

Cap-and-Invest: Pre-Proposal Stakeholder Outreach New York Cap-and-Invest

Cap-and-Invest Rulemaking
GHG Reporting Rulemaking
Auction Rulemaking

June 22, 2023
Electricity-Focused Webinar



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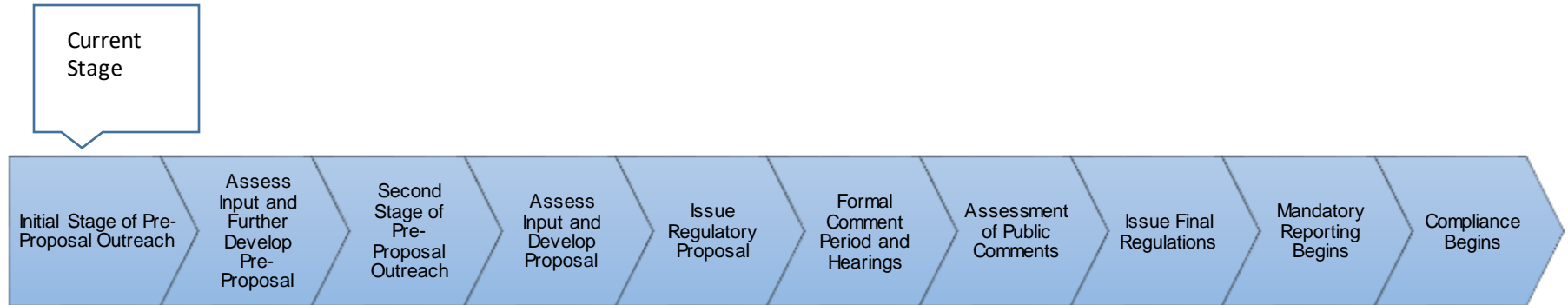
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Meeting Procedures

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Cap-and-Invest Regulation Development Timeline

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STATE

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Follow the Process

Join the mailing list to receive updates on program development: <https://climate.ny.gov/email-list/>

Meeting recordings and materials can be found at:
www.capandinvest.ny.gov/meetings-and-events

Provide feedback:

Comments can be submitted online at:

www.capandinvest.ny.gov

or by mail:

Bureau of Air Quality Planning
NYS DEC, Division of Air Resources
625 Broadway, Albany, NY 12233-3251



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Agenda

- Climate Leadership and Community Protection Act (Climate Act)
- An Economywide Cap-and-Invest Program
- Special Considerations for New York's Program
- Discussion of Program Design Elements
 - Auction Rulemaking
 - Cap-and-Invest Rulemaking
 - GHG Reporting Rulemaking
- Next Steps



Climate Act – Overview

Carbon neutral economy, mandating at least an 85% reduction in emissions below 1990 levels by 2050

