

Green Delaware #1**Vest Lisa A. (DNREC)**

From: Vest Lisa A. (DNREC)
Sent: Monday, September 22, 2008 5:47 PM
To: 'Alan Muller'
Cc: Mirzakhali Ali (DNREC); overland@legalectric.org
Subject: RE: Green Delaware comments on RGGI Reg. (No. 1147)

Mr. Muller:

This will acknowledge receipt of your written comments as submitted below. Pursuant to your request, Green Delaware's comments will be entered into the record at the hearing this evening, along with the linked documents that you have noted within your email. Thank you for your contribution to the hearing process regarding this matter.

As for your request to hold the record open in this matter for an additional thirty (30) days, I will note that Green Delaware has formally made this request when I enter your comments into the record this evening at the hearing. I will send you an email tomorrow morning advising you of my decision in this matter, based on, of course, the documentation received by the Department at the hearing itself this evening.

Again, thank you for Green Delaware's contributions to the public hearing process regarding the proposed RGGI Regulation (No. 1147).

Lisa A. Vest
Public Hearing Officer
State of Delaware - DNREC
89 Kings Highway
Dover, DE 19901
(302) 739-9042
Fax: (302) 739-1174

When one tugs at a single thing in nature, he finds it attached to the rest of the world. - John Muir

NOTE: The views and/or opinions of the authors expressed herein do not necessarily state or reflect those of the Department of Natural Resources and Environmental Control and/or the State of Delaware

From: Alan Muller [mailto:amuller@dca.net]
Sent: Monday, September 22, 2008 5:12 PM
To: Vest Lisa A. (DNREC)
Cc: Mirzakhali Ali (DNREC); overland@legalectric.org
Subject: Green Delaware comments on RGGI Reg. (No. 1147)

September 22, 2008

Dear Ms. Vest:

I understand you are holding a public hearing tonight on what we call the "greenhouse giveaway" to Premcor's Delaware City Refinery.

This is officially noticed as: NOTICE OF PUBLIC HEARING- Regulation No. 1147 – Carbon Dioxide Budget Trading Program

9/22/2008

I will not be attending this hearing and am generally unwilling to participate in any hearings you preside over, due to the extreme hostility and discourtesy we always seem to encounter.

However, Green Delaware wishes these comments read into the record, and the linked documents included in the record.

We consider that Premcor (Delaware City Refinery) must be a full participant in the RGGI program, and the proposed regulation must be amended to so require.

In view of the extreme profitability of the oil industry these days, and Delaware's budget limitations, and the likely further deterioration in revenues, and the ever-increasing bad news about global warming, for Delaware to forgo these is both fiscally and environmentally irresponsible. In fact, it is nothing but a disgusting, inexcusable giveaway to the fattest special interest in Delaware.

Our further views on this matter are included in these documents:

[Green Delaware comments on Regional Greenhouse Gas Initiative](#)

[Alert 585: Hughes proposes \\$108 million giveaway to power generators](#)

[Alert 597: Help stop big greenhouse giveaway to Conectiv, NRG and Valero](#)

[Action Alert 600: Tell DNREC to stop lobbying for the for the polluters](#)

[Alert 602: Global warming and Delaware: a report from reality](#)

[Alert 609: Delaware's biggest polluters celebrate in Governor's office....](#)

["ENVIROS" GREENHOUSE GAS ROLLOVER](#)

We ask that the record be held open for at least thirty days.

If these comments raise any questions please contact us.

Respectfully submitted,

Alan Muller

Alan Muller, Executive Director
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Port Penn, DE 19731 USA
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9/22/2008

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Green Delaware comments on Regional Greenhouse Gas Initiative

Saturday, May 20, 2006 12:00am

By [Alan Muller](#)

 [Email article](#)

 [Print article](#)

May 20, 2006

TO: RGGI Environmental & Energy Commissioners and
Staff Working Group

FROM: Alan Muller, Green Delaware

RE: Comments regarding Draft RGGI Model Rule

Green Delaware applauds the intent of the RGGI. And we are pleased that the State of Delaware has chosen to participate. It is apparent that a great deal of effort and expertise has gone into developing this program.

However, the goals of the program are modest and "the devil is in the details."

In general, we agree with the comments of the "Environmental NGOs" memo dated April 20, 2006.

Process

We are concerned that the "stakeholder process," whatever it may be elsewhere, has not in Delaware included either the public or NGOs. (We would assume that representatives of the electric power industry have had extensive input into Delaware's decision-making.)

Therefore, we recommend that requirements for outreach to the public and NGOs at the state level, as well as by the "regional organization" be built into the program.

Requirements for public notice, and opportunity for (at least) comment/objection, should apply to specific transactions.

It is stated on the RGGI website that all comments received on the Draft Model Rule were to be posted, but we find this entry:

"Multiple Individuals via Form e-Mail (examples)" . Only one (redacted) email is posted under this header. Thus, it is difficult to know what public comment has or has not been received. All comments should be posted.

The Memorandum of Understanding signed by the governors states:

"At a minimum, eligible offsets shall consist of actions that are real, surplus, verifiable, permanent and enforceable."

But it does not appear to us that the Draft Model Rule implements this language.

