

HEARING REPORT

September 30, 2013

**Prepared pursuant to section 4-168(d), and section 22a-200c of the Connecticut General Statutes
regarding the Control of Carbon Dioxide Emissions**

**Hearing Officer:
Peggy Diaz
Bureau of Energy and Technology Policy**

**Hearing Dates:
August 14, 2013
&
September 24, 2013**

SUMMARY OF PROCEEDING AND WRITTEN COMMENTS

On July 15, 2013, Katherine S. Dykes the Deputy Commissioner of Energy for the Department of Energy and Environmental Protection (“Department” or “DEEP”) published a notice of intent to amend section 22a-174-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”) known as the Control of Carbon Dioxide Emissions. Subsequently, the Commissioner of the Department published a second notice of intent to amend section 22a-174-31 of the RCSA on August 29, 2013.¹ These regulations are being amended under the authority of section 4-168 and section 22a-200c of the Connecticut General Statutes (“C.G.S.”). Pursuant to such notices, a public hearing was held on August 14, 2013 at the New Britain offices of the Department, 10 Franklin Square from 10:30 a.m. to 11:15 a.m. and until all the oral comments had been heard. To ensure that all interested parties were afforded the opportunity to provide comment, a second public hearing was held on September 24, 2013 at the New Britain offices of the Department, 10 Franklin Square from 1:00 p.m. to 1:07 p.m., until all the oral comments had been heard. Nine individuals provided oral comment at the August 19th hearing and one individual provided oral comment at the September 24th hearing. The public comment period extended in accordance with the 2nd notice of intent, for the proposed amended regulations, closed on September 30, 2013 at 4:00 p.m. One hundred and sixty-six written comment letters were received.

I. Hearing Report Content

As required by section 4-168(d) of the C.G.S. this report describes the proposed amended regulations, identifies principal reasons in support of and in opposition to the proposal, and summarizes and responds to all comments on the proposed amended regulations. The comments are grouped by regulation section, by subject matter, and are summarized and paraphrased to capture the substance of the comments. The proposed amended regulations are provided in Appendix I. A final version of the amended regulations with four revisions recommended in this report is provided in Appendix II.

II. Statement of Purpose

Section 22a-200c of the C.G.S. requires the Department to adopt regulations to implement the Regional Greenhouse Gas Initiative (“RGGI”), a regional Carbon Dioxide (CO₂) emissions cap and trade program between Connecticut and eight other Northeast and Mid-Atlantic states. The program is a market-based solution to reducing CO₂ emissions from the electricity generating sector. Section 22a-174-31 of the R.C.S.A. implements Connecticut’s share of the regional program as required by Section 22a-200c of the C.G.S. Pursuant to section 22a-174-31 of the R.C.S.A., Connecticut’s subject electric generators must obtain sufficient CO₂ allowances, which are initially offered in regional auctions, to equal their CO₂ emissions during each compliance period. In accordance with Section 22a-200c(b) of the C.G.S. and section 22a-174-31 of the R.C.S.A., proceeds from the auction of Connecticut’s CO₂ allowances are invested in energy conservation, load management, and the development of sources of renewable energy in Connecticut through the Conservation and Load Management Plan and through the programs of the Clean Energy Finance and Investment Authority.

¹ The Notice of Intent to Amend Regulations was noticed twice to reach all interested persons that these regulations were being amended. The Department realized its oversight that some parties and the committees of cognizance within the General Assembly were not notified, as required by law and as such were not afforded the opportunity to provide their views on the proposed regulations. The second notice did solicit one further written comment and one oral comment at its September 24, 2013 hearing.

The proposed amendments reflect the conclusions of an intensive program review of RGGI conducted by the participating states and stakeholders in accordance with the original RGGI Memorandum of Understanding (MOU) signed on December 20, 2005. Based upon that program review, the RGGI states agreed to reduce future regional CO₂ allowance budgets and the states' allocations under each budget to more closely align with current CO₂ emissions within the region and drive continued reductions in CO₂ emissions from the electricity generating sector.

In accordance with sections 22a-6, 22a-174, 22a-200 and 22a-200c of the C.G.S., the proposed amendments to section 22a-174-31 of the R.C.S.A. reduce Connecticut's future CO₂ allowance budgets consistent with the commitments made by the RGGI states during program review. The amendments authorize the Commissioner to retire unsold/undistributed CO₂ allowances from prior years. The amendments establish cost containment mechanisms to mitigate allowance price increases due to unforeseen circumstances and limit the impacts of compliance costs to Connecticut's electric ratepayers. Finally, the amendments continue to invest proceeds from the auction of Connecticut's CO₂ allowances in energy conservation, load management, and renewable energy sources; however until July 1, 2015 the Clean Energy Finance and Investment Authority (CEFIA) would receive funding for energy conservation initiatives in accordance with Public Act 13-247.

III. Summary of Comments

The comments received by the Hearing Officer were generally in favor of the vast majority of the proposed amendments. Some of the comments contained recommended modifications to the proposed amendments to improve and further the goals of the program. There were four comments that opposed the design of the program and sought substantive modifications to the proposed amended regulations. Comments are more specifically addressed below.

A. Comments in Support

1. General Comments

The Department received twelve letters from individuals generally praising the success of the program thus far, and thanking Connecticut for its leadership in CO₂ emissions reductions and participation in RGGI. The Department also received twenty-four letters from members of the Appalachian Mountain Club (AMC) and 113 letters from individual submitters through Environment Northeast's web portal in support of DEEP's efforts to continue the work of RGGI. The letters also mention that the reinvestment of the revenue raised as a result of RGGI auctions of allowances be used for energy efficiency and local clean energy projects and not allowed to be shifted away to address other budget shortfalls or short-term programs. Environment Northeast made an additional comments in support of the RGGI program's tightened cap as a guidance tool for the US Environmental Protection Agency's (EPA) new rules for existing power plants the federal agency recently announced under its authority pursuant to the Clean Air Act, Section 111(d).

DEEP Response:

The Department thanks these individuals for their thoughtful comments and for taking the time to provide comments to the Department. The Department looks forward to participating in the rule – making process underway at EPA to further the goals of lowering emissions of greenhouse gases. No changes are required by these comments.

2. Section 22a-174-31(a)(77) Definition of Renewable Energy

Environment Connecticut commented in opposition to the proposed change to the definition of “Renewable Energy” in proposed subdivision (77) of Subsection (a). The commenter pointed out that there is no explicit definition of “renewable energy in Section 16-1 of the Connecticut General Statutes.

DEEP Response:

The Department agrees with the confusion presented in the language above and will make the following change for clarity since renewable energy is not defined separately in the statutes, rather it is incorporated into the definition 16-1(a)(26) of “Class 1 renewable energy source”. The Department is hesitant to substitute a definition which may conflict with the legislature’s understanding of renewable energy sources as delineated under the Class I definition. Nor does the Department want to mislead the public that the sources listed under Class II and Class III would be subject to allowances under this program. The language should be consistent with the current law’s scope of resources that qualify as a Class 1 renewable energy source. Also, by referencing the definition under 16-1(a)(26) of the C.G.S., the Department will not need to amend its regulation every time the legislature changes the definition of a renewable resource under Class I. Therefore, the regulation will be refined to incorporate the definition of a Class I renewable energy resource as prescribed pursuant to 16-1(a)(26) of the C.G.S.

3. Section 22a-174-31(f)(1) CO₂ Allowance Allocations – The Connecticut CO₂ Trading Program Base Budget

Several commenters including Environment Northeast, the Clean Energy Council, Connecticut Fund for the Environment, Clean Water Action, Environment Connecticut and the Sierra Club commented regarding the proposed determination of the Connecticut CO₂ Trading Program Base Budgets for 2014 through 2020. According to commenters, the proposed methodology differs from the prior methodology and results in less of a reduction in CO₂ emissions over time. Reducing each year’s base budget by 2.5% from the previous year’s base budget will not deliver the same benefits as reducing the each year’s base budget by 2.5% from the base budget for 2014. The commenters argue that over time, indexing to the previous year’s base budget will provide decreasing emissions reductions. RGGI will deliver a 59% reduction in emissions by 2050, as opposed to a 90% reduction with a fixed 2.5% reduction from the 2014 base budget.

DEEP Response:

The Department finds that the proposed methodology does in fact differ from how the base budgets were determined under the existing section 22a-174-31 of the R.C.S.A. for 2014-2020. However, the proposed methodology is consistent with the RGGI program review process and resultant model rule effort undertaken by Connecticut and the other eight RGGI states. Furthermore, the methodology is consistent with the calculation of base budgets for the eight other RGGI states and the determination of the regional CO₂ emission caps for calendar years 2014-2020. DEEP notes that the RGGI states

will conduct further program review in 2016 and encourages stakeholders to raise this issue for further consideration during that program review. Therefore, no change is required and the proposed amendment will remain as written.

4. Section 22a-174-31(f)(4)(A) Proposed elimination of the Voluntary Clean Energy Purchase Set-aside Account and reduction of the Customer-Side Distributed Resource

Several commenters including Environment Northeast, the Clean Energy Council, Clean Water Action, Environment Connecticut, Renewable Energy Markets Association, Connecticut Fund for the Environment, New England Energy Council, Renewable Energy Markets Association (REMA), Sierra Club, Sterling Planet and Center for Resource Solutions commented in opposition to the elimination of the 1.5% set-aside Voluntary Clean Energy Purchase Set-aside Account.

The commenters assert that the retirement of CO₂ allowances in efforts to reduce annual CO₂ emissions is a primary factor in the 24,000 Connecticut consumers' decisions to pay a premium for electricity under the Clean Energy Options program and similar programs that sell renewable energy to Connecticut electricity consumers. Commenters further state that similar set-aside accounts were retained in proposed regulatory revisions by other RGGI states pertaining to the auction of allowances.

The Connecticut Industrial Energy Consumers ("CIEC") commented on the proposed reduction in CO₂ allowances allocated to the Customer-Side Distributed Resource (CDR) set aside account and the Combined Heat and Power (CHP) Useful Thermal energy set-aside accounts CIEC asserts that CDR and CHP units should be either exempt from the rule or allocated sufficient allowances to cover their emissions with some margin for development of new units. According to CIEC the potential for CDR and CHP units to have to buy allowances provides a disincentive to further development of CDR and CHP units in the state.

DEEP Response:

The Department recognizes that the retirement of CO₂ allowances in proportion to qualifying clean energy purchases by Connecticut consumers supports Connecticut's efforts to satisfy the greenhouse gas reduction targets set forth in Section 22a-200a of the C. G. S. Therefore, the Department accepts the above noted proponents' arguments and proposes to continue the Voluntary Clean Energy Purchase set-aside account. The Department will reinstate the language to effectuate this change. The change has been made to subsection (4)(A) of subdivision (f) as well as to other conforming sections to further reinstate this provision. (See, DEEP response under No. 7). The Department notes that the total number of allowances allocated to and retired from the set-aside account would be lower than in prior years due to the reduced Connecticut Trading Program Base Budgets proposed in the amended regulation.

Regarding the comments submitted by CIEC, the Department finds that the proposed CDR and CHP set-aside account allocations for 2014 provide sufficient allowances based on historic distributions from these set-aside accounts and CO₂ emissions from eligible sources that are subject to regulation under Section 22a-174-31 of the R.C.S.A. A large share of the population of CDR and CHP units

that operate within the State are too small to trigger applicability of R.C.S.A. Section 22a-174-31 and therefore are not subject to compliance and monitoring costs of the rule. Thus, the rule does not serve as a disincentive for the majority of CDR and CHP units in the State. Finally, under the existing provisions of Section 22a-174-31 of the R.C.S.A., the amount of CO₂ allowances that could be allocated to various set-aside accounts would begin declining in 2014 as a result of the declining base budgets. Therefore, the proposed amendment will remain as written.

5. Section 22a-174-31(f)(6) Distribution of Auction Proceeds

Several commenters including Northeast Energy Efficiency Partnership, Environment Northeast, the Clean Energy Council, Environment Connecticut, New England Energy Council and the Sierra Club agreed that the proposed amendments allowed for prudent use of allowance auction proceeds to support Connecticut's energy efficiency programs through the State's Conservation and Load Management (C&LM) plans and through the Clean Energy Fund. Furthermore, these commenters agreed with the Department's proposed provisions to temporarily reallocate allowance proceeds in subsection (f)(6)(C) in response to the State's recent reallocation of funds from CEFIA to the General Fund. The above commenters also proposed that they would work with DEEP to restore the \$25.4M in funds taken from CEFIA in the State's 2014-2015 biennial budget in the next legislative session and that the language of subdivision (6) of subsection (f) of the proposed amendments be sufficiently flexible to encompass a change should any legislative efforts to this effect be successful.

DEEP Response:

The Department agrees with the comments in support of how allowance proceeds have furthered the State's goals with respect to energy efficiency and promotion of renewable energy resources. The Department also thanks the organizations and individuals who propose to work in the next legislative session towards restoring CEFIA's funds. The Department does not believe a change in the proposed amendment is necessary at this time.

6. Section 22a-174-31(f)(6) Distribution of Auction Proceeds

The Town of Wallingford submitted substantive comment regarding the fact that the Wallingford Electric Division (WED) is separating from CMEEC. According to WED, effective January 1, 2014, WED will transition from an all requirements wholesale customer of CMEEC to an ISO-New England Market participant. Consequently, CMEEC will no longer provide retail electric power or conservation and load management services to WED rate payers. WED shall be responsible for providing retail electric power and conservation and load management services to its rate payers. WED further asserts that WED receives 35.822% of the 6.25% of energy efficiency funding from auction proceeds currently distributed to CMEEC in accordance with Section 22a-174-31 of the RCSA. Consequently, WED proposes that beginning January 1, 2014, 2.24% of energy efficiency funding from auction proceeds should be transferred to WED and 4.01% of funding should be transferred to CMEEC. WED comments propose to subject WED to the same reporting requirements as CMEEC as a condition of funding.

Connecticut Municipal Electric Energy Cooperative (CMEEC) noted inconsistencies in the amended provisions regarding reporting dates for CMEEC to submit an annual report to the Commissioner of DEEP. CMEEC also provides language to address the distribution of proceeds to WED and the reporting requirements that WED will need to satisfy once it is no longer a member of CMEEC.

DEEP Response:

The Department proposes to modify the language of the amendment to be consistent with the comments provided by CMEEC and WED regarding the distribution of proceeds to WED and CMEEC, the implementation of an annual reporting requirement as a condition of WED receiving its share of proceeds, and the clarification of the due date for WED's and CMEEC's annual reports. The modified language provides the Commissioner the ability to withhold the transfer of proceeds unless the applicable reporting requirement is fulfilled. This change has been accepted and is incorporated into the final revision of the regulations.

7. Section 22a-174-31(f)(7)(A) and (B) Retirement of Unsold/Undistributed Allowances

Several commenters including Environment Northeast, the New England Clean Energy Council, Clean Water Action, Environment Connecticut, and Sterling Planet commented regarding proposed language allowing the Commissioner to retire unsold and undistributed allowances. The comments state that requiring the DEEP commissioner to retire unsold and undistributed allowances is an important hedge against future over-supply that could undermine RGGI's effectiveness. Pursuant to the proposed language in subdivisions (7), subparagraphs (A) and (B) of subsection (f), the Commissioner may retire unsold and undistributed allowances. The commenters propose language construction that compels the Commissioner to retire the unsold/undistributed allowances. Some commenters propose language that makes such retirements occur automatically by a date certain.

DEEP Response:

The Department has initiated these proposed amendments in conjunction with the RGGI program review. The work of the RGGI states in drafting the amended model rule for RGGI incorporated this similar provision to allow for retirement of unsold and undistributed allowances. While the Department believes the point made by several commenters is plausible, given that the model rule determined that "may" serves the overall intent of the model rule and that our sister states including Massachusetts² and Maine's³ version of their proposed amendments also use the model rule version with "may" in similar provisions addressing retirement of allowances. The Department prefers to be consistent with the model rule and does not believe these comments require a change in this provision.

The Department notes that further changes to this section are required to incorporate the above comment regarding the Voluntary Set-aside Account and that these two provisions have been renumbered in the proposed final amendment as subparagraphs (G) and (H) of subdivision (7) of subsection (f). The renumbering is necessary in order to accomplish the reinstatement of the Voluntary Clean Energy Purchase Set-Aside account as described above.

² Available at: <http://www.mass.gov/eea/docs/dep/service/regulations/proposed/770reg13.pdf>

³ Available at: <http://www.maine.gov/tools/whatsnew/attach.php?id=587979&an=2>

8. Section 22a-174-31(j) Rate Payer Relief

The Connecticut Industrial Energy Consumers (CIEC) commented in support of the goals of RGGI to increase energy efficiency and reduce greenhouse gas emissions but opposed the proposed changes to subsection (j) of Section 22a-174-31, entitled *Rate Payer Relief*. CIEC asserts that the proposed annual cost based ratepayer relief triggers and the cost containment reserve trigger prices proposed in subsection (f) are structured in such a way to allow rate payer costs to rise annually due to increasing allowance prices that are greater than five dollar (\$5.00), without ever triggering the ratepayer relief provision. CIEC favors the existing, provisions which are triggered whenever the cost of CO₂ allowances exceeds five dollar (\$5.00).

DEEP Response:

The Department thanks CIEC for its general support of the ratepayer relief provision and the use of auction proceeds as mentioned above and in accordance with C.G.S. 22a-200c. However, the Department notes that it is not possible to know the cost of allowances in the future or even the annual cost of allowances over a 1-year period. Consequently, neither the Department nor CIEC can predict with certainty whether the proposed ratepayer relief provisions will be triggered. The existing program has a \$5.00 trigger price which exposes ratepayers to more than \$50M per year (indexed for inflation) in costs associated with the program. The proposed revisions remove the \$5 trigger price, but limit the ratepayers' exposure to \$35M per year (indexed for inflation) in costs associated with the program. Furthermore, the proposed revisions specify the manner in which the PURA will return these proceeds to rate payers.

Therefore, the only change the Department will consider in order to reiterate the Department's objective in this provision to invest the proceeds on behalf of the benefit of Connecticut electric ratepayers, is to add a reference to C.G.S. section 22a-200c. No other change is required.

B. Comments in Opposition

1. General Comments

The Connecticut Business and Industry Association (CBIA), NRG Energy, and Woodard & Curran all stated comments that the Department should not proceed with these amended regulations without further modifications. Several of the comments that disagreed with provisions of the regulation argued that the program raises costs for consumers, is a tax on generators, is overly burdensome and discriminatory to in-state generators. It should be noted that only one of the four comments opposed the promulgation of the amended regulations altogether. Many of these commenters, while suggesting a variety of changes to the proposed amended regulations, nonetheless supported the Department's efforts to address the threat of climate change and recognized the progress in advancing energy efficiency with the use of the RGGI allowance auction proceeds.

DEEP Response:

The Department thanks the above commenters for their thoughtful comments. The Department recognizes that while CO₂ allowance costs will exert some direct upward pressure on electricity

prices, any price impacts are expected to be minor due to the significant investment in energy efficiency throughout the RGGI region that will occur at a higher rate as a result of the tighter cap imposed by the proposed amended regulations.

Moreover, the DEEP is required pursuant to Section 22a-200a of the C. G. S., to reduce CO₂ emissions to 90% of 1990 emissions levels by 2020. Participation in RGGI as mandated by Section 22a-200c of the C.G.S. is a centerpiece in Connecticut's Climate Change Action Plan to ensure compliance with Section 22a-200a of the C.G.S. In order to achieve the required level of emissions reductions, additional CO₂ reductions from the electricity generating sector, the sector responsible for the 2nd largest share of overall CO₂ emissions in the state, are necessary.

The proposed amendments provide a market-based solution to obtain additional emissions reductions from the electricity generating sector in a timeframe that is consistent with mandates to reduce total emissions set forth in Section 22a-200a of the C.G.S. The proposed amendments are a cost effective alternative to traditional "command and control" policies that dictate emission standards and often require the installation of expensive emissions control equipment. Current estimates of annualized costs to control CO₂ emissions using conventional emissions control equipment are as high as \$100/tons of CO₂ per year.⁴ The clearing price of CO₂ allowances in past auctions has never exceeded \$3.25 per ton of CO₂ emissions. Therefore, no change is required as the result of this comment.

2. Section 22a-174-31(f) Program Design Flaws – Transparency, Market Participants, Regional Cap, "leakage" and cost impacts

CBIA and Woodard & Curran both raise the issue of non-regulated participants in the RGGI market and believe the cost impact to businesses as a result of this program are not what the State should be supporting at this time. CBIA further comments that it would have liked a more transparent process and recommends that DEEP take a more active role in model rule program review to mitigate the cost impacts of the RGGI program by, for example, limiting participation in the auctions where allowances are sold only to the electric generators who require them for RGGI compliance. CBIA and Woodard & Curran note that currently, speculators can participate in the auctions and thereby unnecessarily drive up the cost of allowances. CBIA, Woodard & Curran and NRG Energy all raised concerns of further legislative sweeps of the allowance proceeds for matters unrelated to energy efficiency and the promotion of renewable resources.

NRG Energy opines that the RGGI program is fundamentally unfair and prejudicial to electric power providers in the RGGI states. NRG Energy argues that the higher allowance prices produced by reducing the CO₂ allowance cap from 165 million tons to 91 million tons will cause generators in non-RGGI states to become more cost competitive in the regional wholesale markets relative to generators in the RGGI states. Consequently, electric generators that are not subject to RGGI will begin to displace RGGI generators in the wholesale electric marketplace. This displacement could lead to increased emissions of CO₂ and other air pollutants in non-RGGI states as these generators increase output to meet the additional demand for cheaper electric power in the RGGI states. This "leakage" of emissions of CO₂ and other pollutants would frustrate the ultimate goals of RGGI to reduce CO₂ emissions from the power generation sector. NRG Energy reasons that none of these negative, unintended

⁴ *Avoided Energy Supply Costs in New England: 2013 Report*, Synapse Energy Economics, Inc. (Section 4.3.2).

consequences would result if the RGGI states took significant steps to support private investment in clean generation sources. NRG Energy suggests modifications to the rules to address their concerns by creating more programs and financial incentives for replacing fossil-fuel plants with cleaner and renewable sources. They also prefer restructuring the cap and the cost containment reserve trigger to allow for more stable and moderate RGGI allowance prices and reducing or eliminating leakage problems. NRG Energy, CBIA and Woodard & Curran stress that Connecticut should wait for a federal program to address the issues of climate change.

DEEP Response:

Connecticut, in collaboration with the eight other RGGI states has been working with the RGGI program review and stakeholders since 2012 in an open and transparent process. The RGGI program review has convened over twelve stakeholder meetings, webinars and learning sessions in the region. The program review has sought to continue the goal of effectively reducing CO₂ emissions while providing benefits to consumers and the region and to address the surplus of allowances relative to actual emission levels in the region. This has been a thoughtful and comprehensive process, which has allowed for open participation from stakeholders. The Department has been fully engaged and maintains its commitment to participate in any and all program reviews of the model rule.

Regarding speculators in the market, the Department notes that allowing open participation in the market for allowances was intended to facilitate better price signals for all generators to adequately consider the costs and supply of allowances in planning investments and upgrades to their facilities to reduce CO₂ emissions and compliance costs. Furthermore, the Department notes that RGGI utilizes a market monitor to review market behavior and to indicate whether the market is free from manipulation by any bidders.⁵ Moreover, precluding speculators from participating in auctions does not preclude their ability to participate in secondary markets. That said, Connecticut has raised this issue with the RGGI states and has received assurances that any such behavior will be closely scrutinized. Therefore, no change is required.

The Department is extremely cognizant of the impact to ratepayer costs and has responded to this concern above and refers the Committee to its previous response. Notwithstanding the above, the Department reiterates that it proposes an amendment of the ratepayer exposure in subsection (j) of C.G.S. Section 22a-174-31, entitled *Rate Payer Relief* to thirty-five million dollars (\$35M) per year regardless of allowance price. The Department cannot emphasize enough the benefits and value added to our state not only in cleaner air but also economic benefits due to Connecticut's participation in the RGGI program. To date, over eighty million dollars (\$80M) in proceeds have flowed to Connecticut and 92.5%⁶ of that has been reinvested in the state's energy and efficiency programs, the Clean Energy Fund and is projected to yield over the next ten years two-hundred and ninety-four million (\$294M) in net value to the Connecticut economy. This increase in growth is expected to generate two-thousand and thirty-six (2,036) job years of employment across the State economy (each job year represents one fulltime job for one year).⁷ It has also been projected that the proposed amendments to the program are expected to produce two-hundred and twenty-five million dollars (\$225M) in proceeds through 2020 for Connecticut. Those proceeds will lead to an

⁵ The RGGI Market Monitor's reports are available at: http://www.rggi.org/market/market_monitor

⁶ The Department notes that the remainder of 7.5% of the allowance proceeds is authorized for agency administrative purposes related to the program.

⁷ Source "Economic Benefits of RGGI", June 2013, Environment Northeast http://www.env-ne.org/public/resources/ENE_RGGI_Economic_Benefits_20130607.pdf

investment in energy efficiency and the development of renewable energy which are projected to add **\$823M** in net value to the Connecticut economy.

Furthermore, Connecticut has had the largest decline in electric rates in the region since 2010.⁸ We know this is the result of many factors that have occurred over the past couple of years including the decrease in natural gas prices, greater flexibility in state energy procurement practices and improved planning with cohesive energy policymaking in the state to name a few. It is true that the expected bill impact to the state's Commercial and Industrial customers as a result of the tighter cap is expected to increase in the range of .7% to 1.1 %. However, the resultant investment in energy efficiency and the development of renewable energy sources offers the opportunity to further reduce emissions of CO₂ and to add value to the Connecticut economy. In its comments supporting the proposed amendments, CEFIA has indicated that it intends to deploy allowance auction proceeds in its Commercial-Property Assessed Clean Energy Program (C-PACE), a program that offers commercial and industrial facilities the opportunity to pursue significant reductions in energy use and energy costs. Additionally, the C&LM Plan states that allowance auction proceeds will be allocated to programs that improve the energy efficiency of manufacturing facilities (e.g. its Process Reengineering for Increase Manufacturing Efficiency a.k.a PRIME). As such, the Department will not further amend the regulations based on these comments.

With respect to comments regarding the legislature's reallocation of funds away from energy efficiency programs to achieve a balanced biennial state budget, the Department notes that it is constitutionally subordinate to the actions of the legislature in these matters. The Department fully intends for all auction proceeds to be deployed as set forth in subdivision (6) of subsection (f) of the proposed amendments. Additionally, the Department must clarify that funds were not reallocated from the RGGI account in order to balance the biennial budget. Several commenters note is that funds were transferred from CEFIA into the General Fund.⁹ The proposed amendments would allow the Department to distribute any proceeds in excess of the amounts budgeted under the Conservation and Load Management Plan to CEFIA in accordance with Public Act 13-247. All such distributions to CEFIA under subdivision (6) of subsection (f) of the proposed amendments must be deployed towards energy efficiency programs, and CEFIA has indicated it will do so through its C-PACE program, a program designed to assist commercial facilities achieve substantial savings through energy efficiency upgrades. Consequently, the legislature's actions to balance the budget do not seem to reduce or impact the benefits of RGGI. Therefore, no changes are required in response to the comments of CBIA and Woodard and Curran.

In response to NRG Energy's comments, DEEP notes that Section 22a-200c of the C.G.S. requires the Department to adopt regulations to implement RGGI, a regional CO₂ emissions cap and trade program between Connecticut and eight other Northeast and Mid-Atlantic states. Section 22a-174-31 of the R.C.S.A. implements Connecticut's share of the regional program as required by Section 22a-200c of the C.G.S. The proposed amendments reflect the conclusions of an intensive and transparent program review of RGGI conducted by the participating states and stakeholders in accordance with the RGGI Memorandum of Understanding (MOU) which the RGGI states entered into in 2005.¹⁰ Based upon that program review, the RGGI states agreed to reduce

⁸ Connecticut average Commercial and Industrial rates have experienced a 12% drop since Jan. 2010. Source, US Energy Information Administration (EIA).

⁹ See Section 378 of Public Act 13-247, <http://www.cga.ct.gov/2013/ACT/pa/pdf/2013PA-00247-R00HB-06706-PA.pdf> and Section 106 of Public Act 13-184 <http://www.cga.ct.gov/2013/ACT/pa/pdf/2013PA-00184-R00HB-06704-PA.pdf>

¹⁰ RGGI Inc. posts on its website all material used and developed during its program review at: http://www.rggi.org/design/program_review

future regional CO₂ allowance budgets and the states' allocations under each budget to more closely align with current CO₂ emissions within the region and drive continued reductions in CO₂ emissions from the electricity generating sector.

DEEP reiterates that the program is a market-based solution to reducing CO₂ emissions from the electricity generating sector and not a tax on generators. The goal of the market-based emissions cap and trade program is to allow sources to pursue cost-effective means of minimizing emissions. This can only be done when the price of an allowance reflects its true market value relative to the cost of installing and operating emissions control equipment to reduce emissions. Thus, an open market auction provides the best indicator of true market value.

Contrary to NRG Energy's claims, the proposed amendments facilitate the competitive deployment of cleaner electric generation and reductions in CO₂ emissions by: 1) investing allowance auction proceeds in the development of Class 1 renewable energy sources; and 2) causing subject facilities to consider the cost effectiveness of taking steps to reduce the CO₂ emissions from their facilities relative to the cost of purchasing and using CO₂ allowances. The Department is not persuaded by NRG that the economic and environmental impacts of reducing the Connecticut CO₂ Trading Program Base Budgets as proposed, will necessarily lead to higher electric rates in the region or undermine the intent of the program. Given the substantial surplus of CO₂ allowances that currently exist in the marketplace relative to recent annual CO₂ emissions from subject facilities, the continued investment of auction proceeds in energy efficiency and the deployment of renewable energy sources that will positively impact electricity demand and reduce emissions, the Department rejects NRG's concerns as unsupported. In addition, the RGGI states have committed to further program review in 2016 to evaluate the impacts of the proposed amendments and correct any program flaws the RGGI states believe are a result of the program.

The proposed CO₂ Trading Program Base Budgets and cost containment trigger prices in subsection (f) of the proposed amendments are consistent with proposals moving forward in all of the other RGGI states. Deviating from the proposed amendments would hinder Connecticut's ability to achieve the required reductions in greenhouse gas emissions set forth in C.G. S. Section 22a-200a and provide for benefits to electric ratepayers as required by C.G.S. section 22a-200c. Therefore, no change is required in response to this comment.

A result of the program review conducted by Connecticut and the other RGGI states was a commitment to work collaboratively, with the help of the respective ISO's, to identify and evaluate potential imports tracking tools and conduct further modeling to ascertain energy and price implications of any potential policy on emissions associated with imported electricity. Connecticut and the other RGGI states are actively pursuing that commitment.¹¹ The Department notes that further study is required to more accurately understand what the affect is on our transmission and market dispatch for the transfer of power in neighboring non-RGGI states. Notwithstanding the fact that our transmission system constrains the region's ability to import power in general and that the three states that border Connecticut are also participants in the RGGI cap and trade program, DEEP understands and shares the concern with respect to leakage and the equitable and environmental issues raised by NRG Energy in its comments. The Department is committed to further understanding the issues involved with "leakage" and investigating potential energy price impacts in

¹¹ The RGGI states have released a 2009 and 2010 monitoring report on CO₂ Emissions from electricity generation and imports in RGGI. The report found no increase in CO₂ emissions from non-RGGI electric generation serving electricity demand in the RGGI region for the first two years of the program. Reports are available at: <http://www.rggi.org/documents>

the RGGI region. While no language changes will result from this comment, the Department is leading this discussion with other RGGI states, continues to monitor this issue and is pursuing additional legal work necessary, to achieve a workable, practicable, and legal mechanism to address emissions associated with imported electricity.

Lastly, with respect to the comments on waiting for a federal program, the Department is encouraged by President Obama's recent announcement this summer on climate change initiatives and looks forward to a coordinated effort on the federal level to address climate change. The Department is mandated to cooperate with the federal government in interest related to the protection of the state's natural resources in accordance with sections 22a-22 and 22a-200d of the C.G.S. In addition, pursuant to 22a-200a(d) of the C.G.S., the Department is required to, one year prior to the effective date of any federally mandated greenhouse gas cap and trade program, report on the difference between programs to the committees of cognizance before the General Assembly, and on the steps necessary for it to achieve consistency with a federal program. The Department is committed to encouraging the EPA to construct applicable CO₂ emissions standards and guidelines with flexible compliance options that allow Connecticut to take full advantage of the progress it has made in increasing energy efficiency and deploying sources of clean energy. As a stakeholder, Connecticut will advocate strongly for emissions standards and guidelines that are environmentally protective and have as little impact on Connecticut's economy as possible.

The Department recognizes that the timeframe for adopting and implementing a federal program is lengthy. Delay in pursuing additional CO₂ reductions from the electricity generating sector, in accordance with Connecticut's statutory mandate to adopt regulations to implement RGGI, would hinder Connecticut's ability to achieve the greenhouse gas emission reductions required by section 22a-200a of the C.G.S. Furthermore, inaction is not an option while the federal government continues in a state of gridlock and as our region continues to be bombarded by ice-storms, hurricanes and superstorms that further create a drag on our economy, stagnate businesses and devastate not only our residents' homes but also their lives.

Therefore, no change is required by the above comments and the current language will remain.

VI. Conclusion

Based upon the comments addressed in this Hearing Report, I recommend the proposed regulations be revised as recommended herein and that the final amended regulations, included in Appendix III to this report, be submitted by the Commissioner for approval by the Attorney General and the Legislative Regulations Review Committee and upon adoption, be submitted to the Secretary of State's Office for release on its website.