40% reduction in emissions by 2030

100% zero-emissions electricity by 2040

70% renewable electricity by 2030

9,000 MW of offshore wind by 2035

6,000 MW of distributed solar by 2025

3,000 MW of energy storage by 2030

185 TBtu on-site energy savings by 2025

Commitments to climate justice and just transition

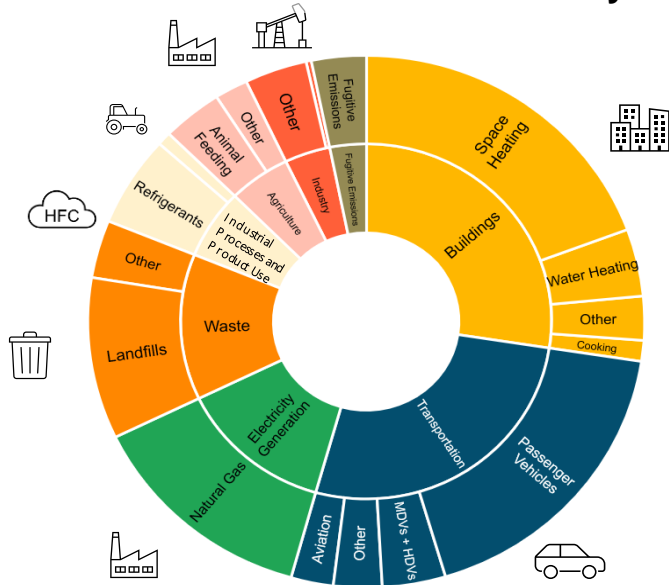


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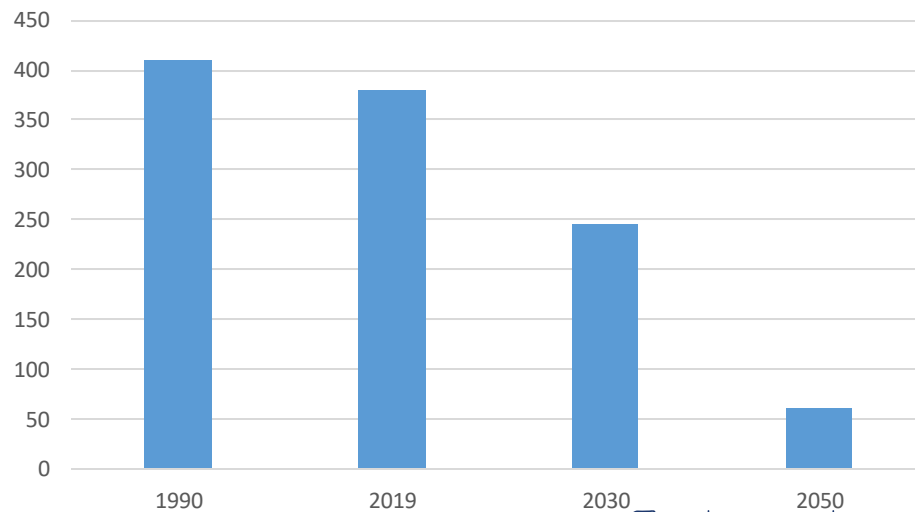
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GHG Emissions Reduction Requirements

Current Estimated GHG Emissions by Sector



New York State GHG Emissions (MMtCO₂e)



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New York State Cap-and-Invest

The Cap-and-Invest Program was recommended by the Climate Action Council's final Scoping Plan and proposed in Governor Kathy Hochul's 2023 State of the State Address and Executive Budget.

DEC and NYSERDA are developing the program to meet the greenhouse gas emission reduction and equity requirements under the 2019 Climate Act.



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Economywide Cap-and-Invest Program

> At Governor Hochul's direction, the program will incorporate these guiding principles:

- *Affordability*: Craft a program to deliver money back to New Yorkers to ensure energy affordability
- *Climate Leadership*: Catalyze other states to join New York, and allows linkage to other jurisdictions
- *Creating Jobs and Preserving Competitiveness*: Protect existing jobs and support new and existing industries
- *Investing in Disadvantaged Communities*: Ensure 35%+ of investments benefit DACs
- *Funding a Sustainable Future*: Support ambitious clean energy investment



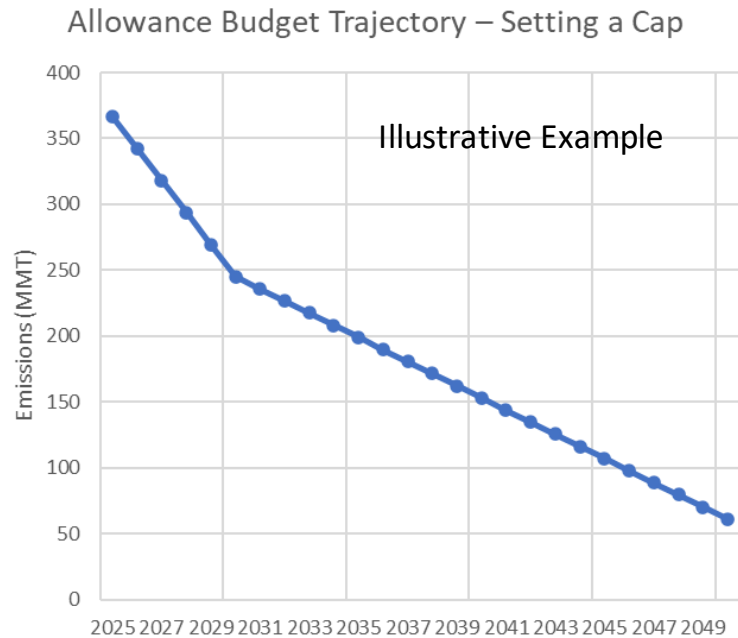
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Cap-and-Invest Program: Achieving Emission Limits

Over the coming year, DEC and NYSERDA will design a program that sets an annual cap on the amount of greenhouse gas pollution permitted to be emitted in New York.

