

**Delaware' CO₂
Budget Trading
Program**

Regulation 1147

Workgroup Presentation

4-16-2008

Section 1- General Provisions

1. Purpose.
2. Definitions.
3. Measurements, abbreviations, and acronyms.
4. Applicability.
5. Standard Requirements.
6. Computation of time.
7. Severability.

Section 1.4 - Applicability

■ 1.4 (a) Units

Any unit that, at any time on or after January 1, 2005, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe shall be a CO2 budget unit, and any source that includes one or more such units shall be a CO2 budget source, subject to the requirements of this Part.

1.4 (b) *Limited exemption for units with electrical output to the electric grid restricted by permit conditions.*

- (1) *Applicability.* Notwithstanding subdivision (a) of this section, a unit under subdivision (a) of this section that has a permit containing a condition restricting the supply of the unit's annual electrical output to the electric grid to less than or equal to 10 percent of the annual gross generation of the unit, and which complies with the provisions in paragraph (b)(3) of this section, shall be exempt from the requirements of this Part, except for the provisions of this section, section XX-1.2 , section XX-1.3 , section XX-1.6 and, if applicable because of the allocation of CO₂ allowances during the pre-exemption time period, Subparts XX-5, XX-6 and XX-7.
- (2) *Effective date.* The exemption under paragraph (b)(1) of this section shall become effective as of the January 1 that is on or after the date on which the restriction on the percentage of annual gross generation that may be supplied to the electric grid and the provisions in the permit required under paragraph (b)(1) of this section become final.

(3) Compliance.

- (i) A unit exempt under paragraph (b)(1) of this section shall comply with the restriction on percentage of annual gross generation that may be supplied to the electric grid described in paragraph (b)(1) of this section.
- (ii) A unit exempt under paragraph (b)(1) shall report to the DEPARTMENT the amount of annual gross generation and the amount of annual gross generation supplied to the electric grid during the year by the following February 1.
- (iii) A unit exempt under paragraph (b)(1) shall submit a climate action plan, approved by the Department, that addresses reduction of CO2 emissions through reasonably available reduction practices.*
- (iv) A unit exempt under paragraph (b)(1) shall provide annual updates on reductions achieved by the approved climate action plan.*

- (v) For a period of 10 years from the date the records are created, the owners and operators of a unit exempt under paragraph (b)(1) of this section shall retain, at the source that includes the unit, records demonstrating that the conditions of the permit under paragraph (b)(1) of this section were met. The 10-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the DEPARTMENT. The owners and operators bear the burden of proof that the unit met the restriction on the percentage of annual gross generation that may be supplied to the electric grid.

- (vi) The owners and operators and, to the extent applicable, the CO₂ authorized account representative of a unit exempt under paragraph (b)(1) of this section shall comply with all the requirements of this Part concerning all time periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

