

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

Cap-and-Invest Rulemaking
GHG Reporting Rulemaking
Auction Rulemaking

June 1, 2023



Department of
Environmental
Conservation



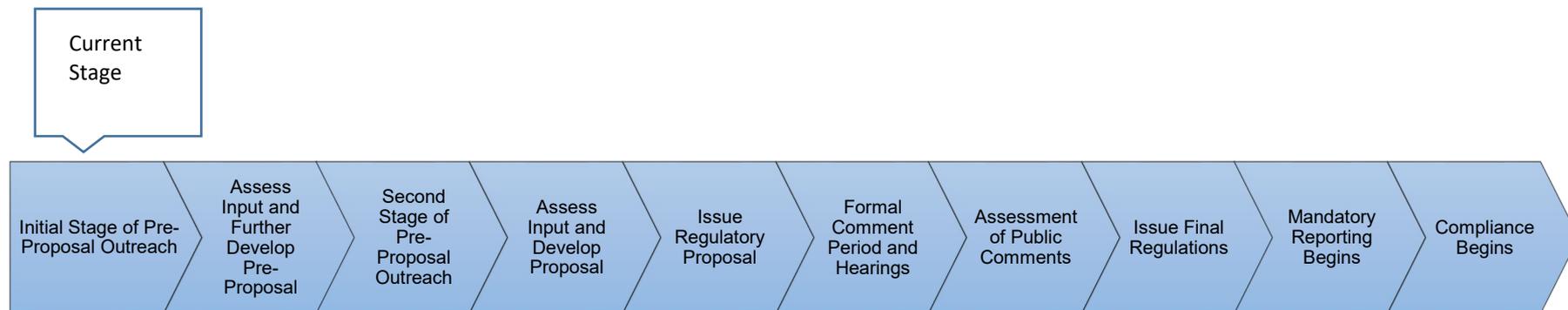
NYSERDA

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. Select clarifying questions will be answered by panelists.
- 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.



Cap-and-Invest Regulation Development Timeline

NEW
YORK
STATE

NYSERDA

Department of
Environmental
Conservation

Follow the Process

[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 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