Biomass definition

The following definition of "biomass" appears in the Draft Model Rule:

"(f) *Biomass*. Eligible biomass includes technologies that use unadulterated and non-construction and demolition debris fuel stocks, which includes: brush, stumps, lumber ends and trimmings, wood pallets, bark wood chips, shavings, sawdust and slash; energy crops; biogas and liquid biofuels."

It is not clear that ONLY the items enumerated in this definition are eligible. This should be clarified. Nor is it clear what "unadulterated" means.

"Energy crops" is vague. Without further clarification, it appears that a forest could be harvested (in a non-sustainable manner) as an "energy crop," securing an exemption from the "cap," and then offsets could be claimed for "afforestation" of the same parcel.

"(c) *Sequestration of carbon due to afforestation*. Projects that sequester carbon through the conversion of land from a non-forested to forested condition may qualify for the award of CO₂ emissions offset allowances under this Subpart, provided they meet the requirements of this subdivision."

Thus, "double dipping" without any public benefit could occur.

Garbage incineration should be explicitly excluded from the definition of "biomass" and from receiving any credits or exemptions under RGGI.

It has been shown that burning of discards yields far less "energy" and contributes much more to climate impacts than the recycling of the same materials. See, for example, http://www.mrw.co.uk/homepagePBP_NADetail_UP.aspx?ID_Site=534&ID_Article=9250&mode=1&curpage=0&id=0

In general, serious questions exist regarding the net energy impacts (and the overall environmental impacts) of many "biofuels" and "energy crops." This being so, RGGI should focus on rewarding "demand side" and conservation and efficiency investments, whose benefits are undisputed.

landfill gas (LFG)

The treatment of landfill gas (LFG) has been a confusing issue for environmental and other interests. However, it has become clear in Delaware that crediting or LFG as a "renewable" fuel tends to give utilities an incentive to support continued landfilling (dumping) of organics.

Landfilling of discards has the same or greater negative energy impacts as incineration.

Recently, this writer heard a presentation by Conectiv Energy in which it was claimed that the burning of LFG at the Edge Moor Power Plant precluded the installation of additional NOx controls because products of LFG combustion would foul catalysts. This claim may well be entirely bogus, but it illustrates the questionable nature of LFG.

Therefore, the potential benefits of encouraging the offset of fossil fuel use by LFG needs to be balanced against the potential subsidization of continued landfilling in competition with "zero waste" approaches.

sulfur hexafluoride

"(b) Reduction in emissions of sulfur hexafluoride (SF₆).

Projects that prevent fugitive emissions of sulfur hexafluoride to the atmosphere, through capture and storage, recycling, or destruction may qualify for the award of CO₂ emissions offset allowances under this Subpart, provided they meet the requirements of this subdivision."

Certainly better containment of SF₆ is desirable in view of its high GWP, but does it make sense to recognize as an "offset" something that should be expected simply as a sound operating practice?

In general, we don't think offsets (and/or "allowances") should be available to utility generators. (The "regulated sector?")

Large industrial generators, steam-raising boilers, and process heaters, etc. of 25 MW or equivalent should be included.

The RGGI program needs to address "leakage" of dirty power into the region. With the growth Westward of the PJM interconnection this seems increasingly difficult.

Many more comments could be offered on the Draft. We think it is a good start but much work is needed.

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Green Delaware is a community based environmental action group. We are funded through membership dues, donations, and grants. We appreciate the support of the New Jersey Environmental Endowment.
greendel.org

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Alert 585: Hughes proposes \$108 million giveaway to power generators

Monday, March 10, 2008 12:00am

By [Alan Muller](#)

 [Email article](#)

 [Print article](#)

The Regional Greenhouse Gas Initiative ...

DNREC Secretary John Hughes proposes 108 million dollar giveaway to NRG, Conectiv, Valero ...

Please make you calls against this:

John Hughes: 302.739.9000

email: john.hughes@state.de.us

Governor Ruth Ann Minner: 1.800.292.9770

Everything to do with energy and global warming is complicated. Please bear with us as we try to explain what's going on.

The Regional Greenhouse Gas Initiative (RGGI) was set up due to inaction on global warming by the US Federal government. The official website is <http://www.rggi.org/> .

Ten states belong--Maine, New Hampshire, Vermont, Connecticut, New York, New Jersey, Delaware, Massachusetts, Maryland, and Rhode Island.

Delaware, to its credit, was one of the original seven.

RGGI is a "cap and trade" program applying to "fossil fuel-fired electric generating units having a rated capacity equal to or greater than 25 megawatts."

Delaware has about 26 such units and together they put out about 7.5 million pounds per year of carbon dioxide. (Every ton of coal burned produces about 2.75 tons of CO₂.)

Many doubt the effectiveness of "cap and trade" programs, and the objectives of RGGI are limited and far less than really

needed. But it is a small step in the right direction. As such, of course, the coalers don't like it.

The basic idea is simple: For every ton of CO₂ emitted, the plants would need offsets or "allowances." The total allowances would be capped, originally (for Delaware) at 7,559,787 tons. Beginning in 2015, the cap ("emissions budget") would decline by 2.5 percent per year. The allowances under the cap would be auctioned. Nobody really knows the price in advance, but there is a "Safety Valve Threshold" set at \$10/ton.

