STATE OF CONNECTICUT
Regulation of Environmental Protection

Section 1

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

(NEW)

Section 22a-174-22b. The Post-2002 Nitrogen Oxides (NO_x) Budget Program

(a) Definitions. For the purposes of this section:

(1) "Account" means the portion of the NO_x Allowance Tracking System (NATS) where NO_x allowances are held by Budget Units or Opt-in 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." The definition set forth in 40 CFR § 72.2 is adopted herein by reference.

(4) "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.

(5) "Administrator" means Administrator of the United States Environmental Protection Agency or the Administrator's designee who administers the NO_x Allowance Tracking System (NATS) and the NO_x Emissions Tracking System (NETS).

(6) "Allocation" means the initial deposit of NO_x allowances in the compliance account of a Budget Unit or Opt-in Unit, as set forth in this section.

(7) "Allowance deduction" means the withdrawal of NO_x allowances for permanent retirement by the Administrator from a compliance account or overdraft account for purposes of annual reconciliation or other surrender obligations under this section, or from a general account for other deductions not directly related to

compliance.

(8) "Allowance transfer" means the conveyance of one or more NO_x allowances from an originating account to an acquiring account by whatever means, including but not limited to purchase, trade, auction, or gift.

(9) "Allowance transfer deadline" means midnight of November 30 of each year or, if November 30 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.

(10) "Alternative monitoring system" means any method approved by the commissioner and/or the Administrator in writing under subsection (q) 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.

(11) "Authorized Account Representative" or "AAR" means, for a Budget Unit or Opt-in 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-2002 NO_x Budget Program, or, for a general account, the individual authorized to transfer or otherwise dispose of NO_x allowances held in the general account.

(12) "Banked allowance" means a NO_x 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.

(13) "Banking" means the retention, in a compliance, overdraft, or general account, of unused NO_x allowances from one control period for use in a future control period.

(14) "Baseline Electricity Generating Unit" or "Baseline EGU" means a fossil-fuel-fired emissions 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.

(15) "Baseline heat input," for the purpose of an owner or operator of a stationary source opting into this section any or all fossil-fuel-fired emissions units located at such stationary source pursuant to subsection (e) of this section, means the total heat (in MMBTU) derived from the combustion of fuel in each such emissions unit to be opted in, as measured and recorded pursuant to 40 CFR Part 75, throughout a control period.

(16) "Baseline NO_x emission rate," for the purpose of an owner or operator of a stationary source opting into this section any or all fossil-fuel-fired emissions units located at such stationary source pursuant to subsection (e) of this section, means the rate of emissions of NO_x (in lb/MMBTU of heat input) from each such emissions unit to be opted in, as measured and recorded pursuant to 40 CFR Part 75 throughout a control period. The baseline NO_x emission rate shall equal the product of the total NO_x emissions (in lb) of such emissions unit throughout a control period, divided by such emissions unit's baseline heat input during such control period.

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

(18) "Budget Unit" means:

(A) A Baseline Electricity Generating Unit;

(B) A Cogeneration Unit;

(C) An Industrial Unit;

(D) A New Unit; or

(E) A New Electricity Generating Unit.

(19) "Clean Air Act" means the Clean Air Act as amended in 1990 (42 U.S.C. §§ 7401-7626).

(20) "Cogeneration Unit" means a fossil-fuel-fired emissions 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(a)(21) of the Connecticut General Statutes

(21) "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. Except as provided in subsections (c) or (e) of this section, 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.

(22) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to an emissions unit, start-up of such unit's combustion chamber. Except as provided in subsection (c) of this section, for an emissions unit that is a Budget Unit under subsection (b) of this section on the date of commencement of operation, such date shall remain such unit's date of commencement of operation even if such unit is subsequently modified, reconstructed, or repowered. Except as provided in subsections (c) or (e) of this section, for an emissions 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.

(23) "Common stack" means a single flue through which emissions from two or more emissions units are exhausted.

(24) "Compliance account" means the account of a Budget Unit or Opt-in Unit in the NATS that holds NO_x allowances for compliance with this section.

(25) "Conjoined unit" means an emissions unit, other than a Budget Unit or an Opt-in Unit, that emits NO_x through a common stack through which a Budget Unit or Opt-in Unit emits NO_x.

(26) "Connecticut emission budget" means the maximum number of tons of NO_x emissions that Budget Units in Connecticut may emit during a given control period. The Connecticut emission budget is determined by the commissioner in accordance with the Ozone Transport Commission Memorandum of Understanding dated September 27, 1994; *Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone*, published at 63 Federal Register 57356, October 27, 1998; *Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone*, published at 64 Federal Register 26298, May 14, 1998) and the *Memorandum of Understanding Among the States of Connecticut, Massachusetts, Rhode Island, and the U.S. Environmental Protection Agency Regarding the Budgets Under the Nitrogen Oxides State Implementation Plan Call*. The Connecticut emission budget is exclusive of NO_x emissions represented by allowances acquired through interstate transfer pursuant to subdivision (i)(9) of this section, banked from prior control periods pursuant to subsection (j) of this section, and converted from Section 22a allowances pursuant to subsection (h) of this section.

(27) "Connecticut general account" means a general account in the NATS, the AAR of which has a mailing address in Connecticut, as established by the General Account Information form for such general account.

(28) "Continuous emissions 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 Part 75:

(A) Nitrogen oxides pollutant concentration monitor;

(B) Diluent gas monitor (oxygen or carbon dioxide), 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.

(29) "Control period" means the period from May 1 through September 30 of each calendar year beginning May 1, 2003.

(30) "Emissions unit" means any part or 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.

(31) "Excess emissions" means emissions of NO_x from a Budget Unit or Opt-in Unit during a control period, rounded to the nearest whole ton by rounding down for decimals less than 0.5, and rounded up for decimals of 0.5 or greater, which exceed the number of allowances available for compliance, as determined in accordance with subdivision (i)(2) of this section, in the compliance account or overdraft account of such Budget Unit or Opt-in Unit as of the allowance transfer deadline of such control period.

(32) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid or gaseous fuel derived wholly, or in part, from such material.

(33) "Fossil-fuel-fired" means, with regard to an emissions unit:

(A) the combustion of fossil fuel, any derivative of fossil fuel alone, or a combination of fuels, of which fossil fuel comprises more than fifty percent (50%) of the annual heat input (in Btu) in 1990 or any year thereafter; or

(B) the combustion of fossil fuel, any derivative of fossil fuel alone, or a combination of fuels, of which fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input (in Btu), provided that the commissioner shall consider an emissions unit as "fossil-fuel-fired" upon the date such emissions unit begins combusting fossil fuel.

