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The Regulations of Connecticut State Agencies are amended by adding section 22a-174-22d, as follows:

(NEW)

Sec. 22a-174-22d. Post-2011 Connecticut Ozone Season Nitrogen Oxides (NO_x) Budget Program

(a) **Definitions.** For the purposes of this section, the following definitions apply, provided that any remaining terms not defined shall be as defined in section 22a-174-1 of the Regulations of Connecticut State Agencies:

- (1) “Account” means the portion of the Allowance Management System where NO_x allowances are held by Budget Units in a compliance account or an overdraft account, or by any person in a general account.
- (2) “Account number” means the identification number assigned by the Administrator for an account.
- (3) “Acid rain emissions limitation” means “acid rain emissions limitation” as set forth in 40 CFR 72.2.
- (4) “Acid Rain Program” means a multi-state SO₂ and NO_x air pollution control and emission reduction program established by the Administrator under title IV of the Act and 40 CFR 72 through 78.
- (5) “Acquiring account” means the account of a party in an allowance transfer that obtains NO_x allowances through whatever means, including but not limited to purchase, trade, auction, or gift. An acquiring account may be a compliance account, an overdraft account, or a general account.
- (6) “Allocate” or “allocation” means the initial deposit of NO_x allowances in the compliance account of a Budget Unit, as set forth in this section.
- (7) “Allowance Management System” or “AMS” means the electronic record keeping and reporting system that records the allocation, banking, transfer, and deduction of NO_x allowances. In conjunction with transfers, the system records the effective date of a NO_x allowance transfer, the names and account numbers of the originating and acquiring accounts, and the number of NO_x allowances transferred and their serial numbers, and then reports such information to AARs.
- (8) “Allowance Management System account” or “AMS account” means an account in the Allowance Management System established by the Administrator for purposes of recording the allocation, holding, transfer, or deduction of NO_x allowances.
- (9) “Allowance transfer” means the conveyance of one or more NO_x allowances from an

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originating account to an acquiring account by whatever means, including but not limited to purchase, trade, auction, or gift.

(10) “Allowance transfer deadline” means midnight of December 1 of each year, or if December 1 is not a business day, midnight of the first business day thereafter, and is the deadline by which an allowance transfer request shall be submitted to the Administrator to effect an allowance transfer to meet the requirements of this section for the control period of that year. An official U.S. Postal Service postmark or electronic time stamp shall establish the date of submittal.

(11) “Alternative monitoring system” means any method approved by the commissioner and/or the Administrator in writing under subsection (o) of this section designed to provide direct or indirect data of emissions in units of mass per time period, pollutant concentrations, and/or volumetric flow.

(12) “Authorized account representative” or “AAR” means, for a Budget Unit, the individual authorized by the owners and operators of such unit to represent and legally bind each owner and operator in matters pertaining to the Post-2011 Connecticut Ozone Season NOx Budget Program, or for a general account, the individual authorized to transfer or otherwise dispose of NOx allowances held in the general account.

(13) “Automated data acquisition and handling system” means the component of the continuous emission monitoring system, or other emissions monitoring system approved for use under this section, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by this section.

(14) “Banked allowance” means a NOx allowance that is not used to reconcile emissions in the designated year of allocation, but is retained in a compliance, overdraft, or general account for use in a future control period.

(15) “Banking” means the retention, in a compliance, overdraft, or general account, of unused NOx allowances from one control period for use in a future control period.

(16) “Boiler” means a fossil-fuel-fired device that produces steam, or heats water or any other heat transfer medium.

(17) “Budget Unit” means a unit that:

(A) Is a CAIR NOx Ozone Season Unit as described in 40 CFR 96.304 (in effect on October 19, 2007); or

(B) Satisfies the criteria in one of the following clauses:

(i) Is a fossil-fuel-fired emission unit that operated at any time during the period from May through September 1990 and that serves a generator with a nameplate capacity of fifteen (15) megawatts or more,

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- (ii) Is a fossil-fuel-fired emission unit that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more by employing “cogeneration technology,” as defined in section 16-1 of the Connecticut General Statutes,
- (iii) Is a fossil-fuel-fired boiler or indirect heat exchanger with a maximum design heat input of 250 mmBtu/hr or more, or
- (iv) Is a fossil-fuel-fired emission unit that began operating after September 30, 1990 and that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more.

(18) “Cogeneration Unit” means a stationary, fossil-fuel-fired emission unit that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more by employing “cogeneration technology” as defined in section 16-1 of the Connecticut General Statutes.

(19) “Commence commercial operation” means, for an emissions unit that serves a generator, to have begun to produce steam, gas, or other heated medium which is used to generate electricity for sale or use, or for purposes of test generation, provided that if such unit was not subject to this section on the date of commencement of commercial operation, the date such unit becomes subject to this section shall be considered the date of commencement of commercial operation. For an emissions unit that is not a Budget Unit under subsection (b) of this section on the date of commencement of commercial operation, the date such emissions unit becomes a Budget Unit under subsection (b) of this section shall be such unit’s date of commencement of commercial operation.

(20) “Commence operation” means to have begun any mechanical, chemical or electronic process, including, with regard to an emission unit, start-up of such unit’s combustion chamber. For an emission unit that is not a Budget Unit under subsection (b) of this section on the date of commencement of operation, the date such emissions unit becomes a Budget Unit under subsection (b) of this section shall be such unit’s date of commencement of operation.

(21) “Common stack” means a single flue through which emissions from two or more emissions units are exhausted.

(22) “Compliance account” means an Allowance Management System account, established by the Administrator for a Budget Unit that holds NOx allowances for compliance with this section.

(23) “Conjoined unit” means an emissions unit, other than a Budget Unit, that emits NOx through a common stack through which a Budget Unit emits NOx.

(24) “Connecticut emission budget” means the maximum number of tons of NOx emissions that Budget Units in Connecticut may emit during a given control period. The Connecticut emission budget is exclusive of NOx emissions represented by allowances banked from prior control periods pursuant to subsection (h) of this section.

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- (25) “Connecticut general account” means a general account in the AMS, the AAR of which has a mailing address in Connecticut, as established by the General Account Information form for such general account.
- (26) “Continuous emission monitoring system” or “CEMS” means the equipment required by this section to sample, analyze, measure and provide, by readings taken at least once every fifteen (15) minutes of the parameters measured by such equipment, a permanent record of NO_x emissions, expressed in tons per hour. The following systems are component parts of a CEMS, to the extent consistent with 40 CFR 75:
- (A) Nitrogen oxides pollutant concentration monitor;
 - (B) An oxygen or carbon dioxide diluent gas monitor, when such monitoring is required by this section;
 - (C) An automated data acquisition and handling system;
 - (D) Flow monitor; and
 - (E) Continuous moisture monitor, when such monitoring is required by this section.
- (27) “Control period” means the period beginning May 1 of a year and ending on September 30 of the same year, inclusive.
- (28) “Emissions unit” means any part of activity of a stationary source which part or activity emits or has the potential to emit any regulated air pollutant or any hazardous air pollutant.
- (29) “Excess emissions” means emissions of NO_x from a Budget Unit during a control period, rounded to the nearest whole ton by rounding down for decimals less than 0.5, which exceed the number of allowances available for compliance, as determined in accordance with subsection (g)(2) of this section, in the compliance account or overdraft account of such Budget Unit as of the allowance transfer deadline of such control period.
- (30) “Fossil fuel” means natural gas, petroleum, coal, or any form of solid, liquid or gaseous fuel derived wholly, or in part, from such material.
- (31) “Fossil-fuel-fired” means:
- (A) With regard to a unit, combusting any amount of fossil fuel in 2005 or any calendar year thereafter; or
 - (B) Solely for purposes of applying subparagraph (B) of the definition of “Budget Unit” in subsection (a) of this section, the combustion of fossil fuel, any derivative of fossil fuel alone, or a combination of fuels, of which fossil fuel:
 - (i) Comprises more than fifty percent (50%) of the annual heat input (in Btu) in 1990 or any year thereafter, or