At the moment, "Carbon Financial Instruments" equivalent to one hundred (100) metric tons (tonnes) of carbon offset credits, are trading on the Chicago Climate Exchange (<http://www.chicagoclimatex.com/>) for \$5.50. European Union Allowances (EUAs) traded at €21.45 (\$33) per tonne on March 7th (<http://www.pointcarbon.com/>).

Note that the "offsets," which can be tree-planting projects, etc, aren't worth much and probably shouldn't be. The "allowances" are the real deal, and will probably be worth real money, as they are in Europe, where the European Union has had a cap and trade program in place for a few years.

Green Delaware submitted comments on the RGGI on May 20, 2006, after we heard from environmental interests in New England (read them here: <http://greendel.org/item.xhtml?name=reggicommentsmay06>).

Among other things, we said:

Green Delaware applauds the intent of the RGGI. And we are pleased that the State of Delaware has chosen to participate. It is apparent that a great deal of effort and expertise has gone into developing this program.

However, the goals of the program are modest and "the devil is in the details."

In general, we agree with the comments of the "Environmental NGOs" memo dated April 20, 2006.

Process

We are concerned that the "stakeholder process," whatever it may be elsewhere, has not in Delaware included either the public or NGOs. (We would assume that representatives of the electric power industry have had extensive input into Delaware's decision-making.)

Therefore, we recommend that requirements for outreach to the public and NGOs at the state level, as well as by the "regional organization" be built into the program.

Requirements for public notice, and opportunity for (at least)

comment/objection, should apply to specific transactions.

The usual Delaware secrecy and conniving

The power plant operators, of course, don't want any part of paying to pollute the atmosphere. Their friend, **Senator Harris McDowell**, sneaked Senate Concurrent Resolution 28 (<http://legis.delaware.gov/LIS/LIS144.NSF/vwLegislation/SCR+28?Opendocument>) through the General Assembly on the last day of the session, June 30, 2007.

SYNOPSIS:

*This resolution establishes a Workgroup to study how Delaware should address carbon dioxide allowances established under the Regional Greenhouse Gas Initiative, **including the amount of allowances to be auctioned and where the funding generated from such auctions will be directed.***

The "workgroup" was supposed to contain "At least three representatives of environmental advocacy organizations," along with a full load of polluters.

DNREC Secretary John Hughes set up the group, and appointed Chad Tolman, Nick DiPasquale (Delaware Audubon) and Michael Fiorentino (Min-Atlantic Environmental Law Center) as the "enviro" representatives.

Need we say that nobody told Green Delaware anything about this? We had to find out about it by happenstance.

Two major issues:

(1) Should the power plant operators actually pay for their allowances, or get them for free?

The power plant operators (NRG, Conectiv, City of Dover, Valero, etc) want them for free. They threaten zooming utility bills if they have to pay for them. Others, including Green Delaware, think they should pay for them all and the money should be used to reduce greenhouse emissions.

DNREC Secretary has weighed in on the side of the power plants in a March 6, 2006 letter (<http://greendel.org/images/Hughespowermemo.pdf>):

"Auctioning [as opposed to giving away] 100% of the allowances provided to Delaware ... would seem to be the logical and consistent approach [yes, it is]; however Delaware is different in some critical respects [bullshit!] compared to other participating states. ... Consequently, I believe the generator's proposal for an eventual 100% auction, beginning at 50% ... is an excellent start to negotiating this important question."

Most of the other states who have decided this question have

decided to make the generators pay for all, or nearly all, of their allowances. These include New York, Connecticut, Vermont, Massachusetts, New Hampshire, and Maine.

New York Attorney General (now Governor) has stated:

"Free allocation of allowances to CO2 generators will not lead to lower electricity prices to consumers. The price of electricity will rise to the same extent under RGGI whether the allowances are given to the generators for free or auctioned for the benefit of the public." (5/2/06)

Giving half the allowances away free is just a giveaway to NRG, Conectiv, etc.

On the other hand, the money raised, if properly invested in conservation and efficiency programs, can actually reduce electricity costs to consumers.

For more information on this see: https://www.des.nh.gov/ard/climatechange/docs/Marc_Breslow.ppt .

How much is at stake?

At ten dollars a ton, the total value of Delaware's allowances would be \$75,597,870, reduced by up to five percent by "offsets." So, lets say \$71,817,976.

Under Hughes proposal, the generators would evade paying

year one:	\$35,908,988	(50%)
year two:	\$28,727,191	(40%)
year three:	\$21,545,393	(30%)
year four:	\$14,363,595	(20%)
year five:	\$7,181,798	(10%)

total \$107,726,965

(2) Who should control the money coming from the sale of allowances?

Hughes is also proposing to give all the money raised to Sen. McDowell's Sustainable Energy Utility (<http://www.seu-de.org/>).

This sounds reasonable, but few trust McDowell. At one "workgroup" meeting we attended, McDowell and his guru, John Byrne, we saying they didn't need or want the money (!). We supposed they were really saying the generators shouldn't have to pay it.

