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To: Regional Greenhouse Gas Initiative Staff Working Group
RE: Comments on the Draft Model Rule

May 22, 2006

Dear Members of the Staff Working Group:

Thank you for the opportunity to provide comments on the Draft Model Rule for the Regional Greenhouse Gas Initiative (RGGI). These comments are submitted on behalf of Clean Water Action in Connecticut, Massachusetts, New Hampshire, and Rhode Island.

RGGI will likely serve a model for an eventual national program. For that reason, the decisions made by the Staff Working Group in finalizing the Model Rule will not only determine whether RGGI effectively makes emissions reductions in the participating states; these decisions will also shape how the U.S. Congress approaches the challenge of designing an effective program for the entire country.

RGGI is an opportunity to show that a cap and trade program can simultaneously protect consumers, stimulate innovation in clean technology, and reduce global warming pollution from power plants. We believe that, if designed properly, the final program will accomplish these three objectives and thereby attract the support of a diverse group of stakeholders.

We applaud the states for participating in the RGGI development process. We ask that the Staff Working Group review and strongly consider the comments below.

Cap Inflation

The Draft Model Rule exacerbates our prior concerns about the high cap levels outlined in the Memorandum of Understanding. Given the already modest emissions reduction goals of this program – which caps emissions at levels above today's levels – it is crucial that the final Model Rule ensure that the reductions are fully implemented and are not diluted by weakening of the cap.

There are several design elements in the Draft Model Rule that would result in cap inflation. The states should maintain the integrity of the cap by:

1. Not exempting large industrial power generators if their emissions were included in the initial calculation of cap levels, or if they are exempted, adjusting the state cap downward by an amount equivalent to the generators' emissions.
2. Not exempting emissions from fossil fuels where biomass input exceeds any arbitrary threshold, such as the 50% proposed. Whether or not biomass input is present, the burning of fossil fuels will emit carbon and should be counted.
3. Not creating a new set of early reduction credits for the 2006-2008 period outside of the cap. States should address early reduction credits within their own allocation schemes, and credits should be included in their caps.

Offsets

For the public and other stakeholders to have confidence that the full emissions reductions are truly taking place, there must be a well-constructed set of standards for what can qualify as an offset project. The Memorandum of Understanding included the so-called five-point test, which would require offsets to be “real, surplus, verifiable, permanent and enforceable.” These standards represent a strong basis for ensuring the integrity of offset projects.

Surprisingly, this set of standards is absent from the Draft Model Rule. It is crucial that the final Model Rule include the five-point test.

The details for the implementation of these standards are equally crucial to the integrity of the program. Given the potentially global geographic scope of the offsets, it could be difficult for the states to verify that projects have resulted in “real” reductions.

Two other standards of special concern are “surplus” and “permanent.” The interpretation of the “surplus” standard should include regulatory, financial, and environmental additionality. The mechanisms being developed by the states to account for regulatory and financial additionality seem promising. Environmental additionality, however, must be a clear part of the interpretation of “surplus” as well. It is counter-productive to let projects that damage the environment – such as nuclear power – receive credit as projects that protect the environment.

In the interests of ensuring that emissions reductions are “permanent,” we ask that the states not include non-biomass sequestration technologies. These technologies are unproven in their ability to store carbon permanently.

Consumer Allocation

The final Model Rule should in no way imply that generators are entitled to allowances. The data and European experiences with cap-and-trade suggest that allocating the full

75% of allowances to generators would result in windfall profits, along with the opportunity cost of not having used those allowances to help consumers. Clean Water Action would prefer to see 100% of the allowances auctioned off for consumer benefit, and raising the 25% floor would be helpful in guiding the state rulemakings in this direction.

Further, we are concerned that the language regarding “strategic energy purposes” language in the 25% mandatory allocation section of the Rule will be too open to interpretation during state implementation and that states will stray from activities that reduce the costs of the program for consumers. Clean Water Action would prefer that the term “strategic energy purposes” be struck from this section of the Rule. Alternately, the states could clarify that the provision refers only to activities that reduce the costs of the program for consumers – while meeting tests of financial and regulatory additionality and not threatening the environment or public health.

We appreciate the opportunity to provide comment on the Draft Model Rule and look forward to continued collaboration with the Staff Working Group.

Sincerely,

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