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- (ii) Is projected to comprise more than fifty percent (50%) of the annual heat input (in Btu), provided that the commissioner shall consider an emission unit as “fossil-fuel fired” upon the date such emission unit begins combusting fossil fuel.
- (32) “General account” means an Allowance Management System account that is not a compliance account.
- (33) “Generator” means a device that produces electricity.
- (34) “Indirect heat exchanger” means combustion equipment in which the flame or products of combustion are separated from any contact with the principal material in the process by metallic or refractory walls, and that emits exhaust gases only through a stack. Indirect heat exchangers include, but are not limited to, steam boilers, vaporizers, melting pots, heat exchangers, column reboilers, fractioning column feed preheaters, reactor feed preheaters, pyrolysis heaters and fuel-fired reactors.
- (35) “Industrial Unit” means a fossil-fuel-fired boiler or indirect heat exchanger with a maximum design heat input of 250 mmBtu/hr or more.
- (36) “Low-mass emissions unit” means a gas- or oil-fired Budget Unit that burns only natural gas or petroleum and for which:
 - (A) An initial demonstration is provided to the commissioner, in accordance with 40 CFR 75.19(a)(2), that shows that such Budget Unit emits no more than twenty-five (25) tons of sulfur dioxide annually and no more than fifty (50) tons of NO_x annually or, in accordance with 40 CFR 75.74(b)(10), that such Budget Unit emits no more than twenty-five (25) tons of NO_x during each control period; and
 - (B) A demonstration is provided to the commissioner annually thereafter, using one of the allowable methodologies in 40 CFR 75.19(c), showing that such Budget Unit continues to emit no more than twenty-five (25) tons of sulfur dioxide annually and no more than fifty (50) tons of NO_x annually, or continues to emit no more than twenty-five (25) tons of NO_x during each control period.
- (37) “Nameplate capacity” means the maximum electrical generating output in MW electrical that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.
- (38) “Net electricity output” means the gross electric generation (in MWh) less any of the energy output consumed in the process of generation.
- (39) “New Unit” means any fossil-fuel-fired unit that commences operation on or after January 1, 2006 and that serves a generator that generates electricity at a rated output of fifteen (15) megawatts or more.
- (40) “NO_x allowance” means the limited authorization to emit one ton of NO_x during a

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specified control period in the year 2012 and each year thereafter.

(41) “Originating account” means the account of a party in an allowance transfer from which NOx allowances are transferred through whatever means, including but not limited to purchase, trade, auction, or gift. An originating account may be a compliance account, an overdraft account, or a general account.

(42) “Overdraft account” means the account established in the AMS for Budget Units at a stationary source that holds NOx allowances useable for compliance by each such Budget Unit after all the NOx allowances in the compliance account of each such Budget Unit are deducted.

(43) “Phase I Unit” means a Budget Unit that is a fossil-fuel-fired unit that operated at any time prior to November 15, 1990 and that serves a generator with a nameplate capacity of 15 megawatts or more.

(44) “Phase II Unit” means a fossil-fuel-fired unit that began operating on or after November 15, 1990, that serves a generator that generates electricity at a rated output of 15 megawatts or more.

(45) “Reciprocating Grate Waste Tire-Fired Unit” means an emissions unit combusting a single item waste stream of tires that began operating on or after November 15, 1990, that serves a generator that generates electricity at a rated output of 15 megawatts or more.

(46) “Recordation,” “record” or “recorded” means, with regard to NOx allowances, the moving of NOx allowances by the Administrator into, out of, or between Allowance Management System accounts, for purposes of allocation, transfer or deduction.

(47) “Regional Administrator” means the administrator of the United States Environmental Protection Agency, Region I.

(48) “Transferee” means the AAR or Alternate AAR to whom a NOx allowance is conveyed through a NOx allowance transfer.

(49) “Transferor” means the AAR or Alternate AAR who conveys a NOx allowance through a NOx allowance transfer.

(b) Applicability.

(1) This section shall apply to the owner or operator of a Budget Unit.

(2) Except as provided in subsections (q)(3) and (r) of this section, the requirements of section 22a-174-22c of the Regulations of Connecticut State Agencies shall not apply to the owner of a Budget Unit for the control period beginning May 1, 2012 and any control period thereafter.

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(c) Permanent cessation of operations exemption. Notwithstanding subsection (b) of this section, this section shall no longer apply to the owner or operator of a Budget Unit upon the permanent cessation of NO_x emitting operations at such Budget Unit, provided:

(1) Within thirty (30) days of the permanent cessation of NO_x emitting operations at such Budget Unit, or within thirty (30) days of the effective date of this section, whichever is earlier, the AAR or Alternate AAR of such Budget Unit submits to the commissioner in writing, with a photocopy to the Administrator, a statement that:

- (A) such Budget Unit has permanently ceased NO_x emitting operations;
- (B) specifies the date on which NO_x emitting operations permanently ceased; and
- (C) such Budget Unit shall not emit NO_x, starting on the date on which NO_x emitting operations permanently ceased;

(2) The owner or operator of such Budget Unit, and to the extent applicable, the AAR or Alternate AAR of such Budget Unit, shall comply with all requirements contained in this section arising from the operations of such Budget Unit while such owner or operator was subject to this section, even if such requirements arise after the permanent cessation of NO_x emitting operations of such Budget Unit;

(3) The owner and operator of such Budget Unit shall retain records at the premises where such Budget Unit is located, unless the commissioner approves in writing the use of another location in Connecticut, demonstrating that such Budget Unit has permanently ceased NO_x emitting operations. Such owner or operator shall retain such records for a period of five (5) years from the date such records are created, provided that the commissioner or the Administrator may extend such five-year period for cause by sending written notice of such extension to such owner or operator at any time prior to the end of the five-year period;

(4) The Administrator shall deduct from the compliance account and overdraft account of such Budget Unit the NO_x allowances necessary to cover excess emissions emitted prior to the date on which NO_x emitting operations permanently ceased, if any, pursuant to subsection (q)(1) of this section; and

(5) The Administrator shall deduct from the compliance account and overdraft account of such Budget Unit the NO_x allowances allocated, if any, to such Budget Unit for any control period that begins after the date on which NO_x emitting operations permanently ceased.

(d) Connecticut emission budget.

(1) The Connecticut emission budget is two thousand six hundred ninety one (2,691) tons of NO_x during the 2012 control period and each control period thereafter.

(2) The commissioner shall implement the Connecticut emission budget by allocation of NO_x allowances as described in subsection (f) of this section.

(3) The commissioner shall establish the following accounts in the AMS:

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- (A) The Connecticut State Account, to hold the Connecticut emission budget for allocation to the compliance accounts of Budget Units; and
 - (B) The Connecticut Retirement Account, to hold NO_x allowances exacted for purposes other than compliance with this section and permanently retired.
- (4) Notwithstanding subdivision (1) of this subsection, the commissioner may increase the Connecticut emission budget as follows:
- (A) By as many as 0.46 pounds of NO_x for each MWh of electricity lost due to a shutdown of a nuclear electric generating unit in the state, if such shut down lasts more than 30 days and constitutes an emergency situation; or
 - (B) By as many as 0.32 pounds of NO_x for each MWh of electricity lost due to the inability of a local distribution company to provide natural gas to a Budget Unit for a period of at least 30 days. The local distribution company's failure must result from a loss of supply or a loss of pipeline capacity caused by conditions beyond the control of the local distribution company and occurring without its fault or negligence; and
 - (C) In calculating the exact quantity that the Connecticut emission budget shall be increased in a given control period under the conditions of subparagraph (A) or (B) of this subdivision, the commissioner shall subtract the number of banked allowances that were available in the bank on the day before the control period began.
- (5) The number 2491 in subsection (f)(4)(B) of this section shall be replaced with the number calculated in accordance with subdivision (4) of this subsection in any period that the commissioner increases the Connecticut emission budget.
- (6) The commissioner shall specify in writing each control period for which an increased Connecticut emission budget as described in subdivision (4) of this subsection shall be in effect.
- (e) New Unit allocation timing.**
- (1) For New Units, the commissioner shall allocate NO_x allowances as follows:
- (A) A New Unit commencing operation between October 1, 2006 and September 30, 2007, inclusive:
 - (i) Shall be considered a New Unit for the purpose of allocating NO_x allowances during the 2012 control period, and
 - (ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating Grate Waste Tire-Fired Unit, or a Phase II Unit for the purpose of allocating NO_x allowances for the 2013 and later control periods;

