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N.J.A.C. 7:27C
NEW JERSEY CARBON DIOXIDE (CO₂) BUDGET TRADING PROGRAM

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TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 7:27C-1.1 Purpose
- 7:27C-1.2 Definitions
- 7:27C-1.3 Applicability and exemption
- 7:27C-1.4 General provisions
- 7:27C-1.5 Computation of time
- 7:27C-1.6 Appeal procedure
- 7:27C-1.7 Severability

SUBCHAPTER 2. CO₂ AUTHORIZED ACCOUNT REPRESENTATIVE OF A CO₂ BUDGET SOURCE

- 7:27C-2.1 Authorization and responsibilities of the CO₂ authorized account representative for a compliance account
- 7:27C-2.2 Alternate CO₂ authorized account representative
- 7:27C-2.3 Changing the CO₂ authorized account representative and the alternate CO₂ authorized account representative; changes in the owners and operators
- 7:27C-2.4 Account certificate of representation
- 7:27C-2.5 Objections concerning the CO₂ authorized account representative
- 7:27C-2.6 Delegation of authority to make electronic submissions and review information in the CO₂ allowance tracking system

SUBCHAPTER 3. PERMITS

- 7:27C-3.1 General requirements for an operating permit incorporating CO₂ Budget Trading Program requirements
- 7:27C-3.2 Submission of an application for a new, renewed, or modified operating permit incorporating CO₂ Budget Trading Program requirements
- 7:27C-3.3 Contents of an application for an operating permit incorporating CO₂ Budget Trading Program requirements

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SUBCHAPTER 4. COMPLIANCE CERTIFICATION

- 7:27C-4.1 Compliance certification report
- 7:27C-4.2 Department action on compliance certifications

SUBCHAPTER 5. CO₂ ALLOWANCE ALLOCATIONS

- 7:27C-5.1 New Jersey CO₂ Budget Trading Program base budget
- 7:27C-5.2 CO₂ allowance allocations
- 7:27C-5.3 Retirement of CO₂ allowances on behalf of cogeneration units
- 7:27C-5.4 Distribution of CO₂ allowances in the consumer benefit account
- 7:27C-5.5 Fixed-price sale of CO₂ allowances to a certified dispatch agreement facility

SUBCHAPTER 6. CO₂ ALLOWANCE TRACKING SYSTEM (COATS)

- 7:27C-6.1 CO₂ allowance tracking system (COATS) accounts
- 7:27C-6.2 Establishment of a COATS account
- 7:27C-6.3 Procedures for opening a general account
- 7:27C-6.4 Authorization of the CO₂ authorized account representative for a general account
- 7:27C-6.5 Changing the CO₂ authorized account representative and his or her alternate for a general account; changes in ownership interest
- 7:27C-6.6 Objections concerning the CO₂ authorized account representative for a general account
- 7:27C-6.7 Delegation of authority to make electronic submissions by the CO₂ authorized account representative for a general account
- 7:27C-6.8 Recording of CO₂ allowance allocations and awards
- 7:27C-6.9 Compliance
- 7:27C-6.10 Banking
- 7:27C-6.11 Account error
- 7:27C-6.12 Closing of a general account

SUBCHAPTER 7. CO₂ ALLOWANCE TRANSFERS

- 7:27C-7.1 Submission of CO₂ allowance transfers
- 7:27C-7.2 Recording of CO₂ allowance transfer
- 7:27C-7.3 Notification

SUBCHAPTER 8. MONITORING, RECORDKEEPING, AND REPORTING

- 7:27C-8.1 General requirements
- 7:27C-8.2 Monitoring system certification procedures
- 7:27C-8.3 Out-of-control periods
- 7:27C-8.4 Notifications
- 7:27C-8.5 Recordkeeping and reporting
- 7:27C-8.6 Petitions
- 7:27C-8.7 CO₂ budget units that co-fire eligible biomass
- 7:27C-8.8 Additional requirements to provide output data

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SUBCHAPTER 9. AUCTION OF CCR AND ECR ALLOWANCES

7:27C-9.1 General requirements

SUBCHAPTER 10. CO₂ EMISSIONS OFFSET PROJECTS

7:27C-10.1 Purpose

7:27C-10.2 Definitions related to CO₂ emissions offset projects

7:27C-10.3 General requirements

7:27C-10.4 Consistency application process

7:27C-10.5 CO₂ emissions offset project standards – landfill methane (CH₄) capture and destruction

7:27C-10.6 CO₂ emissions offset project standards – sequestration of carbon due to reforestation, improved forest management, or avoided conversion

7:27C-10.7 CO₂ emissions offset project standards – avoided methane emissions from agricultural manure management operations

7:27C-10.8 Accreditation of independent verifiers

7:27C-10.9 Award and recording of CO₂ offset allowances

SUBCHAPTER 11. CO₂ ALLOWANCE AUCTIONS

7:27C-11.1 Auction of CO₂ allowances

7:27C-11.2 Auction format

7:27C-11.3 Auction timing and CO₂ allowance submission schedule

7:27C-11.4 Reserve price

7:27C-11.5 Auction calendar and notice

7:27C-11.6 Auction participant requirements

7:27C-11.7 Auction participant eligibility

7:27C-11.8 Auction participant qualification

7:27C-11.9 Submission of financial security

7:27C-11.10 Bidder limitations

7:27C-11.11 Bid submittal requirements

7:27C-11.12 Approval of auction results

7:27C-11.13 Award of CO₂ allowances to winning bidders

7:27C-11.14 Publication of auction results

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SUBCHAPTER 1. GENERAL PROVISIONS

7:27C-1.1 Purpose

This chapter establishes the New Jersey component of the CO₂ Budget Trading Program, which is designed to reduce anthropogenic emissions of CO₂, a greenhouse gas, from CO₂ budget sources in an economically efficient manner.

7:27C-1.2 Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise. For additional definitions related to CO₂ emissions offset projects, see N.J.A.C. 7:27C-10.2.

“Account number” means the identification number given by the Department to each COATS account.

“Acid rain emissions limitation” means, as that term is defined at 40 CFR 72.2, incorporated herein by reference, as amended and supplemented, a limitation on emissions of SO₂ or NO_x under the Acid Rain Program under Title IV of the Clean Air Act.

“Acid Rain Program” means a multistate SO₂ and NO_x air pollution control and emission reduction program established by the Administrator under Title IV of the Clean Air Act, 42 U.S.C. §§7651 et seq., and 40 CFR Parts 72 through 78.

"Adjustment for banked allowances" means an adjustment applied to the New Jersey CO₂ Budget Trading Program base budget for a particular allocation year (or years) to address allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO₂ Budget Trading Program, but not including accounts opened by

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participating states, that are in addition to the aggregate quantity of emissions from all CO₂ budget sources in all of the participating states at the end of the control period immediately preceding the allocation year, and as reflected in COATS on March 15, of the year following the control period.

“Administrator” means the Administrator of the EPA or his or her authorized representative.

“Air contaminant” means any substance, other than water or distillates of air, present in the atmosphere as solid particles, liquid particles, vapors, or gases.

“Allocate” or “allocation” means the determination by the Department of the number of CO₂ allowances to be recorded in the compliance account of a CO₂ budget source, the fixed price contract set-aside account, the cogeneration set-aside account, or any general account, including the consumer benefit account, and a project sponsor’s general account.

“Allocation year” means a calendar year for which the Department allocates or awards CO₂ allowances pursuant to N.J.A.C. 7:27C-5 and 10. The allocation year of each CO₂ allowance is reflected in the unique identification number given to the allowance pursuant to N.J.A.C. 7:27C-6.8(c) or (d).

“Alternate CO₂ authorized account representative” or “alternate account representative” means:

1. For a CO₂ budget source and each CO₂ budget unit at the source, the alternate natural person who is authorized by the owners and operators of the source and all CO₂ budget units at the source, in accordance with N.J.A.C. 7:27C-2, to represent and legally bind each owner and operator in matters pertaining to the CO₂ Budget Trading Program; or

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2. For a general account, the alternate natural person who is authorized, under N.J.A.C. 7:27C-6, to transfer or otherwise dispose of CO₂ allowances held in the general account.

“Ascending price, multiple-round auction” means a multiple-round auction that starts with an opening price that increases each round by predetermined increments. In each round, a bidder offers the quantity of CO₂ allowances the bidder is willing to purchase at the posted price. Rounds continue as long as demand exceeds the quantity of CO₂ allowances offered for sale. At the completion of the final round, CO₂ allowances will be allocated as follows:

1. At the final price to remaining bidders. Unsold CO₂ allowances to be withheld for a future auction;

2. At the penultimate price, first to final round bidders and then to bidders in the penultimate round in chronological order of bid during the penultimate round for all remaining allowances; or

3. According to an alternative mechanism designed to effectuate the objectives of this chapter.

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

“Attribute credit” means a credit that represents the attributes related to one megawatt-hour of electricity generation.

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“Automated data acquisition and handling system” or “DAHS” means that component of the continuous emissions monitoring system (CEMS), or other emissions monitoring system approved for use under N.J.A.C. 7:27C-8, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by N.J.A.C. 7:27C-8.

“Award” means the determination by the Department of the number of CO₂ offset allowances to be recorded in the general account of a project sponsor pursuant to N.J.A.C. 7:27C-10.9. In this sense, an award is a type of allocation. Award also means the allocation of CO₂ allowances to a winning bidder at a CO₂ allowance auction.

“Beneficial interest” means profit, benefit, or advantage resulting from the ownership of a CO₂ allowance.

“Bidder” means a qualified participant who has met the requirements of N.J.A.C. 7:27C-11.6, 11.7, and 11.8 and has been determined by the Department to be eligible to participate in a specified CO₂ allowance auction pursuant to N.J.A.C. 7:27C-11.8.

“Billing meter” means the device used to measure electric or thermal output for commercial billing under a contract between the owner or owners of the facility selling the electric or thermal output and the owner or owners of the entity purchasing the electric or thermal output, where no owner of either the seller or the buyer is also an owner of the other party.

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

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"British thermal unit" or "Btu" means the quantity of heat required to raise the temperature of one pound of water by one degree Fahrenheit, at the temperature at which water has its greatest density (approximately 39 degrees Fahrenheit).

"Certified dispatch agreement facility" means a CO₂ budget source that is eligible to receive a fixed price sale offer of CO₂ allowances from the Department pursuant to N.J.A.C. 7:27C-5.5(b).

"CH₄" means methane.

"CO₂" means carbon dioxide.

"CO₂ allowance" means a limited authorization by the Department, or a participating state, under the CO₂ Budget Trading Program to emit up to one ton of CO₂, subject to all applicable limitations contained in this chapter.

"CO₂ allowance auction" or "auction" means the sale of CO₂ allowances through competitive bidding as administered in accordance with N.J.A.C. 7:27C-11.

"CO₂ allowance auction website" means the website established by the Department that contains information about CO₂ allowance auctions, at

<https://www.state.nj.us/dep/ages/rggi.html>.

"CO₂ allowance deduction" or "deduct CO₂ allowances" means the permanent withdrawal of CO₂ allowances by the Department from a compliance account to account for the number of tons of CO₂ emitted from a CO₂ budget source for a control period, the initial control period, or an interim control period, determined in accordance with N.J.A.C. 7:27C-8, or for the forfeit or retirement of CO₂ allowances as provided by this chapter.

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"CO₂ allowance price" means the price for CO₂ allowances in the CO₂ Budget Trading Program for a particular time period as determined by the Department, calculated based on a volume-weighted average of transaction prices reported to the Department, and taking into account prices as reported publicly through reputable sources.

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

"CO₂ allowance tracking system account" or "COATS account" means an account in the CO₂ allowance tracking system established by the Department for purposes of recording the allocation, holding, transfer, or deduction of CO₂ allowances.

"CO₂ allowance transfer deadline" means midnight of the March 1 occurring after the end of the relevant control period, the initial 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; and also means the deadline by which CO₂ allowances shall be submitted for recording in a CO₂ budget source's compliance account in order for the source to meet the CO₂ requirements of N.J.A.C. 7:27C-1.4 for the control period, the initial control period, and each interim control period immediately preceding such deadline.

"CO₂ allowances held" or "held CO₂ allowances" means the CO₂ allowances recorded by the Department, or submitted to the Department for recording, in accordance with N.J.A.C. 7:27C-6 and 7, in a COATS account.

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"CO₂ authorized account representative" or "account representative" means the following, and except in those cases where it would be redundant, also means the alternate CO₂ authorized account representative:

1. For a CO₂ budget source and each CO₂ budget unit at the source, the natural person who is authorized by the owners and operators of the source and all CO₂ budget units at the source, in accordance with N.J.A.C. 7:27C-2, to represent and legally bind each owner and operator in matters pertaining to the CO₂ Budget Trading Program; or

2. For a general account, the natural person who is authorized under N.J.A.C. 7:27C-6 to transfer or otherwise dispose of CO₂ allowances held in the general account.

"CO₂ budget emissions limitation" means, for a CO₂ budget source, the tonnage equivalent, in CO₂ emissions in a control period, the initial control period, or an interim control period, of the CO₂ allowances available for compliance deduction for the source for the control period, the initial control period, or the interim control period.

"CO₂ budget source" means a facility that includes one or more CO₂ budget units.

"CO₂ Budget Trading Program" means a multistate CO₂ air pollution control and emissions reduction program established pursuant to this chapter and corresponding rules and regulations in other participating states as a means of reducing emissions of CO₂ from CO₂ budget sources.

"CO₂ budget unit" means a fossil fuel-fired unit that, at any time on or after January 1, 2005, served or serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe.

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“CO₂ cost containment reserve allowance” or “CCR allowance” means a CO₂ allowance that the Department offers for sale at an auction for the purpose of containing the cost of CO₂ allowances. CCR allowances offered for sale at an auction are separate from, and in addition to, CO₂ allowances allocated from the New Jersey CO₂ Budget Trading Program base and adjusted budgets. CCR allowances are subject to all applicable limitations contained in this chapter.

“CO₂ cost containment reserve trigger price” or “CCR trigger price” means the minimum price at which the Department offers CCR allowances for sale at an auction. The CCR trigger price for calendar year 2020 will be \$10.77 per CO₂ allowance. The CCR trigger price in calendar year 2021 will be \$13.00. Each calendar year thereafter, the CCR trigger price will be the CCR trigger price from the previous calendar year, multiplied by 1.07 and rounded to the nearest whole cent, as shown in Table 1 below.

Table 1. CCR Trigger Price										
2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$10.77	\$13.00	\$13.91	\$14.88	\$15.92	\$17.03	\$18.22	\$19.50	\$20.87	\$22.33	\$23.89

“CO₂ emissions containment reserve allowance” or “ECR allowance” means a CO₂ allowance that the Department withholds from sale at an auction for the purpose of additional emission reduction in the event of lower than anticipated emission reduction costs.

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“CO₂ emissions containment reserve trigger price” or “ECR trigger price” means the price below which the Department will withhold CO₂ allowances from sale at an auction. The ECR trigger price in calendar year 2021 will be \$6.00. Each calendar year thereafter, the ECR trigger price will be 1.07 multiplied by the ECR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 2.

2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$6.00	\$6.42	\$6.87	\$7.35	\$7.86	\$8.41	\$9.00	\$9.63	\$10.30	\$11.02

“CO₂ equivalent” means the quantity of a given greenhouse gas multiplied by its global warming potential (GWP).

“CO₂ offset allowance” means a CO₂ allowance that is awarded to a project sponsor pursuant to N.J.A.C. 7:27C-10.9 and is subject to the relevant compliance deduction limitations of N.J.A.C. 7:27C-6.9(a)3.

“Cogeneration set-aside account” means a general account established by the Department for the allocation of allowances for retirement in an amount equal to the adjustment of the compliance obligation of a cogeneration unit pursuant to N.J.A.C. 7:27C-5.3.

“Cogeneration unit” means an electric-generating unit that uses a steam-generating unit or stationary combustion turbine to simultaneously produce both electric (or mechanical) and useful thermal energy from the same primary energy facility.

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“Combined cycle system” means a system comprised of one or more of each of the following configured to improve overall efficiency of electricity generation or steam production:

1. Combustion turbine;
2. Heat recovery steam generator; and
3. Steam turbine.

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

“Commence commercial operation” means, with regard to a unit that serves a generator, to begin to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation. For a unit that is a CO₂ budget unit on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered. For a unit that is not a CO₂ budget unit on the date the unit commences commercial operation, the date the unit becomes a CO₂ budget unit shall be the unit's date of commencement of commercial operation, even if the unit is subsequently modified, reconstructed, or repowered.

“Commence operation” means to begin any mechanical, chemical, or electronic process including, with regard to a unit, start-up of a unit's combustion chamber. For a unit that is a 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,

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or repowered. For a unit that 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, even if the unit is subsequently modified, reconstructed, or repowered.

“Compliance account” means a COATS account, established by the Department for a CO₂ budget source under N.J.A.C. 7:27C-6, 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, the initial control period, or an interim control period for the purpose of meeting the CO₂ requirements of N.J.A.C. 7:27C-1.4.

“Compliance obligation” means the number of CO₂ allowances required to account for the number of tons of CO₂ emitted from a CO₂ budget source for a control period, the initial control period, or an interim control period, determined in accordance with N.J.A.C. 7:27C-8, before any adjustment pursuant to N.J.A.C. 7:27C-5.3.

“Consumer benefit account” means the general account established by the Department from which CO₂ allowances will be sold or auctioned.

“Continuous emissions monitoring system” or “CEMS” means the equipment required under N.J.A.C. 7:27C-8 to sample, analyze, measure, and provide, by means of readings recorded at least once every 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 Part 75 and N.J.A.C. 7:27C-8. The following are examples of the types of CEMS that may be used to comply with N.J.A.C. 7:27C-8:

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1. A flow-monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

2. A NO_x emissions rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO₂ or O₂) monitor, and an automated data acquisition and handling system, that provides a permanent, continuous record of NO_x concentration, in parts per million (ppm), diluent gas concentration, in percent CO₂ or O₂, and NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu);

3. A moisture-monitoring system, as defined in 40 CFR 75.11(b)(2), which is incorporated herein by reference, as amended and supplemented, that provides a permanent, continuous record of the stack gas moisture content, in percent H₂O;

4. A CO₂-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, that provides a permanent, continuous record of CO₂ emissions, in percent CO₂; and

5. An O₂-monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system, that provides a permanent, continuous record of O₂, in percent O₂.

“Control period” means a three-calendar-year period. The fifth control period, which is the first control period in which New Jersey will again participate in RGGI, is from January 1, 2021, through December 31, 2023, inclusive. Each subsequent sequential three-calendar-year period is a separate control period.

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“Cross State Air Pollution Rule (CSAPR) NO_x Annual Trading Program” means a multistate NO_x air pollution control and emission reduction program established in accordance with 40 CFR Part 97, subpart AAAAA and 40 CFR 52.38(a) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.38(a)(3) or (4) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.38(a)(5)), as a means of mitigating interstate transport of fine particulates and NO_x.

“Cross State Air Pollution Rule (CSAPR) NO_x Ozone Season Trading Program” means a multistate NO_x air pollution control and emission reduction program established in accordance with 40 CFR Part 97, subpart BBBBB and 40 CFR 52.38(b) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.38(b)(3) or (4) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.38(b)(5)), as a means of mitigating interstate transport of ozone and NO_x.

“Cross State Air Pollution Rule (CSAPR) SO₂ Group 1 Trading Program” means a multistate SO₂ air pollution control and emission reduction program established in accordance with 40 CFR Part 97 subpart CCCCC and 40 CFR 52.39(a), (b), (d), (e), (f), (j), and (k) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR 52.39(d) or (e) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.39(f)), as a means of mitigating interstate transport of fine particulates and SO₂.

“Cross State Air Pollution Rule (CSAPR) SO₂ Group 2 Trading Program” means a multistate SO₂ air pollution control and emission reduction program established in accordance with 40 CFR Part 97, subpart DDDDD and 40 CFR 52.39(a), (c), and (g) through (k) (including such a program that is revised in a SIP revision approved by the Administrator under 40 CFR

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52.39(g) or (h) or that is established in a SIP revision approved by the Administrator under 40 CFR 52.39(i)), as a means of mitigating interstate transport of fine particulates and SO₂.

“Department” means the New Jersey Department of Environmental Protection. When used in N.J.A.C. 7:27C-11, “Department” also means the agent, if any, to which the Department delegates implementation and administrative support functions for a CO₂ allowance auction pursuant to N.J.A.C. 7:27C-11.1(b).

“Descending price, multiple-round auction” means a multiple-round auction that starts with a high provisional price, which falls in each round by predetermined increments. In each round, a bidder can lock in the purchase of some number of CO₂ allowances at the current provisional price and/or wait for the price to fall. Rounds continue so long as the number of CO₂ allowances locked-in is less than the quantity of CO₂ allowances offered for sale.

“Discriminatory price, sealed-bid auction” means a single-round, sealed-bid auction in which a bidder may submit multiple bids for CO₂ allowances at different prices. The price(s) paid by winning bidders with the highest bids for CO₂ allowances is their own bid price(s).

“Dispatch agreement facility” means a CO₂ budget source that meets the criteria at N.J.A.C. 7:27C-5.5(b).

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), and xenon (Xe).

“Electronic submission agent” means a natural person to whom the CO₂ authorized account representative, or his or her alternate, has delegated the authority to make an electronic submission to the Department on his or her behalf, as further described at N.J.A.C. 7:27C-2.6 and 6.7.

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“Eligible biomass” means the following sustainably harvested woody and herbaceous fuel sources, that are available on a renewable or recurring basis (excluding old-growth timber): dedicated energy crops and trees, agricultural food residues and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes, biogas, and other neat liquid biofuels derived from such fuel sources. Whether a fuel source is sustainably harvested will be determined by the Department based on an evaluation of the environmental sustainability of harvesting practices applicable to the biomass feedstock, taking into consideration pest management, fertilizer and nutrient use, crop rotation practices, water use and pollution management, soil management, and forest management.

“EPA” means the United States Environmental Protection Agency.

“Excess emissions” means the tonnage of CO₂ emitted by a CO₂ budget source during a control period or the initial control period that exceeds the CO₂ budget emissions limitation for the source.

