



February 8, 2008

Michele Totten  
Department of Environmental Protection  
Bureau of Air Management  
79 Elm Street  
Hartford, Connecticut, 06106-5127

Rockport, ME  
Portland, ME  
Boston, MA  
Providence, RI  
Hartford, CT

### **Environment Northeast's Comments on Connecticut's Rules To Implement the Regional Greenhouse Gas Initiative**

Environment Northeast is a nonprofit research & advocacy organization focusing on the Northeastern U.S. and Eastern Canada. Our mission is to address large-scale environmental challenges that threaten regional ecosystems, human health, or the management of significant natural resources. We use policy analysis, collaborative problem solving, and advocacy to advance the region's environmental and economic sustainability.

Environment Northeast (ENE) is part of the 24 member Stakeholder Group which was selected by the Regional Greenhouse Gas Initiative (RGGI) states to represent electric generator, environmental, consumer, and other affected interests in the Northeast and Mid-Atlantic regions. We are very supportive of RGGI and look forward to working with Connecticut as it moves forward with the RGGI rulemaking process. ENE believes that RGGI is an essential policy tool to get Connecticut and the region on the proper greenhouse gas emissions trajectory. RGGI uses market forces to guide an orderly, phased transition away from dirty, inefficient electricity generation and achieves emission reductions in the most cost effective way possible. ENE commends the Governor and agencies for committing Connecticut to participate in RGGI, as this will position the state's industry and consumers to succeed in an economy that increasingly places a price on carbon. RGGI must be rolled out in a manner that demonstrates how a successful cap and trade program for CO<sub>2</sub> can be designed and implemented, as you are creating a model for a national program.

Our comments will focus on several aspects of the proposed regulations that the Connecticut Department of Environmental Protection has issued under Regulations of Connecticut State Agencies (R.C.S.A.) section 22a-174-31 – Control of Carbon Dioxide Emissions/ Carbon Dioxide Budget Trading Program (section 31). We currently do not have any specific comments on R.C.S.A. section 22a-174-31a – Greenhouse Gas Emission Offset Projects (section 31a) and we support their swift adoption. We believe that separating the regulations into two sections is very useful in case additional offset categories are included in the future and we applaud Connecticut for taking this step.

DEP PROPOSED REGULATIONS: SECTION 22a-174-31– Control of Carbon Dioxide Emissions/  
Carbon Dioxide Budget Trading Program (section 31):

1. (f) CO<sub>2</sub> Allowance Allocations: (1) The Connecticut CO<sub>2</sub> Trading Program Base Budget
2. (f) CO<sub>2</sub> Allowance Allocations: (3) CO<sub>2</sub> allowance allocations: (Combined Heat and Power and Consumer Side Distributed Resources Set Aside Accounts)

3. (f) CO<sub>2</sub> Allowance Allocations: (3) CO<sub>2</sub> allowance allocations and (5) Retirement of Allowances for Clean Energy Purchases
4. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions (D) (i) (7.5% Auction Proceeds retained by the Commissioner)
5. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions (D) (ii) (23.125% Distribution of Auction Proceeds to the Connecticut Clean Energy Fund)
6. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions (D) (iii) (69.375% Distribution of Auction Proceeds to CL&P and UI and overseen by the Energy Conservation Management Board (ECMB))
7. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions
8. (f) CO<sub>2</sub> Allowance Allocations: (6) Early reduction CO<sub>2</sub> allowances
9. (g) Allowance Tracking System: (5) Compliance
10. (i) Monitoring and Reporting: (8) CO<sub>2</sub> budget units that co-fire eligible biomass

**1. (f) CO<sub>2</sub> Allowance Allocations: (1) The Connecticut CO<sub>2</sub> Trading Program Base Budget**

(A) For the 2009 through 2014 allocation years, the Connecticut CO<sub>2</sub> Trading Program Base Budget is 10,695,036 tons; (B) For the 2015 allocation year, the Connecticut CO<sub>2</sub> Trading Program Base Budget is 10,427,660 tons; (C) For the 2016 allocation year, the Connecticut CO<sub>2</sub> Trading Program Base Budget is 10,160,284 tons; (D) For the 2017 allocation year, the Connecticut CO<sub>2</sub> Trading Program Base Budget is 9,892,908 tons; and (E) For the 2018 allocation year and each succeeding allocation year, the Connecticut CO<sub>2</sub> trading program base budget is 9,625,532 tons.

ENE is concerned that the base budget for Connecticut's CO<sub>2</sub> Budget Trading Program is defined in the regulations without any opportunity for adjustments over time. New information on energy use, preliminary emissions data, and industry news reports have led ENE to be concerned that the RGGI cap level has been set too high.

The original modeling conducted to develop the RGGI cap level and framework indicated that under business as usual scenarios carbon dioxide emissions from the region's power plants would continue to rise, primarily due to increasing demand for electricity. However, more recent emissions information obtained in the past few years indicates that this has not been the case. In fact, these data indicate that carbon emissions have declined significantly from a high in 2005. Both 2006 and 2007 emissions appear to be significantly below the originally projected carbon trends and are thus below the regional RGGI cap level. ENE has been carefully tracking emissions trends and has compiled available data from US EPA through the third quarter of 2007, which appears on the following pages. As you will see in the figures below, EPA data include a majority of the emission sources (some natural gas plants do not report to EPA) and are a good indicator of emissions trends. Based on these data, ENE estimates that the emissions levels in 2006 and 2007 could be as much as 17% and 11% below the RGGI cap level. (We note that higher dispatch of natural gas plants may reduce this difference slightly once all data are available).

