Readopt with amendment Env-A 4800, effective 5-23-24 (Document #13974), to read as follows:

CHAPTER Env-A 4800 CARBON DIOXIDE (CO_2) ALLOWANCE AUCTION PROGRAM

PART Env-A 4801 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 4801.01 Purpose. The purpose of this chapter is to provide for the administration and implementation of carbon dioxide (CO_2) allowance auctions under RSA 125-O:20-29 and Env-A 4600, Carbon Dioxide (CO_2) Budget Trading Program.

Env-A 4801.02 Applicability. The rules in this chapter shall apply to all auctions held under the authority of RSA 125-O:20-29.

Env-A 4801.03 Definitions Incorporated. The definitions established in Env-A 4600 shall apply to this chapter.

Env-A 4801.04 Additional Definitions Specific to Chapter Env-A 4800.

(a) "Department contact person" means the employee of the department designated to communicate with the public regarding the auctions to be conducted pursuant to this chapter, as identified on the CO_2 allowance auction website.

(b) "CO_2 allowance auction website" means the website containing information regarding the auctions to be conducted pursuant to this chapter, which is available through a link from the department's main website at https://www.des.nh.gov/climate-and-sustainability/energy/emission-reduction-strategies.

(c) "Reserve price" means the minimum price for each CO_2 allowance in a specific auction, which is either the minimum reserve price or the CCR trigger price.

(d) "Single-round sealed-bid uniform price auction" means an auction that has a single round, in which bidders submit one or more bids at different prices and the price paid by all successful bidders is uniform and equal to the highest rejected bid price.

PART Env-A 4802 IMPLEMENTATION OF CO_2 ALLOWANCE AUCTIONS

Env-A 4802.01 Design, Implementation, and Administration of Allowance Auctions. The department shall work with the regional organization to design, implement, and administer CO_2 allowance auctions in accordance with the objectives identified in RSA 125-O:20-29 and the provisions of this chapter.

Env-A 4802.02 New Hampshire Auction Account.

(a) The department shall establish the New Hampshire auction account (NHAA) as the repository for all CO_2 allowances that are available for auction, including but not limited to allowances from the CO_2 budget trading program ~~adjusted~~ ***base*** budget not otherwise allocated or granted or reserved under RSA 125-O:22, VI~~, RSA 125-O:24,~~ or RSA 125-O:25.

(b) The regional organization shall administer the NHAA such that allowances allocated to the NHAA by the department are made available for sale in CO_2 allowance auctions as described in this chapter.

Env-A 4802.03 Multi-State Auctions. The department shall participate in a multi-state CO_2 allowance auction if the department determines that:

(a) Multi-state auction capabilities and processes are in place for the participating states;

(b) A multi-state auction can provide benefits that meet or exceed the objectives of the auction and purposes of the NHAA, as described in this part; and

(c) The multi-state auction process would be consistent with the process described in this part.

Env-A 4802.04 Single-State Auctions. The department shall conduct a New Hampshire-only, single-state auction if~~, in consultation with the Air Pollution Advisory Committee (APAC) established by RSA 125-J:11,~~ it determines that:

(a) The conditions specified in Env-A 4802.03 have not been satisfied; and

(b) Budget allowances other than those granted or reserved under RSA 125-O:22, VI~~, RSA 125-O:24,~~ or RSA 125-O:25 are available for auction.

Env-A 4802.05 Auction Proceeds.

(a) As required by RSA 125-O:21, III, the proceeds of CO_2 allowance auctions shall be deposited into the energy efficiency fund established under RSA 125-O:23.

(b) The proceeds of the CO_2 allowance auctions shall be used as specified in RSA 125-O:23.

PART Env-A 4803 CO_2 ALLOWANCE AUCTIONS: GENERAL REQUIREMENTS; FREQUENCY; QUANTITY; RESERVE PRICE; BIDDING; UNSOLD ALLOWANCES

Env-A 4803.01 General Requirements for CO_2 Allowance Auctions.

(a) Upon allocation of CO_2 allowances into the NHAA, the department shall participate in or conduct CO_2 allowance auctions to sell such allowances pursuant to this chapter.

(b) The auctions shall be conducted at such time and manner as determined by the department, in consultation with the regional organization.

(c) The auctions shall be conducted as a single-round sealed-bid uniform price auction.