Now, we hear that McDowell is saying he DOES want the money. But does he want the generators to have to pay it? What would actually be done with it?

The SEU is not expected to be up and running for several years.

In recent testimony before the Senate Energy and Transit Committee, also a McDowell operation, Delmarva Power representatives said they weren't planning any energy efficiency programs because *"the SEU is taking care of that."*

State Representative John Kowalko, who is following energy issues closely, wrote:

"... the SEU was presented and had the substantial support of the General Assembly because it was represented as an effective, self-sustaining entity. To change that description of intentions and/or sustainability of the SEU at this time would be inappropriate and might be considered by some as a "bait and switch".

ACTIONS TO TAKE:

Call John Hughes: 302.739.9000

email John Hughes: john.hughes@state.de.us

Call Governor Minner: 1.800.292.9770

***NO 108 million dollar giveaway
to Delaware's worst polluters!***

Green Delaware is a community based environmental action group. We are funded through membership dues, donations, and grants. We appreciate the support of the New Jersey Environmental Endowment.
greendel.org

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SEARCH

Alert 597: Help stop big greenhouse giveaway to Conectiv, NRG and Valero

Tuesday, June 3, 2008 12:00am

By [Alan Muller](#)

 [Email article](#)

 [Print article](#)

Minner administration proposes \$134 million giveaway to Valero, Conectiv, NRG

Senate Bill 263 MUST be amended to preserve greenhouse gas program

The Delaware General Assembly will be back in session June 3rd and has 12 legislative days to go before winding up on June 30th. Many things will happen, some good, some bad

This Alert is about an issue where YOUR voice is needed. Please see the action steps below.

NRG Energy (Indian River Power Plant), Conectiv Energy (Edge Moor and Hay Road power plants) and Valero (Delaware City Refinery) are far and away the worst polluters in Delaware. A multi-million dollar giveaway to them is contained in Senate Bill 263 (<http://tinyurl.com/59qo4x>).

At the same time, many programs that help Delawareans, such as efficient appliance rebate programs, are shutting down for lack of funding.

Global warming and the Regional Greenhouse Gas Initiative

Delaware, of course, is a little place and can't do much by itself about global climate change. Delaware is also a low-lying coastal state highly vulnerable to the effects of global warming, especially sea level rise combined with more severe stormy weather. However, Delaware must do its share, because we do generate a lot of greenhouse gas.

Delaware joined the "Regional Greenhouse Gas Initiative" (<http://www.rggi.org/>) with a Memorandum of Understanding signed by Governor Minner in 2005. The purpose of the RGGI is to set up a "cap and trade" program in the main greenhouse gas, carbon dioxide. It involves

ten Northeastern states--Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Maryland. The states must take action because the Bush administration refuses to do anything.

The concept of RGGI is that power plant operators have to obtain "allowances" for every ton of CO2 they produce by burning fossil fuels such as coal. They will have to buy these allowances in an auction, and the funds are to be used for energy efficiency and other measures that will reduce electricity consumption or otherwise reduce greenhouse gas emissions. The total number of allowances--one allowance equals one ton of CO2--decreases over time, hopefully leading to reductions in CO2 emission.

If things go as intended, power generators will have an incentive to reduce greenhouse emissions and electric ratepayers will see equal or lower bills. But, as always, "the devil is in the details," and the power generators of Delaware, with too much help from their friends, are trying to weasel out of paying while special interests are reaching out for the money.

One key point is that the cost to consumers will be the same whether the generators get their allowances for free or pay for them. This is because the allowances will, by definition, have a market value. Just because Delaware was dumb enough to give them away to the polluters, doesn't mean the polluters would be dumb enough to give them back to us (!). But, if they don't pay for allowances and the state does not get that revenue, and the funding for conservation and efficiency measures isn't there, bills COULD go up.

The "launch date" for the RGGI program is Jan 1, 2009. The Delaware General Assembly has to pass enabling legislation this year to start up the RGGI program in 2009, and the Department of Natural Resources and Environmental Control (DNREC) then has to enact regulations to implement the law. If a bill doesn't pass by June 30, 2008, Delaware could miss a year of participation in the program.

What's Delaware doing?

So far not so good. Sen Harris McDowell, on the last day of the legislative session in 2007, sneaked a resolution through the General Assembly setting up a power-generator-dominated "workgroup" to fashion Delaware's participation in the RGGI according to THEIR desires. So far, it's worked very well for NRG, Conectiv, and Valero. DNREC's servility to our state's worst polluters has been breath-breaking:

People with skills and knowledge have been kicked off the workgroup. The Executive Director of the Public Service Commission was kicked off. Rep. John Kowalko was kicked off. Even Ali Mirzhakalili, head of the Air Quality Management branch of DNREC, was kicked off. Remaining on it are multiple representatives of the generators, Delaware's most special-interest-serving legislators, and the most servile "environmental advocates" in the galaxy, who proposed a giveaway themselves (http://greendel.org/item.xhtml?name=alert_0595). (are they changing their tune?).

Some of the ugly details are in Green Delaware Alert 585: Hughes proposes \$108 million giveaway to power generators .

The disgraceful outcome of this is Senate Bill 263.