The declining cap ensures annual emissions are reduced, setting the state on a trajectory to meet our GHG emissions reduction requirements of 40% by 2030, and at least 85% from 1990 levels by 2050, as mandated by the Climate Act.



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New York's Cap-and-Invest Program – How it Works

Cap-and-Invest sets an annual limit on the amount of greenhouse gas emissions emitted in New York. Every year, the cap will be set lower to reduce greenhouse gas emissions.



Large-scale greenhouse gas emissions sources and distributors of heating and transportation fuels will be required to purchase or obtain allowances for emissions associated with their activities.



The Program will prioritize frontline disadvantaged communities that have suffered from pollution as a result of environmental injustice and will ensure emissions reductions.



Proceeds will minimize potential consumer costs while supporting critical investments in focus areas such as climate mitigation, energy efficiency, and clean transportation.



Cap-and-Invest Guiding Principles:

- Affordability
- Climate leadership
- Creating jobs and preserving competitiveness
- Investing in disadvantaged communities
- Funding a sustainable future



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Greenhouse Gas Emissions Reporting

Cap-and-Invest programs require emissions reporting from emissions sources.

Entities with reporting requirements will likely be more numerous than entities with allowance compliance obligations

- Supports integrity of emissions allowance determinations
- Supports integrated reporting platform for multiple programs
- Helps to identify future actions



Regulatory Framework

- > DEC and NYSERDA plan to develop three regulations to implement an economywide Cap-and-Invest program (NYCI)
 - DEC Mandatory Greenhouse Gas Reporting Rulemaking (Part 253)
 - DEC Economywide NYCI Rulemaking (Part 252)
 - NYSERDA Auction Rulemaking (Part 510)

- > DEC is drafting and will promulgate enforceable regulations to ensure the State meets the Climate Act's statewide GHG emission limits as outlined in the Scoping Plan.



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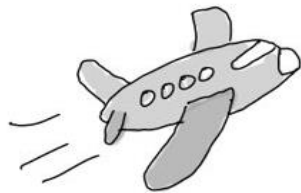
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Distinguishing Elements in NYCI Program Development

- All GHG emissions would be accounted for under the program and the cap must reduce at a rate to achieve the statewide GHG emission limits.
- DEC is considering the concept of obligated and non-obligated sources.
 - Obligated sources identified by regulation and required to provide allowances equal to its GHG emissions.
 - Non-obligated sources contribute to GHG emissions and must be accounted for in the overall cap, but allowances to cover GHG emissions from non-obligated sources will be retired by DEC.



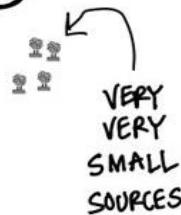
What about hard-to-cover emissions?



