



For a thriving New England

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**BY ELECTRONIC FILING ONLY**

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Subject: RGGI Third Program Review  
Initial Comments of Conservation Law Foundation

Dear Mr. McKeon and Members of the RGGI Board,

Below please find initial comments from Conservation Law Foundation (“CLF”) on the Regional Greenhouse Gas Initiative (“RGGI”) Third Program Review, which began earlier in 2021. This Program Review presents a timely and necessary opportunity to update the RGGI program to consider the latest climate science, evolving state environmental laws and policies, and environmental justice and equity considerations.

CLF is a non-profit, member-supported environmental advocacy organization working to advance the equitable decarbonization of our economy in every New England state, all of which participate in RGGI. CLF has actively participated in the two prior RGGI program reviews, and in efforts to implement the RGGI program and program updates across New England.

Much of the revenue which has been generated by participation in RGGI to date has been re-invested in clean energy and energy efficiency programs which help RGGI states’ meet their climate objectives. At the same time, much has changed since the last program review and important reforms to the program are needed to make it more ambitious, effective, and equitable.

***Topic 1: Regional CO<sub>2</sub> Emissions Cap and Cap Adjustment for Banked Allowances<sup>1</sup>***

Multiple New England states have enacted laws requiring aggressive reductions of greenhouse gas emissions; many also have significantly strengthened their Renewable Portfolio Standards (“RPSs”). Similar change is underway at the federal level, where the Biden Administration has

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<sup>1</sup> Our initial comments are organized by the topics outlined in “RGGI Program Review: Topics for Consideration,” available at: [https://www.rggi.org/sites/default/files/Uploads/Program-Review/9-13-2021/RGGI%20Topics%20for%20Public%20Participation\\_2021-09-07.pdf](https://www.rggi.org/sites/default/files/Uploads/Program-Review/9-13-2021/RGGI%20Topics%20for%20Public%20Participation_2021-09-07.pdf).

set a national goal of eliminating carbon emissions from the electricity sector by 2035.<sup>2</sup> The latest climate science shows that aggressive action towards reducing emissions is warranted; the International Panel on Climate Change (“IPCC”) reported this summer on the urgency of the climate crisis and the role of the electricity sector in causing climate change and its resultant damage.<sup>3</sup>

Consistent with these aggressive efforts to cut greenhouse gas emissions targets and avoid or mitigate the worst impacts of climate change, the RGGI emissions cap should be designed for a trajectory reaching zero percent emissions by 2035. Due to the lack of ambition shown in prior program reviews with respect to the emissions cap, we have lost crucial time to reduce emissions from the electric sector, and the emissions cap must now decrease at a faster rate over a shorter period of time. However, with proper program adjustments, this cap can be cost-effectively achieved.

Because the existing emissions cap runs through 2030, and because the existing cap amounts and trajectory are insufficient to allow the RGGI program to reach zero percent emissions by 2035, an adjustment of the existing cap through 2030 will be required. Even with an adjustment to the existing cap, however, it is likely that trajectory of the cap before and after 2030 will need to be non-linear, in contrast to the cap trajectory adopted in prior program reviews.

### ***Topic 2: Environmental Justice and Equity Considerations***

The RGGI program and the RGGI Program Review process must be reformed to improve the amount and quality of public participation, develop and conduct equity analyses, and increase investments in overburdened communities. These reforms should draw, in part, on the findings of the 2019 report from Rutgers and The RGGI Project Series entitled “Field Notes: Equity and State Climate Policy,” which assessed the challenges and opportunities faced by the RGGI region in directing program benefits to disadvantaged communities and individuals in equitable ways.<sup>4</sup> We must ensure that environmental justice populations, tribal groups, the labor sector, and other equity populations have access to the financial and technical resources they need to participate meaningfully in RGGI Program Review.

To this end, RGGI, Inc. and participating states should undertake the following changes. First, public notice of RGGI Program Review meetings and comment periods should be disseminated more widely, including by social media and using physical notices in high-traffic gathering

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<sup>2</sup> The White House, “President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies,” April 21, 2021, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>.

<sup>3</sup> IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Cambridge University Press, available at: [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Full\\_Report.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf).

<sup>4</sup> Herb, Jeanne and Marjorie Kaplan, “Field Notes: Equity and State Climate Policy,” September 2019, available at: <https://drive.google.com/file/d/1mB-12SYJHQV4VjFe4OItZFfvQPdLB-cz/view> (“States and stakeholders are realizing that a transition to a low-carbon future by mid-century will require significantly increased participation of disadvantaged communities and households in the benefits of climate and clean energy programs.”).

places such as grocery stores and community centers. Public notices should also be translated into multiple languages and posted in non-English media and aired on non-English radio. Further, RGGI, Inc. should facilitate greater public engagement by providing clear, accessible information in notices that contain plain-language information about the format and content of the hearing and the issues at hand.

RGGI, Inc. should also ensure that it has selected the appropriate venue for each public hearing. An appropriate venue will be accessible to all interested parties, including ADA access and including in proximity to public transit, where possible. It will also have technology available to ensure that interested parties who wish to attend the public hearing virtually are able to hear and offer comments during the meeting via an internet meeting platform, such as Zoom. Further, simultaneous language interpretation should be offered during meetings and public hearings, regardless of whether they are all virtual, hybrid, or in-person.

