



COLORADO

Air Quality Control Commission

Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 27 - Greenhouse Gas Emissions and Energy Management for Manufacturing

5 CCR 1001-31

Subject:

The Air Quality Control Commission (Commission) will hold a rulemaking hearing to consider limited revisions to Regulation Number 27 to improve the functionality of the regulation's programs, clarify existing requirements and compliance pathways, and increase transparency for the public. The revisions are intended to be limited to, and the hearing will address, potential revisions addressing: cleanup, clarification, and updates to certain aspects of the rule; typographical, grammatical, formatting, and streamlining updates throughout the regulation; alignment of definitions, requirements, and deadlines across state law and among the regulated entities; improved requirements for data completeness, accuracy, and market integrity, including regarding annual emissions reports for covered facilities, greenhouse gas (GHG) credit transfers, and GHG credit quantities; potential changes to federal reporting requirements and the federal ENERGY STAR® Program; and updates to the credit and trading system, including regarding credit issuance and the auction process. The hearing will not address fundamental changes to how the programs operate, including emission reduction requirements or the GHG credit and trading system.

Reasonably Available Information:

The Commission hereby requests that all persons that will incur costs relating to complying with the proposed rule submit information directly relating to their anticipated costs of complying with the proposed rule as soon as possible and no later than June 4, 2026. Pursuant to section 25-7-110.5(4)(c), C.R.S., any information not submitted will not be considered to be reasonably available and will not be considered as part of the economic impact analysis of the proposed rule.

All required documents for this rulemaking can be found on the Commission website at: <https://cdphe.colorado.gov/aqcc>

More general information regarding the Commission’s rulemaking process, together with the templates to be used for filings as specified below, is available by accessing the Commission’s Rulemaking Guidebook (English and Spanish) at <https://cdphe.colorado.gov/aqcc-public-participation-and-hearing-guidance>

Public Hearing Schedule:

Date: July 15, 2026
Time: 4:30 p.m. to 7:30 p.m.
Place: The session will be held online only; there will be no in-person participation. Details related to participation and registration can be found at: <https://cdphe.colorado.gov/aqcc>

Date: July 16 & 17, 2026
Time: To begin at 9 a.m. on July 16 and on or after 8:00 a.m. on July 17.
Place: The hearing will be held in hybrid fashion both in-person and via Zoom. Details related to participation and registration can be found at: <https://cdphe.colorado.gov/aqcc-public-participation-and-hearing-guidance>

The hearing may be continued at such places and time as the Commission may announce. Any such changes will be noticed on the Commission’s website. Interested parties may contact the Commission Office at cdphe.aqcc@state.co.us to confirm meeting details.

Public Comment:

The Commission encourages input from the public, either orally during the public comment session or in writing prior to the hearing; however, to maximize the opportunity for interested persons to provide comment, the Commission requests that parties who have submitted written comments refrain from repeating those comments during the oral public comment session. Oral public comment will generally not be permitted by persons who offer comment on behalf of an entity that is a Party. Those persons may, however, submit written public comments.

Instructions for registering to provide oral public comment will be posted in the agenda on the Commission’s website at <https://cdphe.colorado.gov/aqcc>.

The agenda will provide more specifics about the details of the hearing and when the public can expect the public comment session to take place.

Written comments should be submitted no later than **July 10th by 3 p.m.**

Electronic submissions should be emailed to: cdphe.aqcc@state.co.us

Written submissions should be mailed to:

Air Quality Control Commission
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, EDO-AQCC-A5
Denver, Colorado 80246

Important Dates and Deadlines:

***all filings are due by 3:00 p.m. (MT) on the due date unless otherwise noted**

PROCESS DESCRIPTION	DUE DATE & TIME
Request for Party Status	March 12, 2026
Initial Comments and Redlines	April 9, 2026
Opposition to Redlines	April 16, 2026
Revised Proposal(s) and Response to Initial Comments	May 7, 2026
Position Statements and Final Redlines	June 4, 2026
Final Rule Proposal	July 1, 2026 (subject to change)
Confirmation of Alternate Proposals	July 8, 2026
Written Public Comments	July 10, 2026
Presentation Slides (PDF format)	July 10, 2026 by 12:00 p.m. (MT)

Submittals for this hearing should be emailed to cdphe.aqcc@state.co.us unless an exception is granted pursuant to Subsection III.L.3. of the Commission's Procedural Rules (unless specified otherwise, all references to the Commission's Procedural Rules are to Part B).

Request for Party Status:

Party status is required for any person who: (1) submits Redlines; (2) intends to submit Initial Comments on the rule proposal as described in Section V.D.1. of the Commission's Procedural Rules; or (3) intends to provide testimony during the rulemaking hearing.

A request for party status must be made on the form provided on the Commission's website and must, at minimum:

- 1) identify the applicant (this could be a company and/or contact name);
- 2) provide the name, address, telephone number, and email address of the applicant and the applicant's representative or counsel;
- 3) briefly summarize what, if any, policy, factual, and legal issues the applicant has with the proposal(s) as of the time of filing the application; and If applicable,
- 4) a statement of how the applicant participated in the prepetition engagement process described in Section V.A.1. of the Commission's Procedural Rules.

The request for party status must be electronically mailed to:

- Air Quality Control Commission Administrator: jeramy.murray@state.co.us
- Air Quality Control Commission staff: cdphe.aqcc@state.co.us
- Air Quality Control Commission attorney: robyn.wille@coag.gov
- Air Quality Control Commission attorney: cory.haller@coag.gov
- Air Pollution Control Division staff: megan.mccarthy@state.co.us
- Air Pollution Control Division staff: cecilia.white@state.co.us
- Air Pollution Control Division attorney: david.beckstrom@coag.gov
- Air Pollution Control Division attorney: mark.nitczynski@coag.gov
- Air Pollution Control Division paralegal: airsupport@coag.gov

Late party status will not be granted after the Initial Comments deadline, unless good cause for a late request is shown. Failure to comply with the prehearing procedures or any order of the Hearing Officer or Commission may result in the loss of party status or other consequences, at the discretion of the Hearing Officer.

The following is intended to provide a summary of the requirements imposed by the Commission's Procedural Rules on Parties. It is not, however, intended to be exhaustive, and Parties should carefully review the requirements of the Commission's Procedural Rules.

Initial Comments and Redlines

Initial Comments and Redlines must be filed by electronic mail pursuant to the provisions of Section III.L. of the Commission's Procedural Rules and served on all Parties. Initial Comments and Redlines must be submitted using the template provided on the Commission's website.

Opposition to Redlines:

Any comments filed by a Party in opposition to Redlines based on whether the Redlines are within the scope of the rulemaking notice must be filed using the template available on the Commission's website.

Position Statements and Final Redlines

Requirements for Position Statements

- All Parties intending to participate at the Rulemaking hearing, including the rule Proponent, must submit a Position Statement. The Hearing Officer may set page limits for Position Statements in a prehearing order as described in Section V.E.6 of the Commission's Procedural Rules.
- The Position Statement must be filed and served no later than the date specified in this Notice of Rulemaking Hearing.
- The Position Statement must be filed by electronic mail pursuant to the provisions of Section III.L. of the Commission's Procedural Rules, and served on all Parties, submitted using the template provided on the Commission's website.
- Parties may file updated Redlines with Position Statements. Redlines submitted with Position Statements may address only those issues raised in previous Redlines submitted pursuant to Section V.D.1. of the Procedural Rules unless:
 - They are responsive to other Parties' Initial Comments and Redlines or the Proponent's Response to Initial Comments and Revised Proposal, and
 - They address issues that could not have been raised in Redlines submitted pursuant to Section V.D.1. of the Procedural Rules

Alternate Proposal:

Any person who wishes to propose a previously submitted Redline as an alternative to the Final Proposed Rule shall comply with the filing requirements of Section V.D.8. of the Commission's Procedural Rules. The required documents should be filed by the date specified in this Notice of Rulemaking Hearing. However, the final economic impact analysis must be filed at least five working days prior to the rulemaking hearing.

Deliberations and Final Action:

The Commission intends to deliberate and take final action on the proposed changes to these Regulations at the conclusion of the testimony.

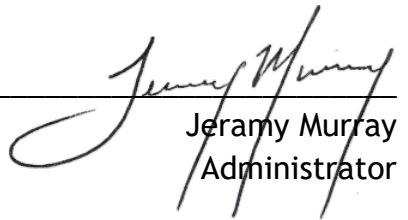
Legal Authority for the Commission's Actions:

The Colorado Air Pollution Prevention and Control Act, section 25-7-101, C.R.S., et seq. (the State Air Act or the Act), specifically section 25-7-105(1), C.R.S., directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in section 25-7-102, C.R.S., and that are necessary for the proper implementation and administration of Article 7, including, but not limited to, regulations necessary for statewide GHG abatement consistent with the statewide GHG pollution reduction goals in section 26-7-102(2)(g), C.R.S. Section 25-7-106(1)

provides the Commission maximum flexibility in developing an effective air quality program and promulgating such a combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106(6), C.R.S., further authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information.

Dated this 23 day of February, 2026 at Denver, Colorado

Air Quality Control Commission


Jeremy Murray
Administrator

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 27

Greenhouse Gas Emissions and Energy Management for Manufacturing

5 CCR 1001-31

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Outline of Regulation

- PART A General Provisions
 - PART B GEMM 2 Facility Requirements
 - PART C Energy-Intensive Trade-Exposed Stationary Source Requirements
 - PART D Greenhouse Gas Credit Trading
 - PART E Statements of Basis, Specific Statutory Authority and Purpose
-

Pursuant to Colorado Revised Statutes § 24-4-103-(12.5), materials incorporated by reference are available for public inspection during normal business hours, or copies may be obtained at a reasonable cost from the Air Quality Control Commission (the Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference is also available through the United States Government Printing Office, online at www.govinfo.gov. Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

PART A General Provisions

- I. Purpose and Applicability
 - I.A. The purpose of this regulation is to require manufacturing stationary sources to reduce greenhouse gas (GHG) emissions pursuant to § 25-7-105(1)(e), C.R.S., (2023).
 - I.B. This regulation applies to manufacturing stationary sources with annual direct GHG emissions equal to or greater than 25,000 metric tons of CO₂e per year, ~~as reported pursuant to Regulation Number 22, Part A.~~ Once a manufacturing stationary source reports annual direct GHG emissions equal to or greater than 25,000 metric tons of CO₂e per year, ~~as reported pursuant to Regulation Number 22, Part A, or U.S. Environmental Protection Agency's (EPA) Greenhouse Gas Reporting Program (Title 40, Part 98, of the Code of Federal Regulations (CFR)) (Part 98),~~ on or after the year 2015, the requirements of Regulation Number 27 continue to apply even if the source reports less than 25,000 metric tons of CO₂e in direct GHG emissions for any year thereafter.
 - I.C. If any section, clause, phrase, or standard contained in this regulation is for any reason held to be inoperative, unconstitutional, void, or invalid, the validity of the remaining portions thereof will not

be affected and the Commission declares that it severally passed and adopted these provisions separately and apart.

II. Definitions

- II.A. “2015 GHG emissions” means the net direct GHG emissions reported in metric tons of CO₂e by a GEMM 2 facility ~~to the EPA’s Greenhouse Gas Reporting Program (40 CFR, Part 98, Subparts C through JJ)~~, for calendar year 2015.
- II.B. “2030 social cost of GHGs” means for carbon dioxide, \$89 per metric ton of carbon dioxide; for methane, \$2,500 per metric ton of methane; for nitrous oxide, \$33,000 per metric ton of nitrous oxide; and for all other greenhouse gases, the corresponding cost of CO₂e.
- II.C. “40 CFR, Part 98” means the U.S. Environmental Protection Agency’s (EPA) Greenhouse Gas Reporting Program per Title 40, Part 98, of the Code of Federal Regulations (CFR) (as of January 1, 2025).
- II.D. “Active GHG credits” means the GHG credits in a manufacturing stationary source’s or midstream company’s credit account that are not on hold for the annual auction process, previously retired in the GHG crediting and tracking system pursuant to Part D, or cancelled through an administrative process such that those GHG credits may not be sold or used for compliance purposes.
- II.EE. “Additional emissions reductions” means GHG emission reductions that exceed any GHG emission reductions otherwise required by law, regulation, or other legally binding ~~mandate~~requirement.
- II.DF. “Alternate account representative” means an individual designated pursuant to Part D, Section II.DG. to take actions on their manufacturing stationary source or midstream company credit account(s).
- II.EG. “Annual emissions limitation” means the number of metric tons of CO₂e an eEnergy-intensive, tTrade-eExposed (EITE) stationary source may emit, as calculated in Part C, Section III.A.1.
- II.FH. “Auction” means the process of creating a market for the voluntary sale of GHG credits by taking bids from potential GHG credit buyers, taking offers from potential GHG credit sellers, determining which GHG credits buyers purchased, determining how many GHG credits will be sold and to which buyers, and determining the auction settlement price. The auction will not collect payment from winning bidders but will instead instruct buyers to which sellers they must direct payment.
- II.GI. “Auction administrator” means the Division or the Division’s agent charged with administering an annual auction for the voluntary sale of GHG credits.
- II.JH. “Auction settlement price” means the price announced by the auction administrator at the conclusion of each annual auction pursuant to Part D, Section IV.
- II.KI. “Audit plan” means the proposed audit scope, timelines and team submitted by the EITE stationary source to the Division for approval pursuant to Part C.
- II.LJ. “Audit report” means the resulting document from the audit containing all the information and data required under Part C.
- II.MK. “Audit scope” means the GHG emission units and the energy consumption sources included in the energy and emissions control audit and identified in the approved audit plan.

II.NE. “Audit team” means one or more persons performing the audit. The audit team must consist of at least one qualified third-party auditor. Additional capabilities and knowledge of the audit team must include, but are not limited to, technical expertise with specific operating and maintenance practices for the industry being audited; expertise in conducting GHG and energy management system audits; and expertise of the EITE stationary source’s domestic and international market. The audit team must include individual(s) with documented audit expertise in the relevant industrial sector as follows.

II.NE.1. A bachelor’s level college degree or equivalent in science, technology, business, statistics, math, environmental policy, economic, or financial auditing; or evidence demonstrating completion of significant and relevant work experience or other personal development activities that have provided the applicant with the communication, technical, and analytical skills to conduct the audit; and

II.NE.2. Sufficient workplace experience to act as an auditor, including a minimum two years of full-time experience in a professional role that involved emissions data management, emissions technology, emissions inventories, environmental auditing or other technical skills necessary to conduct the audit.

II.O. “Biogenic CO₂” means carbon dioxide emitted from the combustion, decomposition, or processing of biologically-based materials.

II.MP. “Carbon dioxide equivalent” (CO₂e) means a standard used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP). The CO₂e is determined by multiplying the mass amount of emissions (metric tons per year), for each GHG constituent by that gas’s GWP, as defined in Regulation Number 22, Part A, Section II.M., codified in 40 CFR Part 98, Subpart A, Table A-1 (as of December 11, 2014), and summing the resultant values to determine CO₂e (metric tons per year).

II.NO. “Certification body” means a professional organization that has been accredited to issue lead auditor certifications for a specific sector or to a specific standard.

II.OR. “Co-benefits” means the additional benefits associated with the reduction of harmful air pollutants to local communities, including localized air quality benefits.

II.SP. “Colorado EnviroScreen” means Colorado’s interactive environmental justice mapping tool, which compiles 35 environmental, health, and demographic indicators to identify and visualize areas with higher environmental health risks, as of the effective date of the rule. The tool also shows places that meet the statutory definition of a disproportionately impacted community in § 24-4-109(2)(b)(II), C.R.S. (May 23, 2023). For purposes of this regulation, Colorado EnviroScreen refers to Version 2.0.

II.QT. “Combined heat and power unit” (also known as a “cogeneration unit”) means a unit that simultaneously produces both electric power and useful thermal output from the same primary energy source, and may include facilities where electricity is generated from waste steam or is generated by a stationary combustion turbine.

II.RU. “Compliance year” means any year in which a GEMM 2 facility must comply with a GEMM 2 annual GHG emissions requirement.

II.SV. “Credit account” means an account for a manufacturing stationary source, midstream company, gas distribution utility, municipal gas utility, small gas distribution utility, or recovered methane project owner or operator that is created by the Division or its agent, into which the Division or its agent at the Division’s direction issue GHG credits, and from which and/or the manufacturing stationary source and/or the midstream company may transfers GHG credits per Regulation

Number 27 Part D and/or Regulation Number 7, Part B, Section VII to meet the manufacturing stationary source's its compliance obligations or from which the registered gas distribution utility, municipal gas utility, small gas distribution utility, or recovered methane project owner or operator may transfer GHG credits per Regulation Number 22, Part C..

- II.FW. "Direct GHG emissions" means GHG emissions ~~from~~ by a manufacturing stationary source or midstream company that are reported pursuant to Regulation Number 22, Part A (for calendar years 2020 and beyond for all reportable sources, and for calendar years before 2020 for state-only reportable sources), 40 CFR, Part 98 (for calendar years prior to 2020 for non state-only reportable sources), including direct emitter subparts, using global warming potential values from Regulation Number 22, Part A, Section II.M. ~~to the State of Colorado under Regulation Number 22, Part A and/or to the EPA under Part 98 and measured in terms of CO₂e. Biogenic CO₂ is excluded from direct GHG emissions.~~
- II.X. "Direct GHG removals" means biogenic carbon capture and storage or direct air capture and storage projects by or on behalf of a manufacturing stationary source or midstream company or associated GHG sink that are reported pursuant to Regulation Number 22, Part A (for calendar years 2020 and beyond, and for calendar years before 2020 for state-only reportable sources), 40 CFR, Part 98 (for calendar years prior to 2020 for non-state-only reportable sources), including underground injection subparts, or Division-approved GHG accounting protocols, using global warming potential values from Regulation Number 22, Part A, Section II.M..
- II.UY. "Disproportionately impacted communities" (also known as DI communities) means communities that meet the definition in sections 24-4-109(2)(b)(II)(A)-(D) and (F)-(H), C.R.S. These communities are identified as any census block group identified in the Disproportionately Impacted Community Map (November 2024) after selecting the criteria for "Mobile home communities", "Low-income population above 40%", "People of color population above 40%", "Housing cost-burdened population above 50%", "Linguistically isolated population above 20%", "Colorado EnviroScreen percentile score above 80," and "areas under tribal jurisdiction". ~~those communities that meet the definition contained in § 24-4-109(2)(b)(II), C.R.S. (May 23, 2023). For purposes of Regulation Number 27, disproportionately impacted community means any census block group identified in the disproportionately impacted community layer in the most recent version of Colorado EnviroScreen as of the date of the effective rule.~~
- II.VZ. "Energy and GHG emission control audit" (the audit) means a rigorous examination of the GHG emissions and energy consumption of an EITE stationary source with the goal of analyzing and recommending GHG BAECT and energy BMPs, and identifying opportunities for reduction in GHG emissions and energy consumption for the facility, conducted consistent with the requirements set forth in this section.