/s/ Peggy Diaz
Peggy Diaz
Hearing Officer

October 1, 2013
Date

APPENDIX I

Section 1. Section 22a-174-31 of the Regulations of Connecticut State Agencies is amended as follows:

- (a) **Definitions and Abbreviations.** Except as otherwise provided, for the purposes of [this section] Section 22a-174-31(a) to 22a-174-31(k), inclusive and section 22a-174-31a of the Regulations of Connecticut State Agencies:
- (1) “Account number” means the identification number given by the commissioner to each CO₂ Allowance Tracking System account.
 - (2) “Acid rain emissions limitation” means “Acid Rain emissions limitation”, as defined in 40 CFR 72.2, regarding emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.
 - (3) “Acid Rain Program” means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established by the Administrator under Title IV of the federal Clean Air Act and 40 CFR 72 to 78, inclusive.
 - (4) “Administrator” means “Administrator” as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.
 - (5) “Allocate” or “allocation” means the determination by the commissioner of the number of CO₂ allowances to be recorded in the compliance account of a CO₂ budget source, the Connecticut Auction account, an allocation set-aside account, the general account of the sponsor of an approved CO₂ emissions offset project or an account established by any other person.
 - (6) “Allocation year” means a calendar year for which the commissioner allocates CO₂ allowances pursuant to subsection (f) of this section. The allocation year of each CO₂ allowance is reflected in the unique identification number given to the allowance pursuant to subsection [(g)(4)(I)](g)(4)(E) of this section.
 - (7) “Allowance auction” or “auction” means:
 - (A) The open and transparent process by which the commissioner or a contractor or trustee selected by the commissioner, shall offer for sale the CO₂ allowances in the Connecticut Auction Account at least once per year; or
 - (B) To offer CO₂ allowances in the Connecticut Auction Account for sale in an open transparent process conducted by the commissioner or a contractor or trustee selected by the commissioner.
 - [(7)] (8) “Attribute” means a characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, source vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted for, and tracked.
 - [(8)](9) “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 subsection (i) of this section, 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 subsection (i) of this section.

- [(9)](10) “Award” means an allocation through which the commissioner determines the number of CO₂ allowances to be recorded in the compliance account of a CO₂ budget unit for early reduction CO₂ allowances pursuant to subsection (f)(6) of this section, or the commissioner determines the number of CO₂ offset allowances to be recorded in the general account of a project sponsor pursuant to section 22a-174-31a of the Regulations of Connecticut State Agencies.
- [(10)](11) “Billing meter” means the measurement device used to measure electric or thermal output for commercial billing under a contract where the facility selling the electric or thermal output has different owners from the owners of the party purchasing the electric or thermal output.
- [(11)](12) “Boiler” means a fossil or other fuel-fired device that produces steam or heats water or any other heat transfer medium.
- [(12)](13) “Btu” means British Thermal Unit, a standard measurement used to quantify an amount of energy.
- [(13)](14) "Class I renewable energy source" means "Class I renewable energy source" as defined in section 16-1(a) of the Connecticut General Statutes.
- [(14)](15) “CO₂” means carbon dioxide.
- (16) “Cost containment reserve trigger price” or “CCR trigger price” means the minimum price at which CO₂ CCR allowances are offered for sale at auction.
- [(15)](17) “CO₂ allowance” means a limited authorization by the commissioner or a participating state under the CO₂ Budget Trading Program to emit up to one ton of CO₂, subject to all the applicable conditions contained in this section.
- [(16)](18) “CO₂ allowance deduction” or “deduct CO₂ allowances” means the permanent withdrawal of CO₂ allowances by the commissioner from a CO₂ Allowance Tracking System compliance account.
- [(17)](19) “CO₂ allowances held” or “hold CO₂ allowances” means the CO₂ allowances recorded by the commissioner, or submitted to the commissioner, in accordance with subsections (g) and (h) of this section, in a CO₂ Allowance Tracking System account.
- [(18)] “CO₂ allowance price” means the price for CO₂ allowances across all participating states for a particular month as determined by the commissioner, calculated based on a volume-weighted average of transaction prices reported to the commissioner, and taking into account publicly reported prices.]
- [(19)](20) “CO₂ Allowance Tracking System” or “COATS” means the system by which the commissioner records allocations, deductions, and transfers of CO₂ allowances under

the CO₂ Budget Trading Program under this section, the system used to track CO₂ offset allowance projects under section 22a-174-31a of the Regulations of Connecticut State Agencies, and the system used to track [CO₂ allowance prices and] emissions from affected sources.

- [(20)](21) “CO₂ Allowance Tracking System account” means an account in the CO₂ Allowance Tracking System established by the commissioner for purposes of recording the allocating, holding, transferring, or deducting of CO₂ allowances.
- [(21)](22) “CO₂ allowance transfer deadline” means midnight of 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.
- [(22)](23) “CO₂ authorized account representative” means the individual who is authorized by the owners or operators of the source and all CO₂ budget sources at the source, in accordance with subsection (c) of this section, to represent and legally bind each owner or operator in matters pertaining to the CO₂ Budget Trading Program or, for a general account, the individual who is authorized, in accordance with subsection (g) of this section, to transfer or otherwise dispose of CO₂ allowances held in the general account.
- [(23)](24) “CO₂ budget emissions limitation” means the tonnage equivalent, in CO₂ emissions in a control period or an interim control period, of the CO₂ allowances available for compliance deduction for the CO₂ budget source for a control period or an interim control period.
- [(24)](25) “CO₂ budget source” means a facility that includes one or more CO₂ budget units.
- [(25)](26) “CO₂ Budget Trading Program” means the multi-state CO₂ air pollution control and emissions reduction program established pursuant to this section and corresponding regulations in other states as a means of reducing emissions of CO₂ from CO₂ budget sources.
- [(26)](27) “CO₂ budget unit” means an emissions unit that is subject to the CO₂ Budget Trading Program requirements under subsection (b) of this section.
- (28) “CO₂ cost containment reserve allowance” or “CO₂ CCR allowance” means a CO₂ allowance that is offered for sale at auction in accordance with subdivision (5)(D) of subsection (f) of this section.
- [(27)](29) “CO₂ equivalent” means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP).
- [(28)](30) “CO₂ offset allowance” means a CO₂ allowance that is awarded to the sponsor of a CO₂ emissions offset project pursuant to section 22a-174-31a of the Regulations of Connecticut State Agencies and is subject to the relevant compliance deduction limitations of this section.
- [(29)](31) “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.

- [(30)](32) “Combined Heat and Power” or “CHP” means "Combined heat and power system" as defined in section 22a-174-22c of the Regulations of Connecticut State Agencies.
- [(31)] “Combined Heat and Power Long-term PPA Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are offered for sale pursuant to subsection (f)(4) of this section.]
- [(32)](33) “Combined Heat and Power Useful Thermal Energy Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection (f)(3) of this section.
- [(33)](34) “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 turbine.
- [(34)](35) “Commence commercial operation” means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation provided that:
- (A) If the unit is a CO₂ budget unit on the date it commences commercial operation and such unit is subsequently modified, reconstructed or repowered, the date on which the CO₂ budget unit commences commercial operation shall remain the unit's date of commencement of commercial operation; and
 - (B) If the unit is not a CO₂ budget unit on the date it commences commercial operation, the date the unit becomes a CO₂ budget unit for the purposes of this section shall be the unit's date of commencement of commercial operation.
- [(35)](36) “Commence operation” means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber provided that:
- (A) If the unit is a CO₂ budget unit on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered; and
 - (B) If the unit is not a CO₂ budget unit on the date of commencement of operation, the date the unit becomes a CO₂ budget unit shall be the unit's date of commencement of operation.
- [(36)](37) “Commissioner” means “commissioner” as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.
- [(37)](38) “Compliance account” means a CO₂ Allowance Tracking System account, established by the commissioner for a CO₂ budget source under subsection (g) of this section, in which the CO₂ allowance allocations for the source are initially recorded and in which are held CO₂ allowances available for use by the source for a control period and each

interim control period for the purpose of meeting the requirements of subsection (b)(3) of this section.

[(38)](39) “Connecticut Auction Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection (f) of this section.

[(39)](40) “[Connecticut] Clean Energy Fund” or [“CCEF”] “CEF” means the fund created by section 16-245n of the Connecticut General Statutes to address Connecticut’s increasing energy needs and any individual authorized to act on behalf of such fund.

[(40)](41) “Connecticut CO₂ Allowance Retirement Account” means a general account established by the commissioner to hold CO₂ allowances that have been permanently retired.

(42) “Connecticut Budget Trading Program adjusted budget” means the adjusted budget, which is determined in accordance with subsection (f) of this section, of CO₂ tons available in Connecticut for allocation for each allocation year. CO₂ offset allowances allocated to project sponsors and CO₂ CCR allowances offered for sale at an auction are separate from and additional to CO₂ allowances allocated for the budget trading program adjusted budget.

[(41)](43) “Connecticut CO₂ Trading Program Base Budget” means the annual amount of CO₂ tons available in Connecticut for allocation in a given allocation year, in accordance with the CO₂ Budget Trading Program. CO₂ CCR allowances and CO₂ offset allowances allocated to project sponsors are separate from and additional to CO₂ allowances allocated from the Connecticut CO₂ Trading Program Base Budget.

[(42)] “Consumer Price Index” or “CPI” means the United States Department of Labor, Bureau of Labor Statistics, unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate. The CPI for any calendar year is the twelve-month average of the CPI published by the United States Department of Labor, as of the close of the twelve-month period ending on August thirty-first of each calendar year.]

[(43)](44) “Continuous emissions monitoring system” or “CEMS” means the equipment required under subsection (i) of this section to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system, a permanent record of stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration as applicable, in a manner consistent with 40 CFR 75 and subsection (i) of this section.

[(44)](45) “Control period” means a three calendar-year period[, unless extended by the commissioner to four years upon occurrence of a Stage Two Trigger Event.] commencing on January 1, 2009. Each subsequent sequential three calendar year period is a separate control period.

- [(45)](46) “Customer-side distributed resources” or “CDR” means “customer-side distributed resources” as defined in Section 16-1(a)(40) of the Connecticut General Statutes.
- [(46)](47) “Customer-side Distributed Resources (CDR) Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection [(f)(3)](f)(4) of this section.
- [(47)](48) “Eligible biomass” means sustainably harvested, as determined by the commissioner, woody and herbaceous fuel sources that are available on a renewable or recurring basis, excluding old-growth timber, but including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes and biogas. [“]Eligible biomass[”] does not include liquid biofuels.
- [(48)](49) [“Energy Conservation Management Board”] “Energy Efficiency Board” or [“ECMB”] “EEB” means the group convened by the commissioner [Department of Public Utility Control] pursuant to section 16-245m of the Connecticut General Statutes for the purpose of advising and assisting electric distribution companies in the development and implementation of cost-effective energy conservation programs and market transformation initiatives.
- [(49)](50) “Excess emissions” means any tonnage of CO₂ emitted by a CO₂ budget source during a control period that exceeds the CO₂ budget emissions limitation for the source.
- (51) “Excess interim emissions” means any tonnage of CO₂ emitted by a CO₂ budget source during an interim control period multiplied by 0.50 that exceeds the CO₂ budget emissions limitation for the source.
- [(50)](52) “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material, except that fossil fuel does not include tire-derived fuel.
- (53) “First control period interim adjustment for banked allowances” means an adjustment applied to Connecticut’s CO₂ Trading Program Base Budget pursuant to subsection (f) of this section for Connecticut’s proportional share of the regional surplus CO₂ allowances from allocation years 2009, 2010, and 2011.
- [(51)](54) “Fossil fuel-fired” means, with regard to an emissions unit that commenced operation prior to January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than fifty percent of the annual heat input on a Btu basis during any year, or, with respect to an emissions unit that commences operation on or after January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than five percent of the annual heat input on a Btu basis during any year.
- [(52)](55) “General account” means a CO₂ Allowance Tracking System account, established under subsection (g) of this section, which is not a compliance account.

- [(53)](56) “Global warming potential” or “GWP” means a measure consistent with the values used in the Intergovernmental Panel on Climate Change (IPCC), Third Assessment Report of the radiative efficiency or heat-absorbing ability, of a particular gas relative to that of CO₂ after taking into account the decay rate of each gas, the amount removed from the atmosphere over a given number of years, relative to that of CO₂.
- [(54)](57) “Gross generation” means the electrical output in MWe at the terminals of the generator.
- (58) “Interim control period” means a one calendar year time period, during each of the first and second calendar years of each three year control period. The first interim control period starts on January 1, 2015 and ends on December 31, 2015, inclusive. The second interim control period starts on January 1, 2016 and ends on December 31, 2016, inclusive. Each successive three year control period will have two interim control periods, comprised of each of the first two calendar years of that control period.
- [(55)](59) “H₂O” means water.
- [(56)](60) “Heat input” means the gross calorific value of all fuels combusted by a CO₂ budget unit.
- [(57)] “Hr” means hour.]
- [(58)](61) “Lb” means pound.
- [(59)] “Life-of-the-unit contractual arrangement” means a power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of the participating unit’s nameplate capacity and energy associated therewith while agreeing to pay the proportional amount of such unit's total costs for either:
- (A) The economic useful life of the unit,
 - (B) A cumulative term of no less than 25 years, including agreements that permit an election for early termination, or
 - (C) A period equal to or greater than 20 years or seventy percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.
- (60) “Long-term Power Purchase Agreement” or “Long-term PPA” means an agreement, executed prior to January 1, 2000, between a CO₂ budget source and a purchasing party to sell power from the CO₂ budget source for a period of 20 or more years.
- (61) “Market settling period” means the first fourteen months of any control period.

- (62) “Maximum design heat input” means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.]
- [(63)](62) “Maximum potential hourly heat input” means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input calculated in accordance with 40 CFR 75.
- [(64)](63) “Monitoring system” means any monitoring system that meets the requirements of subsection (i) of this section, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.
- [(65)](64) “MMBtu” means million Btu of heat input.
- [(66)](65) “MWe” means megawatt electrical.
- [(67)](66) “MWh” means megawatt-hour.
- [(68)](67) “Nameplate capacity” means the maximum electrical output in MWe that an electric generating unit can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy Standards.
- [(69)](68) “Non-CO₂ budget unit” means a unit that does not meet the applicability criteria of subsection (b) of this section.
- [(70)](69) “NO_x” means oxides of nitrogen.
- [(71)](70) “O₂” mean oxygen.
- [(72)](71) “Operator” means any person who operates, controls, or supervises a CO₂ budget unit or a CO₂ budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.
- [(73)](72) “Owner” means any of the following persons:
- (A) Any holder of any portion of the legal or equitable title in a CO₂ budget unit;
 - (B) Any holder of a leasehold interest in a CO₂ budget unit, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO₂ budget unit;
 - (C) Any purchaser of power from a CO₂ budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit; or
 - (D) With respect to any general account, any person who has an ownership interest in the CO₂ allowances held in the general account and who is subject to the

binding agreement for the CO₂ authorized account representative to represent that person's ownership interest with respect to the CO₂ allowances.

- [(74)](73) “Participating state” means a state that has established a regulation implementing a CO₂ Budget Trading Program consistent with the Regional Greenhouse Gas Initiative model rule.
- [(75)](74) “Receive” or “receipt of” means, when referring to the commissioner, to come into possession of a document, information, or correspondence, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the commissioner in the regular course of business.
- [76)](75) “Recordation”, “record” or “recorded” means, with regard to CO₂ allowances, the movement of CO₂ allowances by the commissioner from one CO₂ Allowance Tracking System account to another, for purposes of allocation, transfer or deduction.
- [(77)](76) “Regional Independent System Operator” or “Regional ISO” means “regional independent system operator” as defined in section 16-1 of the Connecticut General Statutes.
- [(78)](77) “Renewable energy” means [electricity generated from eligible biomass, wind, solar thermal, photovoltaic, geothermal, hydroelectric facilities certified by the Low Impact Hydropower Institute, wave and tidal action, and fuel cells powered by renewable fuels”] “renewable energy” as defined in section 16-1 of the Connecticut General Statutes.
- [(79)] “Renewable Energy Certificate” or “REC” means a certificate that represents the attributes related to one megawatt-hour of electricity generation.]
- (78) “Second control period interim adjustment for banked allowances” means an adjustment applied to Connecticut’s CO₂ Trading Program Base Budget pursuant to subsection (f) of this section to compensate for Connecticut’s proportional share of regional surplus CO₂ allowances from allocation years 2012 and 2013.
- [(80)](79) “Serial number” means, when referring to CO₂ allowances, the unique identification number assigned to each CO₂ allowance by the commissioner.
- [(81)](80) “SO₂” means sulfur dioxide.
- [(82)](81) “Source” means “source” as defined in section [22a-174-1(101)] 22a-174-1 of the Regulations of Connecticut State Agencies, provided that a source with multiple units, is a single facility.
- [(83)] “Stage one threshold price” means the product, in dollars, resulting from the multiplication of seven dollars by an annual adjustment factor, where the annual adjustment factor is determined as follows:

Annual adjustment factor = 1 + {[CPI (year) – CPI (2005)] / CPI (2005)}, where:

- (A) CPI means, for purposes of the CO₂ Budget Trading Program, the United States Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for all items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate;
- (B) CPI (year) means the CPI for all urban consumers calculated in August of the previous calendar year in which the adjustment is made; and
- (C) CPI (2005) means the CPI for all urban consumers for the month of August 2005. The CPI (2005) is 196.4 (with 1982-84=100). Beginning in the month for which a new reference base is established, CPI (2005) will be the CPI value for August 2005 on the new reference base.

- (84) “Stage two threshold price” means the product, in dollars, resulting from the multiplication of ten dollars by an annual adjustment factor, where the annual adjustment factor is determined as follows:

Annual adjustment factor = $1.02 + \{[CPI(\text{year}) - CPI(2005)] / CPI(2005)\}$, where:

- (A) CPI means, for purposes of the CO₂ Budget Trading Program, the United States Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate;
- (B) CPI (year) means the CPI for all urban consumers for August of the year in which the adjustment is made; and
- (C) CPI (2005) means the CPI for all urban consumers for the month of August 2005. The CPI (2005) is 196.4 (with 1982-84=100). Beginning in the month for which a new reference base is established, CPI (2005) will be the CPI value for August 2005 on the new reference base.

- (85) “Stage One Trigger Event” means any complete twelve month period following the market settling period during which average CO₂ allowance prices are equal to or greater than the stage one threshold price.

- (86) “Stage Two Trigger Event” means any complete twelve month period following the market settling period during which average CO₂ allowance prices are equal to or greater than the stage two threshold price.]

- [(87)](82) “State” means, notwithstanding the definition set forth in section [22a-174-1(104)]22a-174-1(109) of the Regulations of Connecticut State Agencies, any state of the United States of America, the District of Columbia, and the following territories of the United States: the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.

- [(87)](83) “Submit” means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation either in person, by United States Postal Service, or by other means of dispatch or transmission and delivery.
- [(89)](84) “Ton” or “short ton” means a measure of weight equal to two thousand pounds or 0.9072 metric tons.
- [(90)] “Twelve month period” means a period of twelve consecutive months determined on a rolling basis beginning January 1, 2009. On and after February 1, 2009, a new twelve month period shall begin on the first day of each subsequent calendar month.]
- [(91)](85) “Unit” means a fossil fuel-fired stationary boiler, combustion turbine or combined cycle system.
- [(92)](86) “Unit operating day” means a calendar day in which a unit combusts any fuel.
- (87) “Undistributed CO₂ allowances” means allowances originally allocated to a set aside account pursuant to subsection (f) of this section that were not utilized for the purpose of such set aside account.
- (88) “Unsold CO₂ allowances” means CO₂ allowances that have been made available for sale in an auction but not sold.
- [(93)](89) “Useful net thermal energy” means the energy output of thermal energy used for heating, cooling, industrial processes or other beneficial uses.
- [(94)] “Voluntary clean energy purchase” means electricity from renewable energy generation or renewable energy attribute credits representing such renewable energy generation, purchased by a retail electricity customer on a voluntary basis, provided that purchases used to meet any regulatory mandate, such as a renewable portfolio standard, shall not be a voluntary renewable energy purchase.
- (95) “Voluntary Clean Energy Purchase Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection (f)(3) of this section.]

(b) Applicability and General Provisions

- (1) **Applicability.** Any unit that, at any time on or after January 1, 2000, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe shall be a CO₂ budget source, and any owner or operator of such source that includes one or more such units shall be the owner or operator of a CO₂ budget source subject to the requirements of this section.
- (2) **Monitoring.** In order to determine compliance with the CO₂ requirements of subdivision (3) of this subsection, the owner or operator of a CO₂ budget source subject to this section shall comply with the applicable monitoring requirements set forth in subsection (i) of this section. The commissioner shall determine compliance with subdivision (3) of this subsection using

the emissions measurements recorded and reported in accordance with subsection (i) of this section.

(3) General Provisions and CO₂ Requirements.

- (A) The owners and operators of each CO₂ budget source shall hold CO₂ allowances available for compliance deductions under subsection (g)(5) of this section, not later than the CO₂ allowance transfer deadline at the end of each interim control period and control period for the applicable control period, in the source's compliance account in an amount equal to or greater than the total CO₂ emissions for the applicable control period from all CO₂ budget sources at the source, as determined in accordance with subsections (g) and (i) of this section. In addition:
- (i) A CO₂ allowance shall not be deducted to cover emissions for a control period that ends prior to the year for which the CO₂ allowance was allocated; and
- (ii) A CO₂ offset allowance shall not be deducted to cover emissions beyond the applicable percent limitations set forth in subsection (g)(5)(B) of this section;
- (B) A CO₂ budget source shall be subject to the requirements under subsection (c)(1) of this section starting on January 1, 2009 or the date on which the source commences operation, whichever is later;
- (C) CO₂ allowances shall be held in, deducted from, or transferred among CO₂ Allowance Tracking System accounts in accordance with subsections (f), (g) and (h) of this section and section 22a-174-31a(j) of the Regulations of Connecticut State Agencies;
- (D) A CO₂ allowance under the CO₂ Budget Trading Program is a limited authorization by the commissioner or a participating state to emit one ton of CO₂ in accordance with the CO₂ Budget Trading Program;
- (E) A CO₂ allowance under the CO₂ Budget Trading Program does not constitute a property right;
- (F) For the purpose of determining compliance with [the] subparagraph (A) of this subdivision, total CO₂ emissions, in tons, for [a] each applicable interim control period or 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 subsection (i) of this section, 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; [and]
- (G) Each ton of CO₂ emitted in excess of the CO₂ budget emissions limitation shall constitute a separate violation of this section[.]; and
- (H) Each ton of excess interim emissions shall constitute a separate violation of this section.

- [(4)] Control period. The first control period is from January 1, 2009 to December 31, 2011, inclusive, provided if a Stage Two Trigger Event occurs during the first control period, then the first control period shall be extended one year to December 31, 2012, inclusive. Each subsequent sequential three calendar year period is a separate control period that may be subject to a single one year extension upon occurrence of a Stage Two Trigger Event during the control period.]
- [(5)](4) Excess emissions. The owner and operator of a CO₂ budget source that has excess emissions in any control period or excess interim emissions for any interim control period shall after such control period on a time frame established by the commissioner:
- (A) Forfeit the CO₂ allowances required for deduction under subsection (g)(5)(G) of this section;
 - (B) Not be authorized to cover any part of such excess emissions with CO₂ offset allowances under section 22a-174-31a of the Regulations of Connecticut State Agencies; and
 - (C) Comply with the assessment of any fine, penalty or other obligation under subsection (g)(5)(G) of this section, provided that such assessment shall not limit additional enforcement action by the commissioner.
- [(6)](5) Recordkeeping and reporting. The owner and operator of a CO₂ budget source shall comply with the following recordkeeping and reporting requirements:
- (A) Unless otherwise provided or extended by the commissioner prior to the end of the applicable ten year period, the owner or operator of a CO₂ budget source and each CO₂ budget unit at the source shall make and keep at the source each of the following documents for a period of ten years from the date the document is created:
 - (i) Notwithstanding the provisions of subparagraph (A) of this subdivision, the account certificate of representation for the CO₂ authorized account representative for the source and each CO₂ budget unit at the source and all documents that demonstrate the truthfulness and accuracy of the statements made in the account certificate of representation, in accordance with subsection (c)(4) of this section, shall be retained on site at the source indefinitely until such documents are superseded by the submission of a new account certificate of representation changing the CO₂ authorized account representative;
 - (ii) All emissions monitoring information in accordance with subsection (i) of this section;
 - (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CO₂ Budget Trading Program; and
 - (iv) Copies of all documents used to complete any submission under the CO₂ Budget Trading Program or to demonstrate compliance with the requirements of the CO₂ Budget Trading Program.

- (B) The CO₂ authorized account representative of a CO₂ budget source shall submit the reports and compliance certifications required under the CO₂ Budget Trading Program, including those required under subsection (e) of this section.

[(7)](6) Liability. The owner and operator of a CO₂ budget source shall be subject to the following:

- (A) Any provision of the CO₂ Budget Trading Program that applies to a CO₂ budget source, or the CO₂ authorized account representative of a CO₂ budget source, shall also apply to the owner or operator of such source; and
- (B) Any provision of the CO₂ Budget Trading Program that applies to a CO₂ budget unit, or the CO₂ authorized account representative of a CO₂ budget unit, shall also apply to the owner or operator of such unit.

[(8)](7) Effect on other authorities. No provision of the CO₂ Budget Trading Program shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget source from compliance with the provision of any other applicable state or federal law or regulation.

[(9)](8) Computation of time. Notwithstanding section 22a-3a-2(d) of the Regulations of Connecticut State Agencies and unless otherwise stated, the owner or operator of a CO₂ budget source shall be subject to the following computation of time requirements:

- (A) Any time period scheduled, under the CO₂ Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs;
- (B) Any time period scheduled, under the CO₂ Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs; and
- (C) If the final day of any time period, under the CO₂ Budget Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

Table 31-1
Incorporated Reference Material

Citation	Title or Subject	Date on Document
40 CFR 75 including Appendices A, B, D & E	Part 75-Continuous Emission Monitoring, Appendix A Specification and Test Procedures, Appendix B Quality Assurance and Quality Control Procedures Fired and Oil-Fired Units Appendix E Optional NO_x Emissions Estimation Protocol For Gas-Fired Peaking Units and Oil-Fired Peaking Units.	[July 2007] <u>May 2012</u> Edition
	New York State Renewable Portfolio Standard Biomass Guidebook, Appendix B	May 2006

[(10)](9) Copies of documents incorporated by reference into this section are available by contacting:

Connecticut Department of Energy and Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, Connecticut 06106
[(860) 424-3027]www.ct.gov/deep

(c) **CO₂ Authorized Account Representative for CO₂ Budget Sources**

- (1) With respect to the CO₂ authorized account representative, the owner or operator of each CO₂ budget source subject to this section shall comply with the following:
- (A) Except as provided under subdivision (3)(B) of this subsection, each CO₂ budget source, including all CO₂ budget units at the source, shall have only one CO₂ authorized account representative, with regard to all matters under the CO₂ Budget Trading Program concerning such source;
 - (B) The CO₂ authorized account representative of the CO₂ budget source shall be selected by an agreement binding on the owners or operators of the source;
 - (C) The owner or operator of each CO₂ budget source shall:
 - (i) Be legally bound by any decision or order issued to the CO₂ authorized account representative by the commissioner or a court regarding the source; and
 - (ii) Be legally bound by any representations, including any actions, inactions or submissions, by the CO₂ authorized account representative;
 - (D) No CO₂ Allowance Tracking System account shall be established for a CO₂ budget unit at a source, until the commissioner has received a complete account certificate of representation under subdivision (4) of this subsection for a CO₂ authorized account representative;
 - (E) Each submission under the CO₂ Budget Trading Program shall be submitted, signed, and certified by the CO₂ authorized account representative for each CO₂ budget source on behalf of which the submission is made, and shall:
 - (i) Include the following certification statement by the CO₂ authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget sources or CO₂ budget [sources] 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."; and

- (ii) Be made, signed and certified in accordance with subsection (e)(1) of this section. Otherwise the commissioner shall not accept or act on a submission made on behalf of owners or operators of a CO₂ budget source; and
 - (F) If the CO₂ budget source is also subject to section 22a-174-22c of the Regulations of Connecticut State Agencies or the Acid Rain Program, the CO₂ authorized account representative shall be the same person as the designated representative under such programs.
- (2) With respect to the alternate CO₂ authorized account representative, the owner or operator of each CO₂ budget source subject to this section shall comply with the following:
 - (A) An account certificate of representation may designate only one alternate CO₂ authorized account representative who may act on behalf of the CO₂ authorized account representative. The agreement by which the alternate CO₂ authorized account representative is selected shall include a procedure for authorizing the alternate CO₂ authorized account representative to act in lieu of the CO₂ authorized account representative;
 - (B) Upon receipt by the commissioner of a complete account certificate of representation under subdivision (4) of this subsection, any representation, action, inaction, or submission by the alternate CO₂ authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CO₂ authorized account representative;
 - (C) Except in this subdivision, subdivisions (1)(A), (3) and (4) of this subsection, and subsection (g)(2) of this section, wherever the term "CO₂ authorized account representative" is used, such term shall be construed to include the alternate CO₂ authorized account representative; and
 - (D) If the CO₂ budget source is also subject to section 22a-174-22c of the Regulations of Connecticut State Agencies or the Acid Rain Program, the alternate CO₂ authorized account representative shall be the same person as the alternate designated representative under such programs.
- (3) Transfers and name changes. With respect to changing the CO₂ authorized account representative and the alternate CO₂ authorized account representative or a change in ownership or operation of a CO₂ budget source, the owner or operator of each CO₂ budget source shall comply with the following:
 - (A) Changing the CO₂ authorized account representative. The CO₂ authorized account representative may be changed at any time upon receipt by the commissioner of a superseding complete account certificate of representation under subdivision (4) of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized account representative or alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding account certificate of representation

shall be binding on the new CO₂ authorized account representative and the owner or operator of the CO₂ budget source and the CO₂ budget units at the source;

- (B) Changing the alternate CO₂ authorized account representative. The alternate CO₂ authorized account representative may be changed at any time upon receipt by the commissioner of a superseding complete account certificate of representation under subdivision (2)(B) of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized account representative or alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding account certificate of representation shall be binding on the new alternate CO₂ authorized account representative and the owner or operator of the CO₂ budget source and the CO₂ budget units at the source;
 - (C) Changes in the owners and operators. With respect to a change in ownership or control of the CO₂ budget source, the owner or operator of each CO₂ budget source shall comply with the following:
 - (i) In the event a new owner or operator of a CO₂ budget source is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the CO₂ authorized account representative and any alternate CO₂ authorized account representative of the source, and the decisions, orders, actions, and inactions of the commissioner, as if the new owner or operator were included in such list; and
 - (ii) Not later than thirty (30) days following any change in the owner or operator of a CO₂ budget source or a CO₂ budget unit, including the addition of a new owner or operator, the CO₂ authorized account representative or alternate CO₂ authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include such change.
- (4) Account certificate of representation. With respect to an account certificate of representation, the owner or operator of each CO₂ budget source shall comply with the following:
- (A) A complete account certificate of representation for a CO₂ authorized account representative or an alternate CO₂ authorized account representative shall be submitted on forms prescribed by the commissioner and shall include the following elements:
 - (i) Identification of the CO₂ budget source for which the account certificate of representation is submitted;
 - (ii) The name, address, electronic mail address, telephone number, and facsimile transmission number of the CO₂ authorized account representative and any alternate CO₂ authorized account representative;

- (iii) A list of the owners and operators of the CO₂ budget source;
 - (iv) The following certification statement by the CO₂ authorized account representative and any alternate CO₂ authorized account representative:

“I certify that I was selected as the CO₂ authorized account representative or alternate CO₂ authorized account representative, as applicable, by an agreement binding on the owners and operators of the CO₂ budget source and each CO₂ budget source at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of the owners and operators of the CO₂ Budget source and 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 commissioner or a court regarding the source.”;
 - (v) A statement that such CO₂ authorized account representative is authorized to legally bind each owner or operator of the CO₂ budget source represented by such CO₂ authorized account representative in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative and such owners or operators; and
 - (vi) The signature of the CO₂ authorized account representative and any alternate CO₂ authorized account representative and the dates signed; and
 - (B) Unless otherwise required by the commissioner, documents of agreement referred to in the account certificate of representation shall not be submitted to the commissioner. The commissioner shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
- (5) Objections to the CO₂ authorized account representative.
- (A) Once a complete account certificate of representation under subdivision (4) of this subsection has been submitted and received, the commissioner shall rely on the account certificate of representation unless and until the commissioner receives a superseding complete account certificate of representation under subdivision (4) of this subsection; and
 - (B) Except as provided in subdivision (3)(A) or (B) of this subsection, no objection or other communication submitted to the commissioner concerning the authorization, or any representation, action, inaction, or submission of the CO₂ authorized account representative shall affect any representation, action, inaction, or submission of the CO₂ authorized account representative or the finality of any decision or order by the commissioner under the CO₂ Budget Trading Program.
- (6) Delegation by CO₂ authorized account representative and alternate CO₂ authorized account representative.