“Excess interim emissions” means 50 percent of the tonnage of CO₂ emitted by a CO₂ budget source during an interim control period that exceeds the CO₂ budget emissions limitation for the source.

"Facility" means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source operations, and other operations that are located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons.

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“Facility code” means a five-digit code assigned by the Energy Information Agency at the United States Department of Energy to a power plant that is not owned by an electric utility.

“Fixed price contract set-aside account” means a general account established by the Department for the allocation of allowances for direct sale pursuant to N.J.A.C. 7:27C-5.5.

“Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

“Fossil fuel-fired” means:

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

“General account” means a COATS account established by the Department under N.J.A.C. 7:27C-6, other than a compliance account. A general account can be used for the receipt, transfer, and banking of CO₂ allowances in COATS, but cannot be used for a CO₂ allowance compliance deduction.

“Global warming potential” or “GWP” means a measure of the radiative efficiency (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)

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relative to that of CO₂. Global warming potentials used in this chapter are consistent with the values used in the Intergovernmental Panel on Climate Change, Fifth Assessment Report.

“Gross generation” means the electrical output (in MWe) at the terminals of a generator.

“Initial control period” means the calendar-year period from January 1, 2020, through December 31, 2020, inclusive, which is the third year of the fourth control period and the initial year of New Jersey’s participation in the CO₂ Budget Trading Program.

“Interim control period” means the calendar-year period, during each of the first and second calendar years of each control period. The first interim control period is from January 1, 2021 through December 31, 2021, inclusive. The second interim control period is from January 1, 2022 through December 31, 2022, 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.

“Hr” means hour.

“Lb” means pound.

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

1. The life of the unit;
2. A cumulative term of no less than 30 years, including a contract that permits an election for early termination; or

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3. A period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

“Maximum potential hourly heat input” means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If 40 CFR Part 75 Appendix D is used to report a unit’s heat input, this is the value calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If a flow monitor and a diluent gas monitor are used for the unit, this is the value reported, in accordance with 40 CFR Part 75, using the maximum potential flowrate and either the maximum CO₂ concentration (in percent CO₂) or the minimum O₂ concentration (in percent O₂).

“Minimum reserve price” means, for calendar year 2020, \$2.32. Each calendar year thereafter, the minimum reserve price will be the minimum reserve price from the previous calendar year, multiplied by 1.025 and rounded to the nearest whole cent.

“Monitoring system” means any monitoring system that meets the requirements of N.J.A.C. 7:27C-8, including a CEMS, an excepted monitoring system, or an alternative monitoring system.

“MMBtu” means million Btu.

“MWe” means megawatt electrical.

“MWh” means megawatt hours.

“Nameplate capacity” means the maximum electrical output in MWe that a generator can sustain over a specified period of time, under specific conditions designated by the

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manufacturer, when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

“Net electric output” means the gross amount of electricity generation a generator produces (including, but not limited to, output from steam turbines, combustion turbines, and gas expanders), as measured at the generator terminals, less the electricity used to operate the plant (that is, auxiliary loads); such uses include fuel-handling equipment, pumps, fans, pollution control equipment, other electricity needs, and transformer losses as measured at the transmission side of the step-up transformer (for example, the point of sale).

“New Jersey CO₂ Budget Trading Program adjusted budget” means the annual amount of CO₂ tons available in New Jersey for allocation in a given allocation year, in accordance with the CO₂ Budget Trading Program, determined in accordance with N.J.A.C. 7:27C-5. CO₂ offset allowances allocated to project sponsors and CCR allowances offered for sale at an auction are separate from and in addition to CO₂ allowances allocated from the New Jersey CO₂ Budget Trading Program adjusted budget.

“New Jersey CO₂ Budget Trading Program base budget” means the annual number of CO₂ tons available in New Jersey for allocation in a given allocation year, in accordance with the CO₂ Budget Trading Program and as specified at N.J.A.C. 7:27C-5.1. CO₂ offset allowances awarded to project sponsors and CCR allowances offered for sale at an auction are separate from and in addition to CO₂ allowances allocated from the New Jersey CO₂ Budget Trading Program base budget.

“New York Independent System Operator” or “NYISO” means the not-for-profit corporation, or any successor organization, responsible for operating New York State's bulk

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electricity grid, administering New York State's competitive wholesale electricity markets, and conducting comprehensive long-term planning for New York State's electric power system serving New York State. NYISO is the Federally designated electric bulk system operator in New York State.

“Non-CO₂ budget unit” means a unit that does not meet the definition of “CO₂ budget unit.”

“Notice of CO₂ allowance auction” means the notification for a specific auction or auctions issued pursuant to N.J.A.C. 7:27C-11.5.

“NO_x” means nitrogen oxides.

“O₂” means oxygen.

“Operator” means any person who operates, controls, or supervises a CO₂ budget unit or a CO₂ budget source and includes, but is not limited to, any holding company, utility system, or plant manager of such a unit or source.

“ORIS code” means a number assigned by the Energy Information Agency at the United States Department of Energy to power plants owned by electric utilities.

“Owner” means any of the following:

1. The holder of any portion of the legal or equitable title in a CO₂ budget unit or a CO₂ budget source;

2. The holder of a leasehold interest in a CO₂ budget unit or CO₂ budget source.

This does not include 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;

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3. The 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

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

"Participating state" means a state or jurisdiction that has adopted corresponding rules, regulations, or statutes as part of the CO₂ Budget Trading Program.

"Person" means any individual or entity and includes, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of this State or any agencies or instrumentalities thereof.

"PJM Interconnection, LLC" or "PJM" means the regional transmission organization, or its successor, that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia.

"Qualified participant" means a person who has submitted a qualification application pursuant to N.J.A.C. 7:27C-11.8(a) and that the Department determines to be qualified to participate in CO₂ allowance auctions pursuant to N.J.A.C. 7:27C-11.8(e).

"Receive" or "receipt of" means, when referring to the Department, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a

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notation made on the document, information, or correspondence, by the Department in the regular course of business.

“Recording, record, or recorded” means, with regard to CO₂ allowances, the movement of CO₂ allowances by the Department from one COATS account to another, for purposes of allocation, transfer, or deduction.

“Reserve price” means the minimum acceptable price for each CO₂ allowance offered for sale in a specific CO₂ allowance auction. The reserve price at an auction is either the minimum reserve price, as defined in this section, or the CCR trigger price, as specified in Table 1 in the definition of “CO₂ cost containment reserve trigger price” and N.J.A.C. 7:27C-9. In no event will the reserve price be lower than the minimum reserve price.

“Reviewer” means a natural person to whom the CO₂ authorized account representative or his or her alternate has delegated the authority to review information in COATS on his or her behalf, as further described at N.J.A.C. 7:27C-2.6.

“Serial number” means, when referring to CO₂ allowances, the unique identification number assigned to each CO₂ allowance by the Department under N.J.A.C. 7:27C-6.8(c) and (d).

“Set-aside account” is a general account established by the Department into which allowances can be allocated for direct sale to certified dispatch agreement facilities with fixed-price contracts pursuant to N.J.A.C. 7:27C-5.5, or to be retired for the compliance obligation adjustment of a cogeneration unit pursuant to N.J.A.C. 7:27C-5.3.

“Source” means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits, or has the potential to emit, any air contaminant. A source, including a source with multiple units, is considered a single facility.

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"SO₂" means sulfur dioxide.

"State" when spelled with a lower case "s" (as in "state") means a state of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and includes the Commonwealth of the Northern Mariana Islands. "State" when spelled with an upper case "S" (as in "State") means New Jersey.

"Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rules or regulations in the manner described in 1 through 3 below. Compliance with any "submission," "service," or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

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

"Third adjustment for banked allowances" means an adjustment applied to the New Jersey CO₂ Budget Trading Program base budget for allocation years 2021 through 2025 to address allowances held in general and compliance accounts, including compliance accounts established pursuant to the CO₂ Budget Trading Program, but not including accounts opened by participating states, that are in addition to the aggregate quantity of emissions from all CO₂ budget sources in all of the participating states at the end of the control period in 2020 and as reflected in COATS on March 15, 2021.

"Ton" or "tonnage" means a short ton (2,000 pounds or 0.9072 metric tons).

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"Undistributed CO₂ allowances" means CO₂ allowances originally allocated to a fixed-price contract set-aside account pursuant to N.J.A.C. 7:27C-5.5 that were not distributed.

"Uniform-price, sealed-bid auction" means a single-round, sealed-bid auction in which a bidder may submit multiple bids at different prices. The price paid by all successful bidders will be uniform and equal to the highest rejected bid price.

"Unit" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system.

"Unit-operating day" means a calendar day in which a unit combusts any fuel.

"Unsold CO₂ allowance" means a CO₂ allowance that has been made available for sale in an auction conducted by the Department, but is not sold in such auction.

"Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

1. Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;
2. Used in a heating application (for example, space heating or domestic hot water heating); or
3. Used in a space cooling application (that is, thermal energy used by an absorption chiller).

7:27C-1.3 Applicability and exemption

- (a) The requirements of this chapter apply to any CO₂ budget unit or CO₂ budget source.

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(b) Notwithstanding (a) above, a CO₂ budget source for which the Department has issued an operating permit containing a condition restricting the supply of the unit's annual electrical output to the electric grid to no more than 10 percent of the unit's annual gross electric generation, and that complies with (d) through (g) below, is exempt from the requirements of this chapter, except for the provisions of this section, N.J.A.C. 7:27C-1.6 and 8.8, and, if applicable because of the allocation of CO₂ allowances during the pre-exemption time period, N.J.A.C. 7:27C-5, 6, and 7.

(c) The exemption under (b) above becomes effective as of the January 1 that is on or after the date on which the restriction on the percentage of annual gross generation that may be supplied to the electric grid and the provisions in the permit required at (b) above become final.

(d) A CO₂ budget unit exempt under (b) above shall comply with the restriction on the percentage of annual gross electric generation that may be supplied to the electric grid described in (b) above.

(e) A CO₂ budget unit exempt under (b) above shall report to the Department, in accordance with the applicable provisions at N.J.A.C. 7:27C-8.8, the amount of annual gross electric generation and the amount of annual gross electric generation supplied to the electric grid during the year by February 1 of the following year.

(f) For a period of 10 years from the date the records are created, the owners and operators of a unit exempt under (b) above shall retain, at the source that includes the unit, records demonstrating that the conditions of the permit under (b) were met. At any time prior to the end of the period, the Department may, in writing, extend the 10-year period for keeping records if it determines a longer retention period is necessary to demonstrate compliance with

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permit conditions. The owners and operators bear the burden of proof that the unit met the restriction on the percentage of annual gross electric generation that may be supplied to the electric grid.

(g) The owners and operators and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget unit exempt under (b) above shall comply with all the requirements of this chapter concerning all time periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(h) A CO₂ budget unit exempt under (b) above will lose its exemption upon the occurrence of either of the following:

1. The restriction on the percentage of annual gross generation that may be supplied to the electric grid described in (b) above is removed from the unit's permit or otherwise becomes no longer applicable in any year that commences on or after January 1, 2020; or

2. The unit fails to comply or the owners and operators fail to meet their burden of proving that the unit is complying with the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in (b) above during any year that commences on or after January 1, 2020.

(i) For the purposes of this chapter, the date of commencement of operation for a unit that loses its exemption pursuant to (h) above will be the date the unit loses its exemption.

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7:27C-1.4 General provisions

(a) The owner and operator of each CO₂ budget source required to have an operating permit pursuant to N.J.A.C. 7:27-22 shall:

1. Submit to the Department a complete application for a new, renewed, or modified operating permit under N.J.A.C. 7:27C-3.3 in accordance with the deadlines specified in N.J.A.C.

7:27C-3.2; and

2. Submit in a timely manner any supplemental information that the Department determines is necessary to review the operating permit application and issue or deny an operating permit, permit renewal, or permit modification that includes CO₂ Budget Trading Program requirements.

(b) The owner and operator of each CO₂ budget source required to have an operating permit pursuant to N.J.A.C. 7:27-22 shall ensure that the operating permit incorporates the requirements of the CO₂ Budget Trading Program and shall operate the CO₂ budget source and each CO₂ budget unit at the source in compliance with such operating permit.

(c) The owner and operator and, to the extent applicable, the CO₂ authorized account representative of each CO₂ budget source and each CO₂ budget unit at the source, shall comply with the monitoring requirements of N.J.A.C. 7:27C-8.

(d) The Department will use the emissions measurements recorded and reported in accordance with N.J.A.C. 7:27C-8 to determine the unit's compliance with the CO₂ requirements under (f) below. For the purpose of determining compliance with (f) below, total tons for a control period, the initial control period, or an interim control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly

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emissions rates) in accordance with N.J.A.C. 7:27C-8. The Department will round total CO₂ emissions to the nearest whole ton, so that any fraction of a ton equal to or greater than 0.50 tons is deemed to equal one ton and any fraction of a ton less than 0.50 tons is deemed to equal zero tons.

(e) A CO₂ budget unit is subject to the requirements of (f) below starting on January 1, 2020, or the date on which the unit commences operation, whichever is later.

(f) The owners and operators of each CO₂ budget source and each CO₂ budget unit at the source shall, as of the CO₂ allowance transfer deadline, hold CO₂ allowances in the source's compliance account, available for compliance deductions under N.J.A.C. 7:27C-6.9, as follows:

1. In the case of the initial control period, the number of CO₂ allowances held shall be no less than an amount equivalent to the total CO₂ emissions for the initial control period from all CO₂ budget units at the source;

2. In the case of a control period, the number of CO₂ allowances held shall be no less than the total CO₂ emissions for the control period from all CO₂ budget units at the source, less the CO₂ allowances deducted to meet the requirements of (f)3 below, with respect to the previous two interim control periods, as determined in accordance with N.J.A.C. 7:27C-6 and 8; and

3. In the case of an interim control period, the number of CO₂ allowances held shall be no less than the total CO₂ emissions for the interim control period from all CO₂ budget units at the source multiplied by 0.50, as determined in accordance with N.J.A.C. 7:27C-6 and 8.

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(g) Each ton of CO₂ emitted in excess of the CO₂ budget emissions limitation for a control period or the initial control period constitutes a separate violation of this chapter and applicable State law.

(h) Each ton of excess interim emissions constitutes a separate violation of this chapter and applicable State law.

(i) CO₂ allowances shall be held in, deducted from, or transferred among COATS accounts in accordance with N.J.A.C. 7:27C-5, 6, and 7.

(j) A CO₂ allowance shall not be deducted, in order to comply with (f) above, for a control period that ends prior to the year for which the CO₂ allowance was allocated.

(k) A CO₂ offset allowance shall not be deducted, in order to comply with (f) above, beyond the applicable percent limitations at N.J.A.C. 7:27C-6.9(a)3.

(l) A CO₂ allowance is a limited authorization by the Department or a participating state to emit one ton of CO₂ in accordance with the CO₂ Budget Trading Program. No provision of the CO₂ Budget Trading Program, this chapter, an application for a new, renewed, or modified operating permit to incorporate the requirements of the CO₂ Budget Trading Program, an operating permit that includes the requirements of the CO₂ Budget Trading Program, or any provision of law shall be construed to limit the authority of the Department or a participating state to terminate or limit such authorization.

(m) A CO₂ allowance under the CO₂ Budget Trading Program does not constitute a property right.

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(n) The owners and operators of a CO₂ budget source that has excess emissions in any control period or the initial control period or excess interim emissions in any interim control period, shall:

1. Forfeit the CO₂ allowances required for deduction under N.J.A.C. 7:27C-6.9(e);
2. Not use any CO₂ offset allowances to cover any part of such excess emissions; and
3. Pay any fine, penalty, or assessment or comply with any other remedy imposed under N.J.A.C. 7:27C-6.9(f).

(o) Except as provided under (o)1 below, the owners and operators of the CO₂ budget source and each CO₂ budget unit at the source shall keep on site at the source each of the documents set forth in (o)1 through 4 below for a period of 10 years from the date the document is created. The Department may at any time prior to the end of the 10-year period extend the 10-year period in writing, if it determines that retention of the documents beyond the 10-year period is necessary to determine compliance with the requirements of this chapter:

1. The account certificate of representation for the CO₂ authorized account representative for the CO₂ budget source and each CO₂ budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with N.J.A.C. 7:27C-2.4, provided that the certificate and documents shall be retained on site at the source beyond such 10-year period until such documents are superseded by a newly submitted account certificate of representation changing the CO₂ authorized account representative;

2. All emissions monitoring information, in accordance with N.J.A.C. 7:27C-8 and 40 CFR 75.57;

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3. Copies of all reports, compliance certifications, and other submissions, and all records made or required under the CO₂ Budget Trading Program; and

4. Copies of all documents used to complete an application for a new or modified operating permit that incorporates the requirements of the CO₂ Budget Trading Program and any other submission under the CO₂ Budget Trading Program or to demonstrate compliance with the requirements of the CO₂ Budget Trading Program.

(p) The CO₂ authorized account representative of a CO₂ budget source and each CO₂ budget unit at the source shall submit the reports and compliance certifications required under this chapter, including the requirements at N.J.A.C. 7:27C-4.

(q) A renewal or modification of the operating permit of a CO₂ budget source will not cure a violation of the requirements of this chapter if that renewal or modification is effective after the violation occurs.

(r) Each provision of this chapter that applies to a CO₂ budget source or to the source's CO₂ authorized account representative also applies to the owners and operators of such source and of each CO₂ budget units at the source.

(s) Each provision of this chapter that applies to a CO₂ budget unit or to the unit's CO₂ authorized account representative also applies to the owners and operators of such unit.

(t) No provision of the CO₂ Budget Trading Program, this chapter, an application for a new, renewed, or modified operating permit to incorporate the requirements of the CO₂ Budget Trading Program, or an operating permit that includes the requirements of the CO₂ Budget Trading Program, shall be construed as exempting or excluding the owners and operators and,

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to the extent applicable, the CO₂ authorized account representative, from compliance with any other provisions of applicable State or Federal law, rules, or regulations.

7:27C-1.5 Computation of time

(a) Unless otherwise stated, any time period scheduled, pursuant to this chapter, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, pursuant to this chapter, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, pursuant to this chapter, falls on a weekend or a participating state or Federal holiday, the time period shall be extended to the next business day.

7:27C-1.6 Appeal procedure

(a) A person who believes himself or herself to be aggrieved with respect to a decision made by the Department pursuant to this chapter may appeal the decision within 20 calendar days after the date of the decision and request an adjudicatory hearing.

(b) Requests for an adjudicatory hearing shall be submitted to:

Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

Department of Environmental Protection

Office of Legal Affairs

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Mail Code 401-04L

401 East State Street, 7th Floor

PO Box 402

Trenton, New Jersey 08625-0402

(c) All requests for an administrative hearing shall be submitted to the Department in writing on a hearing request form available from the Department and shall contain:

1. The name, address, and telephone number of the person making the request and the person's relationship to the applicant;

2. When the request is submitted by someone other than the applicant, evidence that a copy of the hearing request has been mailed to the applicant;

3. A statement of the legal authority and jurisdiction under which the request for a hearing is made;

4. A brief and clear statement of the Department decision being appealed, indicating the specific grounds for the applicant's appeal and the applicant's defenses to each of the Department's findings of fact in the notice or decision;

5. A copy of the Department notice or decision for which a hearing is being requested;

6. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue shall also be included;

7. An admission or denial of each of the Department's findings of fact in the notice or decision. If the applicant is without knowledge or information sufficient to form a belief as to the truth of a finding, the applicant shall so state and this shall have the effect of a denial. A

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denial shall fairly meet the substance of the findings denied. When the applicant intends in good faith to deny only a part or a qualification of a finding, the applicant shall specify so much of it as is true and material and deny only the remainder. The applicant may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding the applicant denies, the applicant shall allege the fact or facts as the applicant believes it or them to be;

8. All information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, the request shall specifically reference such information);

9. An estimate of the time for the hearing (in days and/or hours); and

10. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(d) The Department will deny any hearing request if it is not received within 20 calendar days after the date of the Department decision being appealed.

(e) The Department may deny any hearing request if the applicant or interested party fails to include all the information required under (c) above.

(f) Following receipt of a complete request for a hearing pursuant to (c) above, the Department may attempt to informally settle the dispute by conducting such proceedings, meetings, and conferences as it deems appropriate.

(g) If the Department determines that the matter is a contested case, the Department will transfer the matter for an administrative hearing to the Office of Administrative Law. Such a hearing will be conducted in accordance with the provisions of the Administrative Procedure

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Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. In making such determination, the Department will evaluate the request to determine whether a contested case exists and whether there are issues of fact, which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the Department will deny the request. Denial by the Department of a request for a contested case hearing shall constitute the final decision of the Department for the purposes of judicial appeal.

(h) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3.

(i) As part of a request for an adjudicatory hearing, a person may request that the Department determine whether the matter for which the adjudicatory hearing is requested is suitable for mediation by the Department's Office of Dispute Resolution. The Department will promptly notify the requester of its determination. If the Department determines the matter is suitable for mediation, it will also notify the requester of the procedures and schedule for mediation.

7:27C-1.7 Severability

If any provision of this chapter, or the application thereof to any person or circumstance, is adjudicated to be invalid or unenforceable to any extent, the remainder of this chapter, or its application to any person or circumstance other than those that are the subject of the adjudication, shall continue to be unaffected by the adjudication.

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SUBCHAPTER 2. CO₂ AUTHORIZED ACCOUNT REPRESENTATIVE OF A CO₂ BUDGET SOURCE

7:27C-2.1 Authorization and responsibilities of the CO₂ authorized account representative for a compliance account

(a) Except as provided under N.J.A.C. 7:27C-2.2, each CO₂ budget source, including all CO₂ budget units at the source, shall have one and only one CO₂ authorized account representative, with regard to all matters regulated by this chapter concerning the source or any CO₂ budget unit at the source.

(b) The CO₂ authorized account representative shall be selected pursuant to an agreement binding on the owners and operators of the source and all CO₂ budget units at the source and shall act in accordance with the certificate of representation under N.J.A.C. 7:27C-2.4.

