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Public Law
123rd Legislature
Second Regular Session

Chapter 608
H.P. 1381 - L.D. 1945

An Act To Update the Regional Greenhouse Gas Initiative

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §10008, sub-§4, as enacted by PL 2007, c. 317, §15, is amended to read:

4. Money invested. Any revenue received from the sale of carbon dioxide allowances, pursuant to Title 38, section 580-B, and any forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded by the trust are the property of the trust and must be deposited in the trust fund. Money in the trust fund not currently needed to meet obligations under Title 38, section 580-B or for the purposes of this section must be deposited with the Treasurer of State to the credit of the trust fund and may be invested as provided by law. Interest on these investments must be credited to the trust fund. The State may not assess any indirect charges on any revenue received from the sale of carbon dioxide allowances pursuant to this section.

Sec. 2. 35-A MRSA §10008, sub-§6, ¶G, as enacted by PL 2007, c. 317, §15, is amended to read:

G. No more than 5% of trust fund receipts in any one year may be used for the total administrative costs:

(1) Of the trust related to this section;

(2) Of the Department of Environmental Protection ~~in~~for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and

(3) Of the Attorney General, including activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs.

Of the trust fund receipts used for administrative costs under this paragraph, no more than 40% in any one year may be used for the administration of the trust.

Sec. 3. 38 MRSA §579, first ¶, as amended by PL 2007, c. 317, §16, is further amended to read:

The department may participate in the regional greenhouse gas initiative as described in the climate action plan required in section 577. The commissioner and the members of the Public Utilities Commission are authorized to act as representatives for the State in the regional organization as defined in section 580-A, subsection 20, may contract with organizations and entities when such arrangements are necessary to efficiently carry out the purposes of this section and may coordinate its the State's efforts with other states and jurisdictions participating in that initiative, with respect to:

Sec. 4. 38 MRSA §580-A, sub-§3, as enacted by PL 2007, c. 317, §17, is amended to read:

3. Carbon dioxide budget unit. "Carbon dioxide budget unit" means any single fossil fuel fired electrical generating unit that serves a generator with a nameplate capacity equal to or greater than 25 megawatts of electrical output.

Sec. 5. 38 MRSA §580-A, sub-§12, as enacted by PL 2007, c. 317, §17, is amended to read:

12. Fossil fuel fired unit. "Fossil fuel fired unit" means combustion of fossil fuel when the fossil fuel combusted constitutes, or is projected to constitute, more than 50% of the annual heat input on a British Thermal Unit basis:

A. With regard to a unit that commenced operation prior to January 1, 2005, a unit fueled by the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted constitutes, or is projected to comprise, more than 50% of the annual heat input on a British Thermal Unit basis during any calendar year; or

B. With regard to a unit that commences operation on or after January 1, 2005, a unit fueled by the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel combusted constitutes, or is projected to comprise, more than 5% of the annual heat input on a British Thermal Unit basis during any calendar year.

Sec. 6. 38 MRSA §580-B, sub-§2, as enacted by PL 2007, c. 317, §17, is amended to read:

2. Contingent on initiation of comparable programs. The carbon dioxide cap-and-trade program commences no earlier than January 1, 2009 and only when other states that are participating in the regional greenhouse gas initiative that produce a minimum of 35,000,000 tons of annual carbon dioxide emissions budget and participate in a wholesale electricity market administered and overseen by the regional transmission organization have initiated a comparable carbon dioxide cap-and-trade program. Nothing in this section precludes the department from initiating air emissions licensing of carbon dioxide budget sources or from participating in auctions for the sale of carbon dioxide allowances.

Sec. 7. 38 MRSA §580-B, sub-§7-A is enacted to read:

7-A. Voluntary renewable energy market set-aside. The department shall set aside a portion of the State's annual carbon dioxide emissions budget in a voluntary renewable market set-aside account. The allowances from this account must be retired in an amount equal to the amount of carbon dioxide emissions reduced by the voluntary purchase of eligible renewable energy credits by persons in the State up to the amount held in the set-aside account. For purposes of this subsection, "eligible renewable energy credits" means renewable energy credits generated within the states that are participating in the regional greenhouse gas initiative.

Before February 1, 2010, the portion of the State's annual carbon dioxide emissions budget that is set aside in a voluntary renewable market set-aside account pursuant to this subsection may not exceed 2% of that budget. The department shall report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2010 as to whether that 2% cap is appropriate. By January 31, 2010, the Energy and Carbon Savings Trust, established under Title 35-A, section 10008, in consultation with the department, shall establish the cap on the portion of the State's annual carbon dioxide emissions budget that is set aside in a set-aside account.