



COMMONWEALTH OF MASSACHUSETTS  
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ENERGY AND ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENERGY RESOURCES  
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Commissioner

October 2, 2018

VIA HAND DELIVERY

Steven T. James  
Clerk of the House of Representatives  
24 Beacon Street, Room 145  
State House  
Boston, MA 02133

RE: Proposed Amendments to 225 CMR 13.00; Submission to General Court

Dear Clerk James:

On behalf of the Massachusetts Department of Energy Resources (DOER) and in accordance with Section 12 of Chapter 25A of the Massachusetts General Laws, enclosed for filing please find proposed amendments to 225 CMR 13.00-DOER C02 Budget Trading Program Auction Regulation (RGGI Auction Regulations) for referral to the Joint Committee on Telecommunications, Utilities, and Energy.

These proposed amendments implement the changes announced by Governor Baker on August 23, 2017, to revise the Regional Greenhouse Gas Initiative (RGGI) program by reducing the regional cap and implementing programmatic changes, including the auction process, consistent with a model rule developed by the nine RGGI states. The overall changes to the RGGI program will cause real reductions in greenhouse gas emissions, including a 30% reduction in the cap from 2020 to 2030 and, in accordance with the Green Communities Act, the economic proceeds from the auctions will be invested in programs to reduce greenhouse gas emissions.

These proposed revisions to the RGGI Auction Regulations are being submitted to your office for further action, after complying with all applicable provisions of Chapter 30A of the Massachusetts General Laws, except Section five. Also enclosed please find a summary of the proposed changes to the RGGI Auction Regulations, in layman's terms, in accordance with Section 12 of Chapter 25A.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Judith Judson". The signature is written in a cursive style with a long, sweeping underline.

Judith Judson  
Commissioner

Enclosures

Summary of 225 CMR 13.00  
*DOER CO<sub>2</sub> Budget Trading Program Auction  
Regulation*

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative effort among Northeast and Mid-Atlantic states<sup>1</sup> to reduce CO<sub>2</sub> emissions from the power sector. Massachusetts was authorized to participate in the RGGI program by the Green Communities Act of 2008, through G.L. c. 21A, § 22. Through independent regulations, based on a model rule, each state requires

its large, fossil-fueled, electric generators to obtain allowances to emit carbon dioxide.

Further details about the RGGI program can be found here: <https://www.rggi.org/program-overview-and-design/elements>

The Department of Energy Resources (DOER) is proposing amendments to 225 CMR 13.00, DOER CO<sub>2</sub> Budget Trading Program Auction Regulation. The Department of Environmental Protection is concurrently amending 310 CMR 7.70, the Massachusetts CO<sub>2</sub> Budget Trading Program regulation. These amendments implement changes to the RGGI Model Rule that all of the RGGI participating states agreed to make, as a result of a 2016 Program Review. The final amendments include:

- A reduction in the regional CO<sub>2</sub> budget (the RGGI cap) that will start at 75,147,784 tons of CO<sub>2</sub> in 2021, and will decline by 2.275 million tons of CO<sub>2</sub> per year thereafter through 2030, resulting in a total 30% reduction in the RGGI cap from 2020 to 2030, which will also align the cap more closely with current emissions trends,
- Additional adjustments to the RGGI cap will be made in the years 2021-2025 to account for the private banking of allowances as determined at the end of 2020,
- Modifications to the existing Cost Containment Reserve (CCR) to reduce the current size of the CCR, and raise the trigger price for the CCR. The CCR is designed to mitigate price spikes by increasing the quantity of allowances available at auction by a limited amount if the prices exceed the established trigger prices,
- The establishment of an Emissions Containment Reserve (ECR), which will withhold CO<sub>2</sub> allowances from the auction to secure additional emission reductions if prices of allowances fall below established trigger prices,
- Elimination of the RGGI offsets project program in MA. MA, however, will still accept offset project allowances approved by other RGGI states, and

The overall changes to the RGGI program will yield real reductions in CO<sub>2</sub> emissions and, in accordance with the Green Communities Act, the economic proceeds from the auctions will be invested in programs to reduce greenhouse gas emissions.

