Appalachian Mountain Club comments on the RGGI Model Rule
May 22nd, 2006

The Appalachian Mountain Club (AMC) appreciates the opportunity to provide comments on the proposed RGGI Model Rule. AMC is a regional recreational and conservation organization with nearly 90,000 members, the majority of which reside in RGGI participant states. We are very concerned about the environmental and human health impacts in our region from human-induced climate forcing, including the threats to the unique alpine areas of the Northeast's mountains. Therefore, we are encouraged by the leadership taken by RGGI states to work on a strategy to reduce greenhouse gas emissions from our region's fossil fuel powered electric generating facilities, and believe this approach could serve as a model for the nation.

The final Model Rule should be a meaningful advancement towards reaching the targets agreed to in the New England Governors and Canadian Eastern Premiers (NEG-CEP) Climate Action Plan. The control strategy must result in reasonable reductions in power plant emissions while maintaining reasonable prices for electricity consumers. The package program should seize this opportunity to make significant advances in energy efficiency and stimulate renewable power generation.

Regional Cap Level and Stringency

We ask that RGGI states revisit the regional budget and set it at approximately 119 million tons. Data provided to date by states, and accessible on the RGGI web site, indicate that current emissions of carbon dioxide are well below the proposed 121 million ton regional budget (see below table). The IPM modeling done for the RGGI states estimated an emission growth rate of 0.67% annually which would result in about 119 million tons in 2009 based on the average emissions from 2000-2004. AMC believes this is a more appropriate regional starting target.

Best Estimates of Total Annual Carbon Dioxide Emissions from RGGI States Eligible Sources

State	2000	2001	2002	2003	2004
CT	11,875,084	10,932,295	9,727,730	9,180,948	9,929,072
DE	7,403,897	7,645,302	7,663,163	7,415,535	7,534,152
ME	3,156,289	5,517,286	5,784,562	5,515,325	5,191,939
NH	5,178,731	4,862,446	5,556,992	8,478,382	8,812,538
NJ	21,954,958	20,177,617	21,145,665	20,543,331	21,133,145
NY	69,809,350	65,553,669	61,367,395	61,819,571	61,421,943
VT	429,725	317,136	299,630	383,809	378,407
Totals	**119,808,033**	**115,005,750**	**111,545,137**	**113,336,902**	**114,401,196**
				5 Yr Average:	**114,819,404**
			2009 projected	**w/ 0.67% growth:**	**118,717,743**

We are very concerned that some of the flexibility mechanisms in the model rule will further inflate the regional cap and make the program less effective at reducing the region's greenhouse gas emissions and do not accurately reflect the spirit of the MOU. The model rule as currently outlined could result in emissions which are higher than business as usual and not require a reduction in emissions until later years.

The states should limit exemptions and loopholes 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, reducing the state cap by an amount equivalent to the exempted units' annual emissions. In order to judge the implications of this element of the rule the states should immediately identify those units they think could be eligible for this exemption.
2) Not exempting emissions from fossil fuels where biomass input exceeds any arbitrary threshold, such as the 50% proposed. Carbon emissions do not go to zero over any arbitrary threshold, and should be calculated based on the proportion of fossil fuel input to any dual-fueled plant, except for de minimus use of fossil fuels. In addition, annual reporting should be required from all plants over 25 MW that burn fossil fuels to ensure compliance and improve state GHG inventories.
3) Address early reduction credits through a state's allocation scheme, not by inflating the cap and creating additional allowances of this type from the 2006-2008 period. In addition, any improvements in plant efficiency or reductions in emissions due to court orders or settlement agreements prior to December 2005 should not be eligible for early reduction credits.

RGGI, when adopted, could set an important precedent by capping and ultimately reducing CO2 emission from the power sector. But RGGI is a quite modest program that starts by capping carbon dioxide emissions above today's levels. The slight increase in emissions that is already allowed between now and the start of the program is a reasonable concession to the companies regulated by the program. Anything else that would inflate the cap should be rejected.

Offsets

Throughout the stakeholder process we had been assured by state officials that any offsets program would be bound by the so-called five point test (real, surplus, verifiable, permanent, and enforceable) with language that is similar to that included in the Massachusetts 310 CMR 7.29 regulations. We were pleased to see that the MOU contained the following language: "*at a minimum, eligible offsets shall consist of actions that are real, surplus, verifiable, permanent and enforceable*". We were surprised and disappointed not to see this same language in the model rule. These criteria must be clearly spelled out in the model rule for the public to have confidence that any offsets used in the RGGI program are equal to on-system emissions reductions, and to ensure our support for the program.

Additionally, we have serious concerns about the ability of offsets to meet a clear five point test, considering some of the offset categories and potentially very broad geographic scope of offsets contained in the draft model rule. We are still examining the protocols for determining the eligibility of the five offset categories outlined in the model rule and will submit more detailed comments at a later date.

Consumer Allocation & Strategic Energy Purposes

The model rule and any supporting documents should reject anything which creates the impression that generators are entitled to allowances. We believe that 100% of the allowances should be allocated to consumers and that the MOU and Model Rule establish unjustifiably low minimum percentages for the consumer allocation. Data provided to the state working group suggests that there will be significant windfalls to generators at the direct expense of consumers unless the predominant share of allowances is reserved for consumers. If the Model Rule does not allocate all allowances to consumers, it should make clear that the percentage reserved for consumers is a minimum which each state is free to raise, and that the percentage allocated to consumers should increase over time.

We also have serious questions about the scope of the strategic energy purposes provision in the allocations section. There must be much better definition of this term. At a minimum, we recommend that the model rule clarify that all of the "consumer benefit or strategic energy purpose" allowance value must be used to: (1) reduce the costs of the RGGI program to the state's electricity ratepayers; (2) provide additional benefits for activities or projects that would not have occurred anyway and not replace existing programs or investments; and (3) support programs and activities that do not pose a significant risk to human health and the environment.

Leakage

"Leakage" has the potential to undermine the integrity of the RGGI program, should the program lead to increased sales of dirty power into the RGGI region and a net increase in emissions. We believe that the states can and should develop a policy which ensures that the RGGI program reduces emission from in-region power plants and places the same requirements on imported power from outside the region, leading to net reductions in emissions associated with electric power use to achieve the 10% by 2018 target. We intend to participate in the process for addressing this issue and to offer specific proposals for dealing with leakage that could be incorporated into the model rule as well as discussed by the leakage task force.

In conclusion, we will be providing much more detailed comments on the model rule before the end of the comment period. We look forward to working with you to ensure that the final model rule has the essential elements to provide the public with confidence that this critical, precedent-setting program to address global warming moves forward with true environmental integrity.

We appreciate the time and effort that state staff and officials have already put into this process. We look forward to working with individual states once the RGGI model rule has been finalized. Thank you for the opportunity to comment, and please contact us with any questions at gmurray@outdoors.org or 603-466-2721 x111

Sincerely,

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