

Comments of the Union of Concerned Scientists
on
Proposed New Hampshire Rulemaking Env-A 2900:
Multiple Pollutant Annual Budget Trading and Banking Program

March 21, 2003

The Union of Concerned Scientists (UCS) commends New Hampshire as the second state in the New England region, in addition to Massachusetts, to adopt legislation (HB 284) that caps emissions of multiple air pollutants from existing fossil fuel-burning electric power plants. While HB 284 establishes an important precedent and lays the groundwork for improvements to New Hampshire's air quality and to climate change, this rulemaking to enact the pollutant trading program under HB 284 (ENV-A 2900) needs improvements to ensure that genuine pollution reductions—to benefit both the climate and to local air quality—do indeed occur as a result.

An effective pollutant trading program can provide electricity generators with flexible, lower cost compliance options. It can also create co-benefits, such as increasing fuel diversity, developing new clean growth industries, conserving open space and enhancing natural habitats. A poorly-designed trading program, however, could: fail to deliver promised reductions; increase air toxics and other pollutants, especially in power plant host communities; increase energy bills to consumers and long-run compliance costs for generators; and miss opportunities for enhancing native biodiversity as well as development of promising new technologies. So the design of these influential multi-pollutant trading regulations will determine New Hampshire's status as a reputable leader on climate, air, and energy policy and as a state that places a high value on quality of life.

As such, UCS makes the following specific recommendations to improve New Hampshire's multi-pollutant banking and trading program:

- ***Establish pollutants limits that demand real emissions reductions.*** New Hampshire's multi-pollutant legislation lacks transparency as to whether the emissions reduction target for carbon dioxide (CO₂) of 5.4 million tons creates an incentive for more than a *de minimis* reduction below the existing baseline of CO₂ emissions. This illustrates why an absolute cap by itself is a necessary but not sufficient motivation for utilities to achieve true reductions from the existing emissions trajectory. This is because, during periods of lower energy demand, the limit on total CO₂ emissions can be met without improvements to operational efficiency. In fact, achieving lower total emissions levels through lower production, or by shifting production across plants, may actually mask an *increase* in the rate of emissions per unit of electricity generated at a given plant.

In addition to an absolute cap on total CO₂ emissions, UCS strongly encourages the New Hampshire legislature and DES to consider adding a cap on the average annual rate of CO₂ emissions of each individual plant. As an example of this, Massachusetts set absolute limits on the quantity of allowable CO₂ emissions from utilities but coupled this

with a rate-based limit on CO₂ emissions. Combining absolute targets with rate-based CO₂ limits ensures that power plants face incentives to invest in emission reductions leading to lasting improvements to air quality and the climate intended by this program. In the absence of a meaningful rate-based cap on for CO₂ emissions, New Hampshire's CO₂ standards lack the rigor required to achieve such improvements.

- ***Maintain incentives for source reductions.*** Limited use of offsets allows affected generators some flexibility to seek out cost-effective approaches to emissions reductions. Allowing maximum flexibility to use credits to offset source emissions, on the other hand, could displace investments in source reductions entirely. Therefore, New Hampshire's Department of Environmental Services should explicitly cap or otherwise limit the role of CO₂ credits from offset projects and from other crediting programs within this legislation. At most, credits from non-source reductions (e.g., offset projects) should contribute no more than 20 percent of total emissions reductions from the affected utilities. Coupled with sound rules for other project features, incorporating a limit of 20 percent on non-source reductions will lead to a cost-effective portfolio of approaches that ensures environmental co-benefits as well as real emissions reductions.

- ***Establish rigorous criteria for pollution credits coming from non-source reductions.*** Emission reduction credits that originate from other regulatory systems (e.g., federal, state, or regional programs) or from sectors other than New Hampshire's coal-fired utilities (e.g., land use projects) should adhere to criteria that ensure reductions represent sound, verifiable emissions that go beyond what would have occurred under business-as-usual. UCS has set forth detailed principles for sound CO₂ trading programs in Massachusetts and other policy venues that can achieve both real emissions reductions and other environmental and social co-benefits. These principles include guidance for setting criteria for the following project features:
 - **Eligible credits and/or project type(s):** Eligible credits should only result from those projects with proven protocols and sound environmental and social track records.
 - **Additionality:** Only those carbon credits that are made possible by the presence of additional carbon financing should be counted as offset credits.
 - **Environmental standards:** Ecological criteria and a streamlined environmental/social impact review should be established for offset credits and/or projects, to ensure that they generate co-benefits and avoid resource degradation.
 - **Geographic scope:** Good public policy requires that, to the extent possible, the benefits of the program accrue to those populations that bear the program costs. In this case, generators will likely pass a portion of costs along to ratepayers throughout the New England power grid, so

limiting eligible project location to the New England region will ensure a correspondence between costs and benefits.

UCS's specific recommendations are presented in more detail in a recent brief for Massachusetts policymakers (*see attachment*). As such, we recommend that any final regulations implementing New Hampshire's Multiple Pollutant Annual Budget Trading and Banking Program incorporate these criteria.