(34) "General account" means an account in the NATS that is not a compliance account or an overdraft account.

(35) "Generator" means a device that produces electricity.

(36) "Heat input" means heat derived from the combustion of fuel in a Budget Unit or Opt-in Unit, exclusive of the heat derived from preheated combustion air, recirculated flue gas, or exhaust from other sources.

(37) "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.

(38) "Industrial Unit" means a fossil-fuel-fired boiler or indirect heat exchanger with a maximum heat input capacity of 250 MMBTU/hr or more.

(39) "Low-mass emissions unit" means a gas- or oil-fired Budget Unit or Opt-in 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 or Opt-in 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)(9), that such Budget Unit or Opt-in 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 or Opt-in 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.

(40) "Maximum heat input capacity" means the ability of a Budget Unit or Opt-in Unit to combust a stated maximum amount of fuel on a steady-state basis, as determined by the physical design and characteristics of such Budget Unit or Opt-in Unit. Maximum heat input capacity is expressed in MMBTU per hour, which is the product of the total gross caloric value of the fuel, expressed in BTU per pound, multiplied by the maximum fuel feed rate in the combustion device, expressed in mass of fuel/hour.

(41) "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.

(42) "New Electricity Generating Unit" or "New EGU" means a fossil-fuel-fired emissions 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.

(43) "New Unit" means a Cogeneration Unit, Industrial Unit, or New Electricity Generating Unit that commences operation on or after May 1, 2001.

(44) "NO_x Allowance" means the limited authorization to emit one (1) ton of NO_x during a specified control period in the year 2003 and each year thereafter.

(45) "NO_x Allowance Tracking System" or "NATS" 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.

(46) "NO_x Emissions Tracking System" or "NETS" means the electronic system used to track NO_x emissions from Budget Units and Opt-in Units.

(47) "Operating," with regard to an emissions unit the owner or operator of which applies to the commissioner to opt-in pursuant to subsection (e) of this section, means having documented heat input for more than 876 hours in the six (6) months immediately preceding the submission of the application to opt in.

(48) "Opt in," "opt into," or "opting in" means to voluntarily participate and agree to be subject to the requirements of this section.

(49) "Opt-in Unit" means a fossil-fuel-fired emissions unit, other than a Budget Unit:

(A) That vents all its NO_x emissions through a stack;

(B) The owner or operator of which applies to the commissioner to opt in pursuant to subsection (e) of this section; and

(C) The opt in application for which is approved by the commissioner in writing.

(50) "Originating account" means the account of a party in an allowance transfer from which NO_x 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.

(51) "Overdraft account" means the account established in the NATS for Budget Units and Opt-in Units at a stationary source that holds NO_x allowances useable for compliance by each such Budget Unit and Opt-in Unit after all the NO_x allowances in the compliance accounts of each such Budget Unit or Opt-in Unit are deducted.

(52) "Regional Administrator" means the administrator of the United States Environmental Protection Agency, Region I.

(53) "Section 22a allowance" means an allowance banked in the compliance account or overdraft account of a Budget Unit, or a Connecticut general account as of January 15, 2003, pursuant to the provisions of section 22a-174-22a of the Regulations of Connecticut State Agencies.

(54) "Trading Region" means the states and jurisdictions implementing a NO_x allowance trading program administered by the Administrator under 40 CFR § 51.121.

(55) "Trading Region emission budget" means the maximum number of tons of NO_x emissions that fossil-fuel-fired emissions units participating in a NO_x allowance trading program implemented in the Trading Region pursuant to 40 CFR § 51.121 may emit during a given control period. The Trading Region emission budget is determined by the Administrator in accordance with *Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of*

Ozone, published at 63 Federal Register 57356, October 27, 1998, and *Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone*, published at 64 Federal Register 26298, May 14, 1998. The Trading Region emission budget is exclusive of NO_x emissions represented by NO_x allowances banked from prior control periods.

(56) "Transferee" means the AAR or Alternate AAR to whom a NO_x allowance is conveyed through a NO_x allowance transfer.

(57) "Transferor" means the AAR or Alternate AAR who conveys a NO_x allowance through a NO_x allowance transfer.

(b) Applicability. Except as provided in subsection (d) of this section, this section shall apply to the owner or operator of a Budget Unit.

(c) Permanent cessation of operations exemption.

(1) 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:

(A) 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:

(i) such Budget Unit has permanently ceased NO_x-emitting operations,

(ii) specifies the date on which NO_x-emitting operations permanently ceased,

(iii) such Budget Unit shall not emit NO_x, starting on the date on which NO_x-emitting operations permanently ceased.

(B) 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;

(C) The owner and operator of such Budget Unit shall retain at the premises where such Budget Unit is located, unless the commissioner approves in writing the use of another location in Connecticut, records 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;

(D) 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 subdivision (t)(1) of this section; and

(E) 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.

(2) A Budget Unit exempt under this subsection is not eligible to opt in under subsection (e) of this subsection.

(3) The owner or operator of such Budget Unit shall again become subject to this section upon the earlier of:

(A) The date on which the owner or operator of such Budget Unit submits an application for a Title V permit under section 22a-174-33 of the Regulations of Connecticut State Agencies or a permit to operate under section 22a-174-3 of the Regulations of Connecticut State Agencies, as appropriate, for such Budget Unit, or

(B) The date on which the owner or operator is required, by statute, regulation, permit, or order, to submit an application for a Title V permit under section 22a-174-33 of the Regulations of Connecticut State Agencies or a permit to operate under section 22a-174-3 of the Regulations of Connecticut State Agencies, as appropriate, for such Budget Unit.

(4) For the purpose of applying the requirements of subsections (l), (m), (n), (o), and (p) of this section, the commissioner shall consider the first date on which the Budget Unit resumes operation as the date such Budget Unit commences operation or commercial operation.

(d) Twenty-five-ton exemption.