- (A) A CO₂ authorized account representative may delegate, to one or more individuals, such representative's authority to make an electronic submission to the commissioner under this section;
- (B) An alternate CO₂ authorized account representative may delegate, to one or more individuals, such representative's authority to make an electronic submission to the commissioner under this section;
- (C) In order to delegate authority to make an electronic submission to the commissioner in accordance with subparagraphs (A) and (B) of this subdivision, the CO₂ authorized account representative or alternate CO₂ authorized account representative, as appropriate, shall submit to the commissioner a notice of delegation, in a format prescribed by the commissioner that includes the following elements:
 - (i) The name, address, electronic mail address, telephone number, and facsimile transmission number of such CO₂ authorized account representative or alternate CO₂ authorized account representative;
 - (ii) The name, address, electronic mail address, telephone number and facsimile transmission number of each such individual, in this section referred to as the "electronic submission agent"; and
 - (iii) For each individual, a list of the type of electronic submissions under subparagraphs (A) or (B) of this subdivision for which authority is delegated to him or her;
- (D) A notice of delegation submitted under [subsection (c)(6)(C) of this section] subparagraph (C) of this subdivision shall also include the following certification statements by such CO₂ authorized account representative or alternate CO₂ authorized account representative:
 - (i) "I agree that any electronic submission to the commissioner that is by the individual identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO₂ authorized account representative or alternate CO₂ authorized account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under section 22a-174-31(c)(6)(E) of the Regulations of Connecticut State Agencies shall be deemed to be an electronic submission by me."; and
 - (ii) "Until this notice of delegation is superseded by another notice of delegation under section 22a-174-31(c)(6)(E) of the Regulations of Connecticut State Agencies, I agree to maintain an e-mail account and to notify the commissioner immediately of any change in my e-mail address unless all delegation authority by me under section 22a-174-31(c)(6) of the Regulations of Connecticut State Agencies is terminated.";

- (E) A notice of delegation submitted pursuant to subparagraph (C) of this subdivision shall be effective, with regard to the CO₂ authorized account representative or alternate CO₂ authorized account representative identified in such notice, upon receipt of such notice by the commissioner and until receipt by the commissioner of a superseding notice of delegation by such CO₂ authorized account representative or alternate CO₂ authorized account representative as appropriate. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority; and
 - (F) Any electronic submission covered by the certification in subparagraph (D)(i) of this subdivision and made in accordance with a notice of delegation effective under subparagraph (E) of this subdivision shall be deemed to be an electronic submission by the CO₂ authorized account representative or alternate CO₂ authorized account representative submitting such notice of delegation.
- (d) Reserved**
- (e) Compliance Certification**
- (1) Compliance certification report. The owner or operator of each CO₂ budget source shall comply with the following compliance certification report requirements:
 - (A) Applicability and deadline. For each control period in which a CO₂ budget source is subject to the requirements of subsection (b)(3) of this section, the CO₂ authorized account representative of the source shall submit to the commissioner not later than March 1st immediately following [the applicable] that control period, a compliance certification report[;].
 - (B) Contents of report. The CO₂ authorized account representative shall include in the compliance certification report required under subparagraph (A) of this subdivision the following elements, on forms prescribed by, or in a format otherwise acceptable to, the commissioner:
 - (i) Identification of the source and each CO₂ budget source at the source;
 - (ii) At the CO₂ authorized account representative's option, the serial numbers of the CO₂ allowances that are to be deducted from the source's compliance account under subsection (g)(5) of this section for the control period; and
 - (iii) The compliance certification required by subparagraph (C) of this subdivision.
 - (C) Compliance certification. In the compliance certification report required under subparagraph (A) of this subdivision, the CO₂ authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO₂ budget sources in compliance with the CO₂ Budget Trading Program, whether the source and each CO₂ budget source for which the compliance certification is submitted was operated during the

calendar year covered by the report in compliance with the requirements of the CO₂ Budget Trading Program, including:

- (i) Whether the source was operated in compliance with the requirements of subsection (b)(3) of this section;
 - (ii) Whether the monitoring plan applicable to each unit at the source has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute CO₂ emissions to the unit, in accordance with subsection (i) of this section;
 - (iii) Whether all the CO₂ emissions from the units at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subsection (i) of this section. 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;
 - (iv) Whether the facts that form the basis for certification under subsection (i) of this section of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under subsection (i) of this section, if applicable, has changed; and
 - (v) If a change is required to be reported under subsection (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.
- (2) Commissioner's action on compliance certifications.
- (A) The commissioner may review and conduct independent audits concerning any compliance certification or any other submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.
 - (B) The commissioner may deduct CO₂ allowances from or transfer CO₂ allowances to a source's compliance account based on the information in the compliance certifications or other submissions, as approved during the commissioner's review under subparagraph (A) of this subdivision.

(f) CO₂ Allowance Allocations

(1) The Connecticut CO₂ Trading Program Base Budget is as follows:

- (A) For the 2009 to [2014] 2013 allocation years, inclusive, the Connecticut CO₂ Trading Program Base Budget is 10,695,036 tons;

- (B) For the [2015] 2014 allocation year, the Connecticut CO₂ Trading Program Base Budget is [10,427,660] 5,891,895 tons;
- (C) For the [2016] 2015 allocation year, the Connecticut CO₂ Trading Program Base Budget is [10,160,284] 5,744,598 tons;
- (D) For the [2017] 2016 allocation year, the Connecticut CO₂ Trading Program Base Budget is [9,892,908] 5,600,983 tons;[and]
- (E) For the [2018] 2017 allocation year and each succeeding allocation year, the Connecticut CO₂ Trading Program Base Budget is [9,625,532] 5,460,958 tons[.];
- (F) For 2018 the Connecticut CO₂ Trading Program Base Budget is 5,324,434 tons;
- (G) For 2019 the Connecticut CO₂ Trading Program Base Budget is 5,191,324 tons; and
- (H) For 2020 and each succeeding calendar year, the Connecticut CO₂ Trading Program Base Budget is 5,061,540 tons.
- (2) CO₂ Allowances available for allocation. For allocation years 2014 through 2020, the CO₂ Budget Trading Program adjusted budget shall be the maximum number of allowances available for allocation in a given allocation year, except for CO₂ offset allowances and CO₂ CCR allowances.
- (A) Cost Containment Reserve (CCR) allocation. The commissioner shall allocate CO₂ CCR allowances, separate from and additional to the Connecticut CO₂ Budget Trading Program base budget set forth in subdivision (1) of this subsection, to the Connecticut Auction Account. The CCR allocation is for the purpose of containing the cost of CO₂ allowances. The commissioner shall allocate CO₂ CCR allowances in the following manner:
- (i) The commissioner shall allocate 323,731 CO₂ CCR allowances for calendar year 2014.
- (ii) On or before January 1, 2015 and each calendar year thereafter, the commissioner shall allocate CO₂ CCR allowances in an amount equal to 647,461, less the number of CO₂ CCR allowances that remain in the Budget Trading Account at the end of the prior calendar year.
- (B) First control period interim adjustment for banked allowances. No later than March 15, 2014, the commissioner shall determine the first control period interim adjustment for banked allowances quantity for allocation years 2014 through 2020 by the following formula:

$$F_{CPIABA} = (F_{CPA}/7) \times 0.065$$

Where:

- (i) F_{CPIABA} is the first control period interim adjustment for banked allowances quantity in tons.
- (ii) F_{CPA} is the total quantity of allocation year 2009, 2010, and 2011 CO₂ allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO₂ Budget Trading Program, but not including accounts opened by participating states, as reflected in COATS on January 1, 2014.
- (iii) 0.065 is the Connecticut proportional share of the regional emissions CO₂ emissions cap calculated to the twelfth significant digit.

(C) Second control period interim adjustment for banked allowances. On March 15, 2014, the commissioner shall determine the second control period interim adjustment for banked allowances quantity for allocation years 2015 through 2020 by the following formula:

$$\underline{S_{CPIABA} = ((S_{CPA} - S_{CPE})/6) \times 0.065}$$

Where:

- (i) S_{CPIABA} is the second control period interim adjustment for banked allowances quantity in tons.
- (ii) S_{CPA} is the total quantity of allocation year 2012 and 2013 CO₂ allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO₂ Budget Trading Program, but not including accounts opened by participating states, as reflected in COATS on March 15, 2014.
- (iii) S_{CPE} is the total quantity of 2012 and 2013 emissions from all CO₂ budget sources in all participating states, reported pursuant to CO₂ Budget Trading Program as reflected in COATS on March 15, 2014.
- (iv) 0.065 is the Connecticut proportional share of the regional emissions CO₂ emissions cap calculated to the twelfth significant digit.

(D) CO₂ Budget Trading Program adjusted budget 2014. The commissioner shall determine the CO₂ Budget Trading Program adjusted budget for the 2014 allocation year by the following formula:

$$\underline{A_B = B_B - F_{CPIABA}}$$

Where:

- (i) A_B is the Connecticut CO₂ Budget Trading Program 2014 adjusted budget.
- (ii) B_B is the Connecticut CO₂ Budget Trading Program 2014 base budget.

(iii) F_{CPIABA} is the first control period interim adjustment for banked allowances quantity.

(E) Connecticut CO₂ Budget Trading Program adjusted budgets for 2015 through 2020. No later than April 15, 2014 the commissioner shall determine the CO₂ Budget Trading Program adjusted budgets for the 2015 through 2020 allocation years by the following formula:

$$A_B = B_B - (F_{CPIABA} + S_{CPIABA})$$

Where:

(i) A_B is the CO₂ Budget Trading Program adjusted budget.

(ii) B_B is the CO₂ Budget Trading Program base budget.

(iii) F_{CPIABA} is the first control period interim adjustment for banked allowances.

(iv) S_{CPIABA} is the second control interim adjustment for banked allowances.

(F) After making the calculations in subparagraphs (B) through (E) of this subdivision, the commissioner shall publish the Connecticut CO₂ Trading Program adjusted budgets for the 2014 through 2020 allocation years.

[(2)](3) Timing requirements for CO₂ allowance allocations.

[(A)] Not later than January 1, 2009, the commissioner shall determine the initial CO₂ allowance allocations, in accordance with subdivision (3) of this subsection, for the 2009, 2010, 2011 and 2012 allocation years.

[(B)] Not later than January 1, 2010 and January 1 of each year thereafter, the commissioner shall determine the initial CO₂ allowance allocations, in accordance with subdivision [(3)](4) of this subsection, for the allocation year that commences three years after such applicable deadline for allocation.

[(3)](4) CO₂ allowance allocations.

(A) In accordance with the timing provisions of subdivision [(2)](3) of this subsection, the commissioner shall allocate each annual CO₂ [base] Trading Program adjusted budget as follows:

(i) One and one-half (1.5) percent to the Voluntary Clean Energy Purchase Set-aside Account;]

[(ii)](i) Three and one-half (3.5)] One and one-half (1.5) percent to the Customer-side Distributed Resources (CDR) Set-aside Account; and

[(iii)](ii)[Five (5)] One and one half (1.5) percent to the Combined Heat and Power (CHP) Useful Thermal Energy Set-aside Account;

[(iv)] Up to thirteen (13) percent to the Combined Heat and Power (CHP) Long-term PPA Set-aside Account; and]

[(v)](iii) [A minimum seventy-seven (77)] Ninety-seven (97) percent shall be allocated to the Connecticut Auction Account;

- (B) Not later than April 1, 2009 and April 1 of each year thereafter, the commissioner shall allocate from the CHP Useful Thermal Energy Set-aside Account to the compliance account of each CO₂ budget source generating useful net thermal energy from its CO₂ budget units the number of CO₂ allowances equal to the amount determined by the following equation (rounded to the nearest whole ton), subject to the limitation in subparagraph (C) of this subdivision. CO₂ budget units that are eligible for allowances from the CDR Set-aside Account pursuant to subparagraph (O) of this subdivision shall not be eligible for allowances from the CHP Useful Thermal Output Set-aside Account;

$$\frac{\left((TEG \div 0.80) \times 136 \frac{lb}{mmBtu} \right)}{2000 \frac{lb}{ton}}$$

Where:

TEG = the average useful net thermal energy (in mmBtu) generated by CO₂ budget units at the CO₂ budget source during the two years preceding the allocation year of the allowances being allocated;

(C) IF $\Sigma A_{CHP1} \leq A_{CHP1-AV}$, THEN

$$A_{CHP1-ALLOCATED} = A_{CHP1}.$$

IF $\Sigma A_{CHP1} > A_{CHP1-AV}$, THEN

$$A_{CHP1-ALLOCATED} = A_{CHP1} \times \left(\frac{A_{CHP1-AV}}{\Sigma A_{CHP1}} \right)$$

rounded to the nearest whole allowance.

Where:

A_{CHP1} = the number of CO₂ allowances calculated for each CO₂ budget source pursuant to subparagraph (B) of this subdivision;

ΣA_{CHP1} = the total number of CO₂ allowances calculated for CO₂ budget sources pursuant to subparagraph (B) of this subdivision;

$A_{\text{CHP1-AV}}$ = the number of CO₂ allowances available for allocation from the CHP Useful Thermal Output Set-aside Account;

$A_{\text{CHP1-ALLOCATED}}$ = the number of CO₂ allowances the commissioner shall allocate to the compliance account of each CO₂ budget source;

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $A_{\text{CHP1-AV}}$;

- (D) If $\Sigma A_{\text{CHP1}} < A_{\text{CHP1-AV}}$, allowances from the CHP Useful Thermal Output Set-aside Account not allocated for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision (4) of this subsection;
- (E) Not later than March 1, 2009 and March 1 of each year thereafter, CO₂ budget sources shall submit, on forms prescribed by the commissioner, information required for the equation specified in subparagraph (B) of this subdivision relating amount of useful net thermal energy generated by CO₂ budget units at the CO₂ budget source during the two years preceding the allocation year of the allowances being allocated. Such information shall be submitted to the commissioner as part of the annual output report required pursuant to subsection (i)(9)(J)(ii) of this section;
- [(F) Subject to the requirements set forth in subparagraphs (G) to (M), inclusive, of this subdivision, on three separate occasions, not later than June 1, 2009, not later than June 1, 2010 and not later than June 1, 2011, the commissioner shall offer for sale allowances from the CHP Long-term PPA Set-aside Account to eligible CO₂ budget sources which operate CO₂ budget units that are also CHP units with existing long-term power purchase agreements. CO₂ budget units that are eligible for allowances from the CDR Set-aside Account pursuant to subparagraph (O) of this subdivision shall not be eligible for allowances from the CHP Long-term PPA Set-aside Account;
- (G) In order to purchase allowances from the CHP Long-term PPA Set aside Account, a CO₂ budget source shall, on or before October 31, 2008, or not later than 30 days of revising a long-term PPA, submit an application to the commissioner. Such application shall include:
- (i) A copy of the long-term PPA for the electricity generated from the CO₂ budget units at the CO₂ budget source;
 - (ii) A demonstration that the long-term PPA was executed prior to January 1, 2001;
 - (iii) Certification that the CO₂ budget source can not pass along to the purchasing party in a long-term PPA any additional operating costs resulting from the implementation of this section;
 - (iv) Certification that the CO₂ budget source can not recover the costs of CO₂ allowances as a result of participation in electricity markets;

- (v) A disclosure of any renegotiations or revisions to the long-term PPA that have been executed on or after January 1, 2001; and
 - (vi) Any other information the commissioner may require;
- (H) A CO₂ budget source shall remain eligible to purchase allowances from the CHP Long-term PPA Set-aside Account established pursuant to subparagraph (G) of this subdivision until the expiration date of the long-term PPA, the date on which the long-term PPA is revised, or December 31, 2011, whichever occurs first, provided that:
- (i) If the long-term PPA is revised after the submission of the application pursuant to subparagraph (G) of this subdivision, the CO₂ budget source shall notify the commissioner of such revision not later than 30 days of execution; and
 - (ii) The CO₂ budget source shall no longer be eligible to purchase CO₂ allowances from the CHP Long-term PPA Set-aside Account until eligibility is re-established by submitting an application under subparagraph (G) of this subdivision. The CO₂ budget source shall document the reasons that the revised long-term PPA does not include provisions related to the cost of CO₂ allowances;
- (I) The commissioner shall offer for sale allowances from the CHP Long-term PPA Set-aside Account to eligible CO₂ budget source at the following prices:
- (i) Two dollars in 2009; and
 - (ii) Two dollars as indexed for inflation in years 2010 and 2011 as follows: two dollars multiplied by the ratio of the Consumer Price Index for all-Urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year to the Consumer Price Index for all-Urban consumers for August 2008;
- (J) The maximum number of allowances that an eligible CO₂ budget source may purchase from the CHP Long-term PPA Set-aside Account shall be equal to the total number of tons of CO₂ emissions emitted by CO₂ budget units at the CO₂ budget source in the previous calendar year (rounded to the nearest whole ton), less any allowances allocated to the compliance account of the CO₂ budget source pursuant to subparagraphs (B) and (C) of this subdivision, subject to the limitations in subparagraphs (K) and (L) of this subdivision;
- (K) If an existing long-term PPA is set to expire mid-year in any given year, the commissioner shall adjust the maximum number of allowances that may be purchased from the CHP Long-term PPA Set-aside Account to reflect the number of days in the current year for which the long-term PPA will be valid;
- (L) IF $\Sigma A_{\text{CHP2}} \leq A_{\text{CHP2-AV}}$, THEN

$$A_{\text{CHP2-OFFERED}} = A_{\text{CHP2}}$$

IF $\Sigma A_{CHP2} > A_{CHP2-AV}$, THEN

$$A_{CHP2-OFFERED} = A_{CHP2} \times \left(\frac{A_{CHP2-AV}}{\Sigma A_{CHP2}} \right)$$

rounded to the nearest whole allowance.

Where:

A_{CHP2} = the maximum number of CO₂ allowances determined for each CO₂ budget source pursuant to subparagraphs (J) and (K) of this subdivision;

ΣA_{CHP2} = the total number of CO₂ allowances determined for CO₂ budget sources pursuant to subparagraphs (J) and (K) of this subdivision;

$A_{CHP2-AV}$ = the number of CO₂ allowances available for allocation from the CHP Useful Thermal Output Set-aside Account;

$A_{CHP2-OFFERED}$ = the number of CO₂ allowances the commissioner shall offer for sale of each eligible CO₂ budget source;

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $A_{CHP2-AV}$;

(M) Allowances sold to a CO₂ budget source from the CHP Long-term PPA Set-aside Account may be used for compliance only and shall not be resold by or transferred from the compliance account of a CO₂ budget source;

(N) If $\Sigma A_{CHP2} < A_{CHP2-AV}$, allowances from the CHP Long-term PPA Set-aside Account not sold for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision (4) of this subsection;]

[(O)](F) Not later than February 28, 2010 and February 28 of each year thereafter, the commissioner shall allocate from the CDR Set-aside Account to the compliance account of each CO₂ budget source, which operates CO₂ budget units that are also customer-side distributed resources that received funds pursuant to the customer-side distributed resources program established by the [Department of Public Utilities Control] Public Utilities Regulatory Authority pursuant to section 16-243i of the Connecticut General Statutes, the number of CO₂ allowances equal to the total number of tons of CO₂ emissions emitted by such CO₂ budget units in the previous calendar year (rounded to the nearest whole ton), subject to the limitation in subparagraph [(P)] (G) of this subdivision;

[(P)](G) IF $\Sigma A_{CDR} \leq A_{CDR-AV}$, THEN

$$A_{\text{CDR-ALLOCATED}} = A_{\text{CDR}}$$

IF $\Sigma A_{\text{CDR}} > A_{\text{CDR-AV}}$, THEN

$$A_{\text{CDR-ALLOCATED}} = A_{\text{CDR}} \times \left(\frac{A_{\text{CDR-AV}}}{\Sigma A_{\text{CDR}}} \right)$$

rounded to the nearest whole allowance.

Where:

A_{CDR} = the number of CO₂ allowances calculated for each CO₂ budget source pursuant to subparagraph (F) of this subdivision;

ΣA_{CDR} = the total number of CO₂ allowances calculated for CO₂ budget sources pursuant to subparagraph (F) of this subdivision;

$A_{\text{CDR-AV}}$ = the number of CO₂ allowances available for a allocation from the CDR Set-aside Account;

$A_{\text{CDR-ALLOCATED}}$ = the number of CO₂ allowances the commissioner shall allocate to the compliance account of each CO₂ budget source;

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $A_{\text{CDR-AV}}$; and

[(Q)](H) If $\Sigma A_{\text{CDR}} < A_{\text{CDR-AV}}$, allowances from the CDR Set-aside Account not allocated for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision [(4)](5) of this subsection.

[(4)](5) CO₂ allowance and CO₂ CCR allowance auctions.

- (A) [For purposes of this subdivision, “auction” means the open and transparent process by which the] The commissioner or a contractor or trustee selected by the commissioner[, in consultation with the Department of Public Utility Control,] shall [offer for sale and sell] auction the CO₂ allowances in the Connecticut Auction Account at least once per year;
- (B) Except as provided by subparagraph (C) of this subdivision, by December 31 of each allocation year, the commissioner or a contractor or trustee selected by the commissioner shall [offer for sale] auction the CO₂ allowances with the same allocation year that are held in the Connecticut Auction Account[. Such auction shall be conducted under the oversight of the commissioner and the Department of Public Utility Control];
- (C) CO₂ allowances which are transferred to the Connecticut Auction Account from the CHP Useful Thermal Energy Set-aside Account pursuant to subdivision [(3)(D)](4)(D) of this subsection[, from the CHP Long-term PPA Set-aside Account pursuant to subdivision (3)(N) of this subsection, from the] and the CDR Set-aside Account

pursuant to subdivision [(3)(Q)](4)(H) of this subsection [or from the Voluntary Clean Energy Purchase Set-aside Account pursuant to subdivision (6)(C) of this subsection shall] may be offered for sale at the next auction held following the transfer of such allowances[.];

- (D) CO₂ CCR allowances shall be auctioned in accordance with the procedures specified in subparagraphs (E) through (I) of this subdivision:
- (E) CO₂ CCR allowances shall only be sold at auction when the total demand for allowances exceeds the number of CO₂ allowances available for purchase at the auction at a price above the following CCR trigger price:
- (i) \$4.00 per CO₂ allowance for calendar year 2014;
 - (ii) \$6.00 per CO₂ allowance in calendar year 2015;
 - (iii) \$8.00 per CO₂ allowance in calendar year 2016;
 - (iv) \$10.00 per CO₂ allowance in calendar year 2017; and
 - (v) Beginning on January 1, 2018 and each January 1st thereafter, the CCR trigger price shall increase by 2.5% per year and be rounded to the nearest whole cent.
- (F) If the total demand for CO₂ allowances exceeds the number of CO₂ allowances available for purchase at any auction at a price equal to or greater than that specified in subparagraph (E) of this subdivision, then the number of CO₂ CCR allowances offered for sale by the commissioner at such auction shall be equal to the number of CO₂ CCR allowances in the CO₂ Auction Account at the time of the auction.
- (G) After the annual supply of CO₂ CCR allowances in the CO₂ Auction Account is exhausted, no additional CO₂ CCR allowances may be offered at any auction for the remainder of that calendar year;.
- [(5)](6) Distribution of auction proceeds. [Proceeds]Not later than December 31, 2014 and December 31 of each year thereafter, proceeds derived from the sale of CO₂ allowances or CO₂ CCR allowances held in the Connecticut Auction Account shall be distributed as [follows] specified in subparagraphs (A) through (D), inclusive:
- (A) Seven and one-half (7.5) percent of auction proceeds, less any amount of revenue refunded pursuant to subsection (j) of this section, shall be retained by the commissioner for use in accordance with section 22a-200c(c) of the Connecticut General Statutes;
 - (B) [Not later than December 31, 2009 and December 31 of each year thereafter, up to twenty-three]Twenty-three (23) percent of proceeds from auctions, less any amount of revenue refunded pursuant to subsection (j) of this section, [may]shall be transferred to an account held by the Clean Energy Finance and Investment Authority (CEFIA) for the [Connecticut] Clean Energy Fund. Proceeds are to be used to support the

development of Class I renewable energy sources. The amount of proceeds to be transferred to [CCEF] CEF shall be determined based on the following criteria:

- (i) Not later than October 31, 2009 and October 31 of each year thereafter, [CCEF] CEF may apply for such funds on forms prescribed by the commissioner; and
 - (ii) The commissioner shall transfer funds to [CCEF]CEF provided that [CCEF] CEF demonstrates such funds will be committed within twelve months from the date of receipt to support the development of Class I renewable energy sources and further provided that for the prior year ending June 30 there is no more than ten million dollars unallocated;
- (C) [Not later than December 31, 2009 and December 31 of each year thereafter, at least sixty-nine]Sixty-nine and one-half (69.5) percent of proceeds from auctions, less any amount of revenue refunded pursuant to subsection (j) of this section, shall be [transferred to accounts held by Connecticut Light & Power (CL&P) and United Illuminating (UI) and overseen by the Energy Conservation Management Board and to an account held by the Connecticut Municipal Electric Energy Cooperative (CMEEC). Seventy five (75) percent of such proceeds shall be distributed to the CL&P account, eighteen and three-fourths (18.75) percent shall be distributed to the UI account and six and one-fourth (6.25) percent shall be distributed to the CMEEC account. Such proceeds shall be used to support the development of energy efficiency measures; and] distributed as follows:
- (i) [Seventy five (75) percent of such proceeds shall be distributed to the CL&P,]From January 1, 2014 to July 1, 2015, proceeds shall be transferred under this subdivision as follows:
 - I. Six and one-fourth (6.25) percent shall be transferred to an account held by the Connecticut Municipal Electric Energy Cooperative (CMEEC) for use in supporting energy efficiency programs, provided that the commissioner shall not transfer any funds to CMEEC for any calendar year for which the report required by subparagraph (D) of this subdivision is not received by April 30 of such calendar year, and further provided that the commissioner may withhold the transfer of any portion of the funds to CMEEC if the report filed by CMEEC fails to provide a full and accurate accounting of the use of all such funds;
 - II. Up to one million two hundred and fifty thousands dollars shall be transferred, quarterly, to accounts held by Connecticut Light & Power (CL&P) and United Illuminating (UI) and overseen by the EEB for use in supporting energy efficiency programs. Such proceeds shall be allocated as follows: one (1) million dollars into an account held by CL&P and overseen by the EEB and two hundred and fifty thousand dollars into an account held by UI and overseen by the EEB;
 - III. In the event that there are any excess proceeds under this subparagraph after the distributions specified in subparagraphs (C)(i)(I) and (II) of

this subdivision have been made, such excess proceeds shall be transferred to CEFIA pursuant to section 131 of Public Act 13-247 to be used to support energy efficiency programs, provided that the total amount of such proceeds transferred to CEFIA under this subdivision shall not exceed twenty-five million four hundred thousand (\$25,400,000) dollars, and further provided that such proceeds may be allocated to CEFIA on a pro-rated quarterly basis; and

IV. In the event that there are any excess proceeds under this subparagraph after the distributions specified in subparagraphs (C)(i)(I)-(III) of this subdivision have been made, such excess proceeds shall be distributed to the CL&P and the UI for use in supporting energy efficiency programs, according to the following allocation: eighty (80) percent of such proceeds shall be transferred into an account held by CL&P and overseen by the EEB, and twenty (20) percent of such proceeds shall be transferred into an account held by UI and overseen by the EEB.

(ii) [eighteen and three-fourths (18.75) percent shall be distributed to the UI, and] On and after July 1, 2015, proceeds shall be transferred under this subdivision as follows:

I. seventy-five (75) percent of such proceeds shall be transferred into an account held by CL&P and overseen by the EEB to be used to support energy efficiency programs;

II. eighteen and three-fourths (18.75) percent shall be transferred into an account held by UI and overseen by the EEB to be used to support energy efficiency programs; and

III. six and one-fourth (6.25) percent shall be distributed to the CMEEC to be used to support energy efficiency programs, provided that the commissioner shall not transfer any funds to CMEEC for any calendar year for which the report required by subparagraph (D) of this subdivision is not received by April 30 of such calendar year, and further provided that the commissioner may withhold the transfer of any portion of the funds to CMEEC if the report filed by CMEEC fails to provide a full and accurate accounting of the use of all such funds.

(D) CMEEC shall provide a full accounting of the use of funds transferred to the CMEEC account in accordance with the provisions of subparagraph (C) of this subdivision. Such accounting shall be submitted in the form of a report to the commissioner, [the chairperson of the Department of Public Utility Control,] the chairpersons of the Energy [Conservation and Management] Efficiency Board and the chief elected officials in any municipality served by CMEEC municipal utilities no later than March 31, 2010 and annually thereafter through the year following the date of the final expenditure of any funds received pursuant to subparagraph (C) of this subdivision.

[(6)](7)[Retirement of Allowances for Clean Energy Purchases. The commissioner shall permanently retire a number of CO₂ allowances from the Voluntary Clean Energy Purchase Set-aside Account based upon documented voluntary renewable energy purchases by customers in Connecticut that represent RECs sold through the Connecticut Clean Energy Options program or renewable energy generated from within any participating state. Any retirement of allowances shall be determined as follows:]Retirement of undistributed and unsold allowances.

- (A) The commissioner may retire any undistributed CO₂ allowances at the end of each control period.
- (B) The commissioner may retire any unsold CO₂ allowances at the end of each control period.

[(A)] The commissioner shall retire the number of CO₂ allowances equal to the amount determined by the following equation (rounded to the nearest whole ton), subject to the limitations in subparagraph (B) of this subdivision and the requirements of subparagraphs (E) and (F) of this subdivision:

$$(MWH_{CCEO} + MWH_{RECS}) \times (0.554 \text{ tons CO}_2 / \text{MWh})$$

Where:

MWH_{CCEO} = the total number of RECs sold (in MWhs) to Connecticut customers through the Connecticut Clean Energy Options program in the year prior to the vintage year of the CO₂ allowances to be retired;

MWH_{RECS} = the total number of RECs from renewable energy sources located within any participating state sold (in MWhs) to Connecticut customers through means other than the Connecticut Clean Energy Options program in the year prior to the vintage year of the CO₂ allowances to be retired;

- (B) If the total number of allowances calculated to be retired pursuant to subparagraph (A) of this subdivision exceeds the number of CO₂ allowances held in the Voluntary Clean Energy Purchase Set-aside Account, then the number of CO₂ allowances to be retired shall be equal to the total number of CO₂ allowances allocated in the Voluntary Clean Energy Purchase Set-aside Account pursuant to subdivision (3)(A) of this subsection;
- (C) If the total number of allowances calculated to be retired pursuant to subparagraph (A) of this subdivision is less than the number of CO₂ allowances held in the Voluntary Clean Energy Purchase Set-aside Account, then allowances from the Voluntary Clean Energy Purchase Set-aside Account not allocated for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision (4) of this subsection;
- (D) Not later than October 1, 2009 and October 1 of each year thereafter, the commissioner shall retire the number of allowances determined pursuant to

subparagraphs (A) and (B) of this subdivision by transferring them to the Connecticut CO₂ Allowance Retirement Account;

- (E) Data for the total number of RECs sold to Connecticut customers through the Connecticut Clean Energy Options program required for the equation specified in subparagraph (A) of this subdivision shall be obtained from the Department of Public Utility Control;
- (F) Not later than June 30, 2009 and June 30 of each year thereafter, information required for the equation specified in subparagraph (A) of this subdivision relating to the number of RECs from renewable energy sources located within any participating state sold to Connecticut customers through means other than the Connecticut Clean Energy Options program in the previous year may be submitted by the retail provider that sold such RECs. Such information shall also include:
 - (i) Documentation that the retail provider procured the renewable energy or renewable energy attributes related to voluntary renewable energy or renewable energy attribute credit;
 - (ii) The time period when the retail purchase or purchases were made;
 - (iii) The state where the REC was created, including documentation of facility name, unique generator identification number and fuel type; and
 - (iv) Any additional information required by the commissioner necessary to demonstrate that such REC purchase is not being credited in more than one participating state.
- (7) Early reduction CO₂ allowances. For the purposes of this subdivision, the baseline period shall be defined as calendar years 2003, 2004 and 2005, and the early reduction period shall be defined as calendar years 2006, 2007 and 2008. The commissioner may award early reduction CO₂ allowances to a CO₂ budget source for reductions in the CO₂ budget source's CO₂ emissions, including all emissions from CO₂ budget units at the CO₂ budget source, that are achieved by the source during the early reduction period of 2006, 2007 and 2008, subject to the following requirements:
 - (A) The owner or operator of the CO₂ budget source shall submit its application for the award of CO₂ allowances not later than May 1, 2009;
 - (B) The owner or operator of the CO₂ budget source shall demonstrate that all CO₂ budget units that existed at the CO₂ budget source during the baseline period are included as CO₂ budget units for the early reduction period. New CO₂ budget units added at the CO₂ budget source shall also be accounted for during the early reduction period;
 - (C) The owner or operator of the CO₂ budget source shall demonstrate that the data submitted in support of the early reduction application was recorded in compliance with the requirements of subsection (i) of this section for each of the baseline period years, and also for the early reduction period years, for which the CO₂ budget source was required to report CO₂ data pursuant to 40 CFR 75. An owner or operator of a

CO₂ budget source that was not required to submit CO₂ data pursuant to 40 CFR 75 for any of the years contained in the baseline period or early reduction period may request, as part of its application to the commissioner under this subsection, to use an alternative data source or sources for the calculation of early reduction allowances;

- (D) The commissioner shall calculate the number of early reduction CO₂ allowances to be awarded to a particular CO₂ budget source pursuant to the following formula:
- (i) If total heat input to all CO₂ budget units at the CO₂ budget source during the early reduction period is less than or equal to the total heat input to all the CO₂ budget units at the CO₂ budget source during the baseline period, then:

$$ERAs = ((AEER_{BASELINE} - AEER_{ERP}) \times (EO_{ERP} + (TO_{ERP} / 3.413))) / 2000$$

Where:

ERAs are early reduction CO₂ allowances;

AEER_{BASELINE} is the average CO₂ emissions rate resulting from electric energy output and thermal energy output for all of the CO₂ budget units at the CO₂ budget source during the baseline period (in pounds of CO₂/MWh_{th+e});

AEER_{ERP} is the average CO₂ emissions rate resulting from electric energy output and thermal energy output for all of the CO₂ budget units at the CO₂ budget source during the early reduction period (in pounds of CO₂/MWh_{th+e});

EO_{ERP} is the total electric energy output from all CO₂ budget units at the CO₂ budget source during the early reduction period (in MWh_e); and

TO_{ERP} is the total useful thermal energy output from all CO₂ budget units at the CO₂ budget source during the early reduction period (in MMBtu);

- (ii) For the purposes of this subparagraph, thermal energy output shall be converted to units of MWh by the conversion factor 1 MWh = 3.413 MMBtu;
- (iii) For the purposes of this subparagraph, output shall be monitored in accordance with subsection (i) of this section;
- (iv) If total heat input to all CO₂ budget units at the CO₂ budget source during the early reduction period is greater than or equal to the total heat input to all the CO₂ budget units at the CO₂ budget source during the baseline period, then:

$$ERAs = E_{BASELINE} - E_{ERP}$$

Where:

ERAs are early reduction CO₂ allowances;

E_{BASELINE} are total CO₂ emissions from all of the CO₂ budget units at the CO₂ budget source during the baseline period (in tons); and

E_{ERP} are total CO₂ emissions from all of the CO₂ budget units at the CO₂ budget source during the early reduction period (in tons); and

- (E) Once the commissioner confirms a CO₂ budget source's early reductions of CO₂ emissions, the commissioner shall award the early reduction CO₂ allowances to the CO₂ budget source's compliance account not later than December 31, 2009.]

(g) Allowance Tracking System

(1) CO₂ Allowance Tracking System accounts.

- (A) Nature and function of compliance accounts. Consistent with subdivision (2)(A) of this subsection, the commissioner shall establish one compliance account for each CO₂ budget source. Allocations of CO₂ allowances pursuant to subsection (f) of this section and deductions or transfers of CO₂ allowances pursuant to subdivisions (5) or (7) of this subsection or subsections (e)(2) or (h) of this section shall be recorded in the compliance accounts in accordance with this subsection; and
- (B) Nature and function of general accounts. Consistent with subdivision (2)(B) of this subsection, the commissioner shall establish, upon request, a general account for any person. Transfers of CO₂ allowances pursuant to subsection (h) of this section shall be recorded in the general account in accordance with this subsection.

(2) Establishment of accounts.

