

# Climate Change Briefing

CLIMATE POLICY NEWS & ANALYSIS

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MONTHLY UPDATE

## State/Regional Activity

### Regional Greenhouse Gas Initiative Update

On October 13, RGGI Inc. released the Auction Notice for CO<sub>2</sub> Allowances Auction 2, which is scheduled to take place on December 17, 2008. The bidding period will start at 9:00 AM EST and close at 12:00 PM EST. All ten states will participate in the auction, offering a total of 31,505,898 vintage 2009 allowances. The December Auction will not include any 2012 vintage allowances because it is a pre-compliance auction. The following is a breakdown of the number of allowances offered by each state:

State	Allocation Year 2009 Allowances to be Auctioned	% of Total
Connecticut	1,372,530	4.4%
Delaware	755,979	2.4%
Maine	872,506	2.8%
Maryland	5,331,781	16.9%
Massachusetts	4,387,534	13.9%
New Hampshire	1,189,610	3.8%
New Jersey	4,532,761	14.4%
New York	12,422,161	39.4%
Rhode Island	438,774	1.4%
Vermont	202,626	0.6%
<b>Total</b>	<b>31,506,262</b>	<b>100%</b>

Auction 2 will follow the same format single-round, sealed-bid, uniform-price format as the first auction. RGGI Inc. has made minor adjustments to the manner in which a participant's financial security limitation is

calculated. Only the maximum potential liability will be counted against the posted financial security, instead of the total value of all bids, as was the case in Auction 1.

Any party whose Qualification Application was approved for Auction 1 remains approved for the December auction, as long no material changes have occurred to the information provided on the original application. Pre-qualified parties will only have to submit a new Intent to Bid form and post financial security by the applicable deadlines in order to participate. The Auction Notice describes what constitutes a material change. Deadlines for submission and further participation information can be found here:

<http://rggi.org/co2-auctions/information>.

Soon after the release of the second Auction Notice, RGGI Inc. published the "Post-Settlement Auction Report for Auction 1." Potomac Economics, the RGGI market-monitor, compiled the report, which includes more detailed information about the results of the first RGGI auction. Beyond additional descriptive statistics, Potomac disclosed the number of allowances awarded to each winning bidder. Winning bidders were not identified by name or company information. However, the report reveals that RGGI compliance entities submitted 80 percent of the bids and were awarded more than 80 percent of the allowances. The highest

# The Climate Change Briefing

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bid recorded in Auction 1 was \$12.00 per ton, while the lowest was the \$1.86 reserve price. The median bid price was \$2.51 and the mean bid price was \$2.77. RGGI futures on the Chicago Climate Futures Exchange are currently in the \$4.20 range for vintage 2009 December 31, 2009 delivery.

To view the entire post-settlement report, visit:

[http://rggi.org/co2-auctions/results/auction\\_1\\_reports](http://rggi.org/co2-auctions/results/auction_1_reports).

## *Delaware*

On October 15, the Secretary of the Department of Natural Resources and Environmental Control approved proposed regulations for implementing Delaware's portion of RGGI (Regulation No. 1147). These rules will become effective on November 11, 2008, allowing the state to offer allowances in the December auction. Delaware was the only state whose participation in the December auction was in doubt.

## *New York*

The New York State Energy Research and Development Authority (NYSERDA) finalized its RGGI auction regulations (Title 21 NYCRR Part 507) on October 8. The Department of Environmental Conservation's (DEC's) regulations creating the state's portion of the RGGI program (Title 21 NYCRR Part 242) direct NYSERDA to develop auction regulations and administer the distribution of revenues. Revenues will be transferred to the Energy Efficiency and Clean Energy Technology Account for distribution to approved projects following the input of an advisory

committee. A straw proposal for how New York's portion of the regional auction revenues will be spent is expected in January, 2009.

## **Midwestern Greenhouse Gas Reduction Accord Update**

The Midwestern Greenhouse Gas Reduction Accord (the Accord) held a meeting of its Full GHG Advisory Group from October 20 – 21 in Washington, DC. The meeting was open to the public, but no conference call option was provided. The meeting agenda focused on discussing continued development and revision of the Preliminary Recommendations for a regional cap-and-trade program. It is unclear what level of detail will be included in the official Preliminary Recommendations, when they are released. According to the most recent timeline, which was included in the meeting materials for the meeting in September, the Accord could release preliminary design recommendations as early as November, 2008. The next meeting of the Full GHG Advisory Group will take place November 20 – 21, 2008 in Winnipeg, Manitoba.