-
- II.~~WAA~~. “Energy best management practices” (energy BMPs) means the best energy efficiency practices available to the EITE stationary source, based on the maximum degree of energy efficiency that is achievable on a case-by-case basis, taking into account energy, environmental, and economic impacts, and is achievable for such facility through application of production process improvements and available equipment or process control methods, systems, and techniques, and includes incorporating all the key elements of strategic energy management (SEM), such that the facility continually improves its energy performance, reduces energy costs, and reduces GHG emissions associated with energy use.
- II.~~XBB~~. “Energy efficiency” means using less electricity or fuel to produce the same quantity of product or service.
- II.~~YCC~~. “Energy-intensive, trade-exposed manufacturing stationary source” (EITE stationary source) means a source that principally engages in cement and concrete product manufacturing, NAICS code 3273; foundries, NAICS code 3315; iron and steel mills and ferroalloy manufacturing, NAICS code 3311; and/or pulp, paper, and paperboard mills, NAICS code 3221.
- II.~~ZDD~~. “Federal ENERGY STAR ® Program” means the EPA’s voluntary program for industrial manufacturers through which specific energy performance indicators are measured and compared across industries and to which facilities are certified if they are achieving an Energy Star scoring of 75 or greater.
- II.~~AAEE~~. “Gas distribution utility” means a public utility providing gas service to more than ninety thousand retail customers. Gas distribution utility does not include a municipal gas distribution utility.
- II.~~BBFF~~. “GEMM 2 facility” means a stationary source located in Colorado that principally engages in manufacturing activities and directly emits greenhouse gases equal to or greater than 25,000 metric tons per year ~~of CO₂e emissions, as reported pursuant to Regulation Number 22;~~ including any existing EITE stationary source that emits equal to or greater than 25,000 metric tons per year ~~of CO₂e emissions~~ and elects to be regulated under Part B. Manufacturing activities include the mechanical, physical, or chemical transformation of materials, substances, or components into new products. This is limited to facilities with NAICS codes beginning with 31-33.
- II.~~CCGG~~. “GEMM 2 facility GHG baseline emissions” means, for stationary sources qualifying as GEMM 2 facilities as of January 1, 2023, the higher reported ~~direct net~~ GHG emissions from either the 2021 or 2022 calendar year, measured in metric tons of CO₂e, ~~as reported pursuant to Regulation Number 22, Part A., as~~ revised to correct any previous inaccuracies or to account for capital investments between 2015 and 2021 that increased a GEMM 2 facility’s production capacity by over thirty (30) percent, for which additional production, as of 2022, was not yet realized. If a GEMM 2 facility met the criteria for the production-based adjustment, the GEMM 2 facility’s baseline was revised upwards to account for seventy-five (75) percent of the GHG emissions increase resulting from the production capacity expansion, provided, however, that if the GEMM 2 facility met the requirements of Part B, Section I.A.1, its GEMM 2 facility baseline was revised upwards to account for one-hundred (100) percent of the GHG emissions increase resulting from the production capacity expansion.
- II.~~DDHH~~. “GEMM 2 annual GHG emissions requirement” means, for each stationary source qualifying as a GEMM 2 facility as of January 1, 2023, the calculated CO₂e emissions requirement that a GEMM 2 facility must comply with in a calendar year as determined pursuant to Part B, Section I.A.

II. ~~EEI~~. “GHG best available emission control technology” (GHG BAECT) means a GHG emission control technology for a GHG emission unit based on the maximum degree of GHG reductions achievable on a case-by-case basis, taking into account energy, environmental, and economic impacts, employment of which is demonstrated by compliance with the GHG BAECT and energy BMP intensity rate determination.

II. ~~FFJ~~. “GHG BAECT and energy BMP intensity rate” means the ~~total direct~~net GHG emissions per unit of production from the emissions units within the audit scope after GHG BAECT and energy BMPs are operational as determined in Part C.

II. ~~GGK~~. “GHG credit” means a uniquely identifiable and tradable compliance instrument equal to one metric ton of CO₂e reduced, which is generated, issued, transferable, and may be retired pursuant to Part D. The GHG credit must be real, additional, quantifiable, permanent, verifiable, and enforceable, and provide additional emissions reductions beyond a facility’s compliance obligation.

II. ~~HHL~~. “GHG crediting and tracking system” means a GHG credit accounting, tracking, and trading system established by the Division and/or its agent with two separate branches: (1) the recovered methane branch, where recovered methane credits are issued by the Division or its agent at the Division’s direction into the credit accounts of gas distribution utilities, municipal gas distribution utilities, small gas distribution utilities, and recovered methane project owners or operators registered in the system, and through which these entities may transfer and retire recovered methane credits subject to Regulation Number 22; and (2) the industrial and manufacturing branch, where GHG credits are issued by the Division or its agent at the Division’s direction into the credit account of manufacturing stationary sources and midstream segment companies in the system, and through which these entities may transfer be transferred and retire GHG credits between regulated sources, and retired under this subject to Regulation Number 27 and Regulation Number 27.

II. ~~MMM~~. “GHG mitigation plan” means the plan produced by a GEMM 2 facility pursuant to Part A, Section III.B.1.

II. ~~JNN~~. “GHG reduction plan” means the plan produced by a GEMM 2 facility under Part B, Section II.A., or the plan produced by a stationary source constructed on or before the effective date of this rule that becomes a GEMM 2 facility after the effective date of this rule under Part B, Section I.B, as applicable.

II. ~~OO~~ “GHG sink” means a process that removes and permanently stores a GHG from the atmosphere.

II. ~~KKPP~~. “Greenhouse gas” (GHG) means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF₆) and ~~N~~nitrogen Ttrifluoride (NF₃).

II. ~~LLQQ~~. “Harmful air pollutant” ~~as used in this section~~ means pollutants designated by EPA as criteria air pollutants (carbon monoxide, lead, nitrogen dioxide, ozone, particulate pollution (PM) (PM_{2.5} and PM₁₀) and sulfur dioxide) or hazardous air pollutants. This term is not intended to ~~articulate establish~~ different thresholds or standards for those pollutants listed as harmful air pollutants than currently established under the federal Clean Air Act or the Colorado Air Pollution Prevention and Control Act and their respective implementing regulations.

II. ~~RR~~ “High quality carbon removal” means GHG removals and subsequent storage that is quantified following a Division-approved methodology, which includes requirements for demonstrating additionality, net carbon removal of the project, and measurement, monitoring, reporting, and verification (MMRV) requirements.

II. MMSS. “Independent third party” means an engineering or consulting firm selected by the State of Colorado; that is not affiliated with the stationary source, its subsidiaries, or related entities, and has no common ownership with the stationary source. The capabilities and knowledge of the firm must include, but are not limited to, background, experience, and recognized abilities to perform the assessment activities, data analysis, and report preparation, and experience working with the industry subject to this section.

II. TT. “Industrial and Manufacturing Sector” has the meaning set forth in § 25-7-105(1)(e)(XI)(B.5), C.R.S.

II. IIUU. “International Organization of Standardization” (ISO) means the independent, non-governmental international standard-setting body composed of representatives from various national standards organizations.

-
- II.~~QQVV~~. “ISO 50001: Energy Management Systems – Requirements with guidance for use” (ISO 50001) means the internationally accepted standard which specifies the requirements for an organization to demonstrate that it has a sustainable energy management system in place, has completed the energy planning process, and has a commitment to continual improvement of its energy performance.
- II.~~PPWW~~. “Lead auditor” means an individual who has met the requirements of and is certified as a lead auditor through a professional certification body.
- II.~~QQXX~~. “Management system” means the policies, processes, and procedures used by an organization to ensure that it can fulfill the tasks required to achieve its GHG emissions or energy management objectives.
- II.~~RRYY~~. “Manufacturing stationary source” means an EITE stationary source or a GEMM 2 facility.
- II.~~SSZZ~~. “Midstream ~~segment~~ company” ~~has the meaning s~~ “midstream company” as defined ~~set forth~~ in Regulation Number 7, Part B, Section VII.
- II.~~TTAA~~. “Municipal gas distribution utility” means a municipally owned utility that provides gas service to more than ninety thousand customers.
- II.BBB. “Net GHG emissions” means direct GHG emissions from a manufacturing stationary source or midstream company minus direct GHG removals.
- II.~~UUCC~~. “Net meter” means a renewable energy resource or renewable energy storage on the EITE stationary source’s property ~~which that~~ supplies energy directly to the EITE stationary source’s energy provider in exchange for a Power Purchase Agreement where the customer receives credit for the energy production.
- II.~~VVDD~~. “Non-GHG BAECT emissions” means the GHG mass emissions from an EITE stationary source that are not covered by the audit.
- II.~~WWEE~~. “North American industry classification system (NAICS) code(s)” means the six-digit code(s) that represents the product(s)/activity(s)/service(s) at a facility or supplier as listed in the Federal Register and defined in “North American Industrial Classification System Manual 2007,” available from the U.S. Department of Commerce, National Technical Information Service, Alexandria, VA 22312 (as published March 13, 2023).
- II.~~XXFF~~. “Permanent” means the GHG emission reductions are not reversible, or, when the GHG emission reductions are reversible, that mechanisms are in place to replace any reversed emission reductions to ensure that all reductions that are awarded GHG credits endure.
- II.~~YYGG~~. “Plain-language” means writing that is clear, concise, well-organized, easily understandable, and follows other best practices appropriate to the subject or field ~~and is easily understandable~~.
- II.~~ZZHH~~. “Primary account representative” means an individual authorized by a manufacturing stationary source and/or midstream company to make submissions to the Division or its agent in all matters pertaining to this Regulation Number 27 and Regulation Number 7 that legally bind the authorizing source.
- II.~~AAAI~~. “Process” means a specific operation at an EITE stationary source comprising a series of actions or steps which are carried out in a specific order to complete a particular stage in the manufacturing process.

-
- II.BBBJJJ. “Product” means the quantifiable material output of an individual manufacturing process or manufacturing facility.
- II.CCCKKK. “Proof of certification” means an official document issued by the formal registrar or certifying body stating the scope of certification, the expiration date, and the standards to which the stationary source is certified.
- II.DDDLLL. “Qualified third-party auditor” means one or more individuals who hold a valid lead auditor certification in greenhouse gas and/or energy management systems and have demonstrated capabilities to evaluate GHG reduction opportunities for large, energy-intensive, industrial manufacturing processes and facilities. Qualified third-party auditors must have worked as an auditor for at least two years, or must have worked as a project manager or lead person for not less than four years (two of which may be graduate level work) in: (1) the development of GHG or other air emission inventories, or (2) as a lead environmental data or financial auditor. The auditor must not be affiliated with the EITE stationary source, its subsidiaries, or related entities; there can be no common ownership between the EITE stationary source and the third-party auditor. The capabilities and knowledge of the auditor must include, ~~but are not limited to at a minimum~~, background, experience, and recognized abilities to perform the assessment activities, data analysis, and report preparation, and experience lead auditing GHG or energy management systems for the industry subject to this section.
- II.EEEEMMM. “RACT/BACT/LAER Clearinghouse” (RBLC) means EPA’s central database of air pollution technology information, including past RACT, BACT, and LAER decisions contained in New Source Review (NSR) permits, to promote the sharing of information among permitting agencies and to aid in future case-by-case determinations.
- II.FFFNNN. “Real” means that GHG emission reductions result from a demonstrable action or set of actions and are quantified using appropriate, accurate, and conservative methodologies.
- II.GGG000. “Recovered methane project owner or operator” means an owner or operator of a recovered methane project that is eligible to generate recovered methane credits under Regulation Number 22, Part C.
- II.HHHPPP. “Regulated source” means a source of greenhouse gas that is subject to a rule adopted by the Commission under sSection 25-7-105(1)(e), C.R.S., that imposes specific and quantifiable GHG reduction obligations upon that source or group of sources.
- II.IIQQQ. “Residential building unit” means a building or structure designed for use as a place of residency by a person, a family, or families. The term includes manufactured, mobile, and modular homes, except to the extent that any such manufactured, mobile, or modular home is intended for temporary occupancy or for business purposes. Each individual residence within a building will be counted as one Residential building unit.
- II.JJJRRR. “Residential community” means an area where more than ten (10) residential building units are grouped together within a one (1) mile radius.
- II.KKKSSS. “Retail distributed generation” means a renewable energy resource or renewable energy storage that directly supplies building or process energy needs at a metered location, where surplus energy is supplied to the location’s energy provider when energy production is greater than on-site demand and grid energy is supplied through a customer meter to the location during times when on-site production is less than demand.
- II.LLLT. “Small gas distribution utility” means a public utility providing gas service to ninety thousand retail customers or fewer. Small gas distribution utility does not include a municipal gas distribution utility.

II.~~MMM~~UUU. “Social cost of GHGs” means the monetized damages associated with an incremental increase in GHG emissions in a given year. The social cost of GHGs must include separate calculations for carbon, methane, and nitrous oxide, and the social cost of any other GHGs must be calculated using ~~carbon dioxide equivalent~~CO₂e. For purposes of Regulation Number 27, the social cost of GHGs is established, using a two and one-half percent discount rate, by the Federal Interagency Working Group’s Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide, Interim Estimates under Executive Order 13990, dated February 2021.

II.VVV. “State-contracted” means a state-process for auditor or contractor selection and engagement for the contractor to perform work for the state funded by the regulated source.

II.~~NNN~~WWW. “Strategic energy management” (SEM) means a management system-based, continuous improvement approach to energy management that seeks to improve an organization’s energy performance, reduce energy costs, and reduce GHG emissions associated with energy use, and; drives improvement in facility energy efficiency through equipment upgrades, operations and maintenance improvements, and behavioral changes.

II.~~OOO~~XXX. “Technically feasible” means that the GHG reduction measure can be implemented at the facility within existing technological and scientific limitations.

II.~~PPP~~YYY. “Transfer” means, as to a GHG credit, the removal of a GHG credit from one manufacturing stationary source’s or midstream company’s credit account in the GHG crediting and tracking system and placement of that credit into another manufacturing stationary source’s or midstream companies’ys’ credit account in the system if agreed to by both the transferor and transferee manufacturing stationary sources and/or midstream companies.

II.~~QQQ~~ZZZ. “Verifiable” means that a reported emission reduction ~~resulting-used to from generate~~ a GHG credit at a regulated source is well documented and transparent such that the Division or an accredited third-party auditor may conduct an objective review and evaluation to assess whether the emission reduction adheres to GHG credit requirements. ~~it lends itself to an objective review by the Division to verify the emission reduction is real, using monitoring of emissions reductions relative to the GEMM 2 annual GHG emissions requirement or annual emissions limitation, as applicable, for the relevant compliance year.~~

II.AAAA. “Vintage year” means the year in which the emissions reduction or removal activity occurred and for which GHG credits were issued. For example, emissions reductions or removals that occurred in calendar year 2025 and qualify for GHG credit generation will be issued as GHG credits in calendar year 2026 but will be issued in the GHG crediting and tracking system with the vintage year of 2025.

III. Noncompliance

III.A. In the event that an EITE stationary source fails to meet its annual emissions limitation through (1) onsite reduction measures, or (2) retirement of active GHG credits, the EITE stationary source will be deemed in noncompliance and must surrender or obtain and surrender three (3) GHG credits for every metric ton of CO₂e emitted by the EITE stationary source in excess of the annual emissions limitation and may be subject to a civil penalty or other enforcement action by the Division.

III.B. In the event that a GEMM 2 facility fails to comply, through (1) onsite reduction measures or (2) retirement of active GHG credits, with: (i) the facility’s aggregated GHG emissions requirement for the first compliance period (calculated by aggregating a facility’s GEMM 2 annual GHG emission requirements for 2024, 2025, and 2026); (ii) the facility’s aggregated GHG emissions requirement for the second compliance period (calculated by aggregating a facility’s GEMM 2 annual GHG emission requirements for 2027, 2028, and 2029); or (iii) after 2029, ~~its~~ the facility’s

GEMM 2 annual GHG emissions requirement in any compliance year, then: the facility's GEMM 2 annual GHG emissions requirement will be adjusted downwards by at least two (2) times the amount, in metric tons of CO₂e, by which the facility exceeded its aggregated GHG emissions requirements in either compliance period or, after 2029, its GEMM 2 annual GHG emissions requirement. The timeline required for the GEMM 2 facility to achieve the mitigation will be determined by the Division but must be no later than three (3) years after the period or year of non-compliance.

III.B.1. If a GEMM 2 facility fails to comply with its aggregated GHG emissions requirements in either compliance period or, after 2029, its GEMM 2 annual GHG emissions requirement in any compliance year, the facility must submit a GHG mitigation plan for Division review and approval by no later than December 31 of the year following the period or year of non-compliance, documenting how the facility will comply with the additional required GHG reductions. The GHG mitigation plan must include:

III.B.1.a. The amount by which the GEMM 2 facility exceeded the facility's aggregated GHG emissions requirement in metric tons of CO₂e for the previous period or GEMM 2 annual GHG emissions requirement in metric tons of CO₂e for the previous year;

III.B.1.b. The adjusted GHG emissions requirement for the mitigation period, as determined by the Division pursuant to Section III.B.1; and

III.B.1.c. The onsite GHG reduction measure(s) being implemented to achieve the additional reduction required pursuant to Section III.B.1, for the mitigation period.

