

# CONCISE EXPLANATORY STATEMENT

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In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

**AGENCY:** Department of Environmental Management

**DIVISION:** Office of Air Resources

**RULE IDENTIFIER:** 250-RICR-120-05-46

**RULE TITLE:** Air Pollution Control Regulation No. 46, 'CO2 Budget Trading Program'

**REASON FOR RULEMAKING:**

The proposed amendments to the state's CO2 Budget Trading Program regulation will enable Rhode Island to maintain its status as a "Participating state" in this regional emissions reduction program. In addition, RIDEM is proposing to update this regulation to meet its statutory mandate under R.I.G.L. § 23-82-4, Implementation of the Regional Greenhouse Gas Initiative Act. R.I.G.L. The Regional Greenhouse Gas Initiative or RGGI as defined in R.I.G.L. § 23-82-3 "means the Memorandum of Understanding (MOU) dated December 20, 2005, as may be amended, and corresponding Model Rule, as may be amended, that establishes an electric power sector carbon emissions cap and trade program". The RGGI MOU has not been amended, however, the Model Rule has been revised and the State must align the RGGI regulation with the updated Model Rule. R.I.G.L. Section § 23-82-4 of the Act requires the RIDEM to establish the state's rules for participation in RGGI and these regulations for participation must be designed to meet the mutual understandings and commitments for participation in RGGI. As a regional cooperative program among ten eastern states, the states worked collaboratively to reach consensus on the updates to the Program. The final step in the RGGI Program Review process is for each participating state to adopt the proposed updates. As described in R.I.G.L. § 23-82-2 (5), the amendments RIDEM is proposing will fulfill the State's mutual understandings and commitments of the Program so that the State may fully participate in the Program including all auctions.

**ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:** NA

## TESTIMONY AND COMMENTS:

One joint letter of support was received from Paola Moncada Tamayo & Emily Koo, Acadia Center, Tina Munter, Green Energy Consumers Alliance, and Jackson Morris, Natural Resources Defense Council (NRDC).

**Comment:** Comments support the program revisions while also providing recommendations for additional leadership opportunities for Rhode Island.

**Response:** The Rhode Island Department of Environmental Management (RIDEM) appreciates the support on the proposed amendments. Regarding the additional leadership opportunities, Rhode Island and all the RGGI participating states must revise their regulations to align with a Model Rule. This Model Rule is the basis in which the states use to revise state regulations. Examples of leadership identified by the commentors include ensuring environmental justice (EJ) and economically disadvantaged communities benefit from RGGI proceeds, improve local air quality and offer transparency and public access of emissions reporting and proceeds distribution.

1. Ensuring that EJ and disadvantaged communities directly benefit from RGGI auction proceeds – In 2025, 38% or \$17,796,140.97 of allocated RGGI funds will flow to disadvantaged, low- and moderate-income communities via the following programs: Clean Heat RI, direct bill assistance, Providence Whole Home + Electrification Pilot Program, Home Electrification Rebate Program, and the Lead By Example Public schools Program. RGGI proceeds that directly benefit EJ and disadvantaged communities are reported annually in the RGGI Annual Report produced by OER and included as an appendix to OER's Annual Report each year.
2. Improve local air quality – RGGI is a program designed to reduce carbon dioxide (CO<sub>2</sub>) emissions from power plants. Rhode Island as well as the other participating RGGI states have separate and distinct regulations and programs focused on more localized air pollutants. As described in the 2025 Annual Monitoring Network Plan, RIDEM in conjunction with the Rhode Island Department of Health (RIDOH), operates a network of air monitoring stations to measure ambient concentrations of pollutants for which the Environmental Protection Agency (EPA) has established a National Ambient Air Quality Standard (NAAQS). Those pollutants, which are known as criteria pollutants, include ozone (O<sub>3</sub>), particulate matter smaller than 10 microns (PM<sub>10</sub>), particulate matter smaller than 2.5 microns (PM<sub>2.5</sub>), nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO) and lead. In addition, RIDEM and RIDOH monitor ambient levels of toxic air pollutants and ozone precursors, which are compounds that react in the atmosphere to form ground-level ozone.

3. Transparency and access to emissions reporting and proceeds distribution – RI power plant CO<sub>2</sub> emissions data can be publicly accessed in a few ways. The first and most straightforward approach would be to review the RGGI CO<sub>2</sub> emissions dashboard found on the RGGI Inc. website (rggi.org). Emissions data can be filtered by state and/or year and includes additional information such as operating status, unit type, and primary fuel type. Data for this dashboard is sourced from the U.S. EPA Clean Air Markets Program Data (CAMPD) for facilities covered by the RGGI. This CAMPD data is public and can be accessed directly thru the EPA website as well. Another way to obtain RGGI emissions data is thru the RGGI Inc. website and reviewing the public emissions reports. These emissions reports can be filtered by state and time period (i.e. quarterly emissions, annual emissions and/or control period emissions).

Regarding proceeds distribution, the Office of Energy Resources (OER) in consultation with RIDEM and the Energy Efficiency Council prepares allocation plans that direct the distribution of auction proceeds. Each proposed allocation plan is made available for public comment and public hearing. A notice is posted on the websites of OER and Rhode Island Secretary of State announcing a public comment period for the proposed plan. OER provides at least thirty (30) day notice of the public hearing. After the public hearing, OER allows an additional ten (10) day period for interested persons to submit additional comments in writing. OER maintains a record of all public comments publicly available on OER's website. OER then finalizes the allocation plan and posts a copy on its website. All past allocation plans and the RGGI investment dashboard can be found on the OER RGGI webpage (energy.ri.gov). OER has been responsive to stakeholder input on transparency. OER developed a RGGI Investments Dashboard, in response to public comments. The dashboard shows how RI invests RGGI proceeds. These data are presented by year, recipient type, and investment category for the full RGGI program starting in 2009. This dashboard is updated annually and provides information on total funds invested, energy bill savings and emissions avoided. Additionally, OER has revised allocation plans to include a summary table on the last page of the plan. All allocation amounts, recipients, program description, responsible party, program classification and investment category are summarized in table format for greater transparency.

#### **CHANGE TO TEXT OF THE RULE:**

Although comments were received (see above), no changes were made between the text of the Rule as proposed and the text of the Final Rule.

#### **REGULATORY ANALYSIS:**

The revisions are required by 2025 RGGI Model Rule. No alternative approaches were considered. The Office of Air Resources has identified no state regulations that overlap

or duplicate the proposed amendments. The proposed revisions do not impose any new requirements on regulated entities including any small businesses or any city or town, therefore there is no significant adverse economic impact.

**DATE THE FINAL RULES WERE SIGNED BY THE AGENCY HEAD:**