NYSERDA

Department of
Environmental
Conservation

Agenda

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



CLCPA – 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

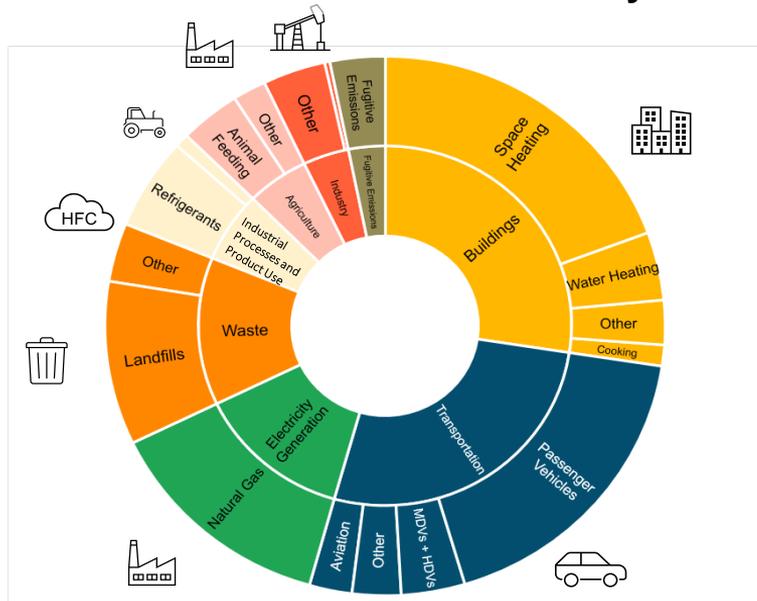


NYSERDA

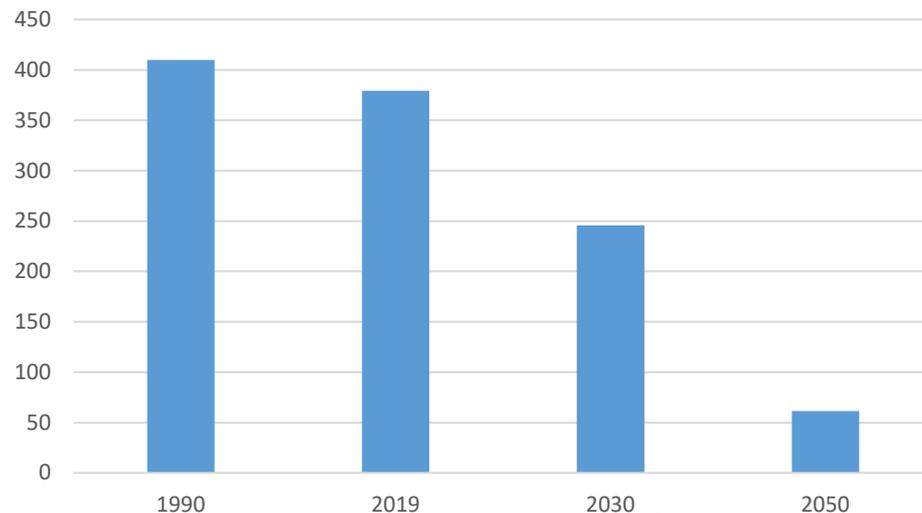
Department of
Environmental
Conservation

GHG Emissions Reduction Requirements

Current Estimated GHG Emissions by Sector



New York State GHG Emissions (MMtCO₂e)



NYSERDA

Department of
Environmental
Conservation

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 CLCPA.

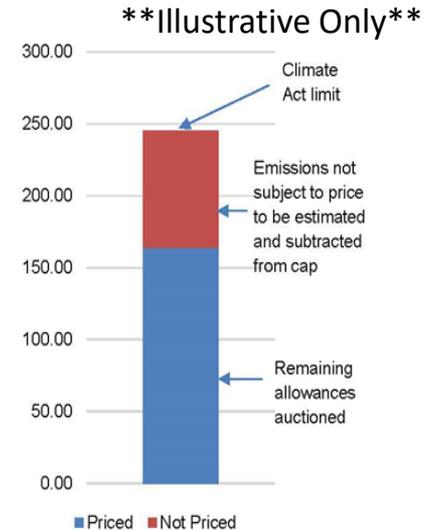


NYSERDA

Department of
Environmental
Conservation

Economywide Cap-and-Invest Program

- > Advance an economywide Cap-and-Invest Program that establishes a declining cap on greenhouse gas emissions, limits potential costs to economically vulnerable New Yorkers, invests proceeds in programs that drive emission reductions in an equitable manner, and maintains the competitiveness of New York industries.
- > **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



Note: All sectors in New York would be covered by the cap. Only remaining emissions after considering difficult-to-cover sectors would be subject to allowance retirement requirements.



