**Assessment of Public Comments**

6 NYCRR Part 242, $CO_2$ Budget Trading Program
6 NYCRR Part 200, General Provisions
21 NYCRR Part 507, $CO_2$ Allowance Auction Program

Comments received from December 10, 2025, through February 17, 2026

INTRODUCTION

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine other Participating States[1] and was the first mandatory, market-based carbon dioxide ($CO_2$) emissions reduction program in the United States. Since its inception in 2008, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce emissions that cause climate change. Recently, New York along with the Participating States completed a comprehensive program review and announced a proposal to lower the regional emissions cap[2] established under RGGI to approximately 69.8 million tons in 2027, then declining about 89 percent, relative to the 2024 cap through 2037. Accordingly, New York and the Participating States committed to propose revisions, pursuant to state-specific regulatory processes, to their respective $CO_2$ Budget Trading Programs to further reduce $CO_2$ emissions from power plants in the region, in line with the results of the program review and resulting proposal. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) has proposed revisions to 6 NYCRR Part 242, $CO_2$ Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions. As the auction administrator, the New York State Energy Research and Development Authority (NYSERDA) has proposed revisions to the $CO_2$ Allowance Auction Program as set forth in 21 NYCRR Part 507, which are designed to complement revisions proposed by the Department.

The public comment period for the proposed revisions to 6 NYCRR Part 200 and 242 and 21 NYCRR Part 507 began on December 10, 2025, and closed on February 17, 2026. The Department and NYSERDA received written and video comments from 25 commenters[3] on the proposed revisions. All of these comments have been reviewed, sorted, summarized, and responded to by the Department and NYSERDA.

[1] In addition to New York, the RGGI Participating States include: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Virginia, and Vermont. Virginia's participation will formally commence on July 1, 2026.
[2] The Participating States released the Updated Model Rule on July 3, 2025, https://www.rggi.org/sites/default/files/Uploads/Press-Releases/Press_Release_Program_Review_Announcement.pdf
[3] Twenty-five comment documents were received. Commenters 8 and 9 represent two documents sent by the same individual, the document under commenter 8 was a blank email and is not otherwise recorded

**Comment 1:** Commenters express their support of the proposed amendments to the Department's Part 242 rule making. (Commenters 1, 5, 7, 15, 16, 22, 24, 25)

**Response:** The Department and NYSERDA thank the commenters for their comments.

**Comment 2:** Commenters express support for specific provisions of the proposed revisions to Part 242, including the reduction of the $CO_2$ emissions cap. (Commenters 14, 16, 23, 24)

**Comment 3:** Commenters also express support for the removal of offsets from the program design. (Commenters 16, 23, 24)

**Comment 4:** There is also support among commenters for the increase in the size of the Cost Containment Reserve (CCR) and the addition of a second tier of CCR. (Commenters 14, 21)

**Comment 5:** Commenters agree with the removal of eligible biomass provisions. (Commenters 16, 24)

**Comment 6:** Commenters express their support for the removal of the Emissions Containment Reserve (ECR) and adjustment of the minimum reserve price. (Commenters 14, 16)

**Comment 7:** Commenters support other provisions, including the reduction of the Long-Term Contract set aside and the continuation of interim and full compliance periods. (Commenters 16, 20)

**Response to comments 2 through 7:** The Department and NYSERDA thank the commenters for their comments. The Department and NYSERDA agree that these are all necessary updates to the program to ensure emissions reductions and market stability.

**Comment 8:** Commenter says that for any project that will use a lot of power, it should be a requirement to put solar panels on a surface within a certain distance of the facility as long as the property owner opts-in to installing solar panels. (Commenter 2)

**Response:** A solar panel installation program for large electricity users is outside the scope of this rule making.

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in this APC. Commenter 22 represents more than a dozen organizations as identified in the list of commenters at the end of the APC.

**Comment 9:** Commenter expresses concern for the cost of energy and not carbon emissions. They are concerned this rule making will lead to higher utility bills, arguing cost should be the only consideration when choosing a power source. (Commenter 3)

**Response:** The proposed amendments are designed to deliver affordable energy. The RGGI Program has been shown to reduce the electricity bills of New Yorkers through the investments of proceeds raised by the RGGI Program. The updates to the RGGI Program, as outlined in the RGGI bills analysis[4], are estimated to have no significant impact on utility bills, with a slight decrease compared to status quo even under pessimistic projections of renewable energy deployment.