Similar regulatory changes are being made in each of the RGGI states to realign the RGGI regional emission cap closer to current emission levels and to simplify, strengthen, and improve the effectiveness of the RGGI program. Each of the RGGI states has agreed to adopt these proposed changes so that the state programs are consistent across the region.

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<sup>1</sup> Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont.

# HOUSE . . . . . No. 4920

An Act Communication from the Department of Energy Resources of the Executive Office of Energy and Environmental Affairs (under the provisions of Section 12 of Chapter 25A of the Massachusetts General Laws) submitting amendments to 225 CMR 13, DOER CO2 Budget Trading Program Auction Regulation (RGGI Auction Regulations). Telecommunications, Utilities and Energy.

## The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court  
(2017-2018)

### DOER CO<sub>2</sub> Budget Trading Program Auction Regulation

- 13.01: Purpose
- 13.02: ~~Authority~~ Scope (Reserved)
- 13.03: Definitions
- 13.04: Multi-State Auction Option
- 13.05: Commencement and Timing of CO<sub>2</sub> Allowance Auctions
- 13.06: CO<sub>2</sub> Allowance Auction Procedures
- 13.07: Auction Notice
- 13.08: Participant Eligibility
- 13.09: Bid Submittal Requirements
- 13.10: Bid Selection
- 13.11: Transfer of Allowances
- 13.12: Return of Unsuccessful Bids
- 13.13: Announcement of Results
- 13.14: Voluntary Renewable Energy (VRE) Accounting

#### 13.01: Purpose

The purpose of 225 CMR 13.00 is to establish rules for the conduct of auctions of CO<sub>2</sub> allowances to be administered by the Department of Energy Resources or its agent as part of the Massachusetts component of the CO<sub>2</sub> Budget Trading Program, which is designed to stabilize and then reduce anthropogenic emissions of CO<sub>2</sub>, a greenhouse gas, from CO<sub>2</sub> budget sources in an economically efficient manner that minimizes costs to electricity consumers. 225 CMR 13.00 complements the provisions of the Department of Environmental Protection regulation, 310 CMR 7.70.

#### 13.02: ~~Authority~~ Scope (Reserved)

~~225 CMR 13.00 is promulgated pursuant to the authority of M.G.L. c.25A § 6, and c.21A § 22.~~

### 13.03: Definitions

This regulation incorporates by reference the definitions established in the Department of Environmental Protection Regulations, 310 CMR 7.70. In addition, the following definitions shall apply:

Bidder. A party qualified, pursuant to 225 CMR 13.09, to participate in a CO<sub>2</sub> Allowance Auction.

Clearing Price. The specified monetary value assigned to a CO<sub>2</sub> allowance as determined by the bids of buyers, given the rules and specific format of the auction.

Department. The Massachusetts Department of Environmental Protection, established pursuant to M.G.L. c. 21A, § 7.

DOER. Massachusetts Department of Energy Resources, established pursuant to M.G.L. c. 25A, § I, or its designated agent, pursuant to 225 CMR 13.06(1).

DOER Contact Person. An employee of DOER designated to communicate with the public regarding CO<sub>2</sub> Allowance Auctions as identified in the Guidelines to 225 CMR 13.00.

Guidelines. A set of procedures, including forms, as developed by the DOER to assist in compliance with the requirements of 225 CMR 13.00. The Guidelines may take the form of the Auction Notice, as set forth in 225 CMR 13.07.

Participating State. A state that has established a regulation corresponding to 225 CMR 13.00, or is authorized by law to participate in the CO Budget Trading Program.

RGGI. The Regional Greenhouse Gas Initiative which is a cooperative effort to reduce carbon dioxide emissions by Northeastern and Mid-Atlantic states, as well as other states and jurisdictions should such parties elect to participate. RGGI is supported by the Regional Greenhouse Gas Initiative, Inc., a not for profit corporation formed to provide technical and scientific advisory services to participating states in the development and implementation of the CO<sub>2</sub> Budget Trading Program.