III.C. If the GEMM 2 facility does not achieve the applicable GEMM 2 annual GHG emissions requirement or mitigation reduction amount, the facility must take the necessary corrective actions to achieve the required reductions pursuant to this Section III, in addition to paying any civil penalties that may be assessed. The GEMM 2 facility may be deemed out of compliance for the entirety of the year and may be subject to enforcement action and daily civil penalties.

III.D. In the event that a GEMM 2 facility fails to implement the emission reduction measures as documented in the Division-approved GHG reduction plan pursuant to Part B, Section II, the GEMM 2 facility may be deemed out of compliance and may be subject to enforcement action and daily civil penalties.

III.E. If a GEMM 2 facility does not submit timely, complete, and accurate documentation to the Division pursuant to any section of Regulation Number 27, the facility may be subject to enforcement action including assessment and of daily civil penalties.

III.F. Nothing in this Section III limits the enforcement powers of the Division under the Act to remedy noncompliance with Regulation Number 27, including but not limited to the Division's ability to seek additional penalties, and compel actual reductions at any manufacturing source in noncompliance.

PART B GEMM 2 Facility Requirements

I. Greenhouse Gas Emissions Reduction Requirements for GEMM 2 Facilities

I.A. Stationary sources qualifying as GEMM 2 facilities as of January 1, 2023 must comply with the GEMM 2 annual GHG emissions requirements set forth in Part B, Section I.A.1, as applicable. An EITE stationary source that emitted equal to or greater than 25,000 metric tons of CO₂e emissions as of January 1, 2023, but was not subject to Part C of this Regulation Number 27 as

of January 1, 2023, is subject to the GEMM 2 annual GHG emissions requirements set forth in [Part B](#) ~~this~~, Section I.A., as applicable, unless the source notifies the Division within [six \(6\)](#) months of the effective date that it will comply with Part C. Compliance ~~will~~ must be demonstrated pursuant to Part B, Section IV.

I.A.1. The owner or operator of a GEMM 2 facility for which the higher of the [GEMM 2](#) facility's 2021 or 2022 emissions, as reported pursuant to Regulation Number 22, Part A, reflect a reduction in [direct_net](#) GHG emissions of at least twenty (20) percent, as compared to the facility's 2015 GHG emissions, must comply with the following requirements:

I.A.1.a. The owner or operator of the GEMM 2 facility must comply with the GEMM 2 annual GHG emissions requirements in Table 1.

Table 1

Year	GEMM 2 Annual GHG Emissions Requirement
2024 – 2029	GEMM 2 facility GHG baseline emissions
2030 and beyond	1% less than the GEMM 2 facility GHG baseline emissions

I.A.1.b. The owner or operator of a GEMM 2 facility subject to Section I.A.1.a., above, may, in the alternative to complying with Section I.A.1.a., comply with the following requirements:

- I.A.1.b.(i) For calendar years 2024 and 2025, comply with a GEMM 2 annual GHG emissions requirement equal to seventy-five (75) percent of the facility’s 2015 reported emissions;
- I.A.1.b.(ii) Beginning in 2026, comply with a GEMM 2 annual GHG emissions requirement equal to the facility’s GEMM 2 facility GHG baseline emissions; and
- I.A.1.b.(iii) Beginning in 2030 and continuing in perpetuity, comply with a GEMM 2 annual GHG emissions requirement for 2030, as established under Section I.A.1.a, above, subject to any additional reductions required under Section I.A.5.; provided, however, that
 - I.A.1.b.(iv) If the GEMM 2 facility subject to this Section I.A.1.b. cannot meet a GEMM 2 annual GHG emissions requirement equal to its GEMM 2 facility GHG baseline emissions by 2026 consistent with Section I.A.1.b.(ii), it must either:
 - I.A.1.b.(iv)(A) Beginning in 2028 and continuing in perpetuity, comply with its GEMM 2 annual GHG emissions requirement for 2030, as established under Section I.A.1.b.(iii), subject to an additional one (1) percent reduction; or
 - I.A.1.b.(iv)(B) Beginning in 2030 and continuing in perpetuity, comply with its GEMM 2 annual GHG emissions requirement for 2030, as established under Section I.A.1.b.(iii), subject to an additional two (2) percent reduction.

I.A.2. The owner or operator of a GEMM 2 facility for which the higher of the GEMM 2 facility’s 2021 or 2022 emissions, as reported pursuant to Regulation Number 22, Part A, reflect a reduction in direct-net GHG emissions of at least ten (10) percent but less than twenty (20) percent, as compared to the facility’s 2015 GHG emissions, must comply with the GEMM 2 annual GHG emissions requirements in Table 2.

Table 2

Year	GEMM 2 Annual GHG Emissions Requirement
2024 – 2029	1.25% less than the GEMM 2 facility GHG baseline emissions
2030 and beyond	7% less than the GEMM 2 facility GHG baseline emissions

- I.A.3. The owner or operator of a GEMM 2 facility for which the higher of the GEMM 2 facility's 2021 or 2022 emissions, as reported pursuant to Regulation Number 22, Part A, reflect a reduction in direct-net CO2e emissions greater than zero (0) percent but less than ten (10) percent, as compared to its 2015 GHG emissions, must comply with the GEMM 2 annual GHG emissions requirements in Table 3.

Table 3

Year	GEMM 2 Annual GHG Emissions Requirement
2024 – 2029	1.50% less than the GEMM 2 facility GHG baseline emissions
2030 and beyond	8% less than the GEMM 2 facility GHG baseline emissions

- I.A.4. The owner or operator of a GEMM 2 facility for which the higher of the GEMM 2 facility's 2021 or 2022 emissions, as reported pursuant to Regulation Number 22, Part A, are equal to or greater than its 2015 GHG emissions, must comply with the GEMM 2 annual GHG emissions requirements in Table 4.

Table 4

Year	GEMM 2 Annual GHG Emissions Requirement
2024 – 2029	1.75% less than the GEMM 2 facility GHG baseline emissions
2030 and beyond	12.5% less than the GEMM 2 facility GHG baseline emissions

- I.A.5. ~~Beginning in 2030, and for each year thereafter, in~~ In addition to those limits in Part B, Sections I.A.1. through I.A.4., GEMM 2 facilities will also be required to incorporate the reductions in Table 5 into the GEMM 2 annual GHG emissions requirement in 2030 and beyond, based on the GEMM 2 facility's percent contribution towards the cumulative GEMM 2 facilities' higher of 2021 or 2022 emissions, as reported pursuant to Regulation Number 22, Part A.

Table 5

GEMM 2 Facility Percent Contribution	GEMM 2 Annual GHG Emissions Requirement in 2030 and beyond
30% or greater	6% less than the GEMM 2 facility GHG baseline emissions
At least 20% but less than 30%	5% less than the GEMM 2 facility GHG baseline emissions
At least 10% but less than 20%	4% less than the GEMM 2 facility GHG baseline emissions
At least 5% but less than 10%	3% less than the GEMM 2 facility GHG baseline emissions

I.A.6. If the owner or operator of a GEMM 2 facility certifies through a Division-approved form that it will voluntarily comply with the facility’s GEMM 2 annual GHG emissions requirement for 2030 beginning no later than 2025 and each year thereafter through limiting onsite direct GHG emissions, the facility is not subject to the requirements in Part B, Section II. Upon submission of this form, the facility’s GEMM 2 annual GHG emissions requirement for 2030 is established as the facility’s new, enforceable GEMM 2 annual GHG emissions requirement for calendar year 2025 and each year thereafter. To qualify, the owner or operator of the GEMM 2 facility must provide the Division-approved form, certified by a responsible party, to the Division no later than May 31, 2025.

[I.A.6.a A GEMM 2 facility that elects to utilize Part B, Section I.A.6. may not purchase GHG credits for compliance.](#)

I.B. Except as otherwise provided in this Section I.B., any stationary source constructed on or before the effective date of this rule that becomes a GEMM 2 facility after the effective date of this rule must comply with the following requirements. An EITE stationary source that emitted equal to or greater than 25,000 [metric tons](#) of CO₂e emissions as of January 1, 2023, but was not subject to Part C of this Regulation Number 27 as of January 1, 2023, may not elect to comply with this Regulation Number 27 through the requirements of [this](#) Part B, Section I.B.

I.B.1. By December 31st of the year in which the facility first reports [direct-net](#) GHG emissions equal to or greater than 25,000 metric tons of CO₂e, the owner or operator of the facility must conduct a GHG emission control audit to assess the implementation of GHG best available emission control technology (GHG BAECT), propose a five (5) year GHG reduction plan for the facility, and submit the audit report and GHG reduction plan to the Division. An EITE stationary source’s GHG reduction plan for purposes of this Section I.B. must propose to achieve greater than a five (5) percent reduction in [direct-net](#) GHG emissions from the EITE stationary source’s current [direct-net](#) GHG emissions, compared to the most recent year of operation. The GHG BAECT analysis must be performed according to the requirements set out in Part C, Sections I.C.1.a.

I.B.2. Audits must be conducted by a qualified third-party auditor and meet or exceed nationally or internationally accepted energy and GHG accounting and management audit standards or protocols.

I.B.3. The Division will post the facility's audit report and GHG reduction plan proposal to the Division's website within fifteen (15) days of receipt and provide a ~~30-day~~ public comment period of at least thirty (30) days, but not more than (60) days.

I.B.4. The Division will review the audit report, GHG reduction plan and public comments received, and will issue a final five (5) year GHG reduction plan for the facility within one hundred twenty (120) days of receipt of the report and plan. The Division will post the facility's approved GHG reduction plan on the Division's website.

II. Greenhouse Gas Reduction Plans

II.A. No later than September 30, 2025, except as otherwise provided in this Regulation Number 27, the owner or operator of a GEMM 2 facility subject to Section I.A. must develop a GHG reduction plan and submit the certified GHG reduction plan on a Division-approved form, along with the independent third-party evaluation and findings of the plan, to the Division. The owner or operator of a glass container manufacturing facility must submit the certified GHG reduction plan, as described in this Section II, ~~as~~ expeditiously as practicable, ~~but~~ no later than June 1, 2027. The GHG reduction plan must include the following information:

II.A.1. Basic emissions information

II.A.1.a. The GEMM 2 facility's GHG baseline emissions;~~;~~

II.A.1.b. The difference in net GHG emissions in metric tons of CO₂e reported for the year 2024, compared to its GEMM 2 facility GHG baseline emissions;~~;~~

II.A.1.c. The percent of GHG emission reduction required for the GEMM 2 facility to comply with its 2030 GHG emissions requirement pursuant to Section I.A. based on the GEMM 2 facility's GHG baseline emissions, as applicable;~~;~~ and

I.A.1.d. The difference in metric tons of CO₂e between the GEMM 2 facility's GEMM 2 annual GHG emissions requirement for 2030 and its GEMM 2 annual GHG emissions requirement for 2024, as applicable. This should be calculated as:

GEMM 2 annual GHG Emissions Requirement for 2030 - GEMM 2 annual GHG emissions requirement for 2024

II.A.2. GHG reduction measures, including portfolio approach

II.A.2.a. The list of all GHG reduction measures that result in greater than de minimis GHG reductions and that are technically feasible and commercially available or other measures that facilities propose for implementation at the GEMM 2 facility. The following information is required for each measure listed.

II.A.2.a.(i) A description of the GHG reduction measure, including equipment and project type;

II.A.2.a.(ii) The quantity of metric tons of CO₂e reduced per year ~~from each measure;~~

II.A.2.a.(iii) The net reduction in associated harmful air pollution in metric short tons per year ~~from each measure;~~

II.A.2.a.(~~iv~~) The cost in USD per metric ton of CO₂e-reduced ~~for each reduction measure for all measures;~~

-
- II.A.2.a.(iv) The timeframe for implementation ~~for each measure~~; and
- II.A.2.a.(vi) If a facility seeks to utilize Section II.A.3.b., below, then information as to those GHG reduction measures that are alternate options or redundant or incompatible with each other.
- II.A.3. The portfolio of measures up to the 2030 social cost of GHGs that the facility is required to propose to implement by 2030 towards achievement of the facility's 2030 GHG emissions requirement as well as any measure(s) above the 2030 social cost of GHGs, including the cost information and estimated reduction of harmful air pollution of those measure(s), that the facility is voluntarily proposing to implement by 2030 to ensure it achieves its 2030 GEMM 2 GHG emissions requirement.
- II.A.3.a. If the facility proposes to implement a portfolio ~~of~~ measures from its GHG reduction plan that is estimated to yield total GHG reductions within five (5) percent of another portfolio of measures, the facility must propose to implement the portfolio of measures that provides the greater reduction in harmful air pollution, provided that the cost of the portfolio of measures is at or below the 2030 social cost of GHGs.
- II.A.3.b. A facility is not required to select and implement measures that are alternate options or redundant or incompatible with each other.
- II.A.4. If, as of the GEMM 2 facility's submittal deadline for its GHG reduction plan in this Section II.A., a facility is already in the process of constructing or implementing, including post-construction project implementation or ramp up, a GHG reduction measure or portfolio of measures that are projected to achieve the entirety of the facility's 2030 GEMM 2 annual GHG emissions requirement, the facility's list of GHG reduction measures in Section II.A.2. need only include such measure(s), and the facility must only propose to implement such measure(s) to comply with Section II.A.3. A facility that qualifies for this section is not subject to Section II.A.3.a.
- II.A.5. If the GEMM 2 facility proposes to implement all technically feasible portfolio ~~of~~ measures at or below the 2030 social cost of GHGs, but the proposed measures do not satisfy the 2030 GEMM 2 GHG emissions requirement, the GHG reduction plan may indicate that the facility plans to use the GHG crediting and tracking system for compliance, provided that the GEMM 2 facility complies with Section II.A.6. if it is located within one (1) mile of a disproportionately impacted community and within fifteen (15) miles of a residential community.
- II.A.6. If (1) a GEMM 2 facility plans to use the GHG crediting and tracking system for compliance and (2) any portion of the GEMM 2 facility's property line is within one (1) mile of a disproportionately impacted community and within fifteen (15) miles of a residential community as of the effective date of this rule, the following requirements apply:
- II.A.6.a. The GHG reduction plan must identify additional GHG reduction measures not yet selected for implementation under Part B, Sections II.A.3. that cost up to fifty (50) percent above the 2030 social cost of GHGs. If any such measures exist, the GHG reduction plan must quantify the largest amount of harmful air pollution reduction achievable by implementing one or a combination of such measures, in each case up to the facility's GEMM 2 annual GHG emissions requirement for 2030.

II.A.6.b. The GHG reduction plan must propose to implement measure(s) to reduce harmful air pollution in an amount equal to the amount achievable identified in Section II.A.6.a.

- II.B. The owner or operator of the GEMM 2 facility must ensure that one of its responsible agents certifies that the contents of the GHG reduction plan documentation ~~is-are~~ complete and accurate.
- II.C. The owner or operator of the GEMM 2 facility must ensure that an independent third party conducts a technical and regulatory review of its GHG reduction plan. The selected firm will-must review the GHG reduction plan to determine the accuracy and completeness of the plan including, ~~without limitat~~at a minimum, cost projections, assumptions and data sources, GHG emission and harmful air pollution impacts, and compliance with this Part B, Section II.
- II.D. The GEMM 2 facility must cooperate with the independent third party to assure accuracy and completeness of the GHG reduction plan, and compliance with this Part B, Section II. Upon completion of the review, the plan must be certified by the independent third party as adhering to the requirements of this Part B, Section II, prior to submission of the plan to the Division.
- II.E. The GHG reduction plan must include a plain-language summary of the proposed GHG reduction plan for the GEMM 2 facility.
- II.E.1. Each plain language summary shall-must be provided in the top two languages spoken by the community surrounding the GEMM 2 facility. The translations must be prepared by a certified translator.
- II.E.2. The plain language summary shall-must include the list of measures analyzed in the plan for the GEMM 2 facility, the correlating GHG emission and harmful air pollutant impacts of the measures, and justification for why the proposed measures were identified.
- ~~II.F. The Division will hold at least a thirty (30) day public comment period for GHG reduction plans.~~
- II.GF. Within fifteen (15) days of receipt, the Division will post the certified GHG reduction plan and the independent third party review of the GHG reduction plan on the Division's website.
- ~~II.G. The Division will hold a thirty (30) day public comment period for GHG reduction plans.~~
- II.H. Except for GHG reduction plans submitted by glass container manufacturing facilities after September 30, 2025, but no later than June 1, 2027, under Part B, Section II.A, the Division must issue an approval or request for modification of the proposed GHG reduction plan to the GEMM 2 facility by December 31, 2025. For GHG reduction plans submitted by glass container manufacturing facilities after September 30, 2025, but no later than June 1, 2027, the Division must issue an approval or request for modification of the proposed GHG reduction plan to the GEMM 2 facility within three months of submission.
- II.I. The Division will hold at least three (3) public meetings to review the approved GEMM 2 facility GHG reduction plans.
- II.J. GHG reduction measures must be timely and completely implemented in accordance with the GEMM 2 facility's documented and approved GHG reduction plan. A GEMM 2 facility may request to modify the GHG reduction plan for the facility at any time. The modification must comply with the same requirements for the GHG reduction plan in Part B, Section II.
- III. GEMM 2 Facility Greenhouse Gas Emission Requirement Compliance

-
- III.A. A GEMM 2 facility must first attempt to meet its GEMM 2 annual GHG reduction requirement through technically feasible, onsite measures at or below the 2030 social cost of GHGs.
- III.A.1. GHG reductions from onsite carbon capture and storage and direct GHG removals are considered onsite measures for purposes of Section III.A; provided, however, that such onsite ~~carbon capture and storage~~ reductions and removals may only be counted towards compliance with this Regulation Number 27 if the Division has established or adopted by reference a standardized ~~carbon capture and storage~~ protocol or protocols to demonstrate high quality carbon removal.
- III.B. If a facility cannot meet its GEMM 2 annual GHG reduction requirement through technically feasible, onsite measures at or below the 2030 social cost of GHGs, the facility may retire GHG credits through the GHG crediting and tracking system, pursuant to Part D, to achieve the remainder of its GEMM 2 annual GHG emission requirement, provided the facility complies with requirements set forth in Part B, Section II.A.6., as applicable.
- III.C. Permitting requirements for GHG emission reduction measures.
- III.C.1. A manufacturing stationary source that requires a construction permit(s) or modification(s) of an existing permit(s) in accordance with Regulation Number 3 to comply with the requirements of Parts B or C of Regulation Number 27 must submit a complete permit application to the Division at least twelve (12) months prior to the start of construction or at least twelve (12) months prior to the start of the modification.
- III.C.2. If the owner or operator of a GEMM 2 facility has complied with Part B, Section III.C.1. and the Division has not issued the permit required to comply with Part B within twelve (12) months of receipt of the permit application, the Division will adjust the facility's GEMM 2 annual GHG emissions requirement, as applicable, upon submission of documentation by the GEMM 2 facility that shows good cause.
- IV. Reporting and ~~Annual~~ Compliance Certification Requirements
- IV.A. Beginning ~~March 31, 2025 and every March 31 thereafter in 2026~~, ~~owners or operators of~~ GEMM 2 facilities must submit an initial annual report to the Division no later than March 31 that provides the GEMM 2 facility's reported direct GHG emissions for the previous year and the difference between such reported emissions and the GEMM 2 facility's emissions requirement for the previous year, as determined pursuant to Part B, Section I.A. Such report must include the following. The Division will only issue GHG credits to GEMM 2 facilities that adhere to the requirements of Part B, Section IV.A.
- IV.A.1. The facility's reported net GHG emissions, in metric tons, for the previous calendar year including GHG emission removals by a GHG sink;
- For a GEMM 2 facility utilizing a combined heat and power unit, when calculating the GEMM 2 facility's annual GHG emissions in metric tons of CO₂ pursuant to Section IV.A.1.a., the facility may account for the GHG emissions reduction associated with the combined heat and power unit's displaced direct thermal emissions, using a six-step formula submitted pursuant to a Division approved form. GHG emissions reductions resulting from the utilization of a facility's combined heat and power unit(s) may only account for up to 50% of the facility's GEMM 2 annual GHG emissions reduction requirement pursuant to Section I.A.1. through Section I.A.5. of this Part.
- IV.A.2. The GEMM 2 annual GHG emissions requirement for the previous calendar year, as determined pursuant to Part B, Section I.A.;

IV.A.3. The difference, if any, between the GEMM 2 facility's reported direct-net GHG emissions for the previous calendar year including GHG emissions removals by a GHG sink and the GEMM 2 facility's GEMM 2 annual GHG emissions requirement for the previous calendar year, as determined pursuant to Part B, Section I.A.