(c) If the CO₂ budget source is also subject to the Acid Rain Program, the CSAPR NO_x Annual Trading Program, the CSAPR NO_x Ozone Season Trading Program, or the CSAPR SO₂ Group 1 or Group 2 Trading Program, then the CO₂ authorized account representative shall be the same as the designated representative for the aforementioned programs.

(d) Upon receipt by the Department of a complete account certificate of representation under N.J.A.C. 7:27C-2.4, the CO₂ authorized account representative shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CO₂ budget source represented and each CO₂ budget unit at the source in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative and such owner and operator. The owners and operators shall be bound by any decision or order regarding the source or unit issued to the CO₂

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authorized account representative by the Department or a court of competent jurisdiction regarding the source or unit.

(e) The Department will issue an operating permit that incorporates the requirements of the CO₂ Budget Trading Program pursuant to N.J.A.C. 7:27C-1.4 and otherwise complies with N.J.A.C. 7:27-22 and establish a COATS account for a CO₂ budget source only after it has received a complete account certificate of representation that complies with N.J.A.C. 7:27C-2.4 for a CO₂ authorized account representative of the CO₂ budget source and the CO₂ budget units at the source.

(f) Each submission under the CO₂ Budget Trading Program shall be submitted, signed, and certified by the CO₂ authorized account representative for each CO₂ budget source on behalf of which the submission is made. Each such submission shall include the following certification by the CO₂ authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget sources or CO₂ budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

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(g) The Department will accept or act on a submission made on behalf of the owner or operator of a CO₂ budget source or a CO₂ budget unit only if the submission has been made, signed, and certified in accordance with (f) above.

7:27C-2.2 Alternate CO₂ authorized account representative

(a) An account certificate of representation shall designate one and only one alternate CO₂ authorized account representative of the CO₂ budget source to act on behalf of the CO₂ authorized account representative of the CO₂ budget source.

(b) 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.

(c) If the CO₂ budget source is also subject to the Acid Rain Program, the CSAPR NO_x Annual Trading Program, the CSAPR NO_x Ozone Season Trading Program, or the CSAPR SO₂ Group 1 or Group 2 Trading Program, then the alternate CO₂ authorized account representative shall be the same as the designated representative for the aforementioned programs.

(d) Upon receipt by the Department of a complete account certificate of representation under N.J.A.C. 7:27C-2.4, any representation, action, inaction, or submission by the alternate CO₂ authorized account representative will be deemed to be a representation, action, inaction, or submission by the CO₂ authorized account representative.

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7:27C-2.3 Changing the CO₂ authorized account representative and the alternate CO₂ authorized account representative; changes in the owners and operators

(a) The CO₂ authorized account representative or his or her alternate may be changed at any time by submitting a superseding complete account certificate of representation to the Department, pursuant to N.J.A.C. 7:27C-2.4. The change in the CO₂ authorized account representative or his or her alternate is effective upon receipt by the Department of the superseding complete account certificate of representation. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CO₂ authorized account representative or his or her alternate prior to the time and date that the Department receives the superseding account certificate of representation shall be binding on the new CO₂ authorized account representative and the new alternate CO₂ authorized account representative and the owners and operators of the CO₂ budget source and the CO₂ budget units at the source.

(b) In the event a new owner or operator of a CO₂ budget source or a CO₂ budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator is 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 CO₂ budget source or CO₂ budget unit, and the decisions, orders, actions, and inactions of the Department, as if the new owner or operator were included in such list.

(c) Within 30 days following any change in the owners and operators of a CO₂ budget source or a CO₂ budget unit, including the addition of a new owner or operator, the CO₂ authorized

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account representative of the CO₂ budget source or alternate CO₂ authorized account representative of the CO₂ budget source shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

7:27C-2.4 Account certificate of representation

(a) A complete account certificate of representation for a CO₂ authorized account representative shall include the following, in a format prescribed by the Department:

1. Identification of the CO₂ budget source and each CO₂ budget unit at the source for which the account certificate of representation is submitted;
2. The name, address, email address, and telephone number of the CO₂ authorized account representative and any alternate CO₂ authorized account representative;
3. A list of the owners and operators of the CO₂ budget source and of each CO₂ budget unit at the source;
4. The following certification by the CO₂ authorized account representative: "I certify that I was selected as the CO₂ authorized account representative by an agreement binding on the owners and operators of the CO₂ budget source and each CO₂ budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of the owners and operators of the CO₂ budget source and of each CO₂ budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department or a court of competent jurisdiction regarding the source or unit."; and

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

(b) Unless otherwise required by the Department, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department. The Department will not be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

7:27C-2.5 Objections concerning the CO₂ authorized account representative

(a) Once the Department has received a complete account certificate of representation under N.J.A.C. 7:27C-2.4, the Department will rely on the account certificate of representation, unless and until the Department receives a superseding complete account certificate of representation under N.J.A.C. 7:27C-2.4.

(b) Except as provided in N.J.A.C. 7:27C-2.3(a), no objection or other communication submitted to the Department concerning the authorization, or any representation, action, inaction, or submission of the CO₂ authorized account representative will affect any representation, action, inaction, or submission of the CO₂ authorized account representative, or the finality of any decision or order by the Department under the CO₂ Budget Trading Program.

(c) The Department will not decide, or otherwise intervene in, any private legal dispute concerning the authorization of, or any representation, action, inaction, or submission by any CO₂ authorized account representative, including private legal disputes concerning the proceeds of CO₂ allowance transfers.

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7:27C-2.6 Delegation of authority to make electronic submissions and review information in the CO₂ allowance tracking system

(a) A CO₂ authorized account representative may delegate to one or more natural persons, his or her authority to make an electronic submission to the Department under this chapter. This natural person is the "electronic submission agent."

(b) To delegate authority to make an electronic submission to the Department, a CO₂ authorized account representative shall submit to the Department a notice of delegation, in a format prescribed by the Department, that includes the following:

1. The name, address, email address, and telephone number of the delegating CO₂ authorized account representative;
2. The name, address, email address, and telephone number of each electronic submission agent;
3. For each such electronic submission agent, a list of the types of electronic submissions under (a) above for which authority is delegated to him or her; and
4. The following certifications by the delegating CO₂ authorized account representative:
 - i. "I agree that any electronic submission to the Department that is by the natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO₂ authorized account representative and before a notice of delegation supersedes this notice of delegation under N.J.A.C. 7:27C-2.6(c), shall be deemed to be an electronic submission by me."; and
 - ii. "Until a notice of delegation supersedes this notice of delegation under N.J.A.C. 7:27C-2.6(c), I agree to maintain an e-mail account and to notify the Department

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immediately of any change in my e-mail address unless and until all delegation authority by me under N.J.A.C. 7:27C-2.6 is terminated.”

(c) A notice of delegation submitted pursuant to (b) above shall be effective, with regard to the delegating CO₂ authorized account representative identified in such notice, upon receipt of such notice by the Department and until receipt by the Department of a superseding notice of delegation by such CO₂ authorized account representative. 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.

(d) An electronic submission covered by the certification under (b)4 above and made in accordance with a notice of delegation effective under (b) above shall be deemed to be an electronic submission by the CO₂ authorized account representative submitting such notice of delegation.

(e) A CO₂ authorized account representative, or his or her alternative, may delegate to one or more natural persons, his or her authority to review information in COATS under this chapter. This natural person is the “reviewer.”

(f) To delegate authority to review information in COATS in accordance with (e) above, the CO₂ authorized account representative shall submit to the Department a notice of delegation, in a format prescribed by the Department, that includes the following:

1. The name, address, email address, and telephone number of the delegating CO₂ authorized account representative;
2. The name, address, email address, and telephone number of each reviewer;

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3. For each such reviewer, a list of the type of information under (e) above for which authority is delegated to him or her; and

4. The following certification statements by such CO₂ authorized account representative:

i. "I agree that any information that is reviewed by a natural person identified in this notice of delegation and of a type listed for such information accessible by the reviewer in this notice of delegation and that is made when I am a CO₂ authorized account representative and before a notice of delegation supersedes this notice of delegation under (g) below, shall be deemed to be a review by me."; and

ii. "Until a notice of delegation supersedes this notice of delegation under (g) below, I agree to maintain an e-mail account and to notify the Department immediately of any change in my e-mail address unless and until all delegation authority by me under N.J.A.C. 7:27C-2.6 is terminated."

(g) A notice of delegation submitted under (f) above shall be effective, with regard to the CO₂ authorized account representative identified in such notice, upon receipt of such notice by the Department and until receipt by the Department of a superseding notice of delegation by such CO₂ authorized account representative. The superseding notice of delegation may replace any previously identified reviewer, add a new reviewer, or eliminate entirely any delegation of authority.

SUBCHAPTER 3. PERMITS

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7:27C-3.1 General requirements for an operating permit incorporating CO₂ Budget Trading Program requirements

(a) Each CO₂ budget source shall have an operating permit issued by the Department pursuant to N.J.A.C. 7:27-22.

(b) The operating permit for each CO₂ budget source shall contain all applicable CO₂ Budget Trading Program requirements, as set forth in N.J.A.C. 7:27C-3.3(a)3, 4, 5, and 6.

7:27C-3.2 Submission of an application for a new, renewed, or modified operating permit incorporating CO₂ Budget Trading Program requirements

For any CO₂ budget source, the CO₂ authorized account representative shall submit a complete application under N.J.A.C. 7:27-22.28, and in conformance with the requirements of this chapter, to incorporate the CO₂ budget trading program requirements covering such CO₂ budget source.

7:27C-3.3 Contents of an application for an operating permit incorporating CO₂ Budget Trading Program requirements

(a) A complete application for a new, renewed, or modified operating permit for a CO₂ budget source shall include the following concerning the CO₂ budget source for which the application is submitted, in a format prescribed by the Department:

1. Identification of the CO₂ budget source, including plant name and the ORIS or facility code assigned to the source by the Energy Information Administration of the United States Department of Energy, if applicable;

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2. Identification of each CO₂ budget unit at the CO₂ budget source;
3. The general provisions at N.J.A.C. 7:27C-1.4;
4. The compliance certification requirements at N.J.A.C. 7:27C-4.1;
5. The compliance requirements at N.J.A.C. 7:27C-6.9; and
6. The monitoring, recordkeeping, and reporting requirements at N.J.A.C. 7:27C-8.

SUBCHAPTER 4. COMPLIANCE CERTIFICATION

7:27C-4.1 Compliance certification report

(a) For each control period, including the initial control period, in which a CO₂ budget source is subject to the CO₂ requirements of N.J.A.C. 7:27C-1.4, the CO₂ authorized account representative shall submit a compliance certification report to the Department, in a format provided by the Department, by the March 1 following the relevant control period or initial control period. No compliance certification report is required during an interim control period.

(b) The CO₂ authorized account representative shall include in the compliance certification report under (a) above the following:

1. Identification of the CO₂ budget source and each CO₂ budget unit at the source;
2. At the CO₂ authorized account representative's option, the serial numbers of the CO₂ allowances that are to be deducted from the CO₂ budget source's compliance account under N.J.A.C. 7:27C-6.9 for the control period, the initial control period, or an interim control period, including the serial numbers of any CO₂ offset allowances that are to be deducted, subject to the limitations of N.J.A.C. 7:27C-6.9(a)3; and
3. The compliance certification under (c) below.

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(c) The CO₂ authorized account representative shall certify in the compliance certification report whether the CO₂ budget source and each CO₂ budget unit at the source for which the compliance certification is submitted was operated during the calendar years covered by the report in compliance with the requirements of the CO₂ Budget Trading Program, based on reasonable inquiry of those persons with primary responsibility for operating the CO₂ budget source and the CO₂ budget units at the source in compliance with the CO₂ Budget Trading Program, including, more specifically:

1. Whether the CO₂ budget source was operated in compliance with the requirements of N.J.A.C. 7:27C-1.4;

2. Whether the monitoring plan applicable to each CO₂ budget unit at the CO₂ budget source has been maintained to reflect the actual operation and monitoring of the CO₂ budget unit, and contains all information necessary to attribute CO₂ emissions to the CO₂ budget unit, in accordance with N.J.A.C. 7:27C-8;

3. Whether all the CO₂ emissions from each CO₂ budget unit at the CO₂ budget 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 N.J.A.C. 7:27C-8. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made;

4. Whether there has been any change to the facts that form the basis for certification under N.J.A.C. 7:27C-8 of each monitor at each CO₂ budget unit at the CO₂ budget source, or for

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using an excepted monitoring method or alternative monitoring method approved under N.J.A.C. 7:27C-8, if any; and

5. If a change is required to be reported under (c)4 above, the specific nature of the change, the reason for the change, when the change occurred, and how the CO₂ budget 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.

7:27C-4.2 Department action on compliance certifications

(a) The Department may review and conduct independent audits of any compliance certification or any other submission under this chapter and make appropriate adjustments of the information in the compliance certification or other submission.

(b) The Department may deduct CO₂ allowances from, or transfer CO₂ allowances to, a CO₂ budget source's compliance account, as appropriate, based on the information in the compliance certification or other submission, as adjusted under (a) above.

SUBCHAPTER 5. CO₂ ALLOWANCE ALLOCATIONS

7:27C-5.1 New Jersey CO₂ Budget Trading Program base budget

(a) The New Jersey CO₂ Budget Trading Program annual base budget for the allocation years 2020 and later is as follows:

1. For the 2020 allocation year, 18,000,000 tons;
2. For the 2021 allocation year, 17,460,000 tons;
3. For the 2022 allocation year, 16,920,000 tons;

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4. For the 2023 allocation year, 16,380,000 tons;
5. For the 2024 allocation year, 15,840,000 tons;
6. For the 2025 allocation year, 15,300,000 tons;
7. For the 2026 allocation year, 14,760,000 tons;
8. For the 2027 allocation year, 14,220,000 tons;
9. For the 2028 allocation year, 13,680,000 tons;
10. For the 2029 allocation year, 13,140,000 tons; and
11. For the 2030 and each succeeding allocation year, 12,600,000 tons.

7:27C-5.2 CO₂ allowance allocations

(a) The Department will allocate CO₂ allowances representing 100 percent of the tons for each allocation year from the New Jersey CO₂ Budget Trading Program base budget set forth in N.J.A.C. 7:27C-5.1 to a consumer benefit account, less those allowances set aside each allocation year pursuant to (b) and (c) below.

(b) The Department will allocate CO₂ allowances to a fixed-price contract set-aside account for each allocation year from the New Jersey CO₂ Budget Trading Program base budget set forth in N.J.A.C. 7:27C-5.1 in an amount sufficient to provide allowances at a fixed price of \$2.00 per ton to all eligible facilities, as provided at N.J.A.C. 7:27C-5.5.

(c) The Department will allocate CO₂ allowances to a cogeneration set-aside account for each allocation year from the New Jersey CO₂ Budget Trading Program base budget set forth in N.J.A.C. 7:27C-5.1 in an amount sufficient to provide allowances equivalent to the projected compliance adjustment for a cogeneration unit, as provided at N.J.A.C. 7:27C-5.3.

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(d) The Department will distribute allowances from the consumer benefit account in accordance with N.J.A.C. 7:27C-5.3, 5.4, 5.5, and 11.13(b).

(e) For the allocation year 2021 and each succeeding allocation year, the New Jersey CO₂ Budget Trading Program adjusted budget will be the maximum number of allowances available for allocation in a given allocation year, except for CO₂ offset allowances and CCR allowances. In any year in which the budget is not adjusted, the "adjusted budget" will equal the base budget.

(f) The Department will allocate CCR allowances, separate from and in addition to the New Jersey CO₂ Budget Trading Program base budget set forth in N.J.A.C. 7:27C-5.1, to the consumer benefit account, in order to contain the cost of CO₂ allowances. The Department will allocate CCR allowances in the following manner:

1. The Department will initially allocate CCR allowances for calendar year 2020 in an amount equal to 10 percent of the New Jersey CO₂ Trading Program base budget for 2020 set forth at N.J.A.C. 7:27C-5.1(a)1; and

2. On or before January 1, 2021, and on or before January 1 of each calendar year thereafter, the Department will allocate current vintage year CCR allowances equal to 10 percent of the New Jersey CO₂ Trading Program base budget for the calendar year and withdraw the number of CCR allowances that remain in the consumer benefit account at the end of the prior calendar year.

(g) The Department will convert and transfer any CO₂ allowances that have been withheld from any auctions into the New Jersey ECR Account, in order to provide additional emissions

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reductions in the event of lower-than-anticipated emissions reduction costs. The Department will withhold ECR allowances in the following manner:

1. If the condition in N.J.A.C. 7:27C-9.1(d)1 is met at an auction, then the maximum number of ECR allowances that will be withheld from that auction will be equal to 10 percent of the New Jersey CO₂ Budget Trading Program base budget for that calendar year, minus the total quantity of ECR allowances that have been withheld from any prior auctions in that calendar year. Any ECR allowances withheld from an auction will be transferred into the New Jersey ECR Account; and

2. The Department will not withdraw any allowances that have been transferred into the New Jersey ECR account.

(h) On or before March 15, 2021, the Department will determine the third adjustment for banked allowances quantity for allocation years 2021 through 2025, through the application of the following formula:

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

where:

TABA = The third adjustment for banked allowances quantity in tons;

TA (third adjustment) = The total quantity of allowances of vintage years prior to 2021 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, 2021;

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TAE (third adjustment emissions) = The total quantity of 2018, 2019, and 2020 emissions from all CO₂ budget sources in all participating states, reported pursuant to the CO₂

Budget Trading Program as reflected in COATS on March 15, 2021; and

RS% = New Jersey's 2021 budget divided by the 2021 regional budget.

(i) On or before April 15, 2021, the Department will establish the New Jersey CO₂ Budget Trading Program adjusted budgets for the 2021 through 2025 allocation years by the following formula:

$$AB = BB - TABA$$

Where:

AB = The New Jersey CO₂ Budget Trading Program adjusted budget;

BB = The New Jersey CO₂ Budget Trading Program base budget; and

TABA = The third adjustment for banked allowances quantity in tons.

(j) After making the determinations in (i) above, the Department will publish the CO₂ Budget Trading Program adjusted budgets for the 2021 through 2025 allocation years.

7:27C-5.3 Retirement of CO₂ allowances on behalf of cogeneration units

(a) The Department will adjust the compliance obligation of a CO₂ budget unit that is a qualified cogeneration unit pursuant to (b) below for which an application has been filed pursuant to (c) below.

(b) To qualify for an adjustment of its compliance obligation, a CO₂ budget unit must be a cogeneration unit for which the CO₂ authorized account representative has not accepted a fixed-price sale offer of CO₂ allowances from the Department pursuant to N.J.A.C. 7:27C-5.5(a)

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during the calendar year that corresponds to the allocation year for which the request for the compliance obligation adjustment pursuant to this section is being made.

(c) The CO₂ authorized account representative seeking the compliance obligation adjustment for a cogeneration unit shall submit to the Department, by January 30 of the year following the allocation year for which the compliance obligation adjustment is being requested, an application that includes the following:

1. Documentation that the CO₂ budget unit is a cogeneration unit;
2. Identification of the compliance account for the CO₂ budget unit;
3. Identification of the allocation year for which an adjustment request is being made;
4. Specification of the amount of the adjustment being requested, as determined

pursuant to (d) below; and

5. The calculations and supporting data used to determine the compliance obligation adjustment being requested and an explanation of the data and the methods on which the calculations are based.

(d) The Department will determine the compliance obligation adjustment for a CO₂ budget unit that is a cogeneration unit that meets the applicable requirements at (b) and (c) above based on the CO₂ emissions for the CO₂ budget unit during the allocation year for which an adjustment request is being submitted. The Department will adjust the compliance obligation by reducing the total CO₂ emissions by an amount equal to the CO₂ that is emitted as result of providing useful thermal energy or electricity, or both, supplied directly to the co-located facility during the allocation year. The compliance obligation will include CO₂ emissions associated with the production of electricity that is supplied to a regional electric grid,

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including, but not limited to, PJM and NYISO transmission and related distribution systems and the cogeneration unit will be responsible for securing CO₂ allowances for those emissions.

(e) At the end of each control period or the initial control period, the Department will retire allowances from the cogeneration set-aside account in an amount equivalent to the emissions deducted from one or more compliance obligations pursuant to (d) above. The Department will transfer any remaining allowances to the consumer benefit account to be available for auction.

7:27C-5.4 Distribution of CO₂ allowances in the consumer benefit account

(a) The Department will make all CO₂ allowances for an allocation year that are held in the consumer benefit account for that allocation year available for purchase or auction by no later than the December 31 of the calendar year that corresponds to that allocation year.

(b) Except for those CO₂ allowances available to adjust the compliance obligation of a cogeneration unit pursuant to N.J.A.C. 7:27C-5.3 or for direct sale pursuant to N.J.A.C. 7:27C-5.5 to a CO₂ authorized account representative for a certified dispatch agreement facility, the Department will make all CO₂ allowances for a respective allocation year that are held in the consumer benefit account available for sale through an auction administered by the Department or on its behalf, pursuant to N.J.A.C. 7:27C-11.

(c) The Department may retire undistributed or unsold CO₂ allowances at the end of each control period, including the initial control period, including allowances representing adjustments to the compliance obligations of cogeneration facilities as provided at N.J.A.C.

7:27C-5.3.

