allowances, the Department or its agent may notify the CO<sub>2</sub> authorized account representative for the account that the account will be closed in the CO<sub>2</sub> Allowance Tracking System ~~following 20-30~~ business days after the notice is sent. The account will be closed after the ~~20-30~~-day period unless before the end of the ~~20-30~~-day period the Department or its agent receives a correctly submitted transfer of CO<sub>2</sub> allowances into the account under subsection 8(A) of this Chapter or a statement submitted by the CO<sub>2</sub> 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 account representative demonstrated that the account should not be closed.

## 8. CO<sub>2</sub> Allowance Transfer Provisions

- A. Submission of CO<sub>2</sub> allowance transfers.** The CO<sub>2</sub> authorized account representatives seeking recordation of a CO<sub>2</sub> allowance transfer shall submit the transfer to the Department or its agent. To be considered correctly submitted, the CO<sub>2</sub> allowance transfer ~~shall~~ must 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<sub>2</sub> allowance to be transferred;

- (3) the printed name and signature of the CO<sub>2</sub> 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 any previously-transferred allowances included in the request~~ allowance, if any; and
- (5) the ~~sale or purchase or sale~~ price of ~~the each~~ allowance that is the subject of a sale or purchase transaction under subsection 8(A)(4) of this Chapter.

**B. Recordation.**

- (1) Within 5 business days of receiving a CO<sub>2</sub> allowance transfer, except as provided in subsection 8(B)(2) of this Chapter, the Department or its agent will record ~~a the~~ CO<sub>2</sub> allowance transfer by moving each CO<sub>2</sub> allowance from the transferor account to the transferee account as specified by the request, provided that:
  - (a) the transfer is correctly submitted under subsection 8(A) of this Chapter; and
  - (b) the transferor account includes each CO<sub>2</sub> allowance identified by serial number in the transfer.
- (2) A CO<sub>2</sub> allowance transfer that is submitted for recordation following the CO<sub>2</sub> allowance transfer deadline and that includes any CO<sub>2</sub> allowances that are of allocation years that fall within a control period or interim control period prior to or the same as the control period or interim control period to which the CO<sub>2</sub> allowance transfer deadline applies will not be recorded until after completion of the process of recordation of CO<sub>2</sub> allowance deductions for compliance in subsection 5(D)(2) of this Chapter.
- (3) Where a CO<sub>2</sub> allowance transfer submitted for recordation fails to meet the requirements of subsection 8(B)(1) of this Chapter, the Department or its agent will not record such transfer.

**C. Notification Requirements.**

- (1) Notification of recordation. Within 5 business days of recordation of a CO<sub>2</sub> allowance transfer under subsection 8(B) of this Chapter, the Department or its agent will notify each party to the transfer. Notice will be given to the CO<sub>2</sub> authorized account representatives of ~~both~~ the transferor and transferee accounts.
- (2) Notification of non-recordation. Within 10 business days of receipt of a CO<sub>2</sub> allowance transfer that fails to meet the requirements of subsection 8(B)(1) of this Chapter, the Department or its agent will notify the CO<sub>2</sub> authorized account representatives of ~~each~~ both accounts subject to the transfer of:
  - (a) ~~a the~~ decision not to record the transfer, and
  - (b) the reasons for such non-recordation.
- (3) Nothing in this section shall preclude the submission of a CO<sub>2</sub> allowance transfer for recordation following notification of non-recordation.

## 9. CO<sub>2</sub> Emissions Offset Projects

**A. Purpose.** The Department will provide for the award of CO<sub>2</sub> offset allowances to sponsors of CO<sub>2</sub> emissions offset projects that have reduced or avoided atmospheric loading of CO<sub>2</sub>, CO<sub>2</sub> equivalent, or sequestered carbon, as demonstrated in accordance with the applicable provisions of this section. The requirements of this section seek to ensure that CO<sub>2</sub> offset allowances awarded represent CO<sub>2</sub> equivalent emission reductions or carbon sequestration that are real, additional, verifiable, enforceable, and permanent within the framework of a standards-based approach. Subject to the relevant compliance deduction limitations of subsection 5(D)(1)(c) of this Chapter, CO<sub>2</sub> offset allowances may be used by any CO<sub>2</sub> budget source for compliance purposes.

### B. General requirements.

- (1) Eligible CO<sub>2</sub> emissions offset projects. The Department may award CO<sub>2</sub> offset allowances to the sponsor of any of the following offset projects that have satisfied all the applicable requirements of this section.
  - (a) Offset project types. The following types of offset projects are eligible for the award of CO<sub>2</sub> offset allowances.
    - (i) Landfill methane (CH<sub>4</sub>) capture and destruction;
    - ~~(ii) Reduction in emissions of sulfur hexafluoride (SF<sub>6</sub>);~~
    - ~~(iii) Sequestration of carbon due to reforestation, improved forest management or avoided conversion;~~
    - ~~(iv) Reduction or avoidance of CO<sub>2</sub> emissions from natural gas, oil, or propane end use combustion due to end use energy efficiency; and~~
    - ~~(viii) Avoided methane emissions from agricultural manure management operations.~~
  - (b) Offset project locations. Eligible offset projects may be located in any of the following locations:
    - (i) in any participating state; and
    - (ii) in any state or other United States jurisdiction in which a cooperating regulatory agency has entered into a memorandum of understanding with the Department to carry out certain obligations relative to CO<sub>2</sub> emissions offset projects in that state or U.S. jurisdiction, including but not limited to the obligation to perform audits of offset project sites, and report violations of this section.
  - (c) Projects located (in whole or in part) in one or more participating states are not eligible for CO<sub>2</sub> offset allowances under this Chapter unless more of the CO<sub>2</sub> equivalent emissions reduction or carbon sequestration attributable to the offset project is projected to occur in Maine than in any other participating state.

- (2) Project sponsor. Any person may act as the sponsor of an eligible CO<sub>2</sub> emissions offset project, provided that person meets the requirements in subsection 9(C) of this Chapter.
- (3) General Additionality Requirements. Except as provided with respect to specific offset project standards in subsection 9(E) of this Chapter, the following general requirements shall apply:-
- CO<sub>2</sub> offset allowances shall not be awarded to an offset project that is required pursuant to any local, state, or federal law, regulation, or administrative or judicial order. If an offset project receives a consistency determination under subsection 9(D) of this Chapter and is later required by local, state, or federal law, regulation, or administrative or judicial order, then the offset project shall remain eligible for the award of CO<sub>2</sub> offset allowances until the end of its current allocation period, but its eligibility shall not be extended for an additional allocation period.
  - CO<sub>2</sub> offset allowances shall not be awarded to an offset project that includes an electric generation component, unless the project sponsor transfers legal rights to any and all attribute credits (other than the CO<sub>2</sub> offset allowances awarded under subsection 9(F) of this Chapter) generated from the operation of the offset project that may be used for compliance with a renewable portfolio standard or other regulatory requirement, to the Department or its agent.
  - CO<sub>2</sub> offset allowances shall not be awarded to an offset project that receives funding or other incentives from any system benefit fund, or funds or other incentives provided through the consumer benefit or strategic energy purpose allocation required pursuant to subsection 2(F) of this Chapter.
  - CO<sub>2</sub> offset allowances shall not be awarded to an offset project that is awarded credits or allowances under any other mandatory or voluntary greenhouse gas program, except for as described in subsection 9(D)(3)(j) of this Chapter.
- (4) Maximum allocation periods for CO<sub>2</sub> emissions offset projects
- Maximum allocation periods. Except as provided in subsection 9(B)(4)(b) of this Chapter, the Department may award CO<sub>2</sub> offset allowances under subsection 9(F) of this Chapter for an initial 10-year allocation period. At the end of the initial 10-year allocation period, ~~upon a showing by the project sponsor that the offset project continues to meet all applicable requirements of this section,~~ the Department may award CO<sub>2</sub> offset allowances for a second 10-year allocation period, provided that the offset sponsor has submitted- ~~Prior to the expiration of the initial allocation period, the offset project sponsor must submit~~ a consistency application pursuant to subsection 9(C) prior to the expiration of the initial allocation period, and the Department has issued of this Chapter and receive a consistency determination ~~from the Department~~ pursuant to subsection 9(C)(5)(b) of this Chapter.
  - Maximum allocation period for projects involving reforestation, improved forest management, or avoided conversion. The Department may award CO<sub>2</sub> offset allowances under subsection 9(F) of this Chapter for any project involving reforestation, improved forest management, or avoided conversion ~~offset project~~ for an initial 25-year allocation period. At the end of the initial 25-year allocation period or any subsequent crediting

period for which the project has been awarded CO<sub>2</sub> offset allowances, the Department may award CO<sub>2</sub> offset allowances for a subsequent 25-year allocation period, provided the offset sponsor has submitted a consistency application for the offset project pursuant to subsection 9(C) of this Chapter prior to the expiration of the initial allocation period or any subsequent crediting period for which the project has been awarded CO<sub>2</sub> offset allowances, and the Department has issued a consistency determination pursuant to subsection 9(C)(5)(b) of this Chapter.

- (5) Offset Project Audit. Project sponsors shall provide, in writing, an access agreement to the Department granting the Department or its agent access to the physical location of the offset project to inspect for compliance with this section. For offset projects located in any state or other U.S. jurisdiction that is not a participating state, project sponsors shall also provide the cooperating Department with access to the physical location of the project to inspect for compliance with this section.
- (6) Ineligibility due to noncompliance.
- (a) If at any time the Department determines that a project sponsor has not complied with the requirements of this section, then the Department may revoke and retire any and all CO<sub>2</sub> offset allowances in the project sponsor's account.
- (b) If at any time the Department determines that an offset project does not comply with the requirements of this section, then the Department may revoke any approvals it has issued relative to an offset project.

### C. Application process.

- (1) Establishment of general account. The sponsor of an offset project must establish a general account under subsection 7(B)(2) of this Chapter. All submissions to the Department required for the award of CO<sub>2</sub> offset allowances under this section must be from the CO<sub>2</sub> authorized account representative for the general account of the sponsor of the relevant offset project, herein referred to as "project sponsor."
- (2) Consistency application deadlines.
- (a) For offset projects not involving reforestation, improved forest management, or avoided conversion, the consistency application must be submitted by the date that is 6 months after the offset project is commenced.
- (b) For offset projects involving reforestation, improved forest management, or avoided conversion, the consistency application must be submitted by the date that is one year after the offset project is commenced, except ~~for~~ as described in subsection 9(D)(32)(i) of this Chapter.
- (c) Any consistency application that fails to meet the deadlines of subsection 9(C)(2) of this Chapter will result in the denial of the consistency application and the continued ineligibility of the subject offset project.
- (3) Consistency application contents.

- (a) For an offset project, the consistency application must be submitted in a format approved by the Department, and must include the following information:
- (i) The project's sponsor's name, address, e-mail address, telephone number, ~~facsimile transmission number,~~ and account number.
  - (ii) The offset project description as required by the relevant provisions of subsection 9(D) of this Chapter.
  - (iii) A demonstration that the offset project meets all applicable requirements set forth in this section.
  - (iv) The emissions baseline determination as required by the relevant provisions of subsection 9(D) of this Chapter.
  - (v) An explanation of how the projected reduction or avoidance of atmospheric loading of CO<sub>2</sub> or CO<sub>2</sub> equivalent or the sequestration of carbon is to be quantified, monitored, and verified as required by the relevant provisions of subsection 9(D) of this Chapter.
  - (vi) A completed consistency application agreement that reads as follows: "The undersigned project sponsor recognizes and accepts that the application for, and the receipt of, CO<sub>2</sub> offset allowances under the CO<sub>2</sub> Budget Trading Program is predicated on the project sponsor following all the requirements of ~~§~~section 9 of ~~this~~the Department's Rules, 06-096, Chapter 156, "CO<sub>2</sub> Budget Trading Program" ~~Chapter~~. The undersigned project sponsor holds the legal rights to the offset project, or has been granted the right to act on behalf of a party that holds the legal rights to the offset project. I understand that eligibility for the award of CO<sub>2</sub> offset allowances under ~~Section 9~~the CO<sub>2</sub> Budget Trading Program of this Chapter 156 is contingent on meeting the requirements of ~~§~~section 9 of ~~this~~Chapter 156. I authorize the Department or its agent to audit this offset project for purposes of verifying that the offset project, including the monitoring and verification plan, has been implemented as described in this application. I understand that this right to audit shall include the right to enter the physical location of the offset project. I submit to the legal jurisdiction of the State of Maine."
  - (vii) A statement and certification report signed by the offset project sponsor certifying that all offset projects for which the sponsor has received CO<sub>2</sub> offset allowances under this section (or similar provisions in the rules of other participating states), under the sponsor's ownership or control (or under the ownership or control of any entity which controls, is controlled by, or has common control with the sponsor) are in compliance with all applicable requirements of the CO<sub>2</sub> Budget Trading Program in all participating states.
  - (viii) A verification report and certification statement signed by an independent verifier accredited pursuant to subsection 9(E) of this Chapter that expresses that the independent verifier has reviewed the entire application and evaluated the following in relation to the applicable requirements ~~at of~~ subsections 9(B) and 9(D) of this Chapter, and any applicable guidance issued by the Department.