- (A) Compliance accounts. Upon receipt of a complete account certificate of representation under subsection (c)(4) of this section, the commissioner shall establish a compliance account for each CO₂ budget source for which the account certificate of representation was submitted;
- (B) General accounts. Any person may apply to open a general account for the purpose of holding and transferring CO₂ allowances. Such application shall:
- (i) Designate only one CO₂ authorized account representative and only one alternate CO₂ authorized account representative who may act on behalf of the CO₂ authorized account representative; and
- (ii) Include a procedure for authorizing the alternate CO₂ authorized account representative to act in lieu of the CO₂ authorized account representative;
- (C) A complete application for a general account shall be submitted to the commissioner and shall include the following elements on forms prescribed by the commissioner:

- (i) Name, address, electronic mail address, telephone number, and facsimile transmission number of the CO₂ authorized account representative and any alternate CO₂ authorized account representative;
 - (ii) At the option of the CO₂ authorized account representative, organization name and type of organization;
 - (iii) A list of all persons subject to a binding agreement for the CO₂ authorized account representative or any alternate CO₂ authorized account representative to represent their ownership interest with respect to the CO₂ allowances held in the general account;
 - (iv) The following certification statement by the CO₂ authorized account representative and any alternate CO₂ authorized account representative: "I certify that I was selected as the CO₂ authorized account representative or the CO₂ alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CO₂ allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the commissioner or a court regarding the general account.";
 - (v) The signature of the CO₂ authorized account representative and any alternate CO₂ authorized account representative and the dates signed; and
 - (vi) Unless otherwise required by the commissioner, documents of agreement referred to in the application for a general account shall not be submitted to the commissioner. The commissioner shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted;
- (D) Authorization of CO₂ authorized account representative. Upon receipt by the commissioner of a complete application for a general account under subparagraph (C) of this subdivision:
- (i) The commissioner shall establish a general account for the person or persons for whom the application is submitted;
 - (ii) The CO₂ authorized account representative and any alternate CO₂ authorized account representative for the general account shall represent and, by such representations, actions, inactions or submissions, legally bind each person who has an ownership interest with respect to CO₂ allowances held in the general account in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative or any alternate CO₂ authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CO₂ authorized account representative or any alternate CO₂ authorized account

representative by the commissioner or a court regarding the general account;
and

- (iii) Any representation, action, inaction or submission by any alternate CO₂ authorized account representative shall be deemed to be a representation, action, inaction or submission by the CO₂ authorized account representative;
- (E) Each submission concerning the general account shall be submitted, signed and certified by the CO₂ authorized account representative or any alternate CO₂ authorized account representative for the persons having an ownership interest with respect to CO₂ allowances held in the general account. Each such submission shall include the following certification statement by the CO₂ authorized account representative or any alternate CO₂ authorized account representative:

"I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO₂ allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

- (F) The commissioner shall accept or act on a submission concerning the general account only if the submission has been made, signed and certified in accordance with subparagraph (E) of this subdivision;
- (G) Changing CO₂ authorized account representative and alternate CO₂ authorized account representative; changes in persons with ownership interest.
 - (i) The CO₂ authorized account representative for a general account may be changed at any time upon receipt by the commissioner of a superseding complete application for a general account under subparagraph (B) of this subdivision of this subsection. Notwithstanding any such change, all representations, actions, inactions and submissions by the previous CO₂ authorized account representative or the previous alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding application for a general account shall be binding on the new CO₂ authorized account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account;
and
 - (ii) The alternate CO₂ authorized account representative for a general account may be changed at any time upon receipt by the commissioner of a superseding complete application for a general account under subparagraph (B) of this

subdivision of this subsection. Notwithstanding any such change, all representations, actions, inactions and submissions by the previous CO₂ authorized account representative or the previous alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding application for a general account shall be binding on the new alternate CO₂ authorized account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account;

- (H) In the event a new person having an ownership interest:
- (i) With respect to CO₂ allowances in the general account is not included in the list of such persons in the application for a general account, such new person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions and submissions of the CO₂ authorized account representative and any alternate CO₂ authorized account representative of the source, and the decisions, orders, actions and inactions of the commissioner, as if the new individual were included in such list; and
 - (ii) Not later than 30 days following any change in the persons having an ownership interest with respect to CO₂ allowances in the general account, including the addition of persons, the CO₂ authorized account representative or any alternate CO₂ authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CO₂ allowances in the general account to include the change;
- (I) Objections concerning CO₂ authorized account representative.
- (i) Once a complete application for a general account under subparagraph (C) of this subdivision has been submitted and received, the commissioner shall rely on such application unless and until the commissioner receives a superseding complete application for a general account under subparagraph (C) of this subdivision; and
 - (ii) Except as provided in subparagraphs (G)(i) and (ii) of this subdivision, no objection or other communication submitted to the commissioner concerning the authorization, or any representation, action, inaction or submission of the CO₂ authorized account representative or any alternate CO₂ authorized account representative for a general account shall affect any representation, action, inaction or submission of the CO₂ authorized account representative or any alternate CO₂ authorized account representative or the finality of any decision or order by the commissioner under the CO₂ Budget Trading Program ; and
- (J) Account identification. The commissioner shall assign a unique identification number to each account established under subparagraph (A) or (B) of this subdivision.

- (3) CO₂ Allowance Tracking System responsibilities of CO₂ authorized account representative. Following the establishment of a CO₂ Allowance Tracking System account, all submissions to the commissioner pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CO₂ allowances in the account, shall be made only by the CO₂ authorized account representative for the account.
- (4) Recordation of CO₂ allowance allocations.
- (A) Not later than January 1, [2009]2014, the commissioner shall record in the Connecticut Auction Account[,] and the CHP Useful Thermal Energy Set-aside Account[, the CHP Long-term PPA Set-aside Account and the Voluntary Clean Energy Purchase Set-aside Account] the CO₂ allowances for the allocation year[s of 2009, 2010, 2011, and 2012] 2014.;
- [(B)] Not later than January 1, 2010 and January 1 of each year thereafter, the commissioner shall record in the Connecticut Auction Account, the CHP Useful Thermal Energy Set-aside Account, the CHP Long-term PPA Set-aside Account and the Voluntary Clean Energy Purchase Set-aside Account the CO₂ allowances for the allocation year that commences three years after such applicable deadline for recordation;
- (C) Not later than April 1, 2009 and April 1 of each year thereafter, the commissioner shall record any CO₂ allowances allocated pursuant to subsections (f)(3)(B) and (f)(3)(C) of this section in the CO₂ budget source's compliance account;]
- [(D)](B) Not later than February 28, 2009 and February 28 of each year thereafter, the commissioner shall record any CO₂ allowances allocated pursuant to subsections [(f)(3)(O) and (f)(3)(P)] (f)(4)(F) and (f)(4)(G) of this section in the CO₂ budget source's compliance account;
- [(E)] Not later than June 15, 2009 and June 15 of each year thereafter, the commissioner shall record any CO₂ allowances sold pursuant to subsections (f)(3)(F) to (f)(3)(L), inclusive, of this section in the CO₂ budget source's compliance account;]
- [(F)](C) Not later than October 1, 2009 and October 1 of each year thereafter, the commissioner shall record any unsold or undistributed CO₂ allowances retired pursuant to subsection [(f)(6)](f)(7) of this section in the Connecticut CO₂ Allowance Retirement Account;
- [(G)](D) Not later than seven business days of the results of an auction conducted pursuant to subsection [(f)(4)](f)(5) of this section being deemed final by the commissioner, the commissioner or the commissioner's trustee shall record CO₂ allowances purchased from the Connecticut Auction Account; and
- [(H)] Not later than December 31, 2009, the commissioner shall record any early reduction CO₂ allowances awarded pursuant to subsection (f)(7) of this section in the CO₂ budget source's compliance account; and]

~~[(I)]~~(E) Serial numbers for allocated CO₂ allowances. When allocating CO₂ allowances to and recording them in an account, the commissioner shall assign each CO₂ allowance a unique identification number that shall include digits identifying the year for which the CO₂ allowance is allocated.

(5) Compliance.

- (A) Allowances available for compliance deduction. CO₂ allowances that meet the following criteria are available to be deducted in order for a CO₂ budget source to comply with the requirements of subsection (b)(3) of this section for a control period or an interim control period.
- (i) The CO₂ allowances are of allocation years that fall within a prior control period, the same control period, or the same interim control period for which the allowances will be deducted; and
 - (ii) The CO₂ allowances are held in the CO₂ budget source's compliance account as of the CO₂ allowance transfer deadline for that control period or interim control period or are transferred into the compliance account by a CO₂ allowance transfer correctly submitted for recordation under subsection (h)(1) of this section by the CO₂ allowance transfer deadline for that control period or interim control period;
- (B) For CO₂ offset allowances, the number of CO₂ offset allowances that are available to be deducted in order for a CO₂ budget source to comply with the requirements of subsection (b)(3) of this section for a control period or an interim control period may not exceed [the number of tons representing the following percentages] three and three tenths (3.3) percent of the CO₂ budget source's CO₂ emissions for that control period, or of one half of the CO₂ budget source's CO₂ emissions for an interim control period, as determined in accordance with subsection (i) of this section[:];
- [i) Unless the provisions of clause (ii) or (iii) of this subparagraph apply, three and three-tenths (3.3) percent;
 - (ii) If the commissioner determines that there has been a Stage One Trigger Event, five (5) percent; or
 - (iii) If the commissioner determines that there has been a Stage Two Trigger Event, ten (10) percent;]
- (C) CO₂ allowances are not necessary for deductions for excess emissions for a prior control period under subparagraph (G) of this subdivision;
- (D) Deductions for compliance. Following the recordation, in accordance with subsection (h)(2) of this section, of CO₂ allowance transfers submitted for recordation in the CO₂ budget source's compliance account by the CO₂ allowance transfer deadline for a control period or interim control period, the commissioner shall deduct CO₂ allowances available under subparagraph (A) of this subdivision

to cover the source's CO₂ emissions, as determined in accordance with subsection (i) of this section, for the control period or interim control period, as follows:

- (i) Until the amount of CO₂ allowances deducted equals the number of tons of total CO₂ emissions, (or one half of the number of tons of total CO₂ emissions for the interim control period) less any CO₂ emissions attributable to the burning of eligible biomass, determined in accordance with subsection (i) of this section, from all CO₂ budget [sources]units at the CO₂ budget source for the control period or interim control period; or
 - (ii) If there are insufficient CO₂ allowances to complete the deductions in subparagraph[(B)(i)] (D)(i) of this subdivision, until no more CO₂ allowances available under subparagraph (A) of this subdivision remain in the compliance account;
- (E) Identification of CO₂ allowances by serial number. The CO₂ authorized account representative for a source's compliance account may request that specific CO₂ allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period or interim control period in accordance with subparagraph [(B), or (D)] (D) or (G) of this subdivision. Such identification shall be made in the compliance certification report submitted in accordance with subsection (e)(1) of this section;
- (F) The commissioner shall deduct CO₂ allowances for a control period or interim control period from the CO₂ budget source's compliance account, in the absence of an identification or in the case of a partial identification of CO₂ allowances by serial number under subparagraph (E) of this subdivision, in the following [descending] order:
- (i) [Any CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under subparagraph (A) of this subdivision and were allocated to the units at the source, in the order of recordation] The commissioner shall first deduct CO₂ offset allowances subject to the relevant compliance deduction limitations under subparagraphs (D) and (G) of this subdivision. CO₂ offset allowances shall be deducted in chronological order (i.e., CO₂ offset allowances from earlier allocation years shall be deducted before CO₂ offset allowances from later allocation years). In the event that chronological order cannot be determined, the commissioner shall deduct CO₂ offset allowances by serial number, with lower serial numbered CO₂ offset allowances deducted before higher serial number allowances; and
 - (ii) Any] The commissioner shall next deduct any CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under subparagraph (A) of this subdivision. [and were allocated other than to units at the source and transferred and recorded in the compliance account pursuant to subsection (h), in the order of recordation; and] CO₂ allowances shall be deducted in chronological order (i.e., CO₂ allowances from earlier allocation years shall be deducted before CO₂ allowances from later allocation years). In the event that

chronological order cannot be determined, the commissioner shall deduct CO₂ allowances by serial number, with lower serial numbered CO₂ allowances deducted before higher serial number allowances.

- [(iii) Subject to the relevant compliance deduction limitations under subdivision (5) of this subsection, any CO₂ allowances that were awarded as CO₂ offset allowances and transferred and recorded in the compliance account pursuant to subsection (h) of this section, in order of recordation;]
- (G) Deductions for excess emissions. After making the deductions for compliance under subparagraph (D) of this subdivision, the commissioner shall deduct from the CO₂ budget source's compliance account a number of CO₂ allowances, from 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. No CO₂ offset allowances shall be deducted to account for the source's excess emissions. Any such CO₂ allowance deduction shall not affect the liability of the owners and operators of the CO₂ budget source or the CO₂ budget sources 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. When assessing fines, penalties or other obligations, the commissioner shall:
 - (i) Consider each day in the control period a day in violation when determining the number of days of violation if a CO₂ budget source has excess emissions for a control period unless the owner or operator of the source demonstrates that a lesser number of days should be considered; [and]
 - (ii) Consider each ton of excess emissions as a separate violation;
 - (iii) For purposes of determining the number of days of violation, if a CO₂ 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 CO₂ budget unit demonstrate that a lesser number of days should be considered; and
 - (iv) Each ton of excess interim emissions is a separate violation.
- (H) The commissioner shall record in the appropriate compliance account all deductions from such an account pursuant to subparagraphs (D) and (G) of this subdivision; and
- (I) Action by the commissioner on submissions. The commissioner may review and conduct independent audits concerning any submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the submissions, including but not limited to, deductions of CO₂ allowances from or transfer of CO₂ allowances to a source's compliance account based on information in any such submissions.

- (6) **Banking.** Each CO₂ allowance that is held in a compliance account or a general account shall remain in such account unless and until the CO₂ allowance is deducted or transferred under subdivision (5) or (7) of this subsection and under subsection (e)(2), or (h) of this section.
- (7) **Account error.** The commissioner may correct any error in any CO₂ Allowance Tracking System account. Not later than ten (10) business days of making such correction, the commissioner shall notify the CO₂ authorized account representative for the account.
- (8) **Closing of general accounts.** The commissioner may close a general account for one of the following reasons:
 - (A) A CO₂ authorized account representative of a general account may instruct the commissioner to close the account by submitting a statement requesting deletion of the account from the CO₂ Allowance Tracking System and by correctly submitting for recordation under subsection (h)(1) of this section a CO₂ allowance transfer of all CO₂ allowances in the account to one or more other CO₂ Allowance Tracking System accounts; or
 - (B) If a general account shows no activity for a period of six years or more and does not contain any CO₂ allowances, the commissioner may notify the CO₂ authorized account representative for the account that the account shall be closed and deleted from the CO₂ Allowance Tracking System following twenty business days after the notice is sent. The account shall be closed after the twenty day period unless before the end of such twenty day period the commissioner receives a correctly submitted transfer of CO₂ allowances into the account under subsection (h)(1) of this section or a statement submitted by the CO₂ authorized account representative demonstrating to the satisfaction of the commissioner good cause as to why the account should not be closed.

(h) CO₂ Allowance Transfers

- (1) **Submission of CO₂ allowance transfers.** The CO₂ authorized account representatives seeking recordation of a CO₂ allowance transfer shall submit the transfer to the commissioner. The CO₂ allowance transfer shall include the following information:
 - (A) The numbers identifying both the transferor and transferee accounts;
 - (B) A specification by serial number of each CO₂ allowance to be transferred; and
 - (C) The printed name and signature of the CO₂ authorized account representative of the transferor account and the date signed.
- (2) **Recordation.**
 - (A) Not later than five (5) business days of receiving a CO₂ allowance transfer, except as provided in subparagraph (B) of this subdivision, the commissioner shall record a CO₂ allowance transfer by moving each CO₂ allowance from the transferor account to the transferee account as specified by the request, provided that:

- (i) The transfer is correctly submitted under subdivision (1) of this subsection; and
 - (ii) The transferor account includes each CO₂ allowance identified by serial number in the transfer;
- (B) A CO₂ allowance transfer into or out of a compliance account that is submitted for recordation following the CO₂ allowance transfer deadline and that includes any CO₂ allowances that are of allocation years that fall within a control period prior to or the same as the control period to which the CO₂ allowance transfer deadline applies shall not be recorded until after completion of the process pursuant to subsection (g)(5)(D) of this section; and
- (C) Where a CO₂ allowance transfer submitted for recordation fails to meet the requirements of subparagraph (A) of this subdivision, the commissioner shall not record such transfer.
- (3) Notification.
- (A) Notification of recordation. Not later than five (5) business days of recordation of a CO₂ allowance transfer under subdivision (2) of this subsection, the commissioner shall notify each party to the transfer. Notice shall be given to the CO₂ authorized account representatives of both the transferor and transferee accounts;
 - (B) Notification of non-recordation. Not later than ten (10) business days of receipt of a CO₂ allowance transfer that fails to meet the requirements of subdivision (2)(A) of this subsection, the commissioner shall notify the CO₂ authorized account representatives of both accounts subject to the transfer of:
 - (i) A decision not to record the transfer; and
 - (ii) The reasons for such non-recordation.
 - (C) Nothing in this section shall preclude the submission of a CO₂ allowance transfer for recordation following notification of non-recordation.

(i) Monitoring and Reporting

- (1) For the purposes of this subsection the definitions in subsection (a) of this section and in 40 CFR 72.2 shall apply. The terms “affected unit” and “designated representative” in 40 CFR 75 shall be replaced by the terms “CO₂ budget unit”, and “CO₂ authorized account representative”, respectively, as defined in subsection (a) of this section, except as otherwise provided. The definition of “continuous emission monitoring system” or “CEMS” in 40 CFR 75 shall be replaced with the definition in subsection (a) of this section. If a CO₂ budget unit is not subject to an acid rain emissions limitation, the term “Administrator” shall be replaced by the term “commissioner” as defined in subsection (a) of this section.
- (2) The owner or operator and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget source shall comply with the monitoring, recordkeeping and reporting requirements as provided in this subsection. The owner or operator of a CO₂

budget source shall comply with the monitoring, recordkeeping and reporting requirements set forth in 40 CFR 75 applicable to CO₂ mass emissions. The owner or operator of a CO₂ budget unit who monitors a non-CO₂ budget unit pursuant to the common, multiple, or bypass stack procedures in 40 CFR 75.72 (b)(2)(ii), or 40 CFR 75.16 (b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for purposes of complying with this section, shall monitor and report CO₂ mass emissions from such non-CO₂ budget unit according to the procedures for CO₂ budget units established in subdivisions (2) to (8), inclusive, of this subsection.

- (A) Requirements for installation, certification, and data accounting. The owner or operator of each CO₂ budget source shall:
 - (i) Install all monitoring systems necessary to monitor CO₂ mass emissions in accordance with 40 CFR 75, except for equation G-1. Equation G-1 in Appendix G of 40 CFR 75 shall not be used to determine CO₂ emissions under this section. This may require systems to monitor CO₂ concentration, stack gas flow rate, O₂ concentration, heat input and fuel flow rate;
 - (ii) Successfully complete all certification tests required under this subsection and meet all other requirements of this subsection and 40 CFR 75 applicable to the monitoring systems installed under subparagraph (A)(i) of this subdivision; and
 - (iii) Make and keep records, report and test for quality assurance of the data from the monitoring systems installed under subparagraph (A)(i) of this subdivision;
- (B) Compliance dates. The owner or operator shall meet the monitoring system certification and other requirements of subparagraphs (A)(i) to (A)(iii), inclusive, of this subdivision on or before the following dates:
 - (i) The owner or operator of a CO₂ budget source who intends to apply for early reduction allowances under subsection (f)(7) of this section shall demonstrate that the data submitted in support of the early reduction application was recorded in compliance with the requirements of this subsection for all of the early reduction years for which the CO₂ budget source was required to report CO₂ data pursuant to 40 CFR 75. A CO₂ budget source that was not required to submit CO₂ data pursuant to 40 CFR 75 for any of the years contained in the early reduction application may petition the commissioner as part of its application under subsection (f)(7) of this section for the use of an alternative data source or sources for the calculation of early reduction allowances;
 - (ii) The owner or operator of a CO₂ budget source, except for a CO₂ budget source under clause (i) of this subparagraph, that commences commercial operation before July 1, 2008, shall comply with the requirements of this subsection not later than January 1, 2009;
 - (iii) The owner or operator of a CO₂ budget source that commences commercial operation on or after July 1, 2008, shall comply with the requirements of this subsection by the later of January 1, 2009, or one hundred and eighty (180)

calendar days after the date on which the source commences commercial operation; and

- (iv) For the owner or operator of a CO₂ budget source for which construction of a new stack or flue installation is completed after the applicable deadline under clauses (i), (ii) or (iii) of this subparagraph by the earlier of ninety (90) source operating days after the date on which emissions first exit to the ambient air through the new stack or flue or one hundred and eighty (180) calendar days after the date on which emissions first exit to the ambient air through the new stack or flue;
- (C) Reporting data.
- (i) An owner or operator of a CO₂ budget source who misses the certification deadline under subparagraph (B)(i) of this subdivision shall not be eligible to apply for early reduction allowances and shall become subject to the certification deadline under subparagraph (B)(ii) of this subdivision;
 - (ii) Except as provided in clause (iii) of this subparagraph, the owner or operator of a CO₂ budget source that does not meet the applicable compliance date set forth in subparagraphs (B)(ii) and (B)(iii) of this subdivision for any monitoring system under subparagraph (A) of this subdivision shall, for each such monitoring system, determine, record and report maximum potential or, as appropriate, minimum potential, values for CO₂ concentration, CO₂ emission rate, stack gas moisture content, fuel flow rate, heat input and any other parameter required to determine CO₂ mass emissions in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3), 40 CFR 75, [Appendix] section 2.4 of Appendix D or 40 CFR 75 Appendix E;
 - (iii) The owner or operator of a CO₂ budget source that does not meet the applicable compliance date set forth in subparagraph (B)(iv) of this subdivision for any monitoring system under subparagraph (A)(i) of this subdivision shall, for each such monitoring system, determine, record and report substitute data using the applicable missing data procedures in 40 CFR 75, Subpart D, or 40 CFR 75, Appendix D or E, 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 of a new stack or flue installation under subparagraph (B)(iv) of this subdivision;
 - (iv) CO₂ budget units subject to an acid rain emissions limitation or to section 22a-174-22c of the Regulations of Connecticut State Agencies that qualify for the optional SO₂, NO_x, and CO₂ emissions calculations for low mass emissions (LME) units, as applicable, under 40 CFR 75.19 and report emissions for such programs using the calculations provided in 40 CFR 75.19, shall also use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of demonstrating compliance with this section;
 - (v) CO₂ budget units subject to an acid rain emissions limitation or to section 22a-174-22c of the Regulations of Connecticut State Agencies that do not qualify

for the optional SO₂, NO_x, and CO₂ emissions calculations for LME units, as applicable, under 40 CFR 75.19, shall not use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of demonstrating compliance with this section; and

- (vi) CO₂ budget units not subject to an acid rain emissions limitation or to section 22a-174-22c of the Regulations of Connecticut State Agencies shall qualify for the optional CO₂ emissions calculation for LME units under 40 CFR 75.19, provided that such units emit less than 100 tons of NO_x annually and no more than 25 tons of SO₂ annually;
 - (D) Prohibitions. No owner or operator of a CO₂ budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with subsection (i)(6) of this section;
 - (E) No owner or operator of a CO₂ budget unit shall operate the source so as to discharge, or allow to be discharged, CO₂ emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this subsection and 40 CFR 75;
 - (F) No owner or operator of a CO₂ [Budget] budget unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording CO₂ 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 subsection and 40 CFR 75; and
 - (G) No owner or operator of a CO₂ budget unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subsection, except under any one of the following circumstances:
 - (i) The owner or operator is monitoring emissions from the source with another certified monitoring system approved by the permitting authority, in accordance with the applicable provisions of this subsection and 40 CFR 75, for use at that source that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or
 - (ii) The CO₂ authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subparagraph (B)(ii) of this subdivision.
- (3) Initial certification and recertification procedures.
- (A) The owner or operator of a CO₂ [Budget] budget source shall be exempt from the initial certification requirements of this section for a monitoring system under subdivision (2)(A)(i) of this subsection if the following conditions are met:

- (i) The monitoring system has been previously certified in accordance with 40 CFR 75; and
 - (ii) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and 40 CFR 75 Appendices B, D, and E are fully met for the certified monitoring system described in subdivision (2)(A) of this subsection;
- (B) Continuous emission monitoring systems required under this section include, but are not limited to, the following:
- (i) 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;
 - (ii) A nitrogen oxides emission rate or NO_x-diluent monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million, diluent gas concentration, in percent CO₂ or O₂; and NO_x emission rate, in lb/MMBtu;
 - (iii) A moisture monitoring system, as described in 40 CFR 75.11(b)(2), which provides a permanent, continuous record of the stack gas moisture content, in percent H₂O;
 - (iv) A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and
 - (v) An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂ in percent O₂;
- (C) The recertification provisions of this section shall apply to a monitoring system under subdivision (2)(A) of this subsection exempt from initial certification requirements under subparagraph (A) of this subdivision;
- (D) If the Administrator has previously approved a petition under 40 CFR 75.72(b)(2)(ii), or 40 CFR 75.16(b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for apportioning the CO₂ emission rate measured in a common stack or a petition under 40 CFR 75.66 of this chapter for an alternative requirement in 40 CFR 75, the CO₂ authorized account representative shall submit the petition to the commissioner under subdivision (7)(A) of this subsection to determine whether the Administrator's approval applies under this program;
- (E) Except as provided in subparagraph (A) of this subdivision, the owner or operator of a CO₂ budget source shall comply with the following initial certification and

recertification procedures for a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendices D and E, and under subdivision (2)(A)(i) of this subsection. The owner or operator of a source 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 40 CFR 75, Subpart E, shall comply with the procedures in subparagraph (A) or (B)(iv) of this subdivision;

- (F) Requirements for initial certification. The owner or operator shall ensure that each continuous emissions monitoring system required under subdivision (2)(A)(i) of this subsection completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadlines specified in subdivision (2)(B) of this subsection. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this subsection in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required;
- (G) Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in a certified continuous emission monitoring system under subdivision (2)(A)(i) of this subsection that the Administrator or the commissioner determines significantly affects the ability of the system to accurately measure or record CO₂ mass emissions or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or Appendix B to 40 CFR 75, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification or change to the flue gas handling system or the source's operation that the Administrator or the commissioner determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system in accordance with 40 CFR 75.20(b). Examples of changes that require recertification include, but are not limited to: replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients;
- (H) Approval process for initial certifications and recertification.
 - (i) Notification of certification. The CO₂ authorized account representative shall submit to the commissioner a written notice of the dates of certification in accordance with subdivision (5) of this subsection;
 - (ii) Certification application. The CO₂ authorized account representative shall submit to the commissioner a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63; and
 - (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 CO₂ Budget Trading Program for a period not to exceed 120 days after receipt by the commissioner of the complete certification application for the monitoring system or component

thereof under subparagraph (H)(ii) of this subdivision. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR 75, shall be considered valid quality-assured data, provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval not later than 120 days of receipt of the complete certification application by the commissioner;

- (I) Certification application approval process. The commissioner shall issue a written notice of approval or disapproval of the certification application to the owner or operator not later than 120 days of receipt of the complete certification application in accordance with subparagraph (H)(ii) of this subdivision. In the event the commissioner does not issue such a notice not later than such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75 and is included in the certification application shall be deemed certified for use under the CO₂ Budget Trading Program.
- (i) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75, then the commissioner shall issue a written notice of approval of the certification application not later than 120 days of receipt of such complete application;
- (ii) Incomplete application notice. If the certification application is not complete, then the commissioner shall issue a written notice of incompleteness and set a reasonable date by which the CO₂ authorized account representative shall submit the additional information required to complete the certification application. The commissioner may issue a notice of disapproval under subparagraph (I)(iii) of this subdivision if the CO₂ authorized account representative does not comply with the notice of incompleteness by the specified date. The 120 day review period shall not begin before receipt of a complete certification application;
- (iii) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of 40 CFR 75, or if the certification application is incomplete and the requirement for disapproval under subparagraph (I)(ii) of this subdivision is met, then the commissioner shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification shall no longer be valid 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 subparagraph (J) of this subdivision for each monitoring system or component thereof, which is disapproved for initial certification; and

- (iv) Audit decertification. The commissioner may issue a notice of disapproval of the certification status of a monitor in accordance with subdivision (4)(B) of this subsection;
- (J) Procedures for loss of certification. If the commissioner issues a notice of disapproval of a certification application under subparagraph (I)(iii) of this subdivision or a notice of disapproval of certification status under subparagraph (I)(iv) of this subdivision, then the owner or operator shall substitute the following values for each disapproved monitoring system, for each hour of source 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 sources using or intending to monitor for CO₂ mass emissions using heat input or for sources using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential hourly heat input of the source; and
 - (ii) For sources intending to monitor for CO₂ mass emissions using a CO₂ pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO₂ and the maximum potential flow rate of the source under 40 CFR 75, Appendix A section 2.1;
- (K) For each disapproved monitoring system, the CO₂ authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (H)(i) and (ii) of this subdivision; and the owner or operator shall repeat all certification tests or other requirements, as indicated in the commissioner's notice of disapproval, no later than 30 source operating days after the date of issuance of the notice of disapproval;
- (L) Initial certification and recertification procedures for low mass emission. The owner or operator of a source qualified to use the low mass emissions excepted methodology under subdivisions (2)(C)(iv) or (2)(C)(vi) of this subsection shall meet the applicable certification and recertification requirements of 40 CFR 75.19(a)(2), 40 CFR 75.20(h) and subdivision (3) of this subsection. If the owner or operator of such a source elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements of 40 CFR 75.20(g); and
- (M) Certification and recertification procedures for alternative monitoring systems. The CO₂ authorized account of each source for which the owner or operator intends to use an alternative monitoring system approved by the commissioner under 40 CFR 75, Subpart E, shall apply for certification to the commissioner prior to use of the system under the CO₂ Budget Trading Program. The CO₂ authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in subparagraph (C) of this subdivision. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subparagraph (H) of this subdivision and 40 CFR 75.20(f).

- (4) Out of control periods.
- (A) Whenever any monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR 75, data shall be substituted using the applicable procedures in 40 CFR 75, Subpart D, Appendix D or E; and
 - (B) 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 subdivision (3) of this subsection or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the commissioner shall issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subparagraph, an audit shall be either a field audit or an audit of any information submitted to the commissioner. By issuing the notice of disapproval, the commissioner shall revoke 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 set forth in subdivision (3) of this subsection for each disapproved monitoring system.
- (5) Notifications. The CO₂ authorized account representative for a CO₂ budget source shall submit written notice to the commissioner in accordance with 40 CFR 75.61.
- (6) Recordkeeping and reporting.
- (A) General provisions. The CO₂ 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 certification requirements of subsection (c)(1)(E) of this section;
 - (B) Monitoring plans. The owner or operator of a CO₂ budget source shall comply with requirements of 40 CFR 75.62;
 - (C) Certification applications. The CO₂ authorized account representative shall submit an application to the commissioner not later than 45 days after completing all initial certification or recertification tests required under subdivision (3) of this subsection including the information required under CFR 75.63 and 40 CFR 75.73 (c) and (e);
 - (D) Quarterly reports. The CO₂ authorized account representative shall report the CO₂ mass emission data for the CO₂ budget source, in an electronic format prescribed by the commissioner for each calendar quarter as follows:
 - (i) For a source that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009 to March 31, 2009, inclusive; or

- (ii) For a source commencing commercial operation on or after July 1, 2008, the calendar quarter corresponding to, the earlier of the date of provisional certification or the applicable deadline for initial certification under subdivision (2)(B) of this subsection or, unless such quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 to March 31, 2009, inclusive;
 - (E) The CO₂ authorized account representative shall submit each quarterly report to the commissioner not later than 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75, Subpart H, and 40 CFR 75.64;
 - (F) For each CO₂ budget unit, or group of units using a common stack, quarterly reports shall include all of the data and information required in 40 CFR 75, Subpart G, except for the provisions concerning opacity, NO_x and SO₂;
 - (G) Compliance certification. The CO₂ authorized account representative shall submit to the commissioner 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 source'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 subsection and 40 CFR 75, including the quality assurance procedures and specifications;
 - (ii) For a source with add-on CO₂ emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the quality assurance quality control program under 40 CFR 75, Appendix B and the substitute values do not systematically underestimate CO₂ emissions; and
 - (iii) The CO₂ concentration values substituted for missing data under 40 CFR 75, Subpart D do not systematically underestimate CO₂ emissions; and
 - (H) Alternative reporting. In lieu of reporting required data to the commissioner pursuant to subparagraphs (D) through (G) of this subdivision, the CO₂ authorized account representative may report CO₂ mass emission data for the CO₂ budget source solely in an electronic format to the regional CO₂ Allowance Tracking System or any successor electronic reporting platform identified by the commissioner. Nothing in this subparagraph excuses the owner or operator of the CO₂ budget source from making and keeping the records required by subparagraphs (D) through (G) of this subdivision, and such records shall be made available to the commissioner upon request.
- (7) Petitions.