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7:27C-5.5 Fixed-price sale of CO₂ allowances to a certified dispatch agreement facility

(a) On an annual basis, the Department will make CO₂ allowances available for direct sale to the CO₂ authorized account representative of a certified dispatch agreement facility through a fixed-price sale offer, as follows:

1. The Department will apportion CO₂ allowances available annually for direct sale to each certified dispatch agreement facility based on the average annual CO₂ emissions for the certified dispatch agreement facility, as determined by the Department, for the most recent three-year period for which complete CO₂ emissions data are available. The Department will use emissions data as reported pursuant to N.J.A.C. 7:27C-8, if available, and as supplemented by such other data as necessary, in making such a determination;

2. The Department will allocate CO₂ allowances in the amount determined pursuant to (a)1 above to the fixed-price contract set-aside account;

3. The Department will offer CO₂ allowances made available for sale through a fixed-price sale offer for a price of \$2.00 per CO₂ allowance;

4. The Department will publish notice of the procedures for purchasing CO₂ allowances through a fixed-price sale offer at least 45 days prior to the fixed-price sale offer. The public notice will include the following:

i. The number of CO₂ allowances available for purchase by a CO₂ authorized account representative on behalf of each certified dispatch agreement facility; and

ii. The procedures for purchasing CO₂ allowances through the fixed-price sale offer, including the date by which a purchase option shall be exercised by a CO₂ authorized

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account representative on behalf of a certified dispatch agreement facility, and the procedures for exercising a purchase option;

5. The CO₂ authorized account representative for a certified dispatch agreement facility shall notify the Department by the deadline specified in the Department's notice of a fixed-price sale offer issued pursuant to (a)4 above as to whether the CO₂ authorized account representative accepts the Department's sale offer of CO₂ allowances for a specified CO₂ budget source. The CO₂ authorized account representative shall specify the number of CO₂ allowances he or she intends to purchase on behalf of each CO₂ budget source, up to the number specified by the Department in the notice, as specified pursuant to (a)4 above for the applicable CO₂ budget source; and

6. For those CO₂ allowances purchased by a CO₂ authorized account representative on behalf of a CO₂ budget source, the Department will allocate allowances to the compliance account of the CO₂ budget source.

(b) For a CO₂ budget source to be eligible to receive a fixed-price sale offer from the Department pursuant to (a) above, the owner or operator of the CO₂ budget source shall certify to the Department, consistent with the certification requirements at N.J.S.A. 26:2C-49, through an affidavit and supporting documentation from an independent entity, signed by both an official representative of the independent entity and by the chief financial officer or equivalent of the owner or operator of the CO₂ budget source, that the CO₂ budget source meets the criteria for a dispatch agreement facility as follows:

1. The CO₂ budget source is, or includes, a cogeneration unit or the CO₂ budget source has a heat rate of less than 8,100 Btu per kilowatt-hour electric; and

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2. The CO₂ budget source is subject to a power purchase agreement that includes the following conditions:

- i. The agreement was executed prior to January 1, 2002;
- ii. The agreement is for a duration of more than 15 years from its effective date;
- iii. The agreement provides that the counterpart to the agreement that purchases energy from the facility controls the electric dispatch of the facility;
- iv. The agreement does not allow for the facility to pass the cost of CO₂ allowances on to the counterpart to the agreement that purchases energy from the facility; and
- v. The agreement is currently in effect.

(c) Upon the request of the Department, the owner or operator of a certified dispatch agreement facility shall provide on-site access to any information the Department requires to determine the validity of the certification provided pursuant to (b) above.

(d) If, subsequent to the submittal of an affidavit and supporting documentation pursuant to (b) above, there is any material change to the information and statements contained in the affidavit and supporting material, the persons who submitted the affidavit and supporting material shall submit a supplemental affidavit and supporting material addressing any such material change within 30 days after the change occurs. If the supplemental affidavit and supporting material is not timely submitted to the Department, the CO₂ budget source will not be eligible to receive a fixed-price sale offer.

(e) A facility will no longer be considered a certified dispatch agreement facility once the power purchase agreement documented pursuant to (b)2 above for that certified dispatch agreement

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facility expires or is terminated, or when the power dispatch services under a new contract become effective.

(f) A signatory to an affidavit submitted pursuant to (b) above who knowingly gives or causes to be given any false or misleading information or who knowingly makes any false or misleading statement in such affidavit shall be subject to the penalties and financial assessments outlined at N.J.S.A. 26:2C-49.e, and the CO₂ budget unit referenced in the affidavit shall no longer be considered a certified dispatch agreement facility.

(g) Any CO₂ allowances purchased at a fixed-price sale offer that remain in the compliance account of a certified dispatch agreement facility after the Department has made the compliance deduction for a control period or the initial control period pursuant to N.J.A.C. 7:27C-6.9(b) will be transferred by the Department to the consumer benefit account.

SUBCHAPTER 6. CO₂ ALLOWANCE TRACKING SYSTEM (COATS)

7:27C-6.1 CO₂ allowance tracking system (COATS) accounts

(a) Consistent with N.J.A.C. 7:27C-6.2(a), the Department will establish one compliance account for each CO₂ budget source. Allocations of CO₂ allowances pursuant to N.J.A.C. 7:27C-5 and 11 and deductions or transfers of CO₂ allowances pursuant to N.J.A.C. 7:27C-4.2, 6.9, or 7 will be recorded in the compliance accounts in accordance with this subchapter.

(b) Consistent with N.J.A.C. 7:27C-6.2(b), the Department will establish, upon request, a general account for any person. Transfers of CO₂ allowances pursuant to N.J.A.C. 7:27C-7 will be recorded in the general account in accordance with this subchapter.

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7:27C-6.2 Establishment of a COATS account

(a) Upon receipt of a complete account certificate of representation under N.J.A.C. 7:27C-2.4, the Department will establish a compliance account for each CO₂ budget source for which the account certificate of representation was submitted and will assign a unique identifying number to each such established account.

(b) Upon receipt of a complete application for a general account under N.J.A.C. 7:27C-6.3(b), the Department will establish a general account for the person or persons for whom the application is submitted and will assign a unique identifying number to each such established account.

(c) Once the Department has established a COATS account, all submissions to the Department 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.

7:27C-6.3 Procedures for opening a general account

(a) Any person may apply to open a general account for the purpose of holding and transferring CO₂ allowances by submitting an application for a general account pursuant to (b) below.

(b) A complete application for a general account shall be submitted to the Department and include the following in a format prescribed by the Department:

1. The name, address, email address, and telephone number of the CO₂ authorized account representative;

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2. At the option of the CO₂ authorized account representative, the organization name and type of organization;
3. A list of all persons subject to a binding agreement for the CO₂ authorized account representative to represent their ownership interest with respect to the CO₂ allowances held in the general account;
4. The following certification 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 alternate CO₂ authorized account representative, as applicable) by an agreement that is binding on all persons who have an ownership interest with respect to CO₂ allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Department or a court of competent jurisdiction regarding the general account.";
5. The signature of the CO₂ authorized account representative and any alternate CO₂ authorized account representative and the dates signed; and
6. Documents of agreement referred to in the application for a general account, as may be required by the Department.

(c) The Department is under no obligation to review or evaluate the sufficiency of any documents of agreement referred to in the application for a general account.

(d) An application for a general account shall designate one and only one CO₂ authorized account representative and one and only one alternate CO₂ authorized account

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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.

7:27C-6.4 Authorization of the CO₂ authorized account representative for a general account

(a) The CO₂ authorized account representative shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CO₂ allowances held in the general account in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative and such person. Each such person who has such ownership interest with respect to CO₂ allowances shall be bound by any order or decision issued to the CO₂ authorized account representative by the Department or a court of competent jurisdiction regarding the general account.

(b) 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.

(c) Each submission concerning the general account shall be submitted, signed, and certified by the CO₂ authorized account representative. Each such submission shall include the following certification by the 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

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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.”

(d) The Department will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with (c) above.

7:27C-6.5 Changing the CO₂ authorized account representative and his or her alternate for a general account; changes in ownership interest

(a) The CO₂ authorized account representative or his or her alternate may be changed at any time by submitting a superseding complete application for a general account pursuant to N.J.A.C. 7:27C-6.3(b). The change in the CO₂ authorized account representative or his or her alternate is effective upon receipt by the Department of the superseding complete application for a general account. 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 Department receives the superseding application for a general account shall be binding on the new CO₂ authorized account representative and the new alternate CO₂ authorized account representative and the persons with an ownership interest with respect to the CO₂ allowances

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in the general account.

(b) In the event a person with an ownership interest in CO₂ allowances in a general account is not included on the list of such persons in the application for a general account, such 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 his or her alternate, and the decisions, orders, actions, and inactions of the Department, as if the person were included on the list.

(c) Within 30 days following any change in the persons having an ownership interest with respect to CO₂ allowances in the general account, including the addition of persons, the 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 reflect the change.

7:27C-6.6 Objections concerning the CO₂ authorized account representative for a general account

(a) Once the Department has received a complete application for a general account under N.J.A.C. 7:27C-6.3(b), the Department will rely on the application, unless and until the Department receives a superseding complete application for a general account under N.J.A.C. 7:27C-6.5(a).

(b) Except as provided at N.J.A.C. 7:27C-6.5(a) or (b), no objection or other communication submitted to the Department concerning the authorization, or any representation, action, inaction, or submission of the CO₂ authorized account representative will affect any

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representation, action, inaction, or submission of the CO₂ authorized account representative or the finality of any decision or order by the Department under this chapter.

(c) The Department will not decide, or otherwise intervene in, any private legal dispute concerning the authorization or any representation, action, inaction, or submission of a CO₂ authorized account representative, including private legal disputes concerning the proceeds of CO₂ allowance transfers.

7:27C-6.7 Delegation of authority to make electronic submissions by the CO₂ authorized account representative for a general account

(a) A CO₂ authorized account representative may delegate to one or more natural persons his or her authority to make an electronic submission to the Department under N.J.A.C. 7:27C-7.1 as provided at (b) below.

(b) In order to delegate authority to make an electronic submission to the Department in accordance with (a) above, the CO₂ authorized account representative shall submit to the Department a notice of delegation, in a format prescribed by the Department, that includes the following:

1. The name, address, email address, and telephone number of such CO₂ authorized account representative;

2. The name, address, email address, and telephone number of each natural person to whom the authority to make an electronic submission is delegated, herein referred to as "electronic submission agent";

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3. For each such electronic submission agent, a list of the types of electronic submissions under (a) above for which authority is delegated to him or her; and

4. The following certification by the delegating CO₂ authorized account representative:

i. "I agree that any electronic submission to the Department that is by a natural person identified in this notice of delegation and of a type listed for such electronic submission agent in this notice of delegation and that is made when I am a CO₂ authorized account representative and before this notice of delegation is superseded by another notice of delegation under N.J.A.C. 7:27C-6.7(b) 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 N.J.A.C. 7:27C-6.7(b), I agree to maintain an e-mail account and to notify the Department immediately of any change in my e-mail address unless all delegation authority by me under N.J.A.C. 7:27C-6.7(b) is terminated."

(c) A notice of delegation submitted under (b) above shall be effective, with regard to the delegating CO₂ authorized account representative identified in such notice, upon receipt of such notice by the Department and until the Department has received a superseding notice of delegation by such CO₂ authorized account representative. 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.

(d) An electronic submission covered by the certification in (b)4 above and made in accordance with a notice of delegation effective under (b) above shall be deemed to be an electronic submission by the CO₂ authorized account representative submitting such notice of delegation.

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7:27C-6.8 Recording of CO₂ allowance allocations and awards

(a) By January 1 of each calendar year, the Department will record the CO₂ allowances allocated for the consumer benefit account, pursuant to N.J.A.C. 7:27C-5.2(a).

(b) Each year, the Department will record CO₂ allowances allocated pursuant to N.J.A.C. 7:27C-5.5(a) in a fixed-price contract set-aside account and pursuant to N.J.A.C. 7:27C-5.2(c) in a cogeneration set-aside account for the year after the last year for which CO₂ allowances were previously allocated to that allocation set-aside account.

(c) When allocating and recording CO₂ allowances in an account pursuant to (a) and (b) above, the Department will assign each CO₂ allowance a unique identification number, otherwise referred to as a serial number, that will include digits identifying the year for which the CO₂ allowance is allocated.

(d) When awarding CO₂ offset allowances and recording them in an account pursuant to (f) below, the Department will assign each CO₂ allowance a unique identification number, otherwise referred to as a serial number, that will include digits identifying the year for which the CO₂ allowance is allocated and will identify the CO₂ allowance as a CO₂ offset allowance.

(e) The Department will record any CO₂ allowances awarded to a winning bidder in a CO₂ allowance auction pursuant to N.J.A.C. 7:27C-11.13 in the compliance account or general account identified by such winning bidder within five business days of such award by the Department.

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(f) The Department will record any CO₂ allowances awarded to a project sponsor pursuant to N.J.A.C. 7:27C-10.9(a) or (b) in the project sponsor's general account within five business days of such award by the Department.

7:27C-6.9 Compliance

(a) CO₂ allowances are available to be deducted in order for a CO₂ budget source to comply with the CO₂ requirements of N.J.A.C. 7:27C-1.4 for a control period, initial control period, or interim control period, provided that:

1. The CO₂ allowances, other than CO₂ offset allowances, are of allocation years that fall within a prior control period or the same control period, initial control period, or interim control period for which the allowances will be deducted;

2. The CO₂ allowances are held in the CO₂ budget source's compliance account as of the CO₂ allowance transfer deadline for that control period, the initial control period, or the interim control period or are transferred into the compliance account by a CO₂ allowance transfer correctly submitted for recording under N.J.A.C. 7:27C-7.1 by the CO₂ allowance transfer deadline for that control period, the initial control period, or the interim control period;

3. For CO₂ offset allowances, the number of CO₂ offset allowances that are available to be deducted in order for a CO₂ budget source to comply with the CO₂ requirements of N.J.A.C. 7:27C-1.4 for a control period, the initial control period, or an interim control period may not exceed the number of allowances required to account for 3.3 percent of the CO₂ budget source's CO₂ emissions for that control period or the initial control period, or 1.65 percent of the CO₂ budget source's CO₂ emissions for an interim control period, as determined in

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accordance with this subchapter and N.J.A.C. 7:27C-8; and

4. The CO₂ allowances are not necessary for deductions for excess emissions for a prior control period or prior initial control period under (e) below.

(b) Following the recording, in accordance with N.J.A.C. 7:27C-7.2, of CO₂ allowance transfers submitted for recording in the CO₂ budget source's compliance account by the CO₂ allowance transfer deadline for a control period, the initial control period, or an interim control period, the Department will deduct CO₂ allowances available under (a) above to cover the source's CO₂ emissions for the control period, the initial control period, or the interim control period, as follows:

1. Until the number of CO₂ allowances deducted equals the number of tons of total CO₂ emissions, (or 0.50 times the number of tons of total CO₂ emissions for an interim control period), less any CO₂ emissions attributable to the burning of eligible biomass and any CO₂ emissions eligible for deduction pursuant to N.J.A.C. 7:27C-5.3, determined in accordance with N.J.A.C. 7:27C-8, from all CO₂ budget units at the CO₂ budget source for the control period, the initial control period, or the interim control period; or

2. If there are insufficient CO₂ allowances to complete the deductions at (b)1 above, until there are no more CO₂ allowances remaining in the compliance account that are available to be deducted under (a) above.

(c) The CO₂ authorized account representative for a CO₂ budget source's compliance account may request the deduction of specific CO₂ allowances in the compliance account, identified by serial number, for emissions or excess emissions for a control period, the initial control period, or an interim control period in accordance with (b) above or (e) below, as applicable. Such

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identification shall be made in the compliance certification report pursuant to N.J.A.C. 7:27C-4.1(b)2.

(d) Where there is no, or only partial, identification by the CO₂ authorized account representative of available CO₂ allowances by serial number pursuant to N.J.A.C. 7:27C-4.1(b)2, the Department will deduct CO₂ allowances for a control period, the initial control period, or an interim control period from the CO₂ budget source's compliance account, in the following order:

1. CO₂ offset allowances, subject to the relevant compliance deduction limitations under (a)3 above, in chronological order (that is, CO₂ offset allowances from earlier allocation years shall be deducted before CO₂ offset allowances from later allocation years). In the event that some, but not all, CO₂ offset allowances from a particular allocation year are to be deducted, CO₂ offset allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances; and

2. Any CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under (a) above. CO₂ allowances shall be deducted in chronological order (that is, CO₂ allowances from earlier allocation years shall be deducted before CO₂ allowances from later allocation years). In the event that some, but not all, CO₂ allowances from a particular allocation year are to be deducted, CO₂ allowances shall be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

(e) If, after the deduction of CO₂ allowances for compliance in accordance with (b) above, a CO₂ budget source has excess emissions, the Department will deduct from the CO₂ budget source's compliance account CO₂ allowances in an amount equal to three times the number of the CO₂

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budget source's excess emissions. In the event that a CO₂ budget source has insufficient CO₂ allowances to cover three times the number of the CO₂ budget source's excess emissions, the CO₂ budget source shall immediately transfer CO₂ allowances into its compliance account in a quantity equal to three times the CO₂ budget source's excess emissions. No CO₂ offset allowances may be deducted to account for the source's excess emissions.

(f) The deduction of any CO₂ allowances required under (e) above will not affect the liability of the owners and operators of the CO₂ budget source or the CO₂ budget units at the CO₂ budget source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under applicable State law. The Department will apply the following guidelines in assessing fines, penalties, or other obligations:

1. For purposes of determining the number of days of violation, if a CO₂ budget source has excess emissions for a control period, the initial control period, or an interim control period, each day in the control period, initial control period, or interim control period constitutes a day of violation, unless the owners and operators of the unit demonstrate that a lesser number of days should be considered; and

2. Each ton of excess emissions is a separate violation.

(g) The Department's determination that a CO₂ budget source had excess emissions and the concomitant deduction of CO₂ allowances from that CO₂ budget source's account may be later challenged in the context of an adjudicatory hearing, as set forth at N.J.A.C. 7:27C-1.6, or in the context of any civil or criminal judicial action arising from or encompassing that excess emissions violation. The commencement or pendency of any administrative enforcement or civil or criminal judicial action arising from or encompassing that excess emissions violation will

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not prevent the Department from deducting the CO₂ allowances resulting from the Department's original determination that the relevant CO₂ budget source has had excess emissions. Should the Department's determination of the existence or extent of the CO₂ budget source's excess emissions be revised, either by a settlement or as the result of any administrative or judicial action, the Department will act as follows:

1. In any instance where the Department's determination of the extent of excess emissions was held to be too low, the Department will take further action under (e) and (f) above to address the expanded violation; and

2. In any instance where the Department's determination of the extent of excess emissions was held to be too high, the Department will distribute to the relevant CO₂ budget source CO₂ allowances in an amount equaling the number of CO₂ allowances deducted that are attributable to the difference between the original and final quantity of excess emissions. Should such CO₂ budget source's compliance account no longer exist, the CO₂ allowances will be provided to a general account selected by the owner or operator of the CO₂ budget source from which they were originally deducted.

(h) The Department will record, in the appropriate compliance account, all deductions from such an account made pursuant to (b) and (e) above.

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

(j) The Department may deduct CO₂ allowances from, or transfer CO₂ allowances to, a CO₂ budget source's compliance account based on information in the submissions, as adjusted

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under (i) above.

7:27C-6.10 Banking

Each CO₂ allowance that is held in a compliance account or a general account will remain in such account unless and until the CO₂ allowance is deducted or transferred under N.J.A.C. 7:27C-4.2, 6.9, 6.11, or 7.

7:27C-6.11 Account error

The Department may, at its sole discretion and on its own initiative, correct any error in any COATS account. Within 10 business days of making such correction, the Department will notify the CO₂ authorized account representative.

7:27C-6.12 Closing of a general account

(a) A CO₂ authorized account representative of a general account may instruct the Department to close the account by submitting a statement requesting deletion of the account from COATS and by correctly submitting for recording under N.J.A.C. 7:27C-7.1, a CO₂ allowance transfer of all CO₂ allowances in the account to one or more other COATS accounts.

(b) If a general account shows no activity for a period of one year or more and does not contain any CO₂ allowances, the Department may notify the CO₂ authorized account representative that the account will be closed in COATS 30 business days after the notice is sent. The Department will close the account after the 30-day period, unless before the end of the 30-day period the Department receives a correctly submitted transfer of CO₂ allowances into the

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account under N.J.A.C. 7:27C-7.1, or a statement submitted by the CO₂ authorized account representative demonstrating to the satisfaction of the Department good cause as to why the account should not be closed. The Department will have sole discretion to determine if the owner or operator of the unit demonstrated that the account should not be closed.

SUBCHAPTER 7. CO₂ ALLOWANCE TRANSFERS

7:27C-7.1 Submission of CO₂ allowance transfers

(a) A CO₂ authorized account representative seeking recording of a CO₂ allowance transfer shall submit the transfer to the Department. The transfer shall include the following, in a format prescribed by the Department:

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

7:27C-7.2 Recording of CO₂ allowance transfer

(a) Within five business days of receiving a CO₂ allowance transfer, except as provided at (b) below, the Department will record a CO₂ allowance transfer by moving each CO₂ allowance

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from the transferor account to the transferee account as specified by the request, provided that:

1. The transfer is submitted in accordance with N.J.A.C. 7:27C-7.1; and
2. The transferor account includes each CO₂ allowance identified by serial number in the transfer.

(b) The Department will not record a CO₂ allowance transfer into or out of a compliance account that is submitted for recording after the CO₂ allowance transfer deadline that includes any CO₂ allowances of allocation years falling within a control period, initial control period, or interim control period prior to or the same as the control period, initial control period, or interim control period to which the CO₂ allowance transfer deadline applies until after completion of the process at N.J.A.C. 7:27C-6.9(b).

(c) The Department will not record a CO₂ allowance transfer submitted for recording that fails to meet the requirements of (a)1 and 2 above.

7:27C-7.3 Notification

(a) Within five business days of recording of a CO₂ allowance transfer under N.J.A.C. 7:27C-7.2, the Department will notify each party to the transfer by giving notice to the CO₂ authorized account representatives of both the transferor and transferee accounts.

(b) Within 10 business days of receipt of a CO₂ allowance transfer that fails to meet the requirements of N.J.A.C. 7:27C-7.2(a), the Department will notify the CO₂ authorized account representatives of both accounts subject to the transfer of a decision not to record the transfer and the reasons that the CO₂ allowances will not be recorded.

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(c) Nothing in this section shall preclude the submission of a CO₂ allowance transfer for recording following notification under (b) above.