Env-A 4803.02 Frequency of CO_2 Allowance Auctions.

(a) Subject to (b) below, CO_2 allowance auctions shall be held quarterly;

(b) The department shall consult with the APAC to determine whether to:

(1) Change the frequency to other than quarterly; and

(2) Hold a CO_2 allowance auction in the event that one or more participating states are unable to participate due to failure to establish and implement an auction process, whether by rule or otherwise.

Env-A 4803.03 Calendar of CO_2 Allowance Auctions.

(a) The regional organization shall maintain a calendar of anticipated auction dates on the CO_2 allowance auction website.

(b) The calendar shall include the dates of CO_2 allowance auctions in the current year and, for each, indicate the auction format and the number of allowances and allocation years of allowances anticipated to be auctioned at each auction.

(c) The regional organization shall revise the calendar as necessary, provided that the information relevant to the next scheduled CO_2 allowance auction shall be fixed no later than 45 calendar days prior to such auction.

Env-A 4803.04 CO_2 Allowance Auction Notice.

(a) A CO_2 allowance auction notice shall be published on the CO_2 allowance auction website no later than 45 days prior to the date upon which the auction shall be conducted. The CO_2 allowance auction notice shall be transmitted electronically to any person who has requested such notification and submitted an electronic-mail address to the department contact person or the regional organization.

(b) Each CO_2 allowance auction notice shall provide a specific description of all auction participation requirements, including, but not limited to, information including the date, time, and location of the CO_2 allowance auction, the categories of bidders who will be eligible to bid, the quantity of CO_2 allowances to be auctioned by allocation year, the auction format, the amount and type of financial security required, any participation limitations, information regarding settling and clearing of allowance payments, instructions as to qualification applications, other pertinent procedures of the auction, and identification of a department contact person for further information.

(c) The department or the regional organization shall include the following information in the notice for each auction:

(1) The number of CO_2 allowances offered for sale at the auction, not including any CO_2 CCR allowances;

(2) The number of CO_2 CCR allowances that will be offered for sale;

(3) The minimum reserve price for the auction; and

(4) The CCR trigger price for the auction.

Env-A 4803.05 Quantity of CO_2 Allowances Available.

(a) Prior to the end of each control period, CO_2 allowances in a quantity equal to the number of CO_2 allowances allocated by the department to the NHAA in accordance with RSA 125-O:26 for such control period shall be made available for sale.

(b) CO_2 allowances shall be made available for sale by allocation year.

Env-A 4803.06 Quantity of CO_2 CCR Allowances Available. The quantity of CO_2 CCR allowances available at auction shall be determined in accordance with RSA 125-O:29.

Env-A 4803.07 Lot Sizes. CO_2 allowances shall be made available for sale in lot sizes of 1,000 allowances, except where available supply requires a smaller lot size.

Env-A 4803.08 Reserve Price.

(a) In administering auctions, the regional organization shall publish or otherwise announce the auction's minimum reserve price and the CCR trigger price prior to each auction.

(b) No allowances shall be sold at any auction for a price below the minimum reserve price for that auction or, if applicable, the CCR trigger price.

(c) At an auction in which CO_2 CCR allowances are not made available for sale, the reserve price shall be the minimum reserve price.

(d) At an auction in which CO_2 CCR allowances are made available for sale, the reserve price shall be the CCR trigger price.

Env-A 4803.09 Minimum Reserve Price (MRP). The minimum reserve price in calendar year ~~2024~~ ***2027*** shall be $ ~~2.56~~ ***9.00***. Each calendar year thereafter, the minimum reserve price shall be the minimum reserve price from the previous calendar year multiplied by ~~1.025,~~***1.07*** and rounded to the nearest whole cent.

Env-A 4803.10 Bidding.

(a) All bids shall be in the format prescribed by the regional organization, which shall be available electronically on the CO_2 allowance auction website.

(b) All bids submitted shall be considered binding offers for the purchase of allowances under the rules of the auction, this chapter, and Env-A 4600.

(c) No single participant, nor any combination of participants that share beneficial ownership of any allowances, shall purchase, in the aggregate, greater than 25 percent of the allowances available at an auction, not including the CCR allowances.

Env-A 4803.11 Cost Containment Reserve (CCR) Allowances.