AVIATION



AGRICULTURE



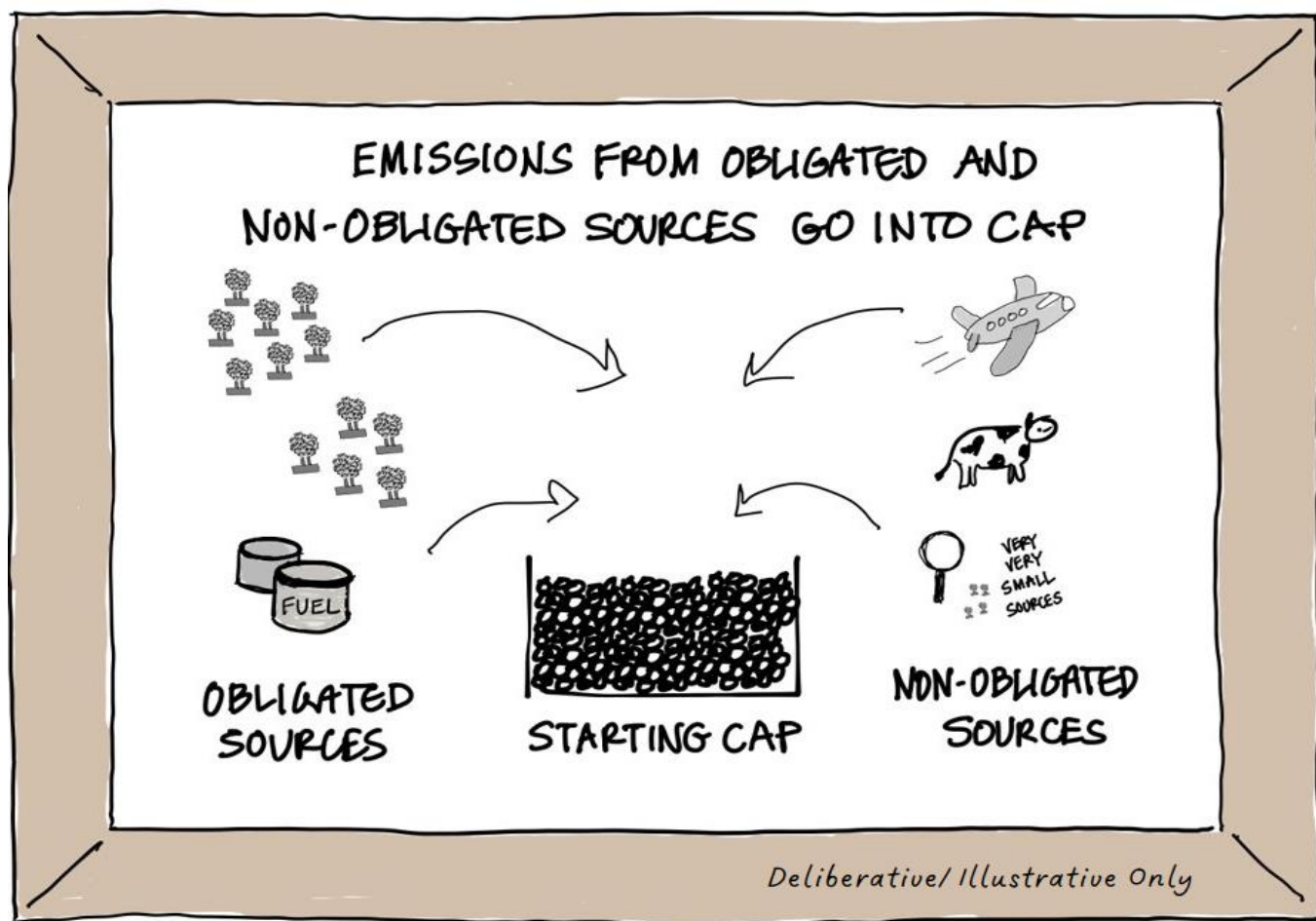
NON-OBLIGATED SOURCES OR CATEGORIES

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NON-OBLIGATED
SOURCES
HAVE NO
COMPLIANCE
OBLIGATION



VERY
VERY
SMALL
SOURCES



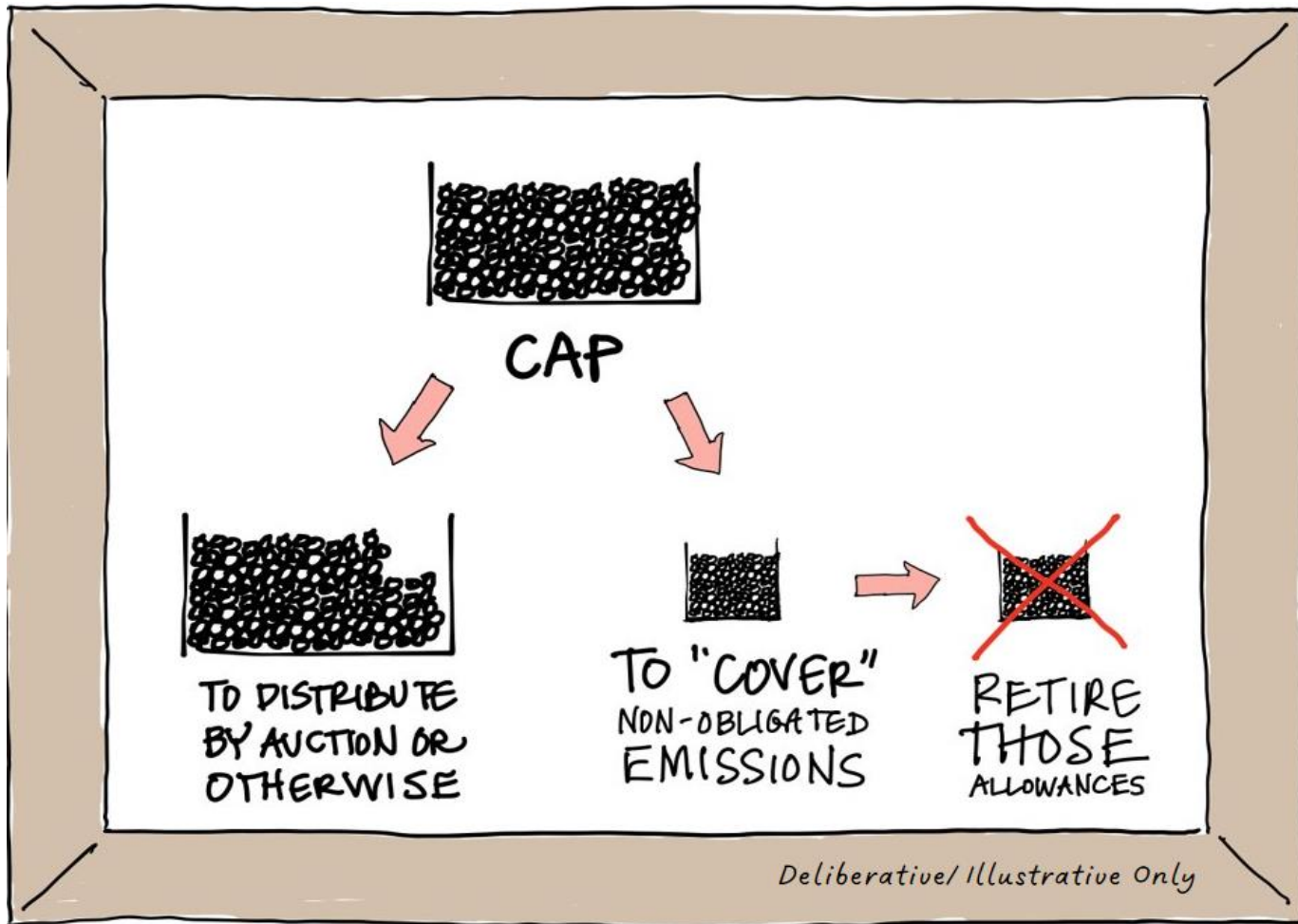
INSTEAD, EACH YEAR
STATE SETS ASIDE
ALLOWANCES TO "COVER"
THEIR EMISSIONS

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NON-OBLIGATED
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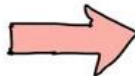
VERY
VERY
SMALL
SOURCES



CAP



TAKE ALLOWANCES
OUT TO "COVER"
NON-OBLIGATED
EMISSIONS



RETIRE
THOSE
ALLOWANCES

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Equity Consideration for Disadvantaged Communities

- Climate Act directs that a minimum of 35% of proceeds -- with a goal of 40%-- be invested to benefit Disadvantaged Communities (DACs).
- In addition to investments to reduce emissions, DEC is soliciting feedback about any additional regulatory mechanisms in the Cap-and-Invest regulation that should be considered to ensure emission reductions in DACs.



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Auction Rules

- What auction format should be used (e.g., single-round or multiple round auctions; a uniform price applicable to all awarded allowances or allowance pricing based on as-bid prices; frequency of auctions)?
- Should participation in the allowance auctions be limited to obligated entities or be open to market participants without program obligations?
- What requirements should entities fulfill to be able to register for participation in auctions?
- Should the auction mechanics contemplate the inclusion of allowances from linked jurisdictions?
- What measures should be considered (e.g., disclosure requirements) to uphold market integrity and protect against collusion or other market manipulation?



Market Rules

- Should any constraints be adopted regarding trading of allowances?
- Should any allowance purchase or holding limits or minimum allowance holding periods be applied, and if so, should these apply only to market participants other than obligated entities?



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Cap-and-Invest Starting Points

As DEC and NYSERDA begin to develop NYCI rules, we are soliciting comments from stakeholders about existing cap-and-invest/cap-and-trade programs and if DEC and NYSERDA should consider incorporating any of those regulatory provisions into New York's proposed regulations.