SUBCHAPTER 8 MONITORING, RECORDKEEPING, AND REPORTING

7:27C-8.1 General requirements

(a) The owner, operator, and to the extent applicable, the CO₂ authorized account representative of a CO₂ budget unit, shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this subchapter and all applicable sections of 40 CFR Part 75 and all appendices thereto, as specified in this subchapter, which are incorporated herein by reference, as supplemented or amended. Where referenced in this subchapter, the monitoring requirements of 40 CFR Part 75 shall be adhered to in a manner consistent with the purpose of monitoring and reporting CO₂ mass emissions pursuant to this chapter. For purposes of complying with such requirements, the definitions in N.J.A.C. 7:27C-1.2 and 40 CFR 72.2, incorporated herein by reference, as supplemented and amended, apply, and the terms "affected unit" and "designated representative" in 40 CFR Part 75 are replaced by the terms "CO₂ budget unit" and "CO₂ authorized account representative," respectively, as defined at N.J.A.C. 7:27C-1.2. For units not subject to an acid rain emissions limitation, the term "Administrator" in 40 CFR Part 75 is replaced with the term "Department." Where the term "continuous emissions monitoring system" (or "CEMS") is used in 40 CFR Part 75, the definition of that term at N.J.A.C. 7:27C-1.2 applies.

(b) The owner or operator of a CO₂ budget unit monitoring a non-CO₂ budget unit pursuant to the common, multiple, or bypass stack procedures in 40 CFR 75.16(b)(2)(ii)(B) or 40 CFR

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75.72(b)(2)(ii), for purposes of complying with this subchapter shall monitor and report CO₂ mass emissions from such non-CO₂ budget unit according to the procedures for CO₂ budget units established in this section through N.J.A.C. 7:27C-8.7.

(c) The owner or operator of each CO₂ budget unit shall:

1. Install all monitoring systems necessary to monitor CO₂ mass emissions in accordance with 40 CFR Part 75, except for equation G-1 of Appendix G, which shall not be used to determine CO₂ emissions under this chapter. Compliance with this paragraph may require systems to monitor CO₂ concentration, stack gas flow rate, O₂ concentration, heat input, and fuel flow rate;

2. Successfully complete all certification tests required under N.J.A.C. 7:27C-8.2 and meet all other requirements of this subchapter and 40 CFR Part 75 applicable to the monitoring systems installed pursuant to (c)1 above; and

3. Record, report, and quality-assure the data from the monitoring systems required pursuant to (c)1 above.

(d) The owner or operator of a CO₂ budget unit shall meet the monitoring system certification and other requirements of (c) above and shall record, report, and quality-assure the data from the monitoring systems under (c)1 above according to the following schedule:

1. For the owner or operator of a CO₂ budget unit that commences commercial operation before December 17, 2018, June 11, 2019;

2. For the owner or operator of a CO₂ budget unit that commences commercial operation on or after December 17, 2018, on and after the later of the following dates:

i. December 11, 2019; or

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ii. The earlier of 90 unit-operating days after the date on which the unit commences commercial operation, or 180 calendar days after the date on which the unit commences commercial operation; and

3. For the owner or operator of a CO₂ budget unit for which construction of a new stack or flue installation is completed after the applicable deadline under (d)1 or 2 above, by the earlier of:

i. Ninety unit-operating days after the date on which emissions first exit to the atmosphere through the new stack or flue; or

ii. One hundred eighty calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue.

(e) Except as provided in (f) below, the owner or operator of a CO₂ budget unit that does not meet the applicable compliance date set forth in (d) above for any monitoring system under (c)1 above shall, for each such monitoring system, determine, record, and report maximum (or, as appropriate, minimum) potential values for CO₂ concentration, CO₂ emissions 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 (c)(3) or 40 CFR Part 75 Appendix D section 2.4, as applicable.

(f) The owner or operator of a CO₂ budget unit that does not meet the applicable compliance date set forth in (d)3 above for any monitoring system under (c)1 above shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in 40 CFR Part 75, Subpart D, or Appendix D, in lieu of the maximum (or, as appropriate, minimum), potential values for a parameter, if the owner or operator

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demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under (d)3 above.

(g) A CO₂ budget unit that is subject to an acid rain emissions limitation or the requirements of the CSAPR NO_x Annual Trading Program or the CSAPR NO_x Ozone Season Trading Program and that qualifies for the optional SO₂, NO_x, and CO₂ (for the Acid Rain Program) or NO_x (for the CSAPR NO_x Annual or Ozone Season Trading Program) emissions calculations for low mass emissions (LME) units under 40 CFR 75.19 and reports emissions for such programs using the calculations under 40 CFR 75.19, shall also use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with this chapter.

(h) A CO₂ budget unit that is subject to an acid rain emissions limitation or the requirements of the CSAPR NO_x Annual or Ozone Season Trading Programs that does not qualify for the optional SO₂, NO_x, and CO₂ (for the Acid Rain Program) or NO_x (for the CSAPR NO_x Annual or Ozone Season Trading Programs) emissions calculations for LME units under 40 CFR 75.19, shall not use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with this chapter.

(i) A CO₂ budget unit that is not subject to an acid rain emissions limitation or the requirements of the CSAPR NO_x Ozone Season Trading Program will qualify for the optional CO₂ emissions calculation for LME units under 40 CFR 75.19, provided that it emits less than 100 tons of NO_x annually and no more than 25 tons of SO₂ annually.

(j) No owner or operator of a CO₂ budget unit shall:

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1. Use any alternative monitoring system, alternative reference method, or any other alternative for the required CEMS without having obtained prior written approval in accordance with N.J.A.C. 7:27C-8.6;

2. Operate the CO₂ budget unit, 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 subchapter and 40 CFR Part 75;

3. Disrupt the CEMS, any portion thereof, or any other approved emissions 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 subchapter and 40 CFR Part 75; or

4. Retire or permanently discontinue use of the CEMS, any component thereof, or any other approved emissions monitoring system under this subchapter, except under any of the following circumstances:

i. The owner or operator is monitoring emissions from the unit with another certified monitoring system that has been approved by the Department in accordance with the applicable provisions of this subchapter and 40 CFR Part 75 for use at that unit and that provides emissions 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 N.J.A.C. 7:27C-8.2(h).

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(k) No person shall use, or cause to be used, any equipment or control apparatus, unless all components connected or attached to, or serving the equipment or control apparatus, are functioning properly and are in use in accordance with the preconstruction permit and certificate issued under N.J.A.C. 7:27-8 and all conditions and provisions thereto.

(l) The owner or operator of a facility subject to N.J.A.C. 7:27-22 shall ensure that no air contaminant is emitted from any significant source operation at a rate, calculated as the potential to emit, that exceeds the applicable threshold for reporting emissions set forth in N.J.A.C. 7:27-17.9(a) or 22 Appendix, Table A, unless emission of the air contaminant is authorized by the operating permit.

(m) The owner or operator of a facility subject to N.J.A.C. 7:27-22 shall ensure that any source operation and any other activity covered by the operating permit issued under N.J.A.C. 7:27-22, and all components connected to, attached to, or serving the source operation are operated and maintained properly and according to the requirements of the operating permit.

(n) The owner or operator of a facility subject to N.J.A.C. 7:27-22 shall ensure that all requirements of the operating permit issued under N.J.A.C. 7:27-22 are met.

7:27C-8.2 Monitoring system certification procedures

(a) The owner or operator of a CO₂ budget unit is exempt from the initial certification, but not the recertification, requirements of this section for a monitoring system installed pursuant to N.J.A.C. 7:27C-8.1(c)1, if the monitoring system:

1. Has been previously certified in accordance with 40 CFR Part 75; and

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2. Meets the applicable quality-assurance and quality-control requirements of 40 CFR 75.21 and Appendices B and D of 40 CFR Part 75.
- (b) 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) pursuant to 40 CFR 75.13 for apportioning the CO₂ emissions rate measured in a common stack or a petition under 40 CFR 75.66 for an alternative requirement in 40 CFR Part 75, the CO₂ authorized account representative shall submit the petition to the Department pursuant to N.J.A.C. 7:27C-8.6(a) to determine whether the approval applies under this program.
- (c) Except as provided in (a) above, the owner or operator of a CO₂ budget unit shall comply with the initial certification and recertification procedures set forth at (d) through (r) below for a CEMS and an excepted monitoring system under 40 CFR Part 75 Appendix D. The owner or operator of a CO₂ budget unit that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR 75.19 or that qualifies to use an alternative monitoring system under 40 CFR Part 75 Subpart E shall comply with the initial certification and recertification procedures set forth below at (q) or (r), respectively.
- (d) The owner or operator of a CO₂ budget unit shall ensure, for each CEMS required under N.J.A.C. 7:27C-8.1(c)1 (including the automated data acquisition and handling system) the successful completion of all of the initial certification testing required under 40 CFR 75.20 by the applicable deadlines specified in N.J.A.C. 7:27C-8.1(d). In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this subchapter in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

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(e) The CO₂ authorized account representative shall submit a certification or recertification application to the Department within 45 days after completing all CO₂ monitoring system initial certification or recertification tests required under N.J.A.C. 7:27C-8.2, including the information required under 40 CFR 75.53(g) and (h) and 75.63.

(f) The owner or operator shall have a monitoring system recertified in accordance with 40 CFR 75.20(b) whenever the owner or operator of a CO₂ budget unit makes the following replacement, modification, or change:

1. A replacement, modification, or change to a certified CEMS under N.J.A.C. 7:27C-8.1(c)1 that the Administrator or the Department 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 40 CFR Part 75 Appendix B; or

2. For a system using stack measurements, such as stack flow, stack moisture content, CO₂ or O₂ monitors, a replacement, modification, or change to the flue gas handling system or the unit's operation that the Administrator or the Department determines to significantly change the flow or concentration profile. Examples of changes that require recertification include replacement of the analyzer, change in the location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.

(g) Subsections (h) through (r) below apply to both initial certification and recertification of a monitoring system pursuant to N.J.A.C. 7:27C-8.1(c)1. For a recertification, replace the words "certification" and "initial certification" with the word "recertification"; replace the word "certified" with "recertified"; and proceed in the manner prescribed in 40 CFR 75.20(b)(5) and (g)(7) in lieu of (o) below.

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(h) The CO₂ authorized account representative shall submit a written notice of the dates of certification to the Department, EPA Region 2 Office, and the Administrator in accordance with N.J.A.C. 7:27C-8.4.

(i) For each monitoring system, the CO₂ authorized account representative shall submit to the Department a certification application. The certification application must include the information specified in 40 CFR 75.53(g) and (h) and 75.63 to be complete.

(j) 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 the Department receives the complete certification application for the monitoring system, or component thereof, under (h) above. Data measured and recorded by the provisionally certified monitoring system, or component thereof, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department.

(k) The Department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under (i) above. In the event the Department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CO₂ Budget Trading Program.

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(l) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(m) If the certification application is not complete, then the Department will issue a written notice of incompleteness that sets a reasonable date by which the CO₂ authorized account representative shall submit the additional information required to complete the certification application. If the CO₂ authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may disapprove the application and issue a notice of disapproval pursuant to (n) below. The 120-day review period specified at (k) above shall not begin before receipt of a complete certification application.

(n) If the certification application shows that any monitoring system, or component thereof, does not meet the performance requirements of 40 CFR Part 75, or if the certification application is incomplete and the Department disapproves the application pursuant to (m) above, then the Department will issue a written notice of disapproval of the certification application. The issuance of such notice of disapproval invalidates the provisional certification, 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 (p) below, for each monitoring system, or component thereof, that the Department has disapproved for initial certification.

(o) The Department will conform with the requirements at N.J.A.C. 7:27C-8.3(b) in issuing a notice of disapproval of the certification status of a monitor.

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(p) If the Department issues a notice of disapproval of a certification application under (n) above or a notice of disapproval of certification status under (o) above, then:

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

i. For a unit using or intending to monitor for CO₂ mass emissions using heat input, or for a unit using the low mass emissions excepted methodology under 40 CFR 75.19, incorporated herein by reference, as amended and supplemented, the maximum potential hourly heat input of the unit; or

ii. For a unit 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 unit under 40 CFR Part 75 Appendix A, section 2.1, incorporated herein by reference, as amended and supplemented;

2. The CO₂ authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with (h) and (i) above; and

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

(q) The owner or operator of a unit qualified to use the low mass emissions excepted methodology under N.J.A.C. 7:27C-8.1(g) shall meet the applicable certification and recertification requirements of 40 CFR 75.19(a)(2) and 40 CFR 75.20(h) and this section. If the

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owner or operator of such a unit elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).

(r) The CO₂ authorized account representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the Administrator and, if applicable, by the Department, under Subpart E of 40 CFR Part 75, shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

7:27C-8.3 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 Part 75, data shall be substituted using the applicable procedures in 40 CFR Part 75 Subpart D or Appendix C.

(b) 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 N.J.A.C. 7:27C-8.2 or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department or the Administrator will issue a notice of disapproval of the certification status of such monitoring system. The term "audit" refers to either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department or Administrator revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be

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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.

7:27C-8.4 Notifications

The CO₂ authorized account representative for a CO₂ budget unit shall submit to the Department and the Administrator, all written notice required by this subchapter in accordance with 40 CFR 75.61.

7:27C-8.5 Recordkeeping and reporting

(a) In addition to the requirements of N.J.A.C. 7:27C-2.1(f) and the recordkeeping and reporting requirements in this section, the CO₂ authorized account representative shall comply with all applicable recordkeeping and reporting requirements under 40 CFR 75.73.

(b) The owner or operator of a CO₂ budget unit shall submit a monitoring plan in the manner prescribed in 40 CFR 75.62.

(c) The CO₂ authorized account representative shall submit quarterly reports, as follows:

1. The CO₂ authorized account representative shall report the CO₂ mass emissions data for the CO₂ budget unit, in an electronic format prescribed by the Administrator, unless otherwise prescribed by the Department, for each calendar quarter beginning with:

i. For a unit that commences commercial operation before December 17, 2018, the calendar quarter covering January 1, 2020 through March 31, 2020; or

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ii. For a unit commencing commercial operation on or after December 17, 2018, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under N.J.A.C. 7:27C-8.1(d). If the calendar quarter so determined is the third or fourth quarter of 2019, reporting shall commence in the quarter covering January 1, 2020 through March 31, 2020;

2. The CO₂ authorized account representative shall submit each quarterly report to the Department within 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 Part 75, Subpart H and 40 CFR 75.64. Quarterly reports shall be submitted for each CO₂ budget unit (or group of units using a common stack), and shall include all the data and information required in 40 CFR Part 75, Subpart G, except for opacity, heat input, NO_x and SO₂ provisions; and

3. The CO₂ authorized account representative shall submit to the Department a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all the unit's emissions are correctly and fully monitored. In addition, the CO₂ authorized account representative shall certify:

i. The monitoring data submitted were recorded in accordance with the applicable requirements of this chapter and 40 CFR Part 75, including the quality assurance procedures and specifications;

ii. For a unit with add-on CO₂ emissions controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1), the add-on emissions controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR Part 75 Appendix B and the substitute values do not systematically

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underestimate CO₂ emissions; and

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

7:27C-8.6 Petitions

(a) Except as provided in (d) below, the CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the Department requesting approval to apply an alternative to any requirement of 40 CFR Part 75. Application of an alternative to any requirement of 40 CFR Part 75 is in accordance with this subchapter only to the extent that the petition is approved in writing by the Administrator and subsequently approved in writing by the Department.

(b) The CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66, and to the Department requesting approval to apply an alternative to any requirement of 40 CFR Part 75. Application of an alternative to any requirement of 40 CFR Part 75 is in accordance with this subchapter only to the extent that the petition is approved in writing by the Administrator and subsequently approved in writing by the Department.

(c) In the event that the Administrator declines to review a petition under (b) above, the CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Department requesting approval to apply an alternative to any requirement of this subchapter. That petition shall contain all of the relevant

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information specified in 40 CFR 75.66. Application of an alternative to any requirement of this subchapter is in accordance with this subchapter only to the extent that the Department approves the petition in writing.

(d) 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, which is incorporated herein by reference, as amended and supplemented, and to the Department 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). Application of an alternative to any such requirement is in accordance with this subchapter only to the extent the petition is approved in writing by the Administrator and subsequently approved in writing by the Department.

7:27C-8.7 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 chapter shall report the following information to the Department for each calendar quarter:

1. For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit:
 - i. The total eligible biomass fuel input, on an as-fired basis, in pounds;and
 - ii. The moisture content, on an as-fired basis, as a fraction by weight;
2. For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit:

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- i. The density of the biogas, on an as-fired basis, in pounds per standard cubic foot;
 - ii. The moisture content of the biogas, on an as-fired basis, as a fraction by total weight; and
 - iii. The total eligible biomass fuel input, in standard cubic feet;
 3. For each distinct type of eligible biomass fuel fired at the CO₂ budget unit:
 - i. The dry basis carbon content of the fuel type, as a fraction by dry weight;
 - ii. The dry basis higher heating value, in MMBtu per dry pound;
 - iii. The total dry basis eligible biomass fuel input, in pounds, calculated in accordance with (b) below;
 - iv. The total eligible biomass fuel heat input, in MMBtu, calculated in accordance with (d)¹ below; and
 - v. A chemical analysis, including heating value and carbon content;
 4. The total amount of heat input to the CO₂ budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with (d)² below;
 5. A description and documentation of the monitoring technology employed, and a description and documentation of the fuel sampling methodology employed, including sampling frequency; and
 6. The total amount of CO₂ emitted from the CO₂ budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with (c) below.
- (b) The owner or operator of a CO₂ budget unit shall calculate and submit to the Department on a quarterly basis the total dry weight for each distinct type of eligible biomass fired by the

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CO₂ budget unit during the reporting quarter. The total dry weight shall be determined for each fuel type as follows:

1. For solid fuel types:

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

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,

n = Number of shipments; and

2. For gaseous fuel types:

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

where:

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

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

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

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

j = Fuel type.

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

1. For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO₂ budget unit, as measured and recorded in accordance with N.J.A.C. 7:27C-8.1 through 8.6; or

2. 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:

$$\text{CO}_2 \text{ tons} = \sum_{j=1}^n \mathbf{F}_j \times \mathbf{C}_j \times \mathbf{O}_j \times \frac{44}{12} \times \mathbf{0.0005}$$

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 (b) above;

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 (a)5 above; for gaseous eligible biomass fuels, a default oxidation factor of 0.995 may be used;

$\frac{44}{12}$ = The number of tons of carbon dioxide that are created when one ton of carbon is combusted;

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

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j = Fuel type; and

n = Number of distinct fuel types.

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

1. For each distinct fuel type:

$$H_j = F_j \times HHV_j$$

where:

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

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated at (b) above;

HHV_j = Higher heating value (MMBtu/lb), dry basis, for fuel type j, as determined through chemical analysis pursuant to (a)5 above;

j = Fuel type; and

2. 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.

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(e) Fuel sampling methods and fuel sampling technology shall be consistent with the New York State Renewable Portfolio Standard Biomass Guidebook, September 2011, which is incorporated herein by reference, as amended and supplemented. A copy may be obtained from the New York State Energy Research and Development Authority's website at www.nyserda.ny.gov.

7:27C-8.8 Additional requirements to provide output data

(a) A CO₂ budget source shall report net electric output and net thermal output to the Department pursuant to (b) through (j) below.

(b) A CO₂ budget unit that participates in a wholesale electricity market administered by PJM or NYISO shall submit to the Department the same megawatt-hour value it is required to submit to PJM or NYISO to document megawatt-hours of electrical output and a statement certifying that the megawatt-hours of electrical output reported reflects the total actual electrical output for the CO₂ budget unit used by PJM or NYISO to determine settlement of transactions among wholesale electricity market participants.

(c) A CO₂ budget unit that does not participate in a wholesale electricity market administered by PJM or NYISO shall report net electrical output in accordance with an output monitoring plan approved by the Department pursuant to (g) below.

(d) A CO₂ budget unit that reports gross hourly MW to the Administrator shall use the same electronic data report (EDR) gross output (in MW), as it submitted to the Administrator, for the hour times operating time in the hour, added for all hours in a year.

(e) A CO₂ budget unit that does not report gross hourly MW to the Administrator shall submit

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to the Department information in accordance with (g)1 below.

(f) A CO₂ budget source that sells steam shall use billing meters to determine and report net steam output. A CO₂ budget source for which steam output is not measured by billing meters or for which steam output is combined with output from a non-CO₂ budget unit prior to measurement by the billing meter shall report net steam output in accordance with an output monitoring plan approved by the Department pursuant to (g) below. If data for steam output is not available, the CO₂ budget source shall report heat input providing useful steam output as a surrogate for steam output in accordance with an output monitoring plan approved by the Department pursuant to (e) below.

(g) Each CO₂ budget source shall submit to the Department for approval an output monitoring plan that includes a diagram and description as stated below:

1. A diagram of the electrical and/or steam system, as applicable, for which output is being monitored, as follows:
 - i. For monitoring net electric output, the diagram must contain all CO₂ budget units and all electric generators served by each CO₂ budget unit and the relationship between CO₂ budget units and electric generators. If an electric generator served by a CO₂ budget unit is also served by a non-CO₂ budget unit, the non-CO₂ budget unit and its relationship to each electric generator shall be indicated on the diagram as well. The diagram shall indicate where the net electric output is measured and include all electrical inputs and outputs to and from the facility. 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 show that all electricity measured at the point of sale is generated by the CO₂ budget unit; or

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ii. For monitoring net thermal output, the diagram must include all steam or hot water coming into the net steam system, including steam from CO₂ budget units and non-CO₂ budget units, and all exit points of steam or hot water from the net steam system. In addition, each input and output stream must have an estimated temperature, pressure, and phase indicator, and an enthalpy in Btu/lb. The diagram of the net steam system must identify all steam loads, including, but not limited to, useful loads, house loads, parasitic loads, and all boiler feedwater returns. The diagram must represent all energy losses in the system as either usable or unusable losses. The diagram must 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;

2. A description of each output monitoring system. The description of the output monitoring system must 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 must be included;

3. A detailed description of all quality assurance and quality control activities that will be performed to maintain the output system in accordance (i) below; and

4. Documentation supporting any output value(s) to be used as a missing data value should there be periods of invalid output data. The missing data output value must be either zero or an output value that is likely to be lower than a measured value and that is approved as part of the monitoring plan required under this section.