On October 10, the Accord announced that it had received a grant from the Kresge Foundation to support the implementation of the Accord.

<http://www.midwesternaccord.org/news.html>

## **Western Climate Initiative Update**

On September 30, 2008, the Western Climate Initiative (WCI)

released the "Essential Requirements for Mandatory Reporting for the Western Climate Initiative, Second Draft." This document provides an update on the progress of the Reporting Subcommittee from the initial draft requirements that were released in July 2008. Significant portions of the requirements are still undecided including the CO<sub>2</sub> equivalents emissions threshold and which entities will report emissions from imports of electricity, oil, and natural gas. These decisions may largely depend on how WCI decides to define certain terms contained in the Design Recommendations, such as the First Jurisdictional Deliverer (FJD) for electricity imports. These discussions are ongoing among WCI Partners. Comments on the second draft were due October 14. WCI held stakeholder teleconferences on October 2 and October 7 to discuss the Design Recommendations and the second draft of the Essential Requirements for Mandatory Reporting, respectively.

WCI's Electricity Subcommittee held technical working sessions on October 13, which could be viewed by webinar. The working sessions focused on the issue of leakage and how to define FJD. The consulting firm Energy and Environmental Economics (E3) provided an analysis of the reasons for regulating imports and the potential for leakage. According to the analysis, regulating imports is essential for capturing all electric sector emissions and limiting leakage. Using the FJD approach, the potential for leakage is small, although there is a slight potential for investments in new, non-WCI coal facilities to increase. E3 also discussed the potential for "contract shuffling," whereby electricity from lower emitting, non-WCI sources is shifted to supply electricity for WCI, while higher emitting sources provide electricity for non-WCI regions. Contract shuffling decreases WCI-related emissions, but does not affect the total amount of GHG emissions being emitted into the atmosphere. E3 concluded that the potential for contract shuffling is limited, especially if each non-WCI region is assigned an emissions rate for unspecified power imports based on the average emissions from that region, a deemed emissions rate.

During the same webinar, the World Resources

Institute (WRI) gave a presentation that included a suggested regulatory definition for FJD. Comments from industry participants raised concerns over establishing a single entity for each market transaction that would be responsible for surrendering allowances. If this is unclear, one entity may unknowingly end up liable. The issue of threshold was also discussed. One suggestion was not to establish a threshold, so that any entity that imports electricity becomes responsible, regardless of the amount of electricity imported. Some participants also questioned the legality of applying the FJD approach and whether or not WCI Partners had the authority to regulate electricity in this way.

The Electricity Subcommittee will hold another working session on November 13, 2008 that will also focus on how to implement the FJD approach, specifically how emissions will be reported and tracked. On November 7, 2008, WCI's Economic Modeling Team is scheduled to hold a conference call to discuss the initial modeling results that were released along with the Design Recommendations in September.

### **The Climate Registry Update**

The Registry will be hosting the first in a series of regional forums on regarding climate change policy on November 20, 2008 in Boston, Massachusetts. Entitled "The Northeast Climate Policy Forum: Charting the Path Ahead," the conference will provide an opportunity for participants to hear from and interact with regional environmental policy makers and Registry Members, as well as industry and academic sources. Registry Members will also be invited to attend a workshop on November 19. For more information on the Registry's Northeast Policy Forum, please visit:

[http://www.theclimateregistry.org/downloads/Agenda\\_NE\\_Climate\\_Action\\_Overview.pdf](http://www.theclimateregistry.org/downloads/Agenda_NE_Climate_Action_Overview.pdf)

The Registry has kicked off its Electric Power Sector Protocol development process. An Electric Power Sector Technical Expert Panel is being convened for a conference call on November 4. The development process will span the next 5 months with a final expected by late spring or early summer 2009.

## California Board Proposes Plan for Reducing GHG Emissions

Taking another step closer to regulating greenhouse gas (GHG) emissions, California's Air Resources Board (ARB) released a Proposed Scoping Plan on October 15 for achieving the emission reduction targets set in the Global Warming Solution Act of 2006 (AB 32). The Proposed Scoping Plan has been revised to reflect updated reduction estimates that several policies are expected to achieve, but it remains fundamentally similar to the Draft Scoping Plan released in June.

### *Cap-and-Trade*

The centerpiece of ARB's Proposed Scoping Plan is a cap-and-trade program that will link California with other states and Canadian provinces to create a regional emissions trading scheme under the Western Climate Initiative. As such, the California program should closely reflect the Draft Recommendations released by WCI in late September. For a summary of WCI's Design Recommendations, please click here:

[http://www.usclimatepolicy.com/documents/CPIS/WCI/WCI\\_Design\\_Recommendations\\_Summary.pdf](http://www.usclimatepolicy.com/documents/CPIS/WCI/WCI_Design_Recommendations_Summary.pdf).