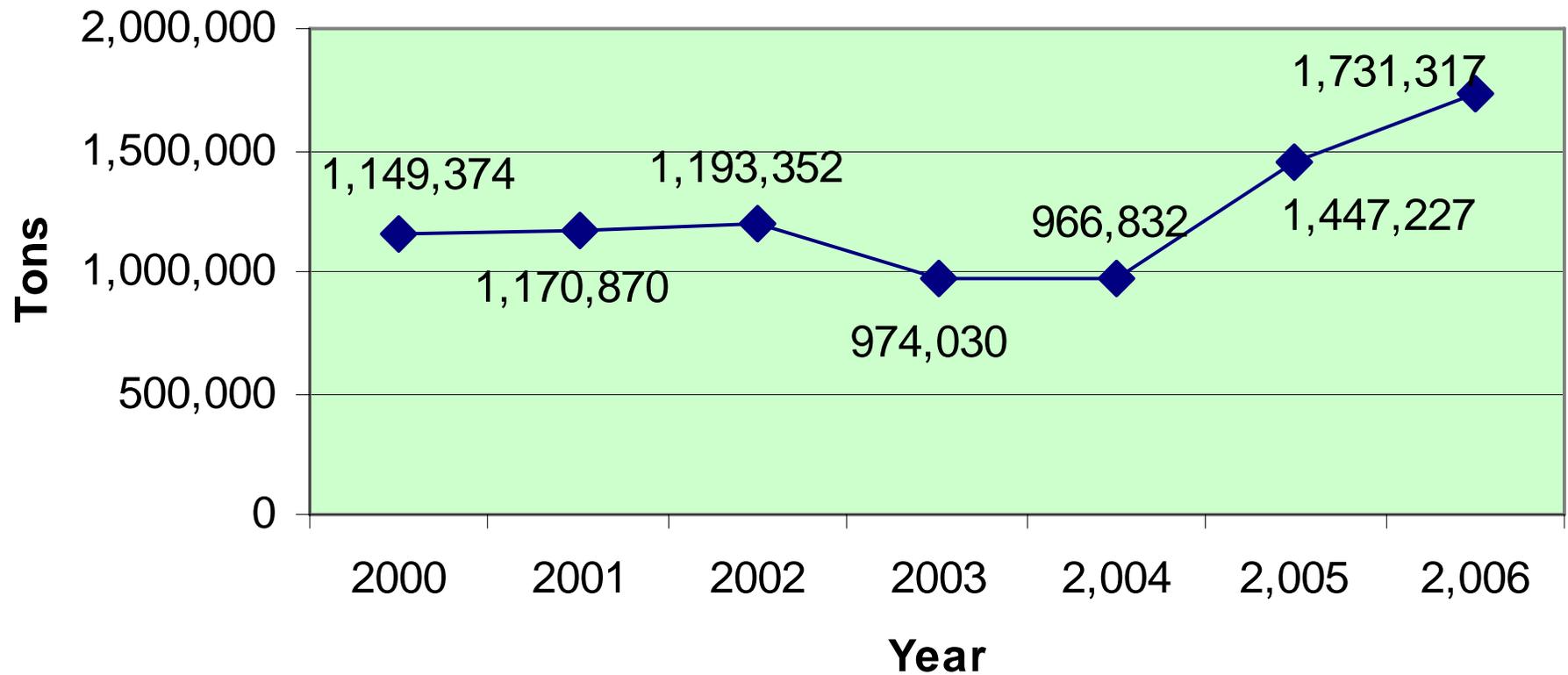
(vii) On the earlier of the following dates, a unit exempt under paragraph (b)(1) of this section shall lose its exemption:

(a) the date on which the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in paragraph (b)(1) of this section is removed from the unit's permit or otherwise becomes no longer applicable in any year that commences on or after January 1, 2009; or

