New York Cap-and-Invest (NYCI)

Pre-Proposal:

Mandatory Greenhouse Gas Reporting and Cap-and-Invest Programs

January 25, 2024

NEW YORK STATE Department of Environmental Conservation

NEW YORK STATE NYSERDA

Meeting Procedures

- Attendees will not be able to unmute or turn on video.
- Attendees will be able to submit questions via the Q&A feature. Questions will be answered by panelists at the end of the presentation as time allows.
- If you can’t hear the presentation, you can configure your audio settings by clicking the arrow in the “audio” box.
- You can turn on closed captioning for the presentation and change the language of the captions.
- This webinar will be recorded.

New York Cap-and-Invest (NYCI) Regulation Development Timeline

Current Stage

1. Initial stage of pre-proposal outreach
2. Assess input and further develop pre-proposal
3. **Second stage of pre-proposal outreach**
4. Assess input and develop proposal
5. Issue regulatory proposal
6. Formal comment period and hearings
7. Assessment of public comments
8. Issue final regulations
9. Mandatory reporting begins
10. Compliance begins

1. Draft Program Portfolio
2. Community and stakeholder input on use of proceeds
3. Develop Investment Proposals
4. Submittal for Budget Consideration

Learn More and Stay Involved

Join the Mailing list to receive updates on program development

Check out meeting recordings and materials
at www.capandinvest.ny.gov/meetings-and-events

Provide feedback and submit comments

online at: www.capandinvest.ny.gov
by mail to: Bureau of Air Quality Planning
NYS DEC, Division of Air Resources
625 Broadway, Albany, NY 12233-3251

Introduction

1. **Mandatory Greenhouse Gas Reporting Program**

2. **Cap-and-Invest Program and Auction Rule**

DEC and NYSERDA have released a Pre-Proposal Outline describing the program elements the Agencies are considering (available at https://capandinvest.ny.gov/-/media/Project/CapInvest/Files/Second-Stage-of-Pre-Proposal-Outreach.pdf)

Additional webinars and information will be forthcoming.

Introduction

1. **Mandatory Greenhouse Gas Reporting Program (Forthcoming DEC Regulation – 6 NYCRR Part 253)**
   - **Types of Emission Sources That Must Report**
     Implementation of emissions reporting including who, how and what must be reported and verified
   - **Thresholds for Reporting**
     Establishes the individual reporting thresholds or criteria for who needs to report

2. **Cap-and-Invest Program (Forthcoming DEC Regulation – 6 NYCRR Part 252)**
   - **Establishing a GHG Emissions Cap and Allowance Budget**
     Setting the 2025 GHG Emissions Cap and trajectory, and how adjustments will be made
   - **Obligated Sectors and Entities, Compliance Obligations, and EITE**
     Establishes who is required to participate in the program, how Entities will participate in the market, and how EITEs will be treated
   - **Program Considerations to Ensure no Disproportionate Impacts in Disadvantaged Communities**
     Potential regulatory mechanisms and complementary programs and requirements

3. **Auction Rule (Forthcoming NYSERDA Regulation)**
   - **Auction Logistics and Mechanics**
     Registration requirements, implementation of auctions, auction format, simplified bidding option, publication of results, initial auction period
   - **Market Integrity**
     Prohibition of collusion, auction purchase limit, allowance holding limits, minimum hold times, associations, market monitoring

NYCI 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

Stakeholder Comments

NYSERDA and DEC solicited initial stakeholder comments in response to a range of questions shared in a June webinar series and received more than **3,400 comments.**

Comments were carefully considered in the development of the NYCI Pre-Proposals provided in today's webinar.

NYSERDA and DEC invite comments to the pre-proposals presented today, preferably by **March 1, 2024**. Comments may be submitted at https://capandinvest.ny.gov/

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Mandatory Greenhouse Gas Reporting Program

Forthcoming 6 NYCRR Part 253

Important Considerations

- Sources required to report per the Mandatory GHG Reporting Program regulation (anticipated Part 253) are not automatically Obligated Sources that must comply with the Cap-and-Invest regulation (anticipated Part 252).
- DEC expects more sources (called Reporting Entities) will be required to comply with the Mandatory GHG Reporting Program than the Cap-and-Invest regulation.

Important Considerations

- Where possible, consistent with comments received to date, DEC will be looking to utilize/leverage existing reporting requirements and platforms, and the data reported to these platforms to meet the Mandatory GHG Reporting Program requirements.
- Reporting Entities are anticipated to register with the reporting system and certify their emissions.
- Where necessary duplicative information (e.g., from fuel suppliers) would need to be reported to DEC when it is not accessible from other reporting programs.

Types of Emission Sources

Categories of Emission Sources to be covered by Part 253 are anticipated to derive from and be informed by the U.S. EPA GHG reporting program and other jurisdictional reporting programs. DEC would publish specific regulatory text to conform with New York State-specific needs and to cover New York State-specific emission sources.

Beginning with existing EPA or California regulatory text, changes will generally fall into two groups:

- Minor changes/modifications
- Major changes/modifications or New Subparts

Additional descriptions and examples shown on the next slides

Types of Emission Sources (cont.)

Minor Changes from 40 CFR 98	Major Changes from 40 CFR 98	New Reporting
Stationary Combustion (C) Electricity Generation (D) Iron and Steel (Q), Aluminum (F), Lead (R), Cement (H), Electronics (I), Pulp/Paper (AA) Suppliers of Petroleum Products (MM) Suppliers of Natural Gas (NN) Hydrogen Production (P)	Petroleum and Natural Gas Systems (W) Suppliers of GHGs (OO), CO2 (PP), Pre-charged Equipment and Foams (QQ) Municipal Solid Waste Landfills (HH), Industrial (and domestic) Wastewater Treatment (II), Industrial Waste Landfills (TT) Use of Carbonates (U), Soda Ash (CC), Glass (N), Ceramics (Newly proposed ZZ)	Suppliers of Coal (KK) Ethanol Production (J) Manure Management (JJ) Electricity Importers Suppliers of Fertilizer Harvested Wood Products Biological Treatment of Solid Waste Solid Waste Transporters

Applicability and Threshold

The Mandatory GHG Reporting Program (anticipated Part 253) would describe the criteria that, if met, would result in an emission source becoming subject to the requirements of this rule.

Applicability:

Emission Sources owned or operated in NYS, that meet the threshold requirements after an effective date shall report emissions in accordance with the provisions of the regulation. These emission sources would become Reporting Entities.

