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Debra A. Howland

THE STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-2431

FAX (603) 271-3878

Website:
www.puc.nh.gov

July 10, 2012

Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301-2429



Re: DE 10-188, Core Electric and Gas Energy Efficiency Programs
HB 1490 – RGGI

Dear Ms. Howland:

Attached is a copy of HB 1490, "an act relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions." This law became effective on June 23, 2012 and allocates a portion of the RGGI sale of allowances to fund electric distribution company CORE energy efficiency programs that are funded by the System Benefits Charge (SBC) funds. The electric utilities are due to file their 2013-2014 energy efficiency programs on August 31, 2012 and will need to consider the impact of this new law on their budgets. Staff and the parties have already had preliminary discussions during the most recent CORE Quarterly Meeting about the impact of this law. Staff is filing this law in this docket so that all persons on the service list have a copy of it and anyone monitoring this docket will be able to view it in Docket Book.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Marcia A.B. Thunberg".

Marcia A.B. Thunberg
Staff Attorney

Attachment (HB 1490)
cc: Docket Related Service List

CHAPTER 281

HB 1490-FN – FINAL VERSION

28Mar2012... 1390h

05/02/12 1872s

6June2012... 2375CofC

6June2012... 2509EBA

2012 SESSION

12-2017

09/10

HOUSE BILL *1490-FN*

AN ACT relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions.

SPONSORS: Rep. Bergevin, Hills 17; Rep. Hansen, Hills 6; Rep. Pettengill, Carr 1

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill replaces the greenhouse gas emission reduction fund with the energy efficiency fund, lowers the rebate threshold for auction proceeds to \$1, and allocates the remaining proceeds received by the state from the sale of allowances to core energy efficiency programs funded by system benefits charges. The bill also requires the legislative oversight committee on electric utility restructuring to monitor and report on certain core energy efficiency programs.

The bill contains a contingent repeal of New Hampshire's regional greenhouse gas initiative cap and trade program if 2 or more New England states withdraw or agree to withdraw from participating in the initiative or if a state which has at least 10 percent of the total load of the New England states participating in the initiative withdraws or authorizes withdrawal from participation in the initiative.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

28Mar2012... 1390h

05/02/12 1872s

6June2012... 2375CofC

6June2012... 2509EBA

12-2017

09/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to New Hampshire's regional greenhouse gas initiative cap and trade program for controlling carbon dioxide emissions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

281:1 Energy Consumption Reduction Goal; Reports; Reference Change. Amend RSA 21-I:14-c, III to read as follows:

III. Beginning in calendar year 2012, the commissioner shall submit an annual report to be made available to the public on or before December 1 compiling the annual reports submitted under paragraph II, with findings on the departments' annual progress in complying with the energy consumption reduction goal established in paragraph I and problems which may prevent the departments from achieving this goal, to the ~~[energy efficiency and sustainable energy board established under RSA 125-O:5-a, the]~~ governor, the senate president, the speaker of the house of representatives, the chair of the senate energy~~[-environment and economic development]~~ **and natural resources** committee and the chair of the house science, technology and energy committee.

281:2 Rulemaking; Energy Efficiency Fund and Use of Auction Proceeds. Amend RSA 125-O:8, II to read as follows:

II. The public utilities commission shall adopt rules, under RSA 541-A, to administer the ~~[greenhouse gas emissions reduction]~~ **energy efficiency** fund **and auction proceeds received** pursuant to RSA 125-O:23.

281:3 Carbon Dioxide Emissions Budget Trading Program; Auction Proceeds. Amend RSA 125-O:21, III to read as follows:

III. The department shall make available for sale at one or more auctions all of the budget allowances for a given year, except for those granted or reserved under RSA 125-O:22, VI, 125-O:24, and 125-O:25. The department may also make available for sale at one or more auctions a portion of future year budget allowances. Such auctions may be conducted in coordination with other states. Revenues from the sale of allowances shall be deposited in the ~~[greenhouse gas emissions reduction]~~ **energy efficiency** fund established under RSA 125-O:23.

