STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION
OFFICE OF ENERGY RESOURCES

RULES AND REGULATIONS FOR THE ALLOCATION AND DISTRIBUTION OF REGIONAL GREENHOUSE GAS INITIATIVE PROCEEDS

[Regulation DOA-OER-RGGI-1-2011]

1.0 Authority

These rules and regulations are promulgated pursuant to the requirements and provisions of Rhode Island General Laws (hereinafter, "RIGL") §§ 42-140-9; 23-82-1 *et seq.* and 42-35-1 *et seq.* RIGL § 42-140-9 grants the Office of Energy Resources "the authority to adopt, amend, and implement such rules as may be necessary to (*sic*) desirable to effectuate the purposes of this chapter." R.I. Gen. Laws § 42-140-9.

2.0 Purpose, Scope, and Applicability

The Office of Energy Resources, in order to develop an integrated system to manage and maximize the State's contribution to lowering carbon emissions while minimizing impacts on electric system reliability and costs to Rhode Island power consumers over the long term, hereby adopts these rules and regulations.

The purpose and scope of RGGI as set forth in the legislative findings of RIGL chapter 23-82 are as follows:

(1) Scientific findings indicate that the increase in greenhouse gas emissions, including carbon dioxide, is accelerating the natural greenhouse effect resulting in changes in the Earth's climate;
(2) Climate changes pose serious health risks to humans, as well as danger to ecosystems worldwide;
(3) This act creates a strong incentive for the creation, development, and deployment of more efficient technologies and processes, energy efficiency and renewable energy supplies which will lead to less dependence on the import of fossil fuels.
(4) Rhode Island's implementation of the Regional Greenhouse Gas Initiative, (hereinafter referred to as "RGGI"), should be managed to maximize the state's contribution to lowering carbon emissions while minimizing impacts on electric system reliability and costs to Rhode Island power consumers over the long term. Adoption and use of cost-effective energy-efficient products and programs and the strategic use of low and zero carbon generation are the best means to achieve these goals.
(5) It is the intent of the general assembly in enacting this chapter that the state of Rhode Island shall fulfill the mutual understandings and commitments of the regional greenhouse gas initiative so that the state may fully participate in that initiative and all sales or auctions and other proceedings as may be established under that initiative.

3.0 Definitions

For the purposes of these regulations, the following terms shall have the following meanings:

3.1. "**Act**" means the Rhode Island Regional Greenhouse Gas Initiative Act, specifically, RIGL § 23-82-1 *et seq.*

3.2. "**Auction**" means the CO_2 Budget Allowance auction conducted pursuant to RIGL 23-82-5.

3.3. "**Auction or Sale Proceeds**" means revenue earned through the auction or sale of RGGI allowances.

3.4. "**Council**" means the Rhode Island Energy Efficiency and Resources Management Council.

3.5. "**Department**" means the Rhode Island Department of Environmental Management.

3.6. "**Office**" means the Rhode Island Office of Energy Resources.

3.7. **"Regional Greenhouse Gas Initiative or RGGI"** means the Regional Greenhouse Gas Initiative, a cooperative effort by Northeastern and Mid-Atlantic states to reduce carbon dioxide emissions through implementation of a multi-state cap-and-trade program with a market-based emissions trading system.

3.8. "**Sale**" means a CO_2 Budget Allowance sale conducted pursuant to RIGL §23-82-5.

3.9 "**Utility**" means the distribution utility serving Rhode Island electric power consumers and providing energy efficiency programs and services, currently National Grid.

4.0 RGGI Background

RGGI is a cooperative effort among the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Together, these ten states have capped and will reduce power sector CO_2 emissions ten percent by 2018.

RGGI is composed of individual CO_2 Budget Trading Programs in each of the ten participating states. The Rhode Island Department of Environmental Management promulgated regulations establishing a CO_2 Budget Trading Program that limits emissions of CO_2 from electric power plants, issues CO_2 allowances and establishes participation in regional CO_2 allowance auctions. The applicable Department regulations are identified as Air Pollution Control Regulation No. 46 and Air Pollution Control Regulation No. 47.

Regulated power plants can use a CO_2 allowance issued by any of the ten participating states to demonstrate compliance with an individual state program. In this manner, the ten state programs, in the aggregate, function as a single regional compliance market for CO_2 emissions.

The states participating in RGGI formed a non-profit corporation (RGGI, Inc.) to provide administrative and technical services to support the development and implementation of each participating state's CO_2 Budget Trading Program. RGGI, Inc.'s activities include: development and maintenance of a system to report data from emissions sources subject to RGGI, and to track CO_2 allowances; implementation of a platform to auction CO_2 allowances; monitoring the market related to the auction and trading of CO_2 allowances; providing technical assistance to the participating states in reviewing applications for emissions offset projects; providing technical assistance to the participating states to evaluate draft changes to the states' RGGI programs. RGGI, Inc. has no regulatory or enforcement authority. All such sovereign authority is reserved to each participating state.

Pursuant to RIGL §23-82-5, RGGI, Inc. (or other independent contractor) is authorized to receive, hold and sell CO_2 allowances for the long-term benefit of consumers. The statute also authorizes RGGI, Inc. to conduct the auctions or sales; collect the auction proceeds and transfer such proceeds to the Office. The Office then distributes and allocates the proceeds of the auction or sale in accordance with §23-82-6, under the oversight of the Department.

