



# OLR RESEARCH REPORT

September 24, 2013

2013-R-0346

## PROPOSED AMENDMENTS TO RGGI REGULATIONS

By: Lee R. Hansen, Legislative Analyst II

You asked for a summary of the Department of Energy and Environmental Protection's proposed amendment to the regulations regarding the state's participation in the Regional Greenhouse Gas Initiative (RGGI).

### SUMMARY

In February 2013, the Regional Greenhouse Gas Initiative released an [Updated Model Rule](#) for its nine participating states, including Connecticut. Among other things, the new rule (1) reduces the regional carbon dioxide (CO<sub>2</sub>) emissions cap to current emissions levels, (2) requires additional reductions in the cap to account for excess emissions allowances banked by market participants, and (3) establishes a cost containment reserve (CCR) to provide flexibility if allowance prices exceed predefined levels that increase over time. In general, these changes should increase the cost of CO<sub>2</sub> emissions allowances purchased by electric power plants, which are ultimately paid for by ratepayers. Additional information about the Updated Model Rule can be found at [http://www.rggi.org/design/program\\_review](http://www.rggi.org/design/program_review).

The Department of Energy and Environmental Protection's (DEEP) [proposed amendment](#) to the state's RGGI regulations generally aligns the regulations with the Updated Model Rule. It also makes several state changes that are not related to the update model rule, such as: (1) allowing the Clean Energy Finance and Investment Authority (CEFIA) to receive up to \$25.4 million of additional proceeds from the program

between January 1, 2014 and July 1, 2015; (2) basing the requirement for returning certain proceeds to ratepayers on total annual proceeds instead of auction prices; (3) redistributing the CO<sub>2</sub> allowances that must be allocated to certain set-aside accounts; and (4) removing the Public Utilities Regulatory Authority (PURA) from the auction process.

The proposed amendment also eliminates several obsolete provisions and makes numerous minor, technical, and conforming changes.

## **BACKGROUND**

RGGI is a cooperative effort between nine northeastern states (Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New York, Rhode Island, and Vermont) to regulate and reduce CO<sub>2</sub> emissions from electric power generators through a “cap and trade” program. Each state administers the program through its individual state-specific statutory and regulatory process based on the RGGI Model Rule. The programs limit emissions of CO<sub>2</sub> from electric power plants, issue CO<sub>2</sub> allowances for emissions (an allowance equals one ton of CO<sub>2</sub> emissions), and establish participation in regional CO<sub>2</sub> allowance auctions. Regulated power plants can use a CO<sub>2</sub> allowance issued by any participating state to demonstrate compliance with an individual state program.

In 2012 the participating states conducted a program review to evaluate the program and propose necessary changes. The review found a significant excess supply of CO<sub>2</sub> allowances relative to the region’s actual CO<sub>2</sub> emissions that reduced the allowances’ price and decreased the program’s incentive to reduce emissions. In response, RGGI issued the Updated Model Rule, which:

1. lowers the regional emissions cap to align with current emissions levels;
2. creates two budget adjustment periods to address the bank of emission allowances held by market participants;
3. creates a Cost Containment Reserve (CCR), which is a reserved quantity of allowances that are only available when defined price triggers are exceeded;
4. allows greater flexibility for states to retire undistributed and unsold allowances;

5. creates interim control periods during which regulated power generators must annually meet certain requirements;
6. eliminates several obsolete provisions; and
7. makes numerous minor, technical, and conforming changes.

## **PROPOSED AMENDED REGULATIONS**

Most of DEEP’s proposed amendment aligns the state’s regulations to the revisions proposed in the Updated Model Rule.