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(h) The CO₂ authorized account representative for the CO₂ budget source shall submit a certification, which may be submitted with the certification application required under N.J.A.C. 7:27C-8.2(e), stating that the output monitoring system either consists entirely of billing meters or meets one of the accuracy requirements for non-billing meters at (h)2 below. The certification shall state that the monitoring system meets the following requirements, as applicable:

1. The billing meter must record the electric or thermal output. Any electric or thermal output values that the CO₂ budget source reports must be the same as the values used in billing for the output. No additional certification or testing is required for any output measurement equipment that is used as a billing meter in commercial transactions; or

2. For a non-billing meter, the accuracy of the output monitoring system must either be within 10.0 percent of the reference value (a system approach to accuracy), or the accuracy of each component monitor for the output system must be within 3.0 percent of the full-scale value (a component approach to accuracy), whichever is less stringent, as follows:

i. The system approach to accuracy must include a determination of how the system accuracy of 10.0 percent is achieved using the individual components in the system and include data loggers and any watt meters used to calculate the final net electric output data and/or any flowmeters for steam or condensate, temperature measurement devices, absolute pressure measurement devices, and differential pressure devices used for measuring thermal energy; or

ii. If testing a piece of output measurement equipment pursuant to the component approach to accuracy shows that the output readings are not accurate to within 3.0

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percent of the full-scale value, then the equipment shall be repaired or replaced to meet that requirement. Data shall remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test.

(i) Ongoing quality assurance and quality control (QA/QC) activities shall be performed to maintain the output system in accordance with the following:

1. Where billing meters are used to determine output, no QA/QC activities beyond what are already performed are required;

2. Where non-billing meters are used to determine output, certain types of equipment, such as potential transformers, current transformers, nozzle and venturi type meters, and the primary element of an orifice plate only require an initial certification of calibration and do not require periodic recalibration, unless the equipment is physically changed. However, the pressure and temperature transmitters accompanying an orifice plate shall be periodically retested. For other types of equipment, recalibration or reverification of the meter accuracy shall be performed at least once every two years (that is, at least once every eight calendar quarters), unless a consensus standard, approved by the Department as part of an output monitoring plan at (g) above, allows for less frequent calibrations or accuracy tests. For non-billing meters, the output monitoring system must either meet an accuracy of within 10.0 percent of the reference value, or each component monitor for the output system must meet an accuracy of within 3.0 percent of the full-scale value, whichever is less stringent. If testing a piece of output measurement equipment shows that the output readings are not accurate to within 3.0 percent of the full-scale value, then the equipment shall be repaired or replaced to meet that requirement; and

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3. If testing a piece of output measurement equipment shows that the output readings are not accurate to the certification value at (g)2 above, as applicable, data remain invalid until the output measurement equipment passes an accuracy test or is replaced with another piece of equipment that passes the accuracy test. All invalid data shall be replaced by either zero or an output value that is likely to be lower than a measured value and that is approved as part of the output monitoring plan required under (g) above.

(j) The owner or operator of a CO₂ budget source shall retain data used to monitor, determine, or calculate net electrical output and net thermal output for 10 years.

(k) The CO₂ authorized account representative shall submit an annual output report, as follows:

1. Electronically, by the March 1 following the immediately preceding calendar year;
2. Upon request by the Department, in hardcopy;
3. Including unit level megawatt-hours and all useful steam output; and
4. Including a certification from the CO₂ authorized account representative stating the

following:

"I am authorized to make this submission on behalf of the owners and operators of the CO₂ budget source or CO₂ budget units at the CO₂ budget source 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

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submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

(l) The CO₂ authorized account representative shall comply with all recordkeeping and reporting requirements in this section and with the requirements of N.J.A.C. 7:27C-1.4(o) and 2.1(f).

SUBCHAPTER 9. AUCTION OF CCR AND ECR ALLOWANCES

7:27C-9.1 General requirements

(a) In addition to the information specified at N.J.A.C. 7:27C-11.5(c), the notice of CO₂ allowance auction for each auction will include the following:

1. The number of CO₂ allowances offered for sale at the auction, not including any CCR allowances;
2. The number of CCR allowances that will be offered for sale at the auction if the condition at (b)1 below is met;
3. The minimum reserve price for the auction;
4. The CCR trigger price for the auction;
5. The maximum number of CO₂ allowances that may be withheld from sale at the auction if the condition at (d)1 below is met; and
6. The ECR trigger price for the auction.

(b) The following apply to the sale of CCR allowances:

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1. The Department will sell CCR allowances only at an auction in which the total demand for allowances, above the CCR trigger price, exceeds the number of CO₂ allowances available for purchase at the auction, not including any CCR allowances;
2. If the condition at (b)1 above is met at an auction, then the number of CCR allowances the Department will offer for sale by at the auction will be equal to the number of CCR allowances in the New Jersey consumer benefit account at the time of the auction;
3. After all the CCR allowances in the New Jersey consumer benefit account have been sold in a given calendar year, no additional CCR allowances will be sold at any auction for the remainder of that calendar year, even if the condition at (b)1 above is met at an auction;
4. At an auction in which CCR allowances are sold, the reserve price for the auction will be the CCR trigger price; and
5. If the condition of (b)1 above is not satisfied, no CCR allowances will be offered for sale at the auction, and the reserve price for the auction will be equal to the minimum reserve price.

(c) The Department will implement the reserve price in the following manner:

1. No allowances will be sold at any auction for a price below the reserve price for that auction; and
2. If the total demand for allowances at an auction is less than or equal to the total number of allowances made available for sale in that auction, then the auction clearing price for the auction will be the reserve price.

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(d) The following apply to the withholding of ECR allowances from an auction:

1. The Department will withhold allowances from an auction only if the demand for allowances would result in an auction clearing price that is less than the ECR trigger price prior to the withholding from the auction of any such ECR allowances, as provided at N.J.A.C. 7:27C-5.2(e) above; and
2. If the condition in (d)1 above is met at an auction, then the maximum number of ECR allowances that may be withheld from that auction will be equal to the quantity shown in N.J.A.C. 7:27C-5.2(e)1 minus the total quantity of ECR allowances that have been withheld from any prior auction in that calendar year. The Department will transfer any ECR allowances withheld from an auction into the New Jersey ECR Account.

SUBCHAPTER 10. CO₂ EMISSIONS OFFSET PROJECTS

7:27C-10.1 Purpose

The Department will award CO₂ offset allowances to sponsors of CO₂ emissions offset projects that have reduced or avoided atmospheric loading of CO₂, CO₂ equivalent, or sequestered carbon as demonstrated in accordance with the applicable provisions of this subchapter. The requirements of this subchapter are designed to ensure that CO₂ offset allowances awarded represent CO₂-equivalent emission reductions, or carbon sequestration that are real, additional, verifiable, enforceable, and permanent within the framework of a standards-based approach. Subject to the relevant compliance deduction limitations at N.J.A.C. 7:27C-6.9(a)3, any CO₂ budget source may use CO₂ offset allowances for compliance purposes.

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7:27C-10.2 Definitions related to CO₂ emissions offset projects

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

“Accredited independent verifier” means an independent verifier who has been accredited by the Department pursuant to N.J.A.C. 7:27C-10.8 to conduct verification activities under this subchapter.

“Allocation period” means the number of years for which an offset project that has received a consistency determination pursuant to N.J.A.C. 7:27C-10.4(i) is qualified for the award of CO₂ offset allowances pursuant to N.J.A.C. 7:27C-10.9(a).

“Anaerobic digester” means a device that promotes the decomposition of organic material to simple organics and gaseous biogas products, in the absence of elemental oxygen, usually accomplished by means of controlling temperature and volume, and that includes a methane recovery system.

“Anaerobic digestion” means the decomposition of organic material, such as manure, brought about through the action of microorganisms in the absence of elemental oxygen.

“Anaerobic storage” means the storage of organic material in an oxygen-free environment, or under oxygen-free conditions, including, but not limited to, holding tanks, ponds, and lagoons.

“Animal unit” means a unit for measuring animal inventories, where one animal unit is equal to 1,400 pounds of animal live weight.

“ANSI” means the American National Standards Institute.

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“Biogas” means gas resulting from the decomposition of organic matter under anaerobic conditions, the principal constituents of which are methane and carbon dioxide.

“Cancelled” or “retired” means the placement of a greenhouse gas allowance or credit in a retirement account controlled by the jurisdiction that generated the allowance or credit, or in an allowance retirement account controlled by the Department, or the determination by the Department that the greenhouse gas allowance or credit has otherwise been rendered unusable.

“Carbon pool” means a reservoir that has the ability to accumulate and store carbon.

“Carbon stock” means the quantity of carbon in a carbon pool.

“CO₂e” means carbon dioxide equivalent.

“Conflict of interest” means a situation that may arise with respect to an individual in relation to any specific project sponsor, CO₂ emissions offset project, or category of offset projects, such that the individual's other activities or relationships with other persons or organizations render or may render the individual incapable of providing an impartial certification opinion, or otherwise compromise the individual's objectivity in performing certification functions.

“Cooperating regulatory agency” means a regulatory agency in a state or United States jurisdiction, other than a participating state, that has entered into a memorandum of understanding with the appropriate regulatory agencies of all participating states to carry out certain obligations relative to CO₂ emissions offset projects in that state or United States jurisdiction, including, but not limited to, the obligation to perform audits of offset project sites, and to report violations of this subchapter to the Department.

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“Forest offset project” means an offset project involving reforestation, improved forest management, or avoided conversion.

“Forest offset project data report” means the report prepared by a project sponsor each year that provides the information and documentation required by this chapter or the forest offset protocol.

“Forest offset protocol” means the protocol titled “Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects,” published by the participating states on June 13, 2013, available on the RGGI website at www.rggi.org/allowance-tracking/offsets, which is incorporated herein by reference.

“Intentional reversal” means any reversal caused by a forest owner's negligence, gross negligence, or willful intent, including, but not limited to, harvesting, development, and harm to the area within the offset project boundary.

“Market penetration rate” means a measure of the diffusion of a technology, product, or practice in a defined market, as represented by the percentage of annual sales for a product or practice, or as a percentage of the existing installed stock for a product or category of products, or as the percentage of existing installed stock that utilizes a practice. The Department may determine an appropriate market definition and market penetration metric for a category of technology, product, or practice, and may issue guidance specifying the technologies, products, or practices that meet a specified market penetration rate.

“Offset project” means all equipment, materials, items, or actions directly related to the reduction of CO₂ equivalent emissions or the sequestration of carbon specified in a consistency application submitted pursuant to N.J.A.C. 7:27C-10.4. Equipment, materials, items, or actions

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unrelated to an offset project reduction of CO₂ equivalent emissions or the sequestration of carbon, but occurring at a location where an offset project occurs, shall not be considered part of an offset project, except as set forth at N.J.A.C. 7:27C-10.5 through 10.9.

“Project commencement” means, for an offset project involving physical construction, other work at an offset project site, or installation of equipment or materials, the date of the beginning of such activity. For an offset project that involves the implementation of a management activity or protocol, “project commencement” means the date on which such activity is first implemented or such protocol is first utilized. For a forest offset project, “project commencement” means the date specified in section 3.2 of the forest offset protocol.

“Project sponsor” means the sponsor of an offset project under this chapter.

“Regional-type anaerobic digester” means an anaerobic digester that uses feedstock from more than one agricultural operation, or that imports feedstock from more than one agricultural operation. A regional-type anaerobic digester is also commonly referred to as a “community digester” or “centralized digester.”

“Reporting period” means the period of time covered by a forest offset project data report. The first reporting period for a forest offset project in an initial crediting period may consist of six to 24 consecutive months; all subsequent reporting periods in an initial crediting and all reporting periods in any renewed crediting period must consist of 12 consecutive months.

“Reversal” means a greenhouse gas emission reduction or greenhouse gas removal enhancement for which CO₂ offset allowances have been issued that is subsequently released or emitted back into the atmosphere due to any intentional or unintentional circumstance.

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“System benefit fund” means any fund made up of revenue collected directly from retail electricity or natural gas ratepayers through retail energy bills.

“Total solids” means the total of all solids in a sample, including the total suspended solids, total dissolved solids, and volatile suspended solids.

“Transmission and/or distribution entity” means the assets and equipment used to transmit and distribute electricity from an electric generator to the electrical load of a customer. “Transmission and/or distribution entity” includes all related assets and equipment located within the service territory of the entity, defined as the service territory of a load-serving entity specified by the applicable state regulatory agency.

“Unintentional reversal” means any reversal, including, but not limited to, wildfires, insects, or disease, that is not the result of the forest owner’s negligence, gross negligence, or willful intent.

“Verification” means the confirmation by an accredited independent verifier that certain parts of a CO₂ emissions offset project consistency application and/or measurement, monitoring or verification report conform to the requirements of this subchapter.

“Volatile solids” means the portion of total solids that is comprised primarily of organic matter, as defined in U.S. EPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020).

7:27C-10.3 General requirements

(a) The following types of offset projects are eligible for the award of CO₂ offset allowances, provided they have otherwise satisfied all the applicable requirements of this subchapter:

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1. Landfill methane capture and destruction;
2. Sequestration of carbon due to reforestation, improved forest management, or avoided conversion; and
3. Avoided methane emissions from agricultural manure management operations.

(b) To qualify for the award of CO₂ offset allowances, an offset project must be located:

1. In New Jersey;
2. Partly in New Jersey and partly in one or more other participating states, provided that more of the CO₂-equivalent emissions reduction or carbon sequestration due to the offset project is projected to occur in New Jersey than in any other participating state; or
3. In any state or United States jurisdiction with a cooperating regulatory agency.

(c) Any person meeting the requirements of N.J.A.C. 7:27C-10.4 may act as the project sponsor.

(d) Except as provided with respect to specific offset project standards at N.J.A.C. 7:27C-10.5, 10.6, and 10.7, the Department will not award CO₂ offset allowances to:

1. An offset project that is required pursuant to any local, state, or Federal law, rule, regulation, or administrative or judicial order. If an offset project has been issued a consistency determination under N.J.A.C. 7:27C-10.4 and is later required by local, state, or Federal law, rule, regulation, or administrative or judicial order, then the offset project will remain eligible for the award of CO₂ offset allowances until the end of its current allocation period, described at (e) and (f) below, but its eligibility will not be extended for an additional allocation period;
2. An offset project that includes an electric generation component, unless the project sponsor transfers legal rights to any and all attribute credits (other than the CO₂ offset allowances awarded under N.J.A.C. 7:27C-10.9) generated from the operation of the offset

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project that may be used for compliance with a renewable portfolio standard or other regulatory requirement, to the Department;

3. An offset project that receives funding or other incentives from any system benefit fund, or funds, or other incentives provided through revenue from the auction or sale of CO₂ allowances in the consumer benefit account pursuant to N.J.A.C. 7:27C-5.4(a) or (b); and

4. An offset project that is awarded allowances or credits under any other mandatory or voluntary greenhouse gas program, except as described at N.J.A.C. 7:27C-10.6(p).

(e) Except as provided in (f) below, the Department may award CO₂ offset allowances under N.J.A.C. 7:27C-10.9 for an initial 10-year allocation period. At the end of the initial 10-year allocation period, the Department may award CO₂ offset allowances under N.J.A.C. 7:27C-10.9 for a second 10-year allocation period, provided the offset sponsor has submitted a consistency application pursuant to N.J.A.C. 7:27C-10.4 prior to the expiration of the initial allocation period, and the Department has issued a consistency determination pursuant to N.J.A.C. 7:27C-10.4(i).

(f) The Department may award CO₂ offset allowances under N.J.A.C. 7:27C-10.9 for any forest offset project for an initial 25-year allocation period. At the end of the initial 25-year allocation period or any subsequent 25-year allocation period, the Department may award CO₂ offset allowances under N.J.A.C. 7:27C-10.9 for a subsequent 25-year allocation period, provided the offset sponsor has submitted a consistency application for the offset project pursuant to N.J.A.C. 7:27C-10.4 prior to the expiration of the initial or subsequent allocation period, as appropriate, and the Department has issued a consistency determination pursuant to N.J.A.C. 7:27C-10.4(i).

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(g) The Department will award CO₂ offset allowances under N.J.A.C. 7:27C-10.9 only for a forest offset project that is initially commenced on or after January 1, 2014, or, for an offset project other than a forest offset project, that is initially commenced on or after December 20, 2005.

(h) A project sponsor shall provide the Department, in writing, an access agreement granting the Department, or, as appropriate, the cooperating regulatory agency, access to the physical location of the offset project to inspect for compliance with this subchapter.

(i) If, at any time, the Department determines that a project sponsor has not complied with the requirements of this subchapter, the Department may revoke and retire any and all CO₂ offset allowances in the project sponsor's account. If, at any time, the Department determines that an offset project does not comply with the requirements of this subchapter, then the Department may revoke any approvals it has issued relative to the offset project.

7:27C-10.4 Consistency application process

(a) The project sponsor shall establish a general account under N.J.A.C. 7:27C-6.2(b).

(b) All submissions to the Department required for the award of CO₂ offset allowances under this subchapter shall be from the CO₂ authorized account representative for the general account of the relevant project sponsor.

(c) A consistency application for an offset project shall be submitted, in a format prescribed by the Department, and consistent with the requirements of this section, by the following deadlines:

1. For a forest offset project, by the date that is one year after the offset project is commenced, except as described in N.J.A.C. 7:27C-10.6(o); and

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2. For an offset project other than a forest offset project, by the date that is six months after the offset project is commenced.

(d) The Department will deny any consistency application that fails to meet the deadlines of (c) above.

(e) A consistency application for an offset project shall include:

1. The project sponsor's name, address, e-mail address, telephone number, facsimile transmission number, and account number;

2. The offset project description, as required by the relevant provisions of N.J.A.C. 7:27C-10.5, 10.6, and 10.7;

3. A demonstration that the offset project meets all applicable requirements of this subchapter or, in the case of an offset project located in a state or United States jurisdiction that is not a participating state, a demonstration that the offset project meets all applicable requirements of the cooperating regulatory agency in the state or United States jurisdiction where the offset project is located;

4. The emissions baseline determination as required by the relevant provisions of N.J.A.C. 7:27C-10.5, 10.6, and 10.7;

5. An explanation of how the projected reduction or avoidance of atmospheric loading of CO₂ or CO₂ equivalent or the sequestration of carbon is to be quantified, monitored, and verified as required by the relevant provisions of N.J.A.C. 7:27C-10.5, 10.6, and 10.7;

6. A completed consistency application agreement signed by the project sponsor that reads as follows: "I, the undersigned project sponsor (name) recognize and accept that the application for, and the receipt of, CO₂ offset allowances under the CO₂ Budget Trading

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Program is predicated on the project sponsor following all the requirements of N.J.A.C. 7:27C-10. I, the undersigned project sponsor, hereby certify that I hold the legal rights to the offset project or have been granted the right to act on behalf of a party that holds the legal rights to the offset project. I understand that eligibility for the award of CO₂ offset allowances under N.J.A.C. 7:27C-10 is contingent on meeting the requirements of N.J.A.C. 7:27C-10. I authorize the Department to audit this offset project for purposes of verifying that the offset project, including the monitoring and verification plan, has been implemented as described in this application. I understand that this right to audit includes the right to enter the physical location of the offset project. With regard to any legal dispute under this subchapter, I submit to the jurisdiction of the State of New Jersey and all such disputes will be subject to applicable New Jersey law.”;

7. A statement and certification report signed by the project sponsor certifying that all offset projects for which the sponsor has received CO₂ offset allowances under this subchapter (or similar provisions in the rules of other participating states), under the sponsor's ownership or control (or under the ownership or control of any entity that controls, is controlled by, or has common control with the sponsor) are in compliance with all applicable requirements of the CO₂ Budget Trading Program in all participating states;

8. A verification report and certification signed by an accredited independent verifier indicating that he or she has reviewed the entire application and evaluated the following in relation to the applicable requirements of this subchapter and any applicable guidance issued by the Department:

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i. The adequacy and validity of information supplied by the project sponsor to demonstrate that the offset project meets the applicable requirements of N.J.A.C. 7:27C-10.3, 10.5, 10.6, and 10.7;

ii. The adequacy and validity of information supplied by the project sponsor to demonstrate baseline emissions pursuant to the applicable requirements at N.J.A.C. 7:27C-10.5, 10.6, and 10.7;

iii. The adequacy of the monitoring and verification plan submitted pursuant to the applicable requirements at N.J.A.C. 7:27C-10.5, 10.6, and 10.7; and

iv. Such other evaluations and statements as the Department may require in order to fully review whether the offset project meets the applicable requirements of N.J.A.C. 7:27C-10; and

9. Disclosure of any voluntary or mandatory programs, other than the CO₂ Budget Trading Program, pursuant to which greenhouse gas emissions data related to the offset project has been or will be reported.

(f) The Department will not accept as submitted, a consistency application for an offset project if a consistency application has already been submitted for the same project, or any portion of the same project, in another participating state, unless the consistency application was rejected by the participating state solely because more of the CO₂ equivalent emissions reduction or carbon sequestration resulting from the offset project is projected to occur in New Jersey than in any other participating state.

(g) Within 30 days following the receipt of the consistency application, the Department will notify the project sponsor whether the consistency application is complete. A complete

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consistency application is one that is in a form prescribed by the Department and is determined by the Department to contain all applicable information and documentation required by this subchapter. In no event will a completeness determination prevent the Department from requesting additional information in order to enable the Department to make a consistency determination under (h) below.

(h) Within 90 days of making the completeness determination under (g) above, the Department will issue a determination as to whether the offset project is consistent with the requirements of N.J.A.C. 7:27C-10.3 and this section and the requirements of the applicable offset project standards of N.J.A.C. 7:27C-10.5, 10.6, and 10.7. For any offset project found to be consistent with these requirements, the Department will issue a consistency determination to the project sponsor. For any offset project found to lack consistency with these requirements, the Department will inform the project sponsor of the offset project's deficiencies.

7:27C-10.5 CO₂ emissions offset project standards – landfill methane (CH₄) capture and destruction

(a) To qualify for the award of CO₂ offset allowances, in addition to satisfying the other applicable requirements of this subchapter, an offset project that captures and destroys methane from landfills shall meet the requirements of (b) through (f) below.

(b) An offset project under this section shall occur at a landfill that is not subject to the New Source Performance Standards for municipal solid waste landfills, 40 CFR Part 60, Subparts Cc and WWW.

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(c) The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the requirements of (b) above.