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- (B) A New Unit commencing operation between October 1, 2007 and September 30, 2008, inclusive:
- (i) Shall be considered a New Unit for the purpose of allocating NO_x allowances during the 2012 through 2013 control periods, and
 - (ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating Grate Waste Tire-Fired Unit, or a Phase II Unit for the purpose of allocating NO_x allowances for the 2014 and later control periods; and
- (C) A New Unit commencing operation after September 30, 2008:
- (i) Shall be considered a New Unit for the period of time commencing with initial operation through operation during the sixth control period or portion thereof following date of initial operation, and
 - (ii) Shall be considered a Cogeneration Unit, an Industrial Unit, a Reciprocating Grate Waste Tire-Fired Unit, or a Phase II Unit for the purpose of allocating NO_x allowances for the seventh and later control periods.
- (2) For New Units, the commissioner will determine and notify the Administrator of each New Unit's allocation of NO_x allowances by November 10 of the year for which the NO_x allowances are allocated.
- (f) Annual NO_x allowance allocations.**
- (1) In applying the provisions of this subsection to a Budget Unit, such unit shall be categorized as a Phase I Unit, a Cogeneration Unit, an Industrial Unit, a New Unit, a Reciprocating Grate Waste Tire-Fired Unit, or a Phase II Unit, as applicable. Budget Units shall not change categorization status once a control period has started. Budget Units meeting the definition of Cogeneration Unit shall not be categorized as a Phase I Unit, Industrial Unit, Reciprocating Grate Waste Tire-Fired Unit, or a Phase II Unit. Budget Units meeting the definition of Industrial Unit shall not be categorized as a Phase I Unit, Cogeneration Unit, Reciprocating Grate Waste Tire-Fired Unit, or a Phase II Unit. Budget Units meeting the definition of Reciprocating Grate Waste Tire-Fired Unit shall not be categorized as a Phase I Unit, Industrial Unit, Cogeneration Unit, or a Phase II Unit.
- (2) For the control period commencing May 1, 2012, the commissioner shall allocate among the owners or operators of Budget Units, other than New Units, up to two thousand four hundred ninety-one (2,491) NO_x allowances.
- (3) For the control period commencing May 1, 2012, the commissioner shall allocate among the owners or operators of New Units up to two hundred (200) NO_x allowances.

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(4) For the 2012 control period, and each control period thereafter, the commissioner, in the following manner and order, shall:

- (A) Allocate to the compliance account of each Cogeneration Unit, Industrial Unit, or Reciprocating Grate Waste Tire-Fired Unit, the number of NO_x allowances equal to the product of the following calculation:

$$\frac{ER \times HI_{AVG}}{2000 \frac{lb}{ton}}$$

Where:

ER = the lowest of:

- (i) the unit's NO_x RACT emission rate (in lb/mmBtu of heat input), during the 5th and 6th control periods preceding the year of allocation, as required in section 22a-174-22 of the Regulations of Connecticut State Agencies, or
- (ii) the unit's average permitted NO_x emission rate (in lb/mmBtu of heat input) during the 5th and 6th control periods preceding the year of allocation, or
- (iii) the average of the unit's actual NO_x emission rate (in lb/mmBtu of heat input) during the 5th and 6th control periods preceding the year of allocation.

HIAVG = the unit's actual average heat input (in mmBtu) during the 5th and 6th control periods preceding the year of allocation.

- (B) Allocate to the compliance account of each Phase I Unit the number of NO_x allowances equal to the product of the following equation:

$$\frac{\left(1.2 \frac{lb}{MWh} \times EO_U\right)}{2000 \frac{lb}{ton}}$$

Where:

EO_U = each Phase I Unit's average net electricity output (in MWh) during the 5th and 6th control periods preceding the year of allocation,

- (C) Allocate to the compliance account of each Phase II Unit the number of NO_x allowances equal to the product of the following equation:

$$A - A_{ALLOCATED} \times \left(\frac{EO_U}{EO_{TOTAL}} \right)$$

Where:

- A = 2,491 NO_x allowances
- A_{ALLOCATED} = the total number of NO_x allowances allocated to Industrial Units, Cogeneration Units, Reciprocating grate waste tire fired Units, and Phase I Units in a given year pursuant to subdivisions (4)(A) and (4)(B) of this subsection.
- EO_U = the Phase II Unit's average net electricity output (in MWh) for the 5th and 6th control periods preceding the year of allocation.
- EO_{TOTAL} = the total average net electricity output (in MWh) of all Phase II Units during the 5th and 6th control periods preceding the year of allocation.

(5) By November 10 following the 2012 control period and each control period thereafter, the commissioner shall:

- (A) Allocate to the compliance account of each New Unit the number of NO_x allowances equal to the product of the following equation, subject to the limitation in subparagraph (B) of this subdivision:

$$\frac{ER \times HIR \times HO_{CP}}{2000 \frac{lb}{ton}}$$

Where:

- ER = the lower of:
- (i) 0.12 lb/mmBtu, or
 - (ii) the unit's permitted NO_x emission rate (in lb/mmBtu of heat input) during the control period.
- HIR = the lower of:
- (i) the unit's maximum design heat input (in mmBtu/hr),
- or

- (ii) the unit's permitted heat input rate (in mmBtu/hr) during the control period.

HO_{CP} = the number of hours the unit operated during the prior control period, rounded to the nearest whole hour by rounding down for decimals less than 0.5, and rounded up for decimals of 0.5 or greater. If the unit did not operate during the prior control period, the number of hours shall be determined by the commissioner based on information submitted pursuant to subsection (n)(4)(B) of this section.

- (B) For 2012 and beyond:

IF $\Sigma NUA_{CALCULATED} < 200$, THEN

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

IF $\Sigma NUA_{CALCULATED} > 200$, THEN

$$A_{ALLOCATED-NU} = A_{NU} \times \left(\frac{200}{\Sigma NUA_{CALCULATED}} \right)$$

rounded to the nearest whole allowance, as appropriate.

Where:

$\Sigma NUA_{CALCULATED}$ = the total number of NO_x allowances calculated for New Units pursuant to subdivision (5)(A) of this subsection

$A_{ALLOCATED-NU}$ = the number of NO_x allowances the commissioner shall allocate to the compliance account of each New Unit

A_{NU} = the number of NO_x allowances calculated for each New Unit pursuant to subdivision (5)(A) of this subsection

The commissioner may adjust an allowance allocation under this subparagraph as necessary to not exceed $\Sigma NUA_{CALCULATED}$.

- (C) Allocate to the compliance account of each Phase I and Phase II Unit the number of NO_x allowances, if any, equal to the product of the following equation:

For 2012 and beyond:

$$\left[100 - A_{\text{ALLOCATED-NU}} \times \left(\frac{EO_U}{EO_{\text{TOTAL}}} \right) \right]$$

Where:

$A_{\text{ALLOCATED-NU}}$ = The number of NO_x allowances allocated to New Units pursuant to subdivision (5)(A) of this subsection for the current year control period.

EO_U = For the year 2012 and each year thereafter, each Phase I and Phase II Unit's average net electricity output (in MWh) during the 5th and 6th control periods preceding the year of allocation.

(6) An owner or operator may submit a written request for the commissioner's review and approval for the use of an alternate two-year control period pursuant to subsections (f)(4)(A), (f)(4)(B) or (f)(5)(C) of this section if the average NO_x emission rate, average heat input or average net electricity output data from the Budget Unit during the 5th and 6th control periods preceding the year of allocation was not representative for the following reasons:

- (A) Transmission line failure,
- (B) Equipment failure, or
- (C) Any other reason related to unplanned outage, including outages for reason of the owner's bankruptcy under Chapter 11 of the United States Bankruptcy Code.

(g) NO_x allowance use and transfer.

(1) A NO_x allowance shall not constitute a security or other form of property. A NO_x allowance reserved, allocated, banked or traded is reserved, allocated, banked or traded subject to all applicable legal requirements and limitations including, but not limited to, the requirements of this section, the Connecticut emission budget set forth in subsection (d) of this section, the NO_x allowance allocation procedure set forth in subsection (f) of this section, the NO_x allowance penalties identified in subsection (q) of this section, and the provisions of sections 22a-1, 22a-5, 22a-6, 22a-174 and 22a-174c of the Connecticut General Statutes.

(2) The owner or operator of a Budget Unit shall, by the allowance transfer deadline of each calendar year, either hold a quantity of NO_x allowances available for compliance with this section in the compliance account or overdraft account of such Budget Unit, or submit a valid NO_x allowance transfer request in accordance with subparagraph (7)(A) of this subsection that will transfer NO_x allowances available for compliance with this section into the compliance

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account or overdraft account of such Budget Unit, such that the total quantity of such NO_x allowances equals or exceeds the total tons of NO_x emitted from such Budget Unit during the most recent control period. A NO_x allowance shall be considered available for compliance with this section if it was allocated for use for compliance in a control period in such calendar year or a prior calendar year.