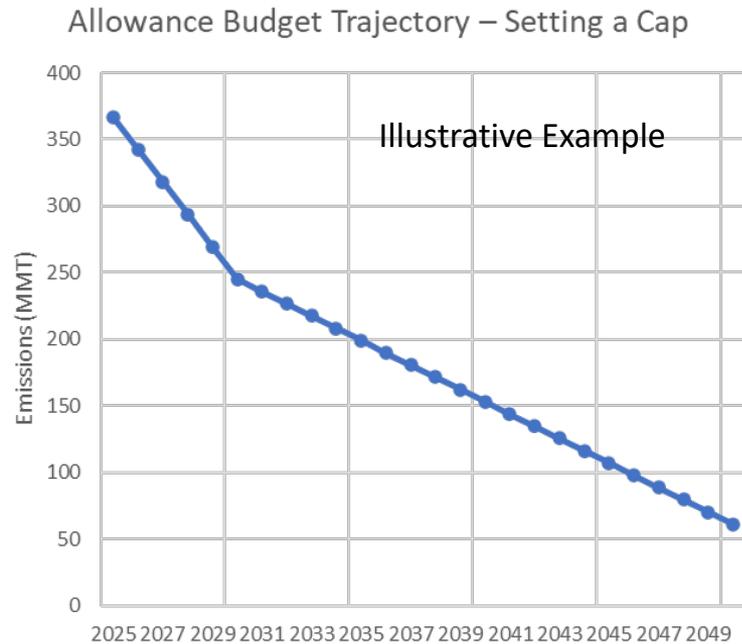
NYSERDA

Department of
Environmental
Conservation

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.



NYSERDA

Department of
Environmental
Conservation

Cap-and-Invest Program: How it Works

- Large-scale GHG emitters and distributors of heating and transportation fuels will be required to purchase allowances for the emissions associated with their activities.
- The Cap-and-Invest Program will incentivize businesses, and other entities to transition to lower-carbon alternatives.
- Proceeds will support:
 - Consumer Climate Action Account that will deliver at least 30 percent in future Cap-and-Invest proceeds to New Yorkers every year to mitigate consumer costs.
 - Climate Investment Account that will direct two-thirds of future Cap-and-Invest proceeds to support the transition to a less carbon-intensive economy.



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



NYSERDA

Department of
Environmental
Conservation

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.



NYSERDA

Department of
Environmental
Conservation

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.



Equity Consideration for Disadvantaged Communities

- CLCPA 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.



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.



NYSERDA

Department of
Environmental
Conservation

Cap-and-Invest 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. Generally 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).

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 and the non-CO₂ and upstream emissions associated with their consumption of fossil fuels?
- How should addressing electricity imports be considered?



Cap-and-Invest Applicability - Energy Intensive and Trade Exposed (EITE)

- How should EITE sources be identified?
- What emissions should EITE entities be responsible for?
 - *Combustion and process emissions or only process emissions?*



Cap-and-Invest Applicability - Other Stationary Sources

- How should the program account for large stationary sources that only combust fuel for space and water heating?
 - *What should be considered to assign responsibility for emissions between the stationary source and the fuel supplier?*
- How should large stationary sources account for fuel delivered by interstate pipeline or barge?
 - *Who should report to account for this fuel?*



Cap-and-Invest Applicability – Waste Sector

- How should the program account for landfills and waste exporters?
 - *What considerations should be given to transfer stations or direct haulers which export waste?*
- How should the program account for wastewater treatment facilities?
 - *How should the presence of anaerobic digestion or other treatment systems be used to establish requirements?*



Cap-and-Invest Applicability – Hydrofluorocarbons (HFCs)

- How should the program account for large refrigerant utilization facilities?
- How should thresholds be set for this sector?
- How should we consider the size of the facility, number of facilities operated by the same owner, or complexity of refrigeration system in setting the applicability under the program?



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 EITE facilities.
- How should fuel suppliers identify fuel for which they have no allowance obligation?



Cap-and-Invest Applicability - Fuel Suppliers (cont.)

- What should we consider in establishing thresholds for Fuel Suppliers?
- California, Washington, and Quebec programs have different thresholds.
 - *The threshold for transportation fuels in California is 25,000 tons CO₂e; the threshold in Quebec is 200 liters.*



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 CLCPA 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?



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?



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.



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 - Energy Intensive and Trade Exposed (EITE)

- It is anticipated that EITE sources would report their process and combustion emissions.
 - *What other operational data could be reported to establish methods to allocate allowances?*
 - *How could fuel throughput data be supplied to inform adjustments to fuel supplier compliance obligations?*



Emissions Reporting - Electricity

- How should electric generating facilities with units that report to RGGI report emissions and fuel consumption?
- How should fuel suppliers identify fuel delivered to RGGI sources?
- How should electricity imports generated at a facility covered by an emission trading program outside of NYS be identified?



