

State of Rhode Island  
Department of Environmental Management  
Office of Air Resources

**In re: Proposed revisions to Air Pollution Control Regulation No. 46 “CO<sub>2</sub> Budget Trading Program” and Air Pollution Control Regulation No. 47 “CO<sub>2</sub> Budget Trading Program Allowance Distribution”**

DECISION

**Introduction**

On October 12, 2018, a notice was posted on the websites of the Rhode Island Department of Environmental Management (RI DEM) and the Rhode Island Office of Secretary of State and was emailed to interested parties announcing a public comment period to accept comments on the adoption of proposed revisions to Air Pollution Control Regulation No. 46 “CO<sub>2</sub> Budget Trading Program” and Air Pollution Control Regulation No. 47 “CO<sub>2</sub> Budget Trading Program Allowance Distribution” through November 12, 2018. The notice stated that a public hearing would be held on October 25, 2018.

**Overview**

The Regional Greenhouse Gas Initiative (RGGI) is composed of individual CO<sub>2</sub> Budget Trading Programs in each RGGI participating state. Each participating state’s current CO<sub>2</sub> Budget Trading Program is based on the RGGI Updated Model Rule (2013), which was developed to provide guidance to states for implementation of the RGGI program. RGGI participating states have conducted a 2016 Program Review, which is a comprehensive evaluation of program successes, program impacts, the potential for additional reductions, imports and emissions leakage, and offsets.

Amendments to the Model Rule were developed by the RGGI state staff as part of the Program Review. This effort was supported by an extensive regional stakeholder process that engaged the regulated community, environmental non-profits, and other organizations with technical expertise in the design of cap-and-trade programs.

## **Description of Amendments**

Summary of the proposed RGGI Regulations Amendments:

### 1. Size and Structure of Cap and Allowance Apportionment

The regional emissions cap in 2021 will be equal to 75,147,784 tons and will decline by 2.275 million tons of CO<sub>2</sub> per year thereafter, resulting in a total 30% reduction in the regional cap from 2020 to 2030.

### 2. Budget Adjustments

The Model Rule contains language to address the private bank of allowances through one additional, distinct budget adjustment.

- The Third Adjustment for Banked Allowances, would adjust the base budget for 100 percent of the pre-2021 vintage allowances held by market participants as of the end of 2020, that are in excess of the total quantity of 2018, 2019, and 2020 emissions. The third adjustment timing and algorithm is spelled out in the Model Rule and would be implemented over the 5-year period, 2021-2025, after the actual size of the 2020 vintage private bank is determined.

### 3. Cost Containment Reserve

The Model Rule contains language for the continued use of a cost containment reserve (CCR) that will provide flexibility and cost containment for the program. The CCR would consist of a fixed quantity of allowances, in addition to the cap, that would be held in reserve, and only made available for sale if allowance prices exceed predefined price levels.

- The Model Rule contains language for an annual CCR allowance quantity of 10% of the regional cap beginning in 2021 and each succeeding year thereafter.
- Allowances from the CCR would be fully fungible.
- The CCR allowances would be made available immediately in any auction in which demand for allowances at prices above the CCR trigger price exceeds the supply of allowances offered for sale in that auction prior to the addition of any CCR allowances.
- If the CCR is triggered, the CCR allowances would only be sold at or above the CCR trigger price.
- The CCR Trigger Price will be \$13.00 in 2021 and rise at 7% per year, so that the CCR will only trigger if emission reduction costs are higher than projected.

#### 4. Emissions Containment Reserve

The Model Rule contains language for the creation and use of an emissions containment reserve (ECR) that will respond to supply and demand in the market if emission reduction costs are lower than projected. States will withhold allowances from circulation to secure additional emissions reductions if prices fall below established trigger prices. Allowances withheld in this way will not be reoffered for sale.

- The Model Rule contains language for an annual ECR allowance withholding limit of 10% of the budgets of states implementing the ECR.
- The ECR trigger price will be \$6.00 in 2021, and rise at 7% per year, so that the ECR will only trigger if emission reduction costs are lower than projected.