IV.A.4. For a facility utilizing a combined heat and power unit, when calculating the facility's annual GHG emissions in metric tons of CO2, the following apply:

IV.A.4.a. The facility may account for the GHG emissions reduction associated with the combined heat and power unit's displaced direct thermal emissions, using the following six-step formula submitted pursuant to a Division-approved form.

<u>Step 1:</u>	<u>Displaced electricity emissions</u>	<u>D_E</u>	<u>$D_E = (C_P + G_t) \times G_E$</u> <u>where:</u> <u>$C_P$ = CHP electricity production</u> <u>G_t = Electric grid transmission & distribution loss</u> <u>G_E = Electric grid emission factor</u>
<u>Step 2:</u>	<u>Displaced thermal emissions</u>	<u>D_T</u>	<u>$D_T = C_T / T_P \times T_E$</u> <u>where:</u> <u>$C_T$ = Utilized CHP thermal output</u> <u>T_P = Displaced thermal production efficiency</u> <u>T_E = Displaced thermal emission factor</u>
<u>Step 3:</u>	<u>Displaced utility emissions</u>	<u>D_U</u>	<u>$D_U = D_E + D_T$</u> <u>where:</u> <u>D_E = Displaced electricity emissions</u> <u>D_T = Displaced thermal emissions</u>
<u>Step 4:</u>	<u>CHP emissions</u>	<u>C_E</u>	<u>$C_E = C_F + F_E$</u> <u>where:</u> <u>C_F = CHP fuel consumption</u> <u>F_E = CHP fuel emission factor</u>
<u>Step 5:</u>	<u>Total avoided emissions</u>	<u>A_T</u>	<u>$A_T = D_U - C_E$</u> <u>where:</u> <u>D_U = Displaced utility emissions</u> <u>C_E = CHP emissions</u>
<u>Step 6:</u>	<u>Direct stationary avoided emissions</u>	<u>A_D</u>	<u>$A_D = D_T / D_U \times A_T$</u> <u>where:</u> <u>$D_T$ = Displaced thermal emissions</u> <u>D_U = Displaced utility emissions</u> <u>A_T = Total avoided emissions</u>

IV.A.4.b. GHG emissions reductions resulting from using a facility's combined heat and power unit(s) may only account for up to 50% of the facility's GEMM 2 annual GHG emissions reduction requirement pursuant to Section I.A.1. through Section I.A.5. of this Part B.

IV.A.4.c. The facility may only account for the GHG emissions reduction associated with a combined heat and power unit to reduce its GEMM 2 annual GHG emissions requirement for calendar years 2024 through 2029.

IV.A.5. GEMM 2 facility annual reports are required to be certified as accurate and complete prior to each submission to the Division.

IV.B. ~~On~~ No later than September 30, 2027, owners or operators of GEMM 2 facilities must submit a report to the Division that demonstrates compliance on a three-year cycle and includes:

IV.B.1. A compliance certification in which the account representative of each GEMM 2 facility certifies:

IV.B.1.a. The GEMM 2 facility's net GHG emissions, in metric tons of CO₂e, for the calendar years 2024, 2025, and 2026.

IV.B.1.b. The GEMM 2 facility's GHG emissions requirement for the calendar years 2024, 2025, and 2026, as determined pursuant to Part B, Section I.A.

IV.B.1.c. The difference, if any, between (i) the GEMM 2 facility's combined total ~~reported direct~~ net GHG emissions for calendar years 2024, 2025, and 2026 and (ii) the GEMM 2 facility's combined total ~~GEMM 2~~ annual GHG emissions requirements for 2024, 2025, and 2026 ~~combined~~.

IV.B.1.d. Documentation of GHG credits retired prior to expiration in the GHG crediting and tracking system for compliance purposes in the applicable time period.

IV.B.2. A report detailing progress of and compliance with the approved GHG reduction plan for the GEMM 2 facility including relevant project management documentation, project status, and timeline.

IV.C. ~~On~~ No later than September 30, 2030, owners or operators of GEMM 2 facilities must submit a report to the Division that demonstrates compliance on a three-year cycle ~~that and~~ includes:

IV.C.1. A compliance certification in which the account representative of each GEMM 2 facility certifies:

IV.C.1.a. The ~~GEMM 2~~ facility's net GHG emissions, in metric tons of CO₂e, for the calendar years 2027, 2028, and 2029.

IV.C.1.b. The ~~GEMM 2~~ facility's GHG emissions requirement for the calendar years 2027, 2028, and 2029, as determined pursuant to Part B, Section I.A.

IV.C.1.c. The difference, if any, between (i) the ~~GEMM 2~~ facility's combined total ~~net reported direct~~ GHG emissions for calendar years 2027, 2028, and

2029 and (ii) the GEMM 2 facility's combined total GEMM 2 annual GHG emissions requirements for 2027, 2028, and 2029 combined.

IV.C.1.d. Documentation of GHG credits retired prior to expiration in the GHG crediting and tracking system for compliance purposes in the applicable period.

IV.C.2. A report detailing progress of and compliance with the approved GHG reduction plan for the GEMM 2 facility including relevant project management documentation, project status, and timeline.

IV.D. Beginning ~~September 30, in~~ 2031 ~~and every September 30 thereafter~~, owners or operators of GEMM 2 facilities must submit an annual report to the Division no later than September 30 that includes:

IV.D.1. A compliance certification in which the account representative of each GEMM 2 facility certifies:

IV.D.1.a. The GEMM 2 facility's annual net GHG emissions, in metric tons of CO₂e, for the previous calendar year.

IV.D.1.b. The GEMM 2 annual GHG emissions requirement for the previous year, as determined pursuant to Part B, Section I.A.

IV.D.1.c. The difference, if any, between the GEMM 2 facility's reported direct net GHG emissions for the previous year and the GEMM 2 facility's GEMM 2 annual GHG emissions requirement for the previous year.

IV.D.1.d. Documentation of GHG credits retired prior to expiration in the GHG crediting and tracking system for compliance purposes in the applicable year.

IV.D.2. A report detailing progress of and compliance with the approved GHG reduction plan for the GEMM 2 facility, including relevant project management documentation, project status, and timeline.

IV.E. If (1) Regulation Number 22, Part A is updated such that additional GHG emission sources or sinks are identified that are required to be reported ~~from by~~ a GEMM 2 facility, which emission sources or sinks existed prior to the change in required reporting under Regulation Number 22, Part A, (2) methodologies for GHG emissions or removal calculations change; or (3) ~~there is discovery of~~ a reporting error is discovered, then the Division will consult with the GEMM 2 facility to adjust the GEMM 2 facility's previous years' reported GHG emissions totals to accommodate such changes or to otherwise ensure a consistent approach to a facility's emission or removal calculations, back to the year 2015, as applicable. Any adjustments made must not, in any situation, lower GEMM 2 annual GHG emissions requirement that the facility is required to meet per Part B.1.A. of this regulation as calculated on October 20, 2023.

V. Recordkeeping

V.A. GEMM 2 facilities must maintain the following records for a period of ten (10) years and make such records available to the Division upon request.

V.A.1. Reports required under Part B, Section IV.1.

-
- V.A.2. Division-approved GHG reduction plans submitted pursuant to Part B, Section I.B. or Section II.A. as applicable, and records reasonably necessary to demonstrate compliance with the approved GHG reduction plan; ~~and-~~
- V.A.3. Any other documents submitted to the Division under this Regulation Number 27.
- V.B. Within fifteen (15) days of receipt, the Division will post to its website the following documents that may be submitted by a GEMM 2 facility under this Regulation Number 27: certifications submitted under Part B, Section I.A.6; reports submitted under Part B, Section IV.A; records demonstrating compliance with GHG reduction plans submitted under Part B, Section V.A.2; and registration applications submitted under Part D, Section II.A.1.
- V.C. Confidential business information contained in records submitted to the Division by GEMM 2 facilities under this Regulation Number 27 must be clearly identified and be submitted in a separate, supplementary document to the records.
- V.D. If a GEMM 2 facility permanently ceases manufacturing operations, the facility must submit records of the closure or cessation to the Division within sixty (60) days of ceasing operations. These records include, but are not limited to:
- V.D.1. Bill of sale;
- V.D.2. Cancellation records of relevant permits; and
- V.D.3. Relevant transfer of ownership records for facilities and/or equipment.

PART C Energy-Intensive Trade-Exposed Stationary Source Requirements

I. Audit Requirements

I.A. Energy and GHG Emission Control Audits

- I.A.1. By December 31, 2022, and December 31 every five years thereafter, owners or operators of each EITE stationary source must conduct energy and GHG emission control audits to establish greenhouse gas best available emission control technology (GHG BAECT) and energy best management practices (energy BMPs) and determine whether the stationary source is employing GHG BAECT and energy BMPs at the EITE stationary source, and submit the audit report to the Division.
- I.A.2. Each EITE stationary source must conduct an audit within twelve (12) months of reporting ~~netdirect~~ GHG emissions equal to or greater than 25,000 metric tons CO₂e per year under Regulation Number 22, Part A and/or 40 CFR Part 98 and every five years thereafter.
- I.A.3. Audits must be conducted by a state-contracted, qualified third-party auditor and meet or exceed nationally or internationally accepted energy and GHG accounting and management audit standards or protocols.

I.B. Audit Plan

- I.B.1. Each EITE stationary source must submit an audit plan to the Division for approval at least one hundred twenty (120) days prior to beginning the audit as required in Section I.A. The Division will review the audit plan and notify the EITE stationary source within 60 days of submission of any deficiencies. If notified of deficiencies, the EITE stationary source must submit a revised audit plan for final approval no later than thirty (30) days

prior to beginning the audit. The EITE stationary source must receive approval from the Division of the audit plan prior to beginning the audit. Such approval ~~shall~~will not be unreasonably withheld. The audit plan must include:

I.B.1.a. A description of all the emission units at the EITE stationary source that directly release one or more GHGs, ordered from largest emitting to smallest emitting emission units averaged over the past 5 years, quantified in CO₂e as well as broken out by GHG type. Using this list, the emission units that comprise at least the top eighty (80) percent of the EITE stationary source's direct GHG emissions ~~shall~~must be identified, documented, and included in the GHG emissions audit scope. Additionally, any individual emissions unit that comprises two (2) percent or more of the EITE stationary source's direct GHG emissions ~~shall~~must be identified, documented, and included in the GHG emissions audit scope.

I.B.1.b. Unless the EITE stationary source is utilizing Section I.B.1.c. to show employment of energy BMPs, a description of all the emission units at the EITE stationary source that consume energy, averaged over the past five (5) years and ordered from largest consuming to smallest consuming. Using this list, the energy consumption sources that comprise the top eighty (80) percent of the EITE stationary source's energy consumption ~~shall~~must be identified, documented, and included in the energy audit scope.

I.B.1.c. If an EITE stationary source is certified to the Federal Energy Star Program or equally stringent program deemed equivalent by the Division, or ISO 50001, the EITE stationary source will be determined to be employing energy BMPs and the energy audit will be limited in scope. Proof of certification of the EITE stationary source to one or more of these existing standards must be included in the audit plan to utilize this option.

I.B.1.c.(i) If an EITE stationary source is planning on becoming certified to one of these standards, the EITE stationary source must submit the certification or registration timeline or plan, including key milestones towards certification or registration with certification scheduled for no more than twelve (12) months after the audit date.

I.B.1.d. Records of any previous third-party audit results that the EITE stationary source proposes to use to support the audit on a supplementary basis or to avoid duplication of data collection efforts that have been performed within three (3) years prior to the planned audit date. To be accepted, supplementary audit data must be verified and validated by a third party and result from an audit that meets or exceeds nationally or internationally accepted energy and GHG accounting audit standards or protocols.

~~I.B.1.e. A description of the audit team members, including experience, qualifications, and role in the audit, and existing or previous business relationship, and the nature of such relationship with the owner or operator of the EITE stationary source. If there is an existing or previous business relationship, a list and description of work done for the owner or operator of the EITE stationary source.~~

~~I.B.1.e.(i) The Division may reject a proposed qualified third-party auditor or audit team if it does not meet the qualifications in Sections II.H. and II.KK., failed to conduct a previous audit to the satisfaction of the Division, or is deemed to have a previous or existing relationship with the source that is so pervasive that the~~

~~auditor would be unable to conduct the audit in an unbiased and independent manner.~~

I.B.1.ef. The specific GHG and/or energy audit standards, protocols or procedures to be used for conducting the audit, if applicable.

I.C. Audit Reports

I.C.1. Each EITE stationary source must complete the audit report in accordance with Sections I.C.1.a. through III.C.1.e. and submit the audit report to the Division by December 31 of the audit year. The audit report must that include, at a minimum,s the following elements for all GHG emission units listed in accordance with Section I.B. and specified in the Division-approved audit plan, at a minimum.

I.C.1.a. The GHG BAECT analysis. The audit team must analyze GHG BAECT as follows:

I.C.1.a.(i) Identify all available control technologies and strategies with practical potential for application to reduce GHG emissions from the GHG emission units included in the audit scope. Identify the current GHG emissions rate of each audited emission unit at the time of the audit.

I.C.1.a.(i)(A) Control technologies and strategies identified must include, at a minimumbut are not limited to, fuel use, raw material use, energy efficiency improvements, preheating/heat reuse and strategic energy management options), and carbon capture and underground storage or utilization.

I.C.1.a.(ii) Eliminate technically infeasible control technologies and strategies.

I.C.1.a.(ii)(A) Notwithstanding Section I.C.1.a.(ii), the audit team must perform a feasibility assessment of carbon capture and underground storage or utilization technology for any single emissions unit evaluated with direct emissions of 100,000 tons per year or greater CO₂e in any of the previous five years as reported under Regulation Number 22, Part A and/or 40 C.F.R. Part 98. The audit team ~~shall~~must include this analysis in the audit report.

I.C.1.a.(iii) Rank remaining emission unit control technologies and strategies in descending order based on the reduction in direct GHG emissions per ton of product or output.

I.C.1.a.(iv) Perform a cost-effectiveness analysis on all control technologies and strategies for the emissions unit considering the full lifetime of the equipment. The cost-effectiveness analysis must include an estimate of the net levelized cost per ton of GHG emission reductions (\$/ton CO₂e) over the life of each proposed control method. The audit team must document in the audit report the discount rate, which is of no more than eight (8)% percent, used for the cost-effectiveness analysis. The net levelized cost

analysis should include, but is not necessarily limited to, the following costs and benefits:

- I.C.1.a.(iv)(A) Engineering and design costs;
 - I.C.1.a.(iv)(B) Equipment costs, including installation;
 - I.C.1.a.(iv)(C) Available tax credits and/or incentive programs; and
 - I.C.1.a.(iv)(D) Changes in the annual costs resulting from the control technology/method including energy costs, operations and maintenance costs, and changes to productivity and/or product quality.
- I.C.1.a.(v) Eliminate cost-prohibitive GHG reduction measures considered. GHG reduction measures with a cost-effectiveness of equal to or less than the social cost of GHGs cannot be eliminated as cost-prohibitive, except for a demonstrated, unreasonable burden on competitiveness as analyzed in Section I.C.1.a.(vi).

-
- I.C.1.a.(vi) Consider the economic, energy, and environmental impacts arising from each option under consideration. In this case, economic reasonableness includes an analysis of the economic impact of the emission unit control option on the EITE stationary source's competitiveness within the marketplace. The audit team must document these determinations and associated analyses in the audit report.
 - I.C.1.a.(vii) Additional required documentation for all control technologies and strategies must include, ~~but are not limited to at a minimum~~, overall implementation cost, control efficiency, remaining useful life of the equipment, impacts to land use approvals, and a quantification of any co-benefits. The level of analysis conducted and documented ~~shall~~ must consider the nature of the GHG BAECT measure and potential impacts of these additional criteria.
 - I.C.1.a.(viii) The GHG BAECT analysis may reference recently permitted GHG best available control technologies (BACT), operational or process limits in the EITE stationary source's air pollution permits or in the RACT/BACT/LAER Clearinghouse for similar operations as applicable.