- California Air Resources Board (CARB) regulations
 - California's [cap and trade regulation](#) covers the details of the state's economywide system.
 - California's [mandatory GHG reporting rule](#) covers the mandatory emissions reporting and verification system, which is a separate regulation from the emissions trading program.
- DEC and NYSERDA also seek comments based on provisions of the Washington and Quebec cap-and-invest programs.



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NYCI Program Design Decisions

- Applicability and thresholds
- Allowance allocation and auction
- Cap and allowance budget
- Program stability mechanisms
- Compliance and Enforcement
- Reporting and verification



Cap-and-Invest Design Elements

Applicability: Describes which sources must obtain and surrender allowances and/or which sources must report emissions. Generally, a list of specific operations conducted by a source (e.g., combusts fuel at a facility, operates infrastructure in NYS).

Thresholds: Describes emissions or operations limit for program applicability. This may be different for each type of source.



Cap-and-Invest Applicability - Electricity Sector

- What should be considered regarding sources covered by RGGI?
- How should we consider the non-CO₂ and upstream out of state emissions associated with the consumption of fossil fuels to produce electricity?
- How should addressing electricity imports be considered, at what point of delivery should emissions be assigned?



Cap-and-Invest Applicability - Fuel Suppliers

- Fuel suppliers are anticipated to have obligations for all non-aviation fuels utilized in NYS.
- Some fuel consumption may be covered by other programs or obligations like RGGI, or other electricity generating facilities sources.
- How should fuel suppliers identify fuel for which they have no allowance obligation?



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Allocation of Allowances

- Describes the distribution of allowances to auction, including containment reserves, and set asides.
- Set asides are anticipated to include Energy Intensive and Trade Exposed (EITE) sources and allowances retired by the State to cover non-obligated sources and emissions.



Allowance Cap

Allowance Cap

- Designed to align with Climate Act statewide 2030 and 2050 GHG emission limits (i.e., 40x30 and 85x50).
- How should we set the starting point for the Cap?
 - *Based on current emissions, or surrogate?*
- How should the cap decline?
 - *As illustrated in the earlier slide or other trajectories?*



Non-Obligated Sources

- Emissions from non-obligated sources anticipated to be covered by retiring allowances from the non-obligated set aside.
- Emissions from non-obligated sources anticipated to be estimated with the same methods used in the GHG Inventory, unless those sources are able to report emissions.
- What data and other resources are available to evaluate potential future emissions from non-obligated sources?



Allowance Budget

- Obligated sources will be identified by regulation and required to provide allowances equal to its GHG emissions.
- Non-Obligated sources GHG emissions would be accounted for in setting the allowance budget. The Allowance budget plus the non-obligated emissions would equal the statewide GHG emission cap.



Program Stability Mechanisms

- We are seeking feedback on use of Cost Containment Reserve (CCR) and Emission Containment Reserve (ECR), including thresholds, amounts, and other factors.
- How should the CCR be designed to respond to higher than anticipated prices? Should allowances be pulled from future budget years?
- What information should be considered when evaluating banking provisions? What should be considered when evaluating potential banking adjustments?



Compliance Process

- How many years should a compliance period cover?
- How often should sources surrender allowances?
 - *If multi-year compliance periods are used, what percentage of allowances should be surrendered in an interim year?*
- What amount of time should be given between reporting of emissions and surrender of allowances?



Enforcement and Compliance Mechanisms

Enforcement and Compliance Mechanisms

- What approaches to compliance should be considered?
- How could the assignment of multiple types of compliance mechanisms (e.g., surrender additional allowances and monetary penalties) be structured?



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Emissions Reporting Design Elements

Applicability

- Which sources must report emissions or operational data. Generally, this is a list of specific operations conducted by a source (e.g., combusts fuel at a facility, removes transportation fuel at a rack for sale in NYS, transfers ownership of fuel in NYS).

Thresholds

- Describes the emissions or operations limit for program coverage. This may be different for each type of source. This will likely be a lower volume than Cap-and-Invest applicability thresholds.



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Reporting and Verification

- How can existing reporting systems be leveraged for various sources? Should the regulation call out specific existing programs or utilize plain language as much as possible?
- When should reporting begin, should past years be incorporated if there are benchmarking provisions?
- How often should reporting be required?
- How should verification requirements be established for different sources?
- How should emission verifiers be accredited?