There are a number of factors that seem to be leading to this reduced level of emissions, including: mild weather, economic growth trends, reduced energy consumption, lower natural gas prices, and increased capacity factors at nuclear plants.

Lower emissions are undoubtedly a good thing. However, as with any commodity regulated by a cap and trade system, a positive price on carbon will only occur if there is some degree of scarcity in the marketplace. Without such scarcity, our region will not see changes in investment choices for power plant generation, or electrical equipment and systems that are a fundamental objective of the RGGI policy. These changes in investment will be necessary if we are to achieve long-term emissions reductions and transition to a sustainable low-carbon economy in Connecticut and the region.

If actual emissions in the early years of RGGI turn out to be significantly below the cap level, as the data suggests, new clean tech companies may not receive new financial support and we may well see energy companies continue to invest in or at least dispatch old dirty power plant technologies fueled by coal and oil. Allowances will also be banked in early years, eliminating the environmental benefits of the RGGI program.

The potential impacts of having a starting cap that is above actual emissions in the early years of RGGI include:

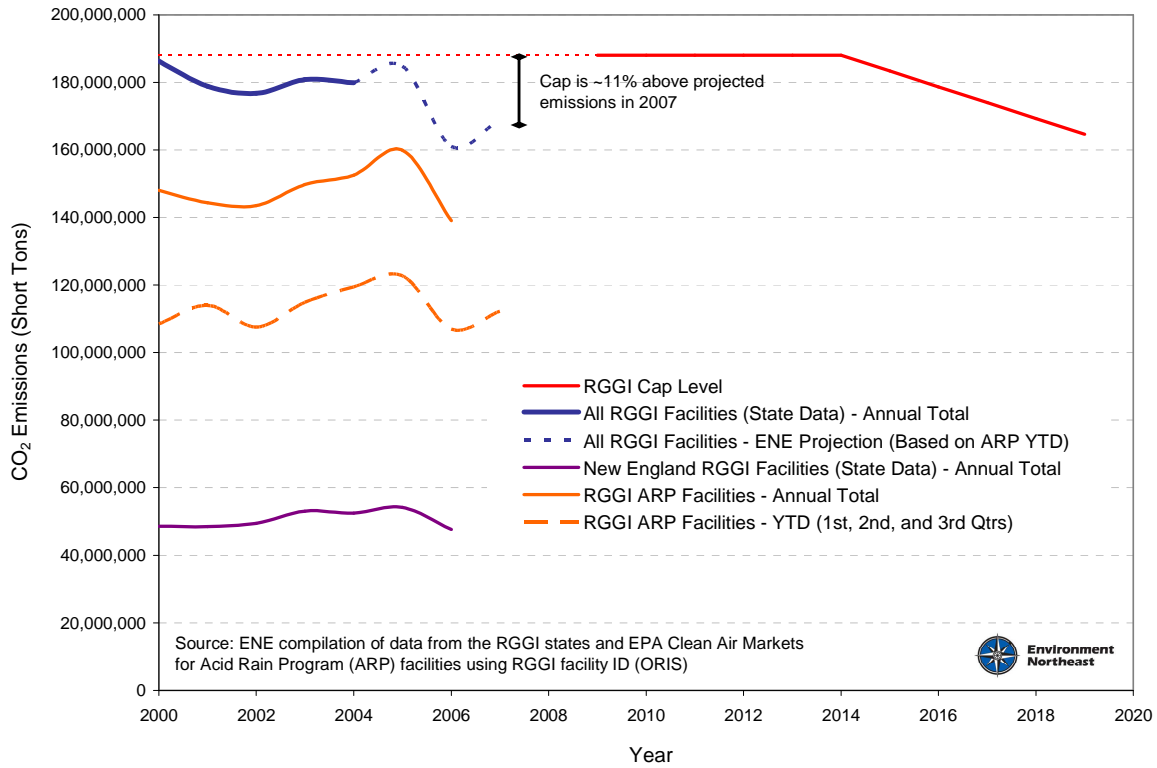
- no market for RGGI allowances,
- no change in our power plant dispatch,
- delay of any shift in the way we make power away from dirtier, inefficient sources to cleaner, more efficient sources
- failure to position our regional economy to take advantage of expected carbon regulations from the federal government
- loss of money for new efficiency and other investments

We recognize that the negotiation of the RGGI cap level and program design was arduous and that most of the states are currently in the process of issuing or finalizing their regulations. However, we would recommend that the states commit to two RGGI policy decisions now to ensure that RGGI is a success:

- (1) establish an auction reserve price mechanism with allowances permanently retired or withheld in a contingency account, and**
- (2) make a collective commitment to review the status of the RGGI cap level beginning at the start of 2010 with necessary adjustments made at the beginning of the second compliance period to ensure reduced emissions across the region.**