- (A) Except as provided in subparagraph (B) of this subdivision, the CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the commissioner requesting approval to apply an alternative to any requirement of 40 CFR Part 75. The application of an alternative to any requirement of 40 CFR Part 75 shall be in accordance with this subsection only if the petition is approved in writing by the Administrator, and subsequently approved in writing by the commissioner;
 - (B) The CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the commissioner 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 CO₂ concentration CEMS used under 40 CFR 75.71(a)(2). The application of an alternative to any such requirement shall be in accordance with this subsection only if the petition is approved in writing by the Administrator, and subsequently approved in writing by the commissioner; and
 - (C) Petitions for a CO₂ budget unit that is not subject to an acid rain emissions limitation.
 - (i) The CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the commissioner requesting approval to apply an alternative to any requirement of 40 CFR 75. The application of an alternative to any requirement of 40 CFR 75 shall be in accordance with this subsection only if the petition is approved in writing by the Administrator, and subsequently approved in writing by the commissioner; and
 - (ii) In the event that the Administrator declines to review a petition under clause (i) of this subparagraph, the CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the commissioner requesting approval to apply an alternative to any requirement of this subsection. That petition shall contain all of the relevant information specified in 40 CFR 75.66. The application of an alternative to any requirement of this subsection shall be in accordance with this subsection only if the petition is approved in writing by the commissioner;
- (8) CO₂ budget units that co-fire eligible biomass.
- (A) The CO₂ authorized account representative of a CO₂ budget unit that co-fires eligible biomass as a compliance mechanism under this subsection, shall report the following information to the commissioner for each calendar quarter:
 - (i) For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel input, on an as-fired basis, in pounds;

- (ii) For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit, the moisture content, on an as-fired basis, as a fraction by weight;
 - (iii) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the density of the biogas, on an as-fired basis, in pounds per standard cubic foot;
 - (iv) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the moisture content of the biogas, as a fraction by total weight;
 - (v) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel input, in standard cubic feet;
 - (vi) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the dry basis carbon content of the fuel type, as a fraction by dry weight;
 - (vii) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the dry basis higher heating value, in MMBtu per dry pound;
 - (viii) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the total dry basis eligible biomass fuel input, in pounds, calculated in accordance with subparagraph (B) of this subdivision;
 - (ix) The total amount of CO₂ emitted from the CO₂ budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with subparagraph (C) of this subdivision;
 - (x) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel heat input, in MMBtu, calculated in accordance with subparagraph (D)(i) of this subdivision;
 - (xi) The total amount of heat input to the CO₂ budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with subparagraph (D)(ii) of this subdivision;
 - (xii) A description and documentation of monitoring technology employed, and a description and documentation of fuel sampling methodology employed, including sampling frequency; and
 - (xiii) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, chemical analysis, including heating value and carbon content;
- (B) An owner or operator of a CO₂ budget unit shall calculate and submit to the commissioner on a quarterly basis the total dry weight for each distinct type of eligible biomass fired by the CO₂ budget unit during the reporting quarter. The total dry weight shall be determined for each fuel type as follows:
- (i) For solid fuel types:

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

Where:

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

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

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

i = Fired fuel shipment;

j = Fuel type; and

m = Number of shipments;

(ii) For gaseous fuel types:

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

Where:

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

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

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

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

j = Fuel type;

(C) CO₂ emissions due to firing of eligible biomass shall be determined as follows:

(i) For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO₂ budget unit, as measured and recorded in accordance with subdivisions (1) to (7), inclusive, of this subsection; or

(ii) For any full calendar quarter during which fuels other than eligible biomass are combusted at the CO₂ budget unit, as determined using the following equation:

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

Where:

- CO₂ tons = CO₂ emissions due to firing of eligible biomass for the reporting quarter;
- F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated in subparagraph (B) of this subdivision;
- C_j = Carbon fraction (dry basis) for fuel type j;
- O_j = Oxidation factor for eligible biomass fuel type j, derived for solid fuels based on the ash content of the eligible biomass fired and the carbon content of this ash, as determined pursuant to subparagraph (A)(xii) of this subdivision; for gaseous eligible biomass fuels, a default oxidation factor of 0.995 may be used;
- 44/12 = Number of tons of carbon dioxide that are created when one ton of carbon is combusted (44/12);
- 0.0005 = Number of short tons which is equal to one pound;
- j = Fuel type; and
- n = Number of distinct fuel types;

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

(i) For each distinct fuel type:

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

Where:

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

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated in subparagraph (B) of this subdivision;

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

j = Fuel type

(ii) For all fuel types:

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

Where:

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

$j =$ Fuel type; and,

$n =$ Number of distinct fuel types

- (E) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State renewable Portfolio Standard Biomass Guidebook, May 2006.
- (9) Additional requirements to provide output data.
- (A) Not later than March 1, 2009 and March 1 of each year thereafter, CO₂ budget sources shall submit to the commissioner electricity generation data, in MWhs, associated with operation of CO₂ budget units at the CO₂ budget sources. The following MWh data shall be included, if applicable:
- (i) CO₂ budget sources that are required to submit generation data to the Regional ISO shall submit to the commissioner the same CO₂ budget unit-level MWh values submitted to the Regional ISO and a statement certifying that the MWh of electrical output reported reflects the total actual electrical output of the CO₂ budget units at the CO₂ budget source used by the Regional ISO to determine settlement resources of energy market participants;
 - (ii) CO₂ budget sources that report gross hourly MW data to the Administrator, shall submit to the commissioner an annual summation of the CO₂ budget unit-level gross output data submitted to the Administrator; and
 - (iii) CO₂ budget sources that do not submit generation data to the Regional ISO or to the Administrator shall submit to the commissioner net electrical output information in accordance with subparagraph (D) of this subdivision. A CO₂ budget source whose electrical output is not used in Regional ISO energy market settlement determinations shall propose to the commissioner a method for quantification of net electrical output;
- (B) CO₂ budget sources creating useful thermal energy and selling steam shall use billing meters to determine net steam output. A CO₂ budget source whose steam output is not measured by billing meters or whose steam output is combined with output from a non-CO₂ budget source prior to measurement by the billing meter shall propose to the commissioner an alternative method for quantification of net steam output. If data for steam output is not available, the CO₂ budget source may report heat input providing useful steam output as a surrogate for steam output;
- (C) Monitoring. Not later than March 1, 2009, CO₂ budget sources shall provide an output monitoring plan containing the elements described in subparagraphs (D) to (G), inclusive, of this subdivision;

- (D) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include a diagram of the electrical or steam system for which output is being monitored, specifically including:
- (i) For net electric output, the diagram shall contain all CO₂ budget sources and all generators served by each CO₂ budget source and the relationship between CO₂ Budget sources and generators. If a generator served by a CO₂ budget source is also served by a non-affected source, the non-affected source and its relationship to each generator shall be indicated on the diagram as well. The diagram shall indicate where the net electric output is measured and shall include all electrical inputs and outputs to and from the plant. If net electric output is determined using a billing meter, the diagram shall show each billing meter used to determine net sales of electricity and shall show that all electricity measured at the point of sale is generated by the CO₂ budget sources; and
 - (ii) For net thermal output, the diagram shall include all steam or hot water coming into the net steam system, including steam from CO₂ budget sources and non-affected sources, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream shall have an estimated temperature, pressure and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system shall identify all useful loads, house loads, parasitic loads, any other steam loads and all boiler feed water returns. The diagram shall represent all energy losses in the system as either usable or unusable losses. The diagram shall also indicate all flow meters, temperature or pressure sensors or other equipment used to calculate gross thermal output. If a sales agreement is used to determine net thermal output, the diagram shall show the monitoring equipment used to determine the sales of steam;
- (E) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include a description of each output monitoring system. The description of the output monitoring system shall include a written description of the output system and the equations used to calculate output. For net thermal output systems, descriptions and justifications of each useful load shall be included;
- (F) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include a detailed description of all quality assurance and quality control activities performed to maintain the output system in accordance with subparagraph [(M)] (I) of this subdivision;
- (G) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include documentation supporting any output values to be used as a missing data value if there are periods of invalid output data. The missing data output value shall be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under this section;

- (H) Initial Certification. CO₂ authorized account representatives shall submit a certification statement stating that either the output monitoring system consists entirely of billing meters or that the output monitoring system meets one of the accuracy requirements for non-billing meters below. This statement may be submitted with the certification application required pursuant to subdivision (6)(C) of this subsection.
- (i) Billing Meters. The billing meter shall record the electric or thermal output. Any electric or thermal output values that the facility reports shall be the same as the values used in billing for the output. Any output measurement equipment used as a billing meter in commercial transactions requires no additional certification or testing requirements;
 - (ii) Non-Billing Meters. For non-billing meters, the output monitoring system shall either meet an accuracy of ten (10) percent of the reference value, or each component monitor for the output system shall meet an accuracy of three (3) percent of the full scale value, whichever is less stringent, as determined pursuant to clause (iii) or (iv) of this subparagraph;
 - (iii) The system approach to accuracy shall include a determination of how the system accuracy of ten (10) percent is achieved using the individual components in the system and shall include data loggers and any watt meters used to calculate the final net electric output data or any flow meters for steam or condensate, temperature measurement devices, absolute pressure measurement devices and differential pressure devices used for measuring thermal energy; or
 - (iv) A component approach to accuracy. If testing a piece of output measurement equipment shows that the output readings are not accurate to three (3) percent or less of the full scale, then the owner or operator of a CO₂ budget source shall retest or replace the measurement equipment to achieve such level of accuracy. Data shall be considered invalid, prospectively, for purposes of determining allocations. 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;
- (I) Ongoing quality assurance and quality control. Ongoing quality assurance and quality control activities shall be performed by the owner or operator of a CO₂ budget source in order to maintain the output system, which shall include the following:
- (i) Billing Meters. In the case where billing meters are used to determine output, no quality assurance and quality control activities beyond those already performed are required;
 - (ii) Non-Billing Meters. Certain types of equipment such as potential transformers, current transformers, nozzle and venturi type meters, and the primary element of an orifice plate only require an initial certification of calibration and do not require periodic recalibration unless the equipment is

physically changed. However, the pressure and temperature transmitters accompanying an orifice plate will require periodic retesting. For other types of equipment, the owner or operator of a CO₂ budget source shall either recalibrate or re-verify the meter accuracy at least once every two years, unless a consensus standard allows for less frequent calibrations or accuracy tests. The system approach to accuracy or a component approach to accuracy shall be in accordance with subparagraphs (H)(ii) to (H)(iv), inclusive, of this subdivision. If testing a piece of output measurement equipment shows that the output readings are not accurate to 3.0 percent or less of the full scale value, then the owner or operator of a CO₂ budget source shall retest or replace the measurement equipment to achieve such level of accuracy; and

- (iii) 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 valid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes an accuracy test. All invalid data shall be replaced by either zero output or an output value that is likely to be lower than a measured value and that is approved as part of the output monitoring plan under subparagraph (C) of this subdivision; and
- (J) Recordkeeping and Reporting. The CO₂ authorized account representative shall comply with all recordkeeping and reporting requirements in this subparagraph and with the requirements of subsections (b)(6) and (c)(1)(E) of this section:
- (i) Recordkeeping. The owner or operator of a CO₂ budget source shall retain data used to monitor, determine or calculate net generation for ten (10) years;
 - (ii) Annual output reports. Not later than March 1, 2009 and March 1 of each year thereafter, the CO₂ authorized account representative shall submit to the commissioner an annual output report containing until-level MWh data and all useful thermal output information not later than March 1 for the immediately preceding year; and
 - (iii) The annual report shall be certified as follows:

"I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget sources or CO₂ budget sources 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."]

(j) **Ratepayer relief.** [For purposes of this subsection, “auction clearing price” means the specified monetary value assigned to a CO₂ allowance as determined by the bids of buyers in a CO₂ allowance auction held pursuant to subsection (f)(4) of this section.

- (1) If the auction clearing price of a CO₂ allowance exceeds the threshold price identified in subdivision (3) of this subsection, the commissioner shall return a portion of the proceeds generated by the auction of CO₂ allowances under subsection (f)(4) of this section to the Department of Public Utility Control for return to Connecticut electric ratepayers. Not later than December 31, 2009 and each year thereafter, the commissioner shall transfer such portion, which shall be calculated in accordance with subdivision (3) of this subsection, to the Department of Public Utility Control.
- (2) If the auction clearing price of a CO₂ allowance does not exceed the threshold price identified in subdivision (3) of this subsection, the commissioner shall distribute auction proceeds pursuant to the requirements set forth in subsection (f)(5) of this section.
- (3) The amount of proceeds to be transferred to the Department of Public Utility Control shall be determined as follows:

$$R_r = (Q_1 * (A_p - T_p))$$

Where:

R_r = Revenue to be returned to Connecticut electric ratepayers;

Q_1 = Quantity of Connecticut CO₂ allowances sold at auction;

A_p = Auction clearing price for a CO₂ allowance; and

T_p = Threshold price for a CO₂ allowance shall be five dollars multiplied by the ratio of the Consumer Price Index for all-Urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year to the Consumer Price Index for all-Urban consumers for August 2008.]

- (1) If proceeds generated by the auction of CO₂ allowances under subsection (f)(5) of this section in any calendar year exceed the threshold identified in subdivision (3) of this subsection, the commissioner shall return excess proceeds to the Public Utility Regulatory Authority for return to Connecticut electric ratepayers in accordance section 16-19 of the Connecticut General Statutes.
- (2) If the proceeds generated by the auction of CO₂ allowances under subsection (f)(5) of this section in any calendar year from the auction of CO₂ allowance does not exceed the threshold price identified in subdivision (3) of this subsection, the commissioner shall distribute such auction proceeds pursuant to the requirements set forth in subsection (f)(6) of this section.
- (3) The amount of proceeds to be transferred to the Public Utility Regulatory Authority shall be determined as follows:

$$A_r = (A_p - P_t)$$

Where:

A_r = Auction proceeds to be returned to Connecticut electric ratepayers;

A_p = Annual proceeds generated by the auction of CO₂ allowances under subsection (f)(5) of this section; and

P_t = the program threshold of 35 million dollars increased each year on January 1st beginning on and after January 1, 2015 by two and one-half (2.5) percent.

(k) **Severability.**

Each provision of this section is deemed severable, and in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

Statement of Purpose

These amendments to regulation are being requested by the Department of Energy and Environmental Protection (DEEP) to coincide with the efforts undertaken by the nine Regional Greenhouse Gas Initiative (RGGI) Northeast and Mid-Atlantic states, including Connecticut, to update their respective carbon dioxide (CO₂) emissions Budget Trading Programs which regulate and reduce CO₂ emissions from the power sector. In accordance with a RGGI Memorandum of Understanding, the participating States conducted a program review of the CO₂ Budget Trading Programs. This program review lowered the cap of regional allowances that can be offered at auction to address the excess of allowances in the market relative to actual emission levels in the region. The participating States have been working with program review stakeholders since 2010, convening over twelve stakeholder meetings, webinars and learning sessions. The program review has sought to continue the goal of effectively reducing CO₂ emissions while providing benefits to consumers and the region and to address the issue of overcapacity of allowances relative to actual emission levels in the region.

A summary of the amendments DEEP is proposing to update its carbon dioxide CO₂ emissions Budget Trading Program are as follows:

1. Revised Regional Cap: Connecticut will lower its CO₂ emissions cap to align the cap with current emissions levels while accounting for allowances held by market participants in excess of the quantity needed to demonstrate compliance.
2. Connecticut will address the bank and retirement of allowances held by market participants with two interim adjustments for banked allowances. The first adjustment will be made over a 7-year period (2014-2020) for the first control period private bank of allowances and a second adjustment will be made over a 6-year period (2015-2020) for the 2012-2013 period private bank of allowances.
3. Creation of the use of a cost containment reserve (CCR) that will provide flexibility and cost containment for the CO₂ budget Program. The CCR is a reserved quantity of allowances, in addition to the cap, that would only be available if defined allowance price triggers are exceeded. These

allowances provided within the CCR will be equal to 5 million short tons in 2014 and 10 million short tons each year thereafter.

4. Revisions to set aside programs to update regulations with elimination of programs no longer necessary and reapportionments of revenue distributions to account for changes in the renewable energy markets.

5. These amendments also include new defined terms, including:

“Interim Control Period,” defined as each of the first two calendar years of each three-year control period.

“Excess Interim Emissions,” defined as any emissions (multiplied by 0.50) over the amount of allowances held at the end of each Interim Control Period.

“Undistributed and “Unsold” allowances defined to clarify that unsold and undistributed 2012 and 2013 allowances will not be reoffered during subsequent auctions.

6. Other

These amendments also reflect the conforming language changes required by Public Act 11-80 with the merger of the Department of Environmental Protection and the former Department of Public Utility Control.

The legal effects of the proposed amendments are limited to the proposed changes described above.

APPENDIX II

Section 1. Section 22a-174-31 of the Regulations of Connecticut State Agencies is amended as follows:

- (b) **Definitions and Abbreviations.** Except as otherwise provided, for the purposes of [this section] Section 22a-174-31(a) to 22a-174-31(k), inclusive and section 22a-174-31a of the Regulations of Connecticut State Agencies:
- (1) “Account number” means the identification number given by the commissioner to each CO₂ Allowance Tracking System account.
 - (2) “Acid rain emissions limitation” means “Acid Rain emissions limitation”, as defined in 40 CFR 72.2, regarding emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program.
 - (3) “Acid Rain Program” means a multi-state sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established by the Administrator under Title IV of the federal Clean Air Act and 40 CFR 72 to 78, inclusive.
 - (4) “Administrator” means “Administrator” as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.
 - (5) “Allocate” or “allocation” means the determination by the commissioner of the number of CO₂ allowances to be recorded in the compliance account of a CO₂ budget source, the Connecticut Auction account, an allocation set-aside account, the general account of the sponsor of an approved CO₂ emissions offset project or an account established by any other person.
 - (6) “Allocation year” means a calendar year for which the commissioner allocates CO₂ allowances pursuant to subsection (f) of this section. The allocation year of each CO₂ allowance is reflected in the unique identification number given to the allowance pursuant to subsection [(g)(4)(I)](g)(4)(E) of this section.
 - (7) “Allowance auction” or “auction” means:
 - (A) The open and transparent process by which the commissioner or a contractor or trustee selected by the commissioner, shall offer for sale the CO₂ allowances in the Connecticut Auction Account at least once per year; or
 - (B) To offer CO₂ allowances in the Connecticut Auction Account for sale in an open transparent process conducted by the commissioner or a contractor or trustee selected by the commissioner.
 - [(7)] (8) “Attribute” means a characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, source vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted for, and tracked.
 - [(8)](9) “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 subsection (i) of this section, 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 subsection (i) of this section.

- [(9)](10) “Award” means an allocation through which the commissioner determines the number of CO₂ allowances to be recorded in the compliance account of a CO₂ budget unit for early reduction CO₂ allowances pursuant to subsection (f)(6) of this section, or the commissioner determines the number of CO₂ offset allowances to be recorded in the general account of a project sponsor pursuant to section 22a-174-31a of the Regulations of Connecticut State Agencies.
- [(10)](11) “Billing meter” means the measurement device used to measure electric or thermal output for commercial billing under a contract where the facility selling the electric or thermal output has different owners from the owners of the party purchasing the electric or thermal output.
- [(11)](12) “Boiler” means a fossil or other fuel-fired device that produces steam or heats water or any other heat transfer medium.
- [(12)](13) “Btu” means British Thermal Unit, a standard measurement used to quantify an amount of energy.
- [(13)](14) “Class I renewable energy source” means “Class I renewable energy source” as defined in section 16-1(a) of the Connecticut General Statutes.
- [(14)](15) “CO₂” means carbon dioxide.
- (16) “Cost containment reserve trigger price” or “CCR trigger price” means the minimum price at which CO₂ CCR allowances are offered for sale at auction.
- [(15)](17) “CO₂ allowance” means a limited authorization by the commissioner or a participating state under the CO₂ Budget Trading Program to emit up to one ton of CO₂, subject to all the applicable conditions contained in this section.
- [(16)](18) “CO₂ allowance deduction” or “deduct CO₂ allowances” means the permanent withdrawal of CO₂ allowances by the commissioner from a CO₂ Allowance Tracking System compliance account.
- [(17)](19) “CO₂ allowances held” or “hold CO₂ allowances” means the CO₂ allowances recorded by the commissioner, or submitted to the commissioner, in accordance with subsections (g) and (h) of this section, in a CO₂ Allowance Tracking System account.
- [(18)] “CO₂ allowance price” means the price for CO₂ allowances across all participating states for a particular month as determined by the commissioner, calculated based on a volume-weighted average of transaction prices reported to the commissioner, and taking into account publicly reported prices.]

- [(19)](20) “CO₂ Allowance Tracking System” or “COATS” means the system by which the commissioner records allocations, deductions, and transfers of CO₂ allowances under the CO₂ Budget Trading Program under this section, the system used to track CO₂ offset allowance projects under section 22a-174-31a of the Regulations of Connecticut State Agencies, and the system used to track [CO₂ allowance prices and] emissions from affected sources.
- [(20)](21) “CO₂ Allowance Tracking System account” means an account in the CO₂ Allowance Tracking System established by the commissioner for purposes of recording the allocating, holding, transferring, or deducting of CO₂ allowances.
- [(21)](22) “CO₂ allowance transfer deadline” means midnight of 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.
- [(22)](23) “CO₂ authorized account representative” means the individual who is authorized by the owners or operators of the source and all CO₂ budget sources at the source, in accordance with subsection (c) of this section, to represent and legally bind each owner or operator in matters pertaining to the CO₂ Budget Trading Program or, for a general account, the individual who is authorized, in accordance with subsection (g) of this section, to transfer or otherwise dispose of CO₂ allowances held in the general account.
- [(23)](24) “CO₂ budget emissions limitation” means the tonnage equivalent, in CO₂ emissions in a control period or an interim control period, of the CO₂ allowances available for compliance deduction for the CO₂ budget source for a control period or an interim control period.
- [(24)](25) “CO₂ budget source” means a facility that includes one or more CO₂ budget units.
- [(25)](26) “CO₂ Budget Trading Program” means the multi-state CO₂ air pollution control and emissions reduction program established pursuant to this section and corresponding regulations in other states as a means of reducing emissions of CO₂ from CO₂ budget sources.
- [(26)](27) “CO₂ budget unit” means an emissions unit that is subject to the CO₂ Budget Trading Program requirements under subsection (b) of this section.
- (28) “CO₂ cost containment reserve allowance” or “CO₂ CCR allowance” means a CO₂ allowance that is offered for sale at auction in accordance with subdivision (5)(D) of subsection (f) of this section.
- [(27)](29) “CO₂ equivalent” means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP).
- [(28)](30) “CO₂ offset allowance” means a CO₂ allowance that is awarded to the sponsor of a CO₂ emissions offset project pursuant to section 22a-174-31a of the Regulations of Connecticut State Agencies and is subject to the relevant compliance deduction limitations of this section.

- [(29)](31) “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.
- [(30)] (32) “Combined Heat and Power” or “CHP” means "Combined heat and power system" as defined in section 22a-174-22c of the Regulations of Connecticut State Agencies.
- [(31)] “Combined Heat and Power Long-term PPA Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are offered for sale pursuant to subsection (f)(4) of this section.]
- [(32)](33) “Combined Heat and Power Useful Thermal Energy Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection [(f)(3)] (f)(4) of this section.
- [(33)](34) “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 turbine.
- [(34)](35) “Commence commercial operation” means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation provided that:
- (A) If the unit is a CO₂ budget unit on the date it commences commercial operation and such unit is subsequently modified, reconstructed or repowered, the date on which the CO₂ budget unit commences commercial operation shall remain the unit's date of commencement of commercial operation; and
 - (B) If the unit is not a CO₂ budget unit on the date it commences commercial operation, the date the unit becomes a CO₂ budget unit for the purposes of this section shall be the unit's date of commencement of commercial operation.
- [(35)](36) “Commence operation” means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber provided that:
- (A) If the unit is a CO₂ budget unit on the date of commencement of operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered; and
 - (B) If the unit is not a CO₂ budget unit on the date of commencement of operation, the date the unit becomes a CO₂ budget unit shall be the unit's date of commencement of operation.
- [(36)](37) “Commissioner” means “commissioner” as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies.

- [(37)](38) “Compliance account” means a CO₂ Allowance Tracking System account, established by the commissioner for a CO₂ budget source under subsection (g) of this section, in which the CO₂ allowance allocations for the source are initially recorded and in which are held CO₂ allowances available for use by the source for a control period and each interim control period for the purpose of meeting the requirements of subsection (b)(3) of this section.
- [(38)](39) “Connecticut Auction Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection (f) of this section.
- [(39)](40) “[Connecticut] Clean Energy Fund” or [“CCEF”] “CEF” means the fund created by section 16-245n of the Connecticut General Statutes to address Connecticut’s increasing energy needs and any individual authorized to act on behalf of such fund.
- [(40)](41) “Connecticut CO₂ Allowance Retirement Account” means a general account established by the commissioner to hold CO₂ allowances that have been permanently retired.
- (42) “Connecticut Budget Trading Program adjusted budget” means the adjusted budget, which is determined in accordance with subsection (f) of this section, of CO₂ tons available in Connecticut for allocation for each allocation year. CO₂ offset allowances allocated to project sponsors and CO₂ CCR allowances offered for sale at an auction are separate from and additional to CO₂ allowances allocated for the budget trading program adjusted budget.
- [(41)](43) “Connecticut CO₂ Trading Program Base Budget” means the annual amount of CO₂ tons available in Connecticut for allocation in a given allocation year, in accordance with the CO₂ Budget Trading Program. CO₂ CCR allowances and CO₂ offset allowances allocated to project sponsors are separate from and additional to CO₂ allowances allocated from the Connecticut CO₂ Trading Program Base Budget.
- [(42)] “Consumer Price Index” or “CPI” means the United States Department of Labor, Bureau of Labor Statistics, unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate. The CPI for any calendar year is the twelve-month average of the CPI published by the United States Department of Labor, as of the close of the twelve-month period ending on August thirty-first of each calendar year.]
- [(43)](44) “Continuous emissions monitoring system” or “CEMS” means the equipment required under subsection (i) of this section to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system, a permanent record of stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration as applicable, in a manner consistent with 40 CFR 75 and subsection (i) of this section.

- [(44)](45) “Control period” means a three calendar-year period[, unless extended by the commissioner to four years upon occurrence of a Stage Two Trigger Event.] commencing on January 1, 2009. Each subsequent sequential three calendar year period is a separate control period.
- [(45)](46) “Customer-side distributed resources” or “CDR” means “customer-side distributed resources” as defined in Section 16-1(a)(40) of the Connecticut General Statutes.
- [(46)](47) “Customer-side Distributed Resources (CDR) Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection [(f)(3)](f)(4) of this section.
- [(47)](48) “Eligible biomass” means sustainably harvested, as determined by the commissioner, woody and herbaceous fuel sources that are available on a renewable or recurring basis, excluding old-growth timber, but including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes and biogas. [“]Eligible biomass[”] does not include liquid biofuels.
- [(48)](49) [“Energy Conservation Management Board”] “Energy Efficiency Board” or [“ECMB”] “EEB” means the group convened by the commissioner [Department of Public Utility Control] pursuant to section 16-245m of the Connecticut General Statutes for the purpose of advising and assisting electric distribution companies in the development and implementation of cost-effective energy conservation programs and market transformation initiatives.
- [(49)](50) “Excess emissions” means any tonnage of CO₂ emitted by a CO₂ budget source during a control period that exceeds the CO₂ budget emissions limitation for the source.
- (51) “Excess interim emissions” means any tonnage of CO₂ emitted by a CO₂ budget source during an interim control period multiplied by 0.50 that exceeds the CO₂ budget emissions limitation for the source.
- [(50)](52) “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material, except that fossil fuel does not include tire-derived fuel.
- (53) “First control period interim adjustment for banked allowances” means an adjustment applied to Connecticut’s CO₂ Trading Program Base Budget pursuant to subsection (f) of this section for Connecticut’s proportional share of the regional surplus CO₂ allowances from allocation years 2009, 2010, and 2011.
- [(51)](54) “Fossil fuel-fired” means, with regard to an emissions unit that commenced operation prior to January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted comprises, or is projected to comprise, more than fifty percent of the annual heat input on a Btu basis during any year, or, with respect to an emissions unit that commences operation on or after January 1, 2005, the combustion of fossil fuel, alone or in combination with any other fuel, where

the fossil fuel combusted comprises, or is projected to comprise, more than five percent of the annual heat input on a Btu basis during any year.

[(52)](55) “General account” means a CO₂ Allowance Tracking System account, established under subsection (g) of this section, which is not a compliance account.

[(53)](56) “Global warming potential” or “GWP” means a measure consistent with the values used in the Intergovernmental Panel on Climate Change (IPCC), Third Assessment Report of the radiative efficiency or heat-absorbing ability, of a particular gas relative to that of CO₂ after taking into account the decay rate of each gas, the amount removed from the atmosphere over a given number of years, relative to that of CO₂.

[(54)](57) “Gross generation” means the electrical output in MWe at the terminals of the generator.

(58) “Interim control period” means a one calendar year time period, during each of the first and second calendar years of each three year control period. The first interim control period starts on January 1, 2015 and ends on December 31, 2015, inclusive. The second interim control period starts on January 1, 2016 and ends on December 31, 2016, inclusive. Each successive three year control period will have two interim control periods, comprised of each of the first two calendar years of that control period.

[(55)](59) “H₂O” means water.

[(56)](60) “Heat input” means the gross calorific value of all fuels combusted by a CO₂ budget unit.

[(57)] “Hr” means hour.]

[(58)](61) “Lb” means pound.

[(59)] “Life-of-the-unit contractual arrangement” means a power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of the participating unit’s nameplate capacity and energy associated therewith while agreeing to pay the proportional amount of such unit's total costs for either:

(A) The economic useful life of the unit,

(B) A cumulative term of no less than 25 years, including agreements that permit an election for early termination, or

(C) A period equal to or greater than 20 years or seventy percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

- (60) “Long-term Power Purchase Agreement” or “Long-term PPA” means an agreement, executed prior to January 1, 2000, between a CO₂ budget source and a purchasing party to sell power from the CO₂ budget source for a period of 20 or more years.
- (61) “Market settling period” means the first fourteen months of any control period.
- (62) “Maximum design heat input” means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.]
- [(63)](62) “Maximum potential hourly heat input” means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input calculated in accordance with 40 CFR 75.
- [(64)](63) “Monitoring system” means any monitoring system that meets the requirements of subsection (i) of this section, including a continuous emissions monitoring system, an excepted monitoring system, or an alternative monitoring system.
- [(65)](64) “MMBtu” means million Btu of heat input.
- [(66)](65) “MWe” means megawatt electrical.
- [(67)](66) “MWh” means megawatt-hour.
- [(68)](67) “Nameplate capacity” means the maximum electrical output in MWe that an electric generating unit can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy Standards.
- [(69)](68) “Non-CO₂ budget unit” means a unit that does not meet the applicability criteria of subsection (b) of this section.
- [(70)](69) “NO_x” means oxides of nitrogen.
- [(71)](70) “O₂” mean oxygen.
- [(72)](71) “Operator” means any person who operates, controls, or supervises a CO₂ budget unit or a CO₂ budget source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.
- [(73)](72) “Owner” means any of the following persons:
- (A) Any holder of any portion of the legal or equitable title in a CO₂ budget unit;
 - (B) Any holder of a leasehold interest in a CO₂ budget unit, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO₂ budget unit;

- (C) Any purchaser of power from a CO₂ budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit; or
- (D) With respect to any general account, any person who has an ownership interest in the CO₂ allowances held in the general account and who is subject to the binding agreement for the CO₂ authorized account representative to represent that person's ownership interest with respect to the CO₂ allowances.
- [(74)](73) “Participating state” means a state that has established a regulation implementing a CO₂ Budget Trading Program consistent with the Regional Greenhouse Gas Initiative model rule.
- [(75)](74) “Receive” or “receipt of” means, when referring to the commissioner, to come into possession of a document, information, or correspondence, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the commissioner in the regular course of business.
- [76)](75) “Recordation”, “record” or “recorded” means, with regard to CO₂ allowances, the movement of CO₂ allowances by the commissioner from one CO₂ Allowance Tracking System account to another, for purposes of allocation, transfer or deduction.
- [(77)](76) “Regional Independent System Operator” or “Regional ISO” means “regional independent system operator” as defined in section 16-1 of the Connecticut General Statutes.
- [(78)](77) “Renewable energy” means [electricity generated from eligible biomass, wind, solar thermal, photovoltaic, geothermal, hydroelectric facilities certified by the Low Impact Hydropower Institute, wave and tidal action, and fuel cells powered by renewable fuels] “Class I renewable energy source” as set forth in Section 16-1(a)(26) of the Connecticut General Statutes.
- [(79)](78) “Renewable Energy Certificate” or “REC” means a certificate that represents the attributes related to one megawatt-hour of electricity generation.
- (79) “Second control period interim adjustment for banked allowances” means an adjustment applied to Connecticut’s CO₂ Trading Program Base Budget pursuant to subsection (f) of this section to compensate for Connecticut’s proportional share of regional surplus CO₂ allowances from allocation years 2012 and 2013.
- (80) “Serial number” means, when referring to CO₂ allowances, the unique identification number assigned to each CO₂ allowance by the commissioner.
- (81) “SO₂” means sulfur dioxide.
- (82) “Source” means “source” as defined in section [22a-174-1(101)] 22a-174-1 of the Regulations of Connecticut State Agencies, provided that a source with multiple units, is a single facility.

- [(83) “Stage one threshold price” means the product, in dollars, resulting from the multiplication of seven dollars by an annual adjustment factor, where the annual adjustment factor is determined as follows:

Annual adjustment factor = $1 + \{[\text{CPI (year)} - \text{CPI (2005)}] / \text{CPI (2005)}\}$, where:

- (A) CPI means, for purposes of the CO₂ Budget Trading Program, the United States Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for all items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate;
 - (B) CPI (year) means the CPI for all urban consumers calculated in August of the previous calendar year in which the adjustment is made; and
 - (C) CPI (2005) means the CPI for all urban consumers for the month of August 2005. The CPI (2005) is 196.4 (with 1982-84=100). Beginning in the month for which a new reference base is established, CPI (2005) will be the CPI value for August 2005 on the new reference base.
- (84) “Stage two threshold price” means the product, in dollars, resulting from the multiplication of ten dollars by an annual adjustment factor, where the annual adjustment factor is determined as follows:

Annual adjustment factor = $1.02 + \{[\text{CPI (year)} - \text{CPI (2005)}] / \text{CPI (2005)}\}$, where:

- (A) CPI means, for purposes of the CO₂ Budget Trading Program, the United States Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers: U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the commissioner determines is appropriate;
 - (B) CPI (year) means the CPI for all urban consumers for August of the year in which the adjustment is made; and
 - (C) CPI (2005) means the CPI for all urban consumers for the month of August 2005. The CPI (2005) is 196.4 (with 1982-84=100). Beginning in the month for which a new reference base is established, CPI (2005) will be the CPI value for August 2005 on the new reference base.
- (85) “Stage One Trigger Event” means any complete twelve month period following the market settling period during which average CO₂ allowance prices are equal to or greater than the stage one threshold price.
- (86) “Stage Two Trigger Event” means any complete twelve month period following the market settling period during which average CO₂ allowance prices are equal to or greater than the stage two threshold price.]