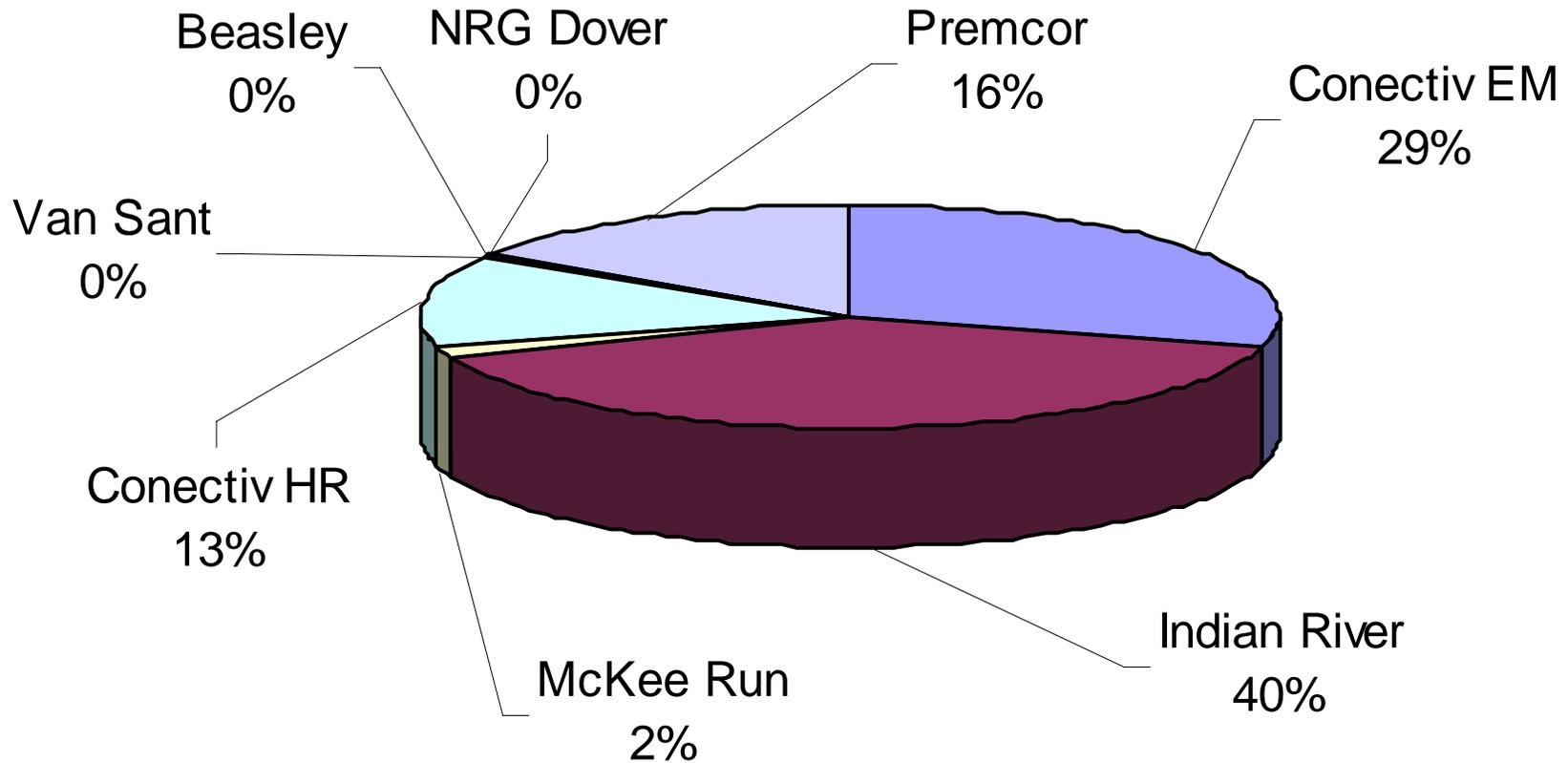
(b) the first date on which the unit fails to comply, or on which the owners and operators fail to meet their burden of proving that the unit is complying, with the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in paragraph (b)(1) of this section during any year that commences on or after January 1, 2009.