- (A) The adequacy and validity of information supplied by the project sponsor to demonstrate that the offset project meets the applicable eligibility requirements of subsections 9(C) and 9(E) of this Chapter.
- (B) The adequacy and validity of information supplied by the project sponsor to demonstrate baseline emissions pursuant to the applicable requirements ~~at~~of subsection 9(D) of this Chapter.
- (C) The adequacy of the monitoring and verification plan submitted pursuant to the applicable requirements ~~at~~of subsection 9(D) of this Chapter.
- (D) Such other evaluations and statements as may be required by the Department.

(ix) Disclosure of any voluntary or mandatory programs, other than the CO<sub>2</sub> Budget Trading Program, to which greenhouse gas emissions data related to the offset project has been, or will be reported.

(x) For offset projects located in a state or United States jurisdiction that is not a participating state, a demonstration that the project sponsor has complied with all requirements of the cooperating Department in the state or United States jurisdiction where the offset project is located.

~~(4) Place for filing consistency application~~

- ~~(a) For an offset project located in one participating state (in whole or in part), the consistency application must be filed with the appropriate Department in that State.~~
- ~~(b) For an offset project located wholly outside all participating states, the consistency application may be filed with the appropriate Department in any one participating state, provided a copy of the consistency application shall be filed with the cooperating Department in the state or United States jurisdiction where the offset project is located.~~
- ~~(c) For an offset project located in more than one participating state, the consistency application must be filed in the participating state where the larger part of the CO<sub>2</sub> equivalent emissions reduction or carbon sequestration due to the offset project is projected to occur.~~

(4) A consistency application may not be submitted to the Department if a consistency application has already been submitted for the same project, or any portion of the same project, in another participating state, unless the consistency application was rejected by another participating state solely because more of the CO<sub>2</sub> equivalent emissions reduction or carbon sequestration due to the offset project is projected to occur in Maine than in any other participating state.-

(5) Department action on consistency applications.

- (a) Completeness determination. Within 30 days following receipt of the consistency application filed pursuant to subsection 9(C)(2) of this Chapter, the Department will notify the project sponsor as to whether the consistency application is complete. A complete consistency application is ~~one~~a consistency application that is in an approved

form and ~~is~~ has been determined by the Department to be complete for the purpose of commencing review of the consistency application. In no event shall a completeness determination prevent the Department from requesting additional information in order to enable the Department to make a consistency determination under subsection 9(C)(5)(b) of this Chapter.

- (b) Consistency determination. Within 90 days of making the completeness determination under subsection 9(C)(5)(a) of this Chapter, the Department will issue a determination as to whether the offset project is consistent with the requirements of subsections 9(B) and 9(C) of this Chapter and the requirements of the applicable offset project standard of subsection 9(D) of this Chapter. For any offset project found to lack consistency with these requirements, the Department will inform the project sponsor of the offset project's deficiencies.

**D. CO<sub>2</sub> emissions offset project categories and associated standards.**

- (1) Landfill methane (CH<sub>4</sub>) capture and destruction. To qualify for the award of CO<sub>2</sub> offset allowances under section 9 of this Chapter, offset projects that capture and destroy methane from landfills must meet the requirements of subsection 9(D)(1) of this Chapter and all other applicable requirements of section 9. ~~Offset projects that capture and destroy methane from landfills may qualify for the award of CO<sub>2</sub> offset allowances under this section, provided they meet the requirements of this subsection.~~
- (a) Eligibility. Eligible landfill methane capture and destruction offset projects shall occur at landfills that are not subject to the New Source Performance Standards (NSPS) for municipal solid waste landfills, 40 CFR Part 60, Subpart Cc and Subpart WWW.
- (b) Offset project description. The offset project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of subsection 9(D)(1)(a) of this Chapter. The project narrative shall include the following information:-
- (i) Owner and operator of the offset project;
  - (ii) Location and specifications of the landfill where the offset project will occur, including waste in place;
  - (iii) Owner and operator of the landfill where the offset project will occur; and
  - (iv) Specifications of the equipment to be installed and a technical schematic of the offset project.
- (c) Emissions baseline determination. The emissions baseline shall represent the potential fugitive landfill emissions of methane (CH<sub>4</sub>) (in tons of CO<sub>2</sub>e), as represented by the CH<sub>4</sub> collected and metered for thermal destruction as part of the offset project. Baseline emissions of CH<sub>4</sub> shall be calculated as follows:

$$\text{Emissions (tons CO}_2\text{e)} = (V \times M \times (1 - \text{OX}) \times \text{GWP})/2000$$

where:

$$V = \text{Volume of CH}_4 \text{ collected (ft}^3\text{);}$$

M = Mass of CH<sub>4</sub> per cubic foot (0.04246 lbs/ft<sup>3</sup> default value at 1 atmosphere and 20°C);

OX = Oxidation factor (0.10), representing estimated portion of collected CH<sub>4</sub> that would have eventually oxidized to CO<sub>2</sub> if not collected; and

GWP = CO<sub>2</sub>e global warming potential of CH<sub>4</sub> (~~25~~28)

- (d) Calculating emissions reductions. Emissions reductions shall be determined based on potential fugitive methane (CH<sub>4</sub>) emissions that would have occurred at the landfill if metered CH<sub>4</sub> collected from the landfill for thermal destruction as part of the offset project was not collected and destroyed. CO<sub>2</sub>e emissions reductions shall be calculated as follows:

$$\text{Emissions Reductions (tons CO}_2\text{e)} = (V \times M \times (1 - \text{OX}) \times C_{\text{ef}} \times \text{GWP})/2000$$

where:

V = Volume of CH<sub>4</sub> collected (ft<sup>3</sup>);

M = Mass of CH<sub>4</sub> per cubic foot (0.04246 lbs/ft<sup>3</sup> default value at 1 atmosphere and 20°C);

OX = Oxidation factor (0.10), representing estimated portion of collected CH<sub>4</sub> that would have eventually oxidized to CO<sub>2</sub> if not collected;

C<sub>ef</sub> = Combustion efficiency of CH<sub>4</sub> methane-control technology (0.98); and

GWP = CO<sub>2</sub>e global warming potential of CH<sub>4</sub> (~~25~~28)

- (e) Monitoring and verification requirements. Offset projects shall employ a landfill gas collection system that provides continuous metering and data computation of landfill gas volumetric flow rate and CH<sub>4</sub> concentration. Annual monitoring and verification reports shall include monthly volumetric flow rate and CH<sub>4</sub> concentration data, including documentation that the CH<sub>4</sub> was actually supplied to the combustion source. Monitoring and verification is also subject to the following requirements:

- (i) The project sponsor shall submit a monitoring and verification plan as part of the consistency application that includes a quality assurance and quality control program associated with equipment used to determine landfill gas volumetric flow rate and CH<sub>4</sub> composition. The monitoring and verification plan shall also include provisions for ensuring that measuring and monitoring equipment is maintained, operated, and calibrated based on manufacturer recommendations, as well as provisions for the retention of maintenance records for audit purposes. The monitoring and verification plan shall be certified by an independent verifier accredited pursuant to subsection 9(E) of this Chapter.
- (ii) The project sponsor shall annually verify landfill gas CH<sub>4</sub> composition through landfill gas sampling and independent laboratory analysis using applicable U.S. Environmental Protection Agency laboratory test methods.

~~(2) Reduction in emissions of sulfur hexafluoride (SF<sub>6</sub>). Offset projects that prevent emissions of sulfur hexafluoride to the atmosphere from equipment in the electricity transmission and distribution sector, through capture and storage, recycling, or destruction, may qualify for the award of CO<sub>2</sub> offset allowances under this section, provided they meet the requirements of this subsection.~~

- ~~(a) Eligibility~~

(i) Eligible offset projects shall consist of incremental actions beyond those taken during the baseline year to achieve a reduction in SF<sub>6</sub> emissions relative to the baseline year.

Eligible actions may include an expansion of existing actions. The identified actions to be taken shall be consistent with the guidance provided in High-voltage switchgear and control gear—Part 303: Use and handling of sulfur hexafluoride (SF<sub>6</sub>) (IEC/TR 62271-303 ed1.) and Electric Power Research Institute (EPRI), SF<sub>6</sub> Management for Substations (1020014-2010).

(ii) Except as provided in subsection 9(D)(2)(a)(iii) of this Chapter, eligible offset projects shall have an SF<sub>6</sub> entity-wide emissions rate for the baseline year that is less than the applicable emissions rate in Table 1. The entity-wide SF<sub>6</sub> emissions rate shall be calculated as follows:

$$\text{SF}_6 \text{ Emissions Rate (\%)} = (\text{Total SF}_6 \text{ Emissions for Reporting Year}) / (\text{Total SF}_6 \text{ Nameplate Capacity at End of Reporting Year})$$

where:

SF<sub>6</sub> Nameplate Capacity refers to all SF<sub>6</sub>-containing equipment owned and/or operated by the entity, at full and proper SF<sub>6</sub> charge of the equipment rather than the actual charge of the equipment (which may reflect leakage).

**Table 1**  
SF<sub>6</sub> Emissions Rate Performance Standards

**A. Emission Regions**

Region A	Region B	Region C	Region D	Region E
Connecticut	Alabama	Colorado	Arkansas	Alaska
Delaware	District of Columbia	Illinois	Iowa	Arizona
Maine	Florida	Indiana	Kansas	California
Massachusetts	Georgia	Michigan	Louisiana	Hawaii
New Jersey	Kentucky	Minnesota	Missouri	Idaho
New York	Maryland	Montana	Nebraska	Nevada
New Hampshire	Mississippi	North Dakota	New Mexico	Oregon
Pennsylvania	North Carolina	Ohio	Oklahoma	Washington
Rhode Island	South Carolina	South Dakota	Texas	
Vermont	Tennessee	Utah		
	Virginia	Wisconsin		
	West Virginia	Wyoming		

**B. Emissions Rate Performance Standards**

Region	Emission Rate <sup>a</sup>
Region A	9.68%
Region B	5.22%

Region C	9.68%
Region D	5.77%
Region E	3.65%
U.S. (National)	9.68%

<sup>a</sup>Based on weighted average 2004 emissions rates for U.S. EPA SF<sub>6</sub> Partnership utilities in 11 each region. If the weighted average emissions rate in a region is higher than the national weighted average, the default performance standard is the national weighted average emissions rate.