Under this bill, Delaware would be the only one of the ten RGGI states to make the generators pay for only 60% percent of their allowances, rather than 100% The percentage would gradually ramp up at 8 percent per year.

We published Alert 585. We went to a workgroup meeting and pointed out its appearance of "dancing to the tune of special interests and selling out the public interest." The so-called "enviro" members sucked up at that meeting and then wrote a letter proposing a 30% giveaway. Yes, they put it in writing. See: "ENVIROS" GREENHOUSE GAS ROLLOVER .

The amount of the giveaway depends on the auction value of the allowances, something not really knowable in advance. In Alert 585, assuming \$10 per ton, we calculated the giveaway to the generators at about \$108 million. Compared with CO2 valuation in other jurisdictions and markets, that's LOW.

Using the same assumptions we calculate the giveaway in SB 263 to be \$88 million.

But it gets worse. DNREC Secretary John Hughes also wants to exempt the Delaware City Refinery (Premcor) from the greenhouse gas program. The refinery is one of the state's bigger CO2 emitters. This giveaway is not written into SB 263, but Hughes says it will be proposed in the subsequent "regulations."

How much does this matter?

Here, in round numbers, are the CO2 emissions for the sources covered by the RGGI (Other big sources such as cars and trucks aren't included):

NRG Indian River	40%	(old coal boilers)
Conectiv Edge-Moor	29%	(old coal/oil/gas/ garbage fume boilers)
Premcor Refinery	16%	(old boilers&combined cycle--petroleum coke & refinery fuel gas)
Conectiv Hay Road	13%	(combined cycle-- mostly gas fuel)
everything else	2%	

This means the CO2 emissions from the refinery are about 1.2 million tons each year.

If they are exempted, at \$10 per ton this means a giveaway of \$12 million per year. And this would be a permanent giveaway, not one that phases out in several years.

But it's not this simple, because the Valero giveaway could be combined with the 40% giveaway to all the generators. The 100%, permanent giveaway to the refinery would be layered on top of the 40% phasing-out giveaway.

Lets try it:

year	\$ payment	\$ "40%" giveaway	\$ Valero
2009	43,090,736	28,727,190	
	12,095,659		
2010	48,836,223	22,981,752	
	12,095,659		
2011	54,581,662	17,236,314	
	12,095,659		
2012	60,327,100	11,490,876	
	12,095,659		
2013	64,636,178	7,181,798	
	12,095,659		
2014	71,817,976		
total giveaway	87,617,930		60,478,296

Note that if we include the Valero giveaway exemption before figuring the "40%" giveaway, the numbers change a little because the total Delaware RGGI program gets smaller (we want to avoid double counting):

Say: Reduce "40%" giveaway by removing Valero from total:

Then \$87,617,930 minus Valero's 16% = \$73,599,061

Total estimated giveaway over five years:

\$73,599,061
\$60,478,296

\$134,077,357

(And remember that the Valero giveaway is permanent!

ACTION STEPS:

**Please call: Gov Minner: 1.800.292.9570
DNREC Secretary John Hughes: 302.739.9000,
john.hughes@state.de.us
Your Delaware State Senator and Representative
Contact information is
here: [http://takeaction.lwv.org/lwv/
dbq/officials/](http://takeaction.lwv.org/lwv/dbq/officials/) (if you don't know who you Senator/Rep
are)
here: <http://tinyurl.com/4ekzzq> (.doc file with
emails and home/office/Leg Hall numbers)**

TELL THEM:

**-- NO GIVEAWAYS! NO GIVEAWAYS TO NRG,
CONECTIV, OR VALERO.**

Green Delaware is a community based environmental action group. We are funded through membership dues, donations, and grants. We appreciate the support of the New Jersey Environmental Endowment.
greendef.org

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SEARCH

Action Alert 600: Tell DNREC to stop lobbying for the for the polluters

Tuesday, June 10, 2008 12:00am

By [Alan Muller](#)

 [Email article](#)

 [Print article](#)

Tell DNREC to stop lobbying for giveaways for Delaware's biggest polluters

Make the emails and phone calls pour in!

Beat the media blackout (except on the Al Mascitti show)

Tuesday, June 10, 2008

Dear Friends:

As you know from previous Alerts (www.greendel.org) There is a struggle going on over whether Delaware is serious about global warming, or whether our biggest polluters--NRG Energy, Conectiv Energy, and Valero (Delaware City Refinery) will get their way with Governor Minner and the General Assembly.

Believe it or not, Delaware's top environmental officials are lobbying for a giant giveaway--we estimate it at about \$134 million dollars over five years---to these polluters.

This money can and should be collected from them and used for energy efficiency and zero-carbon energy sources.

Sen. George Bunting has brought forth amendments (Senate Amendments 3 and 4 to Senate Bill 263) that would get Delaware back on track. This bill could be heard as early as tomorrow.

Needed is a massive outpouring of support for these amendments to make sure the Senate and House of Representative support them. Make the emails and phone calls pour in!

(Note: Delaware media are blacking out this issue.)

Call DNREC Secretary John E. Hughes (302.739.9000, john.hughes@state.de.us). As him and his staff to push for a future for Delaware, NOT giveaways to Delaware's biggest polluters. Ask him to support Senate Amendments 3 and 4 to SB 263.