### *Other Measures*

Significant reductions are also expected to come from achieving the Governor's goal of a 33 percent Renewable Portfolio Standard by 2020; adopting energy efficiency targets; increasing the state's combined heat and power (CHP) capacity, and creating a Low Carbon Fuel Standard. The Plan includes numerous other policies that range from vehicle emission standards to a mitigation fee for high global warming potential gases to increasing recycling and reducing waste.

### *Regional Transportation-related Reduction Goals*

One key addition to the Scoping Plan is the inclusion of the GHG reduction targets related to regional transportation and land use plans. These plans will be developed by the state's Metropolitan Planning Organizations (MPOs) in accordance with Senate Bill 375, which Governor Schwarzenegger signed on September 30. Under this bill, ARB will work with MPOs to develop regional reduction goals. Each MPO must then submit a sustainable communities strategy, along

with its regional transportation plan, that demonstrates how the target will be met. These plans will be aimed at increasing accessibility of public transportation and limiting the number of miles that Californians drive. While the reductions expected from these initiatives are relatively small compared with other measures in the Proposed Scoping Plan, the recent bill represents an innovative way to cut GHG emissions and encourage clustered growth.

ARB heard testimony on the Proposed Plan at its October meeting and will hear additional testimony and comments at meetings on November 20 – 21 and December 11 – 12.

For the MJB&A summary of the Proposed Scoping Plan, click here:

[https://www.mjbradley.net/sis/documents/CPIS/States/California/Proposed\\_Scoping\\_Plan\\_Summary.pdf](https://www.mjbradley.net/sis/documents/CPIS/States/California/Proposed_Scoping_Plan_Summary.pdf)

The full Plan can be found here:

<http://www.arb.ca.gov/cc/scopingplan/document/scopingplandocument.htm>.

## Florida Committee Releases Policy Recommendations for GHG Reductions

Florida's Energy and Climate Change Action Team (Action Team) completed the work assigned to it by Executive Order 07-128 when it submitted its final report to Governor Charlie Crist this month. The Phase 2 Energy and Climate Change Action Plan (the Plan), released on October 15, describes 50 policy recommendations for the state to reduce greenhouse gas (GHG) emissions, increase energy independence and adapt to the expected effects of climate change. An initial report by the Action Team was published in November 2007. Policy recommendations in the Action Plan focus on the development of a cap-and-trade program; energy demand and supply; transportation and land use; and waste management among other areas. The Action Plan includes an inventory of the state's GHG emissions and projections of growth to 2025 under business-as-usual circumstances.

### *Cap-and-Trade*

Florida's Energy, Climate Change, and Economic

Security Act of 2008 (HB 7135), which was passed in May and signed by the Governor in June, provides the Department of Environmental Protection (DEP) with the authority to develop a cap-and-trade program to limit GHG emissions. The Action Team provides guidance in the Plan for how DEP should proceed with this process. At the very least, any cap-and-trade program for the state should cover the electric sector at the outset. Other sectors, such as large industrial sources; commercial, residential, and transportation fuel use; and oil and gas extraction and processing should also be considered for inclusion according to the Plan. These sectors could be phased-in over time in order to limit the immediate economic impacts of the cap-and-trade.

Rather than develop a single-state program, the Action Team suggests that Florida join one of the existing initiatives such as the Regional Greenhouse Gas Initiative (RGGI) or the Western Climate Initiative (WCI). Joining both of these programs as an official observer, which should be done as soon as possible according to the Plan, would allow DEP to better determine which one would be most beneficial for Florida. Another option would be to work with other Southern states to create a regional cap-and-trade program of their own. Working towards a unified national program should be Florida's ultimate goal. DEP must seek legislative approval for any proposed emissions trading scheme, which cannot go into effect until after January 1, 2010.

The Plan also includes recommendations regarding specific cost containment and flexibility mechanisms that DEP should consider when developing or joining a cap-and-trade program. Unlimited use of offsets would lower compliance costs and the Action Team agrees that this should be allowed. Unlimited banking also received unanimous support, while including of an allowance price safety valve and banking with certain stipulations warrant further investigation.

#### *Energy Demand and Supply*

Additional GHG reductions could be achieved through the implementation of numerous policies that reduce the use of fossil fuels supplying energy. The Action Team strongly supports the

creation of a Renewable Portfolio Standard (RPS) for Florida. The Team suggests an initial target of 20 percent by 2020.

