

Meeting Notes
Delaware's Regulation 1147 – CO₂ Budget Trading Program
Regulatory Development
Workgroup Meeting
May 21, 2008

Attendees: Ron Amirkian, David Bacher, Jim Black, Randy Chase, Phil Cherry, Bob Clausen, Michael Fiorentino, Valerie Gray, Gary Helm, Steven Hicks, Cathe Kalisz, John Kowalko, Tom Lily, Angela Marconi, Ali Mirzakhaili, Ravi Rangan, Chad Tolman, Stuart Widom

Valerie Gray welcomed the group and thanked all for attending. Following introductions, the group discussion covered the following items as outlined by the Agenda:

- Section 1.4 Applicability –
 - The Work Group revisited the previous meeting's discussion on the merits of the Limited 10% EGU Exemption for those units that provide power at industrial facilities as provided in the RGGI Model Rule. Chad Tolman, Sierra Group voiced concern that the refinery comprised approximately 23% of the CO₂ emissions from electric generating units in 2006 and should be included in the rule. Phil Cherry, DNREC reiterated the rule's objective to target commercial power generation versus industrial power generation. The RGGI model rule intended to focus on the power sector and not include the industrial sector that generates power along with process heat. The industrial exemption was provided as an optional provision for those states that had included industrial fossil fuel-fired EGU's in developing the emissions baseline analysis that met the 25 MWe threshold but did not produce power for export to the grid and as long as those units were willing to accept a permit condition limiting export to the power grid to less than 10% of the unit's annual generation. Ms. Gray added the regulation development process provides additional opportunities for comments regarding the industrial exemption via the Public Hearing, and that the proposed regulation will likely include the exemption. The Secretary will consider all comments provided during the Public Hearing when making his decision on the final regulation.
 - The Work Group also discussed the merits of including a condition for those exempt from the rule to implement CO₂ mitigation program such as a requirement for a Climate Action Plan and annual reporting requirements. The group requested proposed language be included in the rule on what requirements should be outlined in the Climate Action Plan. Additional comments included the enforcement by DNREC of the plans requirements on the regulated entity. One commenter remarked if the Climate Action Plan was not enforced then the requirement for the plan was meaningless.
- Section 5.3 Allocations –
 - The Work Group discussed the distribution of allowances as proposed by Senate Bill 263 establishing a 60% auction/40% allowances. The allowance distribution was presented based upon the percentage of the unit's contribution (2000-2002 average emissions) against the Delaware budget of 5,559,787 tons decreasing by 8% over a five-year period (2009-2014).
 - The group discussed the merits of the Limited Industrial Exemption Set Aside. Chad Tolman, Sierra Club voiced continued opposition to the Exemption on the basis the refinery currently contributes 23% of the emissions from power generation. Phil Cherry, DNREC reiterated that the RGGI rule's primary objective was to address CO₂ emissions from the power sector and not the industrial/manufacturing sector. Mr. Cherry added that the RGGI rule was the first step toward addressing Greenhouse Gas emissions via a market based approach and that additional sectors could be added in the future. Ron Amirkian, DNREC stated the refinery's primary business was not power generation and that the generation of power by the refinery units was for internal use. Mr. Amirkian reminded the group that at the last meeting, the refinery representative had explained that less than 2% of its power generation was supplied to the grid and that the inclusion of the Climate Action Plan was a means by which the refinery could demonstrate its commitment to reducing its Greenhouse Gas emissions.
- Section 8 Monitoring & Reporting –
 - The workgroup discussed the merits of including the provision in section 8.1.1.1 allowing for oil/gas fired units to continue to use the equation G-1 for determining their CO₂ mass emissions. The RGGI Model Rule subgroup had previously discussed limiting the use of

equation G-1 to only oil or gas fired units and not coal-fired units. The Delaware workgroup agreed that allowing those units that use the equation G-1 for determining CO2 mass emissions for the Acid Rain program should be allowed to continue to use the equation for the CO2 Budget Trading Program. The rules language will be modified to allow for the use of the G-1 equation by only those units that use oil or gas.

- A handout was provided to the group with an overview of the monitoring plan requirements as developed by USEPA.
- **Section 11 Auction –**
 - The workgroup reviewed the language proposed by the RGGI Auction subgroup. The language is modeled on the auction rules developed by Massachusetts and New York.
 - A question from Stu Widom, Conectiv regarding the disposition of unsold allowances and why the rule required DNREC to consult with the Public Service Commission. Phil Cherry, DNREC explained the Department may or may not chose to retire unsold allowance or chose to hold them until the Reserve Price was met at a future auction. Mr. Cherry further explained that the RGGI Auction subgroup was working on the timing and volume of allowances to be released at each quarterly auction and that the amount of allowances available and the vintage of the allowances will be in the official auction notice no less than 45 days prior to the auction.
- **Documents Distributed**
 - April 16, 2008 RGGI Rule Development Workgroup Meeting Minutes
 - May 21, 2008 RGGI Rule Development Workgroup Agenda
 - May 21, 2008 Workgroup Meeting Presentation (PowerPoint slides)
 - SB 263 proposed legislation
 - RGGI EGU Allocation Spreadsheet (Excel spreadsheet)
 - USEPA 40 CFR 75 Monitoring & Reporting Summary Tables 1-4
 - Draft language for Section 11 - Auctions
- **Agenda Items for June's meeting:**
 - Legislation Update – SB 263
 - Review proposed language for Industrial Exemption permit requirement for a Climate Action Plan
 - Climate Action Plan Criteria/Requirements
 - Review/Approval by DNREC
 - Annual reporting requirement
 1. Status of Plan
 2. Emissions
 - Section 5.1 Allocations
 - Basis of Allocation distribution
 1. 2000-2002 v. 2004-2006 emissions inventory
 2. Email from D. Bacher, NRG
 - Once in always in
 - Shutdown units
 - Repowering
 - 10% exemption impacts
 - Section 5.3 - Methodology to allocate to sources
 - Consumer benefit Allocation (language pursuant to legislation)
 - Early Reduction Allowances
 - Limited Industrial Exemption Set-aside Account
 - Section 8.8 – Requirements to provide Output Data
 - Section 11 – Auction of CO₂ Allowances
- **Next Meeting Scheduled:**
 - June 18, 2008 (1-3 pm)
 - Priscilla Building, Dover Air Quality Management Office