Call Charlie Smisson, State Energy Coordinator (302.735.3480 Charlie.Smisson@state.de.us) with the same message.

Call Governor Minner (1.800.292.9570, mark.brainard@state.de.us). Ask Governor Minner to carry out the full intent of the RGGI by not exempting the big polluters. Support the amendments! (Hughes and Smisson work for the Governor.)

Call you State Senator and Representative with the same messages.

Contact information for legislators:

<http://takeaction.lwv.org/lwv/dbq/officials/> (if you don't know who you Senator/Rep are)

<http://tinyurl.com/4ekzzq> (.doc file with emails and home/office/Leg Hall numbers)

Call Senator Harris McDowell, prime sponsor of SB 263, and ask him to support Amendments 3 and 4: (302.739.4247, 302.656.2921, harris.mcdowell@state.de.us).

Below are some "talking points:"

Senate Amendment 3 to SB 263 (100% auction not 60%)

- o Global warming and the resulting sea level rise is serious business for Delaware. We're a low-lying coastal state and we rely on climate-sensitive industries such as agriculture and tourism.
- o All who have studied this issue carefully agree that the direct cost to ratepayers is the same whether or not there is a giveaway of some percentage of the allowances. This is because all the allowances have value to generators regardless of whether they pay for them or get them for free, and they are not going to "give them away;"
- o We need to collect their full value and spend that money to reduce energy use. If we do this, consumption will come down more than rates go up, because it really is cheaper to conserve a kilowatt hour than to generate one;
- o Not collecting the full value of the allowances means windfall profits for the generators and likely out-of-pocket costs for ratepayers. Why would we want to do that?;
- o The operators of these old, dirty, coal plants are making huge profits because the price of electricity is being set by the cost of natural gas. Why would we want to give them more windfall profits?

Senate Amendment #4 to SB 263 (Including Valero's Delaware City Refinery)

in RGGI program)

- o The Regional Greenhouse Gas Initiative (RGGI) program is intended to cover all fossil fuel electric generating plants over 25 megawatts.
- o Exemptions aren't in the original Memorandum signed by Governor Minner in 2005;
- o NRG, Conectiv, and Valero together cause 98% of the carbon dioxide emissions from such facilities in Delaware;
- o Valero is about 16% of that and their percentage is increasing as they expand the refinery. The Valero percentage could reach 25% in a few years;
- o Exempting Valero would chop a giant hole in the Delaware RGGI program.
- o It is not right to exempt the refinery at a time when the oil industry is making huge profits and ordinary people are struggling.

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SEARCH

Alert 602: Global warming and Delaware: a report from reality

Monday, June 16, 2008 12:00am

By Alan Muller

 [Email article](#)

 [Print article](#)

**Global warming and Delaware: a report from reality
Only YOU can stop the giveaway to Valero, NRG, and
Conectiv
With friends like these, who needs enemies...?**

Dear Readers:

In the past couple of weeks Green Delaware has sent out a number of Alerts about the Great Greenhouse Giveaway to NRG, Conectiv, and Valero's Delaware City Refinery (<http://www.greendel.org>). We've talked in great detail about it.

The "Regional Greenhouse Gas Initiative" is a "cap and trade" program. Few activists who understand the issues really think cap-and-trade is the way to go. Cap and trade is complicated and hard to administer--creating more bureaucracy--and invites all sorts of loopholes, giveaways, and windfall profits.

A straight tax on carbon emissions, with the proceeds used to fund change, would be far better.

But, cap-and-trade seems, for the moment, to be what is moving forward, so all we can do is try to get it implemented with some integrity and effectiveness.

The Minner administration's proposed implementation of the RGGI is far worse than the other nine states. The 40 percent giveaway proposed is a level not approached by any other state. Most of the others are at 100%. It is so bad that the likely effect, at least in the beginning years, will be to take money out of ratepayers' pockets and put it into the pockets of NRG, Conectiv, and Valero. It is a giveaway of tens of millions of dollars. (The amount depends on what the allowances auction for.)

Delaware organizations including the League of Women Voters, Delaware Chapter of the Sierra Club, the Mid-Atlantic Environmental Law Center, and the Delaware Audubon Society have helped the Minner administration and the polluters pull off this scam by proposing and agreeing to auctioning only a percentage of credits, rather than demanding a 100% auction.

This is probably not so much because they consciously want to do this, as because they are so naive and easily manipulated.

This issue of the giveaway of pollution allowances came to a head in the Delaware Senate on June 11, 2008. An amendment to eliminate the 40% giveaway was debated on the floor. Testifying for the giveaway was DNREC Deputy Secretary David Small. Testifying against the giveaway was Alan Muller of Green Delaware.

The Senators then voted for the giveaway 17 to 3. Only Senators Dave Sokola, Karen Peterson, and George Bunting--sponsor of the amendment--voted for the people and the planet.

Why did the other Senators vote this way -- so clearly against the public interest? Votes happen for various reasons, not all of them related to the merits of the bill. Deals are cut. Threats are made....