**Comment 10:** Commenter requests that no more restrictions on power generation emissions be passed. They express concern that passing this proposal will result in the closing of generating plants and impact an already stretched power system in New York State. The commenter further argues that the government is trying to move industry and residents to rely more on electricity and many coal plants were closed due to regulations. The commenter suggests that New York State should not reduce its generation capability until there are proposals to build nuclear power plants and ask for no further regulations on power plants until there are plans to replace power. (Commenter 4)

**Response:** The proposed revisions take into account projected electricity demands and establish a clear trajectory to reduce allowances. This supports opportunities for new non-$CO_2$ emitting generation to come online. Additionally, the proposal expands the cost containment reserve, increasing allowances that will be available at specific trigger prices while adding a second tier of such allowances. The cost containment reserve is one of the mechanisms the RGGI Program has to address uncertainty in electricity demand. The construction of nuclear power plants is outside the scope of this rule making.

**Comment 11:** The commenter states they need more information to make an informed comment. They ask how big of a reduction is a cap of 69.8 million tons of $CO_2$ by 2027 and what is the 2024 cap. They also ask what 89 percent of the 2024 cap is and if it is possible to reduce emission to these levels with existing technology. (Commenter 6)

**Response:** The 2024 regional cap is approximately 84.2 million tons or allowances. The proposed 2027 regional cap is approximately 20 percent lower than the 2024 regional cap and the regional cap in 2037 is approximately 9 million tons. The proposed regulations only cover the New York State elements of the regional cap. New York's budget of allowances in 2024 was approximately 26.4 million tons and the proposed budget for 2027 is approximately 21.9 million tons with the proposed budget in 2037 being around 2.3 million tons. Per program review modeling, the technology exists to meet the emission reductions modeled by the regional cap and the proposed trajectory.

[4] https://www.rggi.org/sites/default/files/Uploads/Program-Review/Release/Program_Review_Bills_Analysis.pdf

The building of electricity generating capacity is identified in the outputs of the modeling conducted as part of the Third Program Review, as relied upon to conduct this rule making, and is available on the RGGI, Inc. website (https://www.rggi.org/program-overview-and-design/program-review) under the Integrated Planning Model (IPM) results workbook Capacity Additions and Generation worksheets.

**Comment 12:** The commenter asks, what is the estimated cost to Rochester Gas & Electric (RGE) and other providers in New York State that will be required to meet these caps, and who is going to pay for them. (Commenter 6)

**Response:** The average residential, commercial, and industrial consumer of electricity is anticipated to see no significant change in their bills as a result of this rule making, with slight decreases in utility bills estimated even under extremely pessimistic projections of renewable energy deployment. The cost details are further described in the regulatory impact statement, or are also accessible on the RGGI, Inc. website (https://www.rggi.org/program-overview-and-design/program-review). The costs to customers of a specific utility are not modeled and would depend on that specific utility's agreements and sources of power.

**Comment 13:** The commenter is concerned about electrical energy availability in New York State. The commenter asks if there is enough capacity to support charging EVs in homes and asks, as more homes are converted to heat pumps, do we have the energy we need to heat them. (Commenter 6)

**Response:** The modeling conducted for the Third Program Review, and relied upon in support of this proposal, incorporated reasonable estimates for load growth associated with the electrification of transportation and buildings. The modeling also projected the additional capacity needs under the proposal. Based on this modeling, there would be sufficient power generated from existing and newly constructed electricity generating units serving New York State.

**Comment 14:** The commenter asks if energy in homes will be affordable with businesses building Artificial Intelligence (AI) and crypto mining centers. Specifically, the commenter asks if Canandaigua has found the electrical energy to build 200 more homes. Lastly, the commenter asks how much the lack of electrical capacity is already increasing the cost of housing in New York State. (Commenter 6)

**Response:** Specific locational load or uses of electricity were not modeled for this rule making. The modeling utilized statewide electricity demand forecasts that would take into account the use of electricity under a wide range of scenarios. The load growth assumptions in the modeling that supported rule making remain largely consistent with the latest load growth assumptions from the three independent system operators that manage wholesale electricity markets in RGGI participating states. The costs identified within the modeling are a comparison of the reference case (no revised budget or cap) to a case where the proposed revised budget and regional cap are in place.

