

**TO:** Nicholas Bianco, Massachusetts Department of Environmental Protection  
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**cc:** Robert Sydney, Massachusetts Division of Energy Resources

**FROM:** Northeast Regional Greenhouse Gas Coalition<sup>1</sup>

**DATE:** September 24, 2007

**RE:** **Comments on Proposed RGGI Regulation**

### **Introduction**

This memo provides the Northeast Regional Greenhouse Gas Coalition's (GHG Coalition) comments on Massachusetts Department of Environmental Protection's (MA DEP) proposed RGGI regulation (310 CMR 7.70).

The GHG Coalition members have participated as official stakeholders to the RGGI process since its inception, participating in every RGGI meeting and workshop and submitting consensus recommendations throughout the entire process. See [www.ghgcoalition.com/resources](http://www.ghgcoalition.com/resources) for comments submitted to the RGGI process to date.

The GHG Coalition believes that programs to address climate change should be national in scope. The objective of the GHG Coalition throughout the RGGI process has been to provide recommendations so that RGGI could serve as a model for a national program that would have a reasonable likelihood of adoption. Thus, it is essential that the RGGI implementing rules avoid potential parochial barriers and instead incorporate program elements that can be easily implemented at the national scale. In addition, the GHG Coalition strongly contends that when a mandatory national climate change program is implemented, the RGGI program must be superseded with a smooth transition for RGGI affected sources and related programs. The regulatory elements of the RGGI program (including implementing regulations at the state level) must be superseded by the national regulatory program so as not to have redundant and possibly conflicting programs.

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<sup>1</sup> The GHG Coalition members are BP America, Inc.; Conectiv Energy; Consolidated Edison, Inc.; Constellation Energy; Dominion Energy New England; Public Service Enterprise Group, Inc.; and Waste Management, Inc.

The GHG Coalition's comments on the MA DEP proposal focus on the following issues: 7.29 transition, the timing of allowance allocations to DOER, the definition of biomass, the effective date of the RGGI regulations, and waiver of enforcement; suspension of compliance obligations.

### ***7.29 Transition***

The GHG Coalition is pleased to see that MA DEP is proposing to sunset 7.29 and transition to RGGI. This sets a positive precedent for the transition that should occur when a national program is ultimately adopted. The GHG Coalition has long held that RGGI should transition to a national program so that electric generators in the RGGI states are not put at a competitive disadvantage and so that there is a single GHG emissions trading scheme in the U.S. However, the 2:1 discount for GHG credits that MA DEP is proposing is contrary to development of a national cap and trade program. Such a policy would also discriminate against offset projects that meet all the key criteria for an environmentally beneficial project, such as real, measurable, verifiable GHG reductions.

### ***Timing of Allowance Allocations to DOER***

The MA DOER proposed regulations state that the first auction will be held 60 days after the first CO<sub>2</sub> allowance allocation from MA DEP. However, the MA DEP proposed language does not contain a timeline for allocations to DOER except that they will occur by January 1, 2009.

The GHG Coalition encourages Massachusetts to hold its first auction as early in 2008 as feasible to aid in price discovery for 2009 RGGI allowances. Because CO<sub>2</sub> Budget Sources primarily sell power through multi year bilateral contracts, it is imperative to know what the CO<sub>2</sub> allowance prices will be so they can be factored into power prices. As such, the GHG Coalition recommends that MA DEP clearly indicate in the regulatory language when the allowances will be allocated to DOER for the 2009-2012 vintage years.

### ***Definition of Biomass***

The definition of biomass in the MA DEP proposed rule mirrors that of the RGGI Model Rule. The GHG Coalition has noted numerous times that the biomass definition is too restrictive and eliminates many beneficial fuel switching opportunities at CO<sub>2</sub> Budget Sources. One of the main

goals of RGGI should be to reduce the carbon intensity of the region's power supply. One way this can be accomplished is through the co-firing of biomass. As such, the definition of biomass should be revisited to be more flexible or at least coincide with the MA DOER definition of renewables for the Massachusetts RPS program.

### ***Triggers for other states to enact RGGI***

The GHG Coalition suggests that MA DEP insert a trigger provision for the effective date of its RGGI regulation similar to that contained in the ME DEP proposed RGGI regulations (*Chapter 156, CO<sub>2</sub> Budget Trading Program*). According to the proposed regulation, ME DEP's RGGI regulation becomes effective only when other states meeting the following criteria have initiated comparable CO<sub>2</sub> budget trading programs:

- (a) such states have wholesale electricity markets that are administered and overseen by the same Regional Transmission Organization as are Maine's; and
- (b) the combined CO<sub>2</sub> emissions budgets from such states total at least 35,000,000 tons per year.

Massachusetts should include the same concept in its RGGI regulation but make the effective date of the regulation tied to all New England states adopting RGGI regulations.

### ***Waiver of enforcement; suspension of compliance obligation***

The ME DEP has also proposed regulations providing the authority to the DEP Commissioner to waive or suspend compliance obligations for CO<sub>2</sub> Budget Sources if there are high allowance prices or if issues not under the control of the Budget Source occur. The GHG Coalition encourages MA DEP to review this proposed regulation (*Chapter 157, CO<sub>2</sub> Budget Trading Program Waiver and Suspension*) and add similar provisions in the MA RGGI regulations.

We look forward to continued participation in the Massachusetts RGGI process and thank you for this opportunity to provide input.