



**SUMMARY OF THE DRAFT MODEL RULE**

March 23, 2006

Provided below is a summary of the draft model rule. Next to each summary provision are page references to the corresponding section or sections of the model rule where the summarized feature may be found.

<b><u>PROVISION</u></b>	<b><u>MODEL RULE REFERENCE</u></b>
<b>1. <u>Applicability</u></b>	
A. <b>General.</b> Any fossil fuel-fired unit serving an electric generator with a nameplate capacity of 25 megawatts and greater is subject to the program.	See § XX-1.4(a). (p. 18)
B. <b>50% Biomass Exemption.</b> If a source burns bio-mass for more than 50% of its total fuel, then it would not be subject to the program.	See definition of "fossil fuel-fired" § XX-1.2(af). (p. 11)
C. <b>"Behind the Meter" Exemption. [Optional].</b> If a unit supplies less than 10% of its electrical output to the grid, then it could apply to be exempted from the program.	See § XX-1.4(b). (p. 19)
<b>2. <u>Source Compliance Requirements</u></b>	
A. <b>Start Date.</b> January 1, 2009.	See § XX-1.5(c)(3). (p. 24)

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<p>B. <b>Permit Requirement.</b> Each Unit must have permit that requires the source to comply with the requirements of the program.</p>	<p>See § XX-3. (p. 35)</p>
<p>C. <b>Allowance Accounts.</b> Each source must designate one and only one Account Representative, and one and only one Alternate Representative.</p>	<p>See §§ XX-2.1, 2.2 &amp; 2.3. (pp. 28-32)</p>
<p>D. <b>Allowance “True-Up”.</b> Each source must cover its emissions with CO<sub>2</sub> allowances at the allowance transfer deadline, which falls on the March 1 after the control period ends.</p> <p>The <b>control period</b> is a three-year period, unless extended by a “stage two trigger event”, which occurs if the average allowance price exceeds \$10 (2005\$ + 2% per year) on a 12-month rolling average basis.</p>	<p>See § XX-1.5(c); &amp; § XX-6.5. (p. 23; p. 50)</p> <p>Definition at §XX-1.2(ac). (p. 11)</p>
<p>E. <b>Limit on Use of Offsets at True-Up.</b> A source may cover up to 3.3% of its emissions with CO<sub>2</sub> offset allowances, unless:</p> <p>(1) the 12-month rolling average spot price for allowances is \$7 or more, in which case 5.0% of a source’s emissions can be covered with offsets; or</p> <p>(2) the 12-month rolling average spot price for allowances exceeds \$10 for two consecutive 12-month periods, in which case the source may cover 5% its emissions with offsets for the first 3 years of the control period, and 20% of its emissions with offsets in years 4, 5 or 6 of the control period.</p>	<p>See § XX-6.5(a)(3). (p. 51)</p>
<p>F. <b>Compliance Certification.</b> Each Account Representative must file a compliance certification at the end of each compliance period (referred to as a “control period” in the rule).</p>	<p>See Subpart XX-4. (pp. 36-38)</p>

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<p>G. <b><i>Emissions Monitoring, Reporting and Record keeping.</i></b> Each source must monitor its emissions consistent with existing practice under the federal rules, and file quarterly emissions reports with the states. Records must be maintained for ten (10) years by the source for inspection by the state.</p>	<p>See Subpart XX-8. (pp. 59-83)</p>
<p>3. <b><u>State Allowance Budget.</u></b> Specified for each allocation year. This will vary from state to state, and therefore the amounts have been left blank in the model rule.</p>	<p>See § XX-5.1. (p. 39)</p>
<p>4. <b><u>Allowance Allocations.</u></b></p>	
<p>A. <b><i>Timing of Allocations.</i></b> No later than January 1, 2009, the regulatory agency will determine the allowance allocations for the years 2009, 2010, 2011 and 2012. By January 1 of each succeeding year, the regulatory agency will allocate for the year that begins three years hence.</p>	<p>See § XX-5.2. (p. 39)</p>
<p>B. <b><i>Allocating Allowances.</i></b> The model rule provides a placeholder for allowance allocations, which will vary from state to state, subject to the states' agreement that 25% of the allowances will be used for a consumer or strategic energy purpose.</p> <p>Please note that state-specific set-aside accounts would be inserted in the allocation section, such as:</p> <ul style="list-style-type: none"> <li>(1) new source set-aside account;</li> <li>(2) early action set-aside account to reward early reductions that do not qualify for the Early Reduction Allowances; and/or</li> <li>(3) other set-asides that a state may deem appropriate.</li> </ul>	<p>See § XX-5.3. (pp. 40-42)</p>
<p>C. <b><i>Administration of Allowance Accounts.</i></b> The regulatory agency, or its agent, will establish compliance accounts for each unit, as well as "general accounts" for individuals other than authorized account representatives for units covered by the program.</p>	<p>See Subpart XX-6. (pp. 43-57)</p>

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<p><b>D. Administer Emissions and Allowance Tracking.</b> The regulatory agency or its agent will establish an emissions and allowance tracking system that will receive emissions data, allowance allocations, and receive and effectuate allowance transfers reported by sources.</p>	<p>See Subpart XX-7. (pp. 57-59)</p>
<p>5. <b>Early Reduction Allowances.</b> Early reduction allowances will be issued for actions taken at units subject to the program on or after December 20, 2005, that result in an improvement in <u>both</u> the efficiency (heat rate) of the unit <u>and</u> result in an absolute reduction in emissions. Like offset allowances, these allowances would be issued in addition to the state budget.</p>	<p>See §XX-5.3(c). (pp. 40-42)</p>
<p>6. <b>Penalty Provisions.</b> If, at the end of a control period, a source has failed to cover all of its emissions with allowances, the regulatory agency can deduct up to 3x the deficit from the source's future allocations. This is in addition to any state-specific penalties that may apply to the violation.</p>	<p>See § XX-6.5(d). (pp. 53-55)</p>
<p>7. <b>Severability.</b> If one part of the rule is held invalid, the remainder of the rule will still stand.</p>	<p>See § XX-1.7. (p. 28)</p>
<p>8. <b>Offsets Provisions.</b></p>	
<p>A. <b>Procedure for Offset Project Applications.</b></p>	<p>See § XX-10.4. (pp. 94-99)</p>
<p>B. <b>Specific Offset Standards</b></p>	<p>See §§ XX-10.5(a)-(f). (pp.99-136)</p>
<p>(1) <b>Landfill Methane Standards</b></p>	<p>See § XX-10.5(a). (pp. 99-102)</p>

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(2) <b>SF<sub>6</sub> Emissions Reductions</b>	See § XX-10.5(b). (pp. 102-109)
(3) <b>Sequestration through Afforestation</b>	See § XX-10.5(c). (pp. 109-116)
(4) <b>Fossil Fuel Energy Efficiency</b>	See § XX-10.5(d). (pp. 116-129)
(5) <b>Agricultural Methane Capture</b>	See § XX-10.5(e). (pp. 129-135)
(6) <b>Fugitive Emissions from Natural Gas Distribution Facilities [Reserved]</b>	See § XX-10.5(f). (p. 135)
<b>C. Third-Party Verifiers</b>	See § XX-10.6. (pp. 136-138)
<b>9. Miscellaneous Provisions</b>	
<b>A. Definitions.</b>	§ XX-1.2 pp. 4-18 (general definitions); and pp. 84-91 (offset definitions).
<b>B. Banking.</b>	§ XX-6.6. (p.56)