**Comment 15:** The commenter argues New York State should not prohibit the use of natural gas to heat homes, cook, and to generate electricity, as it is more efficient to use natural gas than to generate electricity. (Commenter 6)

**Response:** The proposed regulation does not address the use of natural gas in homes. Those issues are beyond the scope of this rule making. The modeling conducted to support this regulation shows that emissions from the generation of electricity can be reduced while having neutral impacts on consumers' bills. The reduction in emissions is anticipated to have billions of dollars of societal benefits as further described in the regulatory impact statement.

**Comment 16:** The commenter expressed opposition to the RGGI Program. They asked if staff consider that regulations may add more costs to New Yorkers. The commenter also indicates a preference toward construction of nuclear power plants. (Commenter 9)

**Response:** The proposed regulation will lower greenhouse gas (GHG) emissions and reduce the impacts of pollution on people living in New York. The updates to the RGGI Program as outlined in the RGGI bills analysis[5], which was relied upon to support this rule making and was discussed in detail in the supporting documents, are estimated to have no significant impact on utility bills, with a slight decrease compared to the status quo even under pessimistic projections of renewable energy deployment. This is due in large part to the investment of proceeds raised by the RGGI Program. Additionally, the reduction in pollution has been shown to reduce health impacts. The construction of nuclear power plants is beyond the scope of this regulation.

**Comment 17:** The commenter argues that New York State has the fourth highest cost electricity in the country, and prices have increased since 2024. The commenter also argues that the group of RGGI Participating States are all in the top 10 most expensive in the nation, and New York State is not helping disadvantaged communities (DACs). The commenter asserts that electric power is becoming unaffordable, and people are burning wood and using fossil fuel generators for more reliable power. Lastly, the commenter argues that the underlying issues of electricity delivery need to be addressed before adopting the program updates. (Commenter 10)

**Response:** There are many drivers of electricity prices. The modeling conducted in support of this rule making indicates that there would be small electricity bill reductions as a result of adopting this proposal. According to the US Department of Energy's Energy Information Administration, the Henry Hub spot price for natural gas increased by more than 50 percent from 2024 to 2025 from $2.19 to $3.52 per MMBtu. This increase in the cost of natural gas supply is a leading contributor to the annual change in electricity prices. The RGGI region has historically experienced higher electricity prices than the national average, and the investment of proceeds from this program contributes to reducing demand and promoting new, lower-emitting generation of

[5] https://www.rggi.org/sites/default/files/Uploads/Program-Review/Release/Program_Review_Bills_Analysis.pdf

electricity. The amendments to the RGGI Program do not lower standards for air quality or remove requirements related to DACs. Additionally, investment of proceeds resulting from the RGGI Program will continue to comply with applicable statutory investment requirements related to DACs. The RGGI Program considers reliability. For example, the RGGI Program includes flexibility mechanisms such as a three-year compliance period and a greatly expanded cost containment reserve, which will help to mitigate reliability concerns.

**Comment 18:** The commenter states that public sentiment against natural gas is illogical. (Commenter 10)

**Response:** The burning of natural gas is a large contributor to climate change and air pollution. The Environmental Conservation Law directs the Department to reduce air pollution and address climate change, which includes establishing regulations targeting reductions of GHG emissions.

**Comment 19:** The commenter says that states should target cigarettes, vapes, and marijuana to improve the health of citizens, stating that cigarette smoke is a major contributor to air pollution. The commenter asserts that the environmental impact of smoking is more polluting than diesel emissions while creating no value for the majority of people. (Commenter 10)

**Response:** Addressing the air pollution caused by cigarette, vape, and marijuana emissions is beyond the scope of this rule making.

**Comment 20:** The commenter argues that gas generation and gas appliances have a direct positive value because they are cheap options using the lowest-emitting fossil fuel, create jobs, and provide safe, reliable, affordable energy. The commenter says to stop legislation that exacerbates the cost of energy, and instead repair electric infrastructure that has been overly regulated. (Commenter 10)

**Response:** The burning of natural gas is one of the largest contributors to climate change. Emitting GHGs such as methane, not only exacerbates climate change but also has harmful effects on human health. Additionally, the price of natural gas is increasing dramatically. According to the US Department of Energy's Energy Information Administration, the Henry Hub spot price for natural gas increased by more than 50 percent from 2024 to 2025, from $2.19 to $3.52 per MMBtu. The proposed amendments are designed to deliver affordable energy. RGGI has been shown to reduce the electricity bills of New Yorkers through the investments of proceeds raised by the RGGI Program. Additionally, the proposal expands the cost containment reserve, increasing allowances that will be available at specific trigger prices while adding a second tier of such allowances. This will help the RGGI Program to address uncertainty in electricity demand.