Reporting Threshold Categories

Only one threshold category would apply to each emissions source type.

Emission threshold categories and example source types:

A. **Emission source type is in a specific source category**

Examples: Facilities with RGGI Sources, Electricity importers, Fuel Suppliers

B. **Emission source has more than 10,000 metric tons CO_2e* emissions in a year**

Examples: Combustion-Only Stationary Sources, Industrial sources

C. **Emission source type is in a specific source category and has a specific operational activity**

Examples: Landfills, WRRF, Digesters, Manure Storage, Solid Waste Haulers

*Calculation based on methods established under the Climate Act and utilized in establishing the Statewide emissions limits (6 NYCRR Part 496)

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Reporting Threshold Categories

	Potential Threshold Categories		
Reporting Entity Type	Entity Exists in NY	Entity Exists in NY and Emits at least 10,000 Metric tons of CO_2e	Entity Exists in NY and has Annual Activity above Specified Amount
RGGI Sources	X		
Electricity Importers	X		
Fuel Suppliers	X		
Industrial Facilities		X	
Other Stationary Sources		X	
Landfills			X (Tons of waste disposed)
Wastewater Treatment			X (Population served)
Manure Storage			X (Number of animals managed)
Waste Transported			X (Tons of waste transported)

Data Collection

Potential Emissions data to be collected:

Fuel

- Emissions calculated by applying emission factors to fuel type(s) and amount(s) sold or transferred to an end user in New York (includes reporting of sales/transfers to obligated and non-obligated sources)
- Fuel type and amount imported and exported or sold or transferred to another Fuel Supplier within NY

Combustion Sources

- Emissions identified by Continuous Emission Monitors
- Emissions calculated by applying emission factors to fuel type(s) and amount(s) utilized by facility
- Emissions from on-site components or equipment using emission factors
- Emissions from planned and unplanned venting

Data Collection (cont.)

Potential Emissions data to be collected:

Fugitive/Leaking Sources (e.g., fuel transportation and distribution systems)

- Emissions from reported components and equipment using emissions factors and emissions from fuel utilization, planned and unplanned vented emissions

Supplied industrial GHGs

- Emissions from gases or charged equipment sold/transferred to an end user in New York

Process Emissions and Industrial Facilities

- Emissions from types of industrial processes with emissions factors
- Other types of activity data, such as production or output information

Data Collection (cont.)

Potential Emissions data to be collected:

Waste Management

- Emissions calculated from reported disposal or managing of waste
- Emissions calculated from specific management types (digesters, treatment facilities, composting facilities)

Electricity Imports

- Emissions calculated from specified and unspecified megawatt hours at the first receiver of power in NYS

Verification

Third party verification is anticipated for the most significant GHG emission sources and to ensure high integrity for those entities who have an obligation to comply with the Cap-and-Invest Regulation (anticipated Part 252).

DEC anticipates requiring third party verification for any GHG emission data reports where the GHG emission source is also an Obligated Entity under the Cap-and-Invest Regulation and/or when the GHG emissions from a reporting source exceed 25,000 tons CO_2e*.

*Calculation based on methods established under the Climate Act and utilized in establishing the Statewide emissions limits (6 NYCRR Part 496)

Cap-and-Invest Program

The Cap-and-Invest Program Overview

The Cap-and-Invest Program is split into two parts:

1. **The DEC Cap-and-Invest Rule (forthcoming 6 NYCRR Part 252)**
   - Establishes annual enforceable GHG Emissions Cap, which declines overtime consistent with the 2030 and 2050 statewide GHG emission limits.
   - Identifies which GHG Emission Sources are Obligated Entities and what emissions are applicable to regulatory requirements
   - Establishes compliance obligations, mechanism to address emissions from Non-Obligated Entities and provisions to address market integrity and stability
2. **The NYSERDA Auction Rule**
   - Describes the operation of NYCI allowance auctions and mechanisms to protect the overall integrity of the allowance market

There are policy components that would have complementary sections in each of these two rules

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Establishing a GHG Emissions Cap and Allowance Budget

Setting the 2025 GHG Emissions Cap

- The GHG Emissions Cap in Year 1 would approximate the statewide GHG emissions to the best extent possible at the outset of the NYCI program.
- There are two potential methods:
  - **<u>Historical Method:</u>** DEC would use the most recent DEC Statewide Greenhouse Gas Emissions Report that has data through 2021, and other data sources on historic fuel consumption from federal and state sources such as:
    - RGGI CO_2 emissions through 2022
    - US DOE EIA natural gas supply data through 2022
    - US DOT State specific reports on motor fuel and special fuel sales through 2022
    - NYISO Load & Capacity Data Reports through 2022
  - **<u>Projection Method:</u>** DEC would use the most recent data from the 'Historic Method' along with adjustments reflecting the projected impact of adopted regulations and programs in effect at the time of rule finalization.