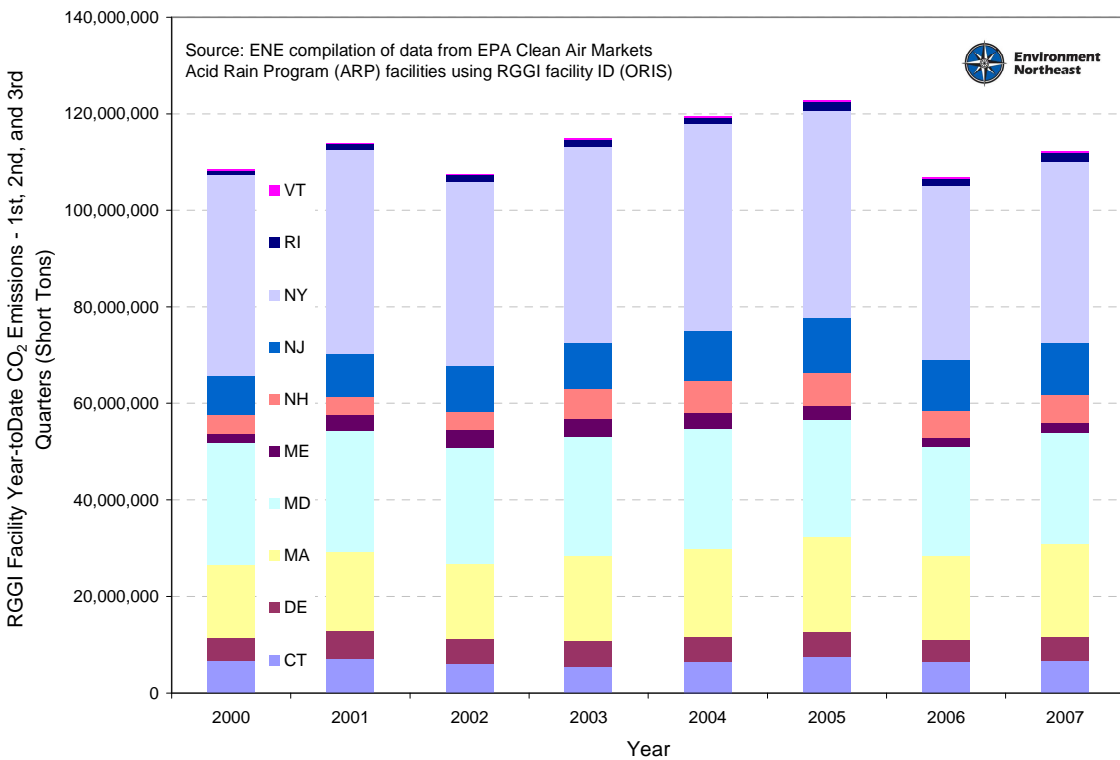
The following figures illustrate the emissions trends from RGGI facilities based on state data where it has been compiled and from EPA acid rain program (ARP) data. ENE welcomes a discussion of any questions that this analysis may raise.

**Figure 1: Comparison of the RGGI Cap Level to Recent RGGI Facility CO<sub>2</sub> Emissions**



**Figure 2: Year-to-Date RGGI Facility CO<sub>2</sub> Emissions (Acid Rain Program Facilities Only)**

Total for 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Quarters of Each Year



ENE believes it is advisable for the states to signal that an adjustment to the cap may be necessary down the road and also to use the auction design to establish a mechanism that will ensure RGGI delivers at least a modest price on carbon.

### ***Auction Reserve Price with Retirement or Contingency Account***

A reserve price is a very common element of auction design and we support inclusion of this mechanism in the RGGI auction rules. The reserve price accomplishes three essential goals: 1) it ensures that the states do not give away a commodity below its value to society (the program goal is to deliver a reduction in emissions which requires the allowances to have a price), 2) it guards against collusive behavior, and 3) it gives developers and financiers of new technologies a higher level of certainty as to the value of carbon, reducing their development risks.

The reserve price should be set at a level that reflects the low-end of society's willingness to pay for carbon emissions reductions and what it will take to induce a gradual shift to cleaner and more efficient technologies in the marketplace. Current information indicates that the low-end price of carbon should be at least \$3/ton CO<sub>2</sub> and, as the market develops, the reserve price should transition to being about 80% of the current spot market price or the \$3/ton limit, whichever is higher.

Allowances not sold through the reserve price mechanism should be removed from the market and permanently retired or held in a contingency account to be released only if the price in the previous quarterly auction exceeds \$20/ton CO<sub>2</sub>. All price based mechanisms should be indexed to inflation plus have an additional percentage increase to reflect our willingness to pay more for carbon mitigation over time.

The states should agree regionally to these and other auction design elements through an amendment to the regional MOU.

### ***2010 Review of the Regional Cap Level***

There is clearly uncertainty about what will happen with emissions between now and the start of the RGGI program. However, the states would be well served to indicate that if the cap level has, through nobody's fault, been set too high it will need to be adjusted down. Signaling the states' intentions in advance will be very important to the market, which will be trying to place a long-term price on the value of allowances.

With the program start date approaching and given the time consuming process required for making changes to state regulations, we believe the best course at this time is to commit to reviewing the cap level in 2010 and making necessary adjustments at that time. The states should be clear and public about their intentions, and the best way to do this would be to amend the MOU and indicate when the review will happen and what adjustment would likely to be made. We would encourage language such as the following:

***Beginning in January 2010 the states shall jointly review current emissions in relation to the regional RGGI cap level. If necessary, the cap level in the second compliance period (starting in 2012) and subsequent compliance periods will be adjusted down to ensure that RGGI delivers a 10% reduction in emissions from the current regional average by 2020.***

This commitment is important to ensure that RGGI will deliver an environmental benefit, and it will also provide increased clarity to the market in terms of the changes in emissions that will be required by the program.

The RGGI states have acted together to ensure a successful program that requires the cap level to constrain emissions over time. That coordinated action will be needed should the cap levels be greater than actual emissions. Only then will a good precedent be set and investments made in the RGGI states that position the region's companies and economy at a competitive advantage. Under a future federal carbon cap and trade program, those regions of the country that use energy efficiently and have a lower emissions profile will bear a lower financial burden while at the same time building up their clean tech sector for future growth.

## **2. (f) CO<sub>2</sub> Allowance Allocations (3) CO<sub>2</sub> allowance allocations: (Combined Heat and Power and Consumer Side Distributed Resources Set Aside Accounts)**

ENE is very supportive that Connecticut will be auctioning all allocations after a limited proportion has been set-aside for specific programs such as voluntary clean energy purchases and Combined Heat and Power (CHP).

