



January 7, 2009

Deborah Rabin, Regulations Coordinator  
Air and Radiation Management Administration  
Department of the Environment  
1800 Washington Boulevard, Suite 730  
Baltimore, Maryland 21230-1720

**Re: Maryland CO<sub>2</sub> Budget Trading Program proposed regulations**

Dear Ms. Rabin:

The Renewable Energy Marketers Association (REMA) has reviewed the proposed rules for the Maryland CO<sub>2</sub> Budget Trading Program, with specific attention to the proposed rules for the Voluntary Renewable Energy Set-Aside.

REMA participated in the June stakeholder meeting and filed comments on prior draft proposals. We thank the MDE for the opportunity to provide comments throughout the regulatory process and to participate in the stakeholder meeting.

The Renewable Energy Marketers Association (REMA) represents the collective interests of both for-profit and nonprofit organizations that sell or promote renewable energy products through voluntary markets, including renewable electricity and renewable energy certificates (RECs), to individuals, companies and institutions throughout North America.

In addition to the member companies named in our footer below, we are pleased to note that Washington Gas Energy Services has recently become a member of REMA and endorse these comments.

We are pleased that Maryland is now providing the details for the operation of the voluntary renewable energy set-aside in its CO<sub>2</sub> budget trading program. This is critical to the ability of voluntary purchasers to be able to make claims that they are in fact reducing carbon emissions.

REMA has several specific comments intended to make the administration of the set-aside program easier and clearer.

[www.RenewableMarketers.org](http://www.RenewableMarketers.org)

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**(1) Adopt standard terminology using RECs instead of renewable energy.**

In the proposed rules, the terms “Renewable energy” and “RECs” are used interchangeably. Whether a person purchases electricity bundled with its renewable attributes (or RECs), or purchases RECs unbundled from electricity, the proposed rules require a demonstration that RECs were purchased. To be consistent, the rules should simply refer to the purchase of RECs. If it is important to continue to refer to renewable energy, the rules should make clear that this term includes the purchase of unbundled RECs as well as renewable electricity bundled with the RECs.

One specific example (not the only one) occurs later in the proposed rules at .08 B. Documentation of Energy Purchases. Paragraph 2 (c) and (d) refer to documentation of renewable energy purchases. As stated above, this should be changed to the purchase of RECs or explicitly include the purchase of RECs.

**(2) Ensure that REC marketers and not just electricity suppliers are eligible to supply RECs that will count towards the set-aside.**

Section .08 A (2) and (3) state that a person located in Maryland may acquire RECs “by voluntarily purchasing renewable energy from an electricity supplier.” Many REC providers are not electricity suppliers. They sell RECs unbundled from electricity to customers in Maryland. However, competitive electricity suppliers that sell environmentally differentiated green power to customers who choose these options are also REC providers, even if they sell RECs or renewable attributes bundled with the electricity. The proposed rules acknowledge this fact by the requirement that RECs be submitted for documentation. Therefore, the more encompassing and more appropriate term would be “REC provider.” We recommend that the language read simply: “...by voluntarily purchasing RECs.”

The next sentence in the proposed rules also refers to electricity suppliers. We recommend that this sentence be revised as follows:

Upon request, the REC provider shall provide to the requesting person or their authorized representative, a REC for every megawatt-hour of electricity generated from a renewable energy source.

REMA includes both marketers of RECs only, and marketers of electricity plus RECs. Given the big challenges present in meeting GHG targets, it is important to allow the broader competitive marketplace to function, relying on both providers of unbundled RECs and competitive electricity providers that sell RECs bundled with electricity. Both types of REC providers have been a valuable asset in the marketplace to educate buyers ranging from leading corporations to municipal governments to residential customers and small businesses. REC providers help create competition necessary to keep the price of voluntary purchases affordable – a key factor for many purchasers of RECs, such as the Montgomery County Wind Purchasing Group, and thousands of residential customers who purchase RECs bundled with electricity from competitive electricity providers.