Reserve Price. The minimum acceptable price for each CO<sub>2</sub> allowance in a specific auction. The minimum reserve price in calendar year 2014 shall be \$2.00. Each calendar year thereafter, the minimum reserve price shall be 1.025 multiplied by the minimum reserve price from the previous calendar year, rounded to the nearest whole cent. ~~At an auction in which CCR allowances are sold, the reserve price for the auction shall be the CCR Trigger Price.~~ Table 3 shows the Reserve Price for each calendar year through 2030.

<u>Table 3. Reserve Price</u>											
2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
\$2.26	\$2.32	\$2.38	\$2.44	\$2.50	\$2.56	\$2.62	\$2.69	\$2.76	\$2.83	\$2.90	\$2.97

(2) The auction format shall be a Sealed Bid, Uniform Price Auction.

(3) Prior to the end of each Control Period or Interim Control Period, CO<sub>2</sub> allowances in a quantity equal to the number of CO<sub>2</sub> Allowances allocated to the Auction

Account for such Control Period will be available for sale. Such CO<sub>2</sub> allowances will be available for sale by allocation year. DOER may require that allowances are sold in minimum lot sizes. In such event, such lot sizes shall be published in the Auction Notice pursuant to 225 CMR 13.07(1). No more than 50% of the allowances from an allocation year may be available for sale in advance of the respective allocation year; up to four years in advance of such allocation year.

(4) DOER shall post a calendar of proposed auction dates on the CO<sub>2</sub> Allowance Auction Website. The calendar shall include the auction format and the number of allowances and allocation years of allowances to be auctioned at each auction. DOER may periodically modify the contents of the calendar, provided that the information relevant to the next scheduled auction shall be fixed no later than 45 calendar days prior to such auction, consistent with 225 CMR 13.07(1).

(5) Auctions of CO<sub>2</sub> allowances shall be held with a reserve price. DOER is not obligated to sell CO<sub>2</sub> allowances if the reserve price is not met.

(6) Auctions of CO<sub>2</sub> Allowances shall include a Cost Containment Reserve and a CCR Trigger price. CO<sub>2</sub> CCR allowances shall only be sold at an auction in which total demand for allowances, above the CCR trigger price, exceeds the number of CO<sub>2</sub> allowances available for purchase at the auction, not including any CCR allowances.

(7) Auctions of CO<sub>2</sub> Allowances shall include an Emissions Containment Reserve and an ECR Trigger price shown in Table 2. above. Starting in calendar year 2021 and each year thereafter, CO<sub>2</sub> allowances shall be withheld from sale at an auction in accordance with the following:

(a) CO<sub>2</sub> allowances shall be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the ECR trigger price shown in Table 2, above.

(b) If the CO<sub>2</sub> ECR trigger price is met, then the maximum quantity of CO<sub>2</sub> allowances that may be withheld from that auction will be equal to the quantity shown in Table 4 below, minus the total quantity of CO<sub>2</sub> allowances

that have been withheld from any prior auction in that calendar year.

2021	2022	2023	2024	2025	2026	2027	2028	2029	2030 ru thereaft
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- d) Quantity and allocation years of Massachusetts CO<sub>2</sub> Allowances to be auctioned,
- (e) Reserve Price,
- ~~(f)~~ Quantity and trigger price of Cost Containment Reserve,
- ~~(f)~~~~(g)~~ Quantity and trigger price of Emissions Containment Reserve.
- ~~(g)~~~~(h)~~ Required bid format,
- ~~(h)~~ (i). Instructions for submitting the qualification application,
- ~~(i)~~ (j) Instructions for submitting acceptable financial surety,
- ~~(j)~~ (k) Procedures for the conduct of the auction,
- ~~(k)~~ (l) Participation limitations,
- ~~(l)~~ (m) Other pertinent rules or procedures of the auction as may be required to ensure a transparent, fair and competitive auction, and
- ~~(m)~~ (n) Identification of a DOER Contact Person for further information.

### 13.08: Participant Eligibility

(1) DOER, in consultation with- the Department, shall select from List A below the categories of bidders eligible to participate in each auction, provided, however, that owners of CO<sub>2</sub> budget units located in Massachusetts ("MA CO<sub>2</sub> budget units") shall be eligible to participate in all auctions.

#### List A: Categories of bidders:

Category No. 1: Owners of CO<sub>2</sub> budget units located in Massachusetts.