- (iii) An SF<sub>6</sub> offset project shall be eligible even if the SF<sub>6</sub> entity wide emissions rate in the baseline year exceeds the applicable rate in subsection 9(D)(2)(a)(ii) of this Chapter, provided that the project sponsor demonstrates and the Department determines that the project is being implemented at a transmission and distribution utility serving a predominantly urban service territory and that at least two of the following factors prevent optimal management of SF<sub>6</sub>:
- (A) The entity is comprised of older than average installed transmission and distribution equipment in relation to the national average age of equipment.
  - (B) A majority of the entity's electricity load is served by equipment that is located underground, and poor accessibility of such underground equipment precludes management of SF<sub>6</sub> emissions through regular ongoing maintenance.
  - (C) The inability to take a substantial portion of equipment out of service, as such activity would impair system reliability.
  - (D) Required equipment purpose or design for a substantial portion of entity transmission and distribution equipment results in inherently leak prone equipment.
- (b) ~~Offset project description. The offset project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of subsection 9(D)(2)(a) of this Chapter. The offset project narrative shall include the following information:~~
- (i) ~~Description of the transmission and distribution utility suitable in detail to specify the service territory served by the entity.~~
  - (ii) ~~Owner and operator of the transmission and distribution utility.~~
- (c) ~~Emissions baseline determination. If the consistency application is filed on or after January 1, 2009, baseline SF<sub>6</sub> emissions shall be determined based on annual entity wide reporting of SF<sub>6</sub> emissions for the calendar year immediately preceding the calendar year in which the consistency application is filed (designated the baseline year). The reporting entity shall systematically track and account for all entity wide uses of SF<sub>6</sub> in order to determine entity wide emissions of SF<sub>6</sub>. The scope of such tracking and accounting shall include all electric transmission and distribution assets and all SF<sub>6</sub>-containing and SF<sub>6</sub>-handling equipment owned and/or operated by the reporting entity.~~

(i) ~~Emissions (lbs.) shall be determined based on the following mass balance method:~~

$$\text{SF}_6 \text{ Emissions (lbs.)} = (\text{SF}_6 \text{ Change in Inventory}) + (\text{SF}_6 \text{ Purchases and Acquisitions}) - (\text{SF}_6 \text{ Sales and Disbursements}) - (\text{Change in Total SF}_6 \text{ Nameplate Capacity of Equipment})$$

where:

*Change in Inventory* is the difference between the quantity of SF<sub>6</sub> gas in storage at the beginning of the reporting year and the quantity in storage at the end of the reporting year. The term “quantity in storage” includes all SF<sub>6</sub> gas contained in cylinders (such as 115 pound storage cylinders), gas carts, and other storage containers. It does not refer to SF<sub>6</sub> gas held in SF<sub>6</sub> using operating equipment. The change in inventory will be negative if the quantity of SF<sub>6</sub> gas in storage increases over the course of the year.

*Purchases and Acquisitions* of SF<sub>6</sub> is the sum of all the SF<sub>6</sub> gas acquired from other parties during the reporting year, as contained in storage containers or SF<sub>6</sub> using operating equipment.

*Sales and disbursements* of SF<sub>6</sub> is the sum of all the SF<sub>6</sub> gas sold or otherwise disbursed to other parties during the reporting year, as contained in storage containers and SF<sub>6</sub> using operating equipment.

*Change in Total SF<sub>6</sub> Nameplate Capacity of Equipment* is the net change in the total volume of SF<sub>6</sub> containing operating equipment during the reporting year. The net change in nameplate capacity is equal to new equipment nameplate capacity, minus retired nameplate capacity. This quantity will be negative if the retired equipment has a total nameplate capacity larger than the total nameplate capacity of the new equipment. “Total nameplate capacity” refers to the full and proper SF<sub>6</sub> charge of the equipment rather than to the actual charge, which may reflect leakage.

(ii) ~~Emissions shall be calculated as follows:~~

$$\text{Emissions (tons CO}_2\text{e)} = [(V_{\text{iby}} - V_{\text{iey}}) + (PA_{\text{psd}} + PA_{\text{e}} + PA_{\text{rre}}) - (SD_{\text{op}} + SD_{\text{rs}} + SD_{\text{df}} + SD_{\text{sof}}) - (CNP_{\text{ne}} - CNP_{\text{rse}})] \times \text{GWP}/2000$$

where (all SF<sub>6</sub> values are in lbs.):

$V_{\text{iby}}$  = SF<sub>6</sub> inventory in cylinders, gas carts, and other storage containers (not SF<sub>6</sub>-containing operating equipment) at the beginning of the reporting year

$V_{\text{iey}}$  = SF<sub>6</sub> inventory in cylinders, gas carts, and other storage containers (not SF<sub>6</sub>-containing operating equipment) at the end of the reporting year

$PA_{\text{psd}}$  = SF<sub>6</sub> purchased from suppliers or distributors in cylinders

$PA_{\text{e}}$  = SF<sub>6</sub> provided by equipment manufacturers with or inside SF<sub>6</sub>-containing operating equipment

$PA_{\text{rre}}$  = SF<sub>6</sub> returned to the reporting entity after off site recycling

$SD_{\text{op}}$  = Sales of SF<sub>6</sub> to other parties, including gas left in SF<sub>6</sub>-containing operating equipment that is sold

$SD_{\text{rs}}$  = Returns of SF<sub>6</sub> to supplier (producer or distributor)

$SD_{\text{df}}$  = SF<sub>6</sub> sent to destruction facilities

$SD_{\text{sof}}$  = SF<sub>6</sub> sent off site for recycling

$CNP_{\text{ne}}$  = Total SF<sub>6</sub> nameplate capacity of new SF<sub>6</sub>-containing operating equipment at proper full charge  $CNP_{\text{rse}}$  = Total SF<sub>6</sub> nameplate capacity of retired or sold SF<sub>6</sub>-containing operating equipment at proper full charge

$\text{GWP}$  = CO<sub>2</sub>e global warming potential of SF<sub>6</sub> (22,800)

~~(iii) As part of the consistency application required pursuant to subsections 9(C)(2) and (3) of this Chapter and in annual monitoring and verification reports required pursuant to subsections 9(F)(2) and (3) of this Chapter, the project sponsor shall provide the documentation required by subsections 9(D)(2)(e)(i) through (iii) of this Chapter to support emissions calculations.~~

~~(a) Calculating emissions reductions. Emissions reductions shall represent the annual entity-wide emissions reductions of SF<sub>6</sub> for the reporting entity, relative to emissions in the baseline year. Emissions reductions shall be determined as follows, using the quantification method outlined in subsection 9(D)(2)(e)(ii) of this Chapter to determine emissions in both the baseline year and reporting year(s):~~

$$\text{Emissions Reduction (tons CO}_2\text{e)} = \frac{[(\text{Total Pounds of SF}_6\text{ Emissions in Baseline Reporting Year}) - (\text{Total Pounds of SF}_6\text{ Emissions in Reporting Year})] \times \text{GWP}/2000}{\text{GWP}/2000}$$

where:

$$\text{GWP} = \text{CO}_2\text{e global warming potential of SF}_6\text{ (22,800)}$$

~~(b) Monitoring and verification requirements. The annual monitoring and verification report shall include supporting material detailing the calculations and data used to determine SF<sub>6</sub> emissions reductions, and shall also provide the following documentation:~~

~~(i) The project sponsor shall identify a facility(ies) managed by the entity from which all SF<sub>6</sub> gas is procured and disbursed and maintain an entity wide log of all SF<sub>6</sub> gas procurements and disbursals. The entity wide log shall include the weight of each cylinder transported before shipment from the facility(ies) and the weight of each cylinder after return to the facility(ies). A specific cylinder log shall also be maintained for each cylinder that is used to fill equipment with SF<sub>6</sub> or reclaim SF<sub>6</sub> from equipment. The cylinder log shall be retained with the cylinder and indicate the location and specific identifying information of the equipment being filled, or from which SF<sub>6</sub> is reclaimed, and the weight of the cylinder before and after this activity. The cylinder log shall be returned with the cylinder to the facility when the activity is complete or the cylinder is empty.~~

~~(ii) A current entity wide inventory of all SF<sub>6</sub>-containing operating equipment and all other SF<sub>6</sub>-related items, including cylinders, gas carts, and other storage containers used by the entity. The inventory shall be reviewed by an independent verifier accredited pursuant to subsection 9(E) of this Chapter.~~

~~(iii) The project sponsor shall provide a monitoring and verification plan as part of the consistency application, which shall include an SF<sub>6</sub> inventory management and auditing protocol and a process for quality assurance and quality control of inventory data. The monitoring and verification plan shall be certified by an independent verifier accredited pursuant to subsection 9(E) of this Chapter.~~

~~(32) Sequestration of carbon due to reforestation, improved forest management, or avoided conversion. Offset projects that involve reforestation, improved forest management, or avoided conversion may qualify for the award of CO<sub>2</sub> offset allowances under this section,~~

provided they meet all the requirements of this subsection and the forest offset protocol, and all other applicable requirements of section 9 of this Chapter.

- (a) Eligibility. Eligible forest offset projects shall satisfy all eligibility requirements of the forest offset protocol and this Ssubsection.
- (b) Offset ~~p~~Project description. The offset project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of subsection 9(D)(3)(a) of this Chapter. The offset project description must include all information identified in sections 8.1 and 9.1 of the forest offset protocol and any other information deemed necessary by the Department.
- (c) Carbon sequestration baseline determination. Baseline onsite carbon stocks shall be determined as required by sections 6.1.1, 6.1.2, 6.2.1, 6.2.2, 6.2.3, 6.3.1 and 6.3.2 of the forest offset protocol, as applicable.
- (d) Calculating carbon sequestered. Net GHG reductions and GHG removal enhancements shall be calculated as required by section 6 of the forest offset protocol. The project's ~~risk~~ reversal risk rating shall be calculated using the forest offset protocol Determination of a Forest Project's Reversal Risk Rating assessment worksheet as required by Appendix D of the forest offset protocol.
- (e) Monitoring and verification requirements. Monitoring and verification is subject to the following requirements:
  - (i) Monitoring and verification reports shall include all forest offset data reports submitted to the Department, including any additional data required by section 9.2.2 of the forest offset protocol.
  - (ii) The consistency application shall include a monitoring and verification plan certified by an independent verifier accredited pursuant to subsection 9(E) of this Chapter. The monitoring and verification plan shall consist of a forest carbon inventory program, as required by section 8.1 of the forest offset protocol.
  - (iii) Monitoring and verification shall be submitted not less than every six years, except that the first monitoring and verification report for reforestation projects must be submitted within twelve years of project commencement.
  - (iv) ~~The applicant shall allow access to the offset project site to the accredited independent verifier, or as requested by the Department.~~
- (f) Forest ~~o~~Offset ~~p~~Project ~~d~~Data ~~r~~Reports. A project sponsor shall submit a forest offset project data report to the Department for each reporting period. Each forest offset project data report must cover a single reporting period. Reporting periods must be contiguous; there must be no gaps in reporting once the first reporting period has commenced.
- (g) Prior to the award of CO<sub>2</sub> offset allowances pursuant to subsection 9(F) of this Chapter, or to any surrender of allowances pursuant to subsection 9(D)(~~3~~2)(h) of this Chapter, any quantity expressed in metric tons, or metric tons of CO<sub>2</sub> equivalent, shall be converted to

tons using the conversion factor specified in definition of ton or tonnage in subsection 1(B) of this Chapter.

- (h) ~~Carbon Sequestration~~ sequestration ~~Permanence~~ permanence. The offset project shall meet the following requirements to address reversals of sequestered carbon:
- (i) Unintentional reversals. Requirements for unintentional reversals are as follows:
- (A) The project sponsor must notify the Department of the reversal and provide an explanation for the nature of the unintentional reversal within 30 calendar days of its discovery; and
- (B) The project sponsor must submit to the Department a verified estimate of current carbon stocks within the offset project boundary within one year of the discovery of the unintentional reversal.
- (ii) Intentional reversals. Requirements for intentional reversals are as follows:
- (A) If an intentional reversal occurs, the project sponsor shall, within 30 calendar days of the intentional reversal:
- I. Provide notice, in writing, to the Department of the intentional reversal; and
- II. Provide a written description and explanation of the intentional reversal to the Department.
- (B) Within one year of the occurrence of an intentional reversal, the project sponsor shall submit to the Department a verified estimate of current carbon stocks within the offset project boundary.
- (C) If an intentional reversal occurs, and CO<sub>2</sub> offset allowances have been awarded to the offset project, the forest owner or project sponsor must surrender to the Department or its agent for retirement a quantity of CO<sub>2</sub> allowances corresponding to the quantity of CO<sub>2</sub> equivalent tons reversed within six months of notification by the Department.
- I. Notification by the Department will occur after the verified estimate of carbon stocks has been submitted to the Department, or after one year has elapsed since the occurrence of the reversal if the project sponsor fails to submit the verified estimate of carbon stocks.
- II. If the forest owner or project sponsor does not surrender valid CO<sub>2</sub> allowances to the Department within six months of notification by the Department, the forest owner or project sponsor will be subject to enforcement action, and each CO<sub>2</sub> equivalent ton of carbon sequestration reversed will constitute a separate violation of this Chapter and applicable state law.
- (D) Project Termination. Requirements for project termination are as follows:

