

TO: Michele Totten, CT DEP
Transmitted via email to Michele.Totten@po.state.ct.us

FROM: Northeast Regional Greenhouse Gas Coalition¹

DATE: February 8, 2008

RE: **Comments Regarding Connecticut's RGGI Proposal**

Introduction

This memo provides the Northeast Regional Greenhouse Gas Coalition's (GHG Coalition) comments for consideration by the Connecticut Department of Environmental Protection (CT DEP) on its proposed regulations to implement the Regional Greenhouse Gas Initiative (RGGI) in the State 1.) Section 22a-174-31. *Control of Carbon Dioxide Emissions*, and 2.) Section 22a-174-31a. *Greenhouse Gas Emission Offset Projects*.

The GHG Coalition members have participated as official stakeholders to the RGGI process since its inception, participating in every RGGI meeting and workshop and submitting consensus recommendations throughout the entire process. See www.ghgcoalition.com/resources for comments submitted to the RGGI process to date.

The GHG Coalition's comments on the CT DEP proposals focus on the following issues:

- 91% allowance auction;
- Allowance price mitigation mechanism;
- Use of auction revenues;
- Transition to a federal program.

91% Allowance Auction

The proposed Section 22a-174-31 *Control of Carbon Dioxide Emissions* indicates that CT DEP is proposing to auction 91% of its annual CO₂ emissions budget. The GHG Coalition does not support such a substantial allowance auction, particularly at the start of the RGGI program in 2009 and especially if non-CO₂ Budget Sources are allowed to participate in the auctions as well. The GHG Coalition does not support such a substantial auction for the following reasons:

1. The impacts on allowance prices and electricity markets are unknown;
2. Participation in the auction by non-CO₂ Budget Sources will likely increase uncertainty for CO₂ Budget Sources and increase allowance prices;
3. CO₂ Budget Sources would operate under increased uncertainty;
4. CO₂ Budget Sources operating in Connecticut would be competitively disadvantaged;
and

¹ For more information see <http://ghgcoalition.com>

5. The financial impacts of the RGGI program on companies are potentially greatest under a substantial auction.

As an alternative, the GHG Coalition recommends phasing in the auction coupled with a direct allocation to existing and new CO₂ Budget Sources. The allocation of allowances should be based upon a State defined allowance allocation methodology. Going slowly in transitioning to a substantial auction would permit the auction design to be adjusted if there are problems.

First, the auction should start at a percentage well below 100% in the First Compliance Period (2009-2011). The auction could then increase by a specified percentage in subsequent compliance periods. This phase in should only occur if the comprehensive program review that the RGGI states agreed to in the RGGI MOU concludes that such a phase in is warranted and would not have adverse impacts. This phased auction approach has several advantages including:

- greater probability that allowance prices will be moderate, while at the same time not adversely affecting the regional electricity markets;
- provides a transitional path to implement allowance auctions into cap and trade programs and provides business certainty to CO₂ Budget Sources;
- provides at least a portion of the allowance value to the companies (through a direct allocation), and can reduce the potential increases in electricity imports into the RGGI region; and
- is more realistic and easier to manage for all stakeholders if the auction design isn't "right".

Second, the auction should only be open to CO₂ Budget Sources or their agents, particularly in the First Compliance Period, to prevent undue market speculation at this early stage. Non- CO₂ Budget Sources could participate in the secondary market as well as auctions for future vintage allowances from 2012 onward. This will provide a transition to the significant RGGI auction for the CO₂ Budget Sources.

Third, the remaining allowances should be "allocated" to CO₂ Budget Sources based upon a State defined allowance allocation methodology.

Auction Price Mitigation Mechanism

If the CT DEP maintains its substantial auction at the start of RGGI, the GHG Coalition recommends that the agency incorporate a price mitigation mechanism to protect CT ratepayers for unexpectedly high allowance prices. There are several options that have been proposed in other RGGI states to date including New Jersey, Maryland and Maine that provide a range of options for CT DEP's consideration. A brief summary of these are below:

New Jersey

New Jersey RGGI legislation (A4559) was signed into law by Governor Corzine on January 13 and is now P.L.2007, c.340. If the price of allowances at two consecutive regional auctions in which the State of New Jersey is a participant exceeds \$7 per allowance:

- the DEP and BPU shall, within 90 days after the second auction, develop an action plan for immediate ratepayer relief and hold a joint public hearing or hearings regarding the allowance price, and
- No later than 90 days after the final hearing is held, the DEP and BPU shall jointly issue a report to the Governor and the Legislature with their findings and recommendations.