- [(87)](83) “State” means, notwithstanding the definition set forth in section [22a-174-1(104)]22a-174-1(109) of the Regulations of Connecticut State Agencies, any state of the United States of America, the District of Columbia, and the following territories of the United States: the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands.
- [(87)](84) “Submit” means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation either in person, by United States Postal Service, or by other means of dispatch or transmission and delivery.
- [(89)](85) “Ton” or “short ton” means a measure of weight equal to two thousand pounds or 0.9072 metric tons.
- [(90)] “Twelve month period” means a period of twelve consecutive months determined on a rolling basis beginning January 1, 2009. On and after February 1, 2009, a new twelve month period shall begin on the first day of each subsequent calendar month.]
- [(91)](86) “Unit” means a fossil fuel-fired stationary boiler, combustion turbine or combined cycle system.
- [(92)](87) “Unit operating day” means a calendar day in which a unit combusts any fuel.
- (88) “Undistributed CO₂ allowances” means allowances originally allocated to a set aside account pursuant to subsection (f) of this section that were not utilized for the purpose of such set aside account.
- (89) “Unsold CO₂ allowances” means CO₂ allowances that have been made available for sale in an auction but not sold.
- [(93)](90) “Useful net thermal energy” means the energy output of thermal energy used for heating, cooling, industrial processes or other beneficial uses.
- [(94)](91) “Voluntary clean energy purchase” means electricity from renewable energy generation or renewable energy attribute credits representing such renewable energy generation, purchased by a retail electricity customer on a voluntary basis, provided that purchases used to meet any regulatory mandate, such as a renewable portfolio standard, shall not be a voluntary renewable energy purchase.
- [(95)](92) “Voluntary Clean Energy Purchase Set-aside Account” means a general account established by the commissioner to hold CO₂ allowances that are allocated pursuant to subsection (f)[(3)](4) of this section.

(h) Applicability and General Provisions

- (1) Applicability. Any unit that, at any time on or after January 1, 2000, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe shall be a CO₂ budget source, and any owner or operator of such source that includes one or more such units shall be the owner or operator of a CO₂ budget source subject to the requirements of this section.

- (2) Monitoring. In order to determine compliance with the CO₂ requirements of subdivision (3) of this subsection, the owner or operator of a CO₂ budget source subject to this section shall comply with the applicable monitoring requirements set forth in subsection (i) of this section. The commissioner shall determine compliance with subdivision (3) of this subsection using the emissions measurements recorded and reported in accordance with subsection (i) of this section.
- (3) General Provisions and CO₂ Requirements.
- (A) The owners and operators of each CO₂ budget source shall hold CO₂ allowances available for compliance deductions under subsection (g)(5) of this section, not later than the CO₂ allowance transfer deadline at the end of each interim control period and control period for the applicable control period, in the source's compliance account in an amount equal to or greater than the total CO₂ emissions for the applicable control period from all CO₂ budget sources at the source, as determined in accordance with subsections (g) and (i) of this section. In addition:
- (i) A CO₂ allowance shall not be deducted to cover emissions for a control period that ends prior to the year for which the CO₂ allowance was allocated; and
- (ii) A CO₂ offset allowance shall not be deducted to cover emissions beyond the applicable percent limitations set forth in subsection (g)(5)(B) of this section;
- (B) A CO₂ budget source shall be subject to the requirements under subsection (c)(1) of this section starting on January 1, 2009 or the date on which the source commences operation, whichever is later;
- (C) CO₂ allowances shall be held in, deducted from, or transferred among CO₂ Allowance Tracking System accounts in accordance with subsections (f), (g) and (h) of this section and section 22a-174-31a(j) of the Regulations of Connecticut State Agencies;
- (D) A CO₂ allowance under the CO₂ Budget Trading Program is a limited authorization by the commissioner or a participating state to emit one ton of CO₂ in accordance with the CO₂ Budget Trading Program;
- (E) A CO₂ allowance under the CO₂ Budget Trading Program does not constitute a property right;
- (F) For the purpose of determining compliance with [the] subparagraph (A) of this subdivision, total CO₂ emissions, in tons, for [a] each applicable interim control period or 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 subsection (i) of this section, 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; [and]

(G) Each ton of CO₂ emitted in excess of the CO₂ budget emissions limitation shall constitute a separate violation of this section[.]; and

(H) Each ton of excess interim emissions shall constitute a separate violation of this section.

[(4) Control period. The first control period is from January 1, 2009 to December 31, 2011, inclusive, provided if a Stage Two Trigger Event occurs during the first control period, then the first control period shall be extended one year to December 31, 2012, inclusive. Each subsequent sequential three calendar year period is a separate control period that may be subject to a single one year extension upon occurrence of a Stage Two Trigger Event during the control period.]

[(5)](4)Excess emissions. The owner and operator of a CO₂ budget source that has excess emissions in any control period or excess interim emissions for any interim control period shall after such control period on a time frame established by the commissioner:

- (A) Forfeit the CO₂ allowances required for deduction under subsection (g)(5)(G) of this section;
- (B) Not be authorized to cover any part of such excess emissions with CO₂ offset allowances under section 22a-174-31a of the Regulations of Connecticut State Agencies; and
- (C) Comply with the assessment of any fine, penalty or other obligation under subsection (g)(5)(G) of this section, provided that such assessment shall not limit additional enforcement action by the commissioner.

[(6)](5) Recordkeeping and reporting. The owner and operator of a CO₂ budget source shall comply with the following recordkeeping and reporting requirements:

- (A) Unless otherwise provided or extended by the commissioner prior to the end of the applicable ten year period, the owner or operator of a CO₂ budget source and each CO₂ budget unit at the source shall make and keep at the source each of the following documents for a period of ten years from the date the document is created:
 - (i) Notwithstanding the provisions of subparagraph (A) of this subdivision, the account certificate of representation for the CO₂ authorized account representative for the source and each CO₂ budget unit at the source and all documents that demonstrate the truthfulness and accuracy of the statements made in the account certificate of representation, in accordance with subsection (c)(4) of this section, shall be retained on site at the source indefinitely until such documents are superseded by the submission of a new account certificate of representation changing the CO₂ authorized account representative;
 - (ii) All emissions monitoring information in accordance with subsection (i) of this section;

- (iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CO₂ Budget Trading Program; and
 - (iv) Copies of all documents used to complete any submission under the CO₂ Budget Trading Program or to demonstrate compliance with the requirements of the CO₂ Budget Trading Program.
- (B) The CO₂ authorized account representative of a CO₂ budget source shall submit the reports and compliance certifications required under the CO₂ Budget Trading Program, including those required under subsection (e) of this section.
- [(7)](6) Liability. The owner and operator of a CO₂ budget source shall be subject to the following:
- (A) Any provision of the CO₂ Budget Trading Program that applies to a CO₂ budget source, or the CO₂ authorized account representative of a CO₂ budget source, shall also apply to the owner or operator of such source; and
 - (B) Any provision of the CO₂ Budget Trading Program that applies to a CO₂ budget unit, or the CO₂ authorized account representative of a CO₂ budget unit, shall also apply to the owner or operator of such unit.
- [(8)](7) Effect on other authorities. No provision of the CO₂ Budget Trading Program shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget source from compliance with the provision of any other applicable state or federal law or regulation.
- [(9)](8) Computation of time. Notwithstanding section 22a-3a-2(d) of the Regulations of Connecticut State Agencies and unless otherwise stated, the owner or operator of a CO₂ budget source shall be subject to the following computation of time requirements:
- (A) Any time period scheduled, under the CO₂ Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs;
 - (B) Any time period scheduled, under the CO₂ Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs; and
 - (C) If the final day of any time period, under the CO₂ Budget Trading Program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

**Table 31-1
Incorporated Reference Material**

Citation	Title or Subject	Date on Document
40 CFR 75 including Appendices A, B, D	Part 75-Continuous Emission Monitoring, Appendix A Specification and Test Procedures,	[July 2007] May 2012 Edition

& E	Appendix B Quality Assurance and Quality Control Procedures Fired and Oil-Fired Units Appendix E Optional NOx Emissions Estimation Protocol For Gas-Fired Peaking Units and Oil-Fired Peaking Units.	
	New York State Renewable Portfolio Standard Biomass Guidebook, Appendix B	May 2006

[(10)](9) Copies of documents incorporated by reference into this section are available by contacting:

Connecticut Department of Energy and Environmental Protection
 Bureau of Air Management
 79 Elm Street
 Hartford, Connecticut 06106
 [(860) 424-3027]www.ct.gov/deep

(i) CO₂ Authorized Account Representative for CO₂ Budget Sources

(1) With respect to the CO₂ authorized account representative, the owner or operator of each CO₂ budget source subject to this section shall comply with the following:

- (A) Except as provided under subdivision (3)(B) of this subsection, each CO₂ budget source, including all CO₂ budget units at the source, shall have only one CO₂ authorized account representative, with regard to all matters under the CO₂ Budget Trading Program concerning such source;
- (B) The CO₂ authorized account representative of the CO₂ budget source shall be selected by an agreement binding on the owners or operators of the source;
- (C) The owner or operator of each CO₂ budget source shall:
 - (i) Be legally bound by any decision or order issued to the CO₂ authorized account representative by the commissioner or a court regarding the source; and
 - (ii) Be legally bound by any representations, including any actions, inactions or submissions, by the CO₂ authorized account representative;
- (D) No CO₂ Allowance Tracking System account shall be established for a CO₂ budget unit at a source, until the commissioner has received a complete account certificate of representation under subdivision (4) of this subsection for a CO₂ authorized account representative;
- (E) Each submission under the CO₂ Budget Trading Program shall be submitted, signed, and certified by the CO₂ authorized account representative for each CO₂ budget source on behalf of which the submission is made, and shall:
 - (i) Include the following certification statement by the CO₂ authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget sources or CO₂ budget [sources] 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." ; and
- (ii) Be made, signed and certified in accordance with subsection (e)(1) of this section. Otherwise the commissioner shall not accept or act on a submission made on behalf of owners or operators of a CO₂ budget source; and
- (G) If the CO₂ budget source is also subject to section 22a-174-22c of the Regulations of Connecticut State Agencies or the Acid Rain Program, the CO₂ authorized account representative shall be the same person as the designated representative under such programs.
- (2) With respect to the alternate CO₂ authorized account representative, the owner or operator of each CO₂ budget source subject to this section shall comply with the following:
- (A) An account certificate of representation may designate only one alternate CO₂ authorized account representative who may act on behalf of the CO₂ authorized account representative. The agreement by which the alternate CO₂ authorized account representative is selected shall include a procedure for authorizing the alternate CO₂ authorized account representative to act in lieu of the CO₂ authorized account representative;
- (B) Upon receipt by the commissioner of a complete account certificate of representation under subdivision (4) of this subsection, any representation, action, inaction, or submission by the alternate CO₂ authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CO₂ authorized account representative;
- (C) Except in this subdivision, subdivisions (1)(A), (3) and (4) of this subsection, and subsection (g)(2) of this section, wherever the term "CO₂ authorized account representative" is used, such term shall be construed to include the alternate CO₂ authorized account representative; and
- (D) If the CO₂ budget source is also subject to section 22a-174-22c of the Regulations of Connecticut State Agencies or the Acid Rain Program, the alternate CO₂ authorized account representative shall be the same person as the alternate designated representative under such programs.
- (3) Transfers and name changes. With respect to changing the CO₂ authorized account representative and the alternate CO₂ authorized account representative or a change in ownership or operation of a CO₂ budget source, the owner or operator of each CO₂ budget source shall comply with the following:

- (A) Changing the CO₂ authorized account representative. The CO₂ authorized account representative may be changed at any time upon receipt by the commissioner of a superseding complete account certificate of representation under subdivision (4) of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized account representative or alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding account certificate of representation shall be binding on the new CO₂ authorized account representative and the owner or operator of the CO₂ budget source and the CO₂ budget units at the source;
 - (B) Changing the alternate CO₂ authorized account representative. The alternate CO₂ authorized account representative may be changed at any time upon receipt by the commissioner of a superseding complete account certificate of representation under subdivision (2)(B) of this subsection. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized account representative or alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding account certificate of representation shall be binding on the new alternate CO₂ authorized account representative and the owner or operator of the CO₂ budget source and the CO₂ budget units at the source;
 - (C) Changes in the owners and operators. With respect to a change in ownership or control of the CO₂ budget source, the owner or operator of each CO₂ budget source shall comply with the following:
 - (i) In the event a new owner or operator of a CO₂ budget source is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the CO₂ authorized account representative and any alternate CO₂ authorized account representative of the source, and the decisions, orders, actions, and inactions of the commissioner, as if the new owner or operator were included in such list; and
 - (ii) Not later than thirty (30) days following any change in the owner or operator of a CO₂ budget source or a CO₂ budget unit, including the addition of a new owner or operator, the CO₂ authorized account representative or alternate CO₂ authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include such change.
- (4) Account certificate of representation. With respect to an account certificate of representation, the owner or operator of each CO₂ budget source shall comply with the following:
- (A) A complete account certificate of representation for a CO₂ authorized account representative or an alternate CO₂ authorized account representative shall be submitted on forms prescribed by the commissioner and shall include the following elements:

- (i) Identification of the CO₂ budget source for which the account certificate of representation is submitted;
 - (ii) The name, address, electronic mail address, telephone number, and facsimile transmission number of the CO₂ authorized account representative and any alternate CO₂ authorized account representative;
 - (iii) A list of the owners and operators of the CO₂ budget source;
 - (iv) The following certification statement by the CO₂ authorized account representative and any alternate CO₂ authorized account representative:

“I certify that I was selected as the CO₂ authorized account representative or alternate CO₂ authorized account representative, as applicable, by an agreement binding on the owners and operators of the CO₂ budget source and each CO₂ budget source at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of the owners and operators of the CO₂ Budget source and 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 commissioner or a court regarding the source.”;
 - (v) A statement that such CO₂ authorized account representative is authorized to legally bind each owner or operator of the CO₂ budget source represented by such CO₂ authorized account representative in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative and such owners or operators; and
 - (vi) The signature of the CO₂ authorized account representative and any alternate CO₂ authorized account representative and the dates signed; and
- (B) Unless otherwise required by the commissioner, documents of agreement referred to in the account certificate of representation shall not be submitted to the commissioner. The commissioner shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
- (5) Objections to the CO₂ authorized account representative.
- (A) Once a complete account certificate of representation under subdivision (4) of this subsection has been submitted and received, the commissioner shall rely on the account certificate of representation unless and until the commissioner receives a superseding complete account certificate of representation under subdivision (4) of this subsection; and
 - (B) Except as provided in subdivision (3)(A) or (B) of this subsection, no objection or other communication submitted to the commissioner concerning the authorization,

or any representation, action, inaction, or submission of the CO₂ authorized account representative shall affect any representation, action, inaction, or submission of the CO₂ authorized account representative or the finality of any decision or order by the commissioner under the CO₂ Budget Trading Program.

- (6) Delegation by CO₂ authorized account representative and alternate CO₂ authorized account representative.
- (A) A CO₂ authorized account representative may delegate, to one or more individuals, such representative's authority to make an electronic submission to the commissioner under this section;
 - (B) An alternate CO₂ authorized account representative may delegate, to one or more individuals, such representative's authority to make an electronic submission to the commissioner under this section;
 - (C) In order to delegate authority to make an electronic submission to the commissioner in accordance with subparagraphs (A) and (B) of this subdivision, the CO₂ authorized account representative or alternate CO₂ authorized account representative, as appropriate, shall submit to the commissioner a notice of delegation, in a format prescribed by the commissioner that includes the following elements:
 - (i) The name, address, electronic mail address, telephone number, and facsimile transmission number of such CO₂ authorized account representative or alternate CO₂ authorized account representative;
 - (ii) The name, address, electronic mail address, telephone number and facsimile transmission number of each such individual, in this section referred to as the "electronic submission agent"; and
 - (iii) For each individual, a list of the type of electronic submissions under subparagraphs (A) or (B) of this subdivision for which authority is delegated to him or her;
 - (D) A notice of delegation submitted under [subsection (c)(6)(C) of this section] subparagraph (C) of this subdivision shall also include the following certification statements by such CO₂ authorized account representative or alternate CO₂ authorized account representative:
 - (i) "I agree that any electronic submission to the commissioner that is by the individual identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO₂ authorized account representative or alternate CO₂ authorized account representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under section 22a-174-31(c)(6)(E) of the Regulations of Connecticut State Agencies shall be deemed to be an electronic submission by me."; and

- (ii) “Until this notice of delegation is superseded by another notice of delegation under section 22a-174-31(c)(6)(E) of the Regulations of Connecticut State Agencies, I agree to maintain an e-mail account and to notify the commissioner immediately of any change in my e-mail address unless all delegation authority by me under section 22a-174-31(c)(6) of the Regulations of Connecticut State Agencies is terminated.”;
 - (E) A notice of delegation submitted pursuant to subparagraph (C) of this subdivision shall be effective, with regard to the CO₂ authorized account representative or alternate CO₂ authorized account representative identified in such notice, upon receipt of such notice by the commissioner and until receipt by the commissioner of a superseding notice of delegation by such CO₂ authorized account representative or alternate CO₂ authorized account representative as appropriate. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority; and
 - (F) Any electronic submission covered by the certification in subparagraph (D)(i) of this subdivision and made in accordance with a notice of delegation effective under subparagraph (E) of this subdivision shall be deemed to be an electronic submission by the CO₂ authorized account representative or alternate CO₂ authorized account representative submitting such notice of delegation.
- (j) Reserved**
- (k) Compliance Certification**
- (1) Compliance certification report. The owner or operator of each CO₂ budget source shall comply with the following compliance certification report requirements:
 - (A) Applicability and deadline. For each control period in which a CO₂ budget source is subject to the requirements of subsection (b)(3) of this section, the CO₂ authorized account representative of the source shall submit to the commissioner not later than March 1st immediately following [the applicable] that control period, a compliance certification report[;].
 - (B) Contents of report. The CO₂ authorized account representative shall include in the compliance certification report required under subparagraph (A) of this subdivision the following elements, on forms prescribed by, or in a format otherwise acceptable to, the commissioner:
 - (i) Identification of the source and each CO₂ budget source at the source;
 - (ii) At the CO₂ authorized account representative's option, the serial numbers of the CO₂ allowances that are to be deducted from the source's compliance account under subsection (g)(5) of this section for the control period; and
 - (iii) The compliance certification required by subparagraph (C) of this subdivision.

- (C) Compliance certification. In the compliance certification report required under subparagraph (A) of this subdivision, the CO₂ authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO₂ budget sources in compliance with the CO₂ Budget Trading Program, whether the source and each CO₂ budget source for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the CO₂ Budget Trading Program, including:
- (i) Whether the source was operated in compliance with the requirements of subsection (b)(3) of this section;
 - (ii) Whether the monitoring plan applicable to each unit at the source has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute CO₂ emissions to the unit, in accordance with subsection (i) of this section;
 - (iii) Whether all the CO₂ emissions from the units at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subsection (i) of this section. 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;
 - (iv) Whether the facts that form the basis for certification under subsection (i) of this section of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under subsection (i) of this section, if applicable, has changed; and
 - (v) If a change is required to be reported under subsection (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.
- (2) Commissioner's action on compliance certifications.
- (A) The commissioner may review and conduct independent audits concerning any compliance certification or any other submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.
 - (B) The commissioner may deduct CO₂ allowances from or transfer CO₂ allowances to a source's compliance account based on the information in the compliance certifications or other submissions, as approved during the commissioner's review under subparagraph (A) of this subdivision.
- (I) CO₂ Allowance Allocations**

- (1) The Connecticut CO₂ Trading Program Base Budget is as follows:
- (A) For the 2009 to [2014] 2013 allocation years, inclusive, the Connecticut CO₂ Trading Program Base Budget is 10,695,036 tons;
 - (B) For the [2015] 2014 allocation year, the Connecticut CO₂ Trading Program Base Budget is [10,427,660] 5,891,895 tons;
 - (C) For the [2016] 2015 allocation year, the Connecticut CO₂ Trading Program Base Budget is [10,160,284] 5,744,598 tons;
 - (D) For the [2017] 2016 allocation year, the Connecticut CO₂ Trading Program Base Budget is [9,892,908] 5,600,983 tons;[and]
 - (E) For the [2018] 2017 allocation year and each succeeding allocation year, the Connecticut CO₂ Trading Program Base Budget is [9,625,532] 5,460,958 tons[.];
 - (F) For 2018 the Connecticut CO₂ Trading Program Base Budget is 5,324,434 tons;
 - (G) For 2019 the Connecticut CO₂ Trading Program Base Budget is 5,191,324 tons; and
 - (H) For 2020 and each succeeding calendar year, the Connecticut CO₂ Trading Program Base Budget is 5,061,540 tons.
- (2) CO₂ Allowances available for allocation. For allocation years 2014 through 2020, the CO₂ Budget Trading Program adjusted budget shall be the maximum number of allowances available for allocation in a given allocation year, except for CO₂ offset allowances and CO₂ CCR allowances.
- (A) Cost Containment Reserve (CCR) allocation. The commissioner shall allocate CO₂ CCR allowances, separate from and additional to the Connecticut CO₂ Budget Trading Program base budget set forth in subdivision (1) of this subsection, to the Connecticut Auction Account. The CCR allocation is for the purpose of containing the cost of CO₂ allowances. The commissioner shall allocate CO₂ CCR allowances in the following manner:
 - (i) The commissioner shall allocate 323,731 CO₂ CCR allowances for calendar year 2014.
 - (ii) On or before January 1, 2015 and each calendar year thereafter, the commissioner shall allocate CO₂ CCR allowances in an amount equal to 647,461, less the number of CO₂ CCR allowances that remain in the Budget Trading Account at the end of the prior calendar year.
 - (B) First control period interim adjustment for banked allowances. No later than March 15, 2014, the commissioner shall determine the first control period interim adjustment for banked allowances quantity for allocation years 2014 through 2020 by the following formula:

$$F_{CPIABA} = (F_{CPA}/7) \times 0.065$$

Where:

- (i) F_{CPIABA} is the first control period interim adjustment for banked allowances quantity in tons.
 - (ii) F_{CPA} is the total quantity of allocation year 2009, 2010, and 2011 CO₂ allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO₂ Budget Trading Program, but not including accounts opened by participating states, as reflected in COATS on January 1, 2014.
 - (iii) 0.065 is the Connecticut proportional share of the regional emissions CO₂ emissions cap calculated to the twelfth significant digit.
- (C) Second control period interim adjustment for banked allowances. On March 15, 2014, the commissioner shall determine the second control period interim adjustment for banked allowances quantity for allocation years 2015 through 2020 by the following formula:

$$S_{CPIABA} = ((S_{CPA} - S_{CPE})/6) \times 0.065$$

Where:

- (i) S_{CPIABA} is the second control period interim adjustment for banked allowances quantity in tons.
 - (ii) S_{CPA} is the total quantity of allocation year 2012 and 2013 CO₂ allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO₂ Budget Trading Program, but not including accounts opened by participating states, as reflected in COATS on March 15, 2014.
 - (iii) S_{CPE} is the total quantity of 2012 and 2013 emissions from all CO₂ budget sources in all participating states, reported pursuant to CO₂ Budget Trading Program as reflected in COATS on March 15, 2014.
 - (iv) 0.065 is the Connecticut proportional share of the regional emissions CO₂ emissions cap calculated to the twelfth significant digit.
- (D) CO₂ Budget Trading Program adjusted budget 2014. The commissioner shall determine the CO₂ Budget Trading Program adjusted budget for the 2014 allocation year by the following formula:

$$A_B = B_B - F_{CPIABA}$$

Where:

- (i) A_B is the Connecticut CO₂ Budget Trading Program 2014 adjusted budget.
 - (ii) B_B is the Connecticut CO₂ Budget Trading Program 2014 base budget.
 - (iii) F_{CPIABA} is the first control period interim adjustment for banked allowances quantity.
- (E) Connecticut CO₂ Budget Trading Program adjusted budgets for 2015 through 2020. No later than April 15, 2014 the commissioner shall determine the CO₂ Budget Trading Program adjusted budgets for the 2015 through 2020 allocation years by the following formula:

$$A_B = B_B - (F_{CPIABA} + S_{CPIABA})$$

Where:

- (v) A_B is the CO₂ Budget Trading Program adjusted budget.
 - (vi) B_B is the CO₂ Budget Trading Program base budget.
 - (vii) F_{CPIABA} is the first control period interim adjustment for banked allowances.
 - (viii) S_{CPIABA} is the second control interim adjustment for banked allowances.
- (F) After making the calculations in subparagraphs (B) through (E) of this subdivision, the commissioner shall publish the Connecticut CO₂ Trading Program adjusted budgets for the 2014 through 2020 allocation years.
- [(2)](3) Timing requirements for CO₂ allowance allocations.
- [(A)] Not later than January 1, 2009, the commissioner shall determine the initial CO₂ allowance allocations, in accordance with subdivision (3) of this subsection, for the 2009, 2010, 2011 and 2012 allocation years.
- (B) Not later than January 1, [2010] 2014 and January 1 of each year thereafter, the commissioner shall determine the initial CO₂ allowance allocations, in accordance with subdivision [(3)](4) of this subsection, for [the] that allocation year[that commences three years after such applicable deadline for allocation].
- [(3)](4) CO₂ allowance allocations.
- (A) In accordance with the timing provisions of subdivision [(2)](3) of this subsection, the commissioner shall allocate each annual CO₂ [base] Trading Program adjusted budget as follows:

- (i) One and one-half (1.5) percent to the Voluntary Clean Energy Purchase Set-aside Account;

- (ii) [Three and one-half (3.5)] One and one-half (1.5) percent to the Customer-side Distributed Resources (CDR) Set-aside Account; and
- (iii) [Five (5)] One and one half (1.5) percent to the Combined Heat and Power (CHP) Useful Thermal Energy Set-aside Account;
- (iv) Up to thirteen (13) percent to the Combined Heat and Power (CHP) Long-term PPA Set-aside Account; and]
- [(v)](iv) [A minimum seventy-seven (77)] Ninety-five and one half (95.5) percent shall be allocated to the Connecticut Auction Account;

(B) Not later than April 1, 2009 and April 1 of each year thereafter, the commissioner shall allocate from the CHP Useful Thermal Energy Set-aside Account to the compliance account of each CO₂ budget source generating useful net thermal energy from its CO₂ budget units the number of CO₂ allowances equal to the amount determined by the following equation (rounded to the nearest whole ton), subject to the limitation in subparagraph (C) of this subdivision. CO₂ budget units that are eligible for allowances from the CDR Set-aside Account pursuant to subparagraph (O) of this subdivision shall not be eligible for allowances from the CHP Useful Thermal Output Set-aside Account;

$$\frac{(TEG \div 0.80) \times 136 \frac{lb}{mmBtu}}{2000 \frac{lb}{ton}}$$

Where:

TEG = the average useful net thermal energy (in mmBtu) generated by CO₂ budget units at the CO₂ budget source during the two years preceding the allocation year of the allowances being allocated;

(C) IF $\sum A_{CHP1} \leq A_{CHP1-AV}$, THEN

$$A_{CHP1-ALLOCATED} = A_{CHP1}$$

IF $\sum A_{CHP1} > A_{CHP1-AV}$, THEN

$$A_{CHP1-ALLOCATED} = A_{CHP1} \times \left(\frac{A_{CHP1-AV}}{\sum A_{CHP1}} \right)$$

rounded to the nearest whole allowance.

Where:

- A_{CHP1} = the number of CO₂ allowances calculated for each CO₂ budget source pursuant to subparagraph (B) of this subdivision;
- ΣA_{CHP1} = the total number of CO₂ allowances calculated for CO₂ budget sources pursuant to subparagraph (B) of this subdivision;
- $A_{\text{CHP1-AV}}$ = the number of CO₂ allowances available for allocation from the CHP Useful Thermal Output Set-aside Account;
- $A_{\text{CHP1-ALLOCATED}}$ = the number of CO₂ allowances the commissioner shall allocate to the compliance account of each CO₂ budget source;

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $A_{\text{CHP1-AV}}$;

- (D) If $\Sigma A_{\text{CHP1}} < A_{\text{CHP1-AV}}$, allowances from the CHP Useful Thermal Output Set-aside Account not allocated for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision (4) of this subsection;
- (E) Not later than March 1, 2009 and March 1 of each year thereafter, CO₂ budget sources shall submit, on forms prescribed by the commissioner, information required for the equation specified in subparagraph (B) of this subdivision relating amount of useful net thermal energy generated by CO₂ budget units at the CO₂ budget source during the two years preceding the allocation year of the allowances being allocated. Such information shall be submitted to the commissioner as part of the annual output report required pursuant to subsection (i)(9)(J)(ii) of this section;
- [(F) Subject to the requirements set forth in subparagraphs (G) to (M), inclusive, of this subdivision, on three separate occasions, not later than June 1, 2009, not later than June 1, 2010 and not later than June 1, 2011, the commissioner shall offer for sale allowances from the CHP Long-term PPA Set-aside Account to eligible CO₂ budget sources which operate CO₂ budget units that are also CHP units with existing long-term power purchase agreements. CO₂ budget units that are eligible for allowances from the CDR Set-aside Account pursuant to subparagraph (O) of this subdivision shall not be eligible for allowances from the CHP Long-term PPA Set-aside Account;
- (G) In order to purchase allowances from the CHP Long-term PPA Set aside Account, a CO₂ budget source shall, on or before October 31, 2008, or not later than 30 days of revising a long-term PPA, submit an application to the commissioner. Such application shall include:
- (i) A copy of the long-term PPA for the electricity generated from the CO₂ budget units at the CO₂ budget source;
 - (ii) A demonstration that the long-term PPA was executed prior to January 1, 2001;

- (vii) Certification that the CO₂ budget source can not pass along to the purchasing party in a long-term PPA any additional operating costs resulting from the implementation of this section;
 - (viii) Certification that the CO₂ budget source can not recover the costs of CO₂ allowances as a result of participation in electricity markets;
 - (ix) A disclosure of any renegotiations or revisions to the long-term PPA that have been executed on or after January 1, 2001; and
 - (x) Any other information the commissioner may require;
- (H) A CO₂ budget source shall remain eligible to purchase allowances from the CHP Long-term PPA Set-aside Account established pursuant to subparagraph (G) of this subdivision until the expiration date of the long-term PPA, the date on which the long-term PPA is revised, or December 31, 2011, whichever occurs first, provided that:
- (i) If the long-term PPA is revised after the submission of the application pursuant to subparagraph (G) of this subdivision, the CO₂ budget source shall notify the commissioner of such revision not later than 30 days of execution; and
 - (ii) The CO₂ budget source shall no longer be eligible to purchase CO₂ allowances from the CHP Long-term PPA Set-aside Account until eligibility is re-established by submitting an application under subparagraph (G) of this subdivision. The CO₂ budget source shall document the reasons that the revised long-term PPA does not include provisions related to the cost of CO₂ allowances;
- (I) The commissioner shall offer for sale allowances from the CHP Long-term PPA Set-aside Account to eligible CO₂ budget source at the following prices:
- (i) Two dollars in 2009; and
 - (ii) Two dollars as indexed for inflation in years 2010 and 2011 as follows: two dollars multiplied by the ratio of the Consumer Price Index for all-Urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year to the Consumer Price Index for all-Urban consumers for August 2008;
- (J) The maximum number of allowances that an eligible CO₂ budget source may purchase from the CHP Long-term PPA Set-aside Account shall be equal to the total number of tons of CO₂ emissions emitted by CO₂ budget units at the CO₂ budget source in the previous calendar year (rounded to the nearest whole ton), less any allowances allocated to the compliance account of the CO₂ budget source pursuant to subparagraphs (B) and (C) of this subdivision, subject to the limitations in subparagraphs (K) and (L) of this subdivision;
- (K) If an existing long-term PPA is set to expire mid-year in any given year, the commissioner shall adjust the maximum number of allowances that may be purchased

from the CHP Long-term PPA Set-aside Account to reflect the number of days in the current year for which the long-term PPA will be valid;

(L) IF $\Sigma A_{CHP2} \leq A_{CHP2-AV}$, THEN

$$A_{CHP2-OFFERED} = A_{CHP2}.$$

IF $\Sigma A_{CHP2} > A_{CHP2-AV}$, THEN

$$A_{CHP2-OFFERED} = A_{CHP2} \times \left(\frac{A_{CHP2-AV}}{\Sigma A_{CHP2}} \right)$$

rounded to the nearest whole allowance.

Where:

A_{CHP2} = the maximum number of CO₂ allowances determined for each CO₂ budget source pursuant to subparagraphs (J) and (K) of this subdivision;

ΣA_{CHP2} = the total number of CO₂ allowances determined for CO₂ budget sources pursuant to subparagraphs (J) and (K) of this subdivision;

$A_{CHP2-AV}$ = the number of CO₂ allowances available for allocation from the CHP Useful Thermal Output Set-aside Account;

$A_{CHP2-OFFERED}$ = the number of CO₂ allowances the commissioner shall offer for sale of each eligible CO₂ budget source;

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $A_{CHP2-AV}$;

(M) Allowances sold to a CO₂ budget source from the CHP Long-term PPA Set-aside Account may be used for compliance only and shall not be resold by or transferred from the compliance account of a CO₂ budget source;

(N) If $\Sigma A_{CHP2} < A_{CHP2-AV}$, allowances from the CHP Long-term PPA Set-aside Account not sold for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision (4) of this subsection;]

[(O)](F) Not later than February 28, 2010 and February 28 of each year thereafter, the commissioner shall allocate from the CDR Set-aside Account to the compliance account of each CO₂ budget source, which operates CO₂ budget units that are also customer-side distributed resources that received funds pursuant to the customer-side distributed resources program established by the [Department of Public Utilities Control] Public Utilities Regulatory Authority pursuant to section 16-243i of the Connecticut General Statutes, the number of CO₂ allowances equal to the total number

of tons of CO₂ emissions emitted by such CO₂ budget units in the previous calendar year (rounded to the nearest whole ton), subject to the limitation in subparagraph [(P)] (G) of this subdivision;

[(P)](G) IF $\Sigma A_{CDR} \leq A_{CDR-AV}$, THEN

$$A_{CDR-ALLOCATED} = A_{CDR}.$$

IF $\Sigma A_{CDR} > A_{CDR-AV}$, THEN

$$A_{CDR-ALLOCATED} = A_{CDR} \times \left(\frac{A_{CDR-AV}}{\Sigma A_{CDR}} \right)$$

rounded to the nearest whole allowance.