(3) The commissioner and the Administrator shall calculate the total tons of NO_x emitted during a control period as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emission rates, in accordance with subsections (k), (l), (m), (n), and (o) of this section, with any remaining fraction of a ton equal to or greater than 0.5 tons deemed to equal one (1) ton, and any fraction of a ton less than 0.5 tons deemed to equal zero (0) tons.

(4) Except as provided in subdivision (5) of this subsection, NO_x allowances cannot be used to meet or exceed the limitations of any permit, order or other applicable requirement.

(5) The commissioner, by order or permit, may allow the owner or operator of a Budget Unit to use NO_x allowances beyond those otherwise required for compliance with this section to comply with section 22a-174-22(e) of the Regulations of Connecticut State Agencies pursuant to the provisions of section 22a-174-22(j) of the Regulations of Connecticut State Agencies. Each NO_x allowance used for compliance with section 22a-174-22(e) of the Regulations of Connecticut State Agencies shall be equivalent to one discrete emission reduction credit and shall be deducted from the compliance account or overdraft account of such Budget Unit upon such use.

(6) NO_x allowances allocated pursuant to this section may not be transferred to persons in other states participating in a NO_x allowance trading program administered by the Administrator. The owner or operator of a Budget Unit may not acquire NO_x allowances from persons in other states participating in a NO_x allowance trading program administered by the Administrator.

(7) To complete a NO_x allowance transfer:

(A) The transferor shall document the transfer request in paper or electronic form as directed by the Administrator. The transferor shall provide to the Administrator, at a minimum, the following information:

- (i) the account numbers of the transferor's and transferee's accounts,
- (ii) the serial number of each NO_x allowance being transferred, provided that the transferor may provide the starting and ending numbers of NO_x allowances in a series, and
- (iii) the printed name and signature of the transferor and the date when the transferor signed the transfer request.

(B) The transferor shall authorize and certify each NO_x allowance that is the of the transfer request. The transferor shall personally examine the transfer request and authorization to transfer and be familiar with the information contained therein and contained in all attachments, and make inquiry of those individuals

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responsible for obtaining the information to ensure the information is true, accurate and complete. The submission of false information may subject the transferor to significant penalties, including fines and imprisonment pursuant to section 22a-175 of the Connecticut General Statutes and section 22a-6 under section 53a-157b of the Connecticut General Statutes. The request for transfer shall include one of the following signed and dated statements of certification:

- (i) for the transferor representing the owner or operator of Budget Unit, the statement of certification provided in subdivision (i)(12) of this section,
- (ii) for the transferor representing the owner of a general account, the statement of certification provided in subdivision (i)(13) of this section.

(C) The Administrator shall verify that:

- (i) the transferor submitted the transfer request to the Administrator in accordance with the provisions of subparagraph (A) of this subdivision, and
- (ii) each NO_x allowance identified by serial number in the transfer request is held by the transferor in a specific compliance account, overdraft account, or general account at the time the transfer is to be recorded.

(D) The transfer is complete when the Administrator records the transfer in the AMS.

(8) NO_x allowance transfers determined to be valid through verification by the Administrator shall be recorded in the AMS by deducting the NO_x allowances from the originating account and adding them to the acquiring account.

(h) NO_x allowance banking.

(1) Unused NO_x allowances may be retained in a compliance account, overdraft account or general account from one year to a future year.

(2) NO_x allowances remaining after all NO_x allowance deductions have been made for a control period shall be retained in the compliance account, overdraft account, or general account and designated as banked NO_x allowances.

(i) Allowance Management System.

(1) The AMS shall, at a minimum, track:

- (A) The compliance account or overdraft account established for each Budget Unit;
- (B) The NO_x allowances allocated to each Budget Unit;
- (C) The NO_x allowances deducted from the compliance account or overdraft account of each Budget Unit for compliance with this section;

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- (D) The general accounts opened by persons;
 - (E) The NO_x allowances held in each compliance, overdraft and general account; and
 - (F) The NO_x allowances transferred to and from each compliance, overdraft and general account.
- (2) Each Budget Unit shall have a compliance account with a unique account number assigned by the Administrator. For each compliance account, the following information shall be recorded and maintained in the AMS:
- (A) Name of the owner or operator of such Budget Unit; and
 - (B) Name, mailing address, and telephone number of the AAR and Alternate AAR.
- (3) Budget Units at a stationary source shall have an overdraft account with a unique account number assigned by the Administrator. Each Budget Unit at such stationary source may hold NO_x allowances in the overdraft account and use the NO_x allowances available for compliance with this section in the overdraft account for compliance after all NO_x allowances in the compliance account of such Budget Unit have been deducted. For each overdraft account, the following information shall be recorded and maintained by the Administrator in the AMS:
- (A) The name of the owners or operators of such Budget Units at such stationary source; and
 - (B) The name, mailing address and telephone number of the AAR and Alternate AAR.
- (4) Any person may establish a general account in the AMS. Each general account shall have a unique account number assigned by the Administrator. For each general account, the following information shall be recorded and maintained in the AMS:
- (A) The name of the account owner; and
 - (B) The name, mailing address and telephone number of the AAR and Alternate AAR.
- (5) The owner or operator of a Budget Unit and the owner of a general account shall designate one AAR and may designate one Alternate AAR, provided that the owners or operators of Budget Units at a single stationary source shall designate the same AAR and Alternate AAR. The AAR shall represent and legally bind each owner or operator of a Budget Unit and each owner of a general account in matters pertaining to this section. The Alternate AAR shall have the same authority as the AAR, but the AAR shall receive all correspondence from the Administrator.
- (6) The owner or operator of a Budget Unit shall designate an AAR, and an Alternate AAR, if desired, by submitting a signed, original Account Certificate of Representation to the

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Administrator. Such designation shall become effective upon the Administrator's receipt of the Account Certificate of Representation and recording of the information therein in the AMS. The Account Certificate of Representation shall contain, at a minimum, the following:

- (A) Identification of the stationary source where such Budget Unit is located, and of each Budget Unit at such stationary source;
- (B) The name, address, telephone number, facsimile number (if any), and email address (if any) of the AAR and Alternate AAR (if any);
- (C) The names of all owners and operators of the stationary source and each Budget Unit at such stationary source;
- (D) A statement signed and dated by the AAR and Alternate AAR, if any, stating:

I certify that I was selected as the NO_x Authorized Account Representative or Alternate NO_x Authorized Account Representative, as applicable, by an agreement binding on the owners and operators of the stationary source and each Budget Unit at the stationary source. I certify that I have all the necessary authority to carry out my duties and responsibilities under section 22a-174-22d of the Regulations of Connecticut State Agencies on behalf of the owners and operators of the stationary source and of each Budget Unit at the stationary source and that each such owner or operator shall be fully bound by my representations, actions, inactions or submissions and by any decision or order issued to me by the commissioner of environmental protection, the Administrator, or a court regarding the stationary source or Budget Unit.

(7) The owner of a general account shall designate an AAR, and an Alternate AAR, if desired, by submitting a signed, original General Account Information form to the Administrator. Such designation shall become effective upon the Administrator's receipt of a signed General Account Information form and recording of the information therein in the AMS. The General Account Information form shall contain, at a minimum, the following:

- (A) Identification of the general account by name and account number;
- (B) The name, telephone and facsimile numbers, and e-mail address of the AAR;
- (C) The mailing address for the general account;
- (D) The names of all persons or entities holding an interest in the NO_x allowances to be held in the general account; and
- (E) A statement signed by the AAR and Alternate AAR, if any, stating:

I certify that I was selected as the NO_x Authorized Account Representative or Alternate NO_x Authorized Account Representative, as applicable, by an agreement that is binding on all persons who have an interest with respect to the NO_x

allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under section 22a-174-22d of the Regulations of Connecticut State Agencies on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the commissioner of environmental protection, the Administrator, or a court regarding the general account.