(a) The department shall allocate CO_2 CCR allowances to the NHAA for sale at auction in accordance with and for the cost containment purposes set forth in RSA 125-O:29.

(b) CO_2 CCR allowances allocated for sale in subsequent auctions shall be offered for sale in accordance with RSA 125-O:29.

PART Env-A 4804 AUCTION PARTICIPATION: ELIGIBILITY AND LIMITATIONS

Env-A 4804.01 Participant Categories.

(a) Participant categories shall be as follows:

(1) Owners of CO_2 budget units located in New Hampshire;

(2) Owners of CO_2 budget units located outside of New Hampshire but within those participating states that have final CO_2 budget trading regulatory provisions in place at the time of the CO_2 allowance auction;

(3) Owners of fossil fuel-fired generation units located outside of the participating states;

(4) Brokers;

(5) Environmental groups;

(6) Financial and investment institutions; and

(7) Other market participants.

(b) If the department determines, based on the report submitted pursuant to Env-A 4805.02 or on other information received, that evidence suggests there has been or significant potential exists for collusion, market power, or price manipulation by any of the categories of eligible bidders listed above, the department shall direct the regional organization to adjust the categories of eligible bidders as necessary to counter the collusion, market power, or price manipulation.

(c) Any limitations on the categories of eligible bidders shall be listed in the CO_2 allowance auction notice for that auction.

Env-A 4804.02 Participation Eligibility. Any person wishing to participate in a CO_2 allowance auction under the provisions of this chapter shall:

(a) Open and maintain a compliance account or general account pursuant to Env-A 4607;

(b) Submit an application for qualification as specified in Env-A 4804.03 and the CO_2 allowance auction notice, or, if the applicant was deemed qualified to participate for a prior auction, submit an update of any information that has changed since the original qualification;

(c) Submit a notice of intent to bid as specified in the Env-A 4804.04 and the CO_2 allowance auction notice; and

(d) Provide financial security as specified in Env-A 4804.07 and the CO_2 allowance auction notice.

Env-A 4804.03 Application for Qualification; Updates.

(a) Any person wishing to participate in a CO_2 allowance auction shall submit an application for qualification in the form and manner provided in the CO_2 allowance auction notice to the regional organization on or before the application deadline date specified in the CO_2 allowance auction notice, which date shall be no sooner than 15 days following the date of publication of the notice.

(b) Application information and forms shall be available electronically on the CO_2 allowance auction website at https://www.rggi.org/auctions/auction-materials or as noted in Appendix B.

(c) Once an applicant has been determined to be qualified to participate in an auction under Env-A 4804.06, the applicant shall update the information submitted with the original application for qualification prior to any auction in which the applicant wishes to participate. Such update shall include the date the change occurred and describe the change in sufficient detail to enable the department to determine whether a change in the qualification status to participate in future auctions is warranted.

Env-A 4804.04 Notice of Intent to Bid. Any person wishing to participate in a CO_2 allowance auction shall submit a notice of intent to bid:

(a) In the format specified in the CO_2 allowance auction notice; and

(b) By the deadline specified in the CO_2 allowance auction notice.

Env-A 4804.05 Content of Qualification Application or Notice of Intent to Bid. Either in the qualification application or the notice of intent to bid, as specified in the CO_2 allowance auction notice, the applicant shall provide information and documentation relating to its ability and authority to execute bids and honor contractual obligations, including but not limited to:

(a) Information and documentation regarding the corporate identity, ownership, affiliations, and capital structure of the entity represented by the applicant;

(b) Declarations as to the beneficial ownership of any allowance that may be acquired through the auction;

(c) The identification of any indictment or felony conviction of any member, director, principal, partner, or officer of the applicant or any affiliate or related entity;

(d) A statement by the applicant as to prior findings of non-responsibility or failure to secure financing with regard to any procurement by the applicant or the entity represented by the applicant or any affiliate or related entity associated with any commodity market or exchange;

(e) The identification of any previous or pending investigation of the applicant or the entity represented by the applicant or any affiliate or related entity with respect to any alleged violation of any rule, regulation, or law associated with any commodity market or exchange;

(f) Evidence demonstrating that the applicant has opened a general account or compliance account as specified in Env-A 4607; and

(g) The identification of relationships with any other account holder.

Env-A 4804.06 Review of Applications, Updates, and Notices of Intent to Bid.