Where:

A_{CDR} = the number of CO₂ allowances calculated for each CO₂ budget source pursuant to subparagraph (F) of this subdivision;

ΣA_{CDR} = the total number of CO₂ allowances calculated for CO₂ budget sources pursuant to subparagraph (F) of this subdivision;

A_{CDR-AV} = the number of CO₂ allowances available for a allocation from the CDR Set-aside Account;

$A_{CDR-ALLOCATED}$ = the number of CO₂ allowances the commissioner shall allocate to the compliance account of each CO₂ budget source;

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed A_{CDR-AV} ; and

[(Q)](H) If $\Sigma A_{CDR} < A_{CDR-AV}$, allowances from the CDR Set-aside Account not allocated for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision [(4)](5) of this subsection.

[(4)](5) CO₂ allowance and CO₂ CCR allowance auctions.

- (A) [For purposes of this subdivision, “auction” means the open and transparent process by which the] The commissioner or a contractor or trustee selected by the commissioner[, in consultation with the Department of Public Utility Control,] shall [offer for sale and sell] auction the CO₂ allowances in the Connecticut Auction Account at least once per year;
- (B) Except as provided by subparagraph (C) of this subdivision, by December 31 of each allocation year, the commissioner or a contractor or trustee selected by the commissioner shall [offer for sale] auction the CO₂ allowances with the same allocation year that are held in the Connecticut Auction Account[. Such auction shall

be conducted under the oversight of the commissioner and the Department of Public Utility Control];

- (C) CO₂ allowances which are transferred to the Connecticut Auction Account from the CHP Useful Thermal Energy Set-aside Account pursuant to subdivision [(3)(D)](4)(D) of this subsection[, from the CHP Long-term PPA Set-aside Account pursuant to subdivision (3)(N) of this subsection], from the CDR Set-aside Account pursuant to subdivision [(3)(Q)](4)(H) of this subsection, or from the Voluntary Clean Energy Purchase Set-aside Account pursuant to subdivision [(6)(C)] (7)(C) of this subsection [shall] may be offered for sale at the next auction held following the transfer of such allowances[.];
- (D) CO₂ CCR allowances shall be auctioned in accordance with the procedures specified in subparagraphs (E) through (I) of this subdivision:
- (E) CO₂ CCR allowances shall only be sold at auction when the total demand for allowances exceeds the number of CO₂ allowances available for purchase at the auction at a price above the following CCR trigger price:
- (i) \$4.00 per CO₂ allowance for calendar year 2014;
 - (ii) \$6.00 per CO₂ allowance in calendar year 2015;
 - (iii) \$8.00 per CO₂ allowance in calendar year 2016;
 - (iv) \$10.00 per CO₂ allowance in calendar year 2017; and
 - (v) Beginning on January 1, 2018 and each January 1st thereafter, the CCR trigger price shall increase by 2.5% per year and be rounded to the nearest whole cent.
- (F) If the total demand for CO₂ allowances exceeds the number of CO₂ allowances available for purchase at any auction at a price equal to or greater than that specified in subparagraph (E) of this subdivision, then the number of CO₂ CCR allowances offered for sale by the commissioner at such auction shall be equal to the number of CO₂ CCR allowances in the CO₂ Auction Account at the time of the auction.
- (G) After the annual supply of CO₂ CCR allowances in the CO₂ Auction Account is exhausted, no additional CO₂ CCR allowances may be offered at any auction for the remainder of that calendar year;.
- [(5)](6) Distribution of auction proceeds. [Proceeds]Not later than December 31, 2014 and December 31 of each year thereafter, proceeds derived from the sale of CO₂ allowances or CO₂ CCR allowances held in the Connecticut Auction Account shall be distributed as [follows] specified in subparagraphs (A) through (D), inclusive:
- (A) Seven and one-half (7.5) percent of auction proceeds, less any amount of revenue refunded pursuant to subsection (j) of this section, shall be retained by the

commissioner for use in accordance with section 22a-200c(c) of the Connecticut General Statutes;

- (B) [Not later than December 31, 2009 and December 31 of each year thereafter, up to twenty-three]Twenty-three (23) percent of proceeds from auctions, less any amount of revenue refunded pursuant to subsection (j) of this section, [may]shall be transferred to an account held by the Clean Energy Finance and Investment Authority (CEFIA) for the [Connecticut] Clean Energy Fund. Proceeds are to be used to support the development of Class I renewable energy sources. The amount of proceeds to be transferred to [CCEF] CEF shall be determined based on the following criteria:
- (i) Not later than October 31, 2009 and October 31 of each year thereafter, [CCEF] CEF may apply for such funds on forms prescribed by the commissioner; and
 - (ii) The commissioner shall transfer funds to [CCEF]CEF provided that [CCEF] CEF demonstrates such funds will be committed within twelve months from the date of receipt to support the development of Class I renewable energy sources and further provided that for the prior year ending June 30 there is no more than ten million dollars unallocated;
- (C) [Not later than December 31, 2009 and December 31 of each year thereafter, at least sixty-nine]Sixty-nine and one-half (69.5) percent of proceeds from auctions, less any amount of revenue refunded pursuant to subsection (j) of this section, shall be [transferred to accounts held by Connecticut Light & Power (CL&P) and United Illuminating (UI) and overseen by the Energy Conservation Management Board and to an account held by the Connecticut Municipal Electric Energy Cooperative (CMEEC). Seventy five (75) percent of such proceeds shall be distributed to the CL&P account, eighteen and three-fourths (18.75) percent shall be distributed to the UI account and six and one-fourth (6.25) percent shall be distributed to the CMEEC account. Such proceeds shall be used to support the development of energy efficiency measures; and] distributed as follows:
- (iii) [Seventy five (75) percent of such proceeds shall be distributed to the CL&P,]From January 1, 2014 to July 1, 2015, proceeds shall be transferred under this subdivision as follows:
 - I. Four and one hundredths (4.01) percent shall be transferred to an account held by CMEEC for use in supporting energy efficiency programs, provided that the commissioner shall not transfer any funds to CMEEC for any calendar year for which the report required by subparagraph (D) of this subdivision is not received by April 30 of such calendar year, and further provided that the commissioner may withhold the transfer of any portion of the funds to CMEEC if the report filed by CMEEC fails to provide a full and accurate accounting of the use of all such funds;
 - II. Two and twenty four one hundredths (2.24) percent shall be distributed to WED for use in supporting energy efficiency programs, provided

that the commissioner shall not transfer any funds to WED for any calendar year for which the report required by subparagraph (D) of this subdivision is not received by April 30 of such calendar year, and further provided that the commissioner may withhold the transfer of any portion of the funds to WED if the report filed by WED fails to provide a full and accurate accounting of the use of all such funds;

- III. Up to one million two hundred and fifty thousands dollars shall be transferred, quarterly, to accounts held by Connecticut Light & Power (CL&P) and United Illuminating (UI) and overseen by the EEB for use in supporting energy efficiency programs. Such proceeds shall be allocated as follows: one (1) million dollars into an account held by CL&P and overseen by the EEB and two hundred and fifty thousand dollars into an account held by UI and overseen by the EEB;
 - IV. In the event that there are any excess proceeds under this subparagraph after the distributions specified in subparagraphs (C)(i)(I) through (C)(i)(III) of this subdivision have been made, such excess proceeds shall be transferred to CEFIA pursuant to section 131 of Public Act 13-247 to be used to support energy efficiency programs, provided that the total amount of such proceeds transferred to CEFIA under this subdivision shall not exceed twenty-five million four hundred thousand (\$25,400,000) dollars, and further provided that such proceeds may be allocated to CEFIA on a pro-rated quarterly basis; and
 - V. In the event that there are any excess proceeds under this subparagraph after the distributions specified in subparagraphs (C)(i)(I) through (C)(i)(IV) of this subdivision have been made, such excess proceeds shall be distributed to the CL&P and the UI for use in supporting energy efficiency programs, according to the following allocation: eighty (80) percent of such proceeds shall be transferred into an account held by CL&P and overseen by the EEB, and twenty (20) percent of such proceeds shall be transferred into an account held by UI and overseen by the EEB.
- (iv) [eighteen and three-fourths (18.75) percent shall be distributed to the UI, and] On and after July 1, 2015, proceeds shall be transferred under this subdivision as follows:
- I. seventy-five (75) percent of such proceeds shall be transferred into an account held by CL&P and overseen by the EEB to be used to support energy efficiency programs;
 - II. eighteen and three-fourths (18.75) percent shall be transferred into an account held by UI and overseen by the EEB to be used to support energy efficiency programs;

- III. four and one hundredths (4.01) percent shall be transferred to an account held by CMEEC to be used for energy efficiency programs, provided that the commissioner shall not transfer any funds to CMEEC for any calendar year for which the report required by subparagraph (D) of this subdivision is not received by April 30 of such calendar year, and further provided that the commissioner may withhold the transfer of any portion of the funds to CMEEC if the report filed by CMEEC fails to provide a full and accurate accounting of the use of all such funds; and
- IV. Two and twenty four one hundredths (2.24) percent shall be distributed to WED for use in supporting energy efficiency programs, provided that the commissioner shall not transfer any funds to WED for any calendar year for which the report required by subparagraph (D) of this subdivision is not received by April 30 of such calendar year, and further provided that the commissioner may withhold the transfer of any portion of the funds to WED if the report filed by WED fails to provide a full and accurate accounting of the use of all such funds.
- (D) CMEEC and WED shall each provide a full accounting of the use of funds transferred to the respective CMEEC and WED [account] accounts in accordance with the provisions of subparagraph (C) of this subdivision. Such accounting shall be submitted in the form of a report to the commissioner, [the chairperson of the Department of Public Utility Control,] and the chairperson[s] of the Energy [Conservation and Management] Efficiency Board. CMEEC shall also submit a copy of its report to [and] the chief elected officials in any municipality served by CMEEC municipal utilities no later than [March 31] April 30, [2010] 2014 and annually thereafter through the year following the date of the final expenditure of any funds received pursuant to subparagraph (C) of this subdivision.

[(6)](7)Retirement of Allowances [for Clean Energy Purchases]. [The commissioner shall permanently retire a number of CO₂ allowances from the Voluntary Clean Energy Purchase Set-aside Account based upon documented voluntary renewable energy purchases by customers in Connecticut that represent RECs sold through the Connecticut Clean Energy Options program or renewable energy generated from within any participating state.] Any retirement of allowances shall be determined as follows:

- (A) The commissioner shall permanently retire a number of CO₂ allowances from the Voluntary Clean Energy Purchase Set-aside Account based upon documented voluntary renewable energy purchases by customers in Connecticut that represent RECs sold through the Connecticut Clean Energy Options program or renewable energy generated from within any participating state. The commissioner shall retire the number of CO₂ allowances equal to the amount determined by the following equation (rounded to the nearest whole ton), subject to the limitations in subparagraph (B) of this subdivision and the requirements of subparagraphs (E) and (F) of this subdivision:

$$(MWH_{CCEO} + MWH_{RECS}) \times (0.554 \text{ tons CO}_2 / \text{MWh})$$

Where:

MWH_{CCEO} = the total number of RECs sold (in MWhs) to Connecticut customers through the Connecticut Clean Energy Options program in the year prior to the vintage year of the CO₂ allowances to be retired;

MWH_{RECS} = the total number of RECs from renewable energy sources located within any participating state sold (in MWhs) to Connecticut customers through means other than the Connecticut Clean Energy Options program in the year prior to the vintage year of the CO₂ allowances to be retired;

- (B) If the total number of allowances calculated to be retired pursuant to subparagraph (A) of this subdivision exceeds the number of CO₂ allowances held in the Voluntary Clean Energy Purchase Set-aside Account, then the number of CO₂ allowances to be retired shall be equal to the total number of CO₂ allowances allocated in the Voluntary Clean Energy Purchase Set-aside Account pursuant to subdivision (3)(A) of this subsection;
- (C) If the total number of allowances calculated to be retired pursuant to subparagraph (A) of this subdivision is less than the number of CO₂ allowances held in the Voluntary Clean Energy Purchase Set-aside Account, then allowances from the Voluntary Clean Energy Purchase Set-aside Account not allocated for a vintage year shall be transferred to the Connecticut Auction Account, from which such allowances shall be auctioned in accordance with subdivision (4) of this subsection;
- (D) Not later than October 1, 2009 and October 1 of each year thereafter, the commissioner shall retire the number of allowances determined pursuant to subparagraphs (A) and (B) of this subdivision by transferring them to the Connecticut CO₂ Allowance Retirement Account;
- (E) Data for the total number of RECs sold to Connecticut customers through the Connecticut Clean Energy Options program required for the equation specified in subparagraph (A) of this subdivision shall be obtained from the Department of Public Utility Control;
- (F) Not later than June 30, 2009 and June 30 of each year thereafter, information required for the equation specified in subparagraph (A) of this subdivision relating to the number of RECs from renewable energy sources located within any participating state sold to Connecticut customers through means other than the Connecticut Clean Energy Options program in the previous year may be submitted by the retail provider that sold such RECs. Such information shall also include:
 - (i) Documentation that the retail provider procured the renewable energy or renewable energy attributes related to voluntary renewable energy or renewable energy attribute credit;

- (ii) The time period when the retail purchase or purchases were made;
 - (iii) The state where the REC was created, including documentation of facility name, unique generator identification number and fuel type; and
 - (iv) Any additional information required by the commissioner necessary to demonstrate that such REC purchase is not being credited in more than one participating state.
- (G) The Commissioner may retire any undistributed CO₂ allowances at the end of each control period;
- (H) The Commissioner may retire any unsold CO₂ allowances at the end of each control period
- [(7) Early reduction CO₂ allowances. For the purposes of this subdivision, the baseline period shall be defined as calendar years 2003, 2004 and 2005, and the early reduction period shall be defined as calendar years 2006, 2007 and 2008. The commissioner may award early reduction CO₂ allowances to a CO₂ budget source for reductions in the CO₂ budget source's CO₂ emissions, including all emissions from CO₂ budget units at the CO₂ budget source, that are achieved by the source during the early reduction period of 2006, 2007 and 2008, subject to the following requirements:
- (A) The owner or operator of the CO₂ budget source shall submit its application for the award of CO₂ allowances not later than May 1, 2009;
 - (B) The owner or operator of the CO₂ budget source shall demonstrate that all CO₂ budget units that existed at the CO₂ budget source during the baseline period are included as CO₂ budget units for the early reduction period. New CO₂ budget units added at the CO₂ budget source shall also be accounted for during the early reduction period;
 - (C) The owner or operator of the CO₂ budget source shall demonstrate that the data submitted in support of the early reduction application was recorded in compliance with the requirements of subsection (i) of this section for each of the baseline period years, and also for the early reduction period years, for which the CO₂ budget source was required to report CO₂ data pursuant to 40 CFR 75. An owner or operator of a CO₂ budget source that was not required to submit CO₂ data pursuant to 40 CFR 75 for any of the years contained in the baseline period or early reduction period may request, as part of its application to the commissioner under this subsection, to use an alternative data source or sources for the calculation of early reduction allowances;
 - (D) The commissioner shall calculate the number of early reduction CO₂ allowances to be awarded to a particular CO₂ budget source pursuant to the following formula:
 - (i) If total heat input to all CO₂ budget units at the CO₂ budget source during the early reduction period is less than or equal to the total heat input to all the CO₂ budget units at the CO₂ budget source during the baseline period, then:

$$ERAs = ((AEER_{BASELINE} - AEER_{ERP}) \times (EO_{ERP} + (TO_{ERP} / 3.413))) / 2000$$

Where:

ERAs are early reduction CO₂ allowances;

AEER_{BASELINE} is the average CO₂ emissions rate resulting from electric energy output and thermal energy output for all of the CO₂ budget units at the CO₂ budget source during the baseline period (in pounds of CO₂/MWh_{th+e});

AEER_{ERP} is the average CO₂ emissions rate resulting from electric energy output and thermal energy output for all of the CO₂ budget units at the CO₂ budget source during the early reduction period (in pounds of CO₂/MWh_{th+e});

EO_{ERP} is the total electric energy output from all CO₂ budget units at the CO₂ budget source during the early reduction period (in MWh_e); and

TO_{ERP} is the total useful thermal energy output from all CO₂ budget units at the CO₂ budget source during the early reduction period (in MMBtu);

- (ii) For the purposes of this subparagraph, thermal energy output shall be converted to units of MWh by the conversion factor 1 MWh = 3.413 MMBtu;
- (iii) For the purposes of this subparagraph, output shall be monitored in accordance with subsection (i) of this section;
- (iv) If total heat input to all CO₂ budget units at the CO₂ budget source during the early reduction period is greater than or equal to the total heat input to all the CO₂ budget units at the CO₂ budget source during the baseline period, then:

$$ERAs = E_{BASELINE} - E_{ERP}$$

Where:

ERAs are early reduction CO₂ allowances;

E_{BASELINE} are total CO₂ emissions from all of the CO₂ budget units at the CO₂ budget source during the baseline period (in tons); and

E_{ERP} are total CO₂ emissions from all of the CO₂ budget units at the CO₂ budget source during the early reduction period (in tons); and

(E) Once the commissioner confirms a CO₂ budget source's early reductions of CO₂ emissions, the commissioner shall award the early reduction CO₂ allowances to the CO₂ budget source's compliance account not later than December 31, 2009.]

(m) Allowance Tracking System

- (6) CO₂ Allowance Tracking System accounts.

- (A) Nature and function of compliance accounts. Consistent with subdivision (2)(A) of this subsection, the commissioner shall establish one compliance account for each CO₂ budget source. Allocations of CO₂ allowances pursuant to subsection (f) of this section and deductions or transfers of CO₂ allowances pursuant to subdivisions (5) or (7) of this subsection or subsections (e)(2) or (h) of this section shall be recorded in the compliance accounts in accordance with this subsection; and
 - (B) Nature and function of general accounts. Consistent with subdivision (2)(B) of this subsection, the commissioner shall establish, upon request, a general account for any person. Transfers of CO₂ allowances pursuant to subsection (h) of this section shall be recorded in the general account in accordance with this subsection.
- (7) Establishment of accounts.
- (A) Compliance accounts. Upon receipt of a complete account certificate of representation under subsection (c)(4) of this section, the commissioner shall establish a compliance account for each CO₂ budget source for which the account certificate of representation was submitted;
 - (B) General accounts. Any person may apply to open a general account for the purpose of holding and transferring CO₂ allowances. Such application shall:
 - (i) Designate only one CO₂ authorized account representative and only one alternate CO₂ authorized account representative who may act on behalf of the CO₂ authorized account representative; and
 - (ii) Include a procedure for authorizing the alternate CO₂ authorized account representative to act in lieu of the CO₂ authorized account representative;
 - (C) A complete application for a general account shall be submitted to the commissioner and shall include the following elements on forms prescribed by the commissioner:
 - (i) Name, address, electronic mail address, telephone number, and facsimile transmission number of the CO₂ authorized account representative and any alternate CO₂ authorized account representative;
 - (ii) At the option of the CO₂ authorized account representative, organization name and type of organization;
 - (iii) A list of all persons subject to a binding agreement for the CO₂ authorized account representative or any alternate CO₂ authorized account representative to represent their ownership interest with respect to the CO₂ allowances held in the general account;
 - (iv) The following certification statement by the CO₂ authorized account representative and any alternate CO₂ authorized account representative: "I certify that I was selected as the CO₂ authorized account representative or the

- CO₂ alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CO₂ allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the commissioner or a court regarding the general account.";
- (v) The signature of the CO₂ authorized account representative and any alternate CO₂ authorized account representative and the dates signed; and
 - (vi) Unless otherwise required by the commissioner, documents of agreement referred to in the application for a general account shall not be submitted to the commissioner. The commissioner shall not be under any obligation to review or evaluate the sufficiency of such documents, if submitted;
- (D) Authorization of CO₂ authorized account representative. Upon receipt by the commissioner of a complete application for a general account under subparagraph (C) of this subdivision:
- (i) The commissioner shall establish a general account for the person or persons for whom the application is submitted;
 - (ii) The CO₂ authorized account representative and any alternate CO₂ authorized account representative for the general account shall represent and, by such representations, actions, inactions or submissions, legally bind each person who has an ownership interest with respect to CO₂ allowances held in the general account in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative or any alternate CO₂ authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CO₂ authorized account representative or any alternate CO₂ authorized account representative by the commissioner or a court regarding the general account; and
 - (iii) Any representation, action, inaction or submission by any alternate CO₂ authorized account representative shall be deemed to be a representation, action, inaction or submission by the CO₂ authorized account representative;
- (E) Each submission concerning the general account shall be submitted, signed and certified by the CO₂ authorized account representative or any alternate CO₂ authorized account representative for the persons having an ownership interest with respect to CO₂ allowances held in the general account. Each such submission shall include the following certification statement by the CO₂ authorized account representative or any alternate CO₂ authorized account representative:

"I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO₂ allowances

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

- (F) The commissioner shall accept or act on a submission concerning the general account only if the submission has been made, signed and certified in accordance with subparagraph (E) of this subdivision;
- (G) Changing CO₂ authorized account representative and alternate CO₂ authorized account representative; changes in persons with ownership interest.
 - (i) The CO₂ authorized account representative for a general account may be changed at any time upon receipt by the commissioner of a superseding complete application for a general account under subparagraph (B) of this subdivision of this subsection. Notwithstanding any such change, all representations, actions, inactions and submissions by the previous CO₂ authorized account representative or the previous alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding application for a general account shall be binding on the new CO₂ authorized account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account; and
 - (ii) The alternate CO₂ authorized account representative for a general account may be changed at any time upon receipt by the commissioner of a superseding complete application for a general account under subparagraph (B) of this subdivision of this subsection. Notwithstanding any such change, all representations, actions, inactions and submissions by the previous CO₂ authorized account representative or the previous alternate CO₂ authorized account representative prior to the time and date when the commissioner receives the superseding application for a general account shall be binding on the new alternate CO₂ authorized account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account;
- (H) In the event a new person having an ownership interest:
 - (i) With respect to CO₂ allowances in the general account is not included in the list of such persons in the application for a general account, such new person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions and submissions of the CO₂ authorized account representative and any alternate CO₂ authorized account

- representative of the source, and the decisions, orders, actions and inactions of the commissioner, as if the new individual were included in such list; and
- (ii) Not later than 30 days following any change in the persons having an ownership interest with respect to CO₂ allowances in the general account, including the addition of persons, the CO₂ authorized account representative or any alternate CO₂ authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CO₂ allowances in the general account to include the change;
- (I) Objections concerning CO₂ authorized account representative.
 - (i) Once a complete application for a general account under subparagraph (C) of this subdivision has been submitted and received, the commissioner shall rely on such application unless and until the commissioner receives a superseding complete application for a general account under subparagraph (C) of this subdivision; and
 - (ii) Except as provided in subparagraphs (G)(i) and (ii) of this subdivision, no objection or other communication submitted to the commissioner concerning the authorization, or any representation, action, inaction or submission of the CO₂ authorized account representative or any alternate CO₂ authorized account representative for a general account shall affect any representation, action, inaction or submission of the CO₂ authorized account representative or any alternate CO₂ authorized account representative or the finality of any decision or order by the commissioner under the CO₂ Budget Trading Program ; and
 - (J) Account identification. The commissioner shall assign a unique identification number to each account established under subparagraph (A) or (B) of this subdivision.
- (8) CO₂ Allowance Tracking System responsibilities of CO₂ authorized account representative. Following the establishment of a CO₂ Allowance Tracking System account, all submissions to the commissioner pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CO₂ allowances in the account, shall be made only by the CO₂ authorized account representative for the account.
 - (9) Recordation of CO₂ allowance allocations.
 - (A) Not later than January 1, [2009]2014, the commissioner shall record in the Connecticut Auction Account[,] and the CHP Useful Thermal Energy Set-aside Account[, the CHP Long-term PPA Set-aside Account and the Voluntary Clean Energy Purchase Set-aside Account] the CO₂ allowances for the allocation year[s of 2009, 2010, 2011, and 2012] 2014.;
 - [(B) Not later than January 1, 2010 and January 1 of each year thereafter, the commissioner shall record in the Connecticut Auction Account, the CHP Useful Thermal Energy Set-aside Account, the CHP Long-term PPA Set-aside Account

and the Voluntary Clean Energy Purchase Set-aside Account the CO₂ allowances for the allocation year that commences three years after such applicable deadline for recordation;

- (C) Not later than April 1, 2009 and April 1 of each year thereafter, the commissioner shall record any CO₂ allowances allocated pursuant to subsections (f)(3)(B) and (f)(3)(C) of this section in the CO₂ budget source's compliance account;]
- ~~[(D)](B)~~ Not later than February 28, 2009 and February 28 of each year thereafter, the commissioner shall record any CO₂ allowances allocated pursuant to subsections ~~[(f)(3)(O) and (f)(3)(P)]~~ (f)(4)(F) and (f)(4)(G) of this section in the CO₂ budget source's compliance account;
- (E) Not later than June 15, 2009 and June 15 of each year thereafter, the commissioner shall record any CO₂ allowances sold pursuant to subsections (f)(3)(F) to (f)(3)(L), inclusive, of this section in the CO₂ budget source's compliance account;]
- ~~[(F)](C)~~ Not later than October 1, 2009 and October 1 of each year thereafter, the commissioner shall record any unsold or undistributed CO₂ allowances retired pursuant to subsection ~~[(f)(6)](f)(7)~~ of this section in the Connecticut CO₂ Allowance Retirement Account;
- ~~[(G)](D)~~ Not later than seven business days of the results of an auction conducted pursuant to subsection ~~[(f)(4)](f)(5)~~ of this section being deemed final by the commissioner, the commissioner or the commissioner's trustee shall record CO₂ allowances purchased from the Connecticut Auction Account; and
- (H) Not later than December 31, 2009, the commissioner shall record any early reduction CO₂ allowances awarded pursuant to subsection (f)(7) of this section in the CO₂ budget source's compliance account; and]
- ~~[(I)](E)~~ Serial numbers for allocated CO₂ allowances. When allocating CO₂ allowances to and recording them in an account, the commissioner shall assign each CO₂ allowance a unique identification number that shall include digits identifying the year for which the CO₂ allowance is allocated.
- (10) Compliance.
- (A) Allowances available for compliance deduction. CO₂ allowances that meet the following criteria are available to be deducted in order for a CO₂ budget source to comply with the requirements of subsection (b)(3) of this section for a control period or an interim control period.
- (i) The CO₂ allowances are of allocation years that fall within a prior control period, the same control period, or the same interim control period for which the allowances will be deducted; and
- (ii) The CO₂ allowances are held in the CO₂ budget source's compliance account as of the CO₂ allowance transfer deadline for that control period or interim

- control period or are transferred into the compliance account by a CO₂ allowance transfer correctly submitted for recordation under subsection (h)(1) of this section by the CO₂ allowance transfer deadline for that control period or interim control period;
- (B) For CO₂ offset allowances, the number of CO₂ offset allowances that are available to be deducted in order for a CO₂ budget source to comply with the requirements of subsection (b)(3) of this section for a control period or an interim control period may not exceed [the number of tons representing the following percentages] three and three tenths (3.3) percent of the CO₂ budget source's CO₂ emissions for that control period, or of one half of the CO₂ budget source's CO₂ emissions for an interim control period, as determined in accordance with subsection (i) of this section[:];
- (i) Unless the provisions of clause (ii) or (iii) of this subparagraph apply, three and three-tenths (3.3) percent;
- (iv) If the commissioner determines that there has been a Stage One Trigger Event, five (5) percent; or
- (v) If the commissioner determines that there has been a Stage Two Trigger Event, ten (10) percent;]
- (E) CO₂ allowances are not necessary for deductions for excess emissions for a prior control period under subparagraph (G) of this subdivision;
- (F) Deductions for compliance. Following the recordation, in accordance with subsection (h)(2) of this section, of CO₂ allowance transfers submitted for recordation in the CO₂ budget source's compliance account by the CO₂ allowance transfer deadline for a control period or interim control period, the commissioner shall deduct CO₂ allowances available under subparagraph (A) of this subdivision to cover the source's CO₂ emissions, as determined in accordance with subsection (i) of this section, for the control period or interim control period, as follows:
- (i) Until the amount of CO₂ allowances deducted equals the number of tons of total CO₂ emissions, (or one half of the number of tons of total CO₂ emissions for the interim control period) less any CO₂ emissions attributable to the burning of eligible biomass, determined in accordance with subsection (i) of this section, from all CO₂ budget [sources] units at the CO₂ budget source for the control period or interim control period; or
- (ii) If there are insufficient CO₂ allowances to complete the deductions in subparagraph[(B)(i)] (D)(i) of this subdivision, until no more CO₂ allowances available under subparagraph (A) of this subdivision remain in the compliance account;
- (E) Identification of CO₂ allowances by serial number. The CO₂ authorized account representative for a source's compliance account may request that specific CO₂ allowances, identified by serial number, in the compliance account be deducted for

emissions or excess emissions for a control period or interim control period in accordance with subparagraph [(B), or (D)] (D) or (G) of this subdivision. Such identification shall be made in the compliance certification report submitted in accordance with subsection (e)(1) of this section;

- (F) The commissioner shall deduct CO₂ allowances for a control period or interim control period from the CO₂ budget source's compliance account, in the absence of an identification or in the case of a partial identification of CO₂ allowances by serial number under subparagraph (E) of this subdivision, in the following [descending] order:
- (i) [Any CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under subparagraph (A) of this subdivision and were allocated to the units at the source, in the order of recordation] The commissioner shall first deduct CO₂ offset allowances subject to the relevant compliance deduction limitations under subparagraphs (D) and (G) of this subdivision. CO₂ offset allowances shall be deducted in chronological order (i.e., CO₂ offset allowances from earlier allocation years shall be deducted before CO₂ offset allowances from later allocation years). In the event that chronological order cannot be determined, the commissioner shall deduct CO₂ offset allowances by serial number, with lower serial numbered CO₂ offset allowances deducted before higher serial number allowances; and
- (ii) Any] The commissioner shall next deduct any CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under subparagraph (A) of this subdivision, [and were allocated other than to units at the source and transferred and recorded in the compliance account pursuant to subsection (h), in the order of recordation; and] CO₂ allowances shall be deducted in chronological order (i.e., CO₂ allowances from earlier allocation years shall be deducted before CO₂ allowances from later allocation years). In the event that chronological order cannot be determined, the commissioner shall deduct CO₂ allowances by serial number, with lower serial numbered CO₂ allowances deducted before higher serial number allowances.
- [(iii) Subject to the relevant compliance deduction limitations under subdivision (5) of this subsection, any CO₂ allowances that were awarded as CO₂ offset allowances and transferred and recorded in the compliance account pursuant to subsection (h) of this section, in order of recordation;]
- (G) Deductions for excess emissions. After making the deductions for compliance under subparagraph (D) of this subdivision, the commissioner shall deduct from the CO₂ budget source's compliance account a number of CO₂ allowances, from 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. No CO₂ offset allowances shall be deducted to account for the source's excess emissions. Any such CO₂ allowance deduction shall not affect the liability of the owners and operators of the CO₂ budget source or the CO₂ budget sources 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. When assessing fines, penalties or other obligations, the commissioner shall:

- (i) Consider each day in the control period a day in violation when determining the number of days of violation if a CO₂ budget source has excess emissions for a control period unless the owner or operator of the source demonstrates that a lesser number of days should be considered; [and]
 - (ii) Consider each ton of excess emissions as a separate violation;
 - (iii) For purposes of determining the number of days of violation, if a CO₂ 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 CO₂ budget unit demonstrate that a lesser number of days should be considered; and
 - (iv) Each ton of excess interim emissions is a separate violation.
- (H) The commissioner shall record in the appropriate compliance account all deductions from such an account pursuant to subparagraphs (D) and (G) of this subdivision; and
- (I) Action by the commissioner on submissions. The commissioner may review and conduct independent audits concerning any submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the submissions, including but not limited to, deductions of CO₂ allowances from or transfer of CO₂ allowances to a source's compliance account based on information in any such submissions.
- (9) Banking. Each CO₂ allowance that is held in a compliance account or a general account shall remain in such account unless and until the CO₂ allowance is deducted or transferred under subdivision (5) or (7) of this subsection and under subsection (e)(2), or (h) of this section.
- (10) Account error. The commissioner may correct any error in any CO₂ Allowance Tracking System account. Not later than ten (10) business days of making such correction, the commissioner shall notify the CO₂ authorized account representative for the account.
- (11) Closing of general accounts. The commissioner may close a general account for one of the following reasons:
- (C) A CO₂ authorized account representative of a general account may instruct the commissioner to close the account by submitting a statement requesting deletion of the account from the CO₂ Allowance Tracking System and by correctly submitting for recordation under subsection (h)(1) of this section a CO₂ allowance transfer of all CO₂ allowances in the account to one or more other CO₂ Allowance Tracking System accounts; or
 - (D) If a general account shows no activity for a period of six years or more and does not contain any CO₂ allowances, the commissioner may notify the CO₂ authorized

account representative for the account that the account shall be closed and deleted from the CO₂ Allowance Tracking System following twenty business days after the notice is sent. The account shall be closed after the twenty day period unless before the end of such twenty day period the commissioner receives a correctly submitted transfer of CO₂ allowances into the account under subsection (h)(1) of this section or a statement submitted by the CO₂ authorized account representative demonstrating to the satisfaction of the commissioner good cause as to why the account should not be closed.

(i) CO₂ Allowance Transfers

- (2) Submission of CO₂ allowance transfers. The CO₂ authorized account representatives seeking recordation of a CO₂ allowance transfer shall submit the transfer to the commissioner. The CO₂ allowance transfer shall include the following information:
- (F) The numbers identifying both the transferor and transferee accounts;
 - (G) A specification by serial number of each CO₂ allowance to be transferred; and
 - (H) The printed name and signature of the CO₂ authorized account representative of the transferor account and the date signed.
- (9) Recordation.
- (A) Not later than five (5) business days of receiving a CO₂ allowance transfer, except as provided in subparagraph (B) of this subdivision, the commissioner shall record a CO₂ allowance transfer by moving each CO₂ allowance from the transferor account to the transferee account as specified by the request, provided that:
 - (i) The transfer is correctly submitted under subdivision (1) of this subsection; and
 - (ii) The transferor account includes each CO₂ allowance identified by serial number in the transfer;
 - (B) A CO₂ allowance transfer into or out of a compliance account that is submitted for recordation following the CO₂ allowance transfer deadline and that includes any CO₂ allowances that are of allocation years that fall within a control period prior to or the same as the control period to which the CO₂ allowance transfer deadline applies shall not be recorded until after completion of the process pursuant to subsection (g)(5)(D) of this section; and
 - (C) Where a CO₂ allowance transfer submitted for recordation fails to meet the requirements of subparagraph (A) of this subdivision, the commissioner shall not record such transfer.
- (10) Notification.
- (A) Notification of recordation. Not later than five (5) business days of recordation of a CO₂ allowance transfer under subdivision (2) of this subsection, the commissioner

shall notify each party to the transfer. Notice shall be given to the CO₂ authorized account representatives of both the transferor and transferee accounts;

- (B) Notification of non-recordation. Not later than ten (10) business days of receipt of a CO₂ allowance transfer that fails to meet the requirements of subdivision (2)(A) of this subsection, the commissioner shall notify the CO₂ authorized account representatives of both accounts subject to the transfer of:
 - (i) A decision not to record the transfer; and
 - (ii) The reasons for such non-recordation.
- (C) Nothing in this section shall preclude the submission of a CO₂ allowance transfer for recordation following notification of non-recordation.