- (8) The owner or operator of a Budget Unit that commenced operation on or before the effective date of this section shall designate the AAR, and Alternate AAR, if desired, not later than April 1, 2012, unless the owner or operator already designated an AAR or an Alternate AAR.
- (9) The owner or operator of a Budget Unit that commences operation after the effective date of this section shall designate the AAR, and Alternate AAR, if desired, in writing within thirty (30) days after commencing operation.
- (10) The owner or operator of a Budget Unit may replace an AAR or Alternate AAR by submitting a new, signed Account Certificate of Representation to the Administrator. The owner of a general account may replace an AAR or Alternate AAR by submitting a new, signed General Account Information form to the Administrator. The designation or replacement of an AAR and Alternate AAR shall be confirmed by the Administrator after the redesignation is recorded in the AMS.
- (11) Within thirty (30) days following any change in the owners and operators of a Budget Unit, or of a stationary source at which more than one Budget Unit is located, the AAR or Alternate AAR of such Budget Unit, or of Budget Units located at such stationary source, shall submit an original revision of the Account Certificate of Representation amending the list of owners and operators to the Administrator.
- (12) All submissions to the commissioner, the Administrator, or the Regional Administrator made by an AAR or Alternate AAR representing the owner or operator of a Budget Unit shall include the following statement of certification, which shall be attested to by the AAR or Alternate AAR signing and dating such statement:

I am authorized to make this submission on behalf of the owners or operators of the Budget Units for which this 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.

- (13) All submissions to the commissioner, the Administrator, or the Regional Administrator made by an AAR or Alternate AAR representing the owner of a general account shall include the

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following statement of certification, which shall be attested to by the AAR or Alternate AAR signing and dating such statement:

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

(j) Emissions monitoring plans.

(1) The owner or operator of a Budget Unit subject to an acid rain emissions limitation shall submit an emissions monitoring plan to the commissioner and the Administrator in accordance with the requirements of 40 CFR 75.62, provided that the monitoring plan shall also include all of the information required under 40 CFR 75, Subpart H.

(2) The owner or operator of a Budget Unit not subject to an acid rain emissions limitation shall submit an emissions monitoring plan to the commissioner and the Administrator in accordance with the requirements of 40 CFR 75.62, provided that the monitoring plan shall contain the information required under 40 CFR 75, Subpart H in lieu of the information required under 40 CFR 75.53.

(k) Initial certification and recertification of emissions monitoring systems.

(1) The owner or operator of a Budget Unit subject to an acid rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR 75, provided that:

(A) If, prior to January 1, 1998, the Administrator approved a petition under 40 CFR 75.17(a) or (b) for apportioning the NO_x emission rate measured in a common stack, or a petition under 40 CFR 75.66 for an alternative to a requirement contained in 40 CFR 75.17, such owner or operator shall resubmit the petition to the Administrator under subsection (o)(1) of this section to determine if such approval is applicable under this section; and

(B) For any additional CEMS required under the common stack provisions contained in 40 CFR 75.72, or for any NO_x concentration CEMS used under the provisions of 40 CFR 75.71(a)(2), the owner or operator shall meet the requirements of subdivision (2) of this subsection.

(2) The owner or operator of a Budget Unit not subject to an acid rain emissions limitation, and the owner or operator of a Budget Unit subject to an acid rain emissions limitation that requires additional CEMS under the common stack provisions contained in 40 CFR 75.72 or that uses a NO_x concentration CEMS under 40 CFR 75.71(a)(2), shall comply with the following

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initial certification and recertification procedures, provided that the owner or operator of a Budget Unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19 shall also meet the requirements of subdivision (3) of this subsection, and the owner or operator of a Budget Unit that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E shall also meet the requirements of subdivision (4) of this subsection:

- (A) Such owner or operator shall successfully complete all initial certification testing required under 40 CFR 75.20 for each monitoring system required by 40 CFR 75, Subpart H, including the automated data acquisition and handling system. Such owner or operator shall successfully complete all applicable certification tests by the applicable deadlines in subdivisions (3) through (7) of this subsection. In addition, if such owner or operator installs a monitoring system to comply with the requirements of 40 CFR 75 at a stationary source where no such monitoring system was previously installed, such owner or operator shall complete the initial certification testing in accordance with 40 CFR 75.20.
- (B) If such owner or operator makes a replacement, modification or change in a certified monitoring system that the Administrator or the commissioner determines significantly affects the ability of such monitoring system to accurately measure or record NO_x mass emissions or heat input, or to comply with the requirements of 40 CFR 75.21 or 40 CFR 75, Appendix B, such owner or operator shall recertify such monitoring system in accordance with 40 CFR 75.20(b). In addition, if such owner or operator makes a replacement, modification or change to the flue gas handling system or to the operation of such Budget Unit that the Administrator or the commissioner determines to significantly change the exhaust gas flow or concentration profile, such owner or operator shall recertify the CEMS in accordance with 40 CFR 75.20(b).
- (C) The AAR or Alternate AAR of such owner or operator shall submit to the commissioner and the Regional Administrator a written notice of the dates of certification in accordance with subsection (n)(2) of this section.
- (D) The AAR or Alternate AAR of such owner or operator shall submit to the commissioner a complete certification application for each monitoring system required under of 40 CFR 75, Subpart H. A complete certification application shall include the information specified in 40 CFR 75, Subpart H.
- (E) Except for units using the low-mass emission excepted methodology under 40 CFR 75.19, the provisional certification date for a monitor shall be determined by the Administrator and the commissioner using the procedures set forth in 40 CFR 75.20(a)(3). A provisionally certified monitor may be used for a period not to exceed one hundred twenty (120) days after receipt by the commissioner of the complete certification application for the monitoring system or component thereof under subparagraph (D) of this subdivision. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR 75, will be considered valid quality assured data retroactive to the date and time of provisional certification, provided that the

commissioner does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of receipt by the commissioner of the complete certification application.

- (F) A written notice of approval or disapproval of the certification application shall be issued to such owner or operator within one hundred twenty (120) days of receipt of the complete certification application under subparagraph (D) of this subdivision. If such notice is not issued within one hundred twenty (120) days, each monitoring system that meets the applicable performance requirements of 40 CFR 75 and is included in the certification application shall be deemed certified for use under this section.
- (i) If the certification application is complete and demonstrates that each monitoring system meets the applicable performance requirements of 40 CFR 75, a written notice of approval of the certification application will be issued within one hundred days of (120) days of receipt.
 - (ii) A certification application will be deemed complete when the commissioner receives all of the applicable information required under subparagraph (D) of this subdivision. If the certification application is not complete, a written notice of incompleteness will be issued that specifies a date by which such owner or operator must submit additional information necessary to complete the certification application. If such owner or operator does not comply with the notice of incompleteness by the specified date, the commissioner may issue a notice of disapproval under subparagraph (F)(iii) of this subdivision.
 - (iii) The commissioner will issue written notice of disapproval of the certification application if the certification application demonstrates that any monitoring system or component thereof does not meet the performance requirements of 40 CFR 75, or if the certification application is not complete and the requirement for disapproval under subparagraph (F)(ii) of this subdivision has been met. Upon issuance of such notice of disapproval, the provisional certification shall be invalidated and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subparagraph (G) of this subdivision for each monitoring system or component thereof disapproved for initial certification.
 - (iv) The commissioner may issue notice of disapproval of the certification status of a monitor in accordance with subdivision (I)(13) of this section.

- (G) If a notice of disapproval of a certification application under subparagraph (F)(iii) of this subdivision or a notice of disapproval of certification status under subparagraph (F)(iv) of this subdivision is issued, then:
- (i) such owner or operator shall substitute the following values, for each hour of operation of the Budget Unit 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):
 - (I) for the owner or operator of a unit monitoring or intending to monitor NO_x emission rate and heat input, or a unit using the low-mass emission excepted methodology under 40 CFR 75.19, the maximum potential NO_x emission rate and the maximum heat input capacity of such Budget Unit, or
 - (II) for the owner or operator of a unit intending to monitor NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor, the maximum potential concentration of NO_x and the maximum potential flow rate of the unit under Section 2.1 of Appendix A of 40 CFR 75,
 - (ii) the AAR or Alternate AAR of such owner or operator shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (C) and (D) of this subdivision, and
 - (iii) such owner or operator shall repeat all certification tests or other requirements failed by the monitoring system, as specified in the commissioner's notice of disapproval, no later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(3) In addition to the initial certification and recertification procedures in subdivision (2) of this subsection, the owner or operator of a gas- or oil-fired Budget Unit using the low-mass emissions excepted methodology under 40 CFR 75.19 shall meet the applicable general operating requirements of 40 CFR 75.10, the applicable requirements of 40 CFR 75.19, and the applicable certification requirements of this subsection, provided that the excepted methodology shall be deemed provisionally certified for use under this section, as of the following dates:

- (A) For a Budget Unit that reports on an annual basis under subsection (n)(3) of this section, and:
 - (i) that commences operation on or before its compliance deadline under subdivisions (3) through (7) of subsection (1) of this section, from January 1 of the year following submission of the certification application for approval to use the low-mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the commissioner's review; or from January 1 of the year following submission of the

certification application for approval to use the low-mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the commissioner's review, or

- (ii) that commences operation after its compliance deadline under subdivisions (3) through (7) of subsection (1) of this section, the date of submission of the certification application for approval to use the low-mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the commissioner's review.

