



State of New Jersey
DIVISION OF THE RATEPAYER ADVOCATE
31 CLINTON STREET, 11TH FL
P. O. BOX 46005
NEWARK, NEW JERSEY 07101

JON S. CORZINE
Governor

SEEMA M. SINGH, Esq.
*Ratepayer Advocate
and Director*

May 22, 2006

Staff Working Group
Regional Greenhouse Gas Initiative

Re: Comments on RGGI Draft Model Rule from the
State of New Jersey Division of the Ratepayer
Advocate

Dear Staff Working Group Members:

Thank you for providing the interested parties with an opportunity to comment on the draft Model Rule. The New Jersey Division of the Ratepayer Advocate (Ratepayer Advocate) congratulates you on your hard work and offers our comments below. In general, the Ratepayer Advocate believes the Rule should aim to keep transaction costs as low as possible. To this end, it should include provisions dealing with day-to-day operations such as allowance trading, compliance verification, and penalty application in case of non-compliance to ensure facilitation through regional coordination as far as possible. The draft Rule should include modified language to minimize the possibility of multiple interpretations. Specifically, we propose two changes, the stipulation that 25% of the allowance allocation goes *either* to a consumer benefit *or* strategic energy purpose should be eliminated and allocated solely to consumer benefits; second, it needs to be made explicit that off-sets must meet clear tests of additionality and permanence in all states, in light of any prevailing rules and regulations with respect to non-electric sector greenhouse gas emissions. A key factor determining the success of the program is the extent to which different states adopt similar approaches and implement them in a coordinated manner so as to avoid market failure and price distortions.

Additional Comments

1. Allocation of allowances

There should be more specificity in the draft Model Rule regarding the design of the initial allocation of allowances by giving states considerable latitude on how to allocate up to 75% of their allowances with the remaining 25% be set aside for consumer benefits. There is, however, considerable analytical and empirical evidence that the distributional impacts of cap-and-trade systems are highly sensitive to the design of the

initial allocation of allowances. As an addendum to the Model Rule, the Staff Working Group should provide separate and explicit guidance to states on the distributional effects of different initial allowance allocation approaches (auctions, grandfathering, and continuous updating) and explain that consumer benefits can be maximized if state programs are carefully designed.

The language in the draft Model Rule relating to "Consumer Benefit or Strategic Energy Purpose" should be changed simply to "Consumer Benefit" and the Rule should be explicit about the types of uses to which the consumer benefit account will be put (e.g., energy efficiency, mitigating ratepayer impacts, clean energy, etc.).

2. Biomass co-firing

The draft Model Rule should be made more strict and allow only the biomass portion of the facility (determined on an annual basis) to be exempt from the cap.

3. Leakage

The draft Model Rule makes no mention of either an in-state or RGGI-wide program to monitor leakage and its effects. In earlier proposals, there was a 5% set-aside in the allowances for a Strategic Carbon Fund, whose proceeds would have been used to mitigate leakage through special state-wide programs. Consideration should be given to reinstating this provision in the Model Rule or to inserting an explicit mandate that some of the proceeds of allowance auctions be used to establish a leakage monitoring and mitigation program.

Thank you for your consideration and attention to comments submitted on the draft Model Rule. We look forward to the future implementation of RGGI in New Jersey. Please feel free to contact me should you need anything further or wish to discuss our comments.

Sincerely,

SEEMA M. SINGH, ESQ.
RATEPAYER ADVOCATE

By: _____
Paul Flanagan, Esq.
Litigation Manager