(1) Notwithstanding subsection (b) of this section, the owner or operator of a Budget Unit may apply to the commissioner in writing for an exemption from this section, provided such Budget Unit is subject to a federally enforceable permit that:

(A) Restricts such Budget Unit from combusting any fuel other than natural gas or petroleum during a control period in 2003 or later and each control period thereafter;

(B) Restricts such Budget Unit's operating hours during a control period in 2003 or later and each control period thereafter to the number equal to the product of the following equation:

$$50,000 \text{ lbs} \div (HI_{MAX} \times ER_{DEFAULT})$$

Where:

HI_{MAX} = the Budget Unit's maximum heat input capacity (in MMBTU/hour), unless the commissioner determines a lower value is more representative of current capacity, as permanently limited by modifications made to such Budget Unit that are enforceable through permit or order

$ER_{DEFAULT}$ = the highest default NO_x emission rate (in lb/MMBTU of heat input) for the Budget Unit, as established in 40 CFR § 75.19, Table 2

(C) Requires the owner or operator of such Budget Unit to retain 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, records of the type of fuel used and the operating hours during control periods, and any other records relative to the terms of such permit implementing the fuel use restriction in subparagraph (A) of this subdivision and the operating hours restriction in subparagraph (B) of this subdivision; and

(D) Requires the owner or operator of such Budget Unit to report to the commissioner in writing by November 1 of each year in which such permit is federally enforceable such Budget Unit's total hours of operation (treating any partial hour as a whole hour) during each control period.

(2) Subject to subdivision (3) of this subsection, as of the effective date of such

permit, such owner or operator shall be exempt from this section, except for subdivision (d)(1) of this section, provided that if:

(A) Such owner or operator does not comply with the fuel use restriction in subparagraph (1)(A) of this subsection, the operating hours restriction in subparagraph (1)(B) of this subsection, or any other term of such permit implementing such restrictions, or

(B) The fuel use restriction in subparagraph (1)(A) of this subsection, the operating hours restriction in subparagraph (1)(B) of this subsection, or any other term of such permit implementing such restrictions is removed from such permit, or such restrictions become no longer effective,

such owner or operator shall be considered a Budget Unit, and shall be subject to the provisions of this section effective September 30 of the year in which the fuel use restriction in subparagraph (1)(A) of this subsection, the operating hours restriction in subparagraph (1)(B) of this subsection, or any other term of such permit implementing such restrictions is removed from such permit, or in which the owner or operator does not comply with the fuel use restriction in subparagraph (1)(A) of this subsection, the operating hours restriction in subparagraph (1)(B) of this subsection, or any other term of such permit implementing such restrictions.

(3) Nothing herein shall require to commissioner to issue an exemption from the requirements of this section.

(4) Nothing herein shall preclude the commissioner from taking any enforcement action for any violation of the fuel use restriction in subparagraph (1)(A) of this subsection, the operating hours restriction in subparagraph (1)(B) of this subsection, or any other term of such permit implementing such restrictions.

(e) Opt-in provisions.

(1) The owner or operator of a stationary source may opt in any or all operating fossil-fuel-fired emissions units, other than Budget Units, located at such stationary source in the following manner:

(A) The owner or operator shall submit to the commissioner, on forms prescribed by the commissioner, an application to opt-in. Such application shall contain:

(i) identification of the stationary source where the emissions unit is located, by the stationary source name and its Office of Regulatory

Information Systems or facility code assigned by the Energy Information Administration of the United States Department of Energy, if applicable,

(ii) identification of the emissions unit and the Budget Units or Opt-in Units at the stationary source where the emissions unit is located,

(iii) a monitoring plan submitted in accordance with subsection (l) of this section,

(iv) a complete Account Certificate of Representation, in accordance with subdivision (k)(6) of this section, if no AAR has been previously designated for the unit. If the emissions unit to be opted in is located at a stationary source where one or more Budget Units are located, the owner or operator of such emissions unit shall designate the AAR and Alternate AAR of such Budget Units as the AAR and Alternate AAR of such emissions unit,

(v) any supplemental information that the commissioner determines is necessary to review the information required in subparagraphs (i) through (iv).

(B) The commissioner shall review the monitoring plan for sufficiency, and shall deem such monitoring plan sufficient if such monitoring plan appears to contain information demonstrating that the NO_x emission rate and heat input of the unit are monitored and reported in accordance with subsections (n) and (p) of this section.

(C) If the commissioner determines the monitoring plan is sufficient under subparagraph (B) of this subdivision, the owner or operator of the unit shall certify the monitoring system in accordance with subsection (m) of this section.

(D) After the certification of the monitoring system in accordance with subsection (m) of this section, the owner or operator shall monitor such unit's NO_x emissions in accordance with subsection (n) of this section, and report in accordance with subsection (p) of this section for one full control period during which the availability of the monitoring system is not less than ninety percent (90%) and during which the owner or operator of such unit is in full compliance with all applicable state and federal emissions or emissions-related requirements.

(E) Based on NO_x emissions information monitored and reported under

subparagraph (D) of this subdivision, the commissioner shall calculate the unit's baseline heat input, the unit's total NO_x emissions, and the unit's baseline NO_x emission rate.

(F) A NO_x allowance allocation shall be assigned to the Opt-in Unit pursuant to subparagraph (g)(3)(C) of this section. The allocation of NO_x allowances to the Opt-in Unit shall not require adjustments to the allocation of NO_x allowances to any Budget Unit.

(2) The owner or operator of an Opt-in Unit may opt out of this section if the AAR or Alternate AAR of such Opt-in Unit submits a request to opt out in writing to the commissioner. Such request shall:

(A) Request an effective date of the opt out in the period from October 1 through April 30, and

(B) Be submitted to the commissioner at least ninety (90) days before the requested effective date of the opt out.

(3) The commissioner shall approve such request to opt out, provided:

(A) The AAR or Alternate AAR of such Opt-in Unit submits the compliance certification required under subsection (r) of this section for the control period immediately preceding the requested effective date of the opt out;

(B) The Administrator deducts from the compliance account and overdraft account of the Opt-in Unit the NO_x allowances necessary to cover excess emissions emitted during the control period preceding the requested effective date of the opt out, if any, pursuant to subdivision (t)(1) of this section; and

(C) The Administrator deducts from the compliance account and overdraft account of the Opt-in Unit the NO_x allowances allocated to such Opt-in Unit for any control period after the requested effective date of the opt out.

(4) Upon the commissioner's approval to opt out, the commissioner shall notify the AAR or Alternate AAR of the Opt-in Unit in writing of this approval, and specify the effective date of the opt out, which shall be the later of:

(A) The date of the commissioner's approval of the request to opt out; or

(B) The requested effective date of the opt out.