(B) For a Budget Unit that reports on a control period basis under subsection (n)(3) of this section, and:

- (i) that commences operation on or before its compliance deadline under subdivisions (3) through (7) of subsection (1) of this section, and whose certification application is submitted on or before May 1, from May 1 of the year of the submission of the certification application for approval to use the low-mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the commissioner's review,
- (ii) that commences operation on or before its compliance deadline under subdivisions (3) through (7) of subsection (1) of this section, and whose certification application is submitted after May 1, from May 1 of the year following submission of the certification application for approval to use the low-mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the commissioner's review,
- (iii) that commences operation after its compliance deadline under subdivisions (3) through (7) of subsection (1) of this section, and commences operation on or before May 1, from May 1 of the year that the unit commenced operation, until the completion of the period for the commissioner's review, or
- (iv) that has not operated after its compliance deadline under subdivisions (3) through (7) of subsection (1) of this section, and whose certification application is submitted after May 1, but before October 1, from the date of submission of a certification application for approval to use the low-mass emissions excepted methodology under 40 CFR 75.19 until the completion of the period for the commissioner's review.

(4) In addition to the initial certification and recertification procedures in subdivision (2) of this subsection, the owner or operator of a Budget Unit applying to use an alternative monitoring system approved by the Administrator and, if applicable, the commissioner under 40 CFR 75, Subpart E shall apply for certification to the commissioner before use of such alternative system under this section. Such owner or operator shall apply for recertification following a replacement, modification or change to such alternative monitoring system according to the procedures in subdivision (2) of this subsection. Such owner or operator using an alternative monitoring system shall comply with the notification and application requirements for

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certification according to the procedures specified in subparagraphs (C) through (G) of subdivision (2) of this subsection and 40 CFR 75.20(f).

(5) The AAR and Alternate AAR of a Budget Unit shall submit an application for initial certification or recertification to the commissioner within forty-five (45) days after completing all initial certification or recertification tests required under this subsection, including the information required under 40 CFR 75, Subpart H.

(6) Notwithstanding subdivisions (1) through (5) of this subdivision, a Budget Unit that is subject to an approved certification or recertification issued between September 1, 2007 and October 1, 2011 and in accordance with section 22a-174-22c of the Regulations of Connecticut State Agencies is not required to comply with the certification procedures of this subsection, unless the monitoring system is replaced, modified or changed subsequent to the approval of the certification.

(l) Emissions monitoring.

(1) The owner and operator of a Budget Unit shall comply with the monitoring and reporting requirements contained in 40 CFR 75, Subpart H and this subsection. For purposes of complying with such requirements, the definitions in 40 CFR 72.2 shall apply, and the terms “affected unit,” “designated representative,” and “continuous emission monitoring system” (or “CEMS”) in 40 CFR 75 shall be replaced by the terms “Budget Unit,” “Authorized Account Representative,” and “continuous emission monitoring system,” respectively, as defined in subsection (a) of this section.

(2) The owner or operator of a Budget Unit shall:

- (A) Install all monitoring systems required under 40 CFR 75, Subpart H for monitoring NO_x mass emissions, including all systems required to monitor NO_x emission rate, NO_x concentration, heat input, and if utilized, exhaust gas flow, in accordance with 40 CFR 75.71 and 40 CFR 75.72. The owner or operator of a Budget Unit that elects to monitor and report NO_x mass emissions using a NO_x concentration system and a flow system shall also report heat input using the procedures set forth in 40 CFR 75;
- (B) Successfully complete all certification tests required under subsection (k) of this section, as applicable, and meet all other provisions of subsections (k), (l), (m), (n) and (o) and 40 CFR 75 applicable to the monitoring systems described in subdivision (2)(A) of this subsection; and
- (C) Record and report to the commissioner all data from the monitoring systems under subdivision (2)(A) of this subsection.

(3) The owner or operator of a Budget Unit that commences operation before January 1, 2012, shall comply with the requirements of this subsection by May 1, 2012.

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(4) The owner or operator of a Budget Unit that commences operation on or after January 1, 2012, and that reports NO_x emissions on an annual basis under subsection (n)(3) of this section shall comply with the requirements of this subsection by the later of the following dates:

- (A) May 1, 2012, or
- (B) The earlier of:
 - (i) one hundred eighty (180) days after the date on which such Budget Unit commences operation, or,
 - (ii) for a Cogeneration Unit or a New Unit that serves a generator, ninety (90) days after the date on which such unit commences commercial operation.

(5) The owner or operator of a Budget Unit that commences operation on or after January 1, 2012, and that reports NO_x emissions on a control period basis under subsection (n)(3) of this section shall comply with the requirements of this subsection by:

- (A) Except as set forth in subparagraph (B) of this subdivision, the earlier of:
 - (i) One hundred eighty (180) days after the date on which such Budget Unit commences operation, or
 - (ii) For a Cogeneration Unit or a New Unit that serves a generator, ninety (90) days after the date on which such unit commences commercial operation.
- (B) If the applicable deadline under subparagraph (A) of this subdivision does not occur during a control period, the date for compliance with the requirements of this subsection shall be May 1 immediately following the date determined in accordance with subparagraph (A) of this subdivision.

(6) The owner or operator of a Budget Unit with a new stack for which construction is completed after the applicable deadline under subdivisions (3) or (4) of this subsection shall comply with the requirements of this subsection in accordance with the following:

- (A) Within ninety (90) days after the date on which NO_x emissions first exit to the atmosphere through the new stack; or
- (B) If such owner or operator reports NO_x emissions on a control period basis under subdivision (n)(3) of this section and the applicable deadline under subparagraph (A) of this subdivision does not occur during the control period, May 1 immediately following the applicable deadline in subparagraph (A) of this subdivision.

(7) The owner or operator of a Budget Unit under subdivisions (4) and (5) of this subsection must determine, record, and report NO_x mass emissions, NO_x emission rate, heat input, and any other values required to determine NO_x mass emissions as provided in 40 CFR 75.70(g), from

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the date and hour that such Budget Unit commences operation until all certification tests are successfully completed.

(8) The owner or operator of a Budget Unit or conjoined unit that monitors NO_x mass emissions pursuant to 40 CFR 75.72(b)(2)(ii) shall not 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 subsection (o) of this section.

(9) The owner or operator of a Budget Unit or conjoined unit that monitors NO_x mass emissions pursuant to 40 CFR 75.72(b)(2)(ii) shall not operate such Budget Unit or conjoined unit so as to emit or allow to be emitted NO_x emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this subsection and 40 CFR 75, except as provided in 40 CFR 75.74.

(10) The owner or operator of a Budget Unit conjoined unit that monitors NO_x mass emissions pursuant to 40 CFR 75.72(b)(2)(ii) shall not disrupt the CEMS, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions emitted to the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this subsection and 40 CFR 75, except as provided for in 40 CFR 75.74.

(11) The owner or operator of a Budget Unit or conjoined unit that monitors NO_x mass emissions pursuant to 40 CFR 75.72(b)(2)(ii) shall not retire or permanently discontinue use of the CEMS, any component thereof, or any other approved emission monitoring system under this subsection, except:

- (A) During the period that the owner or operator of such Budget Unit or conjoined unit monitors emissions from such Budget Unit or conjoined unit using another certified monitoring system approved by the commissioner, in accordance with the applicable provisions of this subsection and 40 CFR 75, for use at such Budget Unit or conjoined unit that provides emission data for the same pollutants or parameters as the retired or discontinued monitoring system; or
- (B) If the AAR or Alternate AAR of such owner or operator submits notification of the date of certification testing of a replacement monitoring system in accordance with subsection (k) of this section, as applicable.