III-a. Budget allowances that are required to be made available for sale at auction under paragraph III, but remain unsold, shall not be retired by the department.

281:4 Greenhouse Gas Emissions Reduction Fund Replaced With Energy Efficiency Fund and Use of Auction Proceeds. RSA 125-O:23 is repealed and reenacted to read as follows:

125-O:23 Energy Efficiency Fund and Use of Auction Proceeds.

I. There is hereby established an energy efficiency fund. This nonlapsing, special fund shall be continually appropriated to the commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein, as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All programs supported by these funds shall be subject to audit by the commission as deemed necessary. A portion of the fund moneys shall be used to pay for commission and department costs to administer this subdivision, including contributions for the state's share of the costs of the RGGI regional organization. No fund moneys shall be used by the commission or the department to contract with outside consultants. The commission shall transfer from the fund to the department such costs as may be budgeted and expended, or otherwise approved by the fiscal committee of the general court and the governor and council, for the department's cost of administering this

subdivision.

II. All amounts in excess of the threshold price of \$1 for any allowance sale shall be rebated to all default service electric ratepayers in the state on a per-kilowatt-hour basis, in a timely manner to be determined by the commission.

III. All remaining proceeds received by the state from the sale of allowances shall be allocated by the commission as an additional source of funding to electric distribution companies for core energy efficiency programs that are funded by SBC funds.

281:5 Review of New Hampshire RGGI Program. Amend RSA 125-O:27 to read as follows:

125-O:27 Review of the New Hampshire RGGI Program. At the time of the 2012 comprehensive review by the signatory states as required in the MOU, the commission and the department shall concurrently review New Hampshire specific elements of the RGGI program, in particular *RSA* 125-O:23~~[,IV]~~ and *RSA* 125-O:25, and include the results of such review in the agencies' annual report under RSA 125-O:21, VI.

281:6 Legislative Oversight Committee on Electric Utility Restructuring; Report. Amend 374-F:5, III to read as follows:

III. The committee shall provide an *interim report on or before April 1, and an annual report on or before November 1* to the governor, the speaker of the house, the senate president, the state library, and the public utilities commission on the status of electric utility restructuring, *including the status of core energy efficiency programs monitored under RSA 374-F:6.*

281:7 New Paragraph; Legislative Oversight Committee on Electric Utility Restructuring; Duties. Amend 374-F:6 by inserting after paragraph IV the following new paragraph:

V. Monitoring core energy efficiency programs funded by proceeds from sale of allowances under the regional greenhouse gas initiative program pursuant to RSA 125-O:23, III.

281:8 Funding of Contracts. All contracts executed before December 31, 2010 and funded through the greenhouse gas emissions reduction fund shall remain funded through such fund or the energy efficiency fund according to the terms of those contracts. Any funds remaining in the greenhouse gas emissions reduction fund as of January 1, 2013 shall be transferred to the energy efficiency fund.

281:9 Fund Name Change. Amend RSA 6:12, I(b)(272) to read as follows:

(272) Moneys deposited in the [~~greenhouse gas emissions reduction~~] *energy efficiency* fund established in RSA 125-O:23.

281:10 Repeal. The following are repealed:

I. RSA 125-O:5-a, I(d), relative to recommendations made to the public utilities commission by the energy efficiency and sustainable energy board.

II. RSA 125-O:19, relative to statement of purpose and findings.

III. RSA 125-O:21, VI(g), relative to a report on the allocation and spending of the greenhouse gas emissions reduction fund.

281:11 Contingent Repeal. The following are repealed:

I. RSA 125-O:3, III(d), relative to carbon dioxide cap.

II. RSA 125-O:20 through 125-O:28, relative to the regional greenhouse gas initiative.

281:12 Powers and Duties of Commissioner; Reference Deletion Related to Contingency. Amend RSA 125-O:6, I to read as follows:

I. Develop a trading and banking program to provide appropriate compliance flexibility in meeting the emission caps established under RSA 125-O:3, III [~~and allowance requirements of RSA 125-O:21 and RSA 125-O:22~~], and to encourage earlier and greater emissions reductions and the development of new emission control technologies in order to maximize the cost-effectiveness with which the environmental benefits of this chapter are achieved.