(5) The owner or operator of an Opt-in Unit that has opted out of this section pursuant to this subsection, shall be prohibited from again opting in such Opt-in Unit for a period of four (4) years from the effective date of the opt out, as established by the commissioner's written approval as set forth in subdivision (4) of this subsection.

(6) The commissioner or Administrator shall be authorized to bring an enforcement action against the owner or operator of an Opt-in Unit, who opts out of the provisions of this section, for any failure to meet any requirement of this section that arose during such opt in period.

(f) The Connecticut emission budget.

(1) The Connecticut emission budget is four thousand four hundred seventy-seven (4,477) tons of NO_x during each control period for each of the years beginning 2003.

(2) Notwithstanding subdivision (1) of this subsection, the commissioner shall establish for each Opt-in Unit a separate and individual NO_x emission budget, which shall be allocated to each such Opt-in Unit pursuant to subparagraph (g)(3)(C) of this section.

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

(4) The commissioner shall establish the following accounts in the NATS:

(A) The Connecticut State Account, to hold the Connecticut emission budget for allocation to the compliance accounts of Budget Units and Opt-in Units; and

(B) The Connecticut Retirement Account, to hold NO_x allowances exacted for purposes other than compliance and permanently retired.

(5) Nothing in this section waives or makes less stringent any NO_x reduction requirement imposed on the owner or operator of a Budget Unit or Opt-in Unit pursuant to any order, permit, regulation, or statute administered by the commissioner or the Administrator.

(g) Annual NO_x allowance allocation.

(1) For the control period commencing May 1, 2003 and each control period thereafter, the commissioner shall allocate among the owners or operators of Budget Units, other than New Units, up to four thousand two hundred fifty-three

(4,253) NO_x allowances.

(2) For the control period commencing May 1, 2003 and each control period thereafter, the commissioner shall allocate among the owners or operators of New Units up to two hundred twenty-four (224) NO_x allowances. A New Unit that operates during two (2) control periods, or portions thereof, following the date of commencement of operation shall be considered, for the purpose of NO_x allowance allocation for all control periods thereafter, a Cogeneration Unit, an Industrial Unit, or a New EGU, pursuant to subsection (a) of this section.

(3) By May 1 of 2003 and each year thereafter, the commissioner, in the following manner and order, shall:

(A) Allocate to the compliance account of each Cogeneration Unit, Industrial Unit, and New EGU the number of NO_x allowances equal to the product of the following calculation:

$$(\text{the lowest of } [ER_{0.95RACT} \text{ or } ER_{0.95PERMIT} \text{ or } ER_{ACTUAL}) \times HI_{AVERAGE}) \div 2{,}000$$

Where:

$ER_{0.95RACT}$ = 95% of the unit's NO_x RACT emission rate (in lb/MMBTU of heat input) pursuant to section 22a-174-22 of the Regulations of Connecticut State Agencies during the control period

$ER_{0.95PERMIT}$ = 95% of the unit's permitted NO_x emission rate (in lb/MMBTU of heat input) during the control period

ER_{ACTUAL} = if the unit operated in 1990, the unit's actual NO_x emission rate (in lb/MMBTU of heat input) during the 1990 control period

$HI_{AVERAGE}$ = the unit's actual average heat input (in MMBTU) during the two control periods prior to the year for which NO_x allowances are being allocated

(B) Allocate to the compliance account of each Baseline EGU the number of NO_x allowances equal to the product of the following equation:

$$(A - A_{ALLOCATED}) \times (EO_U \div EO_{TOTAL})$$

Where:

A = 4,253 NO_x allowances

$A_{ALLOCATED}$ = the number of NO_x allowances allocated to Industrial Units, Cogeneration Units, and New EGUs pursuant to subparagraph (3)(A) of this subsection for the current year control period

EO_U = the Baseline EGU's average net electricity output (in MWHR) during the two control periods prior to the year for which NO_x allowances are being allocated

EO_{TOTAL} = the total average net electricity output (in MWHR) of Baseline EGUs during the two control periods prior to the year for which NO_x allowances are being allocated

(C) Allocate to the compliance account of each Opt-in Unit the number of allowances equal to the product of the following equation:

((the lower of ER_{BASE} or ER_P) x (the lower of HI_{BASE} or HI_{ACTUAL})) ÷ 2,000

Where:

ER_{BASE} = the unit's baseline NO_x emission rate (in lb/MMBTU of heat input)

ER_P = the unit's permitted NO_x emission rate (in lb/MMBTU of heat input) during the prior control period

HI_{BASE} = the unit's baseline heat input (in MMBTU)

HI_{ACTUAL} = the unit's actual heat input (in MMBTU) during the prior control period

(4) Prior to the allowance transfer deadline of each control period, 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:

(the lower of 0.15 lb/MMBTU or ER_{PERMIT}) X (the lower of HIR_{MAX} or HIR_{PERMIT}) x HO_{CP} ÷ 2,000

Where:

ER_{PERMIT} = the unit's permitted NO_x emission rate (in lb/MMBTU of heat input) during the control period

HIR_{MAX} = the unit's maximum heat input capacity (in MMBTU/hr)

HIR_{PERMIT} = 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

(B) IF $NUA_{CALCULATED}$ 224, THEN $A_{ALLOCATED} = A_{NU}$. IF $NUA_{CALCULATED} > 224$, THEN $A_{ALLOCATED} = A_{NU}$ x (224 ÷ $NUA_{CALCULATED}$).

Where:

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

$A_{ALLOCATED}$ = 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 subparagraph (5)(A) of this subsection

(C) Allocate to the compliance account of each Baseline EGU the number of NO_x allowances, if any, equal to the product of the following equation:

(224 - $A_{ALLOCATED}$) x (EO_U ÷ EO_{TOTAL})

Where:

$A_{ALLOCATED}$ = the number of NO_x allowances allocated to New Units pursuant to subparagraph (5)(A) of this subsection for the current year control period

EO_U = the Baseline EGU's average net electricity output (in MWHR) during the two control periods prior to the year for which NO_x allowances are being allocated.

EO_{TOTAL} = the total average net electricity output (in MWHR) of Baseline EGUs during the two control periods prior to the year for which NO_x allowances are being allocated.

(h) Conversion of section 22a allowances.

(1) The commissioner shall convert by May 1, 2003, a number of Section 22a allowances allocated for the control periods of 2000, 2001, and 2002, if any, to NO_x allowances in accordance with the following:

(A) The maximum number of NO_x allowances that the commissioner may convert from section 22a allowances and distribute is four hundred seventy-three (473).