I.C.1.b. The energy BMP analysis.

- I.C.1.b.(i) Unless the EITE stationary source successfully demonstrates that it currently employs energy BMPs pursuant to Section I.C.1.b.(ii) or (iii) and provides the requisite supporting information pursuant to Sections I.C.1.b.(ii)(A) and (B) or I.C.1.b.(iii)(A) to I.C.1.b.(iii)(C), the audit team must analyze energy BMPs as follows:
 - I.C.1.b.(i)(A) Identify all available energy efficiency measures for the specific energy consumption sources included in the audit scope. Any energy efficiency measure considered to be a GHG BAECT option but not recommended as GHG BAECT must be included in the energy BMP analysis for that GHG emission unit, as applicable. This analysis can exclude any control technologies that redefine the stationary source.
 - I.C.1.b.(i)(B) Eliminate technically infeasible energy efficiency measures.
 - I.C.1.b.(i)(C) Rank remaining energy efficiency measures based on the reduction in energy use per ton of final product manufactured at the facility.

-
- I.C.1.b.(i)(D) Perform a cost-effectiveness analysis on all energy efficiency measures considering the full lifetime of the measure. The cost-effectiveness analysis must include an estimate of the net levelized cost per energy consumption reduction over the life of the equipment. The audit team must document in the audit report the discount rate, which is of no more than eight (8) percent%, used for the cost-effectiveness analysis. The net levelized cost analysis should include, at a minimum, but is not necessarily limited to, the following costs and benefits:
- I.C.1.b.(i)(D)(1) Engineering and design costs;
 - I.C.1.b.(i)(D)(2) Equipment costs including installation;
 - I.C.1.b.(i)(D)(3) Available tax credits and/or incentive programs; and
 - I.C.1.b.(i)(D)(4) Changes in the ~~following~~ annual costs resulting from the control technology/method including energy costs, operations and maintenance costs, and changes to productivity and/or product quality.
- I.C.1.b.(i)(E) Eliminate cost-prohibitive energy efficiency measures considered. Energy efficiency measures with a cost-effectiveness equal to or under the social cost of GHGs cannot be eliminated as cost-prohibitive, except for a demonstrated, unreasonable burden on competitiveness shown in Section I.C.1.b.(i)(F).
- I.C.1.b.(i)(F) Consider the economic, energy, and environmental impacts arising from each measure remaining under consideration. In this case, economic reasonableness includes an analysis of the economic impact of the measure on the EITE stationary source's competitiveness within the marketplace. The audit team must document these determinations and associated analyses in the audit report.
- I.C.1.b.(i)(G) Additional required documentation for all analyzed measures must include, ~~but are not limited to at a minimum~~, cost-effectiveness, remaining useful life of the equipment, impacts to land use approvals and any co-benefits. The level of analysis conducted and documented ~~shall~~must consider the nature of the energy efficiency measure and potential impacts of these additional criteria.

I.C.1.b.(ii) In lieu of performing the energy BMP analysis, certification within twelve (12) months of the audit date under the annual Federal Energy Star Program, or equally stringent program deemed equivalent by the Division, will be determined as employment of energy BMPs for the EITE stationary source. Annual Energy Star certification documentation, or that of an equally stringent program deemed equivalent by the Division, for all years subsequent to the previous audit as well as the current certification must be included in the audit report and contain:

I.C.1.b.(ii)(A) Specific BMP energy efficiency measures the EITE stationary source used to achieve the Federal Energy Star Program certification, or that of an equally stringent program deemed equivalent by the Division; and

I.C.1.b.(ii)(B) The annual Energy Performance Indicator (EPI) benchmarking spreadsheet demonstrating a score of 75 or higher submitted with the Energy Star application.

I.C.1.b.(iii) In lieu of performing the energy BMP analysis, registration to ISO 50001 within twelve (12) months of the audit date will be determined as employment of energy BMPs for the EITE stationary source. Management system documentation must be included in the audit report and contain:

I.C.1.b.(iii)(A) Specific BMP energy efficiency measures the EITE stationary source used to achieve the ISO 50001 Program certification;

I.C.1.b.(iii)(B) Information on the energy management system including the Manual, Objectives and Goals, Energy Policy and results of the most recent energy management system audit; and

I.C.1.b.(iii)(C) The valid registration certificate.

I.C.1.b.(iv) If an EITE stationary source fails to achieve the annual certification by the EPA Energy Star Program or equally stringent program deemed equivalent by the Division, or registration to ISO 50001, the source must submit a compliance action plan to the Division within ninety (90) days of the certification or registration expiration. The plan must include the EITE stationary source's plan and timeline to implement energy BMPs to either reacquire certification in the EPA Energy Star Program or equally stringent program deemed equivalent by the Division, reacquire ISO 50001 registration, or comply with the requirements in Section I.C.1.b.(i). The energy BMPs must be achieved within twelve months after the compliance action plan is approved by the Division.

I.C.1.c. The GHG BAECT and energy BMP recommendation.

I.C.1.c.(i) The GHG BAECT recommendation ~~will~~must include:

- I.C.1.c.(i)(A) Recommendations on the most effective direct GHG emissions control technology and strategy, or suite of technologies and strategies, for the GHG emissions unit analyzed as GHG BAECT;
- I.C.1.c.(i)(B) A list of emissions control measures with a levelized cost less than or equal to \$0; and
- I.C.1.c.(i)(C) Recommendations on GHG BAECT options that provide greater co-benefits to the surrounding communities where the top emission unit control technologies or strategies are comparable in terms of cost-effectiveness.
- I.C.1.c.(i)(D) A calculation of the Non-GHG BAECT emissions. Non-GHG BAECT emissions are calculated by subtracting the reported emissions from units evaluated for GHG BAECT from the facility annual emissions at the time of the first audit. This ~~shall~~must be calculated as follows:

$$\text{Non-GHG BAECT Emissions} = \text{Total direct emissions from the most recent year reported} - (\text{reported emissions from the units evaluated for GHG BAECT})$$

I.C.1.c.(ii) The energy BMP recommendation ~~will~~must include:

- I.C.1.c.(ii)(A) Recommendations on the most effective energy efficiency measures for the energy consumption sources analyzed to be set as Energy BMPs;~~;~~
- I.C.1.c.(ii)(B) A list of energy efficiency measures with a levelized cost less than or equal to \$0; and
- I.C.1.c.(ii)(C) Recommendations on Energy BMP options that provide greater co-benefits to the surrounding communities where the top emissions unit control technologies or strategies are comparable in terms of cost effectiveness.

I.C.1.d. A plain-language summary of the audit findings, determinations, and recommendations in the top two languages spoken by the community surrounding the EITE stationary source. This summary ~~shall~~must include the list of GHG BAECT options for the emission units analyzed, how they were ranked and why they are being recommended.

I.C.1.e. Confidential business information must be clearly identified and be submitted in a separate, supplementary document to the audit report.

II. GHG BAECT and Energy BMP Determination

II.A. Within sixty (60) days of receipt of the audit report, the Division will determine GHG BAECT and energy BMPs for the EITE stationary sources as follows:

II.A.1. The GHG BAECT determination may be based on the top-ranked control technology for the emission units in the audit report, or a suite of control technologies, at the Division's discretion, so long as:

-
- II.A.1.a. The cost of the suite of control measures, combined, would not be unduly burdensome to the facility; and
 - II.A.1.b. The total annual CO₂ emissions reductions generated by the suite of measures is equal to or greater than the annual CO₂ emissions reductions generated by the top-ranked control technology according to the audit report.
 - II.A.2. A GHG BAECT determination will be issued for each GHG emissions unit in the audit scope and include:
 - II.A.2.a. The Division's determination of specific control technologies and/or measures for that emission unit, including the current GHG emissions rate of each audited emission unit at the time of the audit;
 - II.A.2.b. All control technologies found under [Part C](#), Section I.C.1.a. to have a net levelized cost less than or equal to \$0, where cost neutrality can be achieved no more than 5 years from operational date of the technology, except where the auditor has established that doing so would pose an unreasonable burden to the facility; and
 - II.A.2.c. The GHG emission rate per unit of final product at the EITE stationary source for the individual emissions units after implementation of the prescribed measures.
 - II.A.2.d. The final GHG BAECT and energy BMP intensity rate determination ~~shall~~must be issued for the EITE stationary source as a rate of total GHG emission (CO₂e) for the emissions units included in the audit scope per final product of the facility. This calculation ~~shall~~must be based on the determination(s) in [Part C](#), Sections II.A.1. and II.A.3. (as applicable) and ~~shall~~must be calculated as follows:
 - II.A.2.d.(i) The Division may adjust the final GHG BAECT and energy BMP intensity determination based on a change to the GHG emission rate for any GHG BAECT measure after the GHG reduction measure is fully operational and tuned.

*GHG BAECT & Energy BMP Intensity Rate Determination = Σ
(CO₂e per tons of facility product for each emission unit in audit scope).*
 - II.A.3. The energy BMP determination will be issued for each energy consumption source in the audit scope and include:
 - II.A.3.a. The Division's determination of energy BMPs for the specific energy consuming equipment; and
 - II.A.3.b. Any energy efficiency measures found under Section I.C.1.b. to have a net levelized cost less than or equal to \$0 that are not included in the BAECT determination, unless the auditor has established that doing so would pose an unreasonable burden to the facility.
 - II.B. The Division will hold one or more public meetings on the results of the final GHG BAECT and energy BMP determinations.
 - II.C. Within [forty-five \(45\)](#) days of making its final GHG BAECT and energy BMP determinations, the Division will present the determinations at a regular meeting of the Commission. The Commission

|

may approve the determinations or return them to the Division for further analysis. The Division will return to the Commission for final approval at its next regular meeting or as soon as practical.

III. Emission Reduction Requirements

III.A. All EITE stationary sources subject to this rule must reduce facility-wide GHG emissions by 5 percent.

III.A.1. EITE stationary sources annual emissions limitation ~~shall~~must be calculated as described in this Section III.A.1. Multiply the EITE stationary source's prescribed final GHG BAECT and energy BMP intensity rate determination, as determined by the Division under Section III., by the number of units produced in the calendar year, to result in a GHG BAECT mass emission number. If an EITE stationary source produces more than one product and, as a result, has more than one final GHG BAECT determination, the GHG BAECT mass emissions is calculated by multiplying the intensity rate for each product by the amount of product produced in the previous year, to calculate the GHG BAECT mass emissions for each product, and then adding the mass emissions for each product to calculate the GHG BAECT mass emissions. Add the Non-GHG BAECT emissions calculated under [Part C](#), Section I.C.1.c.(i)(D) to the GHG BAECT emissions number, resulting in a mass-based emissions representing the facility-wide total GHG emissions (CO₂e), which serves as the baseline for the ~~five~~ (5) percent mass-based reduction. Subtract the five (5) percent mass emissions reduction as required under Section III. This ~~shall~~must be calculated as follows:

*Annual Emission Limit for Compliance Year in tons CO₂e = (((GHG BAECT & Energy BMP Intensity Rate Determination) * (Compliance Year Facility Product)) + Non-GHG BAECT determination) * 0.95*

III.A.2. Beginning no later than the third year after each audit year, EITE stationary sources must demonstrate the additional mass-based five (5) percent GHG emission reduction and continued compliance with the reduction described in this section, by comparing the total mass GHG emissions limitation to the ~~direct net~~ reported GHG emissions for the previous year. This is demonstrated through the annual compliance certification in Section V.A.

III.A.3. Where an EITE stationary source's approved compliance action plan requires that the plan be completed and operational after the third year after each audit year, the EITE stationary source must meet an interim annual mass emission limit achieving the required mass-based five (5) percent GHG emission reduction.

III.A.3.a. This interim annual five (5) percent mass reduction ~~shall~~must be calculated by multiplying the EITE stationary source's GHG BAECT and energy BMP intensity rate, as determined by the Division under Section II., by the number of units produced in the third calendar year, to result in a GHG BAECT mass emission number. Add the Non-GHG BAECT emissions to this number. Five (5) percent of this mass emissions total represents the mass GHG emissions reduction required in tons of CO₂e. The calculation is as follows:

*(((GHG BAECT & Energy BMP Intensity Rate Determination) * (Compliance Year Facility Product)) + Non-GHG BAECT determination) * 5%*

III.A.3.b. The interim annual emissions limitation is calculated by multiplying the current GHG emissions intensity rate, as documented in the most recent audit, by the compliance year facility product to result in a mass GHG emissions total. Add the Non-GHG BAECT emissions to this total, and then subtract the 5% reduction calculated in Section III.A.3.a. The calculation is as follows:

*((Current GHG Emissions Intensity Rate as documented in the audit report * Compliance Year Facility Product) + Non-GHG BAECT determination) – (((GHG BAECT & Energy BMP Intensity Rate Determination) * (Compliance Year Facility Product)) + Non-GHG BAECT Determination) * 5%)*

III.B. If, at any point after the 2022 audit cycle and before 2030, an EITE stationary source achieves mass based GHG emission reductions equal to or greater than 20% below the source's 2015 GHG emissions baseline, the five (5) percent emission reduction required under Part C, Section III.A. is considered satisfied through the year 2030, provided the twenty (20) percent mass-based reductions are sustained as demonstrated through annual compliance certifications under Part C, Section V.A.1. An EITE stationary source meeting this requirement must continue to conduct the annual audits and otherwise comply with the requirements of this rule.

IV. Emission Reduction Requirement Compliance

IV.A. The EITE stationary source must submit a compliance action plan within one hundred twenty (120) days of the Commission's approval of the GHG BAECT, energy BMPs, and GHG BAECT and energy BMP intensity rate determination. The submission must that includes the EITE stationary source's plan and timeline to comply with the annual mass emission limit, and interim mass emission limit in Section IV.A.2.d., as applicable, and the energy BMPs determination.

IV.A.1. The EITE stationary source may use the following emission reduction mechanisms to comply with the annual and interim emission limits:

IV.A.1.a. Actual, direct emissions reductions onsite at the EITE stationary source, which may include carbon capture and storage projects and direct GHG removals provided that the Division has established or adopted by reference a standardized protocol or protocols to demonstrate high quality carbon removal;

IV.A.1.b. Actual, direct GHG emission reductions submitted in the form of GHG credits awarded by the Division. In order to produce-generate GHG credits, the emissions reductions must be real, additional, verifiable, permanent and enforceable. GHG credits will only be issued in the GHG crediting and tracking system after emission reductions have been demonstrated; or

IV.A.1.c. Installation and utilization at the facility of a retail distributed generation or net meter renewable energy project that reduces the GHG emissions from the EITE stationary source's electrical energy use, and for which the EITE stationary source has retired Renewable Energy Credits ~~in Colorado~~-generated in Colorado that year, which demonstrate emissions reductions to comply with Section III.A. Utilization of Renewable Energy Credits for compliance cannot exceed the annual generation of the distributed generation system, ~~and~~ it can only be used to satisfy the five (5) percent GHG emission reduction associated with Section III.A., and shall must not be used for any other component of the annual emission limitation.

-
- IV.A.2. If the measure(s) determined to be GHG BAECT and/or energy BMPs for an emission unit also are anticipated to result in significant co-benefits, then the EITE stationary source must demonstrate in its compliance action plan that the co-benefits will be achieved through comparable reductions of the relevant harmful air pollutant(s) at the EITE stationary source. If an EITE stationary source demonstrates there are no material co-benefits from the implementation of the measure(s) determined to be GHG BAECT and/or energy BMPs, these requirements do not apply.
- IV.B. Beginning no later than the third year after each audit year, EITE stationary sources must demonstrate the additional mass-based five (5) percent GHG emission reduction described in this Section V. through the annual compliance certification in Section V.A.1.
- IV.C. When considering compliance options with similar or the same cost-effectiveness, the EITE entity must give increased priority to GHG reduction initiatives that would produce co-benefits to the ~~neighboring~~ communities surrounding the EITE stationary source.
- IV.D. The Division will review the compliance action plan for approval.
- IV.E. EITE stationary sources must comply with the compliance action plan once approved by the Division.
- IV.F. If in any calendar year an EITE stationary source achieves reported emissions lower than the annual emissions limitation, the Division will award the EITE stationary source GHG credits equal to the difference between the annual emissions limitation and reported emissions. GHG credits will only be issued after emission reductions have been demonstrated.
- IV.G. If in any calendar year an EITE stationary source fails to achieve the annual emissions limitation, the ~~owners and operators~~ source may remedy this noncompliance by ~~surrendering in the EITE entity's compliance account sufficient~~ retiring GHG credits ~~in the source's credit account sufficient~~ to reduce the ~~actual~~ emissions to the EITE annual emissions limitation.
- V. Reporting and Compliance Certification Requirements
- V.A. ~~Beginning in 2026~~⁶⁷. ~~Owners or operators of~~ EITE stationary sources must submit an annual report to the Division ~~no later than by March 31~~^{y 1 of each year (beginning May 1, 2026)} that includes ~~the following~~[;]. ~~The Division will only issue GHG credits to EITE stationary sources that adhere to the requirements of Part C, Section V.A.~~
- ~~V.A.1. Annual Compliance Certification Requirements. The account representative of each EITE stationary source must submit a compliance certification to the Division or its agent that certifies:~~
- V.A.1.~~a~~. The EITE stationary source's net GHG emissions, in metric tons, for the previous calendar year;
- V.A.1.~~2~~^b. The total production at the EITE stationary source, in units that are consistent with the GHG BAECT and energy BMP intensity rate determination, for the previous calendar year;
- V.A.1.~~e~~³. The EITE stationary source's GHG emissions rate per product for the previous calendar year and the GHG BAECT and energy BMP intensity rate determination~~;~~[;]
- V.A.~~3~~⁴. If the EITE stationary source is determined to be employing energy BMPs through certification to the Federal Energy Star Program, ~~that of an equally stringent program~~

deemed equivalent by the Division, or the ISO 50001 standard, the EITE stationary source must submit the information in accordance with Section I.C.1.b.;

V.A.5. All information necessary for the Division to confirm the EITE stationary source's GHG emission intensity rate in the previous calendar year;

V.A.4-d6. The EITE stationary source's annual emissions limitation for the previous calendar year; and

V.A.4-e7. The difference, if any, between the EITE stationary source's net GHG emissions for the previous calendar year and the EITE stationary source's annual emissions limitation for the previous calendar year.