To facilitate orderly public meetings and hearings, interested parties should be encouraged to pre-register to attend and to provide comments. However, it is common for people to not be sure whether they will be able to attend a hearing until the last minute, and questions may arise during the course of the meeting. Accordingly, unregistered attendees should be admitted into the meetings and given the opportunity to participate and not simply observe. To ensure a maximum number of interested parties is able to attend and participate at public meetings and hearings, hearing dates and times should be carefully selected to ensure that people can join, and multiple iterations of each public meeting or hearing should be held whenever possible.

In addition to ensuring that public hearings for the RGGI Program Review are conducted in a just and equitable manner, revisions should be made to the design of the program, its mechanisms and its investment specifications to ensure that the program benefits communities most burdened by environmental and climate injustices. For example, the program should require that at least 70% of investments of funds derived from the RGGI program be made in environmental justice communities, which are typically overburdened by our electricity system and infrastructure and underserved by state electric sector programs funded by RGGI proceeds, including energy efficiency.<sup>5</sup> The program should also conduct equity analyses to show both prior investments and demographics of beneficiaries and emissions profiles and trends for participating power plants since the inception of RGGI, as well as the demographics of the communities in which those power plants are located. Whereas historically certain communities have been forced to bear the brunt of electricity sector environmental issues relating to air and water quality, natural resources, and climate change, any program seeking to remedy these issues should seek to ensure that these communities are the first to benefit.

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<sup>5</sup> Proposed legislation in Massachusetts calls for a minimum of 70% of annual proceeds from the proposed Transportation Climate Initiative to be used to benefit overburdened and underserved communities with an environmental justice population. *See An Act relative to transportation and environmental justice*, Bill S.2138/H.3264, § 1(c), available at: <https://malegislature.gov/Bills/192/SD2317>.

***Topic 3: Auction Mechanisms: Cost Containment Reserve (CCR) Trigger Price and Quantity, Emissions Containment Reserve (ECR) Trigger Price and Quantity, Minimum Reserve Price***

The trigger price for the Cost Containment Reserve (“CCR”) should be increased to reduce the quantity of allowances that enter the reserve. Any bank of surplus allowances remaining in circulation after 2025 should expire at such time, unless it can be demonstrated that there is a sound reason, based in equity and climate science, to maintain such bank. Otherwise, this bank will serve only to delay achievement of zero percent carbon emissions by 2035; to this point, maintenance of the bank has only reduced the diluting effect of the CCR, making clear the need to eliminate the same. If the CCR is retained, the trigger price should be dramatically increased, which will decrease the quantity of banked allowances.

Similarly, the Emissions Containment Reserve (“ECR”) trigger price has been set too low, resulting in missed opportunities to remove less expensive allowances from the market. In this program review, the ECR trigger price should be increased, and allowances in the ECR should be permanently eliminated from the RGGI program.

***Topic 5: Offsets***

The 2017 RGGI Model rule provides for offsets for landfill methane capture, avoided agricultural methane, and forestry or afforestation. In RGGI states that allow offsets, carbon dioxide budget sources may use these offsets to meet up to 3.3% of their carbon dioxide compliance obligation. Offsets should be completely and permanently eliminated from the RGGI program for two reasons. First, the majority of projects eligible for offsets will not reduce carbon dioxide emissions and will not reduce emissions from the electric sector. As a result, any offsets awarded under the RGGI program directly undermine a primary purpose of the program—reducing carbon dioxide from the electric sector. We fully support emissions reductions in other sectors of the economy, but such reductions are more appropriately and beneficially achieved through programs that directly address those sectors, rather than offsets in an electric-sector program.

Second, eligible offset projects may be located in areas with no physical nexus or proximity between the offsets and RGGI states, let alone the community in which an offset-benefitting power plant is located. As a result, parts of the country outside RGGI states can reap the benefits associated with emissions reductions from out-of-state offset projects, while continuing to expose disproportionately burdened communities in RGGI states to higher emissions. The threat posed by out-of-state offset projects is not theoretical. Under California’s cap-and-trade system, which covers the majority of economic activity, studies have shown that 75.6% of the offset allowances were issued for projects located outside the state.<sup>6</sup> As a result, more than three-quarters of the benefits of offset projects were realized outside of California.

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<sup>6</sup> Cushing, L., Blaustein-Rejto, D., Wander, M., Pastor, M., Sadd, J., Zhu, A., & Morello-Frosch, R. (2018). “Carbon trading, co-pollutants, and environmental equity: Evidence from California’s cap-and-trade program (2011–2015).” PLOS Medicine, 15(7). Available at: <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002604>.

*Topic 6: Additional Topics, Considerations, Objectives*

In addition to the foregoing recommended reforms, we recommend that the RGGI Model Rule be revised to phase out acceptance of emissions from biomass, combustibles, and waste-to-energy from the program, to the extent they are currently allowed, as use of these fuels does result in emission of carbon, as well as air pollutants that can result in serious harm to public health. We also recommend that the RGGI program and model rule be revised to prevent RGGI states from directing any RGGI program revenues to any state general funds or to other programs that are not consistent with the purpose of the RGGI program.

Finally, in recognition of policy commitments and legal mandates of some RGGI states to achieve net-zero greenhouse gas emissions by mid-century, the RGGI emissions cap should be based upon this number. The RGGI program should be developed with planning which considers local shifts in the energy mix and resultant reductions in greenhouse gas emissions; it should also consider the outcomes of state programs like Renewable Portfolio Standards (RPS) and Renewable Energy Standards (RES).

Thank you for your time and attention to this matter. Please do not hesitate to contact this office for further dialog.

Very truly yours,

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Conservation Law Foundation