However, we are concerned about subsection (A) which states that: "(A) In accordance with the timing provisions of subdivision (2) of this subsection, the commissioner shall allocate ninety-one (91) percent of each annual CO<sub>2</sub> base budget to the Connecticut Auction Account, five (5) percent to the Combined Heat and Power (CHP) Set-aside Account, three (3) percent to the Consumer-side Distributed Resources (CDR) Set-aside Account and one (1) percent to the Voluntary Clean Energy Purchase Set-aside Account."

Specifically, we are concerned about the 5% allocation to CHP facilities and the 3% allocation to Consumer-Side Distributed Resources (CRD). It appears that CHP facilities would qualify for both programs since "customer side distributed resources," means an entity which "operates CO<sub>2</sub> budget units that are also customer-side distributed resources that received funds pursuant to the customer-side distributed resources program established by the Department of Public Utilities Control pursuant to Section 16-243 of the Connecticut General Statutes." Many of the customer side projects that are currently being funded and built in Connecticut are CHP facilities. As a result, we believe that facilities should only be eligible to participate in one of the set-aside programs, but not both. We are supportive of DEP's decision to auction any remaining allocations left in the set-aside accounts.

## **3. (f) CO<sub>2</sub> Allowance Allocations: (3) CO<sub>2</sub> allowance allocations and (5) Retirement of Allowances for Clean Energy Purchases**

Environment Northeast supports the inclusion of the set-aside for voluntary renewable purchases in the state rulemaking process which are similar to the optional provision of the RGGI Model Rule (RGGI section XX-5.3(D)). ENE believes that retiring these credits to support the voluntary renewable market will ensure that the marketers can continue to claim a reduction in carbon emissions. However, we do not believe that there should be a cap set on the number of allowances that are permanently retired to support the purchase of qualified renewable energy, especially since the state's Clean Energy Options program is so robust. Unless voluntary renewable energy purchases and the emissions reductions they provide are accounted for, generators burning fossil fuels can just produce more electricity - even for sale outside the state/region negating the benefits of those voluntary purchases. Having a percentage cap might hinder the expansion of the voluntary energy market and a large voluntary renewables market will help the region achieve its emissions reductions faster.

## **4. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions (D) (i) (7.5% Auction Proceeds retained by the Commissioner)**

The draft rule does not specify how the 7.5% of auction proceeds will be used by the commissioner. In *An Act Concerning Electricity and Energy Efficiency* (Public Act No. 07-242), the statute says: “(c) The regulations adopted pursuant to subsection (a) of this section may include provisions to cover the reasonable administrative costs associated with the implementation of the Regional Greenhouse Gas Initiative in Connecticut and to fund assessment and planning of measures to reduce emissions and mitigate the impacts of climate change. Such costs shall not exceed seven and one-half per cent of the total projected allowance value.” We are in favor of using allowance revenue to support DEP activities as we recognize the agency is chronic short-staffed and under-funded. However this money is clearly intended by the legislation to support the implementation of RGGI and to go to climate planning and staffing. We ask DEP to clarify that the money will be used in line with the statutory goals.

**5. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions (D) (ii) (23.125% Distribution of Auction Proceeds to the Connecticut Clean Energy Fund)**

ENE is supportive of a portion of the auction proceeds going towards Class I renewable energy projects and we believe that the Connecticut Clean Energy Fund is the best entity to invest in additional renewable energy projects. In reviewing the Connecticut Clean Energy Fund finances for 2006 and 2007, however, it appears that Connecticut Clean Energy Fund has excess funds at their disposal: <sup>1</sup>

Net assets	
2006:	72.7 Million
2007:	84.6 Million
Revenues	
2006:	24.2 Million
2007:	27 Million
Expenses	
2006:	13.4 Million
2007:	14.6 Million

As a result, we do not believe that that the Connecticut Clean Energy Fund should automatically receive twenty-three and one eight percent (23.125%) of the auction proceeds. Instead, we believe that money should only go to the Connecticut Clean Energy Fund if the Fund demonstrates a need and ensures that the money is being used to support Class I renewable energy projects. Otherwise, ENE believes that the money should be transferred to (4)(D)(iii) and be used for investments in energy efficiency (see below).

**6. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions (D) (iii) (69.375% Distribution of Auction Proceeds to CL&P and UI and overseen by the Energy Conservation Management Board (ECMB))**

ENE supports at least 69.375% of the auction proceeds going to investments in energy efficiency. We hope that this percentage will increase if money is not needed to fund renewable energy projects through the Connecticut Clean Energy Fund. In addition, DEP should have some flexibility in determining the