The project narrative shall include:

1. Identification of the owners and operators of the offset project;
2. The location and specifications of the landfill where the offset project will occur, including waste in place;
3. Identification of the owners and operators of the landfill where the offset project will occur; and
4. Specifications of the equipment to be installed and a technical schematic of the offset project.

(d) The emissions baseline shall represent the potential fugitive landfill emissions of methane (in tons of CO₂e), as represented by the methane collected and metered for thermal destruction as part of the offset project, and shall be calculated as follows:

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

where:

V = Volume of CH₄ collected (ft³);

M = Mass of CH₄ per cubic foot (0.04246 lbs/ft³ default value at one atmosphere and 20 degrees Celsius);

OX = Oxidation factor (0.10), representing the estimated portion of collected CH₄ that would have eventually oxidized to CO₂ if not collected; and

GWP = CO₂e global warming potential of CH₄ (28).

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(e) Emissions reductions shall be determined based on potential fugitive methane emissions that would have occurred at the landfill if metered methane collected from the landfill for thermal destruction as part of the offset project was not collected and destroyed. CO₂e emissions reductions shall be calculated as follows:

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

where:

V = Volume of CH₄ collected (ft₃);

M = Mass of CH₄ per cubic foot (0.04246 lbs/ft³ default value at one atmosphere and 20 degrees Celsius);

OX = Oxidation factor (0.10), representing the estimated portion of collected CH₄ that would have eventually oxidized to CO₂ if not collected;

C_{ef} = Combustion efficiency of methane control technology (0.98); and

GWP = CO₂e global warming potential of CH₄ (28).

(f) An offset project under this section shall employ a landfill gas collection system that provides continuous metering and data computation of landfill gas volumetric flow rate and methane concentration. Annual monitoring and verification reports shall include monthly volumetric flow rate and methane concentration data, including documentation that the methane was actually supplied to the combustion source. Monitoring and verification is also subject to the following requirements:

1. As part of the consistency application, the project sponsor shall submit a monitoring and verification plan, certified as required at N.J.A.C. 7:27C-10.4(e)8, that includes a quality

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assurance and quality control program associated with equipment used to determine landfill gas volumetric flow rate and methane concentration. The monitoring and verification plan shall also include provisions for ensuring that measuring and monitoring equipment is maintained, operated, and calibrated based on manufacturer recommendations, as well as provisions for the retention of maintenance records for audit purposes; and

2. The project sponsor shall annually verify landfill gas methane composition through landfill gas sampling and independent laboratory analysis using applicable EPA laboratory test methods.

7:27C-10.6 CO₂ emissions offset project standards – sequestration of carbon due to reforestation, improved forest management, or avoided conversion

(a) To qualify for the award of CO₂ offset allowances, in addition to satisfying the other applicable requirements of this subchapter, a forest offset project shall meet the requirements of (b) through (p) below, and the forest offset protocol.

(b) The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of the forest offset protocol and this subchapter. The offset project description must include all information identified in sections 8.1 and 9.1 of the forest offset protocol, and any other information deemed necessary by the Department in order to determine eligibility.

(c) Baseline onsite carbon stocks shall be determined as required by sections 6.1.1, 6.1.2, 6.2.1, 6.2.2, 6.2.3, 6.3.1, and 6.3.2 of the forest offset protocol, as applicable.

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(d) Net greenhouse gas reductions and greenhouse gas removal enhancements shall be calculated as required by section 6 of the forest offset protocol. The project's risk reversal rating shall be calculated using the forest offset protocol Determination of a Forest Project's Reversal Risk Rating assessment worksheet.

(e) Monitoring and verification is subject to the following requirements:

1. Monitoring and verification reports shall include all forest offset project data reports submitted to the Department, including any additional data required by section 9.2.2 of the forest offset protocol;

2. The monitoring and verification plan included in the consistency application shall consist of a forest carbon inventory program, as required by section 8.1 of the forest offset protocol; and

3. Monitoring and verification reports shall be submitted not less frequently than once every six years, except that the first monitoring and verification report for reforestation projects must be submitted within 12 years of project commencement.

(f) A project sponsor shall submit a forest offset project data report to the Department for each reporting period. Each forest offset project data report must cover a single reporting period. Reporting periods must be contiguous; there must be no gaps in reporting once the first reporting period has commenced.

(g) Prior to the award of CO₂ offset allowances pursuant to N.J.A.C. 7:27C-10.9, or to any surrender of allowances pursuant to (j) and (m) below, any quantity expressed in metric tons, or metric tons of CO₂ equivalent, shall be converted to tons using the conversion factor

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specified in the definition of "ton" or "tonnage" and as further specified at N.J.A.C. 7:27C-1.4(d).

(h) The project sponsor shall address an unintentional reversal of sequestered carbon as follows:

1. Notify the Department of the unintentional reversal and provide an explanation for the nature of the unintentional reversal within 30 calendar days of its discovery; and

2. Submit to the Department a verified estimate of current carbon stocks within the offset project boundary within one year of the discovery of the unintentional reversal.

(i) The project sponsor shall address an intentional reversal of sequestered carbon as follows:

1. Notify the Department in writing of the intentional reversal and provide a written description and explanation of the intentional reversal within 30 days of the intentional reversal; and

2. Submit to the Department a verified estimate of current carbon stocks within the offset project boundary within one year of the occurrence of the intentional reversal.

(j) If an intentional reversal occurs, and CO₂ offset allowances have been awarded to the offset project, the forest owner shall surrender to the Department for retirement, a quantity of CO₂ allowances corresponding to the quantity of CO₂ equivalent tons reversed within six months of notification by the Department.

(k) The Department will provide notification pursuant to (i) above, after the project sponsor has submitted a verified estimate of carbon stocks to the Department, or, if the project sponsor fails to submit the verified estimate of carbon stocks, after one year has elapsed since the intentional reversal occurred.

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(l) If the forest owner does not surrender valid CO₂ allowances to the Department within six months of notification by the Department pursuant to (i) above, the forest owner will be subject to enforcement action pursuant to N.J.A.C. 7:27A-3.10(u) and each CO₂ equivalent ton of carbon sequestration intentionally reversed will constitute a separate violation of this subchapter and applicable State law.

(m) Requirements for project termination are as follows:

1. The project sponsor shall surrender to the Department for retirement a quantity of CO₂ allowances in the amount calculated pursuant to project termination provisions in the forest offset protocol within six months of project termination; and

2. Failure to surrender CO₂ allowances to the Department as provided at (m)1 above will subject the project sponsor to enforcement action pursuant to N.J.A.C. 7:27A-3.10(u), and each CO₂ offset allowance not surrendered will constitute a separate violation of this subchapter and applicable State law.

(n) The Department will terminate a forest offset project if a reversal lowers a forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks.

(o) Only those forest offset projects that are initially commenced on or after January 1, 2014, are eligible for an award of CO₂ offset allowances under this section.

(p) The provisions of N.J.A.C. 7:27C-10.3(d)4 and 10.4(c)1 do not apply to forest projects that have been awarded credits under a voluntary greenhouse gas reduction program. For such projects, the number of CO₂ offset allowances will be calculated pursuant to the requirements

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of this section, without regard to the quantity of credits that were awarded to the project under the voluntary program, provided that the following conditions are satisfied:

1. The project satisfies all other general requirements of this subchapter, including all specific requirements of this section, for all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO₂ offset allowances pursuant to N.J.A.C. 7:27C-10.9;

2. At the time of submittal of the consistency application for the project, the project submits forest offset data reports and a monitoring and verification report covering all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO₂ offset allowances pursuant to N.J.A.C. 7:27C-10.9. Forest offset data reports and monitoring and verification reports must meet all requirements of (e) and (f) above;

3. The consistency application includes information sufficient to allow the Department to make the following determinations, and the voluntary greenhouse gas program has published information on its website to allow the Department to verify the information included in the consistency application:

i. The offset project has met all legal and contractual requirements to allow it to terminate its relationship with the voluntary greenhouse gas program, and such termination has been completed; and

ii. The project sponsor or voluntary greenhouse gas program has cancelled or retired all credits that were awarded for carbon sequestration that occurred during the time periods for which the project intends to be awarded CO₂ offset allowances pursuant to N.J.A.C.

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7:27C-10.9, and such credits were cancelled or retired for the sole purpose of allowing the project to be awarded CO₂ offset allowances pursuant to N.J.A.C. 7:27C-10.9.

7:27C-10.7 CO₂ emissions offset project standards – avoided methane emissions from agricultural manure management operations

(a) To qualify for the award of CO₂ offset allowances, in addition to satisfying the other applicable requirements of this subchapter, an offset project that reduces CO₂-equivalent emissions by capturing and destroying methane from animal manure and organic food waste using anaerobic digesters shall meet the requirements of (b) through (g) below.

(b) An offset project that captures and destroys methane from animal manure and organic food waste using anaerobic digesters shall:

1. Consist of the destruction of that portion of methane generated by an anaerobic digester that would have been generated in the absence of the offset project through the uncontrolled anaerobic storage of manure or organic food waste; and

2. Employ only manure-based anaerobic digester systems using livestock manure as the majority of digester feedstock, defined as more than 50 percent of the mass input into the digester on an annual basis. The remainder of the digester feedstock may be organic food waste that would have been stored in anaerobic conditions in the absence of the offset project.

(c) The provisions of N.J.A.C. 7:27C-10.3(d)2 and 3 do not apply to an agricultural manure management offset project if:

1. The offset project is located in a state that has a market penetration rate for anaerobic digester projects of five percent or less. The market penetration rate determination

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shall utilize the most recent market data available at the time of submission of the consistency application pursuant to N.J.A.C. 7:27C-10.4 and shall be determined as follows:

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

where:

MG_{AD} = Average annual manure generation for the number of dairy cows and swine serving all anaerobic digester projects in the applicable state at the time of submission of a consistency application pursuant to N.J.A.C. 7:27C-10.4; and

MG_{STATE} = average annual manure production of all dairy cows and swine in the state at the time of submission of a consistency application pursuant to N.J.A.C. 7:27C-10.4; or

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

(d) The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the requirements of (b) above.

The offset project narrative shall include:

1. Identification of the owners and operators of the offset project;
2. The location and specifications of the facility where the offset project will occur;

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3. Identification of the owners and operators of the facility where the offset project will occur;

4. Specifications of the equipment to be installed and a technical schematic of the offset project; and

5. The location and specifications of the facilities from which anaerobic digester influent will be received, if different from the facility where the offset project will occur.

(e) The emissions baseline shall represent the potential emissions of the methane that would have been produced in a baseline scenario under uncontrolled anaerobic storage conditions and released directly to the atmosphere in the absence of the offset project, and is calculated as follows:

1. Baseline methane emissions shall be calculated as follows:

$$E_b = (V_m \times M) / 2000 \times GWP$$

where:

E_b = Potential CO₂e emissions due to calculated CH₄ production under site-specific anaerobic storage and weather conditions (tons);

V_m = Volume of CH₄ produced each month from decomposition of volatile solids in a baseline uncontrolled anaerobic storage scenario under site-specific storage and weather conditions for the facility at which the manure or organic food waste is generated (ft³);

M = Mass of CH₄ per cubic foot (0.04246 lb/ft³ default value at one atmosphere and 20 degrees Celsius); and

GWP = Global warming potential of CH₄ (28);

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

$$VS_{\text{dec}} = VS_{\text{avail}} \times f$$

where:

VS = volatile solids as determined from the equation:

$$VS = M_m \times TS_{\text{percent}} \times VS_{\text{percent}}$$

where:

M_m = mass of manure or organic food waste produced per month (kg);

TS_{percent} = concentration (percent) of total solids in manure or organic food waste as determined through EPA 160.3 testing method (U.S.EPA Method Number 160.3, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020)), which is incorporated herein by reference, which is available at EPA's website at www.epa.gov; and

VS_{percent} = concentration (percent) of volatile solids in total solids as determined through EPA 160.4 testing method (U.S.EPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020)), which is incorporated herein by reference, and which is available at the EPA's website;

VS_{avail} = volatile solids available for decomposition in manure or organic food waste storage each month as determined from the equation:

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

where:

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VS_p = volatile solids present in manure or organic food waste storage at beginning of month (left over from previous month) (kg);

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

VS_{out} = volatile solids removed from the manure or organic food waste storage for land application or export (assumed value based on standard farm practice); and

f = van't Hoff-Arrhenius factor for the specific month as determined using the equation below. Using a base temperature of 30 degrees Celsius, the equation is as follows:

$$f = \exp\left\{\frac{E(T_2 - T_1)}{(GC \times T_1 \times T_2)}\right\}$$

where:

f = conversion efficiency of VS to CH_4 per month;

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

T_2 = average monthly ambient temperature for facility where manure or organic food waste is generated (converted from degrees Celsius to degrees Kelvin) as determined from the nearest National Weather Service certified weather station (if reported temperature in degrees Celsius > five degrees Celsius; if reported

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temperature in degrees Celsius < five degrees Celsius, then $f =$

0.104); and

$T_1 = 303.15$ (30 degrees Celsius converted to degrees Kelvin); and

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

3. The volume of methane produced, in cubic feet (ft³), from decomposition of volatile solids shall be calculated as follows:

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

where:

V_m = volume of CH₄ (ft³);

VS_{dec} = volatile solids decomposed (kg); and

B_o = manure or organic food waste type-specific maximum methane generation constant (m³ CH₄/kg VS decomposed). For dairy cow manure, $B_o = 0.24$ m³ CH₄/kg VS decomposed. The methane generation constant for other types of manure shall be those cited at EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2010, Annex 3, Table A-180 Methodology for Estimating CH₄ and N₂O Emissions from Manure Management (EPA, February 2017), as supplemented or amended, and which is incorporated herein by reference and which is available from EPA at its website at www.epa.gov, unless the project sponsor proposes an alternate methane generation constant and that alternate is approved by the Department. If the project sponsor proposes to use a methane generation constant other than the ones found in the above-cited

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reference, the project sponsor shall provide justification and documentation to the Department.

(f) Emissions reductions shall be calculated as follows:

$$ERt = Eb - Ep$$

where:

ERt = CO₂e emissions reductions due to project activities (tons);

Eb = Potential CO₂e emissions due to calculated methane production under site-specific anaerobic storage and weather conditions (tons);

Ep = CO₂e emissions due to project activities additional to baseline (tons), including, but not limited to, manure transportation, flaring, venting, and effluent management.

(g) Emissions reductions calculated pursuant to (f) above may not exceed the potential emissions of the anaerobic digester, as represented by the annual volume of methane produced by the anaerobic digester, as monitored pursuant to (i) below. CO₂ emissions due to transportation of manure and organic food waste from the site where the manure and organic food waste was generated to the anaerobic digester shall be subtracted from the emissions reduction calculated pursuant to (e)1, 2, and 3 above.

(h) Transport CO₂ emissions used in emissions reductions calculated pursuant to (f) above must be determined through one of the following methods:

1. Documentation of transport fuel use for all shipments of manure and organic food waste from off-site to the anaerobic digester during each reporting year and a log of transport miles for each shipment. Off-site is defined as a location that is not contiguous with the property where the anaerobic digester is located. CO₂ emissions shall be determined through

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the application of an emissions factor for the fuel type used. For this method of determination, the emissions factor for the use of diesel fuel is 22.912 pounds of CO₂ per gallon, and for the use of gasoline, 19.878 pounds of CO₂ per gallon. If other fuel is used, the project sponsor, as part of the monitoring and verification report submitted pursuant to N.J.A.C. 7:27C-10.9(c) or (d) shall submit an emissions factor for approval by the Department, as technically appropriate; or

2. Documentation of total tons of manure and organic food waste transported from off-site for input into the anaerobic digester during each reporting year, as monitored pursuant to (i)1 below, and a log of transport miles and fuel type used for each shipment. CO₂ emissions shall be determined through the application of a ton-mile transport emissions factor for the fuel type used. The appropriate emissions factor shall be applied for each ton of manure delivered and multiplied by the number of miles transported. For this method of determination, the emissions factor for the use of diesel fuel is 0.131 pounds of CO₂ per ton-mile, and for the use of gasoline is 0.133 pounds of CO₂ per ton-mile. If other fuel is used, the project sponsor shall submit an emissions factor for approval by the Department, as technically appropriate.

(i) An offset project shall employ a system that provides metering of biogas volumetric flow rate and determination of methane concentration. Annual monitoring and verification reports shall include monthly biogas volumetric flow rate and methane concentration determination.

Monitoring and verification shall also meet the following requirements:

1. If the offset project is a regional-type digester, manure and organic food waste from each distinct source supplying to the anaerobic digester shall be sampled monthly to determine

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the amount of volatile solids present. Any emissions reduction will be calculated according to mass of manure and organic food waste, in kilograms (kg) being digested and percentage of volatile solids present before digestion, consistent with (e) above and (i)3 below, and apportioned accordingly among sources. The project sponsor shall provide supporting material and receipts tracking the monthly receipt of manure and organic food waste in kilograms (kg) used to supply the anaerobic digester from each supplier;

2. If the offset project includes the digestion of organic food waste eligible pursuant to (b)2 above, organic food waste shall be sampled monthly to determine the amount of volatile solids present before digestion, consistent with the requirements of (e) above and (i)3 below, and apportioned accordingly; and

3. The project sponsor shall submit a monitoring and verification plan as part of the consistency application that includes a quality assurance and quality control program associated with equipment used to determine biogas volumetric flow rate and methane composition. The monitoring and verification plan shall be consistent with the applicable input monitoring requirements listed in Table 5 below. The monitoring and verification plan shall also include provisions for ensuring that measuring and monitoring equipment is maintained, operated, and calibrated based on manufacturer's recommendations, as well as provisions for the retention of maintenance records for audit purposes. The monitoring and verification plan shall be certified by an accredited independent verifier.

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Table 5 Monitoring Requirements			
<u>Parameter</u>	<u>Measurement Unit</u>	<u>Frequency of Sampling</u>	<u>Sampling Method(s)</u>
Influent flow (mass) into the digester	Kilograms (kg) per month (wet mass)	Monthly total into the digester	In descending order of preference: 1. Recorded mass; 2. Digester influent pump flow; or 3. Livestock population and application of American Society of Agricultural and Biological Engineers (ASABE) standard (ASAE D384.2, Manure Production and Characteristics, March 2005, incorporated herein by reference, as supplemented or amended, and which is available from the American National Standards Institute (ANSI) at http://www.ansi.org .
Influent total solids concentration (TS)	Percent (of sample)	Monthly, depending upon recorded variations	U.S. EPA Method Number 160.3, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020), which is incorporated by reference, and available at the EPA's website at www.epa.gov .

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Influent volatile solids (VS) concentration	Percent (of TS)	Monthly, depending upon recorded variations	EPA Test Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020)), which is incorporated herein by reference, as supplemented or amended, and available at the EPA's website, www.epa.gov .
Average monthly ambient temperature	Temperature degrees Celsius	Monthly (based on farm averages)	Closest National Weather Service-certified weather station
Volume of biogas produced by digester	Standard cubic feet (scf)	Continuous, totalized monthly	Flow meter
Methane composition of biogas produced by digester	Percent (of sample)	Quarterly	Bag sampling and third-party laboratory analysis using applicable EPA test methods

7:27C-10.8 Accreditation of independent verifiers

(a) To be accredited by the Department to provide verification services as required of project sponsors under this subchapter, an independent verifier shall demonstrate knowledge of:

1. Utilization of engineering principles;
2. Quantification of greenhouse gas emissions;
3. Development and evaluation of air emissions inventories;
4. Auditing and accounting principles;

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5. Information management systems;

6. The requirements of this subchapter and other applicable requirements of this chapter; and

7. The data collection, quantification, monitoring, and verification requirements for the individual offset categories specified at N.J.A.C. 7:27C-10.5, 10.6, and 10.7.

(b) In addition to the knowledge requirements of (a) above, to be accredited by the Department to provide verification services as required of project sponsors under this subchapter, an independent verifier shall demonstrate:

1. That there is no direct or indirect financial relationship, beyond a contract for provision of verification services, between the independent verifier or his or her employees and any offset project developer or project sponsor;

2. That the independent verifier employs staff with professional licenses, knowledge, and experience appropriate to the specific category or categories of offset projects at N.J.A.C. 7:27C-10.5, 10.6, and 10.7 to be verified;

3. Coverage of a minimum of \$1,000,000 of professional liability insurance. If the insurance is in the name of a related entity, the independent verifier shall disclose the financial relationship between the independent verifier and the related entity, and provide documentation supporting the description of the relationship;

4. Implementation of an adequate management protocol to identify potential conflicts of interest with regard to an offset project, offset project developer, or project sponsor, or any other party with a direct or indirect financial interest in an offset project that is seeking or has

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been granted approval of a consistency application pursuant to N.J.A.C. 7:27C-10.4(e), and remedy any such conflicts of interest prior to providing verification services; and

5. Prior to submitting an application for accreditation, successfully complete any training course, workshop, or test developed by the Department to ensure that an independent verifier has sufficient demonstrated knowledge pursuant to (a) above to provide verification services under this subchapter.

(c) An application for accreditation shall not contain any proprietary information, but shall include the following:

1. The applicant's name, address, e-mail address, telephone number, and facsimile transmission number;

2. Documentation that the applicant has at least two years of experience in each of the knowledge areas at (a) above;

3. A sample of at least one work product that provides supporting evidence that the applicant meets the requirements at (a) and (b) above. The work product shall have been produced, in whole or in part, by the applicant and shall consist of a final report or other material provided to a client under contract in previous work. For a work product that was jointly produced by the applicant and another entity, the role of the applicant in the work product shall be clearly explained;

4. Documentation that the applicant holds professional liability insurance as required pursuant to (b)4 above; and

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5. Documentation that the applicant has implemented an adequate management protocol to address and remedy any conflict of interest issues that may arise, as required pursuant to (b)5 above.

(d) The Department will approve or deny a complete application for accreditation within 45 days after submission. Accreditation of an independent verifier is for a period of three years from the date of application approval.

(e) The Department will accept the accreditation of an independent verifier who is accredited in another participating state where the Department has determined that the accreditation requirements of the other participating state are substantially equivalent to the requirements of this section.