- I. The project sponsor must surrender to the Department or its agent for retirement a quantity of CO<sub>2</sub> allowances in the amount calculated pursuant to project termination provisions in the forest offset protocol within six months of project termination.
  - II. If the project sponsor does not surrender to the Department or its agent a quantity of CO<sub>2</sub> allowances in the amount calculated pursuant to project termination provisions in the forest offset protocol within six months of project termination, ~~they~~ the project sponsor will be subject to enforcement action, and each CO<sub>2</sub> offset allowance not surrendered will constitute a separate violation of this Chapter and applicable state law.
- (iii) Disposition of Forest Sequestration Projects After a Reversal. If a reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks, the forest offset project will be terminated by the Department.
- (i) Timing of forest offset projects. The Department may award CO<sub>2</sub> offset allowances under subsection 9(F) of this Chapter only for forest offset projects that are initially commenced on or after January 1, 2014.
  - (j) Projects that ~~Have Been Awarded Credits~~ by a ~~Voluntary Greenhouse Gas Reduction Program~~. The provisions of subsections 9(B)(3)(d) and 9(C)(2) of this Chapter shall not apply to forest projects that have been awarded credits under a voluntary greenhouse gas reduction program provided that the following conditions are satisfied. ~~For such projects, the number of CO<sub>2</sub> offset allowances will be calculated pursuant to the requirements of subsection 9(D)(3) of this Chapter without regard to quantity of credits that were awarded to the project under the voluntary program.~~
    - (i) The project satisfies all other general requirements of Section 9 of this Chapter, including all specific requirements of subsection 9(D)(3), for all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO<sub>2</sub> offset allowances pursuant to subsection 9(F) of this Chapter.
    - (ii) At the time of submittal of the consistency application for the project, the project submits forest offset data reports and a monitoring and verification report covering all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO<sub>2</sub> offset allowances pursuant subsection 9(F) of this Chapter. Forest offset data reports and monitoring and verification reports must meet all requirements of subsection 9(D)(3)(f) of this Chapter.
    - (iii) The consistency application includes information sufficient to allow the Department to make the following determinations, and the voluntary greenhouse gas program has published information on its website to allow the Department to verify the information included in the consistency application.

- (A) The offset project has met all legal and contractual requirements to allow it to terminate its relationship with the voluntary greenhouse gas program, and such termination has been completed.
- (B) The project sponsor or voluntary greenhouse gas program has cancelled or retired all credits that were awarded for carbon sequestration that occurred during the time periods for which the project intends to be awarded CO<sub>2</sub> offset allowances pursuant to subsection 9(F) of this Chapter, and such credits were cancelled or ~~required-retired~~ for the sole purpose of allowing the project to be awarded CO<sub>2</sub> offset allowances pursuant to subsection 9(F) of this Chapter.

For such projects, the number of CO<sub>2</sub> offset allowances to be awarded will be calculated pursuant to the requirements of subsection 9(D)(3) of this Chapter without regard to quantity of credits that were awarded to the project under the voluntary program.

~~(4) Reduction or avoidance of CO<sub>2</sub> emissions from natural gas, oil, or propane end use combustion due to end use energy efficiency. Offset projects that reduce CO<sub>2</sub> emissions by reducing on-site combustion of natural gas, oil, or propane for end use in an existing or new commercial or residential building by improving the energy efficiency of fuel usage and/or the energy efficient delivery of energy services may qualify for the award of CO<sub>2</sub> offset allowances under this section, provided they meet the requirements of this subsection. Eligible new buildings are limited to new buildings that are designed to replace an existing building on the offset project site, or new buildings designed to be zero net energy buildings.~~

~~(a) Eligibility~~

~~(i) Eligible offset projects shall reduce CO<sub>2</sub> emissions through one or more of the following energy conservation measures (ECMs):~~

~~(A) improvements in the energy efficiency of combustion equipment that provide space heating and hot water, including a reduction in fossil fuel consumption through the use of renewable energy;~~

~~(B) improvements in the efficiency of heating distribution systems, including proper sizing and commissioning of heating systems;~~

~~(C) installation or improvement of energy management systems;~~

~~(D) improvement in the efficiency of hot water distribution systems and reduction in demand for hot water;~~

~~(E) measures that improve the thermal performance of the building envelope and/or reduce building envelope air leakage;~~

~~(F) measures that improve the passive solar performance of buildings and utilization of active heating systems using renewable energy; and~~

~~(G) fuel switching to a less carbon intensive fuel for use in combustion systems, including the use of liquid or gaseous renewable fuels, provided that conversions to electricity are not eligible.~~

~~(ii) Performance standards~~

~~(A) All end-use energy efficiency offset projects. All offset projects under this subsection shall meet the applicable performance criteria set forth in this clause.~~

~~I. Installation best practice. Any combustion equipment and related air handling equipment (HVAC systems) installed as part of an offset project shall be sized and installed in accordance with the applicable requirements and specifications outlined in this section.~~

~~1. Commercial HVAC systems shall meet the applicable sizing and installation requirements of ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010: Energy Standard for Buildings Except Low-Rise Residential Buildings and ANSI/ASHRAE Standard 62.2 2010: Ventilation for Acceptable Indoor Air Quality.~~

~~2. Residential HVAC systems shall meet the applicable sizing specifications of Air Conditioner Contractors of America (ACCA) Manual J: Residential Load Calculation (Eight Edition Full), and the applicable installation specifications ANSI/ACCA 5 QI—2007 “HVAC Quality Installation Specification”.~~

~~II. Whole building energy performance. New buildings or whole building retrofits that are part of an offset project shall meet the requirements of this section.~~

~~1. Commercial buildings shall exceed the energy performance requirements of ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010: Energy Standard for Buildings except Low-Rise Residential Buildings by 30%, with the exception of multifamily residential buildings classified as commercial by ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010, which shall exceed these energy performance requirements by 20%.~~

~~2. Residential buildings shall exceed the energy performance requirements of the 2012 International Energy Conservation Code by 30%.~~

~~(B) Maximum market penetration rate for offset projects initiated on or after January 1, 2009. For offset projects initiated on or after January 1, 2009, the project sponsor shall demonstrate, to the satisfaction of the Department, that the energy conservation measures implemented as part of the offset project have a market penetration rate of less than 5%.~~

~~(b) Offset project description. The offset project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of subsection 9(D)(4)(a) of this Chapter. The offset project narrative shall include the following information.~~

~~(i) Location and specifications of the building(s) where the offset project actions will occur;~~

- ~~(ii) Owner and operator of the building(s);~~
  - ~~(iii) The parties implementing the offset project, including lead contractor(s), subcontractors, and consulting firms;~~
  - ~~(iv) Specifications of equipment and materials to be installed as part of the offset project; and~~
  - ~~(v) Building plans and offset project technical schematics, as applicable.~~
- ~~(e) Emissions baseline determination. The emissions baseline shall be determined in accordance with the requirements of this paragraph, based on energy usage (MMBtu) by fuel type for each energy conservation measure, derived using historic fuel use data from the most recent calendar year for which data is available, and multiplied by an emissions factor and oxidation factor for each respective fuel in Table 2 below.~~

Fuel	Emissions Factor (lbs. CO <sub>2</sub> /MMBtu)	Oxidation Factor
Natural Gas	116.98	0.995
Propane	139.04	0.995
Distillate Fuel Oil	161.27	0.99
Kerosene	159.41	0.99

- ~~(i) Isolation of applicable energy conservation measure baseline. The baseline energy usage of the application to be targeted by the energy conservation measure shall be isolated in a manner consistent with the guidance at subsection 9(D)(4)(e) of this Chapter.~~
- ~~(ii) Annual baseline energy usage shall be determined as follows:  

$$\text{Energy Usage (MMBtu)} = \text{BEU}_{\text{AECM}} \times A$$
 where:  

$$\text{BEU}_{\text{AECM}} = \text{Annual pre-installation baseline energy use by fuel type (MMBtu) attributable to the application(s) to be targeted by the energy conservation measure(s). If applicable building codes or equipment standards require that equipment or materials installed as part of the offset project meet certain minimum energy performance requirements, baseline energy usage for the application shall assume that equipment or materials are installed that meet such minimum requirements. For offset projects that replace existing combustion equipment, the assumed minimum energy performance required by applicable building codes or equipment standards shall be that which applies to new equipment that uses the same fuel type as the equipment being replaced. Baseline energy usage shall be determined in accordance with the applicable requirements at subsection 9(D)(4)(e) of this Chapter.}$$~~

~~A = Adjustments to account for differing conditions during the two time periods (pre installation and post installation), such as weather, building occupancy, and changes in building use or function. Adjustments shall be determined in accordance with the applicable requirements of subsection 9(D)(4)(e) of this Chapter.~~

(iii) Annual baseline emissions shall be determined as follows:

$$\text{Emissions (lbs. CO}_2\text{)} = \sum_{i=1}^n \text{BEU}_i \times \text{EF}_i \times \text{OF}_i$$

where:

~~BEU<sub>i</sub> = Annual baseline energy usage for fuel type i (MMBtu) demonstrated pursuant to the requirements of subsection 9(D)(4)(e)(i) through (iv) of this Chapter.~~

~~EF<sub>i</sub> = Emissions factor (lbs. CO<sub>2</sub>/MMBtu) for fuel type i listed at subsection 9(D)(4)(e), Table 2 of this Chapter.~~

~~OF<sub>i</sub> = Oxidation factor for fuel type i listed at subsection 9(D)(4)(e), Table 2 of this Chapter.~~

~~(d) Calculating emissions reductions. Emissions reductions shall be determined based upon annual energy savings by fuel type (MMBtu) for each energy conservation measure, multiplied by the emissions factor and oxidation factor for the respective fuel type at subsection 9(D)(4)(e), Table 2 of this Chapter.~~

(i) Annual energy savings shall be determined as follows:

$$\text{Energy Savings (MMBtu)} = (\text{BEU}_{\text{AECM}} \times \text{A}) - (\text{PIEU}_{\text{ECM}} \times \text{A})$$

where:

~~BEU<sub>AECM</sub> = Annual pre installation baseline energy use by fuel type (MMBtu) calculated pursuant to subsections 9(D)(4)(e)(i) through (iv) of this Chapter.~~

~~PIEU<sub>ECM</sub> = Annual post installation energy use by fuel type (MMBtu) attributable to the energy conservation measure. Post installation energy usage shall be determined in accordance with the applicable requirements at subsections 9(D)(4)(e)(i) through (iv) of this Chapter.~~

~~A = Adjustments to account for any differing conditions during the two time periods (pre installation and post installation), such as weather, building occupancy, and changes in building use or function. Adjustments shall be determined in accordance with the applicable requirements at subsection 9(D)(4)(e) of this Chapter.~~

(ii) Annual emissions reductions shall be determined as follows:

$$\text{Emissions Reduction (lbs. CO}_2\text{)} = \sum_{i=1}^n \text{ES}_i \times \text{EF}_i \times \text{OF}_i$$

where:

~~ES<sub>i</sub> = Energy savings for fuel type i (MMBtu) demonstrated pursuant to the requirements at subsection 9(D)(4)(e) of this Chapter.~~

~~EF<sub>i</sub> = Emissions factor (lbs. CO<sub>2</sub>/MMBtu) for fuel type i listed at subsection 9(D)(4)(e), Table 2 of this Chapter.~~

$OF_i$  = Oxidation factor for fuel type  $i$  listed at subsection 9(D)(4)(c), Table 2 of this Chapter.