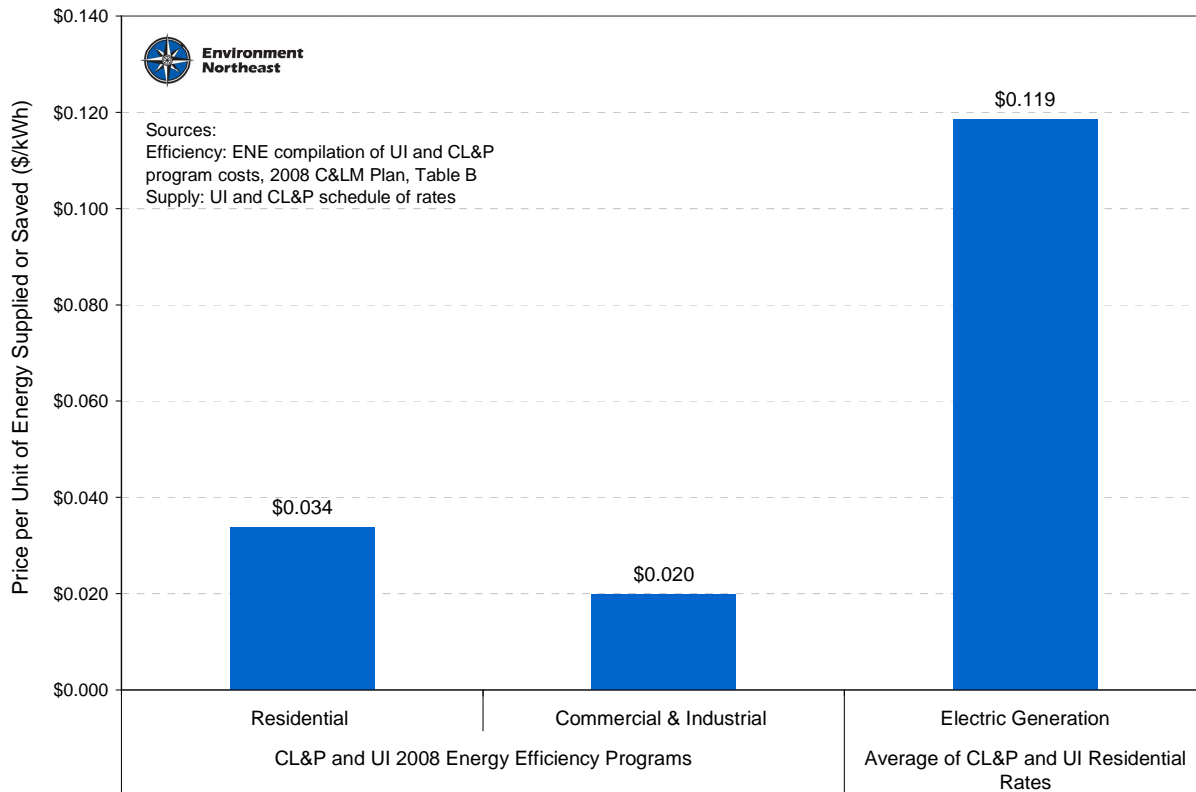
---

<sup>1</sup> FY07 Audited Financial Statements, available at: <http://www.ctcleanenergy.com/documents/CEF%20FY07%20Audited%20Financial%20Statements.pdf>

percentages to be used since *An Act Concerning Electricity and Energy Efficiency* (Public Act No. 07-242)) Section 93(b) specified that “The Department of Environmental Protection, in consultation with the Department of Public Utility Control, shall auction all emissions allowances and invest the proceeds on behalf of electric ratepayers in energy conservation, load management and Class I renewable energy programs. In making such investments, the Commissioner of Environmental Protection shall consider **strategies that maximize cost effective reductions in greenhouse gas emission**” (emphasis added). Investing in energy efficiency is the most cost-effective way to help the state achieve its emissions reduction goals.

As stated in previous comments, and shown in Figure 3 below, efficiency programs put real dollars back in ratepayer’s pockets that they can then spend on other parts of the state’s economy. The State spends billions of dollars every year on fossil fuels from other parts of the country and the world. Avoided electric consumption translates into avoided payments for natural gas and oil (plants using these fuels are primarily on the margin), reducing the state’s trade imbalance. In contrast efficiency programs fund energy service companies with local employees to install new more efficient equipment that is more likely to have been manufactured in the state or region. Investments in energy efficiency boost the state’s economy and lead to job growth both in the energy service sector and in the economy as a whole due to transfers of payments from the electric sector to other parts of the economy.