In the Senate Chamber was Andy Kenner, boss of the Valero refinery, with a team including the head of the Plumbers and Pipefitters union and Minner's former Health and Social Services "policy advisor," now a Valero lobbyist. They threatened that Valero might shut down the refinery if made to pay. This absurd threat was repeated on the floor by Sen. Robert Venables, who almost always speaks for the polluters. We have heard this same threat on how many other occasions? Highly visible was Gary Patterson, lobbyist for the Delaware Petroleum Council and one of Minner's principle handlers. Also visible was Rhett Ruggerio, lobbyist for Valero, NRG, and also the **American Cancer Society (!)** (<http://www.delawaregov.us/pic/index.cfm?ref=74845>), and Roger Roy, former influential legislator and now lobbyist for Conectiv Energy.

So, effectively, it was Green Delaware up against these heavy hitters and we lost the round.

The Senate could revisit this issue. Senate Bill 263, unamended, goes to the House of Representatives and could be amended there. So the game is not necessarily over.

But lets explore the question of why Green Delaware was alone in calling for a 100% auction and objecting to the total exemption of Valero. This is a key question because, simply, more people must speak out to turn this around.

Sen. Harris McDowell sneaked in Senate Concurrent Resolution 28, setting up a polluter-dominated "workgroup" to hash out the details of RGGI implementation (<http://www.awm.delaware.gov/Info/Regs/Pages/SCR.aspx>).

Some of the legislators on the group were also members of the "Sustainable Energy Utility" Task force or Oversight Board and thus had a direct conflict of interest in steering 65% the RGGI funds (many millions per year) to the SEU.

Per usual, there were token "environmental advocate" members and these were chosen by DNREC for their known willingness to cooperate. They were Nick DiPasquale, Delaware Audubon Society; Chad Tolman, Sierra Club; and Michael Fiorentino, Mid-Atlantic Environmental Law Center. These folks did as expected; they grumbled a bit and then went along. This is a longstanding pattern in Delaware. Another example is discussed in Alert 142: "Why Delaware stays polluted: The Committee of Chronic Violators," http://greendel.org/item.xhtml?name=alert_0142 .

The polluters opened with a proposal for a 50 percent giveaway. They called it a "compromise."

Green Delaware published several alerts analyzing the situation and calling for no giveaway (<http://greendel.org/index.xhtml>).

We went to a few of the meetings and pointed out the "appearance of dancing to the tune of the generators."

The League of Women Voters--not a member--verbally proposed a 30% giveaway.

Audubon, Sierra, and Mid-Atlantic sent in a written proposal for a 30 percent giveaway ("ENVIROS" GREENHOUSE GAS ROLLOVER). (Sierra has a national policy calling for 100% auction--no giveaway. Do they know this in Delaware?)

Did the "enviros" alert their members? Resign in protest? Hold a press conference? Do anything effective at all? No. They seem to know what their assigned role is.....

The polluters are walking away with a 40 percent giveaway plus the Valero 100% giveaway. This will NOT benefit electric ratepayers; its simply a giveaway to Valero, NRG, and Conectiv. DNREC knows this, contrary to Small's Senate testimony.

Then, after the giveaways were agreed to, the three "enviro" groups issued a "minority statement" continuing the call for a 30% giveaway but raising some other valid concerns (<http://tinyurl.com/6r8uev>). They concealed it from Green Delaware.

So, in his Senate testimony, DNREC's Dave Small was able to testify that the group had "reached a consensus." It wasn't true, of course, but none of the "enviros" showed up to refute it, nor had they, apparently, even given their "minority statement" to us or the voting legislators.

The League of Women Voters did show up, distributing a letter attacking the key amendment for a 100% auction with an unsupported claim that it would give the RGGI money back to the polluters.

With that battle lost, the Sierra Club is now circulating a letter

calling for a 10% giveaway, and asking other orgs to sign on. What's this about? Having rolled over, maybe Sierra and the others want to posture in public, *seeming* to fight a battle they surrendered on? Guilty conscience on the part of some? Who knows? We're used to this sort of thingposturing in public but rolling over behind the scenes.

This is how it is in Delaware, folks. It hasn't changed much since 1995 when Green Delaware started up.

There have been some important victories in that time, and various little ones. Incinerators are still illegal. DuPont didn't dump the nerve poison residue into the Delaware River. Scrubbers were put on some big pollution points at Valero....

But Wilmington still pours raw sewage into the rivers. Waste-dumping is still out of control. The Bluewater wind project is blocked. DuPont's Dioxin Pile is still in place, Valero, Conectiv, NRG (remember them?) vacuum the fish out of the Delaware River because they don't have cooling towers....

The atmosphere has been hostile, obviously, in Washington DC. It's not much less hostile in Dover. There's much to be done but environmental victories don't come easily.

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Alert 609: Delaware's biggest polluters celebrate in Governor's office....

Tuesday, July 1, 2008 12:00am

By [Alan Muller](#)

 [Email article](#)

 [Print article](#)

Yesterday, Governor Ruth Ann Minner signed Senate Bill 263, Delaware's implementation of the RGGI "cap and trade" greenhouse gas program.

Present were happy smiling people from NRG Energy, Conectiv, and so on--the operators of the coal burners that play such a big part in causing global warming.