According to the Action Team, the state should also:

- adopt an energy efficiency portfolio standard;
- improve energy efficiency at existing building and update building codes;
- construct additional nuclear power plants, beyond those already planned and permitted;
- promote combined heat and power (CHP) systems; and
- improve efficiency at existing power plants.

These policies, among others, would help substantially reduce Florida's energy-related GHG emissions.

#### *Transportation*

Transportation is Florida's second largest source of GHG emissions. In order to cut this sector's emissions, the Action Team advises that the state:

- develop and expand low-GHG fuels;
- improve transportation system management to reduce vehicle miles traveled; and
- provide incentives for increasing vehicle fleet efficiency.

Smart growth strategies should also be employed, along with increased goods movement efficiency and land use planning.

For more information on Florida's Energy and Climate Action Plan, visit:

[http://www.dep.state.fl.us/climatechange/actionplan\\_08.htm](http://www.dep.state.fl.us/climatechange/actionplan_08.htm).

#### **Pennsylvania Selects GHG Registries**

In a meeting on October 1, the Pennsylvania Climate Change Advisory Committee (CACC) recommended that the state adopt greenhouse gas (GHG) emissions and offset registries for businesses in the state. CACC suggested that the Climate Registry, of which Pennsylvania is a charter member, be used as the official GHG emissions registry for businesses as well. For

offsets, in order to encompass a broad range of project categories CACC recommended the state recognize three separate registries – the California Action Reserve, the Voluntary Carbon Standard, and the Gold Standard. The Secretary of the Pennsylvania Department of Environmental Protection (DEP) announced that he had accepted the recommendations on October 5.

### **Oregon Finalizes GHG Reporting Rules**

On October 23, Oregon's Environmental Quality Commission approved regulations that will require businesses in the state to report their greenhouse gas (GHG) emissions. Starting in 2010, all entities with Title V permits or state air discharge permits must report their 2009 emissions. Other businesses without these permits must begin reporting in 2011 for their 2010 emissions. These requirements apply to any sources that emit more than 2,500 metric tons of carbon dioxide equivalents.

### **Dynegy Agrees to Inform Investors of Climate Change Liabilities**

Following an agreement reached with Xcel Energy in August 2008, New York State Attorney General Andrew Cuomo announced on October 23 that Dynegy Inc. has likewise agreed to disclose the potential risks posed to the company by climate change. Dynegy will now include a statement of the material risks presented by global warming and continuing to emit large amounts of greenhouse gases (GHGs) in the company's 10-K filing with the Securities and Exchange Commission. The statement will contain an analysis of how the company might be affected by current and potential regulations, litigation, and the impacts of climate change. Furthermore, Dynegy will report its current GHG emissions, along with projected future emissions and strategies for reducing those emissions. The agreement stems from a 2007 subpoena that Attorney General Cuomo served to Dynegy, Xcel, AES, Dominion, and Peabody Energy.

## **National Activity**

### **Dingell, Boucher Release Discussion Draft of Climate Change Legislation**

On October 7, House Representatives John Dingell and Richard Boucher released a discussion draft for climate change legislation that they plan to introduce during the next session of Congress. The draft proposes an economy-wide cap-and-trade program that would cover an estimated 88 percent of U.S. greenhouse gas (GHG) emissions once it is fully implemented. The bill would preempt all state and regional cap-and-trade programs.

#### *Reduction Targets*

Relative to 2005 emissions, the reduction schedule outlined in the discussion draft is as follows:

- 6 percent below by 2020;
- 44 percent below by 2030; and
- 80 percent below by 2050.

The draft specifies the number of allowances for each cap year from 2012 through 2050. Starting in 2017, a set of additional allowances is established for direct allocation to natural gas distribution companies, when they are conditionally added to cap.

#### *Covered Sectors*

From the outset of the program in 2012, electric generators that fire either coal or natural gas would be required to surrender allowances. However, liquid fuels, whether petroleum- or coal-based, will be regulated upstream at the producer or importer and would also be covered starting in 2012. Industrial stationary sources would be added to the program in 2014. Natural gas distribution companies would be added in 2017, but this may be delayed until 2021, if EPA determines that from 2012 to 2015 the average national gas consumer uses 99 MMBTu per year or less. Hydrofluorocarbons (HFCs) would not be included in the cap, but instead would be regulated by amending Title VI of the Clean Air Act.