281:13 Rulemaking Authority; Changes Related to Contingent Repeal. Amend RSA 125-O:8 to read as follows:

125-O:8 Rulemaking Authority.

~~[H.]~~ The commissioner shall adopt rules under RSA 541-A, commencing no later than 180 days after the effective date of this section, relative to:

~~[(a)]~~ *I.* The establishment of trading and banking programs as authorized by RSA 125-O:6, I.

~~[(b)]~~ *II.* The establishment of a method for allocating allowances and other emissions reduction units or mechanisms as authorized by RSA 125-O:3, II and III.

~~[(c)]~~ *III.* Emissions and allowance monitoring, tracking, recordkeeping, reporting, and other such actions as may be necessary to verify compliance with this chapter.

~~[(d)]~~ The method and requirements for auctioning budget allowances under RSA 125-O:21, which may use regional organizations.

~~(e)~~ Defining eligible projects for early reduction allowances under RSA 125-O:21, IV, and establishing criteria to quantify and grant such allowances.

~~(f)~~ Defining eligible projects for offset allowances under RSA 125-O:21, V, and establishing criteria to quantify and grant such allowances, including the accreditation of third-party verifiers.

~~(g)~~ The forms and information required on applications for a temporary or operating permit required under RSA 125-O:22.

~~H.~~ The public utilities commission shall adopt rules, under RSA 541-A, to administer the energy efficiency fund and auction proceeds received pursuant to RSA 125-O:23.]

281:14 Compliance Dates; Reference Deletions Related to Contingent Repeal. Amend RSA 125-O:9 to read as follows:

125-O:9 Compliance Dates. The owner or operator of each affected source shall comply with the provisions of this chapter, excluding the subdivision on mercury emissions, RSA 125-O:11 through 125-O:18, [~~and the subdivision for CO₂ emissions, RSA 125-O:19 through RSA 125-O:28;~~] by December 31, 2006.

281:15 Non-Severability; Reference Deletions Related to Contingent Repeal. Amend RSA 125-O:10 to read as follows:

125-O:10 Non-Severability. No provision of [~~RSA 125-O:1 through RSA 125-O:18 of~~] this chapter shall be implemented in a manner inconsistent with the integrated, multi-pollutant strategy [~~or RSA 125-O:1 through RSA 125-O:18~~] of this chapter, and to this end, the provisions of [~~RSA 125-O:1 through RSA 125-O:18 of~~] this chapter are not severable.

281:16 Compliance. The repeal of the regional greenhouse gas initiative program under section 11 of this act shall not affect each affected CO₂ source's obligation to satisfy the program's requirements for the compliance period ending December 31 of the prior year, including those contained in adopted rules. All means of enforcement shall remain in

place for these requirements, including the provisions of RSA 125-O:7 and any permit issued or modified by the department of environmental services in accordance with RSA 125-O:22, IV.

281:17 Contingency. If any 2 New England states participating in the regional greenhouse gas initiative end or agree to end their participation in the initiative or if a New England state which has at least 10 percent of the total load of the New England states participating in the regional greenhouse gas initiative ends its participation in the initiative, sections 11-15 of this act shall take effect upon the date that the commissioner of the department of environmental services certifies to the secretary of state and the director of the office of legislative services that such states have terminated or have authorized termination of their participation in the initiative or such state has terminated its participation in the initiative.

281:18 Effective Date.

I. Sections 1-10 and 16-17 of this act shall take effect January 1, 2013.

II. The remainder of this act shall take effect as provided in section 17 of this act.

Approved: Enacted in accordance with Article 44, Part II, N.H. Constitution, without signature of governor, June 23, 2012.

Effective Date: I. Sections 1-10 and 16-17 shall take effect January 1, 2013.

II. Remainder shall take effect as provided in section 17.