#### 5. Offsets

Rhode Island will not accept CO<sub>2</sub> emissions offset project applications. All eligible CO<sub>2</sub> offset allowances awarded by any other participating RGGI state will be accepted by Rhode Island for compliance purposes. The use of CO<sub>2</sub> offset allowances is constrained to 3.3 percent of a power plant's CO<sub>2</sub> compliance obligation for each control period.

### **Public Hearing**

A public hearing on the proposed amendments was held on October 25, 2018. One individual presented oral testimony at the hearing supporting the changes proposed in the regulations. One joint written comment letter was received from four organizations as listed below. No comments were provided suggesting any changes be made to the proposed regulations however two additional measures to strengthen the program were presented in the joint comment letter.

### **Response to Comments**

**Joint comment letter from Acadia Center, Conservation Law Foundation, Partnership for Policy Integrity and the Toxics Action Center dated November 12, 2018 (via Electronic Mail)**

**Comment:** Comments support the program revisions while also recommending additional measures to strengthen the program. The additional measures include equitable benefits from RGGI reinvestment from auction proceeds and ensuring bioenergy sustainability. No comments were provided suggesting any changes be made to the proposed regulations.

**Response:**

Equitable Benefits from RGGI Investment:

In Rhode Island, RGGI auction proceeds are allocated by the state's Office of Energy Resources (OER) to drive investment in – and expansion of – clean energy resources, including cost-effective energy efficiency and renewables. In doing so, OER seeks to support investment and job growth in Rhode Island burgeoning clean energy sector; reduce barriers to consumer adoption of clean energy solutions; place downward pressure on long-term energy costs; and shrink carbon footprints.

The RGGI Allocation Plans are written to balance the need to advance important clean energy initiatives, while leveraging RGGI funds with available public and/or ratepayer dollars and adhering to statutory requirements.

OER supports the development and implementation of the state's electric and natural gas energy efficiency programs. National Grid offers comprehensive programs through Rhode Island Community Action Program (CAP) agencies to customers who are currently on the A-60 or 1301 Low Income rate; qualify for LIHEAP funds from the State; or whose household income falls below the 60% of the Area Median Income (AMI). These programs help reduce electricity and heating costs for residential customers without any financial obligation from the customer and have been supported with RGGI dollars. The programs are monitored and evaluated to ensure they are cost-efficient and cost effective to maximize benefits.

Additionally, RGGI funds were allocated for a Community Buildings Non-Profit Program. Community buildings, such as boys and girls clubs and community healthcare centers, play an important role in the lives of Rhode Island residents and our communities. Implementing and adopting clean energy resources at community-based non-profit institutions can be particularly difficult, as up-front capital requirements can often be too difficult to overcome even with the help of existing incentive programs. The RGGI funds allowed projects that would not have been otherwise completed due to lack of customer funds.

In a recent allocation plan funds were allocated to a new pilot program designed to provide energy savings to low and moderate-income customers and expand the access of both energy efficiency, renewable thermal and solar PV technologies to under-served sectors.

OER will continue to invest RGGI dollars in an equitable manner while ensuring the expansion of clean energy resources including cost effective efficiency and renewables.

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Ensuring Bioenergy Sustainability:

The 2017 Model Rule affords flexibility to states regarding “sustainably harvested” for the purposes of being considered “eligible biomass”. Each state through their individual state regulations/policy has the authority to determine “sustainably harvested”.

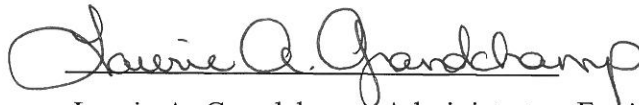
**Decision:**

It is the decision of the Office of Air Resources to amend 250-RICR-120-05-46, Air Pollution Control Regulation No. 46 “CO<sub>2</sub> Budget Trading Program” and 250-RICR-120-05-47, Air Pollution Control Regulation No. 47 “CO<sub>2</sub> Budget Trading Program Allowance Distribution” as indicated in the response to comments above.

The final amended regulations are appended to this Decision.

11/20/18

Date



Laurie A. Grandchamp, Administrator, Environmental Protection  
Office of Air Resources