(viii) A unit that loses its exemption in accordance with subparagraph (b)(3)(v) of this section shall be subject to the requirements of this Part. For the purpose of applying permitting requirements under Subpart XX-3, allocating allowances under Subpart XX-5, and applying monitoring requirements under Subpart XX-8, the unit shall be treated as commencing operation on the date the unit loses its exemption.

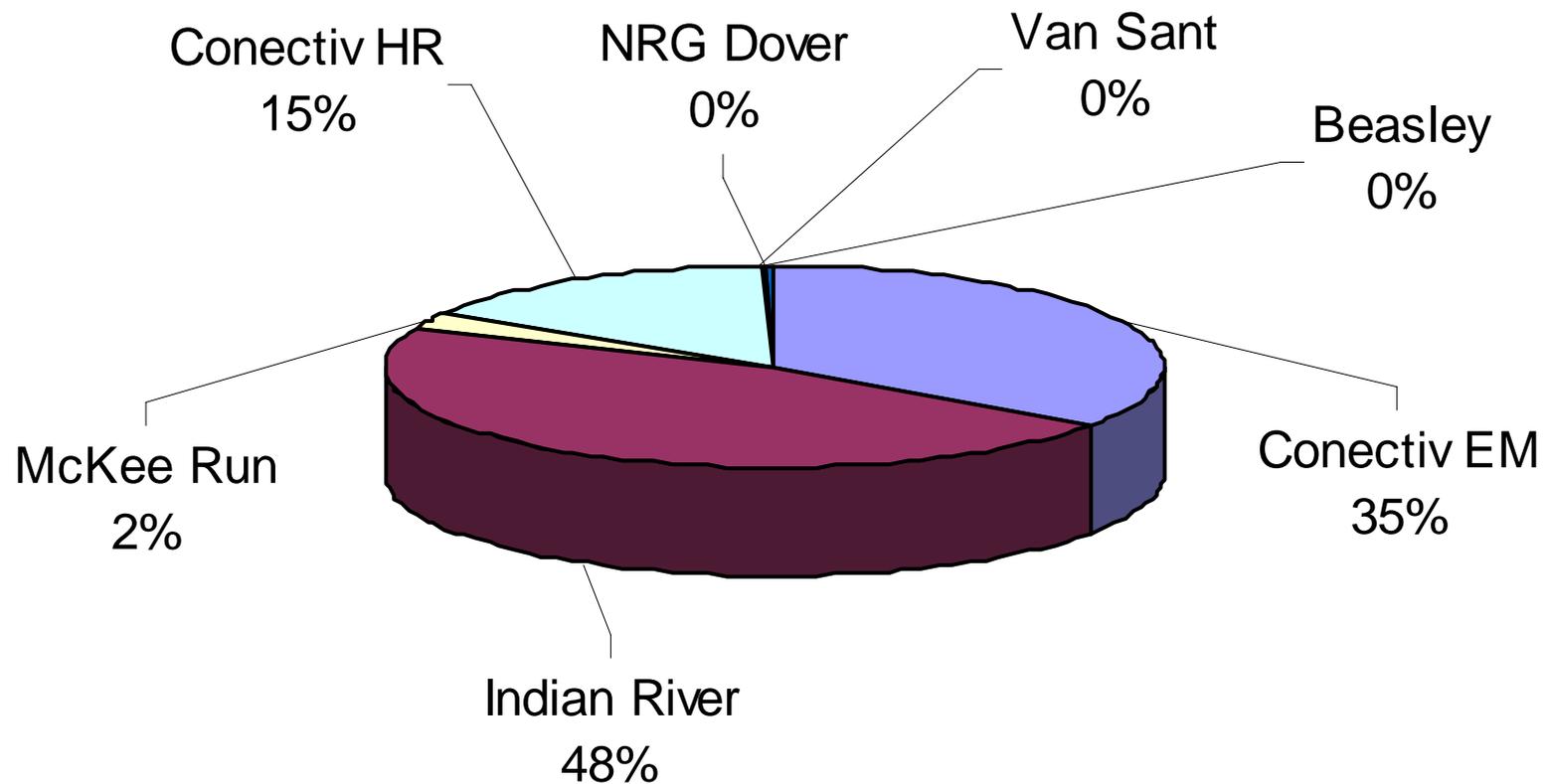
Premcor CO₂ Emissions - All Units



Delaware EGU - Percent of RGGI Budget



Delaware EGU - Percent RGGI Budget Without Refinery CO2 Emissions



(4) *Deduction of tons from STATE OF DELAWARE CO2 Budget Trading Program limited industrial exemption set-aside account.*

In the event that the DEPARTMENT grants an exemption under this subdivision to a CO2 source, with one or more units that on January 1, 2005, serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe, the DEPARTMENT shall retire for each subsequent allocation year the number of CO2 tons equal to the exempt source's average annual emissions over the most recent three calendar years for which data are available. The retired tons shall be taken from the set-aside established for such purpose under section XX-5.3.

Section 2 – Authorized Account Representative

1. Authorization and responsibilities.
2. Alternate authorized account representative.
3. Changing account representative.
4. Account certificate of representation.
5. Objections concerning account representative.
6. Delegation by account representative and alternate account representative.

Section 3 - Permits

1. Permit requirements.
2. Submission of permit applications.
3. Information requirements for permit applications.

Section 4 – Compliance Certification

1. Compliance certification report.
2. Action on compliance certifications.

Section 5 – Allowance Allocations

1. Base Budget.
2. Timing requirements for allowance allocations.
3. Allowance allocations.

XX-5.1 STATE OF DELAWARE CO₂ trading program base budget.

- (a) For the 2009 through 2014 allocation years, the STATE OF DELAWARE CO₂ Budget Trading Program annual base budget is 7,559,787 tons.
- (b) For the 2015 allocation year, the STATE OF DELAWARE CO₂ Budget Trading Program annual base budget is 7,370,792 tons.
- (c) For the 2016 allocation year, the STATE OF DELAWARE CO₂ Budget Trading Program annual base budget is 7,181,798 tons.
- (d) For the 2017 allocation year, the STATE OF DELAWARE CO₂ Budget Trading Program annual base budget is 6,992,803 tons.
- (e) For the 2018 allocation year and each succeeding allocation year, the STATE OF DELAWARE CO₂ Budget Trading Program annual base budget is 6,803,808 tons.

XX-5.2 Timing requirements for CO2 allowance allocations.

- (a) By January 1, 2009, the DEPARTMENT will determine the CO2 allowance allocations under subdivisions XX-5.3(a) and (b) for the 2009, 2010, 2011, and 2012 allocation years.

- (b) By January 1, 2010 and January 1 of each year thereafter, the DEPARTMENT will allocate CO2 allowances under subdivisions XX-5.3(a) and (b) for the allocation year that commences in the year that is three years after the applicable deadline for allocation under this subdivision.