### ***Revised Emissions Cap***

Under the current regulations, the state’s basic CO<sub>2</sub> cap is 10,695,036 tons for each year from 2009 through 2014. Starting in 2015, the cap decreases 267,376 tons each year until it reaches 9,625,532 tons in 2018, where it remains through 2020. The proposed amendment instead (1) starts decreasing the cap one year earlier, in 2014; (2) decreases the 2014 cap by roughly 45%; and (3) annually decreases the cap 2.5% from 2015 through 2020. Table 1 shows CO<sub>2</sub> cap levels under current regulations and the proposed amendment.

**Table 1: CO<sub>2</sub> Cap Levels**

<b>Year</b>	<b><i>Under Current Regulations (in tons)</i></b>	<b><i>Under Proposed Amendments (in tons)</i></b>
2013	10,695,036	10,695,036
2014	10,695,036	5,891,895
2015	10,427,660	5,744,598
2016	10,160,284	5,600,983
2017	9,892,908	5,460,958
2018	9,625,532	5,324,434
2019	9,625,532	5,191,324
2020	9,625,532	5,061,540

### ***Budget Adjustments for Banked Allowances***

As under the Updated Model Rule, the proposed amendment requires the state’s CO<sub>2</sub> cap to be further reduced through two budget adjustments that account for unused allowances that market participants have “banked” over the past several years. Starting in 2014, the first adjustment requires the DEEP commissioner to reduce the state’s overall cap by 6.5% (the state’s proportional share of the regional emissions) of the total quantity of 2009–2011 allowances banked in general and compliance accounts. This reduction is evenly distributed over the next seven years.

The second adjustment starts in 2015 and is in addition to the first adjustment. It requires the commissioner to reduce the state's overall cap by 6.5% of the total quantity of 2012 and 2013 allowances banked in general and compliance accounts. This reduction is evenly distributed over the next six years so that both adjustments end after 2020.

### ***Cost Containment Reserve***

The proposed amendment requires the commissioner to allocate CO<sub>2</sub> allowances for a cost containment reserve that are separate from, and in addition to, the regular allowances. The commissioner must allocate 323,731 tons of CCR allowances for 2014. For each year after 2014, the CCR allocation must be 647,461 tons minus the number of CCR allowances remaining from the previous year.

To help contain the cost of regular CO<sub>2</sub> allowances, the proposed amendment requires the commissioner to auction the CCR allowances if the CO<sub>2</sub> allowances reach certain trigger prices. This should increase the supply of allowances and, potentially, help limit their price during times of increased demand. In 2014, the CCR allowances can only be sold if the total demand for regular allowances exceeds the number of allowances available at \$4 per allowance (the clearing price in the most recent auction was \$2.67). This trigger price increases by \$2 each year through 2017. After 2017 it increases 2.5% each year. The CCR allowances must be sold for more than the trigger price. The number of CCR allowances offered for sale at an auction must equal the number of CCR allowances in the CO<sub>2</sub> auction account at the time of the auction. Once the annual supply of CCR allowances is exhausted, no more CCR allowances can be auctioned for the rest of the calendar year.

### ***Retiring Unsold Allowances***

The proposed amendment broadens the DEEP commissioner's ability to retire allowances (retiring allowances takes them out of the market, thereby increasing the remaining allowances' value). Under the current regulations, the commissioner can only permanently retire CO<sub>2</sub> allowances from the Voluntary Clean Energy Purchase Set-aside Account based on certain Renewable Energy Certificate purchases through the Connecticut Clean Energy Options program or renewable energy generated in another participating state. As under the Updated Model Rule, the proposed amendment instead allows the commissioner to retire any undistributed or unsold CO<sub>2</sub> allowance at the end of each three-year control period.

### ***Interim Control Periods***

Under current regulations power plant owners must meet certain conformity and reporting requirements after every three-year control period. The first control period began on January 1, 2009. The proposed amendment requires the regulated entities to verify their conformity more frequently by creating additional one-year interim control periods covering each of the first two years of a control period. The regulated entities must meet certain conformity and reporting requirements after each interim period. The first interim control period begins on January 1, 2015.

