

# Florida's 2008 Energy Bill

## Proposed Market-Based Emissions Abatement Program (Cap and Trade)

Section 65. 403.44 Florida Climate Protection Act.—

1) The Legislature finds it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program, such as cap and trade, to address greenhouse gas emissions reductions.

2) As used in this section, the term:

(a) "Allowance" means a credit issued by the department through allotments or auction which represents an authorization to emit specific amounts of greenhouse gases, as further defined in department rule.

(b) "Cap and trade" or "emissions trading" means an administrative approach used to control pollution by providing a limit on total allowable emissions, providing for allowances to emit pollutants, and providing for the transfer of the allowances among pollutant sources as a means of compliance with emission limits.

(c) "Greenhouse gas" or "GHG" means carbon dioxide, methane, nitrous oxide, and fluorinated gases such as hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(d) "Leakage" means the offset of emission abatement that is achieved in one location subject to emission control regulation by increased emissions in unregulated locations.

(e) "Major emitter" means an electric utility regulated under this chapter.

(3) A major emitter shall be required to use The Climate Registry for purposes of emission registration and reporting.

(4) The department shall establish the methodologies, reporting periods, and reporting systems that shall be used when major emitters report to The Climate Registry. The

department may require the use of quality-assured data from continuous emissions monitoring systems.

(5) The department may adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from major emitters. When developing the rules, the department shall consult with the Florida Energy and Climate Commission and the Florida Public Service Commission and may consult with the Governor's Action Team for Energy and Climate Change. The department shall not adopt rules until after January 1, 2010. The rules shall not become effective until ratified by the Legislature.

(6) The rules of the cap-and-trade regulatory program shall include, but are not limited to:

(a) A statewide limit or cap on the amount of greenhouse gases emitted by major emitters.

(b) Methods, requirements, and conditions for allocating the cap among major emitters.

(c) Methods, requirements, and conditions for emissions allowances and the process for issuing emissions allowances.

(d) The relationship between allowances and the specific amounts of greenhouse gas emissions they represent.

(e) The length of allowance periods and the time over which entities must account for emissions and surrender allowances equal to emissions.

(f) The timeline of allowances from the initiation of the program through to 2050.

(g) A process for the trade of allowances between major emitters, including a registry, tracking, or accounting system for such trades.

(h) Cost containment mechanisms to reduce price and cost risks associated with the electric generation market in this state. Cost containment mechanisms to be considered for inclusion in the rules include, but are not limited to:

1. Allowing major emitters to borrow allowances from future time periods to meet their greenhouse gas emission limits.

2. Allowing major emitters to bank greenhouse gas emission reductions in the current year to be used to meet emission limits in future years.
3. Allowing major emitters to purchase emissions offsets from other entities that produce verifiable reductions in unregulated greenhouse gas emissions or that produce verifiable reductions in greenhouse gas emissions through voluntary practices that capture and store greenhouse gases that otherwise would be released into the atmosphere. In considering this cost containment mechanism, the department shall identify sectors and activities outside of the capped sectors, including other state, federal, or international activities, and the conditions under which reductions there can be credited against emissions of capped entities in place of allowances issued by the department. The department shall also consider potential methods and their effectiveness to avoid double-incentivizing such activities.
4. Providing a safety valve mechanism to ensure that the market prices for allowances or offsets do not surpass a predetermined level compatible with the affordability of electric utility rates and the well-being of the state's economy. In considering this cost containment mechanism, the department shall evaluate different price levels for the safety valve and methods to change the price level over time to reflect changing state, federal, and international markets, regulatory environments, and technological advancements.

In considering cost containment mechanisms for inclusion in the rules, the department shall evaluate the anticipated overall effect of each mechanism on the abatement of greenhouse gas emissions and on electricity ratepayers and the benefits and costs of each to the state's economy, and shall also consider the interrelationships between the mechanisms under consideration.

(i) A process to allow the department to exercise its authority to discourage leakage of GHG emissions to neighboring states attributable to the implementation of this program.

(j) Provisions for a trial period on the trading of allowances before full implementation of a trading system.

(7) In recommending and evaluating proposed features of the cap-and-trade system, the following factors shall be considered:

- (a) The overall cost-effectiveness of the cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- (b) Minimizing the administrative burden to the state of implementing, monitoring, and enforcing the program.
- (c) Minimizing the administrative burden on entities covered under the cap.
- (d) The impacts on electricity prices for consumers.
- (e) The specific benefits to the state's economy for early adoption of a cap-and-trade system for greenhouse gases in the context of federal climate change legislation and the development of new international compacts.
- (f) The specific benefits to the state's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- (g) The potential effects on leakage if economic activity relocates out of the state.
- (h) The effectiveness of the combination of measures in meeting identified targets.
- (i) The implications for near-term periods of long-term targets specified in the overall policy.
- (j) The overall costs and benefits of a cap-and-trade system to the state economy.
- (k) How to moderate impacts on low-income consumers that result from energy price increases.
- (l) Consistency of the program with other state and possible federal efforts.
- (m) The feasibility and cost-effectiveness of extending the program scope as broadly as possible among emitting activities and sinks in Florida.
- (n) Evaluation of the conditions under which Florida should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.

(8) Recognizing that the international, national, and neighboring state policies and the science of climate change will evolve, prior to submitting the proposed rules to the Legislature for consideration, the department shall submit the proposed rules to the Florida Energy and Climate Commission, which shall review the proposed rules and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the department. The report shall address:

- (a) The overall cost-effectiveness of the proposed cap and trade system in combination with other policies and measures in meeting statewide targets.
- (b) The administrative burden to the state of implementing, monitoring, and enforcing the program.
- (c) The administrative burden on entities covered under the cap.
- (d) The impacts on electricity prices for consumers.
- (e) The specific benefits to the state's economy for early adoption of a cap-and-trade system for greenhouse gases in the context of federal climate change legislation and the development of new international compacts.
- (f) The specific benefits to the state's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- (g) The potential effects on leakage if economic activity relocates out of the state.
- (h) The effectiveness of the combination of measures in meeting identified targets.
- (i) The economic implications for near-term periods of short-term and long-term targets specified in the overall policy.
- (j) The overall costs and benefits of a cap-and-trade system to the economy of the state.
- (k) The impacts on low-income consumers that result from energy price increases.
- (l) The consistency of the program with other state and possible federal efforts.

(m) The evaluation of the conditions under which the state should consider linking its trading system to the systems of other states or other countries and how that might be affected by the potential inclusion in the rule of a safety valve.

(n) The timing and changes in the external environment, such as proposals by other states or implementation of a federal program that would spur reevaluation of the Florida program.

(o) The conditions and options for eliminating the Florida program if a federal program were to supplant it.

(p) The need for a regular reevaluation of the progress of other emitting regions of the country and of the world, and whether other regions are abating emissions in a commensurate manner.

(q) The desirability of and possibilities of broadening the scope of the state's cap-and-trade system at a later date to include more emitting activities as well as sinks in Florida, the conditions that would need to be met to do so, and how the program would encourage these conditions to be met, including developing monitoring and measuring techniques for land use emissions and sinks, regulating sources upstream, and other considerations.