- (e) ~~Monitoring and verification requirements. As part of the consistency application, the project sponsor shall provide a monitoring and verification plan certified by an independent verifier accredited pursuant to subsection 9(E) of this Chapter. Monitoring and verification reports shall be certified by an independent verifier accredited pursuant to subsection 9(E) of this Chapter. Independent verifiers must conduct a site audit when reviewing the first monitoring and verification report submitted by the project sponsor, except for offset projects that save less than 1,500 MMBtu per year. For offset projects that save less than 1,500 MMBtu per year, the project sponsor must provide the independent verifier with equipment specifications and copies of equipment invoices and other relevant offset project related invoices. All offset project documentation, including the consistency application and monitoring and verification reports, shall be signed by a Professional Engineer, identified by license number. Monitoring and verification shall also meet the following requirements:~~
- (i) ~~General energy measurement and verification requirements. Monitoring and verification of energy usage shall be demonstrated through a documented process consistent with the following protocols and procedures, as applicable:~~
- (A) ~~For existing commercial buildings, determination of baseline energy usage shall be consistent with the International Performance Measurement & Verification Protocol, Volume I: Concepts and Options for Determining Energy and Water Savings (IPMVP), “Option B. Retrofit Isolation” and “Option D. Calibrated Simulation.” If a building project involves only energy conservation measures implemented as part of a CO<sub>2</sub> emissions offset project, a process consistent with IPMVP “Option C. Whole Facility” may be used, as applicable. Application of the IPMVP general guidance shall be consistent with the applicable detailed specifications in ASHRAE Guideline 14-2002, Measurement of Energy and Demand Savings.~~
- (B) ~~For new commercial buildings, determination of baseline energy usage shall be consistent with the International Performance Measurement & Verification Protocol, Volume III: Concepts and Options for Determining Energy Savings in New Construction (IPMVP), “Option D. Calibrated Simulation.” Application of the IPMVP general guidance shall be consistent with the applicable detailed specifications in ASHRAE Guideline 14-2002, Measurement of Energy and Demand Savings.~~
- (C) ~~For existing and new residential buildings, determination of baseline energy usage shall be consistent with the requirements of the RESNET National Energy Rating Technical Standards and National Home Energy Rating Technical Guidelines, 2013 (Chapter 3 and Appendix A of 2013 Mortgage Industry National Home Energy Rating System Standards).~~
- (ii) ~~Isolation of applicable energy conservation measure. In calculating both baseline energy usage and energy savings, the applicant shall isolate the impact of each eligible energy conservation measure (ECM), either through direct metering or energy simulation modeling. For offset projects with multiple ECMs, and where~~

individual ECMs can affect the performance of others, the sum of energy savings due to individual ECMs shall be adjusted to account for the interaction of ECMs. For commercial buildings, this process shall be consistent with the requirements of ASHRAE Guideline 14 2002, Measurement of Energy and Demand Savings, and ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010: Energy Standard for Buildings Except Low Rise Residential Buildings. For residential buildings, this process shall be consistent with the requirements of RESNET National Home Energy Rating Technical Guidelines, 2006 (Chapter 3 and Appendix A of 2006 Mortgage Industry National Home Energy Rating System Standards) and adopted enhancements dated 2007-2012. Reductions in energy usage due to the energy conservation measure shall be based upon actual energy usage data. Energy simulation modeling shall only be used to determine the relative percentage contribution to total fuel usage (for each respective fuel type) of the application targeted by the energy conservation measure.

- (iii) Calculation of energy savings. Annual energy savings are to be determined based on the following:

$$\text{Energy Savings (MMBtu)} = (\text{BEU}_{\text{AECM}} \times A) - (\text{PIEU}_{\text{ECM}} \times A)$$

where:

$\text{BEU}_{\text{AECM}}$  = Annual pre-installation baseline energy use by fuel type (MMBtu) attributable to the application(s) to be targeted by the energy conservation measure(s), based upon annual fuel usage data for the most recent calendar year for which data is available. For new buildings, baseline energy use for a reference building equivalent in basic configuration, orientation, and location to the building in which the eligible energy conservation measure(s) is implemented shall be determined according to ASHRAE Guideline 14 2002, Measurement of Energy and Demand Savings and ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010, Section 11 and Appendix G. Where energy simulation modeling is used to evaluate an existing building, modeling shall be conducted in accordance with ASHRAE Guideline 14 2002, Measurement of Energy and Demand Savings, and ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010, Section 11 and Appendix G. For existing and new residential buildings, energy simulation modeling shall be conducted in accordance with the requirements of RESNET National Home Energy Rating Technical Guidelines, 2006 (Chapter 3 and Appendix A of 2006 Mortgage Industry National Home Energy Rating System Standards and adopted enhancements dated 2007-2012).

$\text{PIEU}_{\text{ECM}}$  = Annual post-installation energy use by fuel type (MMBtu) attributable to the energy conservation measure, to be verified based on annual energy use after installation of the energy conservation measure(s), consistent with the requirements of ASHRAE Guideline 14 2002, Measurement of Energy and Demand Savings. Where energy simulation modeling is used to evaluate a new or existing building, modeling shall be conducted in accordance with ASHRAE Guideline 14 2002, Measurement of Energy and Demand Savings, and ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010, Section 11 and Appendix G. For existing and new residential buildings, energy simulation modeling shall be consistent with

~~the requirements of RESNET National Home Energy Rating Technical Guidelines, 2006 (Chapter 3 and Appendix A of 2006 Mortgage Industry National Home Energy Rating System Standards and adopted enhancements dated 2007-2012).~~

~~A = Adjustments to account for any differing conditions during the two time periods (pre-installation and post-installation), such as weather (weather normalized energy usage based on heating and cooling degree days), building occupancy, and changes in building use or function. For commercial buildings, adjustments shall be consistent with the specifications of ASHRAE Guideline 14-2002, Measurement of Energy and Demand Savings, and ANSI/ASHRAE/IESNA Standard 90.1 (SI Edition) 2010, Section 11 and Appendix G. For residential buildings, adjustments shall be consistent with the specifications of RESNET National Home Energy Rating Technical Guidelines, 2006 (Chapter 3 and Appendix A of 2006 Mortgage Industry National Home Energy Rating System Standards and adopted enhancements dated 2007-2012).~~

~~(iv) Provision for sampling of multiple like offset projects in residential buildings. Offset projects that implement similar measures in multiple residential buildings may employ representative sampling of buildings to determine aggregate baseline energy usage and energy savings. Sampling protocols shall employ sound statistical methods. Any sampling plan shall be certified by an independent verifier, accredited pursuant to subsection 9(E) of this Chapter.~~

~~(53) Avoided methane (CH<sub>4</sub>) emissions from agricultural manure management operations. To qualify for the award of CO<sub>2</sub> offset allowances under section 9 of this Chapter, offset projects that capture and destroy methane from animal manure and organic food waste using anaerobic digesters shall meet the requirements of subsection 9(D)(3) of this Chapter and all other applicable requirements of section 9. Offset projects that capture and destroy methane from animal manure using anaerobic digesters may qualify for the award of CO<sub>2</sub> offset allowances under this section, provided they meet the requirements of this subsection.~~

(a) Eligibility

- (i) CO<sub>2</sub> offset allowances may be awarded for the destruction of that portion of methane generated by the anaerobic digester that would have been generated in the absence of the offset project through the uncontrolled anaerobic storage of manure, or organic food wastes.
- (ii) Eligible offset projects shall employ only manure-based anaerobic digester systems using livestock manure as the majority of digester feedstock, defined as more than 50% of the mass input into the digester on an annual basis. Organic food wastes used by an anaerobic digester shall only be that which would have been stored in anaerobic conditions in the absence of the offset project.
- (iii) The provisions of subsections 9(B)(3)(b) and (c) of this Chapter shall not apply to agricultural manure methane offset projects provided either of the following requirements are met:-

- (A) The offset project is located in a state that has a market penetration for anaerobic digester projects of 5% or less. The market penetration determination shall utilize the most recent market data available at the time of submission of the consistency application pursuant to subsection 9(C) of this Chapter and shall be determined as follows:

$$MP (\%) = MG_{AD} / MG_{STATE}$$

where:

$MG_{AD}$  = Average annual manure generation for the number of dairy cows and swine serving all anaerobic digester projects in the applicable state at the time of submission of a consistency application pursuant to subsection 9(C) of this Chapter.

$MG_{STATE}$  = average annual manure production of all dairy cows and swine in the state at the time of submission of a consistency application pursuant to subsection 9(C) of this Chapter.

- (B) The offset project is located at a farm with 4,000 or less head of dairy cows, or a farm with equivalent animal units, assuming an average live weight for dairy cows (lbs./cow) of 1,400 lbs., or, if the project is a regional-type anaerobic digester, total annual manure input to the digester is designed to be less than the average annual manure produced by a farm with 4,000 or less head of dairy cows, or a farm with equivalent animal units, assuming an average live weight for dairy cows (lbs./cow) of 1,400 lbs.

- (b) Offset project description. The offset project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of subsection 9(D)(5)(a) of this Chapter. The offset project narrative shall include the following information:-

- (i) Owner and operator of the offset project;
- (ii) Location and specifications of the facility where the offset project will occur;
- (iii) Owner and operator of the facility where the offset project will occur;
- (iv) Specifications of the equipment to be installed and a technical schematic of the offset project; and
- (v) Location and specifications of the facilities from which anaerobic digester influent will be received, if different from the facility where the offset project will occur.

- (c) Emissions baseline determination. The emissions baseline shall represent the potential emissions of the methane (CH<sub>4</sub>) that would have been produced in a baseline scenario under uncontrolled anaerobic storage conditions and released directly to the atmosphere in the absence of the offset project.

- (i) Baseline CH<sub>4</sub> emissions shall be calculated as follows:

$$CO_{2e} - E_b (\text{tons}) = (V_m \times M) / 2000 \times GWP$$

where:

$CO_{2e} - E_b$  = Potential CO<sub>2e</sub> emissions due to calculated CH<sub>4</sub> production under site-specific anaerobic storage and weather conditions (tons);

$V_m$  = Volume of CH<sub>4</sub> produced each month from ~~degradation-decomposition~~ of volatile solids in a baseline uncontrolled anaerobic storage scenario under site-specific storage and weather conditions for the facility at which the manure is generated ( $\# \text{ ft}^3$ ); and

$M$  = Mass of CH<sub>4</sub> per cubic foot (0.04246 lb/ft<sup>3</sup> default value at one atmosphere and 20°C) GWP = Global warming potential of CH<sub>4</sub> (~~25~~28)

- (ii) The estimated amount of volatile solids (~~kg degraded-decomposed~~ each month under the uncontrolled anaerobic storage baseline scenario (~~kg~~)-shall be calculated as follows:

$$VS_{deg} - VS_{dec} = VS_{avail} * f$$

where:

$VS_{dec}$  = volatile solids decomposed monthly (kg) ~~VS = volatile solids as determined from the equation:~~

$$VS = M_m * TS_{\%} * VS_{\%}$$

where:

$M_m$  = mass of manure produced per month (kg)

$TS_{\%}$  = concentration (percent) of total solids in manure as determined through EPA 160.3 testing method

$VS_{\%}$  = concentration (percent) of volatile solids in total solids as determined through EPA 160.4 testing method (USEPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020))

$VS_{avail}$  = volatile solids available for ~~degradation-decomposition~~ in manure storage each month as determined from the equation:

$$VS_{avail} = (M_p + \frac{1}{2} M_{in} - M_{out}) * TS_{\%} * VS_{\%}$$

where:

$M_p$  = manure or organic food waste storage present at the beginning of a month (left over from the previous month) (kg);

$M_{in}$  = manure or organic food waste added to storage during the course of the month (kg). This number is multiplied by a factor of  $\frac{1}{2}$  to represent the average mass of manure or organic food waste available for decomposition for the duration of the entire month;

$M_{out}$  = manure or organic food waste removed from storage for land application or export (assumed value based on standard farm practice);

$TS_{\%}$  = concentration (percent) of total solids in manure as determined through EPA 160.3 testing method (U.S. EPA Method Number 160.3, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020)); and

$VS_{\%}$  = concentration (percent) of volatile solids in total solids as determined through EPA 160.4 testing method (U.S. EPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020))

$$VS_{avail} = VS_p + \frac{1}{2} VS_{in} - VS_{out}$$

where:

$VS_p$  = volatile solids present in manure storage at beginning of month (left over from previous month) (kg)

$VS_{in}$  = volatile solids added to manure storage during the course of the month (kg). The factor of  $\frac{1}{2}$  is multiplied by this number to

~~represent the average mass of volatile solids available for degradation for the entire duration of the month.~~

~~VS<sub>out</sub> = volatile solids removed from the manure storage for land application or export (assumed value based on standard farm practice); and~~

~~f = van't Hoff-Arrhenius factor for the specific month as determined using the equation below if the reported temperature used to determine T<sub>2</sub> below is above 5° C; if the reported temperature is below 5° C, then f = 0.104. Using a base temperature of 30° C, the equation is as follows:~~

$$f = \exp[E * (T_2 - T_1)/(GC * T_1 * T_2)]$$

~~where:~~

~~f = conversion efficiency of VS to CH<sub>4</sub> per month~~

~~E = activation energy constant (15,175 cal/mol)~~

~~T<sub>2</sub> = average monthly ambient temperature for farm-the facility where manure or organic waste is generated (converted from ° Celsius to ° Kelvin) as determined from the nearest National Weather Service certified weather station; ~~(if reported temperature ° C > 5° C; if reported temperature ° C < 5° C, then F = 0.104)~~~~