Emissions Reporting - Electricity

- How should electric generating facilities with units that report to RGGI report emissions and fuel consumption?
- How might imported power emissions be identified by using NERC E-tags? At what point of delivery should emissions be reported?
- How should electricity imports generated at a facility covered by an emission trading program outside of NYS be identified?
- What should be considered when establishing emissions reporting for non-RGGI electricity generating facilities?



Emissions Reporting – Fuels Suppliers

- Fuel suppliers may have reporting requirements that support waste managing facility emissions reporting
- What considerations should be given to having fuel suppliers report all emissions associated with the use of their fuel at electricity generating facilities?
- What fuel ownership identification systems can be leveraged to support reporting requirements?
- What should be considered when developing reporting timelines for fuel used at electricity generating facilities?



California Reporting Rule

Subarticle 1:

General Requirements for Greenhouse Gas Reporting (pages 1-94)

The CARB program:

- Establishes applicability, reporting thresholds, most definitions, general reporting requirements, the reporting mechanism, and record keeping requirements.
- These requirements establish the emissions covered by the CARB Cap and Invest regulation.



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California Reporting Rule

Subarticle 2:

Requirements for the Mandatory Reporting of Greenhouse Gas Emissions from Specific Types of Facilities, Suppliers, and Entities (Pages 95-164)

The CARB program:

- The reporting requirements of emission sources groups are identified, including electric power entities, electrical generating units, stationary combustion, fuel suppliers, and specific industrial sources.
- References significant portions of 40 CFR Part 98.



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California Reporting Rule

Subarticle 3:

Additional Requirements for Reported Data (Page 165-175)

The CARB program:

- Establishes missing data provisions for specific emission sources and fuels.
- Detailed description of reporting for electricity generators and importers of electricity
- References 40 CFR part 75 and 98.



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California Reporting Rule

Subarticle 4:

Requirements for Verification of Greenhouse Gas Emissions Data Reports and Requirements Applicable to Emissions Data Verifiers; Requirements for Accreditation of Emissions Data and Offset Project Data Report Verifiers.

The CARB program:

- Describes verification requirements on emission sources specified in Subarticle 1 reporting requirements
- Establishes verifier accreditation and verifier emissions and data evaluation requirements along with limits on relationships between emission sources and verifiers



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Substantive Questions

Comments can be submitted online
at: www.capandinvest.ny.gov

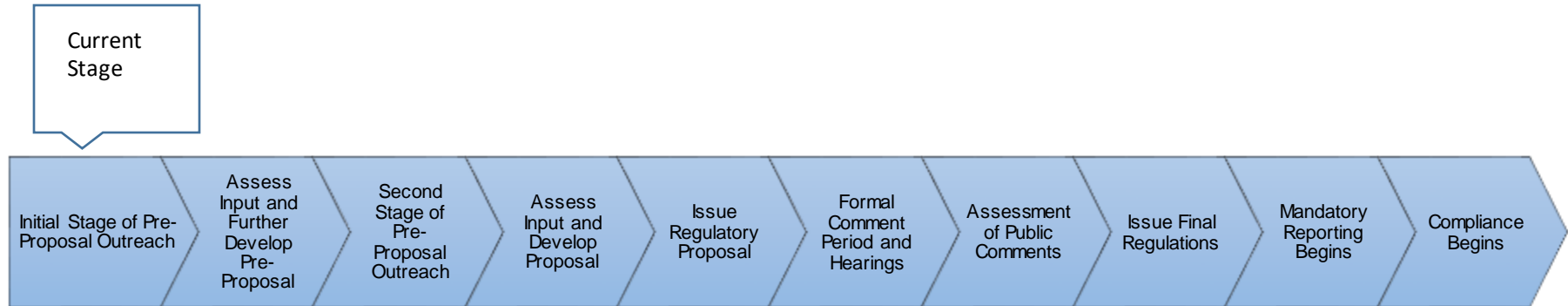
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Provide Online Feedback

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Submitting Comments

Cap and Invest Feedback

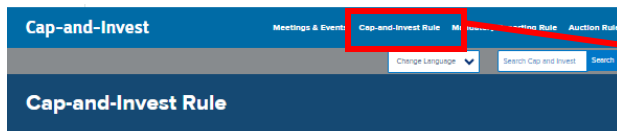
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Submit



Developing New York State's Economywide Cap-and-Invest Regulations

Cap-and-Invest Rulemaking (6 NYCRR Part 252)

Public input will inform development of the regulations to implement New York's Cap-and-Invest Program, including the mandatory reporting of emissions under that program. As a starting point, DEC and NYSERDA invite the public to review the regulation governing California's economywide program [PDF] as well as those operating in Quebec and Washington State [PDF]. DEC and NYSERDA are interested in hearing what elements of those regulations would work well and what improvements or changes may best serve New York.