XX-5.3 CO2 allowance allocations.

(a) *General allocations.*

[Place Holder – Language from the SCR 28 recommendation & subsequent legislation regarding Delaware's auction/allocation].

Possible Basis using a 60/40 split:

tons/unit = (% Cap/unit x DE RGGI Cap) x (% available for allocation x DE RGGI Cap)

243,902 tons/unit = (8.07% x 7,559,787 tons) x (40% x 7,559,787 tons)

ALSO IN SECTION 5.3

[The following subdivision is an optional set-a-side provision for states that adopt the optional subdivision XX1.4(b). It represents one way a state could implement such a set-a-side.]

- (e) *Limited industrial exemption set-a-side allocation.* The limited industrial exemption set-a-side allocation will consist of 1,207,544 tons from the STATE OF DELAWARE CO2 Budget Trading Program base budget set forth in section XX5.1, as applicable. For each control period, the DEPARTMENT will determine CO2 allowance allocations in accordance with the following procedures.
- (1) The DEPARTMENT will open and manage a general account for the limited exemption set-a-side for each control period.
 - (2) As of the January 1 that is after the date that an exemption under subdivision XX1.4(b) has been granted, for each allocation year the DEPARTMENT may retire CO2 allowances in the limited industrial exemption set-a-side General account as determined pursuant to paragraph XX1.4(b)(4).

(3) After retirement of allowances pursuant to paragraph (2) of this subdivision, the DEPARTMENT will determine whether any CO₂ allowances remain in the limited industrial exemption set-a-side general account for the control period. The DEPARTMENT will transfer any such remaining CO₂ allowances from the limited industrial exemption set-a-side allocation general account to the compliance account of each CO₂ budget source that was allocated allowances pursuant to subdivision (a) of this section using the following methodology:

Existing CO₂ budget unit's share of the CO₂ allowances remaining in the limited industrial exemption set-a-side general account = Total CO₂ allowances remaining in the limited industrial exemption set-a-side general account x (The individual CO₂ budget unit's CO₂ allowance allocation determined in accordance with subdivision (a) of this section ÷ The STATE OF DELAWARE CO₂ Budget Trading Program annual base budget, as applicable)

Where:

“Total CO2 allowances remaining in the limited industrial exemption set-a-side allocation general account” is the total number of CO2 allowances remaining in the limited industrial exemption set-a-side allocation general account (established under paragraph (e)(1) of this section) for the particular control period to which the limited industrial exemption set-a-side allocation applies; and

“The individual CO2 budget unit’s CO2 allowance allocation” is the number of CO2 allowances allocated under subdivision (a) of this section to the individual CO2 budget unit for the control period to which the limited industrial exemption set-a-side allocation applies. The DEPARTMENT will only transfer CO2 allowances in whole ton increments. The DEPARTMENT will continue to hold any fractional shares of CO2 allowances in the name of the CO2 budget unit as banked CO2 allowances until they may be combined with other fractional shares of CO2 allowances in future years and then transferred as whole ton increments.

Section 6 – Allowance Tracking System

1. Allowance Tracking System accounts.
2. Establishment of accounts.
3. Allowance Tracking System responsibilities of authorized account representative.
4. Recordation of allowance allocations.
5. Compliance.
6. Banking.
7. Account error.
8. Closing of general accounts.

Section 7 – Allowance Transfers

1. Submission of allowance transfers.
2. Recordation.
3. Notification.

Section 8 – Monitoring and Reporting

1. General requirements.
2. Initial certification and recertification procedures.
3. Out-of-control periods.
4. Notifications.
5. Recordkeeping and reporting.
6. Petitions.
7. Budget units that co-fire eligible biomass.
8. Additional requirements to provide output data.

Section 9 - Reserved

Section 10 – Offset Projects

1. Purpose.
2. Definitions.
3. General Requirements.
4. Application Process.
5. Emission offset project standards.
6. Accreditation of independent verifiers.
7. Award of emissions offset allowances.

Section 11 – Delaware Auction Language

Delaware is committed to participation in a regional auction.