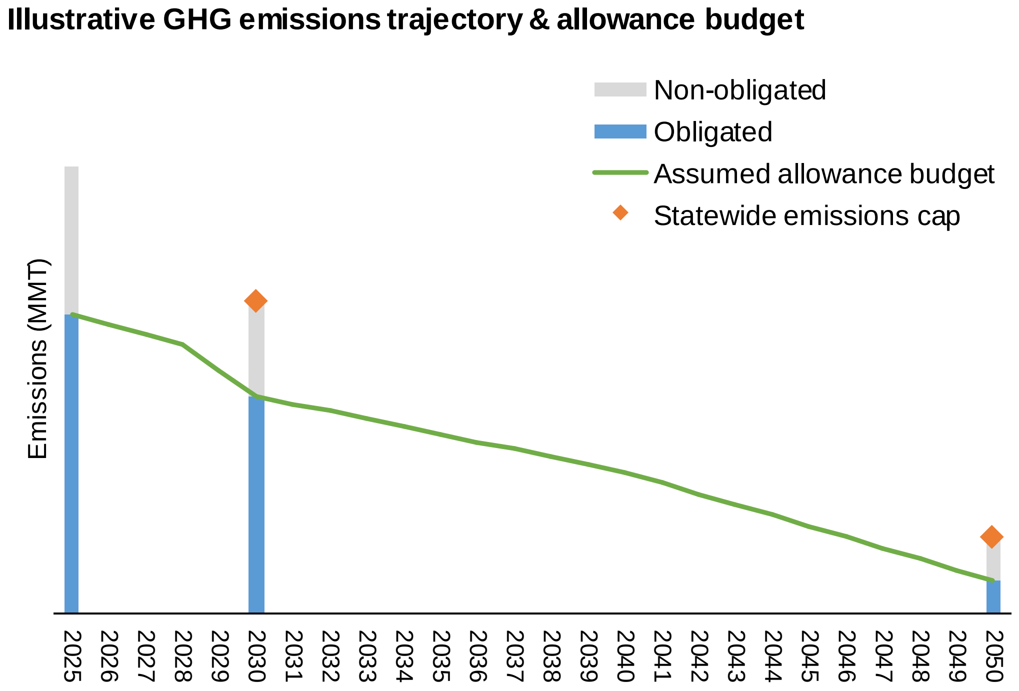
GHG Emissions Cap Trajectory

The GHG Emissions Cap (total number of allowances available) in 2030 and 2050 would be equal to the total limit on Statewide GHG emissions as established in the Climate Act and reflected in 6 NYCRR Part 496.

2030	245.87 MMT CO_2e
2050	61.47 MMT CO_2e

DEC anticipates **a nonlinear GHG Emissions Cap reduction trajectory** between 2025 and 2030 and between 2030 and 2050.

2026 – 2027	Slower reduction
2027 – 2030	Accelerating reduction to reach the 2030 GHG emissions limit
2031 – 2040 (inclusive)	Slower reduction
2041 – 2050	Accelerating reduction to reach the 2050 GHG emissions limit



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Establishing Allowance Budgets

- The annual Allowance Budget would be the number of allowances issued to Obligated Entities and General Market Participants
  - Annually, DEC would allocate the majority of allowances from the Allowance Budget to NYSERDA which NYSERDA would auction pursuant to the terms of the Auction Rule.
  - A minority of allowances from the Allowance Budget would be allocated by DEC to EITEs and auctioned by NYSERDA.
  - The Allowance Budget would be a function of adjustments made to allowances from the GHG Emissions Cap for Non-Obligated Entities and banking:

Allowance Budget = GHG Emissions Cap – Non-Obligated Entities Adjustment – Banking Adjustments

Establishing Allowance Budgets:
Non-Obligated Adjustment

DEC would determine the initial Non-Obligated Entities adjustment based on current GHG emissions and other data on trends of GHG emissions from both Non-Obligated and Obligated Sectors.

For subsequent compliance periods:

1. Six months before the beginning of each compliance period beginning with the second compliance period, DEC/NYSERDA would issue:
   a. Actual Non-Obligated GHG emissions to date (as collected from the Mandatory GHG Reporting Program and other sources) and a comparison to the projection used in the establishment of past Allowance Budgets. The total discrepancy would be summed.
   b. Projection of Non-Obligated Sector GHG emissions by year for at least the next two compliance periods.
2. The Non-Obligated Entities adjustment for each year of the second compliance period and all subsequent compliance periods is the sum of:

$$\textit{Non-Obligated Entities Adjustment} = \textit{Projected Non-Obligated GHG Emissions} + \left(\frac{\textit{Past GHG Emissions Discrepancy}}{\textit{Years in Next Compliance Period}}\right)$$

Establishing Allowance Budgets:
Banking Adjustments

- During regular program reviews, the Agencies would estimate whether future Allowance Budgets combined with unretired (already purchased) allowances would result in GHG emissions above the Statewide GHG emission limits.

- If so, DEC would set a Banking Adjustment to reduce future Allowance Budgets to realign likely GHG emissions outcomes to be consistent with meeting the Statewide GHG emissions limits in 2030 and 2050.

$$\textit{Allowance Budget} = \textit{GHG Emission Cap} - \textit{Non–Obligated Entities Adjustment} - \textit{Banking Adjustment}$$

Obligated Sectors and Entities

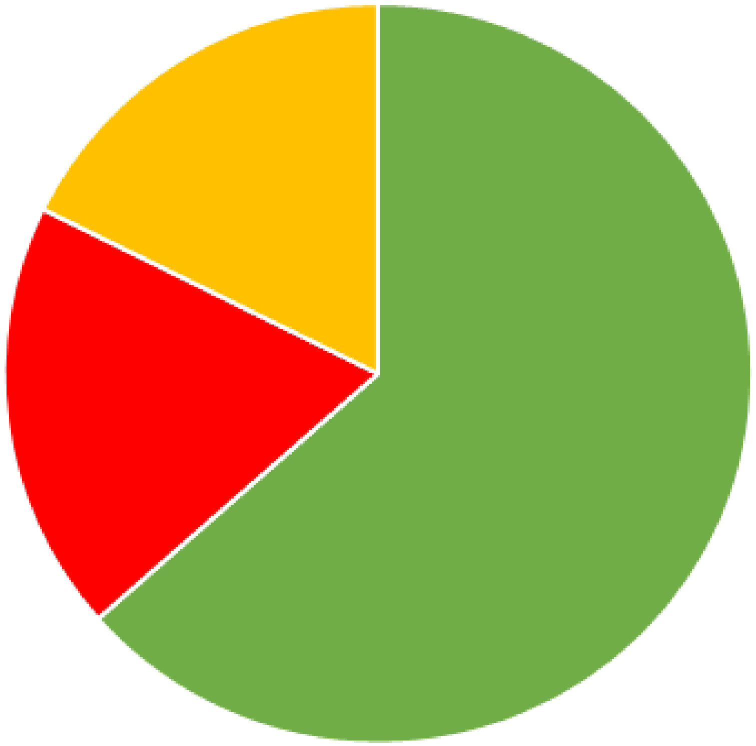
Types of GHG Emissions Sources

- **Stationary GHG Emissions Sources** would have an obligation threshold of 25,000 metric tons CO_2e.
  - Includes non-RGGI electricity generation sources
  - For Stationary GHG Emissions Sources whose total GHG emissions are less than the compliance threshold, GHG emissions associated with fuel utilization may still be obligated at the Fuel Supplier level if that Fuel Supplier meets the compliance threshold.
- **Fuel Suppliers** would have an obligation threshold of 100,000 gallons of liquid fuel or 15,000,000 standard cubic feet of gaseous fuel sold to an end user in New York State.
  - Fuel Suppliers would not include GHG emissions associated with fuels sold to Obligated Entities (e.g., Stationary GHG Emissions Sources) for the purpose of identifying whether they are obligated, and they would not have an allowance compliance obligation for these fuels.
- **Electricity sector** obligations are to be determined.