(B) If $22a_{CO}$ 473, then $A_{CO} = 22a_{CO}$. If $22a_{CO} > 473$, then $A_{CO} = 473 \times (22a_{CO} \div 22a_{CO})$

Where:

$22a_{CO}$ = the total number of section 22a allowances held by Budget Units or Opt-in Units in compliance accounts and overdraft accounts as of January 15, 2003

A_{CO} = the number of section 22a allowances held by a Budget Unit or Opt-in Unit in its compliance or overdraft account the commissioner shall convert to NO_x allowances, rounded to the nearest whole NO_x allowance

$22a_{CO}$ = the number of section 22a allowances held by a Budget Unit or Opt-in Unit in a compliance or overdraft account

(C) If $22a_{CO} < 473$, then $A_G = (473 - 22a_{CO}) \times (22a_G \div 22a_G)$. If $22a_{CO}$ 473, then $A_G = 0$.

$22a_{CO}$ = the total number of section 22a allowances held by Budget Units or Opt-in Units in compliance accounts and overdraft accounts as of January 15, 2003

A_G = the number of section 22a allowances held by a person in a Connecticut general account the commissioner shall convert to NO_x allowances, rounded to the nearest whole NO_x allowance

$22a_G$ = the number of section 22a allowances held in a Connecticut general account as of January 15, 2003

$22a_G$ = the total number of section 22a allowances held in all Connecticut general accounts as of January 15, 2003

(2) Each NO_x allowance converted from a section 22a allowance shall remain in the compliance account, overdraft account, or general account that held the section 22a allowance from which such NO_x allowance was converted.

(3) Each NO_x allowance converted from a section 22a allowance may be used for compliance with this section only for NO_x emitted during the control periods of 2003 and 2004.

(4) Each Section 22a allowance not converted to a NO_x allowance pursuant to this subsection shall be deemed a Discrete Emission Reduction Credit, and may be used, subject to the written approval of the commissioner, 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.

(i) 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 (f) of this section, the NO_x allowance allocation procedure set forth in subsection (g) of this section, the NO_x allowance penalties identified in

subsection (t) 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 or Opt-in 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 Opt-in Unit, or submit a valid NO_x allowance transfer request in accordance with subparagraph (9)(A) of this subsection that will transfer NO_x allowances available for compliance with this section into the compliance account or overdraft account of such Budget Unit or Opt-in 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 or Opt-in 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 (l), (m), (n), (o), and (p) 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 or Opt-in 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 or Opt-in Unit upon such use.

(6) Emission offsets required for new or modified major stationary sources of NO_x must be obtained in accordance with section 22a-174-3 of the Regulations of Connecticut State Agencies, and are subject to the offset requirements of section 173 of the Clean Air Act. NO_x allowances under this section may not be used as offsets. However, if the owner or operator of a Budget Unit or Opt-in Unit:

(A) Reduces the emissions of such Budget Unit or Opt-in Unit such that not all NO_x allowances are used, and

(B) Where the unused NO_x allowances represent real reductions in actual annual emissions, these unused NO_x allowances may be approvable for use as offsets under the Regulations of Connecticut State Agencies. In no instance may emission reductions be used to simultaneously satisfy both the requirements of this section and the offset requirements set forth in section 22a-174-3 of the Regulations of Connecticut State Agencies. Upon the approval of unused NO_x allowances for use as offsets, the commissioner shall permanently adjust the emission budget commensurate with the number of unused NO_x allowances approved for use as offsets.

(7) If such owner or operator transfers such emission reductions as offsets to sources of NO_x not participating in a NO_x allowance trading program administered by the Administrator under 40 CFR § 51.121, such owner or operator shall surrender the NO_x allowances representing the emissions reductions in an amount equivalent to the emission reductions transferred off-budget. This subdivision is inapplicable if the source receiving offsets opted into a NO_x allowance trading program administered by the Administrator under 40 CFR § 51.121 before its construction approval was granted.

(8) NO_x allowances allocated pursuant to this section may be transferred to persons in other states participating in a NO_x allowance trading program administered by the Administrator under 40 CFR § 51.121. The owner or operator of a Budget Unit or Opt-in Unit may acquire NO_x allowances from persons in other states participating in a NO_x allowance trading program administered by the Administrator under 40 CFR § 51.121.

(9) 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 subject 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 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 or Opt-in Unit, the statement of certification provided in subdivision (k)(12) of this section,

(ii) for the transferor representing the owner of a general account, the statement of certification provided in subdivision (k)(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 NATS.

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

(j) 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) Unless otherwise provided by subdivision (3) of this subsection, 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.

(3) Use of banked NO_x allowances.

(A) As determined by the Administrator before May 1, 2004, and annually thereafter, the total number of banked NO_x allowances in the Trading Region, shall be used to determine the number of banked NO_x allowances in each compliance account, overdraft account, and general account that shall be used for compliance in the forthcoming control period on a one-for-one basis and that shall be used for compliance on a two-for-one basis.

(B) If the total number of banked NO_x allowances in the Trading Region is less than or equal to ten percent (10%) of the Trading Region emission budget for the forthcoming control period, all banked NO_x allowances may be used for compliance for the forthcoming control period on a one-for-one basis.

(C) If the total number of banked NO_x allowances in the Trading Region exceeds ten percent (10%) of the Trading Region emission budget for the current year control period, in accordance with subparagraph (D) of this subdivision, the following ratio, as computed by the Administrator, shall determine the number of banked NO_x allowances that shall be used for compliance for the forthcoming control period on a one-for-one basis and the number of NO_x allowances that shall be used for compliance for the forthcoming control period on a two-for-one basis in the current year control period:

$$(0.1 \times B_{REGION}) \div A_{BANKED}$$

Where:

B_{REGION} = the Trading Region emission budget of the forthcoming control period

A_{BANKED} = the total number of banked NO_x allowances in the Trading Region

(D) The product of the formula in subparagraph (C) of this subdivision shall be applied to the banked NO_x allowances in each account to yield the number of banked NO_x allowances in the account that shall be used for

compliance for the forthcoming control period on a one-for-one basis. NO_x allowances in excess of this number shall be used for compliance for the forthcoming control period on a two-for-one basis.

(k) The NO_x Allowance Tracking System.