Design Elements for Regional Allowance Auctions under the Regional Greenhouse Gas Initiative

The Regional Greenhouse Gas Initiative, or RGGI, is an agreement among the Governors of ten Northeastern and Mid-Atlantic states (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island and Vermont) to reduce greenhouse gas emissions from power plants. The RGGI states (participating states) have committed to cap and then reduce the amount of carbon dioxide (CO₂) that certain power plants are allowed to emit, limiting the region's total contribution to atmospheric greenhouse gas levels. The participating states have agreed to implement RGGI through a regional cap-and-trade program whereby the participating states anticipate auctioning nearly the entire annual regional emissions budget, which initially is approximately 188 million short tons of CO₂. Each ton of CO₂ will constitute an "allowance."

The participating states have agreed to participate in uniform regional auctions for the allowances that each state will be offering for sale. The initial auction is currently planned for September 10, 2008 with a second auction scheduled for December 17, 2008. In conducting regional auctions, the participating states have come to agreement on the following design elements:

Auction Structure and Format: Allowances will be made available for sale on a quarterly basis in lot sizes of 1,000 allowances. The initial auction will offer allowances through a single-round, uniform-price, sealed-bid auction format. While the goal is to maintain a consistent auction format, flexibility will be retained to transition to a multiple-round, ascending-price auction format if necessary to address evolving market conditions.

Allowance Sale Schedule: Allowances will be identified with a vintage corresponding to the allowance's respective allocation year.¹ All allowances made available for auction by states, for a respective compliance period, will be offered for sale prior to the end of that compliance period. Future allowance vintages will be made available for sale in a quantity up to 50-percent of their respective annual allocation, and such offerings may be for allowances extending up to four allocation years into the future.

Participation: All market participants will be eligible to participate in the initial auction, provided they meet applicable qualification requirements, which will include provision of financial security. Flexibility will be retained to limit participant eligibility in subsequent auctions. Auction rules will establish a total limit for the number of allowances that entities (e.g., an organization and its affiliates and/or agents) may purchase in a single auction, equivalent to 25-percent of the allowances offered for sale in any single auction.

Reserve Price: A reserve price of \$1.86 per allowance will apply to the first auction.² After the first auction, a reserve price will be in effect that is the higher of \$1.86 per allowance, as adjusted annually from 2009 onward based on the Consumer Price Index, or 80-percent of the current market price³ of the particular RGGI allowance vintage being auctioned. A reserve price based on the current market price will only be used if representatives from participating states determine that there are sufficient, reliable market data available to establish a valid current market price. The reserve price will be made known to prospective auction participants prior to each auction.

Unsold Allowances: Any unsold allowances will be made available for sale in future auctions in which a reserve price based on the current market price is being used. In 2012, as part of the first program review envisioned in the December 2005 RGGI Memorandum of Understanding, a decision will be made by the participating states as to whether to retire any unsold allowances from the first compliance period, or to offer these allowances for sale in subsequent auctions during the second compliance period.

Notice of Auctions: A public notice of auction will be provided at least 45 days prior to each auction. Such notification will be posted on a publicly available RGGI auction web site and will be made available by states in accordance with any applicable state rules, regulations and/or administrative procedures.

Each auction notice will provide at a minimum: the date, time, and location of the auction, the categories of eligible bidders, any requirements established for qualified participants, the quantity of allowances to be auctioned, and all other relevant information and procedures necessary for prospective bidders to participate in such auction.

Monitoring: The participating states will retain a professional independent market monitor to monitor auctions and subsequent market activity. The independent monitor will observe the conduct of the auction qualification process and the conduct of the auction itself. Based on such monitoring, the independent monitor will provide the participating states with a timely report of whether the auction was conducted in accordance with the regulations established by participating states and the noticed procedures and requirements that apply to qualified auction participants.

Auction Results: Upon approval by the participating states of the auction outcome and upon payment in full by successful bidders to the respective participating states, each state shall transfer the corresponding CO₂ allowances to each successful bidder's applicable account in the CO₂ allowance tracking system. States will retain full regulatory authority for transferring allowances from their respective state accounts to winning bidders, contingent on approval of auction results and financial settlement.

Within a reasonable period of time following each auction, the participating states shall publish on the RGGI auction website the auction clearing price and the total amount of allowances sold in such auction.

Notice: This is a deliberative document and does not represent a final determination on the part of any participating state, state agency or authority, whether or not such participating state, state agency or authority is currently engaged in legislative or rulemaking processes. In particular, any participating state, state agency or authority currently engaged in the legislative or rule-making processes and currently in the required public comment period, will, according to the applicable laws and rules, consider all public comments prior to final determination of any legislative or rulemaking action.

These design principles are available from the RGGI website -
http://www.rggi.org/docs/20080317auction_design.pdf