V.B. In addition to the annual report, owners and operators of EITE stationary sources must submit a final update to the Division within sixty (60) days after commencing operation of GHG BAECT and/or energy BMPs. The audit update must include verification that all GHG BAECT and energy BMP measures established in Part C, Section II are operational.

V.C. Beginning in 2026, EITE stationary sources must submit a compliance certification to the Division no later than September 30 that certifies the following:

V.C.1. The EITE stationary source's net GHG emissions, in metric tons, for the previous calendar year;

V.C.2. The total production at the EITE stationary source, in units that are consistent with the GHG BAECT and energy BMP intensity rate determination, for the previous calendar year;

V.C.3. The EITE stationary source's GHG emissions rate per product for the previous calendar year and the GHG BAECT and energy BMP intensity rate determination;

V.C.4. The EITE stationary source's annual emissions limitation for the previous calendar year;

V.C.5. The difference, if any, between the EITE stationary source's net GHG emissions for the previous calendar year and the EITE stationary source's annual emissions limitation for the previous calendar year;

V.C.6. Documentation of GHG credits retired prior to their expiration in the GHG crediting and tracking system, per Part D, Section III.C., for compliance purposes;

V.C.7. Current project status to implement GHG BAECT or energy BMPs contained in a compliance action plan under Part C, Section IV.A. and the current status of measures to achieve comparable co-benefits required under Part C, Section IV.A.2.; and

V.C.8. Instances of noncompliance with the Division's approved GHG BAECT and energy BMPs determination, compliance action plan, reason(s) for noncompliance, and actions taken or planned to return to compliance.

~~V.A.1.f. For EITE stationary sources that are complying through GHG credits pursuant to Section VI.A.1.b.:~~

~~V.A.1.f.(i) In the event that the EITE stationary source has actual total emissions that exceed its annual emissions limitation, the compliance certification shall specify the GHG credits that are to be surrendered from the EITE stationary source's compliance account sufficient to meet the EITE stationary source's annual emissions limitation.~~

~~V.A.2. Current project status to implement GHG BAECT or energy BMPs contained in a compliance action plan under Section IV.A.;~~

~~V.A.2.a. The current status of measures to achieve comparable co-benefits required under Section IV.A.2.~~

~~V.A.4. Instances of noncompliance with the Division's approved GHG BAECT and energy BMPs determination, compliance action plan, reason(s) for noncompliance, and actions taken or planned to return to compliance; and~~

VI. Recordkeeping

VI.A. EITE stationary sources must maintain records for a period of ten (10) years and make such records available to the Division upon request, including, but not limited to:

VI.A.1. Division-approved audit plan.

VI.A.2. Final audit reports.

VI.A.3. Commission-approved GHG BAECT and energy BMP determinations.

VI.A.4. Annual Compliance Certificate.

VI.A.5. Approved compliance action plans and records reasonably necessary to demonstrate compliance with the approved plan.

VI.A.6. Current certification or registration documentation to applicable standards to show continued compliance with Part C, Section I.C.1.b.(ii) or (iii).

VI.A.7. If the final GHG BAECT is determined to have an operation date that is beyond the next 5-year audit, the EITE stationary source must maintain records of project management documentation related to the implementation of the GHG BAECT measure including project status, timeline, expected operational date as proposed and approved in the compliance action plan.

VII. If an EITE facility permanently ceases manufacturing operations, the EITE facility must submit records of the closure or cessation to the Division within sixty (60) days of ceasing operations. These records include, but are not limited to:

VII.A. Bill of sale.

VII.B. Cancellation records of relevant permits.

VII.C. Relevant transfer of ownership records for facilities and/or equipment.

PART D Greenhouse Gas Credit Trading

I. Establishment and Maintenance of Accounting and GHG Crediting and Tracking System and Accounts

I.A. By December 1, 2024, the Division or its agent will establish a GHG crediting and tracking system.

I.B. Upon receipt of the registration requirements under Part D, Section II., the Division or its agent will establish one (1) credit account for each manufacturing stationary source; midstream

~~segment~~ company; and gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project owner or operator in the GHG crediting and tracking system.

- I.C. The Division or its agent will assign a specific identifier in the GHG crediting and tracking system to a manufacturing stationary source located within a disproportionately impacted community.
- I.D. If there is no activity on a credit account(s) in the GHG crediting and tracking system for eighteen (18) months or longer, the Division or its agent at the Division's direction may purge the unused credit account(s) from the ~~GHG crediting and tracking~~ system as long as the Division or its agent provides written notice to the account representative(s) of the intended purge and either the account representative(s) does not respond to the ~~Division's or its agent's~~ written notice of the intended purge in writing within a reasonable timeninety (90) days or the account representative(s) agrees to the purge in writing.
- II. Registration for the Greenhouse Gas Crediting and Tracking System
- II.A. All manufacturing stationary sources; midstream ~~segment~~ companies; and gas distribution utilities, municipal gas distribution utilities, small gas distribution utilities, and recovered methane project owners or operators must submit an application for an environmental identifier (environmental ID) with to the Division or its agent if they ~~entities~~ does not already haves an environmental ID.
- II.B. All manufacturing stationary sources; midstream ~~segment~~ companies; and gas distribution utilities, municipal gas distribution utilities, small gas distribution utilities, and recovered methane project owners or operators must submit a registration application for a credit account to the Division or its agent as follows.
- II.B.1. All GEMM 2 facilities must submit a registration application for a credit account in the GHG crediting and tracking system to the Division or its agent by December 31, 2024, or within thirty (30) days after the GEMM 2 facility first reports annual direct GHG emissions equal to or greater than the 25,000 metric tons of CO₂e threshold, whichever occurs later.
- II.B.2. All EITE stationary sources must submit a registration application for a credit account in the GHG crediting and tracking system to the Division or its agent within thirty (30) days after the Commission approves the EITE stationary source's GHG BAECT and energy BMP determination, or within thirty (30) days after the EITE stationary source first reports annual direct GHG emissions equal to or greater than the 25,000 metric tons of CO₂e threshold, whichever occurs later.
- II.B.3. All midstream ~~segment~~ companies must submit a registration application for a credit account in the GHG crediting and tracking system to the Division or its agent by December 31, 20278, or within ninety (90) days of becoming a midstream ~~segment~~ company subject to Regulation Number 7, Part B, Section VII., whichever occurs later.
- II.B.4. All gas distribution utilities, municipal gas distribution utilities, small gas distribution utilities, and recovered methane project owners or operators must submit a registration application for a credit account in the GHG crediting and tracking system to the Division or its agent before they may submit an application for recovered methane credits or participate in a credit transaction in the ~~GHG crediting and tracking~~ system.
- II.C. In addition to and in connection with each registration application, registration applicants must include other information that the Division deems necessary, including but not limited to the following ~~information~~.

-
- II.C.1. Legal name(s), physical and mailing addresses, contact information, date and place of incorporation, and any identification number assigned by the incorporating agency of the owner or operator that controls the manufacturing stationary source; midstream ~~segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~;
- II.C.2. Legal name(s), mailing addresses, and contact information of the directors, ~~and~~ officers, owners, operators, or other persons with authority to make legally binding decisions on behalf of the manufacturing stationary source; midstream ~~segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or ~~owner or operator of a~~ recovered methane project, including any partners with over ten (10) percent control of a partnership that owns or controls the manufacturing stationary source; ~~midstream segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~, including any individual or entity doing business as the limited partner or the general partner;
- II.C.3. Legal name(s) and contact information of person(s) with over ten (10) percent control of the voting rights attached to all the outstanding voting securities of the entity that owns or controls the manufacturing stationary source; ~~midstream segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~;
- II.C.4. A business number, if one has been assigned to the entity by a Colorado state agency, to the entity that owns or controls the manufacturing stationary source; ~~midstream segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~;
- II.C.5. NAICS code, AIRS ID, and EPA's Greenhouse Gas Reporting Program Facility ID for the manufacturing stationary source; ~~midstream segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~;
- II.C.6. A government-issued taxpayer or Employer Identification Number or, for entities located in the United States, a U.S. Federal Tax Employer Identification Number, if assigned, for the entity that owns or controls the manufacturing stationary source; ~~midstream segment~~ company; ~~and~~ gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~;

II.C.7. Disproportionately impacted community information as follows

II.C.7.a. A confirmation of whether the manufacturing stationary source or gas distribution utility, municipal gas distribution utility, small gas distribution utility, or recovered methane project ~~owner or operator~~ is located within a disproportionately impacted community, ~~using Colorado EnviroScreen; and~~

II.C.87.b. The ~~midstream segment company's~~ registration application of a midstream company must include an attachment confirming whether and which of the company's facilities are located within a disproportionately impacted community, ~~as identified using Colorado EnviroScreen Version 4.~~

II.D. Any individual who requires access to the GHG crediting and tracking system on behalf of a manufacturing stationary source or midstream ~~segment~~ company ~~or midstream segment company~~ must register as a user in the GHG crediting and tracking system.

II.D.1 Each manufacturing stationary source and midstream ~~segment~~ company must designate one primary account representative and at least one, and up to four, alternate account representatives.

II.D.2. Registering users must provide their legal name(s) and contact information when applying to become an account representative.

II.D.3. Each account representative ~~shall~~ must represent, and by his or her representations, actions, inactions, or submissions, legally bind the manufacturing stationary source or midstream ~~segment~~ company in all matters relating to Regulation Number 27 and Regulation 7, Part B, Section VII ((State Only) Reduction of Emissions from Oil and Natural Gas Midstream Segment Fuel Combustion Equipment). Any representation, action, inaction, or submission by any authorized account representative will be deemed to be a representation, action, inaction, or submission by the ~~source~~ manufacturing stationary source or midstream company.

III. Greenhouse Gas Credit Trading Requirements

III.A. GHG credits will be generated and may be traded as follows.

III.A.1. For the purpose of trading GHG credits between EITE facilities, EITE facilities will generate one (1) GHG credit per metric ton of CO₂e for each metric ton of CO₂e that the relevant facility's ~~annual direct net~~ GHG emissions are less than its annual emissions limitation in the relevant year.

III.A.2. For the purpose of trading GHG credits between GEMM 2 facilities, the following apply:

III.A.2.a. Subject to meeting the emissions reporting deadline in Part B, Section IV.A. and the requirements in Part D. Section III.A.2.a.(i), in any compliance year, a GEMM 2 facility will generate one (1) GHG credit for each metric ton of CO₂e that the facility's ~~net annual direct~~ GHG emissions are less than its GEMM 2 annual GHG emissions requirement for 2030.

III.A.2.a.(i) In any compliance year, a GEMM 2 facility with a production-related adjusted baseline, pursuant to Part A, Section II.BB., will generate one (1) GHG credit for each metric ton of CO₂e that

the facility's ~~net annual direct~~ GHG emissions are less than the result of the below calculation:

*(Higher of the GEMM 2 facility's 2021 or 2022 emissions, as reported under Regulation Number 22) * (1 - 2030 GEMM 2 facility GHG percentage reduction requirement as specified in Part B, Section I.A.)*

III.A.2.b. Beginning in the 2031 compliance year, a GEMM 2 facility may generate one (1) GHG credit per one (1) metric ton of CO₂e quantifiably reduced through offsite direct air carbon capture projects, except as adjusted by a Division-approved protocol governing the implementation of such projects and provided, ~~however,~~ that such projects may be used for compliance with this Regulation Number 27 only after the Division approves a protocol governing the implementation of such projects.

III.A.3. GHG credit trading between EITE and GEMM 2 facilities ~~will be~~ allowed beginning in 2025 subject to the Division's published Guidance for: EITE (GEMM 1) and GEMM 2 Greenhouse Gas Credit Trading ~~Division guidance to be published no later than December 1, 2024.~~

III.B. Unless there are technical system failures, issues or delays with reported emissions data, or other issues beyond the Division's control that require GHG credit issuance be delayed or rescheduled, and provided that the regulated entity has completed the GHG crediting and tracking system registration process per Part D, Section II and timely submitted a complete and accurate emissions report as required by Part B, Section IV.A., Part C, Section V.A., or Regulation 7, Part B, Section V.A., as applicable, the Division or its agent at the Division's direction will issue GHG credits to manufacturing stationary sources and midstream companies as follows. If a technical system failure, issue, or delay with reported emissions data, or other issue beyond the control of the Division requires the Division to delay or reschedule GHG credit issuance, the Division will notify manufacturing stationary sources and midstream companies of the delay within five (5) business days of confirming the cause for delay. In the notice, the Division will provide an explanation of the delay and proposed solution, and the Division's anticipated timeline for credit issuance.

III.B.1. ~~On an annual basis beginning with the 2024 compliance year, and by~~ No later than the first Tuesday of May ~~2025 each year, and on the first Tuesday of each May thereafter,~~ the Division or its agent at the Division's direction will initiate the issuance of GHG credits to the credit account in the GHG crediting and tracking system ~~credit account~~ of an operating GEMM 2 facility that has submitted all reports in accordance with Part B, Section IV.A, ~~as verified~~ subject to review by the Division, with GHG credits equal to the difference between the facility's ~~annual direct~~ net GHG emissions in the applicable ~~compliance calendar~~ year and its GEMM 2 annual GHG emissions requirement for 2030 as established in Part B, Section I. A GEMM 2 facility which has ceased operations may not generate GHG credits.

III.B.2. The Division or its agent at the Division's direction will annually issue GHG credits in the GHG crediting and tracking ~~trading~~ system to an EITE stationary source to the extent its ~~annual direct~~ net GHG emissions in the applicable ~~compliance calendar~~ year are less than its annual emissions limitation in the applicable compliance year, ~~as a result of permanent, real, and verifiable emission reduction measures implemented at the EITE stationary source.~~ An EITE stationary source that has ceased operations may not generate GHG credits.

-
- III.B.3. The Division will issue GHG credits in the GHG crediting and tracking system to midstream companies in accordance with Regulation Number 7, Section VII.
- III.B.4. A manufacturing stationary source or midstream company that adjusts its GHG emissions report for any year after GHG credits are issued, as established in Part C, Section V.A. (GEMM 1); Part B, Section IV.A. (GEMM 2); and Regulation Number 7, Part B, Section V.A. (midstream), is subject to the following.
- III.B.4.a. If a manufacturing stationary source or midstream company adjusts its annual GHG emissions report to reflect lower GHG emissions than reported and relied upon by the Division for GHG credit issuance for a particular calendar year, then the manufacturing stationary source or midstream company will not receive any additional GHG credits for that vintage year in its credit account of the GHG crediting and tracking system.
- III.B.4.b. If a manufacturing stationary source or midstream company adjusts its annual GHG emissions report to reflect higher GHG emissions than reported and relied upon by the Division for GHG credit issuance for a particular calendar year, then the manufacturing stationary source or midstream company must follow one or a combination of the following actions, in the following order.
- III.B.4.b.(i) Within thirty (30) days after the manufacturing stationary source or midstream company submits its adjusted GHG emissions report to the Division, the Division or its agent at the Division's direction will administratively cancel active GHG credits, from the source or company's credit account, of the same type and disproportionately impacted community status from the same vintage year and in the amount equal to the number of GHG credits that were overissued to the source or company.
- III.B.4.b.(ii) If cancellation under III.B.4.b.(i) will not result in the cancellation of enough active GHG credits to resolve the GHG credit overissuance, then, within thirty (30) days after the manufacturing stationary source or midstream company submits its adjusted GHG emissions report to the Division, the Division or its agent at the Division's direction will administratively cancel active GHG credits, from the source or company's credit account, of the same type and disproportionately impacted community status from vintage years different to the vintage year that the GHG credits were overissued to the source or company, starting with the newest vintage year and ending with the oldest vintage year, in the amount equal to the remaining number of GHG credits overissued to the source or company.
- III.B.4.b.(iii) If cancellation under III.B.4.b.(i) and (ii) does not result in the cancellation of enough active GHG credits to resolve the GHG credit overissuance, then, within one hundred and twenty (120) days after the manufacturing stationary source or midstream company submits the adjusted GHG emissions report to the Division, the source or company must purchase active GHG credits of the same type and disproportionately impacted community status from the same vintage year that the GHG credits were overissued to the source or company, in an amount equal to the remaining number of GHG credits that were

overissued to the source or company. The source or company must notify the Division within five (5) days that the purchased GHG credits are in their credit account, and the Division or its agent at the Division's direction will administratively cancel those GHG credits.

III.B.4.b.(iv) If III.B.4.b.(i), (ii), and (iii) do not result in the cancellation of enough active GHG credits to resolve the GHG credit overissuance, then, within one hundred and twenty (120) days after the manufacturing stationary source or midstream company submits the adjusted GHG emissions report to the Division, the source or company must purchase active GHG credits of the same type and disproportionately impacted community status from vintage years different to the vintage year of the GHG credits that were overissued to the source or company, starting with the newest vintage year and ending with the oldest vintage year, in the amount equal to the remaining number of GHG credits that were overissued to the source or company. The source or company must notify the Division within five (5) days that the purchased GHG credits are in their credit account, and the Division or its agent at the Division's direction will administratively cancel those GHG credits.

III.B.4.b.(v) If III.B.4.b.(i), (ii), (iii), and (iv) do not result in the cancellation of enough active GHG credits to resolve the GHG credit overissuance, then, within one hundred and twenty (120) days after the manufacturing stationary source or midstream company submits the adjusted GHG emissions report to the Division, the source or company must purchase any type of active GHG credits in the amount equal to the remaining number of GHG credits that were overissued to the source or company. The source or company must notify the Division within five (5) days that the purchased GHG credits are in their credit account, and the Division or its agent at the Division's direction will administratively cancel those GHG credits.

III.B.5. Each GHG credit issued by the Division or its agent at the Division's direction in the GHG crediting and tracking system will be uniquely identifiable.