Maryland

On February 1, MDE proposed its RGGI regulation “Title 26 Department of The Environment Subtitle 09 Maryland CO₂ Budget Trading Program”. In the proposal, MDE proposed the following:

If at any time during the first control period the auction price of the current year's allowances reaches a Stage 1 threshold price (\$7 \$2005) then:

- MDE will withhold the remainder of that year's allowances in the Consumer Energy Efficiency Account from sale in any future auction during that calendar year and make these allowances available for purchase by CO₂ budget units in Maryland.
- Allowances to be made available for purchase may not exceed 50 percent of the annual allocation to the Consumer Energy Efficiency Account.
- Allowances available for purchase by each budget unit shall be determined based on the proportion of each unit's average heat input for base years 2003, 2004, and 2005 compared to the total average heat inputs for all units for the same base years.
- The cost per allowance shall be \$7.
- All allowances purchased by CO₂ budget units in accordance with this procedure shall be maintained in a CO₂ budget source's compliance account and used to demonstrate compliance for the first control period.
- Allowances purchased by CO₂ budget units in accordance with this procedure may not be resold.
- Allowances purchased by a CO₂ budget unit under this section may be transferred within a CO₂ budget system.

Maine

The ME DEP has finalized regulations providing the authority to the DEP Commissioner to waive or suspend compliance obligations for CO₂ Budget Sources if there are high allowance prices or if issues not under the control of the Budget Source occur. The GHG Coalition encourages CT DEP to review this regulation (*Chapter 157, CO₂ Budget Trading Program Waiver and Suspension*) and add similar provisions in the CT DEP RGGI regulations.

Use of the Auction Revenues

The proposal indicates that CT DEP will allocate the auction proceeds as follows

- 7.5% of auction proceeds shall be retained by the commissioner;
- 23.125% of proceeds from auctions held in the previous 12 months shall be transferred to an account held by the Connecticut Clean Energy Fund. Proceeds are to be used to support the development of Class I renewable energy sources;

- 69.375% of proceeds from auctions held in the previous 12 months shall be transferred to accounts held by Connecticut Light & Power (CL&P) and United Illuminating (UI) and overseen by the Connecticut Energy Conservation Management Board (ECMB). Proceeds are to be used to support the development of energy efficiency measures.
 - 80% percent of this subtotal shall be distributed to the CL&P account and
 - 20% shall be distributed to the UI account.

The GHG Coalition recommends retaining the MOU language in the regulation, which would also permit use of auction proceeds to reduce ratepayer impacts and promotion of low and non-carbon-emitting technologies, so the Connecticut RGGI program will have the flexibility to adjust this investment more efficiently in response to developing markets and technology. Finally, the GHG Coalition urges CT DEP to clarify the uses of the 7.5% of the auction proceeds that will be retained by the DEP Commissioner.

Transition to a Federal Program

The GHG Coalition believes that programs to address climate change should be national in scope. The objective of the GHG Coalition throughout the RGGI process has been to provide recommendations so that RGGI could serve as a model for a national program that would have a reasonable likelihood of adoption. Thus, it is essential that the RGGI implementing rules incorporate program elements that can be easily implemented at the national scale. In addition, the regulatory elements of the RGGI program (including implementing regulations at the state level) should either be superseded by or aligned with the national regulatory program so as not to have redundant and possibly conflicting programs.

The RGGI MOU states the following:

When a federal program is proposed, the Signatory States will advocate for a federal program that rewards states that are first movers. If such a federal program is adopted, and it is determined to be comparable to this Program, the Signatory States will transition into the federal program.

New Jersey P.L.2007, c.340 contains the first attempt to address the transition from RGGI to a federal program. The GHG Coalition recommends that CT DEP evaluate the New Jersey provisions highlighted below and include similar provisions in Section 22a-174-31. *Control of Carbon Dioxide Emissions*.

New Jersey P.L.2007, c.340 includes the following:

- Within three months after the enactment of federal law providing for implementation of a national emissions allowance trading program, the DEP Commissioner shall render an interim decision as to whether the national program is substantially comparable to the GHG emissions allowance trading program in which the state is participating at that time.
- If the DEP Commissioner determines that the national program is substantially comparable, then DEP shall take such anticipatory administrative action in advance of the adoption of rules and regulations providing for implementation of a national emissions

allowance trading program in order to minimize any delay in the State's participation in the national program.

- Within three months after the adoption of rules and regulations providing for implementation of a national emissions allowance trading program, the DEP Commissioner shall render a final decision as to whether the national program is substantially comparable to the greenhouse gas emissions allowance trading program in which the State is participating at that time.
- If the DEP commissioner determines that the national program is substantially comparable to the existing greenhouse gas emissions allowance trading program being implemented in the State, the department shall thereafter sell, exchange, retire or otherwise convey allowances only as part of the State's participation in the national program.
- The determination of the comparability of the programs shall be based upon the projected percent reductions of greenhouse gas emissions from electric generating facilities serving customers in the State under the greenhouse gas emissions allowance trading program being implemented in the State at the time as compared to the projected percent reductions of greenhouse gas emissions from electric generating facilities serving customers in the State under the national program and may consider the value of allowances or allowance auction proceeds directed to the State or other entity to benefit New Jersey energy consumers.
- Reductions anticipated through the implementation of other State regulated carbon reduction initiatives, including but not limited to a renewable energy portfolio standard or any energy efficiency portfolio standard shall not be considered in determining the comparability of the programs.

We look forward to continued participation in the Connecticut RGGI process and thank you for this opportunity to provide input.