~~T<sub>1</sub> = 303.15 (30° C converted to ° K)~~

~~GC = ideal gas constant (1.987 cal/K mol)~~

(iii) The volume of CH<sub>4</sub> produced (ft<sup>3</sup>) from degradation of volatile solids shall be calculated as follows:

$$V_m = (VS_{deg} - VS_{dec} \times B_o) \times 35.3147$$

where:

~~V<sub>m</sub> = volume of CH<sub>4</sub> (ft<sup>3</sup>);~~

~~VS<sub>deg</sub> = volatile solids ~~degraded-decomposed~~ (kg); and~~

~~B<sub>o</sub> = manure type-specific maximum methane (CH<sub>4</sub>) generation constant (m<sup>3</sup>) CH<sub>4</sub>/kg VS ~~degraded-decomposed~~. For dairy cow manure, B<sub>o</sub> = 0.24 m<sup>3</sup> CH<sub>4</sub>/kg VS ~~degraded-decomposed~~. The methane generation constant for other types of manure shall be those cited at U.S. EPA, *Inventory of U.S.*~~

~~*Greenhouse Gas Emissions and Sinks: 1990-2010*, Annex 3 Table A-162-180 (U.S. EPA, ~~April 2012~~February, 2017), unless the project sponsor proposes an alternate methane generation constant and that alternate is approved by the Department. If the project sponsor proposes to use a methane generation constant other than the one found in the above-cited reference, the project sponsor must provide justification and documentation to the Department.~~

(d) Calculating emissions reductions. Emissions reductions shall be ~~determined based on the potential emissions (in tons of CO<sub>2</sub>e) of the CH<sub>4</sub> that would have been produced in the absence of the offset project under a baseline scenario that represents uncontrolled anaerobic storage conditions, as calculated pursuant to subsections 9(D)(5)(e)(i) through (iii) of this Chapter, and released directly to the atmosphere~~calculated as follows:-

$$ERt = Eb - Ep$$

where:

ERT = CO<sub>2</sub>e emissions reductions due to project activities (tons);

Eb = Potential CO<sub>2</sub>e emissions due to calculated CH<sub>4</sub> production under site-specific anaerobic storage and weather conditions (tons); and

Ep = CO<sub>2</sub>e emissions due to project activities additional to baseline (tons), including, but not limited to, manure transportation, flaring, venting, and effluent management.

Emissions reductions may not exceed the potential emissions of the anaerobic digester, as represented by the annual volume of CH<sub>4</sub> produced by the anaerobic digester, as monitored pursuant to subsection 9(D)(53)(e) of this Chapter. ~~If the project is a regional type digester,~~ CO<sub>2</sub> emissions due to transportation of manure and organic food wastes from the sites where the manure and organic food wastes were generated to the anaerobic digester shall be subtracted from the emissions reduction calculated pursuant to subsections 9(D)(53)(c)(i) through (iii) of this Chapter. Transport CO<sub>2</sub> emissions shall be determined through one of the following methods:

- (i) Documentation of transport fuel use for all shipments of manure and organic food wastes from off-site to the anaerobic digester during each reporting year and a log of transport miles for each shipment. Off-site is defined as a location that is not contiguous with the property where the anaerobic digester is located. CO<sub>2</sub> emissions shall be determined through the application of an emissions factor for the fuel type used. If this option is chosen, the following emission factors shall be applied as appropriate:-
  - (A) Diesel fuel: 22.912 lbs. CO<sub>2</sub>/gallon.
  - (B) Gasoline: 19.878 lbs. CO<sub>2</sub>/gallon.
  - (C) Other fuel: submitted emission factor approved by the Department.
- (ii) Documentation of total tons of manure transported from off--site for input into the anaerobic digester during each reporting year, as monitored pursuant to subsection 9(D)(53)(e)(i) of this Chapter, and a log of transport miles and fuel type used for each shipment. CO<sub>2</sub> emissions shall be determined through the application of a ton-mile transport emission factor for the fuel type used. If this option is chosen, the following emission factors shall be applied as appropriate for each ton of manure delivered, and multiplied by the number of miles transported:-
  - (A) Diesel fuel: 0.131 lbs. CO<sub>2</sub> per ton-mile.
  - (B) Gasoline: 0.133 lbs. CO<sub>2</sub> per ton-mile.
  - (C) Other fuel: submitted emission factor approved by the Department.
- (e) Monitoring and verification requirements. Offset projects shall employ a system that provides metering of biogas volumetric flow rate and determination of CH<sub>4</sub> concentration. Monitoring and verification reports shall include monthly biogas

volumetric flow rate and CH<sub>4</sub> concentration determination. Monitoring and verification shall also meet the following requirements:

- (i) If the offset project is a regional-type anaerobic digester, manure and organic food waste from each distinct source supplying to the anaerobic digester shall be sampled monthly to determine the amount of volatile solids present. Any emissions reduction will be calculated according to mass of manure and organic food waste (kg) being digested and percentage of volatile solids present before digestion, consistent with the requirements at subsections 9(D)(~~53~~)(c) and 9(D)(~~53~~)(e)(iii) of this Chapter, and apportioned accordingly among sources. The project sponsor shall provide supporting material and receipts tracking the monthly receipt of manure and organic food waste (kg) used to supply the anaerobic digester from each ~~manure~~-supplier.
- (ii) If the offset project includes the digestion of organic food wastes eligible pursuant to subsection 9(D)(~~53~~)(a)(ii) of this Chapter, organic food wastes shall be sampled monthly to determine the amount of volatile solids (~~VS~~) present before digestion, consistent with the requirements at subsections 9(D)(~~53~~)(c) and 9(D)(~~53~~)(e)(iii) of this Chapter, and apportioned accordingly.
- (iii) The project sponsor shall submit a monitoring and verification plan as part of the consistency application that includes a quality assurance and quality control program associated with equipment used to determine biogas volumetric flow rate and CH<sub>4</sub> composition. The monitoring and verification plan shall be specified in accordance with the applicable monitoring requirements listed in Table 3-1 below. The monitoring and verification plan shall also include provisions for ensuring that measuring and monitoring equipment is maintained, operated, and calibrated based on manufacturer's recommendations, as well as provisions for the retention of maintenance records for audit purposes. The monitoring and verification plan shall be certified by an independent verifier accredited pursuant to subsection 9(E) of this Chapter.

**Table 31**  
**Input-Monitoring Requirements**

<b>Input-Parameter</b>	<b>Measurement Unit</b>	<b>Frequency of Sampling</b>	<b>Sampling Method(s)</b>
Influent flow (mass) into the digester	Kilograms (kg) per month (wet <del>weight</del> mass)	Monthly total into the digester	Average herd population and <u>application of American Society of Agricultural and Biological Engineers (ASABE) standard (ASAE D384.2, March 2005)</u>  Digester influent pump flow  Recorded <u>weight-mass</u>
Influent total solids concentration (TS)	Percent (of sample)	Monthly, depending upon recorded variations	U.S. EPA Method Number 160.3, <u>Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020)</u>

Influent volatile solids (VS) content of manure	Percent (of TS)	Monthly, depending upon recorded variations	USEPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020)
Average monthly ambient temperature	Temperature °C	Monthly (based on farm averages)	Closest National Weather Service-certified weather station
<b><u>Parameter</u></b>	<b><u>Measurement Unit</u></b>	<b><u>Frequency of Sampling</u></b>	<b><u>Sampling Method(s)</u></b>
<u>Volume of biogas produced by digester</u>	<u>Standard cubic feet (scf)</u>	<u>Continuous, totaled monthly</u>	<u>Flow meter</u>
<u>Methane (CH<sub>4</sub>) composition of biogas produced by digester</u>	<u>Percent (of sample)</u>	<u>Quarterly</u>	<u>Bag sampling and third party laboratory analysis using applicable U.S. EPA test methods</u>

#### E. Accreditation of Independent verifiers

- (1) Standards for ~~a~~Accreditation. Independent verifiers may be accredited by the Department to provide verification services ~~as required of regarding projects and project sponsors as~~ required under this section, provided that independent verifiers meet all of the requirements of this section.
- (a) Verifier minimum requirements. Each accredited independent verifier shall demonstrate knowledge of the following topics:
- (i) utilizing engineering principles;
  - (ii) quantifying greenhouse gas emissions;
  - (iii) developing and evaluating air emissions inventories;
  - (iv) auditing and accounting principles;
  - (v) knowledge of information management systems;
  - (vi) knowledge of the requirements of this section and other applicable requirements of this Chapter; and
  - (vii) such other qualifications as may be required by the Department to provide competent verification services as required for individual offset categories specified ~~at~~ in subsection 9(D) of this Chapter.
- (b) Organizational qualifications. Accredited independent verifiers shall demonstrate that they meet the following requirements:

- (i) verifiers shall have no direct or indirect financial relationship, beyond a contract for provision of verification services, with any offset project developer or project sponsor;
  - (ii) verifiers shall employ staff with professional licenses, knowledge, and experience appropriate to the specific category(ies) of offset projects under subsection 9(D) of this Chapter ~~that for which they seek to verify accreditation~~;
  - (iii) verifiers shall hold a minimum of one million U.S. dollars of professional liability insurance. If the insurance is in the name of a related entity, the verifier shall disclose the financial relationship between the verifier and the related entity, and provide documentation supporting the description of the relationship; and
  - (iv) verifiers shall demonstrate that they have implemented an adequate management protocol to identify potential conflicts of interest with regard to an offset project, offset project developer, or offset project sponsor, or any other party with a direct or indirect financial interest in an offset project that is seeking or has been granted approval of a consistency application pursuant to subsection 9(C)(5) of this Chapter, and remedy any such conflicts of interest prior to providing verification services.
- (c) Pre-qualification of verifiers. The Department may require prospective verifiers to successfully complete a training course, workshop, or test developed by the Department or its agent, prior to submitting an application for accreditation.
- (2) Application for accreditation. An application for accreditation shall not contain any proprietary information, and shall include the following:
- (a) ~~The applicant's name, address, email address, and telephone number, and facsimile transmission number;~~
  - (b) ~~Documentation that the applicant has at least two years of experience in each of the knowledge areas specified at subsections 9(E)(1)(a)(i) through (v) of this Chapter, and as may be required pursuant to subsection 9(E)(1)(a)(vii) of this Chapter;~~
  - (c) ~~Documentation that the applicant has successfully completed the requirements at subsection 9(E)(1)(c) of this Chapter, as applicable;~~
  - (d) ~~A sample of at least one work product that provides supporting evidence that the applicant meets the requirements at subsections 9(E)(1)(a) and (b) of this Chapter. The work product shall have been produced, in whole or in part, by the applicant and shall consist of a final report or other material provided to a client under contract in previous work. For a work product that was jointly produced by the applicant and another entity, the role of the applicant in the work product shall be clearly explained;~~
  - (e) ~~Documentation that the applicant holds professional liability insurance as required pursuant to subsection 9(E)(1)(b)(iii) of this Chapter.~~

- (f) ~~Documentation~~ that the applicant has implemented an adequate management protocol to address and remedy any conflict of interest issues that may arise, as required pursuant to subsection 9(E)(1)(b)(iv) of this Chapter.
- (3) Department action on applications for accreditation. The Department shall approve or deny a complete application for accreditation within 45 days after submission. Upon approval of an application for accreditation, the independent verifier shall be accredited for a period of three years from the date of application approval.
- (4) Reciprocity. Independent verifiers accredited in other participating states may be deemed to be accredited in Maine, at the discretion of the Department.
- (5) Conduct of accredited verifiers
- (a) Prior to engaging in verification services for an offset project sponsor, the accredited verifier shall disclose all relevant information to the Department to allow for an evaluation of potential conflict of interest with respect to an offset project, offset project developer, or offset project sponsor. The accredited verifier shall disclose information concerning its ownership, past and current clients, related entities, as well as any other facts or circumstances that have the potential to create a conflict of interest.
- (b) Accredited verifiers shall have an ongoing obligation to disclose to the Department any facts or circumstances that may give rise to a conflict of interest with respect to an offset project, offset project developer, or offset project sponsor.
- (c) The Department may reject a verification report and certification statement from an accredited verifier, submitted as part of a consistency application required pursuant to subsection 9(C)(2) of this Chapter or submitted as part of a monitoring and verification report submitted pursuant to subsection 9(F)(~~23~~) of this Chapter, if the Department determines that the accredited verifier has a conflict of interest related to the offset project, offset project developer, or offset project sponsor.
- (d) The Department may revoke the accreditation of a verifier at any time ~~given cause~~, for any of the following reasons:
- (i) failure to fully disclose any issues that may lead to a conflict of interest situation with respect to an offset project, offset project developer, or offset project sponsor;
- (ii) the verifier is no longer qualified due to changes in staffing or other criteria;
- (iii) negligence or neglect of responsibilities pursuant to the requirements of this section; ~~or and~~
- (iv) intentional misrepresentation of data or other intentional fraud.