5.0 Annual Auction or Sale Proceeds Allocation Plan

5.1 The Act provides for the use of Auction or Sale Proceeds. Specifically, RIGL §23-82-6 requires that the Auction or Sale Proceeds be used for the benefit of energy consumers through investment in the most cost-effective available projects that can reduce long-term consumer energy demands and costs.

5.2. The Office is authorized to allocate the Auction or Sale Proceeds for the following purposes, in a proportion to be determined annually by the Office in consultation with the Council and the Department:

(1) Promotion of cost-effective energy efficiency and conservation as defined in RIGL §39-1-27.7;

(2) Promotion of cost-effective renewable non-carbon emitting energy technologies as defined in RIGL §39-26-5;

(3) Cost-effective direct rate relief for consumers;

(4) Direct rate relief for low-income consumers;

(5) Reasonable compensation to RGGI, Inc.; and

(6) Reasonable costs of the Department and Office in administering this program.

5.3 To accomplish these purposes, the Office, in consultation with the Department and the Council, shall annually draft and implement an allocation plan describing how the Auction or Sale Proceeds are to be expended.

5.4 The annual allocation plan shall set forth the specific dollar amount to be paid by the State of Rhode Island to RGGI, Inc. for any dues, fees and auction expenses due to RGGI, Inc. This amount shall be set in a Cooperative Agreement between the Department and RGGI, Inc.

5.5 The annual allocation plan shall set forth the specific dollar amount to be paid to the Department and the Office for their respective reasonable costs expended by each in administering the RGGI program during the previous calendar year. The total administrative cost paid to the Department and the Office in each allocation plan shall not exceed three hundred thousand dollars ($300,000) or five percent (5%) of the proceeds from sale or auction of the allowances, whichever is less.

5.6 The annual allocation plan shall set forth the specific amounts to be distributed from the Auction or Sale Proceeds after payment of the administrative expenses set forth in Paragraphs 5.4 and 5.5 herein. The annual allocation plans shall allocate the balance of the Auction or Sale Proceeds for promotion of cost-effective energy efficiency and conservation; promotion of cost-effective renewable non-carbon emitting energy technologies; cost-effective direct rate relief for consumers; and direct rate relief for low-income consumers.

6.0 Procedure for Adoption of Annual Auction or Sale Proceeds Allocation Plans

6.1. The Office shall, not less than annually, consult with the Department and the Council regarding the allocation of the Auction or Sale Proceeds from the RGGI auctions or sales for the current calendar year and any calendar year or portion for which RGGI proceeds have not been allocated. The Office shall prepare and present to the Department and the Council a draft allocation plan, which shall be consistent with the goals set forth in RIGL §23-82-6.

6.2 The Office shall hold a public hearing and accept public comments on the draft allocation plan. The Office shall provide at least thirty (30) days notice of the public hearing. The Notice shall include a summary of the allocation plan and shall provide the date, time and place of the public hearing. The Notice shall be mailed (including electronic mailing, if requested) to all persons who made timely request of the Office for advance notice of the draft allocation plan and the Notice shall be provided via electronic media on the websites maintained by the Rhode Island Secretary of State and the Office. Copies of the draft allocation plan shall be available at the Office at the time of the Notice and provided by mail (including electronic mailing, if requested) to any member of the public upon request. Copies of the draft allocation plan shall also be posted on the website of the Office at the time the notice of hearing is provided.

6.3 At the conclusion of the public hearing, the Office shall allow an additional ten (10) day period for interested persons to submit data, views or arguments in writing. The Office shall consider fully all written and oral submissions regarding the draft allocation plan. At the conclusion of the public comment period, the Office shall provide a written response to each substantive public comment. The Office shall maintain a record of all the public comments raised during the public participation process.

6.4 The Office shall adopt and implement the annual allocation plan.

6.5 The Office shall post a copy of the annual allocation plan on its website and provide copies thereof to any member of the public requesting same.

7.0 Reporting

7.1 All entities receiving Auction or Sale Proceeds shall be required to submit reports as specified in the plan.

8.0 General Notes

8.1 The Office shall prepare, in consultation with the Department and the Council, a report made available to the public by January 1st of each year describing the implementation and operation of RGGI and the expenditures made pursuant to these Regulations.

8.2 These Rules and Regulations shall only apply to any and all Auction or Sale Proceeds accrued subsequent to October 22, 2009. The *2009 Plan for the Allocation and Distribution of Regional Greenhouse Gas Initiative Auction Proceeds* that was approved on September 30, 2009 and filed with the Rhode Island Secretary of State on October 2, 2009 shall not be affected by these Rules and Regulations.

8.3 These Rules and Regulations shall be implemented in conjunction with and consistent with Department Air Pollution Control Regulation No. 46 and Air Pollution Control Regulation No. 47.

9.0 Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

10.0 Application

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Office to effectuate the purposes of State law, goals, and policies.

11.0 Effective Date

The foregoing regulations are hereby adopted by me this 28th day of October, 2011, to become effective twenty (20) days after filing in accordance with the provisions of the RIGL § 42-35-4(b).

Kenneth Payne,
Administrator
Office of Energy Resources
Department of Administration

Notice Given: June 23, 2011
Public Hearing Held: July 25, 2011