#### *Allowance Distribution*

The discussion draft presents four possible options for distributing allowances. Each option

provides a different methodology for allocating allowances to covered sectors or for various purposes. Options A through C propose allocating a significant number of allowances to the electric sector at the beginning of the program and to covered industrial sources when they are added to the cap in 2014. Depending on the option, these allocations either remain relatively stable or decrease over time. Regardless of the number of allowances directed towards the electric sector, 90 percent of the allocation would go to electric distribution utilities and 10 percent would go to independent coal generators.

Allowances that are allocated for specific purposes, such as consumer rebates, technology research, and adaptation programs, would be auctioned and the proceeds distributed. States have the option of receiving their allowances in kind or having the Federal government auction the allowances and receive the revenues generated. Either way, the value of the allowances would be directed for energy efficiency programs. Option D does not include significant direct allocations and would likely result in more than 90 percent of the allowances being auctioned.

#### *Cost-containment*

A number of cost-containment and flexibility mechanisms are included in the draft. Compliance entities may borrow allowances from the subsequent vintage year at zero-interest and without limit. Beyond this, borrowing is allowed for allowances up to five years in advance of the vintage year, but this is limited to 15 percent of a compliance obligation and the entity must pay 8 percent interest per year. A covered source may also fulfill a portion of its obligation through the purchase or creation of domestic or international offset credits. The limit on the use of offset credits increase over time, starting at 5 percent in 2013 and increasing to 35 percent in 2025 and after. International emissions allowances from programs approved by EPA would be equivalent to domestic allowances and could be used to satisfy an entire compliance requirement.

The bill also proposes a Strategic Allowance Reserve, which sets aside a number of

allowances equal to about one half of one year's worth of allowances. A constant percentage of this set-aside would be auctioned on a quarterly basis, if the allowance market price reaches a predetermined level. These auctions would only be open to entities with compliance obligations. Strategic Reserve Allowances cannot be auctioned below a set minimum price, which changes depending on the compliance year and may be linked to the market price later in the program.

#### **Renewable Energy Incentives Included in Bailout Bill**

Attached to the over \$700 billion financial bailout bill (HR 1424), which was signed into law on October 3, were provisions extending and expanding Federal incentives promoting renewable energy development. In the bill, wind power receives a one-year extension of the Production Tax Credit (PTC), while geothermal and biomass resources receive a two-year extension of the PTC. Marine resources were added to the list of PTC-eligible sources and can receive the credit through 2011. Refined coal facilities also receive a one-year extension of the PTC. The 30 percent investment tax credit (ITC) for solar resources is extended through 2016, and the utility exemption is removed. The bill also includes incentives for carbon capture and storage (CCS) demonstration projects and for CO<sub>2</sub> that is captured and either stored (\$20/ metric ton CO<sub>2</sub>) or used for enhanced oil recovery (\$10/ metric ton CO<sub>2</sub>). Furthermore, an incentive for plug-in hybrid electric vehicles has been added.

#### **EPA Submits Draft GHG Registry Rule to OMB**

In October, the Environmental Protection Agency (EPA) submitted a Notice of Proposed Rulemaking (NPRM) to establish regulations for monitoring and reporting of greenhouse gas (GHG) emissions to the White House Office of Management and Budget (OMB). EPA missed the original deadline for submitting the NPRM of September 26, 2008 that was established in the 2008 Consolidated Appropriations Act. While the draft has not yet been published in the Federal Register, it will require entities that produce, import or emit GHGs above a given threshold to

report their emissions to EPA. Depending on the source, emissions may be monitored either upstream or downstream. The final rule is due on June 26, 2009.

### **Representatives Outline Principles of Climate Change Legislation in Letter to Speaker**

In an October 2 letter to House Speaker Nancy Pelosi, 152 Representatives summarized some basic components that should be a part of any comprehensive climate change legislation. According to the signees, the goals of climate change legislation should be to:

- reduce emissions to avoid dangerous global warming;
- transition America to a clean energy economy;
- recognize and minimize any economic impacts the legislation; and
- aid communities and ecosystems vulnerable to harm from global warming.

In order to keep global average temperatures from rising more than 2° Celsius above pre-industrial levels, the signees endorse GHG emission cuts of 15 to 20 percent below current levels by 2020 and 80 percent below current levels by 2050. The letter also suggests that any direct allocations to emitters should be for transitional purposes only, but measures should be taken to protect American industry from being outsourced to countries that do not adopt similar climate change programs. Auction revenues should be used for public benefit purposes, such as low-carbon technology research, consumer refunds for low-income families, and to provide worker transition assistance. The signees also agree that state's should be provided with the power to further regulate GHG emissions and that complimentary policies should be included in Federal legislation and encouraged at the state level.