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

(A) The compliance account or overdraft account established for each Budget Unit and Opt-in Unit;

(B) The NO_x allowances allocated to each Budget Unit and Opt-in Unit;

(C) The NO_x allowances deducted from the compliance account or overdraft account of each Budget Unit and Opt-in Unit for compliance with this section;

(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 and Opt-in 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 NATS:

(A) the name of the owner or operator of such Budget Unit or Opt-in Unit; and

(B) The name, mailing address, and telephone number of the AAR and Alternate AAR.

(3) Budget Units and Opt-in Units at a stationary source shall have an overdraft account with a unique account number assigned by the Administrator. Each Budget Unit and Opt-in 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 or Opt-in Unit have been deducted. For each overdraft account, the following information shall be recorded and maintained by the Administrator in the NATS:

(A) the name of the owners or operators of such Budget Units or Opt-in 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 NATS. 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 NATS:

(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 or Opt-in 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 and Opt-in 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 or Opt-in 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 or Opt-in Unit shall designate an AAR, and an Alternate AAR, if desired, by submitting a signed, original Account Certificate of Representation to the Administrator, and a photocopy of such Account Certificate of Representation to the commissioner. Such designation shall become effective upon the Administrator's receipt of the Account Certificate of Representation and recording of the information therein in the NATS. The Account Certificate of Representation shall contain, at a minimum, the following:

(A) Identification of the stationary source where such Budget Unit or Opt-in Unit is located, and of each Budget Unit and Opt-in Unit at such stationary source;

(B) The name, address, telephone number, facsimile number (if any), and e-mail 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 or Opt-in 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 or Opt-in Unit at the stationary source. I certify that I have all the necessary authority to carry out my duties and responsibilities under section 22a-174-22b of the Regulations of Connecticut State Agencies on behalf of the owners and operators of the stationary source and of each Budget Unit or Opt-in 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, Budget Unit, or Opt-in 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, and a photocopy to the commissioner. 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 NATS. 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;

(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-l74-22b 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 July 1, 2002.

(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 or Opt-in 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 NATS.

(11) Within thirty (30) days following any change in the owners and operators of a Budget Unit or Opt-in Unit, or of a stationary source at which more than one Budget Unit or Opt-in Unit is located, the AAR or Alternate AAR of such Budget Unit or Opt-in Unit, or of Budget Units and Opt-in 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, with a photocopy to the commissioner.

(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 or Opt-in 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 or Opt-in 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 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.

(l) Emissions monitoring plans.

(1) The owner or operator of a Budget Unit or Opt-in 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 Part 75, Subpart H.

(2) The owner or operator of a Budget Unit or an Opt-in 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 Part 75, Subpart H in lieu of the information required under 40 CFR § 75.53.

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

(1) The owner or operator of a Budget Unit or Opt-in Unit subject to an acid rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR Part 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 subdivision (q) (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 or Opt-in Unit not subject to an acid rain emissions limitation, and the owner or operator of a Budget Unit or Opt-in 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 initial certification and recertification procedures, provided that the owner or operator of a Budget Unit or Opt-in 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 or Opt-in Unit that qualifies to use an alternative monitoring system under 40 CFR Part 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 Part 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 (n) (3) through (n) (7) of this section. In addition, if such owner or operator installs a monitoring system to comply with the requirements of 40 CFR Part 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 Part 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 or Opt-in 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 (p)(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 Part 75, Subpart H. A complete certification application shall include the information specified in 40 CFR Part 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 Part 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 Part 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 Part 75, a written notice of approval of the certification application will be issued within one hundred days (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 Part 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 (n)(14) 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 or Opt-in 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):

(aa) 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 Opt-in Unit,

(bb) 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 Part 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 or Opt-in 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 or Opt-in Unit that reports on an annual basis under subsection (p)(3) of this section, and:

(i) that commences operation on or before its compliance deadline under subdivisions (n)(3) through (n)(7) 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

(ii) that commences operation after its compliance deadline under subdivisions (n)(3) through (n)(7) 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 or Opt-in Unit that reports on a control period basis under subsection (p)(3) of this section, and;

(i) that commences operation on or before its compliance deadline under subdivisions (n)(3) through (n)(7) 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 (n)(3) through (n)(7) 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 (n)(3) through (n)(7) 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 (n)(3) through (n)(7) 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 or Opt-in Unit applying to monitor using an alternative monitoring system approved by the Administrator and, if applicable, the commissioner under 40 CFR Part 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 certification according to the procedures specified in subparagraphs (2)(C) through (2)(G) of this subsection

and 40 CFR § 75.20(f).

(5) The AAR and Alternate AAR of a Budget Unit or Opt-in 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 Part 75, Subpart H.

(n) Emissions monitoring.

(1) The owner and operator of a Budget Unit or Opt-in Unit shall comply with the monitoring and reporting requirements contained in 40 CFR Part 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 Part 75 shall be replaced by the terms "Budget Unit or Opt-in 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 or Opt-in Unit shall:

(A) Install all monitoring systems required under 40 CFR Part 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 or Opt-in 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 Part 75;

(B) Successfully complete all certification tests required under subsection (m) of this section, as applicable, and meet all other provisions of subsections (l), (m), (n), (o), and (p) and 40 CFR Part 75 applicable to the monitoring systems described in subparagraph (2)(A) of this subsection; and

(C) Record and report to the commissioner all data from the monitoring systems under subparagraphs (2)(A) of this subsection.

(3) The owner or operator of a Budget Unit or Opt-in Unit that commences operation before January 1, 2002, shall comply with the requirements of this subsection by May 1, 2002.

(4) The owner or operator of a Budget Unit or Opt-in Unit that commences operation

on or after January 1, 2002, and that reports NO_x emissions on an annual basis under subdivision (p)(3) of this section shall comply with the requirements of this subsection by the later of the following dates:

(A) May 1, 2002, or

(B) The earlier of:

(i) one hundred eighty (180) days after the date on which such Budget Unit or Opt-in Unit commences operation or,

(ii) for a Cogeneration Unit or a New EGU, or a New Unit or Opt-in 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 or Opt-in Unit that commences operation on or after January 1, 2002, and that reports NO_x emissions on a control period basis under subdivision (p)(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 or Opt-in Unit commences operation, or

(ii) for a Cogeneration Unit or a New EGU, or a New Unit or Opt-in 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 or Opt-in 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 (p)(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 fossil-fuel-fired emissions unit that has submitted an opt in application in accordance with subsection (e) of this section that has not been denied by the commissioner or withdrawn by such owner or operator shall comply with the requirements of this subsection by the dates specified under subsection (e) of this section.