**Figure 3: Connecticut Energy Efficiency Savings vs. Generation costs**

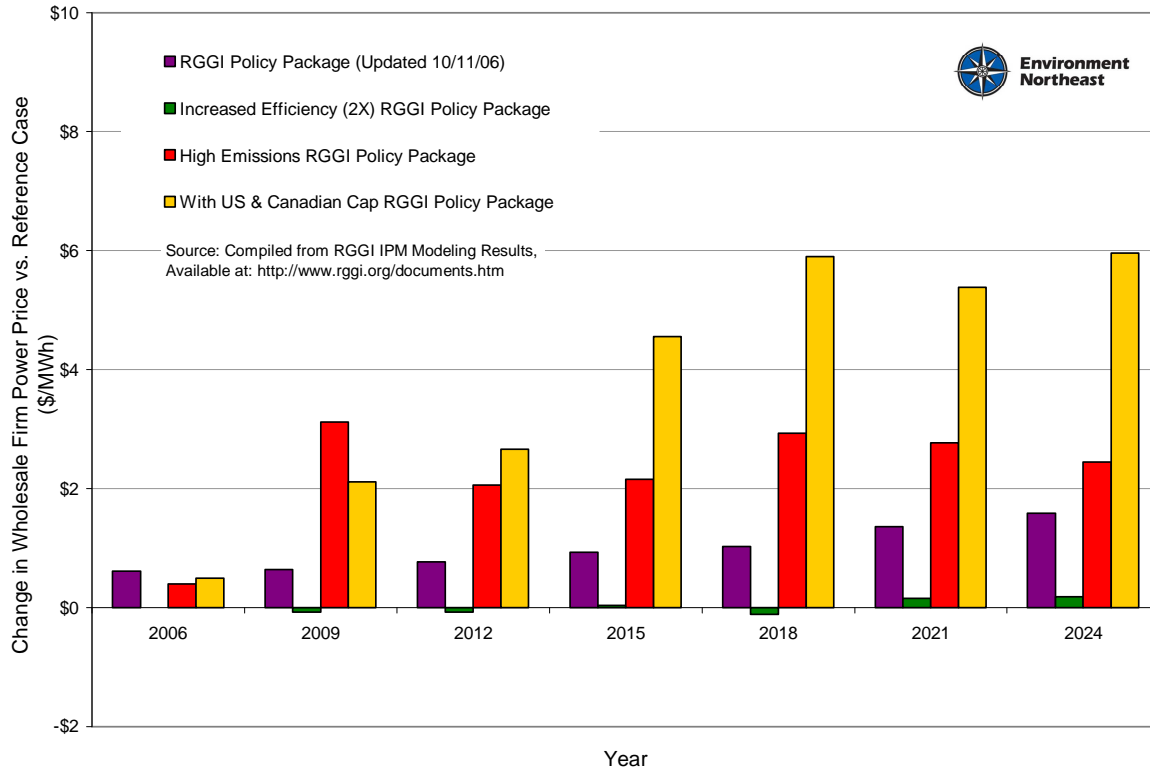


Energy efficiency programs have significant system-wide benefits. In particular, reduced demand depresses the wholesale electric energy price, and because peak demand is lower, the capacity price is also reduced. These benefits are significant today, but under RGGI, the system benefits are even larger.

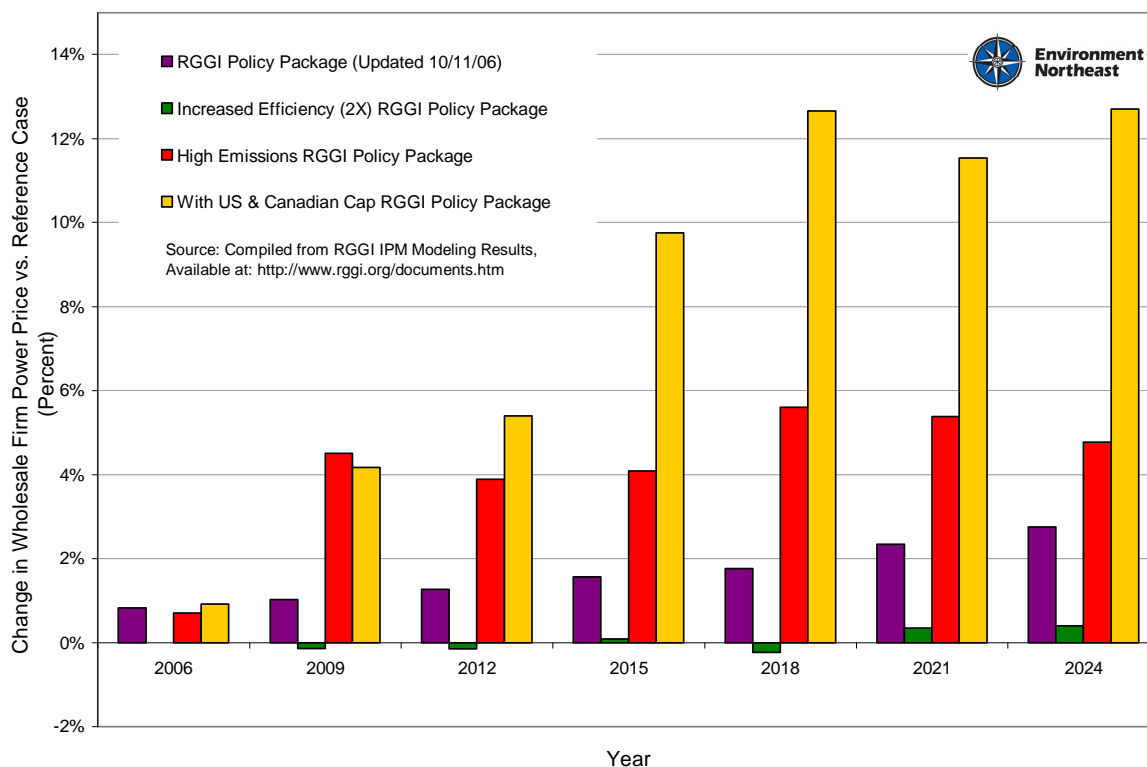


If electric consumption is growing and the RGGI program requires a decline in emissions, the goals are harder to achieve and more expensive than if electric consumption is held steady or even declines through investments in efficiency. The RGGI modeling results bear this out. The following figure illustrates the change in wholesale electric prices between the equivalent RGGI reference case and the policy case.

**Figure 4: Forecasts of Changes in Wholesale Electric Power Price Increases Due to RGGI**



**Figure 5: Forecasts of Changes in Wholesale Electric Power Percent Increases Due to RGGI**



As figures four and five indicate, the wholesale electric price is actually reduced in some years if RGGI is implemented along with a doubling of efficiency investments. Efficiency investments along with RGGI will deliver these savings to all consumers in the RGGI region.

Note that wholesale power prices are over half of delivered retail prices with wholesale prices in the range of \$60 to 100 per MWh (these costs are higher by the time generation is contracted for, see Figure 3) and transmission and distribution costing about \$30 to 50 per MWh.

Increases in efficiency programs can be delivered using a number of policy mechanisms or tools. Environment Northeast believes that most of the RGGI allowance value should be used to increase funding for efficiency programs as the draft regulations propose.

**7. (f) CO<sub>2</sub> Allowance Allocations: (4) CO<sub>2</sub> allowance auctions**

In subsection (A), DEP has stated that ““auction” means the open and transparent process by which the commissioner or a contractor or trustee selected by the commissioner, in consultation with the Department of Public Utility Control, shall offer for sale and sell the CO<sub>2</sub> allowances in the Connecticut Auction Account at least once per year.”