III.B.6.4 No later thanBy the third Tuesday of May ~~2025 each year and each third Tuesday of May thereafter~~, the Division will publish on its website the total amount of any GHG credits ~~credited~~ issued collectively to the ~~compliance-credit~~ accounts of manufacturing stationary sources for the previous calendar year, and the cumulative surplus or shortfall of GHG credits for that vintage year; ~~no later than the third Tuesday of May.~~

III.C. A GHG credit will expire three (3) years after its issuance date in the GHG crediting and tracking system to a manufacturing stationary source or midstream company unless it is retired prior to expiration in ~~the GHG crediting and tracking~~that system. An expired GHG credit may no longer be retired, sold, or transferred in the GHG crediting and tracking system.

III.D. Subject to Division-developed guidance, ~~t~~To avoid double-counting ~~of~~ GHG emission reductions, GHG credits generated under this Regulation Number 27, Part D, may not be sold into or used in any carbon or GHG offset registry or trading market outside of the GHG crediting and tracking system.

III.E. Subject to Part D, Sections III.A.3. and Regulation Number 7, Part B, Section VII.F.6.f., any manufacturing stationary source or midstream ~~segment~~ company may sell active GHG credits in their credit account to any other manufacturing stationary source or midstream ~~segment~~ company upon such terms ~~as~~ agreed ~~upon~~ between the ~~manufacturing stationary source and midstream segment company~~ entities at any time, except ~~where to the extent~~ the GHG credits are (i) offered for sale pursuant to an ongoing auction under Part D, Section IV., or (ii) are committed pursuant to a completed auction under Part D, Section IV.

III.E.1. Within thirty (30) days of finalizing a contract for the sale of GHG credits, completing any GHG credit sale, the manufacturing stationary sources and/or midstream ~~segment~~ companies participating in the transaction will ~~must~~ report to the Division or its agent, through a Division-approved process, the quantity and price or other consideration, for each vintage year(s) of GHG credits to be sold, and the corresponding dates agreed upon and/or anticipated for the transfer of the GHG credits. ~~Division shall post on its website the parties, quantity, and vintage year(s) of GHG credits sold within thirty (30) days of receiving such report. The Division may elect to publish pricing information from such reports.~~

III.E.2. Within thirty (30) days of completing any GHG credit sale, including sales already reported to the Division or its agent per Part D, Section III.E.1., the manufacturing stationary sources and/or midstream companies participating in the transaction must report to the Division or its agent, through a Division-approved process, the quantity and price or other consideration for each vintage year(s) of GHG credits sold.

III.E.2.a. The Division or its agent will post on its website the parties, quantity, and vintage year(s) of GHG credits sold within thirty (30) days of receiving such a report. The Division may elect to publish pricing information from such reports.

III.E.2.b. If the sale is part of a larger finalized contract for the sale of GHG credits, then the manufacturing stationary sources and midstream companies participating in the transaction must include in their report to the Division or its agent the quantity and price or other consideration for each vintage year(s) of GHG credits already sold and remaining to be sold as part of the most up-to-date version of the finalized contract. The Division will not publish this information.

III.E.2.c. Upon reporting of a GHG credit transaction, the GHG credits subject to the sale will be transferred from the selling party's credit account to the buying party's credit account within the GHG crediting and tracking system.

III.E.2.d. In selling GHG credits, the seller warrants and represents that the GHG credits generated are based on an accurate reporting of GHG emissions for the relevant year. Buyers of GHG credits buy GHG credits with this assurance.

IV. Annual GHG Credit Auctioning

IV.A. Only manufacturing stationary sources may participate in any GHG credit auction to buy or sell GHG credits in 2025, 2026, and 2027 for GHG credit vintage years 2024, 2025, and 2026, respectively. Beginning in 2028, both manufacturing stationary sources and midstream companies may participate in the GHG credit auction to buy or sell GHG credits. Midstream companies may participate in GHG credit auctions starting in 2028 to buy or sell GHG credits from vintage year 2027 and beyond. On June 30, 2025 and each June 30 or first business day thereafter, the auction administrator will administer a voluntary GHG credit auction. Only

~~manufacturing stationary sources may participate in any GHG credit auction to buy or sell GHG credits. Beginning in 2028 with GHG credit vintage year 2027, midstream segment companies may participate in the GHG credit auction to buy or sell GHG credits.~~

IV.A.1. The auction administrator shall will create a publicly available website for publishing information related to the annual auction. The website shall will contain ~~the following information:~~

~~IV.A.1.a. ———G~~general guidance on the process, including how bids and offers are used to determine the auction settlement price and the total quantity of GHG credits sold at auction.

IV.B. ~~Beginning the third Tuesday of May 2025 and each third Tuesday of May thereafter, the~~ The auction administrator shall will publish a notice of auction on its website, no later than the third Tuesday of May each year with the following information:

IV.B.1. Auction application requirements and instructions;

IV.B.2. The form and manner for submitting bids;

IV.B.3. The procedures for conducting the auction; ~~and~~

IV.B.4. The time, date, and procedures for a second round of the auction, if necessary, pursuant to Section IV.I.

IV.C. ~~Beginning in~~ No later than May 31 each year y May 31, 2025 and every May 31 thereafter, for each vintage year of active GHG credits, any manufacturing stationary source that desires to participate in the auction, ~~for each vintage year of GHG credits,~~ as a bidder or offeror must inform the auction administrator ~~in writing~~ via a Division-approved process no later than May 31 in order to participate and submit bids or offers, respectively, in the auction. Beginning in 2028, for each vintage year of GHG credits starting with vintage year 2027, any midstream company that desires to participate in the auction as a bidder or offeror must inform the auction administrator via a Division-approved process no later than May 31 in order to participate and submit bids or offers, respectively, in the auction. ~~In order to participate and submit bids or offers in the auction, midstream segment companies must inform the auction administrator in writing by May 31, 2029, and every May 31 thereafter.~~ Failure to provide such notice for a vintage year of GHG credits precludes the manufacturing stationary source or midstream ~~segment~~ company from participating in that year's annual auction process for the respective vintage year.

IV.C.1. In order to participate in the annual auction on behalf of a manufacturing stationary source or midstream company, a user must be authorized as an account representative for that manufacturing stationary source or midstream company within the GHG crediting and tracking system prior to May 1 of each annual auction year.

V.C.2. A manufacturing stationary source or midstream ~~segment~~ company that offers to sell GHG credits in one or more vintage years in any auction is not eligible to bid to purchase GHG credits from the same vintage years in the same auction, but is eligible to bid on GHG credits from vintage years different than those offered for sale.

IV.C.23. ~~———~~A manufacturing stationary source or midstream ~~segment~~ company that bids to buy GHG credits in one or more vintage years in any auction is not eligible to offer to sell GHG credits from the same vintage years in the same auction, but is eligible to offer GHG credits for sale from vintage years different than those bid for purchase.

-
- IV.D. Three (3) business days after receiving notices of intent to participate, the auction administrator will determine whether a sufficient number of bidders and offerors have given notice of their intent to participate in the annual auction. A sufficient number requires more than zero offerors and more than zero bidders. If there is a sufficient number of bidders and offerors, then the auction administrator will publish a notice stating that the auction will take place that year and will provide the number of bidders and offerors that have provided a notice of intent to participate. If there is not a sufficient number of bidders and offerors, then the auction administrator will publish a notice on its website canceling the auction for that year, and the timeline in the remaining sections of this Part D ~~shall do~~ not apply.
- IV.E. Auction window. Five (5) business days after May 31 of the relevant year, the auction administrator will (i) accept bids and offers from bidders and offerors, respectively, for each vintage year of GHG credits through the GHG crediting and tracking system ~~managed by the auction administrator~~, and ~~the auction administrator shall~~ will (ii) allow bids and offers to be submitted by no later than June 15 of the relevant year.
- IV.E.1. The auction ~~bidding and offering~~ window may be delayed, rescheduled, or canceled due to technical systems failures, ~~emissions reporting delays, or issues beyond the Division's control~~.
- IV.E.2.1.a. — If technical systems failures cannot be resolved and ~~a bidding~~ the auction window cannot be rescheduled to meet the requirements of this section, then the auction administrator will cancel the auction ~~bidding~~ window.
- IV.F. All bids for GHG credits will be considered a binding commitment for the purchase of GHG credits under the rules of the auction. All offers for GHG credits submitted for sale in the auction will be considered a binding commitment for the sale of GHG credits under the rules of the auction, and by offering GHG credits for sale, potential sellers warrant and represent that the GHG credits generated are based on an accurate reporting of GHG emissions for the relevant year.
- IV.G. Auction Format
- IV.G.1. A separate auction will be held for each vintage year of GHG credits, and each auction will consist of a single round of bids and offers for GHG credits of the applicable vintage year.
- IV.G.2. Each individual manufacturing stationary source or midstream ~~segment~~ company may only act as a bidder or offeror of GHG credits for an individual vintage year in the annual auction, consistent with Section IV.C.
- IV.G.3. Bidders submit bids and offerors submit offers.
- IV.G.4. Each bidder may submit multiple bids for each vintage year of GHG credits.
- IV.G.5. Each offeror may submit multiple offers for each vintage year of GHG credits.
- IV.G.6. Bids and offers will be sealed and given confidential treatment.
- IV.G.7. Bids and offers must specify the quantity of GHG credits to be transacted ~~as a whole number, and must be submitted as multiples of tens (10) or hundreds (100) GHG credits~~.
- IV.G.8. Bids and offers must be submitted in U.S. dollars and whole cents, on a per-GHG credit basis.

-
- IV.G.9. Bids and offers must specify the vintage year of the GHG credits for which they are made.
- IV.H. Determination of Winning Bidders and Settlement Price. For each auction ~~round and for~~, ~~of~~ each vintage year of GHG credits auctioned during each auction round, the following process ~~shall~~ must be used to determine a single auction settlement price, allocations of GHG credits sold to bidders, and proceeds from such sales to offerors:
- IV.H.1. Each bid will consist of a price and the quantity of GHG credits ~~of for~~ the applicable vintage year, in ~~multiples of tens (10) or hundreds (100) GHG credits~~ whole numbers, desired at that price.
- IV.H.2. Each offer will consist of a price and the quantity of GHG credits ~~of for~~ the applicable vintage year, in ~~multiples of tens (10) or hundreds (100) GHG credits~~ whole numbers, available for sale at that price.
- IV.H.3. Each bidder may submit multiple bids for each vintage year of GHG credits.
- IV.H.4. Each offeror may submit multiple offers for each vintage year of GHG credits.
- IV.H.5. Beginning with the highest bid price, bids from each bidder will be considered in declining order by price.
- IV.H.6. Beginning with the lowest offer price, offers from each offeror will be considered in ascending order by price.
- IV.H.7. The Division-approved protocol, Guidance for: Annual Greenhouse Gas Credit Auction, determines which GHG credits are exchanged and at what price through the auction. Subject to the protocol, every GHG credit for which a bid price exceeds or is equal to an offer price associated with the GHG credit will be exchanged, consistent with the order prescribed in Sections IV.H.5 and IV.H.6. ~~The auction administrator will develop a Division approved protocol for determining which GHG credits are exchanged and at what price through the auction, which will be every GHG credit for which a bid price exceeds or is equal to an offer price associated with the GHG credit considered in the order prescribed in Sections IV.H.5 and IV.H.6 offered into the auction.~~
- IV.H.7.a. The protocol, through the single auction settlement price, must ensure that no bidder pays more per GHG credit than the bidder bid for a particular GHG credit, and no offeror receives less per GHG credit than the offeror offered for a particular GHG credit.
- IV.H.7.b. The protocol will also provide a method for resolving tie bids and offers in a reasonable and equitable manner. The protocol ~~shall~~ will also address, in a reasonable and equitable manner, circumstances where the lowest bid price exceeds the offer price at that quantity of total GHG credit sales.
- IV.H.7.c. Under the protocol, the auction administrator will determine the auction settlement price, and it will determine from which winning offeror(s) a winning buyer will purchase GHG credits.
- IV.I. Additional auction. If, in the first round of the auction for any vintage year's auction pursuant to Sections IV.G and IV.H, the total GHG credits sold through the auction is less than fifty (50)% percent of the total GHG credits contained cumulatively in all the offers submitted to the auction

for the applicable vintage year, then there will be an additional auction round for any such vintage year of remaining GHG credits not sold in the first auction round.

IV.1.1. Within five (5) business days after the first auction, the auction administrator ~~shall~~will publish the auction settlement price from the first round of the auction for any vintage year, the highest and lowest bid price, ~~and~~ the highest and lowest offer price, the total number of GHG credits offered, and the median of all bid prices and offer prices, from the initial auction round.

IV.I.2. There ~~shall will~~ only be one additional auction round. Bids and offers for the additional auction ~~shall must~~ be received by the auction administrator no later than three (3) business days after the publication of the results of the first auction pursuant to Section IV.I.1, and the additional auction ~~shall will~~ be held within five (5) business days after publication of the results of the first auction pursuant to Section IV.I.1.

IV.J. Actions following auction.

IV.J.1. Within two (2) business days following an auction or any additional auction round held pursuant to Section IV.I, the auction administrator will notify the auction participants, by vintage year, of the following:

IV.J.1.a. Each winning bidder of the auction settlement price, the number of GHG credits that the bidder purchased, the bidder's total purchase cost, and to which sellers of GHG credits to direct payment.

IV.J.1.b. Each winning offeror of the auction settlement price, the number of GHG credits that the offeror sold, the offeror's total sales revenue, and from which bidders to expect payment.

IV.J.2. Within fifteen (15) business days following an auction or any additional auction round held pursuant to Section IV.I, the auction administrator will publish the following information:

IV.J.2.a. The identity of the manufacturing stationary sources and midstream ~~segment~~ companies that were bidders ~~(, but shall not publish the bids made by such entity).~~ ~~nor the total quantity of GHG credits purchased by such entity;~~

IV.J.2.b. The identity of the manufacturing stationary sources and midstream ~~segment~~ companies that were offerors, ~~(but shall not publish the offers made by such entity).~~ ~~nor the total quantity of GHG credits sold by such entity;~~

IV.J.2.c. The aAuction settlement price; ~~and~~

IV.J.2.d. Aggregated or distributional information on bids, offers, and GHG credit purchases;

IV.J.2.e. The identity of the manufacturing stationary sources and midstream companies that were successful bidders and offerors in the auction, the total quantities of the GHG credits each successful bidder and offeror bought and sold per vintage year of GHG credits and from or to which successful bidder or offeror, and the price(s) per GHG credit (but not information on specific bids or offers made by specific bidders or offerors).

IV.J.3. To transfer the GHG credits sold at auction from the respective seller's credit account to the respective buyer's credit account, the seller and buyer ~~shall must~~ provide notice to the Division or its agent, through a Division-approved form, no later than September 20 following the relevant auction within sixty (60) days of receiving the notification from the Division that they were a winning offeror or bidder requesting the GHG credits be transferred. ~~Any winning auction participant that fails to provide notice to the Division or its agent requesting the GHG credits be transferred by this time is subject to the following.~~

IV.J.3.a. If the winning auction participant fails to provide the transfer notice to the Division or its agent by the required date on fewer than three (3) occasions, the winning auction participant will be prohibited from participating in the annual auction following the annual auction in which they failed to provide the transfer notices and may be subject to other compliance and enforcement actions.

IV.J.3.b. If the winning auction participant fails to provide the transfer notice to the Division or its agent by the required date on three (3) or more occasions, the winning auction participant will be prohibited from participating in all future auctions and may be subject to other compliance and enforcement actions.

PART E Statements of Basis, Specific Statutory Authority and Purpose

>>>>>

VI. DATE, 2026 (Revisions to Parts A-D)

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the State Administrative Procedure Act, § 24-4-103(4), C.R.S., the Colorado Air Pollution Prevention and Control Act, §§ 25-7-110 and 25-7-110.5., C.R.S., and the Air Quality Control Commission's (Commission) Procedural Rules, 5 Code Colo. Reg. §1001-1.

Basis

The Commission made a number of changes to improve the Regulation Number 27 programs for the Air Pollution Control Division (Division) and regulated entities, and to increase transparency for the public. With these changes, the Commission improved the functionality of the programs and clarified existing requirements and compliance pathways. The Commission cleaned up, clarified, and updated certain aspects of the rule, including definitions and requirements to appropriately account for carbon capture and storage, biogenic carbon dioxide, and direct air capture removals as well as credit market timelines and requirements. The Commission also aligned definitions, requirements, and deadlines across state law, including the definitions of "disproportionately impacted communities" and "Colorado EnviroScreen" and requirements for reporting emissions. In addition, the Commission improved requirements for data completeness and accuracy, including for annual emissions reports for covered facilities. The Commission also provided greater transparency around the program, including regarding credit transfers and market participant locations. The proposed revisions also corrected typographical, grammatical, and formatting errors found throughout the regulation.

Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act (Act), specifically section 25-7-105(1), C.R.S., directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in section 25-7-102, C.R.S., and that are necessary for the proper implementation and administration of the Act. Section 25-7-105(1)(e), C.R.S., authorizes the Commission to promulgate implementing rules and regulations consistent with the statewide GHG pollution reduction goals in section 25-7-102(2)(g), C.R.S. Section 25-7-106(1), C.R.S., provides the Commission with "maximum flexibility in developing an effective air quality program and [promulgating] such [a] combination of regulations as may be necessary or desirable to carry out that program." Section 25-7-106(6), C.R.S., authorizes the Commission to require owners and operators of any air pollution source to monitor, record, and report information.

Purpose

The following section sets forth the Commission’s purpose in adopting the revisions to Regulation Number 27, including the practical, technological, and scientific rationales for adopting the revisions.

A. Background

Regulation Number 27 is comprised of three principal components:

1. In 2021, the Commission adopted the GEMM 1 rule, which includes rules requiring Colorado’s four (4) energy-intensive, trade-exposed (EITE) stationary sources to implement best management practices for energy consumption and reduce GHG emissions from their manufacturing operations. These provisions are in Part C.

2. In 2023, the Commission adopted the GEMM 2 rule, which includes regulations requiring Colorado’s seventeen (17) largest, non-EITE industrial sources of GHG emissions to reduce their collective emissions by at least twenty (20) percent by 2030 from 2015 levels. These provisions are in Part B.