(12) If any monitoring system fails to meet the quality assurance requirements of 40 CFR 75, Appendix B, data shall be substituted using the applicable procedures in Subpart D, Appendix D, or Appendix E of 40 CFR 75.

(13) The commissioner may audit any monitoring system approved by the commissioner for use under this section, and may review the initial certification application and any recertification application of such monitoring system. If both such audit and such review of the initial certification application or recertification application, if any, reveal that such monitoring system or component thereof should not have been certified or recertified because such monitoring system or component thereof did not meet a particular performance specification or other requirement under subsection (l) of this section or the applicable provisions of 40 CFR 75, both

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at the time of the submittal of the initial certification or recertification application and at the time of the audit, the commissioner shall issue a notice of disapproval of the certification status of such monitoring system or component thereof. For the purposes of this subdivision, an audit shall be either a field audit or an audit of any information submitted to the commissioner or the Administrator. The issuance of the notice of disapproval prospectively revokes the certification status of such monitoring system or component thereof. The data measured and recorded by such monitoring system or component thereof shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in subsection (l) of this section for each disapproved system or component.

(14) Once a low-mass emissions unit has qualified for and has started using the low mass emissions excepted methodology, an annual demonstration is required, showing that the unit continues to emit less than twenty-five (25) tons of SO₂ annually and less than fifty (50) tons of NO_x annually, as calculated using the methodology contained in 40 CFR 75.19(c), or showing that the unit continues to emit less than twenty-five (25) tons of NO_x during each control period, as calculated using the methodology contained in 40 CFR 75.19(c).

(15) If any low-mass emissions unit fails to provide the required annual demonstration of subdivision (14) of this subsection, such that the calculated cumulative year-to date emissions for the unit exceed twenty-five (25) tons of SO₂ or fifty (50) tons of NO_x in any calendar quarter of any calendar year, then:

- (A) The low-mass emissions unit shall be disqualified from using the low mass excepted methodology as of the end of the second calendar quarter following the earliest quarter in which either the twenty-five (25) ton limit for SO₂ or the fifty (50) ton limit for NO_x was exceeded; and
- (B) The owner or operator of the low-mass emissions unit shall have two (2) calendar quarters from the end of the earliest quarter in which the unit exceeded the twenty-five (25) ton limit for SO₂ or the fifty (50) ton limit for NO_x to install certify, and report SO₂, NO_x, and CO₂ emissions from monitoring systems that meet the requirements of 40 CFR 75.11, 75.12 and 75.13.

(16) If any low-mass emissions unit fails to provide the required control period demonstration of subdivision (14) of this subsection, such that the calculated cumulative control period emissions for the unit exceed twenty-five (25) tons of NO_x in any control period, then:

- (A) The low-mass emissions unit shall be disqualified from using the low mass excepted methodology as of the end of the control period; and
- (B) The owner or operator of a low-mass emissions unit shall have until May 1 of the year following the control period in which the unit exceeded the twenty-five (25) ton limit for NO_x to install and certify any equipment needed to ensure that the unit is monitored using an acceptable methodology.

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(m) Record keeping.

- (1) The owner or operator of a Budget Unit shall make records of all measurements, data, reports, and other information required by this section or other state law, regulation, permit or order.
- (2) The owner or operator of a Budget Unit shall retain such records for a period of five (5) years at the premises where such Budget Unit is located, unless the commissioner approves in writing the use of another location in Connecticut. The commissioner or the Administrator may require the owner or operator of such Budget Unit to retain such records for a period longer than five (5) years.
- (3) The records and documents required by this subsection shall be made available to the commissioner or Administrator upon the request of the commissioner or Administrator.

(n) Reporting.

- (1) If the Budget Unit is also subject to the Acid Rain Program, then the AAR shall be the same individual as the designated representative or the alternative designated representative as defined in the Acid Rain Program.
- (2) The AAR and Alternate AAR of a Budget Unit shall submit notifications required under 40 CFR 75.61 to the Administrator in accordance with the provisions of 40 CFR 75.61, provided that if such Budget Unit is not subject to an acid rain emissions limitation, such AAR or Alternate AAR shall submit such notifications to only the commissioner.
- (3) The AAR and Alternate AAR of a Budget Unit shall submit quarterly reports in the following manner:
 - (A) If such Budget Unit is subject to an acid rain emission limitation, or if the owner or operator of such Budget Unit elects to comply with the annual reporting requirements of this section, the AAR and Alternate AAR of such Budget Unit shall submit a quarterly report for each calendar quarter beginning:
 - (i) for a Budget Unit that commences operation before May 1, 2012, the earlier of:
 - (I) the calendar quarter that includes the date of initial provisional certification under subparagraph (k)(2)(E) of this section, or,
 - (II) if the certification tests are not completed by May 1, 2012, the partial calendar quarter from May 1, 2012 through June 30, 2012. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2012, or
 - (ii) for a Budget Unit that commences operation after May 1, 2012, the calendar quarter in which the unit commences operation. Data shall be

reported from the date and hour corresponding to when such Budget Unit commenced operation.

- (B) If such Budget Unit is not subject to an acid rain emission limitation, the AAR or Alternate AAR of such Budget Unit shall:
- (i) meet all requirements to monitor and report NO_x mass emissions contained in 40 CFR 75 during the entire year and meet the reporting deadlines specified in subparagraph (A) of this subdivision, or
 - (ii) if such Budget Unit is not monitoring NO_x emissions using a CEMS, such AAR or Alternate AAR shall submit quarterly reports only for the periods from the earlier of May 1 or the date and hour that the owner or operator successfully completes all recertification tests required under 40 CFR 75.74(c)(3) through September 30 of each year in accordance with the provisions of 40 CFR 75.74(b). Such AAR or Alternate AAR shall submit a quarterly report for each calendar quarter, beginning with:
 - (I) for a Budget Unit that commences operation before May 1, 2012, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (k)(2)(E) of this section, or if the certification tests are not completed by May 1, 2012, the partial calendar quarter from May 1, 2012 through June 30, 2012. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, 2012.
 - (II) for a Budget Unit that commences operation after May 1, 2012 during a control period, the calendar quarter in which such Budget Unit commences operation. Data shall be reported from the date and hour corresponding to when such Budget Unit commenced operation.
 - (III) for a Budget Unit that commences operation after May 1, 2012, and before May 1 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (k)(2)(E) of this section or, if the certification tests are not completed by May 1 of the year in which such Budget Unit commences operation, May 1 of the year in which such Budget Unit. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.
 - (IV) for a Budget Unit that commences operation

after May 1, 2012, and after September 30 of the year in which such Budget Unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (k)(2)(E) of this section or, if the certification tests are not completed by May 1 of the year after such Budget Unit commences operation, May 1 of the year after such Budget Unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after such Budget Unit commences operation.

- (C) The AAR and Alternate AAR of a Budget Unit shall submit each quarterly report to the Administrator within thirty (30) days following the end of the calendar quarter covered by the report, in the manner specified in 40 CFR 75, Subpart H and 40 CFR 75.64, provided:
- (i) for a Budget Unit subject to an acid rain emissions limitation, such quarterly reports shall include all of the data and information required under 40 CFR 75, Subpart H for each such Budget Unit or group of Budget Units venting emissions through a common stack, and all of the data and information required under 40 CFR 75, Subpart G, and
 - (ii) for a Budget Unit not subject to an acid rain emissions limitation, quarterly reports shall include only the data and information required under 40 CFR 75, Subpart H for each such Budget Unit or group of Budget Units or venting emissions through a common stack.
- (D) The AAR or Alternate AAR of a Budget Unit shall submit to the Administrator monitoring data and a certification with each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. Such certification shall state that:
- (i) the monitoring data submitted were recorded in accordance with the applicable requirements of this subsection and 40 CFR 75, including the quality assurance procedures and specifications, and
 - (ii) if applicable, any add-on NO_x emission controls were operated within the range of parameters listed in the monitoring plan for such Budget Unit and any substitute values derived in accordance with 40 CFR 75.34(a)(1) do not systematically underestimate NO_x emissions,
 - (iii) for a Budget Unit that reports on a control period basis under this section, the NO_x emission rate and NO_x concentration values substituted for missing data under 40 CFR

75, Subpart D are calculated using only values from a control period and do not systematically underestimate NO_x emissions.