Emissions Reporting – Solid Waste

- How might U.S. EPA GHG reporting program (40 CFR Part 98) data and methods be used to inform this program?
- How should the program incorporate considerations of non-MSW landfills?
- What systems could be utilized to inform considerations about reporting for waste exporters?



Emissions Reporting – Wastewater

- How should facility reporting incorporate the presence of anaerobic digestion and aerobic treatment components?
- How might provisions to inform tracking the downstream utilization of digester gas be included in the reporting system?



Emissions Reporting – HFCs

- What information should be considered when establishing reporting requirements?
- What factors should be evaluated to determine requirements? (e.g., a facility's refrigerant and equipment utilization)



Emissions Reporting – Fuels Suppliers

- All fuel suppliers from terminal rack to filling station, home delivery, or fleet fueling station may have reporting requirements.
 - *What specific ownership identification systems should be utilized to track fuel?*
- What, if any, special considerations should be given for fuels such as propane or coal pellets which may be supplied by smaller entities or in smaller volumes?
- How should reporting deadlines be set up to allow fuel suppliers to identify non obligated emissions?

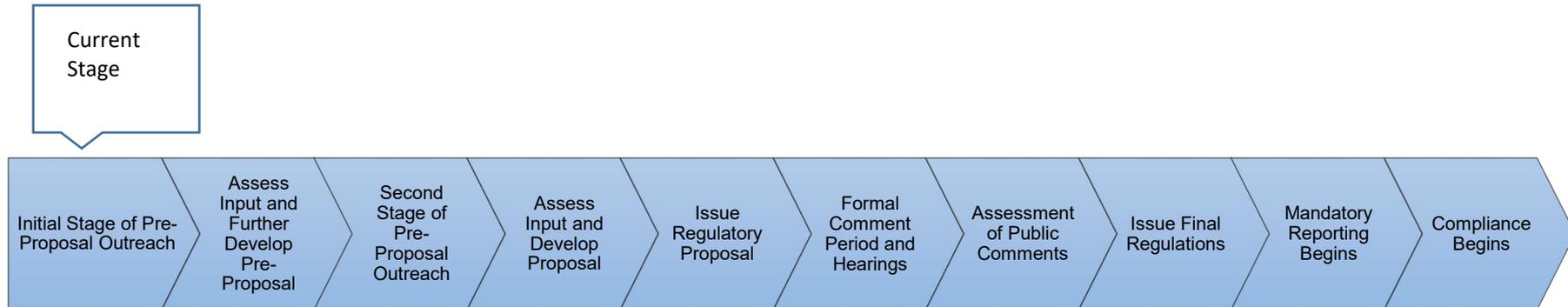


Emissions Reporting – Natural Gas Infrastructure

- How could U.S. EPA GHG reporting program (40 CFR Part 98) data and methods be used to inform this program?
- How could the NYSDEC 6 NYCRR Part 203 data and methods be used to inform this program?



Cap-and-Invest Regulation Development Timeline

NEW
YORK
STATE

NYSERDA

Department of
Environmental
Conservation

Spring Webinars Series

June 1: 1 to 3 p.m. – Cap-and-Invest Overview

June 6: 11 a.m. to 1 p.m. – Natural Gas focus

June 8: 1 to 3 p.m. – Liquid Fuels focus

June 13: 11 a.m. to 1 p.m. – Energy Intensive and Trade Exposed Industries focus

June 15: 1 to 3 p.m. – Waste focus

June 20: 11 a.m. to 1 p.m. – Cap-and-Invest Analysis Inputs and Methods

June 22: 1 to 3 p.m. – Electricity focus

Details for future webinars and recordings of past webinars are at

www.capandinvest.ny.gov



NYSERDA

Department of
Environmental
Conservation

Provide Feedback

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

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

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



NYSERDA

Department of
Environmental
Conservation

Thank You



NYSERDA

Department of
Environmental
Conservation