



NUCLEAR ENERGY INSTITUTE

MARY M. QUILLIAN
Director, Business & Environmental Policy

May 22, 2006

Mr. Franz Litz
Chair of the Regional Greenhouse Gas Initiative
Senior Attorney, New York Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, NY 12233-1500

Dear Mr. Litz:

The Nuclear Energy Institute¹ (NEI) appreciates the opportunity to comment on the Regional Greenhouse Gas Initiative (RGGI) Public Review Model Rule Draft (Model Rule). These comments focus on two issues:

- A model rule for implementing a cap-and-trade system for carbon dioxide from the electric sector should address the role of non-greenhouse gas emitting generation technologies, since non-emitting generation will be vital in achieving reductions.
- Projects qualifying as carbon dioxide offsets should demonstrate that reduced, avoided or sequestered greenhouse gas (GHG) emissions are real, surplus, verifiable, permanent, and legally unencumbered. Simple and straightforward offset requirements will keep the program flexible.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory aspects of generic operational and technical issues. NEI members include all companies licensed to operate commercial nuclear power plants in the United States, including the six companies operating the nuclear power plants in the RGGI states, nuclear plant designers, major architect/engineering firms, fuel suppliers, and other organizations and individuals involved in the nuclear energy industry.

The Vital Role of Non-Greenhouse Gas Emitting Generation

The RGGI Memorandum of Understanding (MOU) calls for stabilizing and then reducing carbon dioxide (CO₂) emissions from the electric sector in participating states. This is only accomplished if the carbon-intensity of the electric generation portfolio is lowered. Lowering the sector's carbon intensity in a region already dominated by natural gas and nuclear generators, particularly as demand grows, will require additional non-greenhouse gas emitting (non-emitting) generation to be brought online.

The MOU outlines a control program that utilizes a CO₂ cap-and-trade system, early reduction credits and offset credits. The MOU indicates that each participating state will individually decide how to allocate allowances as long as 25 percent of the allowances are used for consumer benefit or strategic energy purposes. Such purposes will also be determined by each state but can include the promotion of non-emitting energy technologies, such as nuclear energy.

The MOU suggests non-emitting generation be recognized through the 25 percent set-aside for consumer benefits and strategic energy purposes. This suggestion should be more clearly reflected in the Model Rule.

During discussion of allowance allocation, the Model Rule requires each state to allocate 25 percent of its allowances to consumer benefits and strategic energy purposes without explaining what these purposes are. It is this section of the rule where each state should insert its specific description of projects or efforts that qualify as "consumer benefits and strategic energy purposes." As a place holder in the Model Rule, the suggested purposes should appear.

Specifically, section XX-5.3(b) should read:

Consumer benefit or strategic energy purpose allocation. The REGULATORY AGENCY must allocate twenty-five percent of the NAME OF RELEVANT RGGI STATE's CO₂ trading program base budget to purposes that benefit consumers or fill a strategic energy need. Consumer benefit and strategic energy purposes include promotion of energy efficiency, direct mitigation of electricity ratepayer impacts, promotion of non-carbon-emitting energy technologies including renewable and nuclear energy, stimulation or rewarding of investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential, and/or funding administration of this CO₂ Budget Trading Program. This allocation could be facilitated by depositing these

allowances for interim holding into the Consumer benefit and strategic energy purposes account, from which they will be distributed to consumer benefit and strategic energy purposes. **[This section will be replaced by a State's specific description of consumer benefit and strategic energy purposes and the method to allocate allowances to those purposes.]**

The description of an individual state's distribution of allowances to consumer benefit and strategic energy purposes, including what qualify as such purposes, belongs in the allocation section of the Model Rule, not the definition section.

Though the description of consumer benefit and strategic energy purposes appears in the definition of the *Consumer benefit or strategic energy purposes account* (section XX-1.2(aa), the MOU does not require states to use such an account. A state may opt to distribute these allowances directly. Therefore it is most appropriate for the description of consumer benefit and strategic energy purposes to appear directly in the allocation section of the rule.