Obligated Sectors

IPCC Sector	Subsector	2021 Emissions	Percentage	Obligated under Program?
Energy	Fuel combustion - Electricity	25.66	7%	TBD
Energy	Out-of-State Electricity	8.39	2%	TBD
Energy	Out-of-State Fossil Fuels - Electricity	24.5	7%	TBD
Energy	Fuel Combustion - Residential	34.04	9%	Yes
Energy	Fuel Combustion - Residential Wood Burning	3.91	1%	No
Energy	Fuel Combustion - Commercial	21.55	6%	Yes
Energy	Fuel Combustion - Industrial	8.33	2%	Yes
Energy	Fuel Combustion - Transportation	63.15	17%	Yes
Energy	Fuel Combustion - Aviation	5.32	1%	No
Energy	Out-of-State Fossil Fuels - Aviation	1.37	0%	No
Energy	Out-of-State Fossil Fuels	67.17	18%	Yes
Energy	Fugitive Emissions	11.74	3%	Yes
Energy	Fugitive Emissions - Upstream	3.15	1%	No
Energy	Other Use of Fuels	0.87	0%	Yes
IPPU	Metals	0.34	0%	Yes
IPPU	Minerals	1.82	0%	Yes
IPPU	Electronics	0.12	0%	Yes
IPPU	Product Use	15.37	4%	No
IPPU	Product Use - Commercial Refrig.	6.46	2%	TBD
Waste	Solid Waste	20.01	5%	Yes
Waste	Waste Combustion	2.6	1%	Yes
Waste	Wastewater - Centralized	1.76	0%	Yes
Waste	Wastewater - Septic	1.3	0%	No
Waste	Exported Waste	16.46	4%	New Only
AFOLU	Livestock	20.33	6%	No
AFOLU	Soil Management	2.01	1%	No
Energy	Electricity T&D	0.15	0%	No

Total 367.9 million metric tons



	Obligated	63%
	TBD	18%
	Not Obligated	19%

Demonstrating Compliance

Compliance Periods

Compliance period: The amount of time over which Obligated Entities are required to surrender allowances to DEC to cover their GHG emissions.

- The first compliance period would be 2025 – 2026 to align with program stability measures.
- Subsequent compliance periods would be two or three years in length to align with appropriate program stability measures and the statewide GHG limits in 2030 and 2050.

Interim compliance period: The first year of a two-year compliance period and each of the first two years of a three-year compliance period.

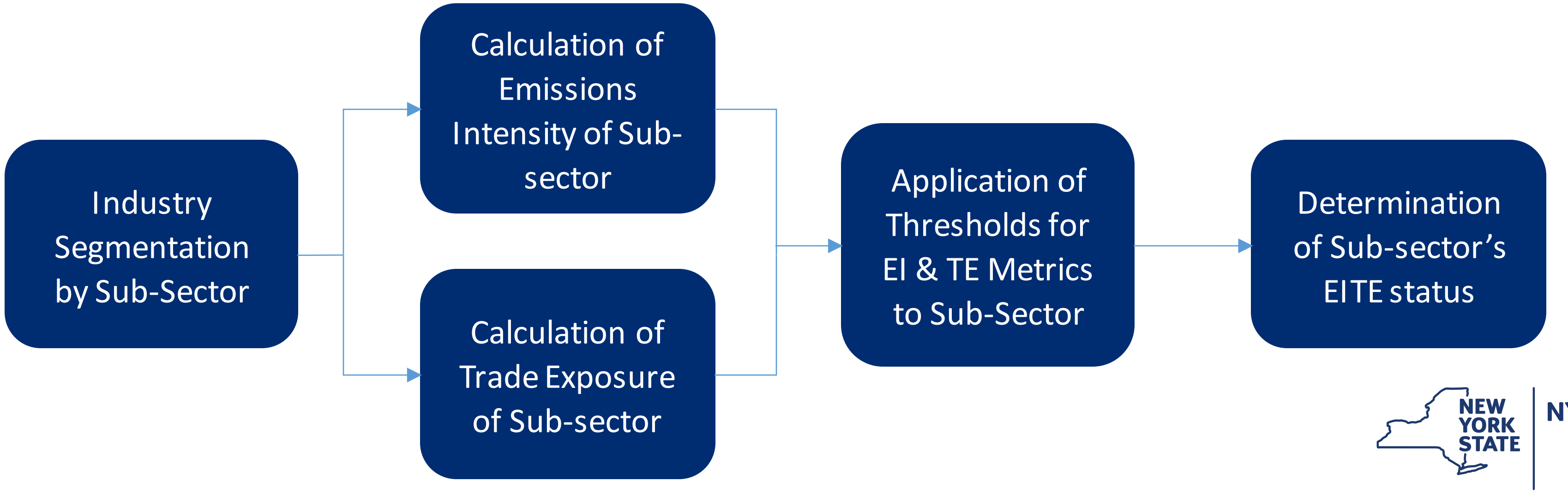
Allowance Retirement Obligations

- After each year of an interim compliance period, entities would be required to surrender to DEC for retirement at least 50% of their annual allowance obligation.
- During the final year of the compliance period, obligated entities would be required to submit allowances to cover the remainder of their GHG emissions from the interim compliance period(s) and 100% for the last year of the compliance period.
- Compliance deadlines for each year would be June 30 of the subsequent year

Emissions-Intense and Trade-Exposed Industries (EITEs)

Identification of EITEs

- Certain industries would be allocated a limited amount of no-cost allowances to mitigate risk of GHG and economic leakage from the State.
  - EITEs would remain under the overall GHG Emissions Cap and continue to be subject to compliance obligations under NYCI.
  - To receive EITE designation, an industry or sector would need to be identified (using the North American Industry Classification System (NAICS) codes) as both “Emissions Intensive” and “Trade Exposed”.
  - Each obligated GHG Emissions Source that is in that industry or sector would receive EITE treatment.



Identification of EITEs:
Emissions Intensity (EI) & Trade Exposure (TE)

EI would represent the ratio of GHG emissions obligated under NYCI to the value of the economic good produced in each NAICS coded subsector:

$$EI = \frac{(Direct\ Emissions\ tCO_2e + Indirect\ Electric\ Emissions\ tCO_2e)}{\$\ Value\ Added}$$

TE measures a NAICS subsector's trade share:

$$TE = \frac{\$\ Imports + \$\ Exports}{\$\ Value\ of\ Shipments, Sales, Revenue + \$\ Imports}$$

To receive EITE treatment, a sector must meet or exceed the determined thresholds for both metrics.