## **F. Award of CO<sub>2</sub> offset allowances**

- (1) Quantities of CO<sub>2</sub> offset allowances that may be awarded
  - (a) CO<sub>2</sub> emissions offset projects. Following the issuance of a consistency determination under subsection 9(C)(5)(b) of this Chapter and the approval of a monitoring and verification report under the provisions of subsection 9(F)(56) of this Chapter, the Department will award one CO<sub>2</sub> offset allowance for each ton of demonstrated reduction in CO<sub>2</sub> or CO<sub>2</sub> equivalent emissions or sequestration of CO<sub>2</sub>.
- (2) Recordation of CO<sub>2</sub> offset allowances. After CO<sub>2</sub> offset allowances are awarded under subsection 9(F)(1)(a) of this Chapter, the Department or its agent shall record such CO<sub>2</sub> offset allowances in the project sponsor's general account.
- (3) Deadlines for submittal of monitoring and verification reports
  - (a) For CO<sub>2</sub> emissions offset projects ~~undertaken~~ commenced prior to January 1, 2009, the project sponsor must submit the monitoring and verification report covering the pre-2009 period by June 30, 2009.
  - (b) For CO<sub>2</sub> emissions offset projects ~~undertaken~~ commenced on or after January 1, 2009, the monitoring and verification report must be submitted within 6 months following the completion of the last calendar year during which the offset project achieved CO<sub>2</sub> equivalent reductions or sequestration of CO<sub>2</sub> for which the project sponsor seeks the award of CO<sub>2</sub> offset allowances.
- (4) Contents of monitoring and verification reports. For an offset project, the monitoring and verification report must include the following information:
  - (a) The offset project's sponsor's name, address, email address, telephone number, ~~facsimile transmission number~~, and account number.
  - (b) The CO<sub>2</sub> emissions reduction or CO<sub>2</sub> sequestration determination as required by the relevant provisions of subsection 9(D) of this Chapter, including a demonstration that the project sponsor complied with the required quantification, monitoring, and verification procedures under subsection 9(D) of this Chapter, as well as those outlined in the consistency application approved pursuant to subsection 9(C)(5)(b) of this Chapter.
  - (c) A signed statement that reads: "The undersigned project sponsor hereby confirms and attests that the offset project upon which this monitoring and verification report is based is in full compliance with all of the requirements of the Department's Rules, 06-096, Chapter 156, CO<sub>2</sub> Budget Trading Program, Section 9 of this Chapter. The project sponsor holds the legal rights to the offset project, or has been granted the right to act on behalf of a party that holds the legal rights to the offset project. I understand that eligibility for the award of CO<sub>2</sub> offset allowances under Section 9 of this Chapter 156 cited above, is contingent on meeting the requirements of Section 9 of this Chapter. I authorize the Department or its agent to audit this offset project for purposes of verifying that the offset project, including the monitoring and verification plan, has been implemented as described in the consistency application that was the subject of a consistency determination by the Department. I understand that this right to audit shall include the right to enter the physical location of the offset project. I submit to the legal jurisdiction of the State of Maine."

- (d) A certification signed by the offset project sponsor certifying that all offset projects for which the sponsor has received offset allowances under this section (or similar provisions in the rules of other participating states), under the sponsor's ownership or control (or under the ownership or control of any entity which controls, is controlled by, or has common control with the sponsor) are in compliance with all applicable requirements of the CO<sub>2</sub> Budget Trading Program in all participating states.
- (e) A verification report and certification statement signed by an independent verifier accredited pursuant to subsection 9(E) of this Chapter that documents that the independent verifier has reviewed the monitoring and verification report and evaluated the following in relation to the applicable requirements at subsection 9(D) of this Chapter, and any applicable guidance issued by the Department.
- (i) The adequacy and validity of information supplied by the project sponsor to determine CO<sub>2</sub> emissions reductions or CO<sub>2</sub> sequestration pursuant to the applicable requirements ~~at of~~ subsection 9(D) of this Chapter.
  - (ii) The adequacy and consistency of methods used to quantify, monitor, and verify CO<sub>2</sub> emissions reductions and CO<sub>2</sub> sequestration in accordance with the applicable requirements ~~at of~~ subsection 9(D) of this Chapter and as outlined in the consistency application approved pursuant to subsection 9(C)(5)(b) of this Chapter.
  - (iii) Such other evaluations and verification reviews as may be required by the Department. ~~The adequacy and validity of information supplied by the project sponsor to demonstrate that the offset project meets the applicable eligibility requirements of subsection 9(D) of this Chapter.~~
- (f) Disclosure of any voluntary or mandatory programs, other than the CO<sub>2</sub> Budget Trading Program, to which greenhouse gas emissions data related to the offset project has been, or will be reported.
- (g) For offset projects located in a state or United States jurisdiction that is not a participating state, a demonstration that the project sponsor has complied with all requirements of the cooperating regulatory agency in the state or ~~United States~~ jurisdiction where the offset project is located.
- (5) Prohibition against filing monitoring and verification reports in more than one participating state. Monitoring and verification reports may only be filed under subsection 9(F) of this Chapter for projects that have received consistency determinations under subsection 9(C)(5)(b) of this Chapter. Monitoring and verification reports may not be filed under subsection 9(F) for projects that have received consistency determinations in other participating states. Place for filing monitoring and verification reports. The monitoring and verification report must be filed with the same Department that issued the consistency determination for the offset project pursuant to subsection 9(C)(5)(b) of this Chapter.
- (6) Department action on monitoring and verification reports. The Department will approve or deny a complete monitoring and verification report within 45 days following receipt of a complete report. A complete monitoring and verification report is a report that is in an

approved format and is determined by the Department to be complete for the purpose of commencing review of the report. In no event shall a completeness determination prevent the Department from requesting additional information in order to enable the Department to approve or deny such a report submitted and filed under subsection 9(F) of this Chapter.

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STATUTORY AUTHORITY: 38 MRSA, Sections 585-A, 580, 580-A, 580-B, and 580-C

EFFECTIVE DATE:

January 5, 2008, filing 2007-544

AMENDED:

July 22, 2008 – filing 2008-317

November 26, 2013 – filing 2013-290

DATE

**Chapter 158: CO<sub>2</sub> BUDGET TRADING PROGRAM AUCTION PROVISIONS**

**SUMMARY:** This regulation provides for the administration and implementation by the Department of CO<sub>2</sub> allowance auctions and programs to promote the purposes of the Consumer Benefit Account as provided by CO<sub>2</sub> Budget Trading Program, 06-096 CMR 156. This regulation complements the provisions of the CO<sub>2</sub> Budget Trading Program, which was established by the Department to ~~stabilize and then~~ reduce anthropogenic emissions of CO<sub>2</sub>, a greenhouse gas, from CO<sub>2</sub> budget sources.

- 1. Applicability.** This regulation applies to any person who participates in RGGI CO<sub>2</sub> allowance auctions.
- 2. Definitions**
  - A. Applicant.** “Applicant” means a party submitting an application.
  - B. Ascending price, multiple round auction.** “Ascending price, multiple round auction” means a multiple-round auction starting with an opening price which increases each round by predetermined increments. In each round, bidders offer the quantity they are willing to purchase at the posted price. Rounds continue so long as demand exceeds the quantity offered for sale. At the completion of the final round, the Department or its agent may allocate allowances:
    - (1) at the final price to remaining bidders and withhold unsold allowances for a future auction;
    - (2) at the penultimate price, first to final round bidders and then to bidders in the penultimate round in chronological order of bid during the penultimate round for all remaining allowances; or
    - (3) according to an alternative mechanism designed to effectuate the objectives of this Chapter.
  - C. Beneficial interest.** “Beneficial interest” means profit, benefit, or advantage resulting from the ownership of a CO<sub>2</sub> allowance.
  - D. Bidder.** “Bidder” means a party that has met the requirements of subsection 3(C) of this Chapter to participate in an auction.
  - E. CO<sub>2</sub> allowance auction or auction.** “CO<sub>2</sub> allowance auction or auction” means an auction in which the Department or its agent offers CO<sub>2</sub> allowances for sale.
  - F. CO<sub>2</sub> allowance auction website.** “CO<sub>2</sub> allowance auction website” means a website established by the Department or its agent that will contain information regarding the CO<sub>2</sub> Budget Trading Program and auctions to be conducted pursuant to this Chapter.
  - G. CO<sub>2</sub> budget source.** “CO<sub>2</sub> budget source” means a source that includes one or more CO<sub>2</sub> budget units.
  - H. CO<sub>2</sub> budget source compliance account or compliance account.** “CO<sub>2</sub> budget source compliance account” or “compliance account” means the account established by the Department or its agent for a CO<sub>2</sub> budget source wherein CO<sub>2</sub> allowances are held and available for compliance purposes under CO<sub>2</sub> Budget Trading Program, 06-096 CMR 156.

- I. CO<sub>2</sub> Budget Trading Program.** “CO<sub>2</sub> Budget Trading Program” means a multi-state CO<sub>2</sub> air pollution control and emissions reduction program established pursuant to this regulation and corresponding regulations in other states as a means of reducing emissions of CO<sub>2</sub> from CO<sub>2</sub> budget sources.
- J. CO<sub>2</sub> budget unit.** “CO<sub>2</sub> budget unit” means a fossil fuel-fired unit that serves a generator with a nameplate capacity equal to or greater than 25 MW electrical output.
- K. CO<sub>2</sub> cost containment reserve allowance or CO<sub>2</sub> CCR allowance.** “CO<sub>2</sub> cost containment reserve allowance or CO<sub>2</sub> CCR allowance” means a CO<sub>2</sub> allowance that is offered for sale at an auction by the Department for the purpose of containing the cost of CO<sub>2</sub> allowances. CO<sub>2</sub> CCR allowances offered for sale at an auction are separate from and additional to CO<sub>2</sub> allowances allocated from the CO<sub>2</sub> Budget Trading Program base and adjusted budgets. CO<sub>2</sub> CCR allowances are subject to all applicable limitations contained in this Chapter.
- L. Consumer Benefit Account.** “Consumer Benefit Account” means a general account established by the Department or its agent from which CO<sub>2</sub> allowances will be sold or distributed in order to provide funds to encourage and foster the following: promotion of energy efficiency measures, direct mitigation of electricity ratepayer impacts attributable to the implementation of the CO<sub>2</sub> Budget Trading Program, promotion of renewable or non-carbon-emitting energy technologies, stimulation or reward of investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential, promotion and reward for combined heat and power projects, and/or the administration of Maine’s component of the CO<sub>2</sub> Budget Trading Program.
- M. Control period.** “Control period” means a three-calendar-year time period. The first control period is from January 1, 2009 to December 31, 2011, inclusive. Each subsequent sequential three-calendar-year period is a separate control period. Beginning on January 1, 2015, the first two calendar years of each control period are each defined as an interim control period, beginning on January 1, 2015.
- N. Cost containment reserve trigger price or CCR trigger price.** “Cost containment reserve trigger price or CCR trigger price” means the minimum price at which CO<sub>2</sub> CCR allowances are offered for sale by the Department or its agent at an auction. The CCR trigger price shall be \$4.00 per CO<sub>2</sub> allowance for calendar year 2014, \$6.00 per CO<sub>2</sub> allowance in calendar year 2015, \$8.00 per CO<sub>2</sub> allowance in calendar year 2016, and \$10.00 per CO<sub>2</sub> allowance in calendar year 2017. Each calendar year thereafter through 2020, the CCR trigger price shall be 1.025 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 1. The CCR trigger price in calendar year 2021 shall be \$13.00. Each calendar year thereafter, the CCR trigger price shall be 1.07 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 1.