(8) The owner or operator of a Budget Unit or Opt-in 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 the date and hour that such Budget Unit or Opt-in Unit commences operation until all certification tests are successfully completed.

(9) The owner or operator of a Budget Unit, Opt-in 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 (q) of this section.

(10) The owner or operator of a Budget Unit, Opt-in 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, Opt-in 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 Part 75, except as provided in 40 CFR § 75.74.

(11) The owner or operator of a Budget Unit, Opt-in Unit, or conjointed 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 Part 75, except as provided for in 40 CFR § 75.74.

(12) The owner or operator of a Budget Unit, Opt-in 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 is subject to the exemption provided in subsection (d) of this section;

(B) During the period that the owner or operator of such Budget Unit, Opt-in Unit, or conjoined unit monitors emissions from such Budget Unit, Opt-in 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 Part 75, for use at such Budget Unit, Opt-in Unit, or conjoined unit that provides emission data for the same pollutants or parameters as the retired or discontinued monitoring system; or

(C) 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 (m) of this section, as applicable.

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

(14) 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 (m) of this section or the applicable provisions of 40 CFR Part 75, both 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 (m) of this section for each disapproved system or component.

(15) 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 SO_2 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).

(16) If any low-mass emissions unit fails to provide the required annual demonstration of subdivision (15) of this subsection, such that the calculated cumulative year-to-date emissions for the unit exceed twenty-five (25) tons of SO_2 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 SO_2 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 SO_2 or the fifty (50) ton limit for NO_x to install certify, and report SO_2, NO_x, and CO_2 emissions from monitoring systems that meet the requirements of 40 CFR §§ 75.11, 75.12, and 75.13.

(17) If any low-mass emissions unit fails to provide the required control period demonstration of subdivision (15) 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.

(o) Record keeping.

(1) The owner or operator of a Budget Unit or Opt-in 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 or Opt-in Unit shall retain such records for a period of five (5) years at the premises where such Budget Unit or Opt-in 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 of operator of such Budget Unit or Opt-in Unit to retain such records for a period longer then five (5) years.

(3) The records and documents required by this subsection shall be made available to the commissioner upon the request of the commissioner.

(p) Reporting.

(1) If the AAR and Alternate AAR of a Budget Unit or Opt-in Unit subject to an acid rain emissions limitation who signed and certified any submission made under Subparts F or G of 40 CFR Part 75 that included data and information required under this subsection or 40 CFR Part 75, Subpart H is not the same person as the designated representative or the alternative designated representative for the such Budget Unit or Opt-in Unit under 40 CFR Part 72, the submission must also be signed by the designated representative or the alternative designated representative.

(2) The AAR and Alternate AAR of a Budget Unit or Opt-in Unit shall submit notifications required under 40 CFR § 75.61 to the commissioner and the Administrator in accordance with the provisions of 40 CFR § 75.61, provided that if such Budget Unit or Opt-in 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 or Opt-in Unit shall submit quarterly reports in the following manner:

(A) If such Budget Unit or Opt-in Unit is subject to an acid rain emission limitation, or if the owner or operator of such Budget Unit or Opt-in Unit elects to comply with the annual reporting requirements of this section, the AAR and Alternate AAR of such Budget Unit or Opt-in Unit shall submit a quarterly report for each calendar quarter beginning:

(i) for a Budget Unit or Opt-in Unit that commences operation before May 1, 2002, the earlier of:

(aa) the calendar quarter that includes the date of initial provisional

certification under subparagraph (m)(2)(E) of this section or,

(bb) if the certification tests are not completed by May 1, 2002, the partial calendar quarter from May 1, 2002 through June 30, 2002.

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, 2002.

(ii) for a Budget Unit or Opt-in Unit that commences operation after May 1, 2002, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when such Budget Unit or Opt-in Unit commenced operation.

(B) If such Budget Unit or Opt-in 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 Part 75 during the entire year and meet the reporting deadlines specified in subparagraph (A) of this subdivision; or

(ii) if such Budget Unit or Opt-in 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(d)(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:

(aa) for a Budget Unit or Opt-in Unit that commences operation before May 1, 2002, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (m)(2)(E) of this section, or if the certification tests are not completed by May 1, 2002, the partial calendar quarter from May 1, 2002 through June 30, 2002. 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, 2002.

(bb) for a Budget Unit or Opt-in Unit that commences operation

after May 1, 2002 during a control period, the calendar quarter in which such Budget Unit or Opt-in Unit commences operation. Data shall be reported from the date and hour corresponding to when such Budget Unit or Opt-in Unit commenced operation.

(cc) for a Budget Unit or Opt-in Unit that commences operation after May 1, 2002, 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 subparagraph (m)(2)(E) of this section or, if the certification tests are not completed by May 1 of the year in which such Budget Unit or Opt-in Unit commences operation. May 1 of the year in which such Budget Unit or Opt-in 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 the unit commences operation.

(dd) for a Budget Unit or Opt-in Unit that commences operation after May 1, 2002, and after September 30 of the year in which such Budget Unit or Opt-in Unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subparagraph (m)(2)(E) of this section or, if the certification tests are not completed by May 1 of the year after such Budget Unit or Opt-in Unit commences operation, May 1 of the year after such Budget Unit or Opt-in 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 or Opt-in Unit commences operation.

(C) The AAR and Alternate AAR of a Budget Unit or Opt-in 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 Part 75, Subpart H and 40 CFR Section 75.64 provided:

(i) for a Budget Unit or Opt-in Unit subject to an acid rain emissions limitation, such quarterly reports shall include all of the data and information required under 40 CFR Part 75, Subpart H for each such Budget Unit or Opt-in Unit or group of Budget Units or Opt-in Units venting emissions through a common stack, and all of the data and

information required under 40 CFR Part 75, Subpart G; and

(ii) for a Budget Unit or Opt-in Unit not subject to an acid rain emissions limitation, quarterly reports shall include only the data and information required under 40 CFR Part 75, Subpart H For each such Budget Unit or Opt-in Unit or group of Budget Units or Opt-in Units venting emissions through a common stack.

(D) The AAR or Alternate AAR of a Budget Unit or Opt-in 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 Part 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 or Opt-in Unit and any substitute values derived in accordance with 40 CFR Section 75.34(a)(1) do not systematically underestimate NO_x emissions,

(iii) for a Budget Unit or Opt-in 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 Part 75 Subpart D Are calculated using only values from a control period and do not systematically underestimate NO_x emissions.