EITE Allowance Allocation

- No-cost allowances would be provided to eligible EITE GHG Emissions Sources to help mitigate the risks of leakage and negative competitive outcomes.
- Allowances could partially or wholly cover a GHG Emissions Source's obligations under NYCI and would provide EITE industries with an incentive for reducing GHG emissions despite not being required to purchase allowances.
  - The allowance calculation would be a function of both the GHG Emissions Cap and each EITE Emissions Source's actual production levels in a given year, ensuring that the facility allocation gradually declines with the GHG Emissions Cap while adjusting for production changes.

$$\boldsymbol{EITE\ Allowances = B\ x\ CA\ x\ O}$$

B – Benchmark

A GHG emissions intensity of production figure (MtCO$_2$e/production unit)

Benchmark GHG emissions relative to those GHG emissions that are obligated

CA – Cap Adjustment Factor

A coefficient that accounts for annual decreases in the overall cap

O – Production Output

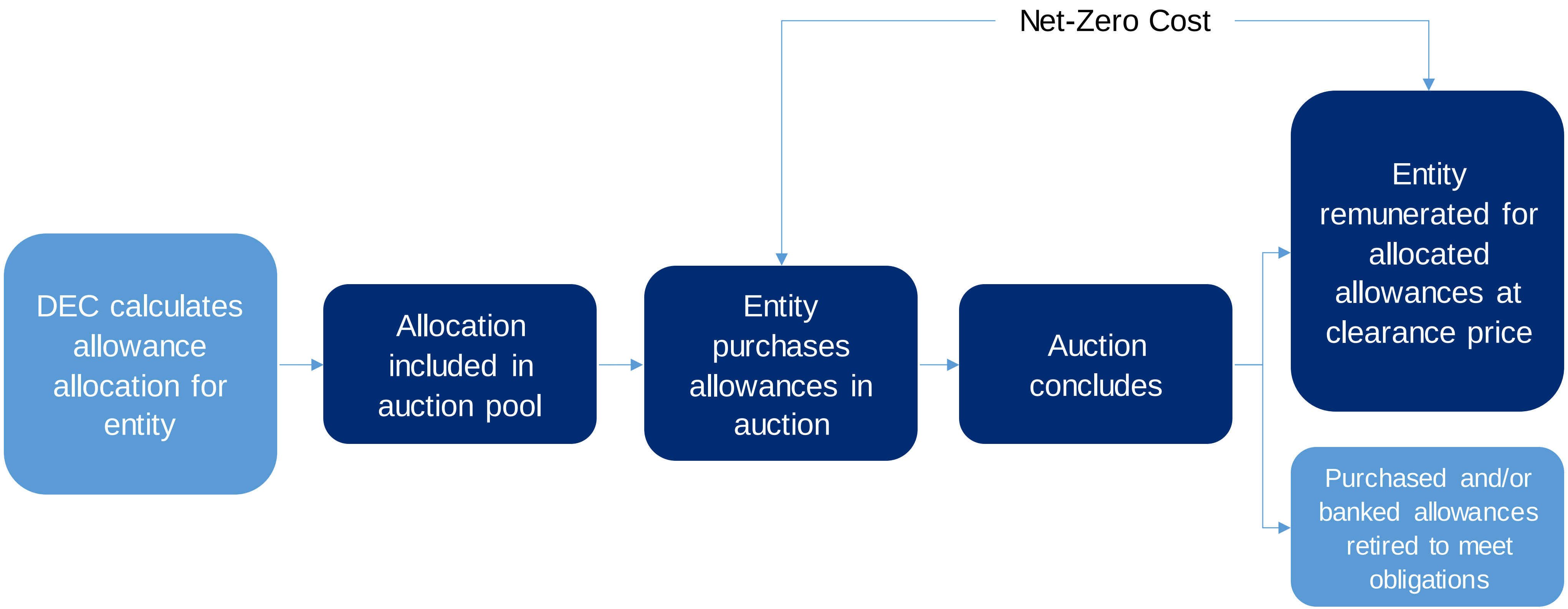
Consignment of EITE Allowances

- Eligible EITE Emissions Sources would be allocated a volume of allowances by DEC.
- These allowances would be automatically consigned to auctions by NYSERDA and proceeds from sale of consigned allowances would accrue to eligible GHG Emissions Sources owning these allowances.
- EITEs would be sellers of allowances in auctions via consignment and would simultaneously be purchasing allowances if they need to for compliance purposes.

Amount of purchased allowances **less than** amount of consigned allowances	The EITE Emissions Source would generate **net proceeds**—rewarding such facilities for reducing GHG emissions faster than allocation decline.
Amount of purchased allowances **greater than** amount of consigned allowances	The EITE Emission Sources would **need to pay** to purchase the incremental volume needed.

- The settlement of the sale of consigned allowances and the EITE Emission Source's purchase of allowances would be simultaneous, resulting in no carrying cost to the eligible GHG emission sources except insofar as it is seeking to purchase allowances in excess of its allocation.