(a) The regional organization shall review each application for qualification, each update, and each notice of intent to bid that is submitted as specified in the CO_2 allowance auction notice.

(b) If a submittal is determined to be incomplete or if the information provided is insufficient to allow the department to determine that the applicant is qualified to participate, the department shall direct the regional organization to so inform the applicant and state the reason(s) therefore. An applicant whose submittal is determined to be incomplete or deficient shall be given no less than 5 business days and no more than 10 business days to provide additional information and to cure the deficiencies.

(c) In reviewing a submittal, the regional organization, in consultation with the department, shall consider the information submitted by the applicant and any other information regarding the applicant that is known to the department.

(d) The department shall direct the regional organization to accept the submittal if the applicant demonstrates that it has the ability and authority to execute bids and honor contractual obligations. If the department determines that conditions are required in order to ensure that associated entities do not collectively bid on greater than 25% of the allowances available at that auction, not including the CCR allowances, the department shall direct the regional organization to accept the submittals with conditions.

(e) The regional organization shall notify the applicant of the department's decision and any conditions of acceptance. If the applicant is found to not be qualified to participate in the auction, the notice shall specify the reason(s) for the decision.

Env-A 4804.07 Financial Security.

(a) To receive approval to participate in any specific auction, otherwise qualified bidders shall provide financial security in the form and manner described in the CO_2 allowance auction notice.

(b) Any person who has posted financial security may request return of the financial security at any time prior to or following any CO_2 allowance auction. The regional organization shall return said financial security upon request, provided that the department has no current or pending claim to such security as a result of a failure of the person to comply with these rules or to pay the full amount of an accepted bid when due. If the request for return of financial security is made prior to the auction, the request shall be deemed a withdrawal from participating in that auction.

(c) Participation in any auction shall be limited to the level of financial security provided by the participant.

(d) If a bidder's offer is accepted in a CO_2 allowance auction and the bidder fails to tender payment of the full amount when due, the department shall direct the regional organization to retain that portion of the financial security needed to cover the full amount owed by the bidder.

PART Env-A 4805 AUCTION MONITORING AND REPORTING; TRANSFER OF CO_2 ALLOWANCES

Env-A 4805.01 Auction and Secondary Market Monitoring.

(a) The department shall direct the regional organization to engage a professional independent auction monitor, such as a certified public accounting firm or similar entity, to observe and report on the conduct and outcome of each auction.

(b) The auction monitor shall:

(1) Monitor each CO_2 allowance auction;

(2) Monitor allowance market data and information, including allowance transactions and associated pricing reported in the CO_2 allowance tracking system and other relevant data and information; and

(3) Develop and apply data collection methods, metrics, and analytic techniques, and thresholds for identifying any bidding behavior or activity that might have a significant impact on the efficiency and performance of such auctions, including, but not limited to, collusion, market power, or price manipulation.

Env-A 4805.02 Reporting by Auction Monitor. The auction monitor shall submit a written report to the department, prepared in accordance with professional auditing standards, which discusses:

(a) Whether the auction was conducted in accordance with the rules and procedures in the associated ~~N~~ notice of CO_2 allowance auction; and

(b) Whether any behavior or activity as described in Env-A 4805.01(b)(3) may be interfering with the goal of ensuring fair competition, efficient pricing, and protection against collusive or manipulative behavior in the CO_2 allowance auctions and the CO_2 budget trading program.

Env-A 4805.03 Transfer of CO_2 Allowances. The regional organization shall transfer the corresponding CO_2 allowances to a successful bidder's compliance or general account, as specified by the bidder, upon receipt of:

(a) Notification from the department that the department has received the report from the auction monitor; and

(b) Payment in full by the successful bidder.

APPENDIX

Rule Section(s)	State or Federal Statute or Federal Regulation Implemented
Env-A 4800	RSA 125-O:21, III; RSA 125-O:26; RSA 125-O:29

APPENDIX B: Incorporation by Reference Information

Rule	Title (Date)	Source
Env-A 4804.03(b)	Auction Notice for CO_2 Allowance Auction 73 on September 9, 2026.	Regional Greenhouse Gas Initiative, Inc. 90 Church Street, 4th Floor New York, NY 10007 Or call: (212) 417-7329 Download at no charge from: https://www.rggi.org/auctions/auction-materials