ENE supports quarterly auctions and hopes that DEP will make CO<sub>2</sub> allowances available for future control periods. It is our understanding that a futures market would provide some price certainty and help reduce long-term risk. In addition, please see our comments above about inclusion of a reserve price and having a contingency account.

We encourage CT to participate in a regional auction. There are likely many reasons to do so, including reduced transaction costs, a higher level of consistency among states, transparency, market stability, and the ability of a market monitor to focus on one major trading platform or event.

The allowance auction should always be open to all. Open markets will increase liquidity and allow for the development of strong secondary markets and other financial tools that allow for hedging and increased market stability. Since RGGI is a regional cap and trade program, the auction should always be open to CO<sub>2</sub> budget units who are regulated under the RGGI process.

ENE is also supportive of Holt, Shobe, Burtraw, Palmer and Goeree final report, *Auction Design for Selling CO<sub>2</sub> Emissions Allowances under the Regional Greenhouse Gas Initiative* and the auction design team's recommendation that there be rules related to possible limits on the % of allowances any entity could own and to the need for market monitoring. To ensure that the carbon market is not being manipulated, a market monitor should be established who reviews and analyzes the RGGI allowance market on a regular basis to ensure that no entity is exercising market power. This would be similar to the market monitoring done for other markets such as the ISO markets, although the analysis and level of effort would likely be less onerous or the market could be assessed by a regional contractor working for the Regional Organization who would report any irregularities to the appropriate state agency for review and action

#### **8. (f) CO<sub>2</sub> Allowance Allocations: (6) Early reduction CO<sub>2</sub> allowances**

ENE does not believe that DEP should adopt the early Reduction Allowance provisions of the model rule since this will allocate allowances directly to the generators for free. This is problematic since the early reduction allowances are in addition to the cap. Since there may be an over allocation of carbon credits, this provision will inflate the cap even more. Auctioning of allowances also increases the incentive companies have to make plant improvements early.

## 9. (g) Allowance Tracking System: (5) Compliance

Regarding the percentage amount of offset allowances, ENE is concerned with provision (g)(5)(B)(iii) which states: (iii) If the commissioner determines that there have been at least two Stage Two Trigger Events in immediate succession; five (5) percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for the first three years of the control period, and twenty (20) percent of the CO<sub>2</sub> budget source's CO<sub>2</sub> emissions for each year after the third year of the control period." This provision is not consistent with the revised MOU or Model Rule and should not be included. A Stage 2 trigger event would increase the percentage of offsets allowed to 10%, not 20%, and the geographic limit expands to include allowances or credits from international trading programs. It is important that the rules of the RGGI program be consistent across the participating states and this must be changed.

## 10. (i) Monitoring and Reporting: (8) CO<sub>2</sub> budget units that co-fire eligible biomass

The Model Rule Subpart XX-6.5(b)(1) provides that regulated units may deduct from their total CO<sub>2</sub> allowance obligation "any CO<sub>2</sub> emissions attributable to the burning of eligible biomass...". The Connecticut Draft Rule includes the definitions and reporting requirements for burning eligible biomass, but has omitted the provision allowing for deductions. By not allowing for deductions, the Draft Rule creates a major disincentive to co-firing with biomass, which can reduce CO<sub>2</sub> emissions. ENE strongly recommends that this provision be restored to the Draft Rule to maintain consistency with the Model Rule.

Therefore, Subsection (g)(5)(D)(i):

"Until the amount of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions, determined in accordance with subsection (i) of this section, from all CO<sub>2</sub> budget sources at the CO<sub>2</sub> budget source for the control period;"

Should be amended to read:

"Until the amount of CO<sub>2</sub> allowances deducted equals the number of tons of total CO<sub>2</sub> emissions, less any CO<sub>2</sub> emissions attributable to the burning of eligible biomass, determined in accordance with subsection (i) of this section, from all CO<sub>2</sub> budget sources at the CO<sub>2</sub> budget source for the control period;"

It is true that units burning biomass emit significant quantities of CO<sub>2</sub> from their smokestacks. Nonetheless, CO<sub>2</sub> deductions for Eligible Biomass are allowed on the premise that the amount of carbon emitted from the combustion of a quantity of biomass is essentially the same as the amount of carbon that will be taken out of the atmosphere in the future and stored, during the process of photosynthesis, in biomass that regrows on land where the old biomass was harvested.

This premise holds true so long as:

- the land on which the biomass was harvested is not converted to a use that prevents regrowth of a new generation of biomass, and
- the harvest methods ensure future regrowth of an equivalent amount of biomass in a reasonable time period and avoid significant depletion of carbon in the forest soils.

Examples of practices that would prevent sufficient regrowth on a given area of forest land include conversion of the land to development (such as a parking lot, a housing complex, or a road) or employing harvest practices that significantly inhibit future productivity, such as repeated high-grading,

excessive soil compaction, or whole-tree harvesting without replenishing soil nutrients. Soil carbon can be depleted either through direct disturbance during harvesting, or indirectly in the long-term through excessive removal of harvest residues and other woody debris.

Consistent with the above reasoning, the CT Draft Rule provides that:

“Eligible biomass” means sustainably harvested, as determined by the commissioner, woody and herbaceous fuel sources that are available on a renewable or recurring basis, excluding old-growth timber, but including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes, biogas, and other neat liquid biofuels derived from such fuel sources.

Draft Rule Subsection (a)(42), emphasis added.