Consignment of EITE Allowances



Utility Consignment

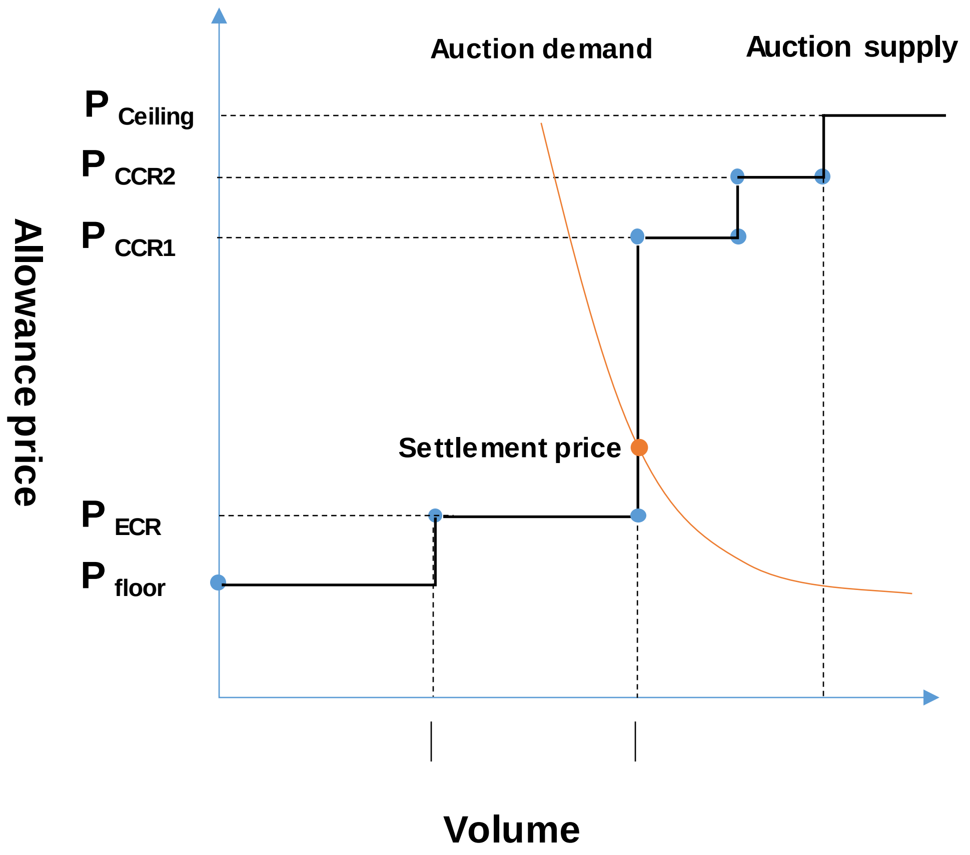
Increasing Affordability
Electric Utility Consignment

- NYCI may include an electric utility consignment mechanism to further advance affordability. If included, electric utilities would be allocated a specified amount of allowances annually.
- From the overall pool of allowances designated for allocation to electric utilities, allowances would be distributed to utilities on a load share basis
- Allowances would then be consigned automatically to auctions by NYSERDA along with State-owned allowances.
- Participating electric utilities would be required to use all proceeds from consigned allowances for affordability of their ratepayers with oversight from the Public Service Commission
    - Electric utilities would be required to submit an affordability program proposal demonstrating how funds generated via consignment would be expended to the benefit of their ratepayers.
- DEC and NYSERDA are soliciting feedback on:
    - The size of electric utility consignment, and
    - How proceeds should be spent to advance affordability.

Program Stability Measures and Cost Containment

Program Stability Mechanisms

ILLUSTRATIVE



NYCI would include a number of program stability measures:

- **Auction reserve price:** If price is below the auction reserve price, allowances would be withheld from auctions until the settlement price is at the price floor.
- **Emissions Containment Reserve (ECR):** ECR allowances would be available for sale if market price exceeds the ECR trigger price. 10% of the allowance budget would be placed in the ECR.
- **Cost Containment Reserve (CCR):** If the bidding price reaches CCR trigger price, additional allowances would be made available in the auction. 5% of the allowance budget would be set aside for the CCR.
- **Price ceiling**: At the price ceiling, an unlimited number of Price Ceiling Units would be made available for buyers until demand is fully met limited up to actual emissions. Price Ceiling Units would be net additional to the emissions budget.

DEC and NYSERDA are soliciting feedback on setting price levels for each of these mechanisms, establishing number of tiers for CCR, and volumes of allowances dedicated to each reserve.

Cost Containment Reserve & Emissions Containment Reserve

Cost Containment Reserve (CCR)

- A CCR will be created to make available additional allowances that enter auctions if prices reach a price trigger. If auctions settle above the trigger price, only the quantity of allowances needed to maintain the trigger price would be made available.
- CCR Allowances would be sourced from under the cap, with 5% of total allowances placed in the reserve.
- Allowances placed in CCR in the first six years of the program would be made available on a special schedule, with future year allowances made available in earlier years. The adjustment in CCR Allowance availability would not alter aggregate Allowance Budgets between 2025 and 2030 but would instead provide support for adequate supply as the program is initiated.
- To ensure adequate allowance supply for Obligated Entities in the event of high demand, General Market Participants would not be permitted to offer a bid price greater than or equal to the cost containment reserve trigger price applicable for such an auction.

Emissions Containment Reserve (ECR)

- Allowances would be withdrawn from auctions to an ECR when prices fall below a trigger price.
- Allowances would be released from an ECR only when prices exceed the trigger price; otherwise, these allowances would stay in the reserve and would not be sold in a given auction.
- The ECR will receive 10% of allowances in each Allowance Budget.

Price Ceiling & Price Floor

- Each auction would include a minimum reserve price below which Obligated Entities and General Market Participants may not submit bids.
- NYCI would include a hard price ceiling, which would change annually in two distinct phases of the program.
    - At the price ceiling, DEC and NYSERDA would sell a sufficient number of Price Ceiling Units at the specified price to satisfy demand.
    - The first phase of the program would include the 2025 and 2026 compliance years; the second phase would include all subsequent years of the program.

Analysis webinar and associated materials will provide information on potential price ceiling levels. DEC and NYSERDA are soliciting feedback on setting price levels for both the price ceiling and price floors

Price Ceiling Units

The price ceiling would be effectuated via the creation and sale of **Price Ceiling Units (PCUs).**

- PCUs would be similar to allowances, each PCU would cover one metric ton of GHG emissions. However, they would differ in a number of important ways, including the following:
  1. May be purchased only near compliance deadlines
  2. May be purchased only if an obligated entity and any associates has submitted all available/held allowances for compliance
  3. May only be purchased in quantities equal to its remaining compliance obligation; and
  4. Must be immediately retired for compliance and may not be banked or traded.
- PCUs would be offered for sale in unlimited quantities subject to above restrictions.
- In order to purchase PCUs:
  1. Obligated Entities would apply to DEC for the amount of PCUs they require
  2. DEC would certify to NYSERDA the Obligated Entity's eligibility to purchase the specific amount of PCUs
  3. NYSERDA would sell the PCUs to the Obligated Entity at the specified price level
  4. DEC would retire PCUs to satisfy the Obligated Entity's compliance obligation

NYCI Program Considerations to Ensure No Disproportionate Impacts in Disadvantaged Communities

Program Considerations

The Climate Act Requires:

1. DEC ensures that activities undertaken to comply with NYCI do not result in a net increase in co-pollutant emissions or otherwise disproportionately burden Disadvantaged Communities (DACs)
2. DEC prioritizes measures to maximize net reductions of both GHG and co-pollutant emissions in DACs.
3. At least 35 percent, with a goal of 40 percent or more, of the NYCI program investments will directly benefit DACs.