- (4) Each owner and operator of a Budget Unit shall report the information identified in this subdivision:
- (A) By October 31 of each year, the owner or operator of each Budget Unit that generates electricity shall report to the commissioner the metered net electricity output (in MWh) for the facility at which the unit is located for that year's control period. By October 31 of each year, the owner or operator of each Budget Unit that produces useful steam output shall report to the commissioner useful steam output (in mmBtu). If data for steam output is not available, the owner or operator may report heat input providing useful steam output as a surrogate for useful steam output; and
 - (B) The owner or operator of each New Unit operating in the first control period following the date of commencement of operation shall by November 1 following that first control period report to the commissioner the total number of hours of operation for the control period.

(o) Petitions for alternatives to emissions monitoring, record keeping, and reporting requirements.

- (1) The AAR or Alternate AAR of a Budget Unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the Administrator requesting approval to apply an alternative to any requirement of subsections (j), (k), (l), (m), and (n) of this section, provided:
- (A) Application of an alternative to any requirement of subsections (j), (k), (l), (m) and (n) of this section is in accordance with these subsections only to the extent that the petition is approved by the Administrator, in consultation with the commissioner; and
 - (B) Notwithstanding subparagraph (A) of this subdivision, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72, the petition is subject to the provisions of subdivision (2) of this subsection.
- (2) The AAR and Alternate AAR of a Budget Unit not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the commissioner and the Administrator requesting approval to apply an alternative to any requirement of subsections (j), (k), (l), (m) and (n) of this section, provided:
- (A) The AAR and Alternate AAR of a Budget Unit not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66 to the commissioner and the Administrator requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack

provisions of 40 CFR 75.72 or a NO_x concentration CEMS used under 40 CFR 75.71(a)(2); and

- (B) Application of an alternative to a requirement contained in subsections (j), (k), (l), (m), and (n) of this section is in accordance with these subsections only to the extent the petition under this subdivision is approved by both the commissioner and the Administrator.

(p) Annual reconciliation of NO_x allowances.

(1) Monitored emissions data as reported to the Administrator by the owner or operator of a Budget Unit and as adjusted by the Administrator to be in accordance with subsection (l) of this section, and NO_x allowance allocations, deductions, and transfers recorded in the AMS shall provide the basis for the determination of compliance with this section.

(2) After the allowance transfer deadline and the recordation of NO_x allowance transfers submitted pursuant to subsection (g)(8) of this section for recordation in the compliance account or overdraft account of such Budget Unit, the Administrator shall deduct from such compliance account, or such overdraft account as necessary, the number of NO_x allowances equal to the NO_x emissions in tons emitted by such Budget Unit during the most recent control period. A NO_x allowance transfer request submitted after the allowance transfer deadline that specifies NO_x allowances allocated for a control period before the allowance transfer deadline will not be recorded until after the recordation of NO_x allowance allocations made pursuant to subsection (f) of this section.

(3) The Administrator shall deduct such NO_x allowances in the following order:

- (A) From the compliance account of such Budget Unit, as identified by the AAR or Alternate AAR at his option:
- (i) by the serial numbers of the NO_x allowances to be deducted, or
 - (ii) by the percentage of NO_x allowances to be deducted from the compliance account of each Budget Unit sharing a common stack and having NO_x emissions that are not monitored separately or apportioned in accordance with subsections (j), (k), (l), (m) and (n) of this section. The Administrator shall deduct NO_x allowances for each such unit until the number of NO_x allowances deducted equals the identified percentage of the number of tons of NO_x emissions from the common stack for the preceding control period. If the AAR or Alternate AAR does not identify a percentage, the Administrator shall deduct an equal percentage for each such unit;
- (B) From the compliance account of such Budget Unit, if the AAR or Alternate AAR does not identify the NO_x allowances to be deducted, on a first-in, first-out accounting basis in the following order:

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- (i) NO_x allowances allocated to such Budget Unit for the control period for which compliance is sought, or
 - (ii) NO_x allowances allocated for a control period prior to the control period for which compliance is sought; or
- (C) From the overdraft account, provided that the Administrator shall deduct NO_x allowances held in the overdraft account for each Budget Unit at the stationary source needing NO_x allowances for compliance, beginning with the Budget Unit with the lowest compliance account number, as recorded in the AMS. In determining the lowest compliance account number, the Administrator shall begin with the left-most character, end with the right-most character, and assign values to letter characters less than all numeric characters and in alphabetical order. The Administrator shall deduct NO_x allowances on a first-in, first-out accounting basis in the order prescribed in subparagraphs (B)(i) and (ii) of this subdivision.
- (4) If, by the allowance transfer deadline, a Budget Unit fails to hold in its compliance account or overdraft account NO_x allowances available for compliance with this section, as determined in accordance with subdivision (g)(2) of this section, equal to or greater than its NO_x emissions in tons during the control period, the owner or operator of such Budget Unit shall be subject to enforcement action and allowance adjustments pursuant to subsection (q) of this section.

(q) NO_x allowance adjustments and penalties.

- (1) For any control period during which a Budget Unit emits excess emissions, the Administrator shall deduct NO_x allowances from the compliance account or overdraft account of such Budget Unit for the next control period at a rate of three (3) NO_x allowances for every one ton of excess emissions and permanently retired.
- (2) If a Budget Unit emits excess emissions, for purposes of determining the number of days of violation, it shall be presumed that:
- (A) Each day in the control period constitutes a day in violation, unless the owner or operator of such Budget Unit can demonstrate, to the satisfaction of the commissioner, that a lesser number of days should be considered; and
 - (B) Each ton of excess emissions constitutes a separate violation.
- (3) The Administrator shall deduct, for excess emissions in the 2011 control period determined according to section 22a-174-22c of the Regulations of Connecticut State Agencies, NO_x allowances allocated for the 2012 control period in the manner specified in 40 CFR 96.354(d) for excess emissions in the 2012 control period and beyond.

(r) Effective date.

This section is effective upon filing with the Connecticut Secretary of the State unless the federal Clean Air Interstate Rule (70 FR 25162, 12 May 1995, as subsequently revised) remains in effect

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for the 2012 ozone season, and subsequent ozone seasons, in which case the effective date of this section shall be delayed until the Clean Air Interstate Rule sunsets by federal action.

Statement of Purpose: This section establishes an intrastate nitrogen oxides (NO_x) ozone season cap-and-trade program as a replacement for the Clean Air Interstate Rule (CAIR) NO_x Ozone Season Trading Program. The CAIR program is an interstate NO_x cap-and-trade program that will sunset by action of the U.S. Environmental Protection Agency (EPA) on December 31, 2011. While EPA will continue to operate an interstate ozone season NO_x trading program as a successor to the CAIR program, EPA did not include Connecticut in the successor program, which is called the Cross-State Air Pollution Rule (CSAPR). Because Connecticut relied on continuing NO_x emission reductions from the CAIR program to satisfy several federal clean air mandates, Connecticut must maintain the emissions reductions achieved through the CAIR program via another means beginning with the 2012 ozone season. In consultation with EPA Region 1 and with input from the regulated electric generating unit owners, the Department determined that a Connecticut-only trading program that caps emissions at the level required under the CAIR program is the best option to maintain the emissions reductions achieved under the CAIR program.

This Post-2011 Connecticut Ozone Season NO_x Budget Program is structured in a manner similar to the CAIR program and will be administered by EPA in a manner similar to the CAIR program. The regulated units are subject to an emission budget of 2,691 tons per ozone season. The budgeted level is allocated among the units based on heat input for cogeneration units, industrial units and reciprocating grate waste tire fired units. Phase I Unit (older electric generating units) allowances are allocated on an output-basis using a 1.2 lb/MWh multiplier and Phase II Unit (newer electric generating units) allowances are allocated on a prorated output basis. Owners of units that are not allocated tons of NO_x at least equal to the unit's actual emissions must purchase tons, in the form of NO_x allowances, from owners of units that have a surplus. As the budget of 2,691 tons is higher than actual historical ozone season emissions from the regulated units, the Department anticipates that compliance should not impose significant new costs on the owners of the regulated units as a group. Because the program is a state-only program that does not allow for the use of allowances from the federal CSAPR program, the emissions benefits of the program are experienced in the state.

The successful adoption of this program is in accord with EPA's general policy against backsliding on air quality control requirements and allows Connecticut to retain emissions reductions relied upon for attainment and maintenance of the federal ozone and annual fine particulate matter national ambient air quality standards and the federal Regional Haze program. Absent adoption of this program, Connecticut would need to obtain the emissions reductions achieved under the CAIR program by another means.