

**THE REGIONAL GREENHOUSE GAS INITIATIVE:
NEW ENGLAND STATES REGULATORY UPDATE**

The six New England states participating in the Regional Greenhouse Gas Initiative (RGGI) are at various stages in the implementation process. Massachusetts and Maine have adopted final regulations implementing CO₂ trading programs and both are in the process of adopting regulations that would govern the CO₂ allowances auction process. Connecticut, Rhode Island, and Vermont have all released drafts of their proposed rules and are currently reviewing and incorporating public comments into their draft regulations. The New Hampshire legislature is currently legislating the scope of New Hampshire's participation in RGGI.

The unofficial target date for the first regional RGGI CO₂ allowances auction is June or July 2008. A state's participation in this anticipated auction will depend upon the state's promulgation of a CO₂ allowances auction regulations. So far, none of the RGGI states have implemented auction regulations.

Massachusetts

At this point in the process, Massachusetts is the furthest along of the New England states in the implementation process. The Massachusetts Department of Environmental Protection (MA DEP) has promulgated final regulations implementing RGGI. The citation for the regulation is 310 CMR 7.70 "*Carbon Dioxide (CO₂) Budget Trading Program.*" A copy of the regulation is available at <http://www.mass.gov/dep/service/regulations/co2btreg.pdf>. The MA DEP also amended 310 CMR 7.00 (Appendix B) "*Emissions Standards for Power Plants*" and 310 CMR 7.29 "*Emissions Banking, Trading, and Averaging*" to include provisions that are necessary for the complete implementation of RGGI.

Additionally, the Massachusetts Division of Energy Resources (DOER) has released a proposed regulation titled "*CO₂ Budget Trading Program Auction Regulation.*" This regulation establishes the rules and procedure for conducting RGGI CO₂ allowances auctions. A copy of the proposed auction regulation is currently available at <http://mass.gov/doer/rggi/>. When effective, this regulation will be found at 225 CMR 13.00.

Under the DOER's proposed regulations, there are three categories of eligible bidders in each quarterly auction: (1) owners of CO₂ budget units located in Massachusetts; (2) owners of CO₂ budget units located outside of Massachusetts but within a participating RGGI state; and (3) other market participants, including but not limited to: (a) owners of fossil-fuel generation units located outside the participating states; (b) brokers; (c) environmental groups; (d) financial and investment institutions; (e) generators that do not emit CO₂ or do emit CO₂ but are not subject to the Budget trading program in Massachusetts or a participating RGGI state.

Although the RGGI Staff Working Group's Phase II Proposal recommends a single uniform auction among all RGGI states, Massachusetts has indicated that it may hold individualized auctions if the plans for a single multi-state auction falls through. Contingent upon the adoption of a CO₂ allowances auction regulations, Massachusetts could hold its first auction as early as June or July of this year.

Maine

In December 2007, the Board of Environmental Protection (the Board) adopted a regulation which established Maine's "*CO₂ Budget Trading Program.*" The citation for this regulation is 06-

096 CMR Chapter 156. A copy of Chapter 156 of the regulations is available at <http://mainegov-images.informe.org/dep/air/regulations/docs/chp156rggfinal.pdf>. Under the regulations, during each calendar year, the Maine Department of Environmental Protection will publicly disclose the number of CO₂ allowances that will be available for auction during the subsequent calendar year.

The Board also adopted a “CO₂ Budget Trading Program Waiver and Suspension” provision, which grants the Commission the authority, under exceptional circumstances, to waive or suspend requirements of Chapter 156. The citation for this regulation is 06-096 CMR Chapter 157. A copy of the waiver and suspension provision is available at <http://mainegov-images.informe.org/dep/air/regulations/docs/chap157.pdf>.

Maine is currently drafting regulations to govern the State’s RGGI auction process. Maine’s participation in a June or July auction will depend on the review and adoption of the draft auction regulations by the Board.

Connecticut

In January 2008, the Connecticut Department of Environmental Protection (CT DEP) issued two proposed regulations on RGGI: the (i) “Control of CO₂ Emissions/ CO₂ Budget Trading Program” and (ii) “Greenhouse Gas Emission Offset Projects.” Both draft regulations are available at http://www.ct.gov/dep/cwp/view.asp?a=2684&q=332278&depNav_GID=1619. The public hearing and written comment period on both regulations ended on February 8, 2008. The CT DEP is currently reviewing and summarizing the comments from the hearing. Within the next few months, the Department plans on finalizing a hearing report and modifying the proposed regulations to reflect the public comments. Once promulgated, the citations for the regulations will be R.C.S.A. § 22a-174-31 and § 22a-174-31(a), respectively. Connecticut is aiming to be ready for the first regional auction.

Rhode Island

Rhode Island’s Department of Environmental Management has issued draft RGGI rules under the title “CO₂ budget Trading Program” and “CO₂ budget Trading Program Allowance Distribution.” A copy of the draft is available at <http://www.dem.ri.gov/rggi/pdf/draft46.pdf>. Rhode Island held its last stakeholder meeting on February 21, 2008 and anticipates releasing final regulations in April 2008.

Vermont

Vermont Department of Environmental Conservation has also released draft RGGI regulations under the title “Vermont CO₂ Budget Trading Program Regulations.” A copy of the regulations is available at <http://www.anr.state.vt.us/air/hm/ProposedAmendments.htm#RGGI>.

New Hampshire

The New Hampshire legislature is currently debating the terms of New Hampshire’s RGGI participation. The bill, HB 1434, is currently making its way across the legislature. A copy of HB 1434 is available at <http://www.gencourt.state.nh.us/legislation/2008/HB1434.html>. On February 21, 2008, New Hampshire’s House Science, Technology and Energy Committee (Committee) passed an amended version HB 1434 bringing New Hampshire a step closer towards implementing RGGI. The Committee passed the amended bill passed by a 12-2 committee vote.