Keep the Offsets Program Flexible and Objective

Other emission reduction programs recognize non-emitting generation through offsets. The offset section of the Model Rule should allow for future expansion that might include the recognition of non-emitting generation, such as nuclear up-rates or new nuclear facilities.

Unlike state directed allowance allocation, the rules of the offset program are established in the Model Rule. The Model Rule dictates the general and specific offset requirements any currently participating state or future participating state must follow. It is imperative that the offset program established in the Model Rule allow participating states to demonstrate successful reductions, despite potential load growth in those states. Furthermore, if the initially stated RGGI goal of attracting other states – even all fifty – to participate holds, the stringency of the offset program cannot become the excuse for other states not joining the program. In other words, this offset program must be flexible.

To this end, the Model Rule should require that offset projects simply demonstrate reductions are real, quantifiable, verifiable, surplus and legally unencumbered. The Model Rule should explicitly state that offset reductions may be achieved through direct emission reductions, emissions avoidance or sequestration.

Other thresholds for offset projects are not warranted, and may, in fact, deter adoption of the RGGI program structure. Hurdles for financial additionality, project size or market penetration will only obfuscate the goal of the program: to reduce emissions beyond today's level or what regulations will dictate in the future. The subjective determination of why a project comes to fruition is not the role for a state or regional agency. If GHG emissions are reduced, avoided or sequestered, it should not matter what financing mechanism or policy allowed an offset project to be completed.

Since all non-emitting technologies help reduce GHG emissions in the same way, by avoiding emissions, all non-emitting technologies should be treated equally. To this end, two corrections in XX-10.5(d) are required. In section XX-10.5(d)(1)(i) the word "renewable" should be replaced by "non-emitting" or "non-GHG-emitting," because the use of nuclear energy to supply space heating or hot water would also reduce the consumption of fossil fuel.

Section 10.5(d)(1)(viii) should be revised to say that fuel switching to a less carbon-intensive fuel for use in industrial or commercial processes and combustion systems qualify. Clearly the use of less carbon-intensive fuels in a combustion system will reduce GHG emissions. If the combustion system could be replaced by a non-emitting system altogether, an even greater emissions reduction would be realized. Industrial or commercial processes, like the supply of process heat, can be accomplished with nuclear energy. Facilities like refineries, chemical plants and textile mills have considered using nuclear energy for steam supplies before. Mandatory GHG emission reductions coupled with high fossil fuel costs could lead such manufacturers to adopt nuclear energy to replace boilers fired on fossil fuel. This type of project clearly meets the intent of the section and should be included.

Conclusion

The goal of RGGI is to reduce CO₂ emissions while maintaining a reliable and affordable supply of energy in the region. Non-emitting electricity generation, including nuclear energy, is necessary to meet this goal. The Model Rule should be written to allow for recognition of additional non-emitting capacity, including nuclear capacity.

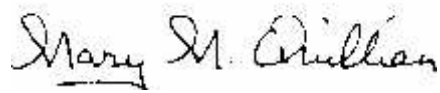
The MOU describes the public benefit and strategic energy purposes set-aside as a mechanism that may be used to recognize the vital role of non-emitting generation in achieving CO₂ reductions. This should be clearly restated in the Model Rule with explicit recognition of renewable and nuclear energy as examples.

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The offset program should be sufficiently flexible to allow for adjustments and inclusion of additional offset sources as the CO₂ cap-and-trade program is implemented and assessed. Multiple complex additionality tests and thresholds reduce flexibility. The offset program should simply require demonstration that GHG emissions reduced, avoided or sequestered are real, quantifiable, verifiable, surplus and legally unencumbered.

If you have questions regarding these comments, please contact me (202-739-8013, mmq@nei.org).

Sincerely,

A handwritten signature in dark ink, reading "Mary M. Quillian". The signature is written in a cursive, flowing style. The first name "Mary" is written with a large, prominent "M". The middle initial "M." is written in a smaller, more compact script. The last name "Quillian" is written in a similar cursive style, with a long, sweeping tail on the "n".

Mary M. Quillian