For the sole purpose of implementing RGGI, “Eligible Biomass” could be handled in Connecticut by adding further specificity to the definition of the terms “Sustainably Harvested” and to the reporting requirements for units co-firing eligible biomass in the Draft Rule, or by providing some type of formal guidance in a companion document from the Department. If the Department feels that a detailed definition of “Sustainably Harvested” is premature at this point, the definition in the Draft Rule, including the provision that “Eligible biomass means sustainably harvested, as determined by the commissioner”, would allow for the development of such a companion document at a later date.

ENE recommends including further specificity in the Draft Rule itself. Consistent with the criteria regarding land conversion and harvest methods noted above, and without comment on the standards that should apply to non-woody biomass, we recommend incorporating the following elements for a new definition of “sustainably harvested”:

Subsection (a)(xx) (NEW) “Sustainably Harvested Woody Biomass” means woody biomass that the CO<sub>2</sub> budget source demonstrates has come from forested land that is not being converted to a non-forest land use and is not otherwise harvested in a manner incompatible with the capacity of that forest to regrow at a rate that is not less than the rate of carbon accumulation prior to the harvest, as determined in accordance with Subsection (i)(8) of this Rule.

The most practical approach to tracking sustainably harvested wood is to use documentation from existing programs. For this reason, we recommend using the Forest Stewardship Council and Sustainable Forestry Initiative certification programs, and in the case of smaller landowners, enrollment in the Public Act 490 current use tax program, as proxies for sustainability. These programs require long term management plans and in some cases penalties for land conversion.

Subection (i)(8)(E) NEW

(xx) for each shipment of woody biomass received and claimed to be eligible biomass, the following information shall be tracked and entered into a database:

- (i) name of driver and shipping company
- (ii) quantity of woody biomass being claimed as eligible biomass in this shipment;
- (iii) location of the timberland or industrial source of all woody biomass being claimed as eligible biomass;
- (iv) name of the business or person that owns the timberland or industrial source of the shipment

(v) method claimed for demonstrating that eligible biomass was sustainably harvested as provided in subsection (i)(8)F).

- (yy) the name and business address of all timberland owners or industrial sources from which shipments were received during the quarter, the total quantity of sustainably harvested woody biomass from each owner or source;
- (zz) evidence of certification, including certification number, and evidence of tax status, for any timberland that was the source of sustainably harvested woody biomass during the year

Subsection (i)(8)F) NEW. Woody biomass will be deemed sustainably harvested for the purposes of calculating compliance obligation deductions under Subsection (g)(5)(D)(i) if the CO<sub>2</sub> budget unit claiming to have co-fired eligible biomass provides complete, timely reports for Subsections (i)(8)(E)(xx) and (yy) of this subsection and an annual report to the Department indicating the total eligible biomass fuel input (tons) from each timberland or industrial source, by location, with the proper documentation, referred to in Subsection (i)(8)(E)(zz), sufficient to demonstrate the following:

(a) wood chips, trees, cord wood, tree limbs, woody debris, or tree tops delivered to the CO<sub>2</sub> budget unit came from timber harvest activities on lands:

- (i) enrolled in the Connecticut Public Act 490 program, prior to the harvest, with an approved forest management plan; and,
- (ii) certified, prior to the harvest, in the Forest Stewardship Council (FSC), Sustainable Forestry Institute (SFI);
- (iii) if the landowner owns less than 500 acres, compliance may be satisfied solely with enrollment in Public Act 490.

(b) wood residues are unadulterated and have been shipped to the CO<sub>2</sub> budget unit from industrial operations, including lumber or paper mills, provided that

- (i) if mills have chain-of-custody certification from FSC or SFI, residue that results from the production of 100% certified material (SFI Certified Sourcing Label, FSC Pure) will receive 100% deduction and residue that results from the production of mixed certified and non-certified product (SFI Percent Content Claim, FSC Mixed) will receive a percent deduction based on the percent certified material produced by the mill;
- (ii) if the mill does not have chain-of-custody certification, a default percentage deduction will apply to each ton of biomass CO<sub>2</sub> emissions to reflect the approximate percentage of forestlands under certification in the state of Connecticut, which percentage shall be adjusted each year as determined by the Division of Forestry;

(iii) construction and demolition waste shall not be considered unadulterated wood and shall not be eligible biomass.

We appreciate the opportunity to comment on the development of RGGI in Connecticut. This program is a critical part of the state and region's plan to reduce greenhouse gas emissions.

Please let us know if you have any questions based on our comments. We look forward to working with the states to implement the RGGI rule in all the Northeastern states.

Sincerely,

ENVIRONMENT NORTHEAST



---

Derek Murrow, Director of Policy Analysis  
dmurrow@env-ne.org



---

Alice E. Liddell, Policy Analyst  
aliddell@env-ne.org



101 Whitney Avenue, New Haven CT 06510  
203-495-8224 / [www.env-ne.org](http://www.env-ne.org)  
Rockport, ME / Portland, ME / Providence, RI / Boston, MA  
Hartford, CT / New Haven, CT / Charlottetown, PE, Canada

Derek Murrow, Director Policy Analysis, 203-285-1946, [dmurrow@env-ne.org](mailto:dmurrow@env-ne.org)  
Alice Liddell, Policy Analyst, 203-495-8224, [aliddell@env-ne.org](mailto:aliddell@env-ne.org)  
Ellen Hawes, Policy Analyst – Forestry, 207-761-4566, [ehawes@env-ne.org](mailto:ehawes@env-ne.org)

Environment Northeast is a nonprofit research and advocacy organization focusing on the Northeastern United States and Eastern Canada. Our mission is to address large-scale environmental challenges that threaten regional ecosystems, human health, or the management of significant natural resources. We use policy analysis, collaborative problem solving, and advocacy to advance the environmental and economic sustainability of the region.