Meeting the Climate Act Limit on Greenhouse Gas Emissions (GHG) with a Cap-and-Invest Solution

- All GHG emissions would be accounted for under the program and the cap must reduce at a rate to achieve the statewide GHG emission limits set in law.
- Obligated sources (e.g., large-scale GHG emitters and distributors of heating and transportation fuels) would be required to report emissions and obtain allowances equal to the GHG emissions associated with their activities. All obligated sources will have a reporting requirement.
- Non-obligated sources would not be required to obtain allowances, but their GHG emissions would be accounted for in setting the allowance budget. The allowance budget plus the non-obligated emissions would equal the statewide GHG emission cap. Some non-obligated sources may have an emissions reporting obligation.

Invitation to Provide Comments on the development of the regulations. The major design elements that New York is seeking feedback on at this time are listed below. Expand on each heading for further information on what is being considered for New York State.

DEC and NYSERDA have developed a template document [PDF] to assist commenters in providing feedback on these topics.

Developing New York State's Economywide Cap-and-Invest Regulations

Public input will inform development of the regulations to implement New York's Cap-and-Invest program.

Invitation to Provide Comments on the development of the regulations. The major design elements that New York is seeking feedback on at this time are listed below. Please enter your feedback in the form fields below each heading.

Submit Comments

DEC and NYSERDA will review comments and further develop pre-proposal materials to define New York's program. Notices will be sent to the distribution list when the second round of pre-proposal materials are posted. To inform the development of the pre-proposal, DEC and NYSERDA request first round feedback no later than July 1, 2023.

Applicability and Thresholds - Defines which sources and at what emissions thresholds sources are covered by the regulations, and must report emissions, and who must obtain and surrender allowances equal to their GHG emissions. Establishes obligated and non-obligated sources.

Allowance Allocation - Defines how allowances are made available: auctions, set asides and free allocations.



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Viewing Expanded List of Questions

Applicability and Thresholds - Defines which sources and at what emissions thresholds sources are covered by the regulations; who must report emissions; defines what entities must obtain and surrender allowances equal to their GHG emissions; establishes obligated and non-obligated sources.



Allowance Allocation - Defines how allowances are made available: auctions, set asides, and free allocations.



Program Ambition - Defines the cap and the allowance budget for how many allowances will be available year-by-year to reach the Climate Act GHG limits.



Program Stability Mechanisms - Defines the automatic and planned program adjustments to moderate costs and sustain program ambition if emissions are higher or lower than anticipated.



Compliance, Enforcement and Penalties - Defines compliance periods and types of enforcement mechanisms.



Applicability and Thresholds - Defines which sources and at what emissions thresholds sources are covered by the regulations; who must report emissions; defines what entities must obtain and surrender allowances equal to their GHG emissions; establishes obligated and non-obligated sources.



Allowance Allocation - Defines how allowances are made available: auctions, set asides, and free allocations.



Program Ambition - Defines the cap and the allowance budget for how many allowances will be available year-by-year to reach the Climate Act GHG limits.



- Cap includes economywide GHG emissions from obligated sources and non-obligated sources. The cap must set a starting point and downward trajectory to reach the GHG emission limits established in the Climate Act
 - How should the starting point for the cap be set? For example, based on current emissions, or surrogate?
 - How should the cap decline? Should the cap decline at a fixed rate or take steps?
- Allowance budget - The budget is allowances available for obligated sources. A set-aside account will hold allowances to be retired to account for GHG emissions from non-obligated sources.
 - What should be considered when designing the set-aside account and budget so that the program is consistent with the NYS GHG annual inventory?



Provide Written Feedback

Via US Postal Service to:
Bureau of Air Quality Planning
NYS DEC, Division of Air Resources
625 Broadway, Albany, NY 12233-3251



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Thank You

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