3. In 2023, in furtherance of the objectives of the GEMM 1 and GEMM 2 rules, the Commission also adopted a GHG crediting and tracking system (GHG CATS) in which a regulated industrial source that reduces its GHG emissions more than the rules require may generate GHG credits that can be sold, traded, or retired to meet the source’s Colorado compliance obligations. These provisions are in Part D.

When it adopted revisions to the GEMM program in 2023, the Commission requested that the Division: (1) evaluate the trading program and identify any modifications that may be necessary; and (2) report on the program’s implementation and initial emissions reduction projections based on data gathered in the first year. The intent of this request was to evaluate certain concepts and requirements in Regulation Number 27 to ensure proper program functioning in accordance with the goals of the legislature. During the GEMM program’s first four (4) years of implementation and first full cycle of credit generation and auction, the Division identified revisions that will improve the GEMM program for the Division and the regulated entities and will increase transparency for the public. The Commission adopted these revisions to fulfill those goals.

B. General cleanup and clarification

The Commission addressed numerous aspects of Regulation Number 27 that need general cleanup and clarification. This general cleanup includes resolving typographical errors; improving punctuation and prose; modernizing the text by removing “shall” from the language; ensuring consistency in use of acronyms, numbers in text, formatting, and language across regulations; reordering clauses to align with appropriate regulation structure and flow; adjusting references and numbering of clauses; and adjusting language to clarify existing definitions and regulatory clauses (including for alignment between regulations and regulated entities—e.g., adding references to regulated entities where needed to be comprehensive). These types of changes are present throughout the updated regulation.

In addition, for example, the Commission adopted revised definitions for “disproportionately impacted communities” and “Colorado EnviroScreen.” These revisions are needed to align with the most recent statutory definitions and to reference the current version of EnviroScreen and mapping tools. The evidence before the Commission indicated that this adjustment only impacts one covered facility, Anheuser Busch, which would no longer be considered within one mile of a disproportionately impacted community. Because Anheuser Busch has committed to adhering to its 2030 emissions limit starting in 2025 through onsite measures, this change has no material impact.

The revisions also include a number of clarifications and updates to align the requirements between GEMM 1 and GEMM 2 facilities. For example, consistent with the intent of prior versions of the regulation, the revisions clarify that both GEMM 1 and GEMM 2 facilities may comply with their emission reduction

requirements through onsite GHG emissions reductions and the retirement of GHG credits. Part A, III.A, B.

The adopted revisions also clarify that GEMM 2 annual GHG emissions reports are to be based on emissions for the previous “calendar year.” Part B, IV.A.1-3. In addition, for GEMM 2 facilities utilizing a combined heat and power unit, the revisions also include a six-step formula—which the prior version of the rule referred to and the Commission has now moved directly into the rule language—to account for the GHG emissions reduction associated with that unit’s displaced direct thermal emissions in the facility’s annual report. Part B, IV.A.4. The revisions also clearly state that any adjustments to past emissions reports do not decrease a GEMM 2 facility’s emissions requirement. Part B, IV.E., and include steps that GEMM 1 and GEMM 2 facilities must take upon closure or sale to allow Division assessment and formally remove facility obligations under Regulation Number 27, Part B, V.D, Part C, VII.

These revisions include further typographical, grammatical, formatting, and streamlining updates throughout the regulation.

C. Transparency

The Commission required that GEMM 2 facilities include in their GHG reduction plans a description of each GHG reduction measure, including equipment and project type. Part B, II.A.2.a(i). The Commission expects that compliance with this requirement will not be difficult, and including it is necessary to help the Division and public understand the nature of projects being used to reduce emissions if plans are adjusted or new plans are submitted in the future.

Relatedly, the Commission also adopted a revised definition of “verifiable.” Part A, II.ZZZ. The revised text clarifies that reported emission reductions used to generate credits are sufficiently documented and clear that they could be objectively reviewed and evaluated by the Division or a third-party auditor. The revisions to this definition are mainly for clarification. In addition, while the revisions contemplate that a third-party auditor (in addition to the Division) may conduct a review or evaluation, the revisions do not mandate such a review.

The revisions also include a definition of “state-contracted,” and align the GEMM 1 requirements with the GEMM 2 requirement that third-party auditors be state-contracted. Part A, II.VVV; Part C, I.A.3. The revisions also align the GEMM 1 requirements with the annual report and compliance certification dates and requirements that currently apply to GEMM 2 and midstream companies. Part C, V.A and V.C.

The Commission also adopted revisions that allow for a longer than 30-day public comment period on GEMM 2 facilities’ audit reports, GHG reduction plan proposals, and GHG reduction plans. Part B, I.B.3, II.F. These revisions can provide greater opportunities for public participation when needed.

The revisions also clarify that all of the entities that register for the GHG crediting and tracking system (GHG CATS) must specify whether the entity’s facilities are located within a disproportionately impacted community. Part D, II.C.7.–II.P. The revisions also increase the information that will be released after the annual credit auction to include the entities that sold and purchased credits (including matching the sellers and buyers), the number of credits each entity sold and/or purchased, and the price at which those credits were sold and purchased. Part D, IV.J.2.e. The Commission also adopted revisions that enable the Division to obtain information on finalized contracts for the sale of GHG credits. Part D, III.1, II.2.b. This information will increase transparency for all stakeholders and will enable the Division to better understand market conditions and plan for any potential adjustments to the GHG CATS.

D. Federal Issues

The revisions omit certain references to 40 C.F.R. Part 98 or replace such a reference with a reference to Regulation Number 22. E.g., Part A, II.A, II.P. These revisions address uncertainty with the federal reporting program, including the possibility that the federal reporting tool, e-GRRT, which is included in

Part 98 and which the Division relies upon for GHG reporting, will not be maintained or will no longer be available. While Regulation Number 22 refers to Part 98, any changes to Regulation Number 22 will be addressed separately. In the meantime, these revisions to Regulation Number 27 will limit or eliminate the need to make immediate, emergency revisions in the future to respond to changes in the federal reporting program. These revisions may help avoid delays in reporting, with their potential effects on credit issuance and trading.

The Commission also adopted revisions in Part C to ensure that compliance flexibility for EITE stationary sources that employ energy best management practices survives possible changes to or elimination of the federal ENERGY STAR® Program. Part C, I.C.b.(ii). Per Part C, Sections I.B and I.C., certification under this program is currently allowed in lieu of conducting a comprehensive audit of energy best management practices (BMP). These revisions provide for the Division to identify other programs that are equally stringent to the ENERGY STAR® program that EITE stationary sources can utilize in lieu of conducting a full energy BMP analysis.

E. GHG Accounting

The Commission modified certain definitions and adopted new definitions to clarify GHG accounting issues in Regulation Number 27. Of particular note, the Commission included a new definition of “net GHG emissions” that subtracts GHG removals from GHG emissions. Part A, II.BBB. Relatedly, the Commission adopted a new definition of “direct GHG removals” to clarify the types of removals authorized and accounted for under the Regulation Number 27 and used to determine net GHG emissions, specifically reductions of biogenic CO₂ and removals from direct air capture coupled with permanent storage. Part A, II.X. The revisions also define “biogenic CO₂” and clarify that biogenic CO₂ is excluded from “direct GHG emissions” but is included in “direct GHG removals.” Part A, II.O, II.W, II.X. The adopted revisions also include a new definition of “GHG sink,” which is included within the definition of “direct GHG removals.” Part A, II.OO. Collectively, these new and revised definitions provide regulatory certainty and clarity regarding how GHG emissions and credits are calculated (e.g., direct GHG emissions are equivalent to total reported emissions; this is different from net GHG emissions which subtracts authorized removals from direct GHG emissions).

The revisions clarify that EITE stationary sources and GEMM 2 facilities generate GHG credits based on the difference between their net emissions (as opposed to direct GHG emissions) and their annual emissions limitation. Part D, III.A.1, III.B.1, III.B.2.

The revisions also clarify that, to meet their annual onsite GHG reduction requirements, GEMM facilities may use (a) onsite carbon capture and storage projects and (b) onsite direct air capture projects; provided, however, that the Division is using a standardized protocol to demonstrate high quality carbon removal. Part B, III.A.1; Part C, IV.A.1.a. Relatedly, the revisions include a new definition for “high quality carbon removal,” which requires that the removals and subsequent permanent storage be quantified under a Division-approved methodology. Part A, II.RR. These revisions are necessary to ensure that GHG emissions and reductions calculations necessary for Regulation Number 27 compliance and GHG credit issuance are comprehensive and consistent.

F. Credit Program Functionality

The Commission also adopted revisions throughout Part D to ensure that the trading program is functioning properly and is aligned among regulated entities and with other regulations. For example, the revisions align dates and other requirements concerning GHG CATS registration, GHG credit issuance, GHG credit trading, and auction processes across regulations for GEMM 1 facilities, GEMM 2 facilities, and midstream operators. E.g., Part D, II.C.7, III.B.4.a, IV.C. Likewise, the revisions provide that an EITE stationary source that ceases operations may not generate GHG credits, which is consistent with the treatment of GEMM 2 facilities. Part C, III.B.2.

The revisions also provide specific updates and clarity regarding the auction process. For example, the revisions:

-
- Remove the erroneous statement that the Division would administer the annual credit auction on June 30, because that date did not comport with the other auction deadlines in Regulation Number 27, Part D, IV.A;
 - Provide that account representatives that wish to participate in the auction must be authorized in the GHG crediting and tracking system prior to the auction (to avoid manual adjustment errors during the auction), Part D, IV.C.1;
 - Extend the post-auction credit transfer window, and include ramifications for missing this extended deadline, Part D, IV.J.3;
 - Remove the requirement that credits be auctioned in multiples of ten given expanded functionality of the GHG CATS platform, Part D, IV.H.1, IV.H.2;
 - Clarify which sources may purchase credits and participate in the auction, and for which vintage years, Part D, IV.A; and
 - Include a reference to the Division's published guidance for the annual credit auction, Part D, IV.H.7.

Furthermore, the Commission adopted several other changes that address situations that have arisen during implementation of the GHG CATS to date. For example, the revisions:

- Clarify how changes to annual GHG reports will be addressed, including, consistent with Division guidance, that credit amounts will not be adjusted upward if a facility initially reported higher emissions than a revised report specifies, Part D, III.B.4.a;
- Allow adjustments to credit issuance dates for technical issues, data issues, or other issues beyond the Division's control, Part D, III.B.; and
- Require Division guidance to address potential double-counting of emission reductions in any external registry or credit market, Part D, III.D.

Incorporation by Reference

Section 24-4-103(12.5) of the State Administrative Procedure Act allows the Commission to incorporate by reference federal and state regulations and other materials. The criteria of section § 24-4-103(12.5) are met by including specific information and making the regulations available when repeating the full text of each of the regulations incorporated would be unduly cumbersome or otherwise inexpedient. To fully comply with these criteria, the Commission includes reference dates to any code, standard, guideline, or rule incorporated in Regulation Number 27.

Additional Considerations

The following are additional findings of the Commission made in accordance with the Act: § 25-7-110.5(5)(b), C.R.S. As these revisions concern requirements that exceed and may differ from the federal rules under the federal act, in accordance with § 25-7-110.5(5)(b), C.R.S., the Commission determines

- (I) Any federal requirements that are applicable to this situation with a commentary on those requirements:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements necessary for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement.

Manufacturing sector stationary sources covered under Regulation Number 27 are required to report GHG emissions under existing federal regulations. EPA's GHG Mandatory Reporting Rule requires sources with annual emissions equal to or greater than 25,000 metric tons of CO₂e per year to report through the EPA's Greenhouse Gas Reporting Program. Some specific source types are considered "all in" and required to report GHG emissions even if they are under the 25,000 metric ton per year threshold. However, emission reduction requirements and energy BMP and BAECT demonstrations such as those in Regulation Number 27 are not part of any federal law or regulation. Further, there are no federal requirements applicable to Colorado's GHG credit trading program.

(II) Whether the applicable federal requirements are performance-based or technology-based and whether there is any flexibility in those requirements, and if not, why not:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement.

There are currently only applicable federal reporting requirements for covered stationary sources. EPA's Mandatory Reporting Rule requires sources with annual emissions equal to or greater than 25,000 metric tons of CO₂e per year to report through the EPA's Greenhouse Gas Reporting Program. Some specific source types are considered "all in" and required to report GHG emissions even if they are under the 25,000 metric ton per year threshold.

(III) Whether the applicable federal requirements specifically address the issues that are of concern to Colorado and whether data or information that would reasonably reflect Colorado's concern and situation was considered in the federal process that established the federal requirements:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement.

There are no federal requirements that specifically address the issues that are of concern to Colorado aside from the reporting protocols addressed above.

(IV) Whether the proposed requirement will improve the ability of the regulated community to comply in a more cost-effective way by clarifying confusing or potentially conflicting requirements (within or cross-media), increasing certainty, or preventing or reducing the need for costly retrofit to meet more stringent requirements later:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement.

The covered GEMM 2 facilities are allowed to comply using the GHG credit trading system to allow for flexibility.

(V) Whether there is a timing issue which might justify changing the time frame for implementation of federal requirements:

There are no applicable federal requirements that create any timing issues. Regulation Number 27 allows regulated entities a reasonable time to comply with the audit, plan, report, emission reduction, and other requirements. Regulation Number 27 also allows opportunities for alternative compliance.

(VI) Whether the proposed requirement will assist in establishing and maintaining a reasonable margin for accommodation of uncertainty and future growth:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement.

Regulation Number 27 does not set constraints on production. Regulation Number 27 affords regulated entities significant flexibility for meeting GHG emission reduction requirements. Regulated entities are afforded the ability to accomplish required reductions through alternative compliance measures where needed. Regulated entities may use the GHG credit trading system after onsite measures are employed. Regulated entities may also use the program if the facility must increase direct GHG emissions as a result of increased production. Accordingly, regulated entities are afforded a reasonable margin for accommodation of uncertainty and future growth.

(VII) Whether the proposed requirement establishes or maintains reasonable equity in the requirements for various sources:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement. The reporting rules and GHG credit market requirements are equitable across source types.

(VIII) Whether others would face increased costs if a more stringent rule is not enacted:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement. There is no expectation that others could face increased costs if a more stringent rule is not enacted.

(IX) Whether the proposed requirement includes procedural, reporting, or monitoring requirements that are different from applicable federal requirements and, if so, why and what the “compelling reason” is for different procedural, reporting, or monitoring requirements:

Part C, Section II, gives effect to the General Assembly’s adoption of section 25-7-105(1)(e)(IX), C.R.S., which includes a requirement for EITE entities to execute energy and emission control audits that are not required under federal regulations. This is a compelling reason, as these audits will inform the state’s strategies and future regulations to accomplish the statewide GHG pollution reduction goals and address the impacts of climate change set forth in section 25-7-102(2), C.R.S. and sector-specific emission reductions under section 25-7-105(1)(e)(XIII), C.R.S.

With respect to GEMM 2 facilities, Regulation Number 27 also gives effect to the General Assembly’s adoption of section 25-7-105(1)(e)(XIII), C.R.S. which is a unique requirement of Colorado law. The “compelling reason” for the GHG reduction plans and annual compliance reports required under Part B of Regulation Number 27 is to ensure satisfaction of section 25-7-105(1)(e)(XIII), C.R.S. Such plans and reports will also inform the state’s strategies and future regulations to accomplish the statewide GHG pollution reduction goals and address the impacts of climate change set forth in section 25-7-102(2), C.R.S. and further sector-specific emission reductions under section 25-7-105(1)(e)(XIII), C.R.S.

(X) Whether demonstrated technology is available to comply with the proposed requirement:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and those necessary for participation in the GHG credit market, for which there is no Federal analog or requirement.

(XI) Whether the proposed requirement will contribute to the prevention of pollution or address a potential problem and represent a more cost-effective environmental gain:

The revisions adopted by the Commission in this proceeding are administrative in nature and do not impose new performance or technology requirements. Instead, the revisions principally address requirements for reporting and for participation in the GHG credit market, for which there is no Federal analog or requirement.

The GHG emissions reductions from Regulation Number 27 are expected to help Colorado achieve the statewide GHG pollution reduction goals in section 25-7-102(2)(g), C.R.S., and the sector-specific GHG emission reductions set forth in § 25-7-105(1)(e)(XIII), C.R.S. Anticipated reductions in co-pollutants are expected to have positive health benefits for the people of Colorado.

The ability to participate in the GHG credit market to offset costs of reduction measures or to obtain and retire GHG credits in order to meet compliance targets provides regulated sources opportunities to seek the most cost-effective compliance pathways given their unique conditions using emission reductions achieved only by the regulated group under the industrial sector emissions reduction target.

(XII) Whether an alternative rule, including a no-action alternative, would address the required standard:

Regulation Number 27 implements the statutory requirements of sections 25-7-105(1)(e)(XIII) and (IX), C.R.S. Alternatives exist for how to accomplish these requirements, including different emission thresholds for qualifying entities, different standards for evaluating GHG BAECT, Energy BMPs, and GHG reduction plans and measures, and the provision of no or differing means of alternative compliance as well as different timing requirements for emission reductions. The Commission determined that Regulation Number 27 appropriately gives effect to the statutory requirements and is consistent with the statewide and sector-specific GHG pollution reduction goals. A no-action alternative is not available under section 25-7-105(1)(e), C.R.S.

Findings of Fact

The revisions to Regulation Number 27 are not intended to reduce air pollution but, to the extent that the requirements of section 25-7-110.8, C.R.S. apply to the revisions, and after considering all of the information in the record, the Commission hereby makes the determination that:

- (I) These rules are based upon reasonably available, validated, reviewed, and sound scientific methodologies, and the Commission has considered all information submitted by interested parties.
- (II) Evidence in the record supports the finding that the rules shall result in a demonstrable reduction of emissions.
- (III) Evidence in the record supports the finding that the rules shall bring about reductions in risks to human health and the environment that justify the costs to implement and comply with the rules.
- (IV) The rules are the most cost-effective to achieve the necessary and desired results, provide the regulated community flexibility, and achieve the necessary reduction in air pollution.

(V) The rule will maximize the air quality benefits of regulation in the most cost-effective manner.