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

<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>
<u>\$10.25</u>	<u>\$10.51</u>	<u>\$10.77</u>	<u>\$13.00</u>	<u>\$13.91</u>	<u>\$14.88</u>	<u>\$15.92</u>	<u>\$17.03</u>	<u>\$18.22</u>	<u>\$19.50</u>	<u>\$20.87</u>	<u>\$22.33</u>	<u>\$23.89</u>

- O. Current Market Price.** “Current Market Price” means the volume-weighted average of (1) transaction prices reported to the Department or its agent, (2) prices as reported publicly through reputable sources, (3) CO<sub>2</sub> allowance award price(s) from preceding CO<sub>2</sub> Allowance Auctions, or (4) any combination of these options.
- P. Efficiency Maine Trust.** “Efficiency Maine Trust” means the trust established by the Efficiency Maine Trust Act, 35-A M.R.S.A §-10103 that is authorized to receive revenue resulting from the sale of CO<sub>2</sub> allowances, deposit those allowances in the Regional Greenhouse Gas Initiative Trust Fund and expend that revenue in accordance with 35-A M.R.S.A §10109.
- Q. General account.** “General account” means a CO<sub>2</sub> allowance tracking system account, established under 06-096 CMR 156 (7), that is not a compliance account.
- R. Minimum Reserve Price or MRP.** The “Minimum Reserve Price” or “MRP” ~~means the minimum reserve price~~ in calendar year 2014 shall be \$2.00. Each calendar year thereafter, the minimum reserve price shall be 1.025 multiplied by the minimum reserve price from the previous calendar year, rounded to the nearest whole cent.
- S. Notice of CO<sub>2</sub> allowance auction or Auction Notice.** “Notice of CO<sub>2</sub> allowance auction” or “Auction Notice” means the notification prior to each CO<sub>2</sub> allowance auction that will inform potential bidders of the date, time and location of the auction.
- T. Participating state.** “Participating state” means a state that has established a corresponding regulation as part of the CO<sub>2</sub> Budget Trading Program.
- U. Reserve price.** “Reserve Price” means the minimum acceptable price for each CO<sub>2</sub> allowance in a specific auction. The reserve price at an auction is either the minimum reserve price or the CCR trigger price, as specified in CO<sub>2</sub> Budget Trading Program, 06-096 CMR 156(2)(G).
- V. Regional Greenhouse Gas Initiative or RGGI.** “Regional Greenhouse Gas Initiative” or “RGGI” means the ongoing cooperative effort by the states of Maine, New Hampshire, Vermont, Connecticut, New Jersey, New York, Massachusetts, Rhode Island, Maryland and Delaware and such others states as may in the future become a part of the program to design and implement, using each state’s individual sovereign authority, a regional CO<sub>2</sub> cap-and-trade program covering CO<sub>2</sub> emissions from CO<sub>2</sub> budget units in the signatory states.
- W. Regional Greenhouse Gas Initiative Trust Fund.** “Regional Greenhouse Gas Initiative Trust Fund” means the non-lapsing fund established by The Efficiency Maine Trust Act 35-A M.R.S.A §-10109(2) and administered by the Efficiency Maine Trust to support the goals and implementation of the CO<sub>2</sub> Budget Trading Program, into which revenue resulting from the sale of CO<sub>2</sub> allowances shall be deposited.
- X. Uniform-price, sealed-bid auction.** “Uniform-price, sealed-bid auction” means a single round sealed-bid auction in which bidders may submit multiple bids at different prices; the price paid by all awarded bidders with the highest bid for the available allowances is equal to the highest rejected bid.

### 3. CO<sub>2</sub> Allowance Auction Provisions

#### A. The Consumer Benefit Account

- (1) The Department will establish and administer the Consumer Benefit Account in accordance with CO<sub>2</sub> Budget Trading Program 06-096 CMR 156 (2)(F). -
- (2) CO<sub>2</sub> allowances allocated to the State will be held in the Consumer Benefit Account and made available for sale in CO<sub>2</sub> allowance auctions as described in this Chapter.
- (3) The proceeds from the auctions of Maine's CO<sub>2</sub> allowances will be received by the Efficiency Maine Trust and deposited into the Regional Greenhouse Gas Initiative Trust Fund, in accordance with 35-A M.R.S.A §10109(2).

#### B. Implementation and administration of CO<sub>2</sub> Allowance Auctions

- (1) The Department or its agent will conduct auctions to sell CO<sub>2</sub> allowances allocated into the Consumer Benefit Account, pursuant to this Chapter.
- (2) The Department will design, implement and administer CO<sub>2</sub> Allowance Auctions, or contract for these services, in accordance with the objectives identified in CO<sub>2</sub> Budget Trading Program, 06-096 CMR 156, this Chapter, and as provided by law.
- (3) The Department or its agent intends to conduct or participate in any of the following, or a combination thereof:
  - (a) a multi-state CO<sub>2</sub> allowance auction or auctions;
  - (b) an auction or auctions coordinated with one or more participating states; or
  - (c) a Maine state auction.
- (4) The Department or its agent intends to hold auctions at least annually; auctions may be held as often as practical and necessary to effectuate the objectives of the CO<sub>2</sub> Budget Trading Program, at the Department or its agent's discretion.
- (5) Prior to the end of each control period, CO<sub>2</sub> allowances in a quantity equal to the number of CO<sub>2</sub> allowances allocated to the Consumer Benefit Account for such control period will be made available for sale. ~~The Department or its agent may also make available for sale CO<sub>2</sub> allowances for future control periods.~~
- (6) Prior to any auction, the Department or its agent may set a binding reserve price to be accepted for CO<sub>2</sub> allowances in such auction. The reserve price will be disclosed to prospective bidders prior to the auction.
- (7) Any CO<sub>2</sub> allowances left unsold in any auction may be made available for sale in a subsequent auction or auctions, in quantities and in a manner determined by the Department or its agent.

- (8) In conducting CO<sub>2</sub> allowance auctions, the Department or its agent may employ any of the following auction formats, or an auction format consisting of any or all of the components thereof:
- (a) Uniform-price sealed-bid; or
  - (b) Ascending price, multiple-round.
- (9) Notice of Auctions
- (a) A notice of CO<sub>2</sub> allowance auction (“notice”) will be published on the CO<sub>2</sub> Allowance Auction Website or the Department website at least 45 days prior to the date upon which each auction ~~may~~ will be conducted. Such notices may be transmitted electronically to parties requesting such notification.
  - (b) Each notice will provide a specific description of the auction format for each auction, including all auction participation requirements, and will include but not be limited to the following information:
    - (i) date and time of the auction;
    - (ii) location and/or electronic address of auction;
    - (iii) number and vintage of CO<sub>2</sub> allowances to be auctioned;
    - (iv) bid format;
    - (v) pre-qualification instructions and application form or electronic address of on-line application form;
    - (vi) the terms and conditions that will govern auction transactions;
    - (vii) other pertinent rules of the auction; and
    - (viii) identification of a Department Contact Person.

### **C. Participation Eligibility and Requirements**

- (1) The auction or auctions will be open to participation by all individuals or entities that meet the financial requirements of this subsection.
- (2) Any party wishing to participate in a CO<sub>2</sub> Allowance Auction shall first:
  - (a) open and maintain a compliance or general account in Maine or any other participating state pursuant to the provisions in CO<sub>2</sub> Budget Trading Program 06-096 CMR 156 or comparable regulations in another participating state;
  - (b) submit a completed application to the Department or its agent in the format and manner provided in the notice ~~to the Department or its agent~~ on or before the application deadline ~~date~~ specified in the notice of CO<sub>2</sub> allowance auction; and

- (i) Application information and forms will be made available electronically on the CO<sub>2</sub> allowance auction website or the Department website. As part of the application, ~~bidders~~ an applicant shall provide information and documentation, as specified in the application, relating to ~~bidder's~~ the applicant's ability and authority to execute bids and honor contractual obligations. Information and documentation sought in the application may include but may not necessarily be limited to:
- (A) information and documentation regarding the corporate identity, ownership, and capital structure of the bidder;
- (B) declaration of any beneficial interest of any allowance that may be acquired through the auction;
- (C) the identification of any indictment or felony conviction of the bidder, corporate officers, directors, principals or partners of the applicant-; or
- (D) the identification of any previous or pending investigation with respect to any alleged violation of any rule, regulation or law associated with any commodity market or exchange.

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*NOTE: All information and data submitted in an application will be governed by the provisions of the Freedom of Access ~~Law~~ Act, Title 1 M.R.S. Section 4040 et seq., as amended. If an applicant believes its application contains information exempt from the definition of "public records," 1 M.R.S. § 402(3), it should put the Department on notice as to that claim by conspicuously marking such documents as "claimed confidential." The Department will handle such documents in accordance with its standard operating procedures governing potentially confidential records under the Freedom of Access ~~Act~~ law.*

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- (ii) Failure to provide any information required by the application form may result in its being returned as incomplete. ~~Prospective~~ Any prospective bidders whose applications ~~have been~~ is determined to be incomplete will be given a reasonable opportunity, ~~and~~ in no event less than 10 business days, to provide additional information ~~and~~ to cure ~~such~~ any deficiencies.
- (iii) Prospective bidders that qualify for participation under this subsection will be qualified for all subsequent CO<sub>2</sub> allowance auctions, and may bid in such auctions, provided that such party has complied with the financial security requirements of this subsection. The Department or its agent may require applicants previously found qualified to update and re-file applications on an annual basis, or other timeframe as deemed appropriate by the Department.
- (iv) ~~Prior~~ In order to participate in any CO<sub>2</sub> allowance auction, prior to each that CO<sub>2</sub> allowance auction, a prospective bidder that has qualified under this subsection must notify the Department or its agent of its intent to participate in the upcoming auction. This notification shall include either a signed statement that there has been no change to the information provided in the bidder's application, or a revised application if changes have occurred.

- (v) The Department or its agent may suspend or revoke its approval of an application if the bidder fails to comply with this Chapter and/or the provisions of CO<sub>2</sub> Budget Trading Program, 06-096 CMR 156. A decision under this subsection is final agency action.
- (c) provide financial security in the form of a bond, cash, ~~in the form of a wire transfer or~~ certified funds, or an irrevocable ~~stand-by~~ letter of credit, ~~in a form acceptable to the Department or its agent.~~
  - (i) Bids in any auction may be limited to the level of financial security provided by the bidder.
  - (ii) Financial security may be forfeited to and retained by the Department or its agent in the event the bidder's offer is accepted in a CO<sub>2</sub> allowance auction and the bidder fails to tender payment of the full amount when due.
  - (iii) Bidders may request return of their financial security at any time prior to or following any CO<sub>2</sub> allowance auction, and the Department or its agent shall return said financial security provided that the Department or its agent has no current or pending claim to such security as a result of a failure of the bidder to comply with these regulations or to pay the full amount of its accepted bid when due.
- (d) If the Department or its agent determines that a bidder has provided false or misleading information, or has withheld pertinent information in its application, or has otherwise failed to comply with any material provision of this Chapter, the bidder may be prohibited from participating in any future CO<sub>2</sub> allowance auctions. A decision under this subsection is a final agency action.
- (e) Any applicant or bidder that has been found to have violated any rule, regulation, or law associated with any commodity market or exchange may be precluded from participation in CO<sub>2</sub> allowance auctions. A decision under this subsection is a final agency action.

#### **D. Auction Bids and Transfer of Allowances**

- (1) All bids shall be in a form prescribed by the Department or its agent, which shall be made available electronically on the CO<sub>2</sub> Allowance Auction Website, as appropriate. All bids submitted will be considered binding offers for the purchase of allowances under the rules of the auction.
- (2) No bidder or combination of bidders that have related beneficial interests may bid on more than 25% of the allowances available for sale in any given auction.
- (3) Successful bidders must submit payment in full to the Department or its agent in accordance with the deadline specified in each Auction Notice.
- (4) Upon receipt of payment the Department or its agent shall transfer or have transferred the corresponding CO<sub>2</sub> allowances to the successful bidder's compliance or general account in accordance with CO<sub>2</sub> Budget Trading Program, 06-096 CMR 156 (8)(B) and (C).

- (5) Within 10 days of the auction certification the Department or its agent shall publish the auction clearing price and the total number of allowances sold in such auction on the CO<sub>2</sub> Allowance Auction Website.

STATUTORY AUTHORITY: 38 M.R.S.A §§ 585-A, 580, 580-A, 580-B, and 580-C

EFFECTIVE DATE:

July 22, 2008 – filing 2008-318

AMENDED:

November 26, 2013 – filing 2013-291