Representative Pam Thornburg, maybe the most special-interest-serving member of the Delaware General Assembly, bubbled about "The Delaware Way" (= back door deals).

Not present were any of the three "enviro" representatives from Audubon, Sierra, and the Mid-Atlantic Environmental Law Center, who did so much to help the polluters make a farce of the whole thing..... They had reason to be happy too, because the press has continued to report their "opposition" when it was really token and after-the-fact.

Maybe the best symbol of what really happened was Roger Jones of The Nature Conservancy, who had originally called for a 100% percent auction of carbon dioxide allowances but was there to celebrate the cutting of deals that would send money towards his organization. Give ME a piece so I'll shut up and forget about what this is supposed to be about.....

I started out with the view that while "cap and trade" programs like the RGGI are far from ideal, this is what seems to be on the agenda, so we should do what we can the get them implemented with as much integrity as possible.

Overall, the experience has pretty much convinced me that this sort of program is unlikely to ever be effective. There are just too many ways they can be gamed to create the appearance of action without changing anything--to cost the public money, give windfall profits to those causing the problem, without really reducing carbon emissions.

So far, this has been the experience in Europe, which is a few

years ahead in the "cap and trade" business.

The potential absurdity is illustrated by this item from Environmental News Service:

Submerged Ancient Oaks Help Reduce Global Warming

<http://www.ens-newswire.com/ens/jun2008/2008-06-29-091.asp>
Submerged trees could be a valuable source of income for landowners when a carbon emissions trading market becomes standard practice in the United States as it is today in Europe.

"Farmers can sell the carbon they have stored in their trees through a carbon credit stock market,"

Something else will have to be done to keep Delaware above water....

Alan Muller

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"ENVIROS" GREENHOUSE GAS ROLLOVER

Wednesday, May 28, 2008 12:00am

By Michael Fiorentino

 [Email article](#)

 [Print article](#)

Mon, 24 Mar 2008
 From: "Michael D. Fiorentino"
 To: "Cherry Philip J. (DNREC)"
 Subject: Env members recommendation

Dear Phil, David, and members of the SCR Concurrent Resolution #28 RGGI

Workgroup:

On behalf of Nick DiPasquale for DE Audubon, Chad Tolman for DE Sierra Club, and myself for Mid-Atlantic Environmental Law Center (MAELC), please find the attached Recommendation for allowance allocation and auction proceeds distribution.

This proposal was developed from the discussion at the last meeting and reflects our re-evaluation of the issues in light of that discussion and all the information available to us. We would like to have the Recommendation considered as one of the options appended to the report that is being drafted for transmittal to the legislature. If all proposals offered to the work group during the course of its deliberations are not going to be appended, then what we submit today should be included in place of the previous recommendation by DE Audubon which had garnered support from Sierra and MAELC.

Thank you for developing the draft report. Thoughts about the report text may or may not be forthcoming still from Chad, Nick or myself.

Michael Fiorentino
 MAELC

SCR 28 CARBON AUCTION WORKGROUP

RECOMMENDATION

1. 100% Auction of DE Carbon Allowances under the Regional Greenhouse Gas Initiative (RGGI) by year three. The phase-in will be: 70% of allowances to be auctioned in year one; 85% in year two, and 100% in year three and all subsequent auctions. All auction proceeds would be placed in a restricted account administered by DNREC.
2. A reserve fund would be established within the auction proceeds restricted account which would become available in the third year of the program. The purpose of the reserve fund would be to offset the cost of substantial increases in rates should they materialize as a result of the impact of 100% auction of allowances on electric generators in Delaware. The reserve fund would be a set-aside of 25% of a given year's auction proceeds and would be allowed to accrue up to a maximum of 100% of a given year's auction proceeds. To the extent the reserve fund exceeds that amount, such monies will become available for the program purposes specified in paragraph 3. If a showing is made that rates have increased due to auction costs, then rate relief will be provided in an equitable manner to SOS customers with incomes at 200% of the federal poverty level and below. If such rate increases are not demonstrated by the year 2018, then the reserve fund will flow back into the restricted account and be disbursed for the program purposes specified in paragraph 3.
3. The balance of the auction proceeds (75%) would be used to establish and implement a Delaware Affordable Utilities (DAU) program, and other activities authorized under the RGGI MOU. The DAU program would be designed to provide assistance to low-income Delaware residents with the cost of electric, fuel oil and natural gas service. Qualifying home-owners requesting assistance would be eligible to receive contractor-provided weatherization services and materials, including insulation, energy efficient replacement windows and doors, and energy efficient heating and cooling systems, and other energy conservation and efficiency systems, at no cost. This program would be administered in conjunction with the existing Low Income Home Energy Assistance Program (LIHEAP) and the Weatherization Program.
4. As originally conceived, the Sustainable Energy Utility (SEU) would rely on private lending institutions for capitalization of the program and would not be eligible to receive carbon auction proceeds.
5. DNREC would serve as financial administrator of the RGGI Fund and be eligible to use carbon auction proceeds to administer the program. Carbon auction funds would be placed in a dedicated, interest bearing account. Interest earnings and unused funds remaining at the end of each state fiscal year shall be retained in the fund and used for the express purposes for which

the fund was established.

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