(j) Monitoring and Reporting

- (1) For the purposes of this subsection the definitions in subsection (a) of this section and in 40 CFR 72.2 shall apply. The terms “affected unit” and “designated representative” in 40 CFR 75 shall be replaced by the terms “CO₂ budget unit”, and “CO₂ authorized account representative”, respectively, as defined in subsection (a) of this section, except as otherwise provided. The definition of “continuous emission monitoring system” or “CEMS” in 40 CFR 75 shall be replaced with the definition in subsection (a) of this section. If a CO₂ budget unit is not subject to an acid rain emissions limitation, the term “Administrator” shall be replaced by the term “commissioner” as defined in subsection (a) of this section.
- (2) The owner or operator and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget source shall comply with the monitoring, recordkeeping and reporting requirements as provided in this subsection. The owner or operator of a CO₂ budget source shall comply with the monitoring, recordkeeping and reporting requirements set forth in 40 CFR 75 applicable to CO₂ mass emissions. The owner or operator of a CO₂ budget unit who monitors a non-CO₂ budget unit pursuant to the common, multiple, or bypass stack procedures in 40 CFR 75.72 (b)(2)(ii), or 40 CFR 75.16 (b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for purposes of complying with this section, shall monitor and report CO₂ mass emissions from such non-CO₂ budget unit according to the procedures for CO₂ budget units established in subdivisions (2) to (8), inclusive, of this subsection.
 - (A) Requirements for installation, certification, and data accounting. The owner or operator of each CO₂ budget source shall:
 - (i) Install all monitoring systems necessary to monitor CO₂ mass emissions in accordance with 40 CFR 75, except for equation G-1. Equation G-1 in Appendix G of 40 CFR 75 shall not be used to determine CO₂ emissions under this section. This may require systems to monitor CO₂ concentration, stack gas flow rate, O₂ concentration, heat input and fuel flow rate;
 - (ii) Successfully complete all certification tests required under this subsection and meet all other requirements of this subsection and 40 CFR 75 applicable to the

- monitoring systems installed under subparagraph (A)(i) of this subdivision;
and
- (iii) Make and keep records, report and test for quality assurance of the data from the monitoring systems installed under subparagraph (A)(i) of this subdivision;
- (B) Compliance dates. The owner or operator shall meet the monitoring system certification and other requirements of subparagraphs (A)(i) to (A)(iii), inclusive, of this subdivision on or before the following dates:
- (i) The owner or operator of a CO₂ budget source who intends to apply for early reduction allowances under subsection (f)(7) of this section shall demonstrate that the data submitted in support of the early reduction application was recorded in compliance with the requirements of this subsection for all of the early reduction years for which the CO₂ budget source was required to report CO₂ data pursuant to 40 CFR 75. A CO₂ budget source that was not required to submit CO₂ data pursuant to 40 CFR 75 for any of the years contained in the early reduction application may petition the commissioner as part of its application under subsection (f)(7) of this section for the use of an alternative data source or sources for the calculation of early reduction allowances;
 - (ii) The owner or operator of a CO₂ budget source, except for a CO₂ budget source under clause (i) of this subparagraph, that commences commercial operation before July 1, 2008, shall comply with the requirements of this subsection not later than January 1, 2009;
 - (iii) The owner or operator of a CO₂ budget source that commences commercial operation on or after July 1, 2008, shall comply with the requirements of this subsection by the later of January 1, 2009, or one hundred and eighty (180) calendar days after the date on which the source commences commercial operation; and
 - (iv) For the owner or operator of a CO₂ budget source for which construction of a new stack or flue installation is completed after the applicable deadline under clauses (i), (ii) or (iii) of this subparagraph by the earlier of ninety (90) source operating days after the date on which emissions first exit to the ambient air through the new stack or flue or one hundred and eighty (180) calendar days after the date on which emissions first exit to the ambient air through the new stack or flue;
- (C) Reporting data.
- (i) An owner or operator of a CO₂ budget source who misses the certification deadline under subparagraph (B)(i) of this subdivision shall not be eligible to apply for early reduction allowances and shall become subject to the certification deadline under subparagraph (B)(ii) of this subdivision;
 - (ii) Except as provided in clause (iii) of this subparagraph, the owner or operator of a CO₂ budget source that does not meet the applicable compliance date set

- forth in subparagraphs (B)(ii) and (B)(iii) of this subdivision for any monitoring system under subparagraph (A) of this subdivision shall, for each such monitoring system, determine, record and report maximum potential or, as appropriate, minimum potential, values for CO₂ concentration, CO₂ emission rate, stack gas moisture content, fuel flow rate, heat input and any other parameter required to determine CO₂ mass emissions in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3), 40 CFR 75, [Appendix] section 2.4 of Appendix D or 40 CFR 75 Appendix E;
- (iii) The owner or operator of a CO₂ budget source that does not meet the applicable compliance date set forth in subparagraph (B)(iv) of this subdivision for any monitoring system under subparagraph (A)(i) of this subdivision shall, for each such monitoring system, determine, record and report substitute data using the applicable missing data procedures in 40 CFR 75, Subpart D, or 40 CFR 75, Appendix D or E, 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 of a new stack or flue installation under subparagraph (B)(iv) of this subdivision;
 - (iv) CO₂ budget units subject to an acid rain emissions limitation or to section 22a-174-22c of the Regulations of Connecticut State Agencies that qualify for the optional SO₂, NO_x, and CO₂ emissions calculations for low mass emissions (LME) units, as applicable, under 40 CFR 75.19 and report emissions for such programs using the calculations provided in 40 CFR 75.19, shall also use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of demonstrating compliance with this section;
 - (v) CO₂ budget units subject to an acid rain emissions limitation or to section 22a-174-22c of the Regulations of Connecticut State Agencies that do not qualify for the optional SO₂, NO_x, and CO₂ emissions calculations for LME units, as applicable, under 40 CFR 75.19, shall not use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of demonstrating compliance with this section; and
 - (vi) CO₂ budget units not subject to an acid rain emissions limitation or to section 22a-174-22c of the Regulations of Connecticut State Agencies shall qualify for the optional CO₂ emissions calculation for LME units under 40 CFR 75.19, provided that such units emit less than 100 tons of NO_x annually and no more than 25 tons of SO₂ annually;
- (D) Prohibitions. No owner or operator of a CO₂ budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with subsection (i)(6) of this section;
 - (E) No owner or operator of a CO₂ budget unit shall operate the source so as to discharge, or allow to be discharged, CO₂ emissions to the atmosphere without

accounting for all such emissions in accordance with the applicable provisions of this subsection and 40 CFR 75;

- (F) No owner or operator of a CO₂ [Budget] budget unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording CO₂ 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 subsection and 40 CFR 75; and
 - (G) No owner or operator of a CO₂ budget unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved emission monitoring system under this subsection, except under any one of the following circumstances:
 - (i) The owner or operator is monitoring emissions from the source with another certified monitoring system approved by the permitting authority, in accordance with the applicable provisions of this subsection and 40 CFR 75, for use at that source that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or
 - (ii) The CO₂ authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subparagraph (B)(ii) of this subdivision.
- (3) Initial certification and recertification procedures.
- (A) The owner or operator of a CO₂ [Budget] budget source shall be exempt from the initial certification requirements of this section for a monitoring system under subdivision (2)(A)(i) of this subsection if the following conditions are met:
 - (i) The monitoring system has been previously certified in accordance with 40 CFR 75; and
 - (ii) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and 40 CFR 75 Appendices B, D, and E are fully met for the certified monitoring system described in subdivision (2)(A) of this subsection;
 - (B) Continuous emission monitoring systems required under this section include, but are not limited to, the following:
 - (i) 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;
 - (ii) A nitrogen oxides emission rate or NO_x-diluent monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas monitor, and an automated data acquisition and handling system and providing a permanent,

- continuous record of NO_x concentration, in parts per million, diluent gas concentration, in percent CO₂ or O₂; and NO_x emission rate, in lb/MMBtu;
- (iii) A moisture monitoring system, as described in 40 CFR 75.11(b)(2), which provides a permanent, continuous record of the stack gas moisture content, in percent H₂O;
 - (iv) A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂; and
 - (v) An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂ in percent O₂;
- (C) The recertification provisions of this section shall apply to a monitoring system under subdivision (2)(A) of this subsection exempt from initial certification requirements under subparagraph (A) of this subdivision;
- (D) If the Administrator has previously approved a petition under 40 CFR 75.72(b)(2)(ii), or 40 CFR 75.16(b)(2)(ii)(B) as pursuant to 40 CFR 75.13, for apportioning the CO₂ emission rate measured in a common stack or a petition under 40 CFR 75.66 of this chapter for an alternative requirement in 40 CFR 75, the CO₂ authorized account representative shall submit the petition to the commissioner under subdivision (7)(A) of this subsection to determine whether the Administrator's approval applies under this program;
- (E) Except as provided in subparagraph (A) of this subdivision, the owner or operator of a CO₂ budget source shall comply with the following initial certification and recertification procedures for a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendices D and E, and under subdivision (2)(A)(i) of this subsection. The owner or operator of a source 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 40 CFR 75, Subpart E, shall comply with the procedures in subparagraph (A) or (B)(iv) of this subdivision;
- (F) Requirements for initial certification. The owner or operator shall ensure that each continuous emissions monitoring system required under subdivision (2)(A)(i) of this subsection completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadlines specified in subdivision (2)(B) of this subsection. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this subsection in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required;

- (G) Requirements for recertification. Whenever the owner or operator makes a replacement, modification, or change in a certified continuous emission monitoring system under subdivision (2)(A)(i) of this subsection that the Administrator or the commissioner determines significantly affects the ability of the system to accurately measure or record CO₂ mass emissions or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or Appendix B to 40 CFR 75, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification or change to the flue gas handling system or the source's operation that the Administrator or the commissioner determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emissions monitoring system in accordance with 40 CFR 75.20(b). Examples of changes that require recertification include, but are not limited to: replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients;
- (H) Approval process for initial certifications and recertification.
- (i) Notification of certification. The CO₂ authorized account representative shall submit to the commissioner a written notice of the dates of certification in accordance with subdivision (5) of this subsection;
- (ii) Certification application. The CO₂ authorized account representative shall submit to the commissioner a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63; and
- (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 CO₂ Budget Trading Program for a period not to exceed 120 days after receipt by the commissioner of the complete certification application for the monitoring system or component thereof under subparagraph (H)(ii) of this subdivision. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR 75, shall be considered valid quality-assured data, provided that the permitting authority does not invalidate the provisional certification by issuing a notice of disapproval not later than 120 days of receipt of the complete certification application by the commissioner;
- (I) Certification application approval process. The commissioner shall issue a written notice of approval or disapproval of the certification application to the owner or operator not later than 120 days of receipt of the complete certification application in accordance with subparagraph (H)(ii) of this subdivision. In the event the commissioner does not issue such a notice not later than such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75 and is included in the certification application shall be deemed certified for use under the CO₂ Budget Trading Program.

- (i) Approval notice. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75, then the commissioner shall issue a written notice of approval of the certification application not later than 120 days of receipt of such complete application;
 - (ii) Incomplete application notice. If the certification application is not complete, then the commissioner shall issue a written notice of incompleteness and set a reasonable date by which the CO₂ authorized account representative shall submit the additional information required to complete the certification application. The commissioner may issue a notice of disapproval under subparagraph (I)(iii) of this subdivision if the CO₂ authorized account representative does not comply with the notice of incompleteness by the specified date. The 120 day review period shall not begin before receipt of a complete certification application;
 - (iii) Disapproval notice. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of 40 CFR 75, or if the certification application is incomplete and the requirement for disapproval under subparagraph (I)(ii) of this subdivision is met, then the commissioner shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification shall no longer be valid 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 subparagraph (J) of this subdivision for each monitoring system or component thereof, which is disapproved for initial certification; and
 - (iv) Audit decertification. The commissioner may issue a notice of disapproval of the certification status of a monitor in accordance with subdivision (4)(B) of this subsection;
- (J) Procedures for loss of certification. If the commissioner issues a notice of disapproval of a certification application under subparagraph (I)(iii) of this subdivision or a notice of disapproval of certification status under subparagraph (I)(iv) of this subdivision, then the owner or operator shall substitute the following values for each disapproved monitoring system, for each hour of source 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 sources using or intending to monitor for CO₂ mass emissions using heat input or for sources using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential hourly heat input of the source; and
 - (ii) For sources intending to monitor for CO₂ mass emissions using a CO₂ pollutant concentration monitor and a flow monitor, the maximum potential

concentration of CO₂ and the maximum potential flow rate of the source under 40 CFR 75, Appendix A section 2.1;

- (K) For each disapproved monitoring system, the CO₂ authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (H)(i) and (ii) of this subdivision; and the owner or operator shall repeat all certification tests or other requirements, as indicated in the commissioner's notice of disapproval, no later than 30 source operating days after the date of issuance of the notice of disapproval;
 - (L) Initial certification and recertification procedures for low mass emission. The owner or operator of a source qualified to use the low mass emissions excepted methodology under subdivisions (2)(C)(iv) or (2)(C)(vi) of this subsection shall meet the applicable certification and recertification requirements of 40 CFR 75.19(a)(2), 40 CFR 75.20(h) and subdivision (3) of this subsection. If the owner or operator of such a source elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements of 40 CFR 75.20(g); and
 - (M) Certification and recertification procedures for alternative monitoring systems. The CO₂ authorized account of each source for which the owner or operator intends to use an alternative monitoring system approved by the commissioner under 40 CFR 75, Subpart E, shall apply for certification to the commissioner prior to use of the system under the CO₂ Budget Trading Program. The CO₂ authorized account representative shall apply for recertification following a replacement, modification or change according to the procedures in subparagraph (C) of this subdivision. The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subparagraph (H) of this subdivision and 40 CFR 75.20(f).
- (4) Out of control periods.
- (A) Whenever any monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR 75, data shall be substituted using the applicable procedures in 40 CFR 75, Subpart D, Appendix D or E; and
 - (B) 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 subdivision (3) of this subsection or the applicable provisions of 40 CFR 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the commissioner shall issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subparagraph, an audit shall be either a field audit or an audit of any information submitted to the commissioner. By issuing the notice of disapproval, the commissioner shall revoke 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 set forth in subdivision (3) of this subsection for each disapproved monitoring system.

- (5) Notifications. The CO₂ authorized account representative for a CO₂ budget source shall submit written notice to the commissioner in accordance with 40 CFR 75.61.
- (6) Recordkeeping and reporting.
 - (A) General provisions. The CO₂ 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 certification requirements of subsection (c)(1)(E) of this section;
 - (B) Monitoring plans. The owner or operator of a CO₂ budget source shall comply with requirements of 40 CFR 75.62;
 - (C) Certification applications. The CO₂ authorized account representative shall submit an application to the commissioner not later than 45 days after completing all initial certification or recertification tests required under subdivision (3) of this subsection including the information required under CFR 75.63 and 40 CFR 75.73 (c) and (e);
 - (D) Quarterly reports. The CO₂ authorized account representative shall report the CO₂ mass emission data for the CO₂ budget source, in an electronic format prescribed by the commissioner for each calendar quarter as follows:
 - (i) For a source that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009 to March 31, 2009, inclusive; or
 - (ii) For a source commencing commercial operation on or after July 1, 2008, the calendar quarter corresponding to, the earlier of the date of provisional certification or the applicable deadline for initial certification under subdivision (2)(B) of this subsection or, unless such quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009 to March 31, 2009, inclusive;
 - (E) The CO₂ authorized account representative shall submit each quarterly report to the commissioner not later than 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75, Subpart H, and 40 CFR 75.64;
 - (F) For each CO₂ budget unit, or group of units using a common stack, quarterly reports shall include all of the data and information required in 40 CFR 75, Subpart G, except for the provisions concerning opacity, NO_x and SO₂;
 - (G) Compliance certification. The CO₂ authorized account representative shall submit to the commissioner 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 source'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 subsection and 40 CFR 75, including the quality assurance procedures and specifications;
 - (ii) For a source with add-on CO₂ emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emission controls were operating within the range of parameters listed in the quality assurance quality control program under 40 CFR 75, Appendix B and the substitute values do not systematically underestimate CO₂ emissions; and
 - (iii) The CO₂ concentration values substituted for missing data under 40 CFR 75, Subpart D do not systematically underestimate CO₂ emissions; and
- (H) Alternative reporting. In lieu of reporting required data to the commissioner pursuant to subparagraphs (D) through (G) of this subdivision, the CO₂ authorized account representative may report CO₂ mass emission data for the CO₂ budget source solely in an electronic format to the regional CO₂ Allowance Tracking System or any successor electronic reporting platform identified by the commissioner. Nothing in this subparagraph excuses the owner or operator of the CO₂ budget source from making and keeping the records required by subparagraphs (D) through (G) of this subdivision, and such records shall be made available to the commissioner upon request.
- (7) Petitions.
- (A) Except as provided in subparagraph (B) of this subdivision, the CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the commissioner requesting approval to apply an alternative to any requirement of 40 CFR Part 75. The application of an alternative to any requirement of 40 CFR Part 75 shall be in accordance with this subsection only if the petition is approved in writing by the Administrator, and subsequently approved in writing by the commissioner;
 - (B) The CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the commissioner 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 CO₂ concentration CEMS used under 40 CFR 75.71(a)(2). The application of an alternative to any such requirement shall be in accordance with this subsection only if the petition is approved in writing by the Administrator, and subsequently approved in writing by the commissioner; and
 - (C) Petitions for a CO₂ budget unit that is not subject to an acid rain emissions limitation.

- (i) The CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the commissioner requesting approval to apply an alternative to any requirement of 40 CFR 75. The application of an alternative to any requirement of 40 CFR 75 shall be in accordance with this subsection only if the petition is approved in writing by the Administrator, and subsequently approved in writing by the commissioner; and
 - (ii) In the event that the Administrator declines to review a petition under clause (i) of this subparagraph, the CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the commissioner requesting approval to apply an alternative to any requirement of this subsection. That petition shall contain all of the relevant information specified in 40 CFR 75.66. The application of an alternative to any requirement of this subsection shall be in accordance with this subsection only if the petition is approved in writing by the commissioner;
- (8) CO₂ budget units that co-fire eligible biomass.
 - (A) The CO₂ authorized account representative of a CO₂ budget unit that co-fires eligible biomass as a compliance mechanism under this subsection, shall report the following information to the commissioner for each calendar quarter:
 - (i) For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel input, on an as-fired basis, in pounds;
 - (ii) For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit, the moisture content, on an as-fired basis, as a fraction by weight;
 - (iii) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the density of the biogas, on an as-fired basis, in pounds per standard cubic foot;
 - (iv) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the moisture content of the biogas, as a fraction by total weight;
 - (v) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel input, in standard cubic feet;
 - (vi) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the dry basis carbon content of the fuel type, as a fraction by dry weight;
 - (vii) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the dry basis higher heating value, in MMBtu per dry pound;
 - (viii) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the total dry basis eligible biomass fuel input, in pounds, calculated in accordance

with subparagraph (B) of this subdivision;

- (ix) The total amount of CO₂ emitted from the CO₂ budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with subparagraph (C) of this subdivision;
 - (x) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, the total eligible biomass fuel heat input, in MMBtu, calculated in accordance with subparagraph (D)(i) of this subdivision;
 - (xi) The total amount of heat input to the CO₂ budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with subparagraph (D)(ii) of this subdivision;
 - (xii) A description and documentation of monitoring technology employed, and a description and documentation of fuel sampling methodology employed, including sampling frequency; and
 - (xiii) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit, chemical analysis, including heating value and carbon content;
- (B) An owner or operator of a CO₂ budget unit shall calculate and submit to the commissioner on a quarterly basis the total dry weight for each distinct type of eligible biomass fired by the CO₂ budget unit during the reporting quarter. The total dry weight shall be determined for each fuel type as follows:

- (i) For solid fuel types:

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

Where:

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

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

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

i = Fired fuel shipment;

j = Fuel type; and

m = Number of shipments;

- (ii) For gaseous fuel types:

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

Where:

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

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

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

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

$j =$ Fuel type;

(C) CO₂ emissions due to firing of eligible biomass shall be determined as follows:

- (i) For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO₂ budget unit, as measured and recorded in accordance with subdivisions (1) to (7), inclusive, of this subsection; or
- (ii) For any full calendar quarter during which fuels other than eligible biomass are combusted at the CO₂ budget unit, as determined using the following equation:

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

Where:

CO₂ tons = CO₂ emissions due to firing of eligible biomass for the reporting quarter;

$F_j =$ Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated in subparagraph (B) of this subdivision;

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

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

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

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

$j =$ Fuel type; and

n = Number of distinct fuel types;

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

(i) For each distinct fuel type:

$$H_j = F_j \times HHV_j$$

Where:

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

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated in subparagraph (B) of this subdivision;

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

j = Fuel type

(ii) For all fuel types:

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

Where:

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

j = Fuel type; and,

n = Number of distinct fuel types

(E) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State renewable Portfolio Standard Biomass Guidebook, May 2006.

(9) Additional requirements to provide output data.

(K) Not later than March 1, 2009 and March 1 of each year thereafter, CO₂ budget sources shall submit to the commissioner electricity generation data, in MWhs, associated with operation of CO₂ budget units at the CO₂ budget sources. The following MWh data shall be included, if applicable:

(i) CO₂ budget sources that are required to submit generation data to the Regional ISO shall submit to the commissioner the same CO₂ budget unit-level MWh values submitted to the Regional ISO and a statement certifying that the MWh

- of electrical output reported reflects the total actual electrical output of the CO₂ budget units at the CO₂ budget source used by the Regional ISO to determine settlement resources of energy market participants;
- (ii) CO₂ budget sources that report gross hourly MW data to the Administrator, shall submit to the commissioner an annual summation of the CO₂ budget unit-level gross output data submitted to the Administrator; and
 - (iii) CO₂ budget sources that do not submit generation data to the Regional ISO or to the Administrator shall submit to the commissioner net electrical output information in accordance with subparagraph (D) of this subdivision. A CO₂ budget source whose electrical output is not used in Regional ISO energy market settlement determinations shall propose to the commissioner a method for quantification of net electrical output;
- (L) CO₂ budget sources creating useful thermal energy and selling steam shall use billing meters to determine net steam output. A CO₂ budget source whose steam output is not measured by billing meters or whose steam output is combined with output from a non-CO₂ budget source prior to measurement by the billing meter shall propose to the commissioner an alternative method for quantification of net steam output. If data for steam output is not available, the CO₂ budget source may report heat input providing useful steam output as a surrogate for steam output;
- (M) Monitoring. Not later than March 1, 2009, CO₂ budget sources shall provide an output monitoring plan containing the elements described in subparagraphs (D) to (G), inclusive, of this subdivision;
- (N) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include a diagram of the electrical or steam system for which output is being monitored, specifically including:
- (i) For net electric output, the diagram shall contain all CO₂ budget sources and all generators served by each CO₂ budget source and the relationship between CO₂ Budget sources and generators. If a generator served by a CO₂ budget source is also served by a non-affected source, the non-affected source and its relationship to each generator shall be indicated on the diagram as well. The diagram shall indicate where the net electric output is measured and shall include all electrical inputs and outputs to and from the plant. If net electric output is determined using a billing meter, the diagram shall show each billing meter used to determine net sales of electricity and shall show that all electricity measured at the point of sale is generated by the CO₂ budget sources; and
 - (ii) For net thermal output, the diagram shall include all steam or hot water coming into the net steam system, including steam from CO₂ budget sources and non-affected sources, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream shall have an estimated temperature, pressure and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system shall identify all useful loads, house

loads, parasitic loads, any other steam loads and all boiler feed water returns. The diagram shall represent all energy losses in the system as either usable or unusable losses. The diagram shall also indicate all flow meters, temperature or pressure sensors or other equipment used to calculate gross thermal output. If a sales agreement is used to determine net thermal output, the diagram shall show the monitoring equipment used to determine the sales of steam;

- (O) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include a description of each output monitoring system. The description of the output monitoring system shall include a written description of the output system and the equations used to calculate output. For net thermal output systems, descriptions and justifications of each useful load shall be included;
- (P) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include a detailed description of all quality assurance and quality control activities performed to maintain the output system in accordance with subparagraph [(M)] (I) of this subdivision;
- (Q) The output monitoring plan submitted by the CO₂ budget source pursuant to subparagraph (C) of this subdivision shall include documentation supporting any output values to be used as a missing data value if there are periods of invalid output data. The missing data output value shall be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under this section;
- (R) Initial Certification. CO₂ authorized account representatives shall submit a certification statement stating that either the output monitoring system consists entirely of billing meters or that the output monitoring system meets one of the accuracy requirements for non-billing meters below. This statement may be submitted with the certification application required pursuant to subdivision (6)(C) of this subsection.
 - (i) Billing Meters. The billing meter shall record the electric or thermal output. Any electric or thermal output values that the facility reports shall be the same as the values used in billing for the output. Any output measurement equipment used as a billing meter in commercial transactions requires no additional certification or testing requirements;
 - (ii) Non-Billing Meters. For non-billing meters, the output monitoring system shall either meet an accuracy of ten (10) percent of the reference value, or each component monitor for the output system shall meet an accuracy of three (3) percent of the full scale value, whichever is less stringent, as determined pursuant to clause (iii) or (iv) of this subparagraph;
 - (iii) The system approach to accuracy shall include a determination of how the system accuracy of ten (10) percent is achieved using the individual components in the system and shall include data loggers and any watt meters used to calculate the final net electric output data or any flow meters for steam

- or condensate, temperature measurement devices, absolute pressure measurement devices and differential pressure devices used for measuring thermal energy; or
- (iv) A component approach to accuracy. If testing a piece of output measurement equipment shows that the output readings are not accurate to three (3) percent or less of the full scale, then the owner or operator of a CO₂ budget source shall retest or replace the measurement equipment to achieve such level of accuracy. Data shall be considered invalid, prospectively, for purposes of determining allocations. 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;
- (S) Ongoing quality assurance and quality control. Ongoing quality assurance and quality control activities shall be performed by the owner or operator of a CO₂ budget source in order to maintain the output system, which shall include the following:
- (i) Billing Meters. In the case where billing meters are used to determine output, no quality assurance and quality control activities beyond those already performed are required;
 - (ii) Non-Billing Meters. Certain types of equipment such as potential transformers, current transformers, nozzle and venturi type meters, and the primary element of an orifice plate only require an initial certification of calibration and do not require periodic recalibration unless the equipment is physically changed. However, the pressure and temperature transmitters accompanying an orifice plate will require periodic retesting. For other types of equipment, the owner or operator of a CO₂ budget source shall either recalibrate or re-verify the meter accuracy at least once every two years, unless a consensus standard allows for less frequent calibrations or accuracy tests. The system approach to accuracy or a component approach to accuracy shall be in accordance with subparagraphs (H)(ii) to (H)(iv), inclusive, of this subdivision. If testing a piece of output measurement equipment shows that the output readings are not accurate to 3.0 percent or less of the full scale value, then the owner or operator of a CO₂ budget source shall retest or replace the measurement equipment to achieve such level of accuracy; and
 - (iii) 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 valid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes an accuracy test. All invalid data shall be replaced by either zero output or an output value that is likely to be lower than a measured value and that is approved as part of the output monitoring plan under subparagraph (C) of this subdivision; and
- (T) Recordkeeping and Reporting. The CO₂ authorized account representative shall comply with all recordkeeping and reporting requirements in this subparagraph and with the requirements of subsections (b)(6) and (c)(1)(E) of this section:

- (i) Recordkeeping. The owner or operator of a CO₂ budget source shall retain data used to monitor, determine or calculate net generation for ten (10) years;
- (ii) Annual output reports. Not later than March 1, 2009 and March 1 of each year thereafter, the CO₂ authorized account representative shall submit to the commissioner an annual output report containing until-level MWh data and all useful thermal output information not later than March 1 for the immediately preceding year; and
- (iii) The annual report shall be certified as follows:

"I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget sources or CO₂ budget sources 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."]

- (j) **Ratepayer relief.** [For purposes of this subsection, "auction clearing price" means the specified monetary value assigned to a CO₂ allowance as determined by the bids of buyers in a CO₂ allowance auction held pursuant to subsection (f)(4) of this section.
 - (1) If the auction clearing price of a CO₂ allowance exceeds the threshold price identified in subdivision (3) of this subsection, the commissioner shall return a portion of the proceeds generated by the auction of CO₂ allowances under subsection (f)(4) of this section to the Department of Public Utility Control for return to Connecticut electric ratepayers. Not later than December 31, 2009 and each year thereafter, the commissioner shall transfer such portion, which shall be calculated in accordance with subdivision (3) of this subsection, to the Department of Public Utility Control.
 - (2) If the auction clearing price of a CO₂ allowance does not exceed the threshold price identified in subdivision (3) of this subsection, the commissioner shall distribute auction proceeds pursuant to the requirements set forth in subsection (f)(5) of this section.
 - (3) The amount of proceeds to be transferred to the Department of Public Utility Control shall be determined as follows:

$$R_r = (Q_1 * (A_p - T_p))$$

Where:

R_r = Revenue to be returned to Connecticut electric ratepayers;

Q_1 = Quantity of Connecticut CO₂ allowances sold at auction;

A_p = Auction clearing price for a CO₂ allowance; and

T_p = Threshold price for a CO₂ allowance shall be five dollars multiplied by the ratio of the Consumer Price Index for all-Urban consumers published by the United States Department of Labor, as of August 31 of the previous calendar year to the Consumer Price Index for all-Urban consumers for August 2008.]

- (2) If proceeds generated by the auction of CO₂ allowances under subsection (f)(5) of this section in any calendar year exceed the threshold identified in subdivision (3) of this subsection, the commissioner shall return excess proceeds to the Public Utility Regulatory Authority for return to Connecticut electric ratepayers in accordance with sections 16-19 and 22a-200c of the Connecticut General Statutes.
- (2) If the proceeds generated by the auction of CO₂ allowances under subsection (f)(5) of this section in any calendar year from the auction of CO₂ allowance does not exceed the threshold price identified in subdivision (3) of this subsection, the commissioner shall distribute such auction proceeds pursuant to the requirements set forth in subsection (f)(6) of this section.
- (3) The amount of proceeds to be transferred to the Public Utility Regulatory Authority shall be determined as follows:

$$A_r = (A_p - P_t)$$

Where:

A_r = Auction proceeds to be returned to Connecticut electric ratepayers;

A_p = Annual proceeds generated by the auction of CO₂ allowances under subsection (f)(5) of this section; and

P_t = the program threshold of 35 million dollars increased each year on January 1st beginning on and after January 1, 2015 by two and one-half (2.5) percent.

(k) **Severability.**

Each provision of this section is deemed severable, and in the event that any provision of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

Statement of Purpose

These amendments to regulation are being requested by the Department of Energy and Environmental Protection (DEEP) to coincide with the efforts undertaken by the nine Regional Greenhouse Gas Initiative (RGGI) Northeast and Mid-Atlantic states, including Connecticut, to update their respective carbon dioxide (CO₂) emissions Budget Trading Programs which regulate and

reduce CO₂ emissions from the power sector. In accordance with a RGGI Memorandum of Understanding, the participating States conducted a program review of the CO₂ Budget Trading Programs. This program review lowered the cap of regional allowances that can be offered at auction to address the excess of allowances in the market relative to actual emission levels in the region. The participating States have been working with program review stakeholders since 2010, convening over twelve stakeholder meetings, webinars and learning sessions. The program review has sought to continue the goal of effectively reducing CO₂ emissions while providing benefits to consumers and the region and to address the issue of overcapacity of allowances relative to actual emission levels in the region.

A summary of the amendments DEEP is proposing to update its carbon dioxide CO₂ emissions Budget Trading Program are as follows:

1. Revised Regional Cap: Connecticut will lower its CO₂ emissions cap to align the cap with current emissions levels while accounting for allowances held by market participants in excess of the quantity needed to demonstrate compliance.
2. Connecticut will address the bank and retirement of allowances held by market participants with two interim adjustments for banked allowances. The first adjustment will be made over a 7-year period (2014-2020) for the first control period private bank of allowances and a second adjustment will be made over a 6-year period (2015-2020) for the 2012-2013 period private bank of allowances.
3. Creation of the use of a cost containment reserve (CCR) that will provide flexibility and cost containment for the CO₂ budget Program. The CCR is a reserved quantity of allowances, in addition to the cap, that would only be available if defined allowance price triggers are exceeded. These allowances provided within the CCR will be equal to 5 million short tons in 2014 and 10 million short tons each year thereafter.
4. Revisions to set aside programs to update regulations with elimination of programs no longer necessary and reapportionments of revenue distributions to account for changes in the renewable energy markets.
5. These amendments also include new defined terms, including:
 - “Interim Control Period,” defined as each of the first two calendar years of each three-year control period.
 - “Excess Interim Emissions,” defined as any emissions (multiplied by 0.50) over the amount of allowances held at the end of each Interim Control Period.
 - “Undistributed and “Unsold” allowances defined to clarify that unsold and undistributed 2012 and 2013 allowances will not be reoffered during subsequent auctions.
6. Other

These amendments also reflect the conforming language changes required by Public Act 11-80 with the merger of the Department of Environmental Protection and the former Department of Public

Utility Control. As well as conforming language to reinstate the Voluntary Clean Energy Purchase Set-aside Account as a result of request by several commenters.

The legal effects of the proposed amendments are limited to the proposed changes described above.

POST HEARING