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

(1) The AAR or Alternate AAR of a Budget Unit or Opt-in 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 (l), (m), (n), (o), and (p) of this section, provided:

(A) Application of an alternative to any requirement of subsections (l), (m), (n), (o), and (p) 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 or Opt-in 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 (l), (m), (n), (o), and (p) of this section, provided:

(A) The AAR and Alternate AAR of a Budget Unit or Opt-in 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 (l), (m), (n), (o), and (p) 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.

(r) Compliance certification.

(1) For each control period, the AAR or Alternate AAR of a Budget Unit or Opt-in Unit shall submit a compliance certification to the commissioner and the Administrator no later than November 30 following each such control period.

(2) The compliance certification shall contain, in a format prescribed by the Administrator:

(A) Identification of each Budget Unit or Opt-in Unit located at a stationary source;

(B) At the option of the AAR or Alternate AAR, the serial numbers of the NO_x allowances to be deducted from the compliance account of each Budget Unit or Opt-in Unit to cover NO_x emissions emitted during the preceding control period;

(C) At the option of the AAR or Alternate AAR, for Budget Units or Opt-in Units sharing a common stack and having NO_x emissions that are not monitored separately or apportioned in accordance with subsections (l),

(m), (n), (o), and (p) of this section, the percentage of NO_x allowances to be deducted from the compliance account of each such Budget Unit or Opt-in Unit to cover NO_x emissions emitted during the preceding control period;

(D) A statement whether each Budget Unit or Opt-in Unit for which the compliance certification is submitted operated during the control period covered by the compliance certification in compliance with the applicable requirements of this section;

(E) A statement whether each Budget Unit or Opt-in Unit operated in compliance with the NO_x allowances allocated for the control period, including those obtained through transfer by the allowance transfer deadline, and whether NO_x allowances available for compliance, as determined in accordance with subdivision (i)(2) of this section, equal to the emissions recorded during the control period are held in the compliance account of each such Budget Unit or Opt-in Unit;

(F) A statement whether the monitoring plan of each Budget Unit or Opt-in Unit has been maintained to reflect the actual operation and monitoring of each such Budget Unit or Opt-in Unit, and contains all information necessary to attribute NO_x emissions to each such Budget Unit or Opt-in Unit, in accordance with subsections (l), (m), (n), (o), and (p) of this section;

(G) A statement whether all NO_x emissions from each Budget Unit or Opt-in Unit, including Budget Units or Opt-in Units sharing a common stack, were monitored and accounted for through missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with subsections (l), (m), (n), (o), and (p) of this section. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly reports resubmissions has been made;

(H) A statement whether the facts that form the basis for certification under subsections (l), (m), (n), (o), and (p) of each monitor at a Budget Unit or Opt-in Unit or a group of units (including the Budget Unit or Opt-in Unit) using a common stack, or for using an excepted monitoring methodology approved under subsections (l), (m), (n), (o), and (p), if any, has changed. If such facts have changed, the compliance certification shall specify:

(i) the nature of the change,

(ii) the reason for the change,

(iii) the date the change was implemented, and

(iv) the manner in which the compliance status of such Budget Unit or Opt-in Unit was determined after the change was implemented, including what method was used to determine emissions when a change mandated the need for monitor recertification; and

(I) Any other information the commissioner may request.

(3) The commissioner or the Administrator shall have the right to verify compliance with this section by whatever means necessary, including, but not limited to:

(A) Inspecting unit operations records;

(B) Obtaining information on allowance deduction and transfers from the NATS;

(C) Obtaining emissions information from the NETS;

(D) Requiring testing of emission monitoring devices; and

(E) Requiring the Budget Unit to conduct emissions testing under the supervision of the commissioner.

(4) The commissioner and Administrator shall deduct NO_x allowances from or transfer NO_x allowances to the compliance account or overdraft account of such Budget Unit or Opt-in Unit based on information contained in the compliance certification, other submissions, and based on information obtained pursuant to subdivision (3) of this subsection.

(s) Annual reconciliation of NO_x allowances.

(1) Monitored emissions data as reported to the Administrator by the owner or operator of a Budget Unit or Opt-in Unit and as adjusted by the Administrator to be in accordance with subsection (n) of this section, and NO_x allowance allocations, deductions, and transfers recorded in the NATS 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 subdivision (i)(9) of this section for recordation in the compliance account or overdraft account of such Budget Unit or Opt-in 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 or Opt-in 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 (g) 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 or Opt-in Unit, as identified by the AAR or Alternate AAR at his option in the compliance certification submitted pursuant to subsection (r) of this section:

(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 or Opt-in Unit sharing a common stack and having NO_x emissions that are not monitored separately or apportioned in accordance with subsections (l), (m), (n), (o), and (p) 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 or Opt-in 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:

(i) NO_x allowances allocated to such Budget Unit or Opt-in Unit for the control period for which compliance is sought,

(ii) NO_x allowances allocated to any other unit in the Trading Region for the control period for which compliance is sought, and transferred and recorded in the compliance account of such Budget Unit or Opt-in Unit pursuant to subsection (i) of this section, in order their date of recordation,

(iii) NO_x allowances allocated for a control period prior to the control period for which compliance is sought,

(iv) NO_x allowances allocated to any other unit in the Trading Region for a control period prior to the control period for which compliance is sought, and transferred and recorded in the compliance account of such Budget Unit or Opt-in Unit pursuant to subsection (i) of this section, in order their date of recordation;

(C) From the overdraft account, provided that the Administrator shall deduct NO_x allowances held in the overdraft account for each Budget Unit or Opt-in Unit at the stationary source needing NO_x allowances for compliance, beginning with the Budget Unit or Opt-in Unit with the lowest compliance account number, as recorded in the NATS. 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) through (iv) of this subdivision.

(4) If, by the allowance transfer deadline, a Budget Unit or Opt-in 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 (i)(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 or Opt-in Unit shall be subject to enforcement action and allowance adjustments pursuant to subsection (t) of this section.

(t) NO_x allowance adjustments and penalties.

(1) For any control period during which a Budget Unit or Opt-in Unit emits excess emissions, the Administrator shall deduct NO_x allowances from the compliance account or overdraft account of such Budget Unit or Opt-in Unit for the next control period at a rate of three (3) NO_x allowances for every one (1) ton of excess emissions and permanently retired.

(2) If a Budget Unit or Opt-in 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 or Opt-in 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.