Among other things, the proposed amendment also (1) subjects a regulated entity to penalties if its emissions during an interim period do not meet certain requirements; (2) requires the entities to hold allowances to cover half of their emissions for each interim period, subject to a true-up process at the end of the control period; and (3) deems each ton of excess interim emissions a violation subject to existing enforcement provisions.

### **PROVISIONS UNRELATED TO THE UPDATED MODEL RULE**

In addition to the above provisions, which essentially conform to new provisions in the Update Model Rule, the proposed amendment also contains several provisions that are not related to the Update Model Rule.

### ***Distribution of Auction Proceeds***

Current regulations allow up to 23% of the proceeds from allowance auctions to be transferred to the Clean Energy Fund. The proposed amendment instead requires that 23% of the proceeds are transferred to the fund. As under current regulations, DEEP retains 7.5% of the auction proceeds for administrative expenses.

Under current regulations, at least 69.5% of the proceeds from allowance auctions are divided between Connecticut Light & Power (CL&P, 75%), United Illuminating (UI, 18.75%), and the Connecticut Municipal Electric Energy Cooperative (CMEEC, 6.25%) to support the development of energy efficiency measures.

The proposed amendment uses a different formula for allocating the 69.5% of auction proceeds between January 1, 2014 and July 1, 2015. During this period, the proposed amendment requires up to \$1.25

million to be transferred quarterly to CL&P (\$1 million) and UI (\$250,000) to support energy efficiency programs. Any proceeds that exceed that amount must be transferred to CEFIA, which administers the Clean Energy Fund, to support energy efficiency programs. The proceeds can be allocated to CEFIA on a pro-rated quarterly basis. If the total proceeds allocated to CEFIA exceed \$25.4 million, any excess proceeds are transferred to CL&P (80%) and UI (20%). By law, CEFIA must (1) develop programs to finance and support clean energy investment, (2) support financing or other expenditures that promote investment in clean energy sources, and (3) stimulate demand for clean energy and the deployment of clean energy sources within the state ([CGS § 16-245n](#)).

The distribution of proceeds returns to its current allotment formula after July 1, 2015. CMEEC retains its 6.25% of the proceeds during both periods, however the proposed amendment allows the DEEP commissioner to retain CMEEC's share of the proceeds if CMEEC does not timely meet reporting requirements.

### ***Rate Payer Relief***

Under current regulations, whenever the auction price of a CO<sub>2</sub> allowance exceeds \$5, adjusted for inflation since 2008, the excess proceeds must be returned to ratepayers. The proposed amendment instead requires any proceeds that exceed \$35 million for the year to be returned to ratepayers. The \$35 million threshold annually increases 2.5% starting January 1, 2015.

### ***Allowance Allocations***

Current regulations require the DEEP commissioner to allocate a certain portion of the state's CO<sub>2</sub> allowances to various set-aside accounts. The proposed amendment changes the amount of these allocations. Table 2 shows the required allocations under current regulations and the proposed amendment.

**Table 2: Required Allowance Allocations**

<i>Account</i>	<i>Allocation Under Current Regulations</i>	<i>Allocation Under the Proposed Amendment</i>
Voluntary Clean Energy Purchase Set-aside	1.5%	None
Customer-side Distributed Resources Set-aside	3.5%	1.5%
Combined Heat and Power Useful Thermal Energy Set-aside	5%	1.5%
Combined Heat and Power Long-term PPA Set-aside	Up to 13%	None
Connecticut Auction Account	At least 77%	97%

### ***DPUC (PURA) Involvement with Allowance Auctions***

Current regulations require the DEEP commissioner or a contractor or trustee he selects, to consult with the Department of Public Utility Control (DPUC, now known as PURA) about selling CO<sub>2</sub> allowances. They also require the DEEP commissioner or a contractor or trustee he selects, and the DPUC to oversee the auction. The proposed amendment eliminates the requirement for DPUC (or PURA) consultation and oversight.

LH:ts