Category No.2: Owners of CO<sub>2</sub> budget units located outside of the Commonwealth but within those states that have final CO<sub>2</sub> budget trading rules in place at the time of the auction and are RGGI Participating States.

Category No.3: Other market participants including but not limited to: a. owners of fossil-fuel-fired generation units located outside the participating states;  
b. brokers;  
c. environmental groups;  
d. financial and investment institutions;  
e. generators that do not emit CO<sub>2</sub> or do emit CO<sub>2</sub> but are not subject to the CO<sub>2</sub> Budget trading program in Massachusetts or a Participating State.

(2) DOER may modify the categories of participants as it deems necessary.

### 13.09: Bid Submittal Requirements

(I) Qualification Application

include the reasons therefore, and applicants will be given a reasonable opportunity to provide additional information to cure such deficiencies.

(f) Once an application has been approved, that bidder shall be eligible to participate in all subsequent CO<sub>2</sub> Allowance Auctions, provided there has been no material change to the information provided in the qualification application, and provided that the applicant meets the eligibility criteria of 225 CMR 13.08. If there is any material change to the information submitted in the bidder's qualification application, the qualification expires and a new qualification application must be submitted.

(h) DOER may suspend or revoke its approval of a qualification application if the bidder fails to comply with 225 CMR 13.09.

### (2) Surety Requirement

(a) Bidders shall be required to provide financial surety in the form of a bond, cash, certified funds, or an irrevocable stand-by letter of credit, in a form acceptable to the DOER. A bidder's eligibility to bid in any auction shall be limited to the level of financial security provided. Financial surety may be forfeited to and retained by the DOER in the event the bidder's offer is accepted in a CO<sub>2</sub> Allowance Auction and the bidder fails to tender payment of the full amount when due.

(b) Bidders may request return of their surety at any time prior to or following any auction, and the DOER shall return said surety provided that the Commonwealth has no current or pending claim to such surety as a result of a failure of the bidder to comply with 225 CMR 13.09(2) or to pay the full amount of its accepted bid when due. Return of such surety to the bidder voids the bidder's ability to participate in subsequent auctions unless a new surety is submitted to the DOER pursuant to the provisions of 225 CMR 13.09.

(c) The surety requirements of 225 CMR 13.09 may be modified by DOER at any time prior to the applicable auction date, and shall be published no later than 45 calendar days prior to such auction on the CO<sub>2</sub> Allowance Auction Website.

(d) In the event that DOER modifies the surety requirements, bidders shall meet the new surety requirements before the next auction.

### (3) Bid Submittal

(a) Once an application has been approved, and provided there has been no material change to the information provided in the application, bidders seeking to bid in any subsequent auction shall complete and submit an Intent to Bid on or before the deadline specified in the Auction Notice.

(b) All bids shall be in a form prescribed by DOER, which shall be made available electronically on the CO<sub>2</sub> Allowance Auction Website.

(c) All bids submitted shall be considered binding offers for the purchase of allowances under the rules of the auction.

(d) All qualified maximum bids shall be limited to the amount of financial surety provided by the qualified bidder pursuant to 225 CMR 13.09(2).

## 13.14: Voluntary Renewable Energy (VRE) Accounting

Beginning in 2010 and annually thereafter, DOER shall submit to the Department a report documenting the following:



- (a) The number of Massachusetts RPS-eligible Renewable Energy Certificates purchased voluntarily by retail customers in Massachusetts in the preceding year, inMWh;
- (b) The annual average C02 emission rate for all hours of electricity generation in lbs. C02/MWh as provided in the most recently available version of the ISO New England Electric Generator Air Emissions Report;
- (c) The total number of C02 allowances attributable to such voluntary purchases in Massachusetts of said Massachusetts RPS-eligible Renewable Energy Certificates; and,
- (d) All calculations used to determine the amount referenced in 225 CMR 13.14(c).

#### 13.15: Emission Containment Reserve Accounting

Beginning in 2021 and annually thereafter. DOER shall submit to the Department -a report documenting the number of C02 allowances withheld from the auction in the preceding year, because of a trigger of the Emissions Containment Reserve.