(f) Prior to engaging in verification services for a project sponsor, an accredited independent verifier shall disclose all relevant information to the Department to allow for an evaluation of potential conflict of interest with respect to an offset project, offset project developer, or project sponsor. The accredited independent verifier shall disclose information concerning its ownership, past and current clients, related entities, as well as any other facts or circumstances that have the potential to create a conflict of interest.

(g) An accredited independent verifier shall have an ongoing obligation to disclose to the Department any facts or circumstances that may give rise to a conflict of interest with respect to an offset project, offset project developer, or project sponsor.

(h) The Department may reject a verification report and certification from an accredited independent verifier, submitted as part of a consistency application required pursuant to N.J.A.C. 7:27C-10.4 or submitted as part of a monitoring and verification report submitted

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pursuant to N.J.A.C. 7:27C-10.9, if the Department determines that the accredited independent verifier has a conflict of interest related to the offset project, offset project developer, or project sponsor.

(i) The Department may revoke the accreditation of an accredited independent verifier at any time, for any of the following:

1. Failure by the accredited independent verifier to fully disclose any issues that may lead to a conflict of interest situation with respect to an offset project, offset project developer, or project sponsor;

2. A change in staffing or other criteria, so that the accredited independent verifier is no longer qualified;

3. Negligence or neglect of responsibilities by the accredited independent verifier pursuant to the requirements of this subchapter; or

4. Intentional misrepresentation of data or other fraud by the accredited independent verifier.

7:27C-10.9 Award and recording of CO₂ offset allowances

(a) Following the issuance of a consistency determination under N.J.A.C. 7:27C-10.4(i) and the submission and approval of a monitoring and verification report under the provisions of (g) and (h) below, the Department will award one CO₂ offset allowance for each ton of demonstrated reduction in CO₂ or CO₂-equivalent emissions or sequestration of CO₂, which it will record in the project sponsor's general account. If an allowance is represented in metric tons, the

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Department will award 1.1023 tons for every metric ton and will round down the total CO₂ offset allowances awarded to the nearest whole ton.

(b) For CO₂ emissions offset projects undertaken prior to January 1, 2020, the project sponsor shall submit a monitoring and verification report covering the pre-2020 period by June 30, 2020.

(c) For CO₂ emissions offset projects undertaken on or after January 1, 2020, the project sponsor shall submit a monitoring and verification report within six months following the completion of the last calendar year during which the offset project achieved CO₂-equivalent emissions reductions or sequestration of CO₂ for which the project sponsor seeks the award of CO₂ offset allowances.

(d) For an offset project, a monitoring and verification report shall be submitted in a form prescribed by the Department and shall include:

1. The project sponsor's name, address, e-mail address, telephone number, facsimile transmission number, and account number;

2. The CO₂ emissions reduction or CO₂ sequestration determination as required by the relevant provisions of N.J.A.C. 7:27C-10.5, 10.6, and 10.7, including a demonstration that the project sponsor complied with the required quantification, monitoring, and verification procedures under this subchapter, as well as those outlined in the consistency application approved pursuant to N.J.A.C. 7:27C-10.4(i);

3. A signed certification statement by the project sponsor that reads "The undersigned project sponsor hereby confirms and attests that the offset project upon which this monitoring and verification report is based is in full compliance with all of the requirements of this

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subchapter. The project sponsor holds the legal rights to the offset project or has been granted the right to act on behalf of a party that holds the legal rights to the offset project. I understand that eligibility for the award of CO₂ offset allowances under N.J.A.C. 7:27C-10 is contingent on meeting the requirements of this subchapter. I authorize the Department to audit this offset project for purposes of verifying that the offset project, including the monitoring and verification plan, has been implemented as described in the consistency application that was the subject of a consistency determination by the Department. I understand that this right to audit shall include the right to enter the physical location of the offset project and to make available to the Department any and all documentation relating to the offset project at the Department's request. I submit to the legal jurisdiction of the State of New Jersey.”;

4. A certification signed by the project sponsor certifying that all offset projects for which the project sponsor has received CO₂ offset allowances under this subchapter (or corresponding provisions in the rules of other participating states), under the project sponsor's ownership or control (or under the ownership or control of any entity that controls, is controlled by, or has common control with the sponsor) are in compliance with all applicable requirements of the CO₂ Budget Trading Program in all participating states;

5. A verification report and certification signed by an accredited independent verifier that documents that he or she has reviewed the monitoring and verification report and evaluated the following in relation to the applicable requirements at N.J.A.C. 7:27C-10.5, 10.6, and 10.7, and any applicable guidance issued by the Department:

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i. The adequacy and validity of information supplied by the project sponsor to determine CO₂ emissions reductions or CO₂ sequestration pursuant to the applicable requirements at N.J.A.C. 7:27C-10.5, 10.6, and 10.7;

ii. The adequacy and consistency of methods used to quantify, monitor, and verify CO₂ emissions reductions and CO₂ sequestration in accordance with the applicable requirements at N.J.A.C. 7:27C-10.5, 10.6, and 10.7 and as outlined in the consistency application approved pursuant to N.J.A.C. 7:27C-10.4(i);

iii. The adequacy and validity of information supplied by the project sponsor to demonstrate that the offset project meets the applicable eligibility requirements of N.J.A.C. 7:27C-10.5, 10.6, and 10.7; and

iv. Such other evaluations and verification reviews as the Department may require;

6. Disclosure of any voluntary or mandatory programs, other than the CO₂ Budget Trading Program, to which greenhouse gas emissions data related to the offset project has been, or will be, reported; and

7. For an offset project located in a state or United States jurisdiction that is not a participating state, a demonstration that the project sponsor has complied with all requirements of the cooperating regulatory agency in the state or United States jurisdiction where the offset project is located.

(e) Following the receipt of a monitoring and verification report pursuant to (c) or (d) above, the Department will determine whether the report is complete for the purposes of commencing review. A complete monitoring and verification report is one that is in an

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approved form and the Department has determined to be complete for the purpose of commencing its review. In no event shall a completeness determination prevent the Department from requesting additional information needed by the Department to approve or deny the submitted monitoring and verification report.

(f) The Department will only accept a monitoring and verification report for an offset project for which the Department has issued a consistency determination pursuant to N.J.A.C. 7:27C-10.4(i) and will not accept a monitoring and verification report for an offset project for which another participating state has issued a consistency determination.

(g) The Department will approve or deny a complete monitoring and verification report, in a format approved by the Department and filed with the Department pursuant to (b), (c), (d), and (f) above, within 45 days following receipt of a complete report.

SUBCHAPTER 11. CO₂ ALLOWANCE AUCTIONS

7:27C-11.1 Auction of CO₂ allowances

(a) The Department will participate in, or conduct, auctions to sell CO₂ allowances allocated to the consumer benefit account in accordance with N.J.A.C. 7:27C-5, CO₂ Allowance Allocations, and this subchapter.

(b) The Department may delegate the implementation and administrative support functions for any CO₂ allowance auction conducted pursuant to this subchapter to an agent qualified to conduct auctions, including a regional entity, provided that such agent shall perform all such functions under the direction and oversight of the Department.

(c) The Department will participate in a multistate CO₂ allowance auction if it determines that:

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1. A multistate auction capability and process is in place for the participating states;
2. The multistate auction can provide benefits to the State that meet or exceed the benefits conferred on the State through its own State-run auction process; and
3. The multistate auction process would be consistent with the process described in this subchapter.

(d) Should the Department find that the conditions in (c) above have not been satisfied, the Department may conduct a New Jersey auction pursuant to N.J.A.C. 7:27C-5 and this subchapter or may take such other action as it deems appropriate.

(e) The Department will retain its authority to enforce compliance with all sections of this chapter and will retain control over the proceeds associated with the sale of all of New Jersey's CO₂ allowances, whether sold in a multistate or New Jersey CO₂ allowance auction and will credit the proceeds to the Global Warming Solutions Fund established pursuant to N.J.S.A. 26:2C-50.

7:27C-11.2 Auction format

(a) The format of the CO₂ allowance auctions will be one or more of the following:

1. Uniform-price sealed-bid;
2. Discriminatory-price sealed-bid;
3. Ascending price, multiple-round; or
4. Descending price, multiple-round.

(b) CO₂ allowances will be auctioned in lots of 1,000 CO₂ allowances, unless the volume of CO₂ allowances auctioned requires an individual lot size smaller than 1,000.

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7:27C-11.3 Auction timing and CO₂ allowance submission schedule

(a) CO₂ allowance auctions will be held no less frequently than annually, and as frequently as the Department determines is necessary and practical to ensure the availability of CO₂ allowances to CO₂ budget units and CO₂ budget sources and to support the effective functioning of the CO₂ allowance market.

(b) Prior to the end of each control period, the initial control period, or an interim control period, the Department will make available for sale by auction, all CO₂ allowances held in the consumer benefit account that are designated for the allocation years associated with that control period, initial control period, or interim control period. This will not include CO₂ allowances set aside to be sold directly to certified dispatch agreement facilities with fixed-price contracts pursuant to N.J.A.C. 7:27C-5.5, or CO₂ allowances set aside to be retired pursuant to N.J.A.C. 7:27C-5.3.

(c) In each CO₂ allowance auction, the Department will make available for sale CO₂ allowances designated for the allocation years associated with that control period, interim control period, or initial control period and CO₂ allowances designated for the allocation years associated with a future control period, in a number as determined to be appropriate by the Department, in order to ensure the availability of sufficient allowances to protect the financial stability of CO₂ budget sources in New Jersey.

(d) The number of CO₂ allowances to be made available for sale in a specific auction will be disclosed in the notice of CO₂ allowance auction issued pursuant to N.J.A.C. 7:27C-11.5.

(e) Auctions of CO₂ allowances will include a CO₂ cost containment reserve and a CCR trigger price, as provided at N.J.A.C. 7:27C-5.2(d).

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7:27C-11.4 Reserve price

- (a) A reserve price will be established for each CO₂ allowance auction.
- (b) The reserve price will be either the minimum reserve price or the CCR trigger price, as specified at N.J.A.C. 7:27C-1.2, Table 1 of the definition of "CO₂ cost containment reserve trigger price" and N.J.A.C. 7:27C-9.

7:27C-11.5 Auction calendar and notice

- (a) A calendar of anticipated auction dates will be available on the CO₂ allowance auction website, www.rggi.org. The calendar will indicate the auction format and the number of allowances and allocation years of allowances to be auctioned at each auction. The calendar may periodically be revised, including the anticipated dates of future auctions, provided that the information relevant to the next scheduled CO₂ allowance auction will be fixed no later than 45 calendar days prior to such auction. The calendar will include the dates of at least the next four CO₂ allowance auctions and may also include the anticipated number of allowances to be auctioned at each future auction.
- (b) A notice of each CO₂ allowance auction will be provided on the CO₂ allowance auction website no later than 45 days prior to the date upon which the auction will be conducted and may be transmitted electronically to parties requesting such notification, provided they have submitted an e-mail address to the New Jersey RGGI program contact person. The RGGI program contact for each participating state, including New Jersey, is listed on the RGGI website at www.rggi.org.

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(c) In addition to the information specified at N.J.A.C. 7:27C-9.1(a), the notice of CO₂ allowance auction will include, but not be limited to, the following:

1. The date, time, and location of the CO₂ allowance auction, including the Internet address or electronic address for the CO₂ allowance auction location, as applicable;
2. The format for the CO₂ allowance auction;
3. The categories of bidders who will be eligible to bid;
4. The number and allocation years of New Jersey CO₂ allowances to be auctioned;
5. The minimum reserve price;
6. All information regarding the CO₂ cost containment reserve, required to be in the notice pursuant to N.J.A.C. 7:27C-9.1(a);
7. The procedures for conducting the CO₂ allowance auction, including the required bid submission format and process, and information regarding financial settling of CO₂ allowance payments;
8. All CO₂ allowance auction participation requirements;
9. The amount and type of financial security required and instructions for submitting acceptable financial surety;
10. Participation limits, such as bidding limits that may apply to an individual bidder or a group of related bidders;
11. Application instructions for applying to participate in the CO₂ allowance auction;
12. Identification of a New Jersey auction contact person for further information; and
13. Other pertinent rules or procedures of the auction as may be required to ensure a transparent, fair, and competitive auction.

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7:27C-11.6 Auction participant requirements

(a) To be classified by the Department as a bidder eligible to participate in a specific CO₂ allowance auction, a qualified participant must:

1. Be a member of a category of those eligible to participate in the specified CO₂ allowance action as indicated by the notice of CO₂ allowance auction issued pursuant to N.J.A.C.

7:27C-11.5(b);

2. Open and maintain a compliance account or general account, established pursuant to N.J.A.C. 7:27C-6.2(a) or (b), respectively; and

3. Submit financial security, such as a bond, cash, certified funds, or an irrevocable stand-by letter of credit, in a manner and form acceptable to the Department, as specified in the notice of CO₂ allowance auction issued pursuant to N.J.A.C. 7:27C-11.5(b).

(b) Only one who meets the requirements at (a) above will be classified by the Department as a bidder and approved to participate in a specified CO₂ allowance auction.

7:27C-11.7 Auction participant eligibility

(a) The Department will announce the categories of parties that are eligible to participate in a specific CO₂ allowance auction as part of the notice of CO₂ allowance auction, provided that an owner or operator of a CO₂ budget unit located in New Jersey is always eligible to participate in a CO₂ allowance auction.

(b) For any CO₂ allowance auction, the following categories of parties may be eligible to participate:

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1. The owner or operator of a CO₂ budget unit located in New Jersey, who is always eligible to participate, pursuant to (a) above;
2. The owner or operator of a CO₂ budget unit located in a participating state;
3. The owner or operator of a CO₂ budget unit located outside of New Jersey, but within those states that have final CO₂ Budget Trading Program regulatory provisions in place at the time of the CO₂ allowance auction and are participating states;
4. The owner of a fossil fuel-fired generation unit located outside of the participating states;
5. A broker;
6. An environmental group;
7. A financial or investment institution; and
8. Any other market participant, as may be specified in the notice of CO₂ allowance auction, with or without limitation.

7:27C-11.8 Auction participant qualification

(a) A person who intends to participate in a CO₂ allowance auction, or auctions, shall submit a qualification application to the Department, in the form and manner specified in the notice of CO₂ allowance auction.

(b) The deadline for submitting a qualification application will be established in the notice of CO₂ allowance auction and will be at least 15 days after the publication of such notice.

(c) As part of a qualification application, an applicant shall provide information and documentation relating to the applicant's ability and authority to execute bids and honor

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contractual obligations, as well as information required to ensure adherence to the auction requirements and procedures specified in this subchapter, as follows:

1. Identification by the applicant of either a compliance account or general account, established pursuant to N.J.A.C. 7:27C-6.2(a) or (b), and identification of the CO₂ authorized account representative for such compliance account or general account;

2. Information and documentation regarding the corporate identity, ownership, affiliations, and capital structure of the entity represented by the applicant;

3. Identification of any indictment or felony conviction of the applicant or any member, director, principal, partner, or officer of the entity represented by the applicant or any affiliate or related entity;

4. Identification of any previous or pending investigation of the applicant or the entity represented by the applicant or any affiliate or related entity, with respect to any alleged violation of any rule, regulation, or law associated with any commodity market or exchange; and

5. Such other information and declarations as the Department determines may be required of an applicant in order to evaluate prospective auction participants and ensure the integrity of the CO₂ allowance auction process in accordance with the requirements and procedures for CO₂ allowance auctions established in this subchapter.

(d) The Department will determine whether a qualification application is complete, or incomplete, or otherwise deficient. If the Department determines that an application is incomplete or otherwise deficient, the applicant will be given a reasonable opportunity, and in no event less than five business days and no more than 10 business days, as specified in the

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notice of CO₂ allowance auction, to provide additional information to the Department in order to complete the application or remedy any application deficiency.

(e) The Department will review a complete qualification application and make a determination as to whether the applicant is qualified to participate in CO₂ allowance auctions. The Department will make a determination as to the qualification status of the applicant by the deadline for such determination specified in the notice of CO₂ allowance auction.

(f) The Department may deny qualification to an applicant based on information submitted in a qualification application in order to ensure the integrity of the CO₂ allowance auction process in accordance with the requirements and procedures for auctions established at N.J.A.C. 7:27C-11.6, 11.7, 11.9, 11.10, and 11.11.

(g) The Department may revoke the qualification status of a qualified participant, if he or she fails to comply with the applicable requirements of this subchapter, or if the Department determines that he or she has knowingly provided false or misleading information or withheld pertinent information from the qualification application submitted pursuant to (a) above. The Department may also prohibit a qualified participant who has engaged in such conduct from participating in future CO₂ allowance auctions where the Department determines that the prior conduct could compromise the integrity of a subsequent CO₂ allowance auction.

(h) A qualified participant will remain qualified indefinitely to participate in all CO₂ allowance auctions after the Department's qualification determination, provided that there has been no material change to the information supplied to the Department in the qualification application submitted pursuant to (a) above. If there is any material change to the information in the qualification application submitted pursuant to (a) above, the qualification status will expire as

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of the date of such change, pending the submission of a new qualification application pursuant to (a) above and a determination by the Department that the applicant is qualified to participate in CO₂ allowance auctions.

(i) Prior to each CO₂ allowance auction, a qualified participant who intends to participate in the auction shall notify the Department, through a notice of intent to bid, that he or she intends to participate in the upcoming CO₂ allowance auction. Such notice shall be submitted to the Department by the same date as that required for submitting a qualification application established in the notice of CO₂ allowance auction for such auction.

(j) As part of a notice of intent to bid submitted to the Department pursuant to (i) above, a qualified participant shall notify the Department whether there has been any material change to the information supplied in the qualification application submitted pursuant to (a) above. Examples of what constitutes a material change are included on RGGI's website (www.rggi.org) as part of the Intent to Bid form/materials.

7:27C-11.9 Submission of financial security

(a) In order to participate in any specific CO₂ allowance auction, a qualified participant shall provide financial security to the Department, such as a bond, cash, certified funds, or an irrevocable stand-by letter of credit, in a form and manner prescribed by the Department in the notice of CO₂ allowance auction.

(b) The Department will approve the qualified participant to participate as a bidder in the specified CO₂ allowance auction after the Department has approved the financial security submitted pursuant to (a) above.

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(c) A qualified participant who submits financial security may request return of such financial security at any time prior to or following any CO₂ allowance auction, subject to the following limitations:

1. Any request for the return of financial security prior to the conduct of a CO₂ allowance auction will result in the Department revoking approval to participate in such CO₂ allowance auction, as of the date of such request;

2. The Department will not return such financial security if the Department has any current or pending claim to such financial security as a result of the failure of the bidder to abide by the requirements of this subchapter or to pay the full amount of any submitted bid when payment is due; and

3. Financial security may be forfeited to the Department in the event the bidder's offer to purchase CO₂ allowances is accepted and the bidder fails to tender payment of the full amount when due.

7:27C-11.10 Bidder limitations

(a) A bidder shall submit a bid in an amount that does not exceed the amount of financial security provided to the Department.

(b) A bidder, including any affiliate or agent of such bidder, or any combination of bidders with related beneficial interests, shall purchase no more than 25 percent of the CO₂ allowances offered for sale in any one CO₂ allowance auction. Such limitation, which will not be increased by CCR allowances, will be published in the auction notice pursuant to N.J.A.C. 7:27C-11.5(b).

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7:27C-11.11 Bid submittal requirements

- (a) All bids shall be submitted in a form and manner prescribed by the Department, which the Department will make available on the CO₂ allowance auction website, as appropriate.
- (b) A bidder shall not use or employ any manipulative, misleading, or deceptive practice in connection with its prequalification application or purchase of allowances from the Department, including, but not limited to, any practice that contravenes or violates any applicable Federal or participating state law, rules, or regulation.
- (c) A bid submitted at a CO₂ allowance auction is a binding offer for the purchase of CO₂ allowances.

7:27C-11.12 Approval of auction results

- (a) An independent monitor, such as a certified public accounting firm or similar entity, shall observe the conduct and outcome of each auction and issue a report to the Department in accordance with professional auditing standards addressing whether the auction was conducted in accordance with the rules and procedures in the respective notice of CO₂ allowance auction. Upon receipt and approval by the Department of the report and upon payment in full by successful bidders, the Department shall transfer, or have transferred, the corresponding CO₂ allowances to each successful bidder's applicable compliance or general account.
- (b) The Department will approve or disapprove the outcome of a CO₂ allowance auction following the completion of the auction, based on an evaluation, in consultation with an

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independent monitor, as provided at (a) above, of whether the auction was conducted in accordance with the procedures and requirements at N.J.A.C. 7:27C-5 and this subchapter and whether there was any indication of collusive behavior among auction participants or attempts at market manipulation that impacted the results of the auction.

(c) In advising the Department or its agent, the independent monitor will monitor each CO₂ allowance auction and develop and apply data collection methods, metrics, and analytic techniques, and thresholds for identifying any bidding behavior or activity that may have a significant impact on the efficiency and performance of such auctions, including, but not limited to, collusion, market power, or price manipulation.

(d) The independent monitor shall also monitor allowance market data and information known to the Department, including allowance transactions and associated pricing reported in COATS, and other relevant data and information to ensure fair competition, efficient pricing, and protection against collusive or manipulative behavior in the CO₂ allowance auctions and the CO₂ Budget Trading Program.

7:27C-11.13 Award of CO₂ allowances to winning bidders

Following the approval of the results of a CO₂ allowance auction by the Department pursuant to N.J.A.C. 7:27C-11.12 and the settlement of financial transactions by a winning bidder, the Department will award CO₂ allowances to such winning bidder in a number equal to the number of CO₂ allowances represented in winning bids submitted by the bidder.

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(b) The Department will allocate CO₂ allowances to the compliance account or general account identified in the qualification application of a winning bidder, in a number equal to the CO₂ allowances awarded to the bidder pursuant to (a) above.

7:27C-11.14 Publication of auction results

(a) After the Department has approved the results of a CO₂ allowance auction pursuant to N.J.A.C. 7:27C-11.12, and no later than 10 days following the allocation of CO₂ allowances to the CO₂ compliance or general accounts of winning bidders pursuant to N.J.A.C. 7:27C-11.13, the Department will publish on the CO₂ allowance auction website the auction clearing price and the number of CO₂ allowances sold in the auction.