Through the NYCI program as well as parallel regulatory actions and investments, DEC and NYSERDA are prioritizing DACs across the State, as these communities have long suffered from disproportionate pollution impacts.

Program Considerations:
No Offsets

The NYCI program would not include any provisions for offsets.

- In some programs, offsets can then be utilized by GHG Emissions Sources to cover part of their GHG emission compliance obligation. This mechanism can allow GHG Emissions Sources to increase their direct on-site GHG emissions, based on GHG reduction or sequestration that may take place elsewhere.
- In New York, GHG Emissions Sources that are anticipated to be Obligated Entities under NYCI may be located in or near DACs or the fuels they sell may impacts DACs. Allowing these GHG Emissions Sources to cover a portion of their compliance obligation with offsets could enable such sources to increase their direct on-site emissions.

Program Considerations:
Other Potential Regulatory Mechanisms

There are other potential regulatory mechanisms to protect against the potential for disproportionate impacts on DACs as GHG Emissions Sources comply with NYCI Rules, including:

1. Prohibiting Obligated Entities located in or near DACs from purchasing or trading allowances from outside of DACs;
2. Requiring Obligated Entities located in or near DACs to surrender allowances at some multiple of greater GHG emissions, greater than the typical one allowance to one metric ton of CO_2e general requirement; and
3. Setting facility-specific emissions caps for Obligated Entities located in or near DACs.

DEC is considering various approaches to facility-specific emission caps for Obligated Entities located in or near DACs:

- Such limits could be placed on GHGs, specified co-pollutant emissions, or both.
- DEC would seek to set any such limits at a level that protects against the possibility of net increases in emissions from these facilities or other disproportionate impacts on DACs, while still allowing for the operation of such facilities at a level consistent with the overall GHG Emission Cap reduction and statewide GHG emission limits.
- Any facility-specific emission caps would likely be established through DEC's existing permitting oversight process and codified in parallel regulations, rather than within NYCI.

Program Considerations:
Complementary Programs and Requirements

In addition to these potential regulatory provisions specific to NYCI, other complementary programs and requirements that help to address disproportionate impacts in DACs include:

- Other DEC air quality and air pollution control regulations (see generally 6 NYCRR Chapter III, Air Resources)
- Statewide Community Air Monitoring Initiative
- Climate Act Section 7(3) and DEC permitting
- 2023 Siting Law

Auction Logistics and Mechanics

Implementation of Auctions

NYSERDA would design, implement, and administer allowance auctions. NYSERDA may delegate implementation and administration to a qualified designee under NYSERDA's oversight.

- Auctions would be held at least quarterly/four times per year.
- NYSERDA would issue a public notice 60 days prior to the date of each auction with the standard information shown below. If needed, additional detail for the specific auction can be added to the public notice.

Public Notice
Date, time, and location of the allowance auction
Categories of bidders who would be eligible to bid (Obligated Entities will be eligible every auction)
Quantity of allowances to be auctioned (by Vintage Year)
Minimum reserve price, emissions containment reserve or cost containment reserve trigger prices, to the extent applicable (these topics will be addressed as part of the Cap-and-Invest Rule)
Auction format
Any participation limitations
Information regarding settling and clearing of allowance payments
Instructions as to qualification of applications and forms for financial security
Terms and conditions that would govern auction transactions
Application deadline
NYSERDA contact person

Auction Format

Auction bidding format: Single Round Sealed-Bid Uniform Price Auction

- Bids would include a specific price and number of allowances (in increments of 1,000).
- Registered Entities may submit more than one bid per auction.
- Bids would only be accepted if they are consistent with that Entity's holding limit, auction purchase limit, and limit of financial security submitted for the particular auction.
- The complete and finalized list of bids would be sequenced in descending order, sometimes referred to as a bid stack.
- The auction clearance price would be determined based on the bid that exhausts all allowances made available in that auction.
- All allowances would be sold at the clearance price to those entities that bid at the clearance price or above.
- To ensure adequate allowance supply for Obligated Entities in the event of high demand, General Market Participants would not be permitted to offer a bid price greater than or equal to the cost containment reserve trigger price applicable for such an auction. As such, when auctions exceed these price levels, only Obligated Entities would be able to purchase allowances.

Simplified Bidding Option

NYSERDA recognizes that the bidding process would be potentially burdensome for certain Entities (e.g., smaller facilities).

To address this, NYSERDA would include a simplified bidding option for relatively small batches of allowances:

- Participation would be limited to Obligated Entities below a certain emissions threshold.
- Eligible Entities opting for the simplified approach would agree to purchase a specified bundle of allowances at whatever price the auction clears.
- Participation in simplified bidding would not preclude an Eligible Entity from also submitting bids in the traditional fashion.
- Limitations on simplified bidding at each auction would be determined at NYSERDA's discretion and would be announced in the auction notice.

Market Integrity & Market Manipulation Prevention

Prohibition of Collusion

The Auction Rule would incorporate an explicit prohibition of collusion and market manipulation of any kind and establish clear parameters and consequences for violating this prohibition.

At a minimum, the following actions would be prohibited:

- Except as part of certain registered associations and subject to certain restrictions, a Registered Entity would be prohibited from publicly releasing or disclosing to any other Registered Entity any bidding information
- No party would be allowed to coordinate the bidding strategy of more than one auction participant, unless the participants are in a disclosed association.
- Parties coordinating the bidding strategy for an auction participant (e.g., a consulting firm) would be prohibited from participating in auctions (e.g., as General Market Participants).
- Consequences of collusion could include, but are not limited to, suspension or denial of permission to participate in future auctions.

Auction Purchase Limits & Holding Limits

Single-auction purchase limits and holding limits help prevent the exercise of excessive market power, where a single Entity or collection of Entities have outsized influence over market prices and can manipulate prices for private gain.

- Auction purchase limits
  - Obligated Entities would be 25% of each auction’s allowances.
  - General Market Participants would be 4% of each auction’s allowances.
- The holding limit formula would be:

Holding Limit = 2.5 MMT + 0.025 * (Annual Allowance Budget – 25 MMT)

- Allowances submitted for compliance would no longer count towards the Entity's holding limit.
- The program would allow for a process for Obligated Entities with a large share of total emissions to demonstrate that they would need to exceed the purchase or holding limit in order to comply with the allowance requirements of the Cap-and-Invest regulation.