**(3) Limit generator eligibility to location in any RGGI state.**

In the Definitions section, 86-1 (a) requires that a REC must be derived from eligible generators that are located in the PJM region or in a state that is adjacent to the PJM region; or in a control area that is adjacent to PJM if the energy from the renewable generating unit is delivered into PJM. RGGI is a cooperative effort to reduce greenhouse gas emissions within the 10 participating states. The Model Rule recognizes that the renewable energy generators from which RECs are purchased should be located in any participating state in order to achieve the RGGI goals. For example, RECs purchased from Pennsylvania will not contribute to that goal because Pennsylvania is not a participating state. We believe that voluntary purchases, for which allowances will be retired, should be based on the purchase of RECs that are generated in any one of the 10 participating states. Most of the RGGI states (Massachusetts excepted) support this approach. This cooperative agreement among RGGI states would break down if participating states do not honor the reciprocal arrangement. We urge Maryland to make clear that the eligible generator must be located in any participating state. The fact that for RPS purposes Maryland accepts RECs from anywhere within PJM or adjacent states, or adjacent control areas if energy is delivered into PJM, should be a separate matter.

**(4) Limit resource eligibility to Tier 1 resources.**

The definition of renewable energy requires that a REC be derived from a Tier 1 or Tier 2 resource. In our comments to MDE last June, we and Environment Maryland urged that eligibility be limited to Tier 1 resources. Tier 1 resources are the new renewables that the state is trying to encourage through its Renewable Portfolio Standard. Tier 2 resources, which are hydro without qualification (the RGGI Model Rule includes hydro certified by the Low Impact Hydropower Institute) and waste-to-energy generation, are existing resources and have (absent the qualification for hydro) higher environmental impacts than Tier 1 resources. By limiting the resource eligibility definition to Tier 1, Maryland will be incenting the voluntary market to support new, environmentally preferred resources that will increase the amount of renewables in Maryland's generation portfolio. We note that Maine and Massachusetts, which also use their RPS definitions to determine eligibility for the set-aside, restrict eligibility for the Voluntary Renewable Energy Set-Aside to those states' Class 1 (Tier 1) resources.

**(5) Require submittal of proof of REC retirement.**

The proposed rules at .08 B (2) (a) would require a person or their authorized representative to submit documentation, including "the verified REC." Because RECs are electronic certificates and reside in electronic databases (certificate tracking systems), the certificate itself cannot be submitted. The requirement should be for the submittal of verification that RECs were retired, or proof of ownership and retirement, or a REC verification report from a certificate tracking system.

**(6) Adopt a verification schedule similar to other RGGI states.**

The proposed schedule calls for submitting documentation of the purchase not later than November 1 of the year in which it occurs; submittals received after that date will be applied to purchases for the next year. The other RGGI states call for documentation to be received by a date after the completion of the calendar year, for example March 1 (New York and

Rhode Island), June 30 (Connecticut), and July 30 (New Hampshire and New Jersey). It would be administratively much simpler for REC providers if we could go through this administrative step at about the same time as for other states. The reason for proposing November 1, prior to the close of the calendar year, is not clear to us. Practically speaking, the certificate tracking systems complete their reports quarterly, and there is a time lag before reports become available. This would mean that documentation available by November 1 might pertain at the latest to purchases and REC retirements that occur prior to and including August 31 in order to be reported in time for the Nov. 1 deadline. We encourage Maryland to standardize more closely to the other states and adopt a time after the close of the year (we suggest June 30 to ensure that tracking systems have completed their end-of-year reports), and then retire the set-aside allowances by the end of the year following the purchase.

**(7) Use emission conversion factors that reflect the location of the generator.**

The proposal for calculating the number of allowances to be retired (.08 C(1)) states that the number of RECs purchased is to be multiplied by “the CO<sub>2</sub> output emissions rate in this region.” But the emissions actually reduced will be determined by the emissions avoided in the region where the eligible generator is located. A REC purchased from New York, for example, would have a different emissions factor than a REC purchased from New Jersey because each control area has a different marginal emissions rate. We encourage Maryland to follow the lead of the RGGI Model Rule and use the average marginal emissions factor for the region in which the eligible generator is located.

**(8) Support periodic review of the size of the set-aside.**

Finally, we are pleased to see that the proposed rules recognize that voluntary renewable energy sales may increase over time. By reviewing the number of allowances to be set-aside every two years, Maryland will be better able to keep up with market changes. This language is consistent with the comments of Environment Maryland and REMA at the June stakeholder meeting. We continue to support this review.

*The views expressed by REMA in this regulatory filing do not necessarily represent the views of each individual member company.*