Associations

There would be two types of associations for Auction participants.

1. **Corporate/Legal Associations:** An association among auction participants based on the required disclosure of partnerships or subsidiaries of a common parent company.

2. **Bidding Associations:** An association among auction participants allowing limited coordinated action among participants. Bidding Associations may relieve administrative burden of individual Entities developing bid strategies.

- Auction participants in either type of association would need to disclose their affiliations to NYSERDA.
- Auction purchase limits and allowance holding limits would apply at the association level collectively for participants in either type of association.
- Auction participants in either type of association would need to disclose how the association would apportion shares of the auction purchase limit and allowance holding limit among constituent participants in a manner consistent with the rules for Obligated Entities and General Market Participants.

Market Monitoring

Market monitors are used to oversee commodity and energy auctions. They provide objective, independent oversight of the auction process, ensure regulatory requirements are fulfilled, and examine bid prices to identify potentially manipulative behavior and other prohibited practices.

- NYSERDA would retain a professional independent monitor to observe the conduct and outcome of each allowance auction and issue a report addressing whether the auction was conducted in accordance with established rules and procedures.
- The monitor would employ data collection methods, metrics, and analytic techniques, and thresholds for identifying any bidding behavior or activity that may have a significant impact on the efficiency and performance of such auctions, including, but not limited to collusion and market manipulation.
- The monitor would also monitor secondary allowance markets and derivative markets to ensure fair competition, efficient pricing, and protection against collusive or manipulative behavior.

Intermission

A Question-and-Answer session will follow a short Intermission

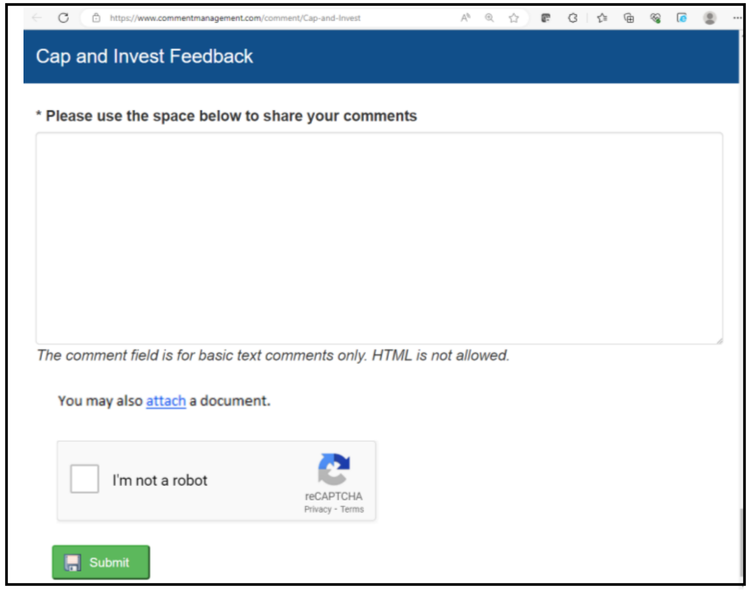
Q&A

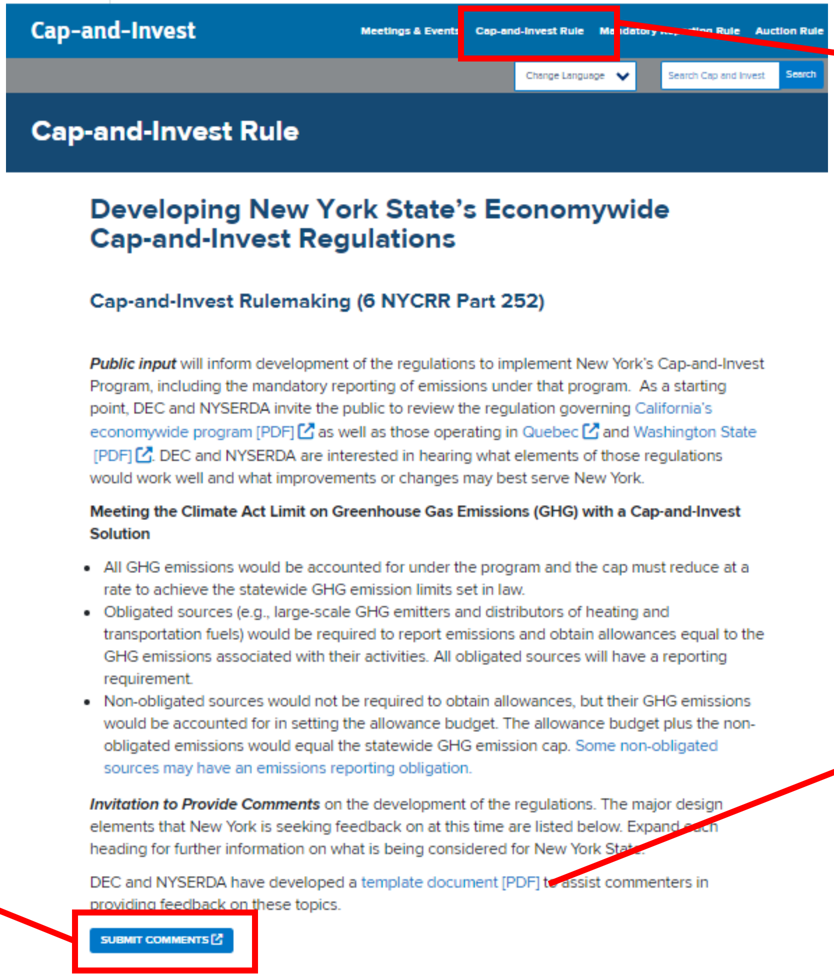
Next Steps

Next Steps

- NYCI Preliminary Analysis Overview Webinar: January 26, 2024 11:00 a.m. – 2:00 p.m.
    - Register at: https://capandinvest.ny.gov/Meetings-and-Events
    - NYCI Preliminary Analysis Report will be available following the webinar.
- A recording of this webinar will be made available on this website as well.
- Comments are requested preferably by March 1, 2024 at: https://capandinvest.ny.gov/ .
- Pre-proposal Outline and Affordability Study are currently available at this website as well.

Submitting Comments





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Thank You!

Join the Mailing list to receive updates on program development

Meeting recordings and materials can be found at:

www.capandinvest.ny.gov/meetings-and-events

Provide feedback:

Comments can be submitted online, preferably **by March 1, 2024**, 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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