**Comment 21:** Commenters commend New York State's commitment to reducing GHG emissions and promoting clean energy despite the federal administration's retreat from climate policy. (Commenters 11, 16, 22)

**Response:** The Department and NYSERDA thank the commenters for their comments.

**Comment 22:** The commenter states that the regulation does not address mobile emissions. They note that the transportation sector accounts a significant portion of GHG emissions, and the number of miles driven continues to increase. They also note that the New York State Department of Transportation (NYSDOT) is continuing to create additional capacity for traffic and state that unless the transportation sector is addressed, pollution will continue to be concentrated in urban areas and contribute to global warming. (Commenter 11)

**Response**: Addressing mobile emissions is beyond the scope of this rule making.

**Comment 23:** The commenter states that New York State should adopt an investment plan that protects urban and suburban environments by using nature to improve ecosystem services. The commenter is disappointed that only 2 of the 61 programs listed in the RGGI Operating Plan involve nature-based climate solutions: "Carbon Sequestration" (3.3.7) and "Natural Carbon Solutions" (3.3.10). (Commenter 12)

**Response:** Specific strategies to invest RGGI auction proceeds are beyond the scope of this rule making, and are best addressed through the process by which the RGGI Operating Plan is adopted, as described on the NYSERDA website: https://www.nyserda.ny.gov/About/Funding/Regional-Greenhouse-Gas-Initiative/Auction-Proceeds.

**Comment 24:** The commenter explains the idea of recarbonization of the biosphere, stating that greening of spaces would increase biodiversity and offset current levels of heat island effects by acting as a potential carbon sink. The commenter identifies ecosystems that should be restored, protected, and managed as potential carbon sinks. (Commenter 12)

**Response:** Greening of spaces and protecting ecosystems as potential carbon sinks is outside the scope of this rule making. However, New York State has initiatives such as the 30x30 initiative and the '25 Million Trees by 2033' initiative that work to preserve open space and contribute to the greening of New York State. Specifically, the '25 Million Trees by 2033' initiative provides new and continued funding opportunities for public and private landowners to plant new forests and increase tree canopy in urban communities. In addition, New York State has developed "The Open Space Conservation Plan," a comprehensive statewide plan developed by the Department and the Office of Parks, Recreation, and Historic Preservation that describes current open space conservation goals, actions, tools, resources, and programs administered by state and federal agencies and conservation nonprofits.

**Comment 25:** The commenter states that RGGI evaluated scenarios during the multi-year program review process and selected a scenario that aggressively tightens the GHG budget from 2027 to 2033, with moderate reductions after. The commenter mentions that this reflects the overall goals of the Model Rule but argues that it is not clear how the analytical work done for the Third Program Review led to the scenario of an aggressively tightened GHG budget. The commenter goes on to argue that the Part 242 emissions cap is not congruent with the modeling work conducted during the Third Program Review, specifically that the trajectory is particularly inconsistent with modeled values after 2030. It is the commenter's view that the inconsistency seems to ignore the four-year analytical and public review process associated with the Third Program Review and administrative procedures have been undermined, requiring a reevaluation of the proposed caps to make them consistent with the program review materials. The commenter recommends that the Fourth Program Review should start immediately so that the differences between the State Energy Plan, current federal headwinds, and the modeled emissions from the Third Program Review can be rectified. (Commenter 13)

**Response:** The selected emissions budget trajectory is compatible with New York's state-level policy since it is on a pathway to zero emissions by 2040. The analysis is congruent with the selected cap trajectory, since the regional modeling results show emissions below the cap until 2032. While emissions in the policy cases modeled during the Third Program Review, and relied upon to support this rule making, trend above the cap after 2032, mechanisms exist to address a potentially slower pace of clean energy deployment and higher allowance demand, namely an expanded tier 1 Cost Containment Reserve (CCR 1) and the creation of a second tier of CCR allowances. When considering additional allowance volume through the CCR, there is sufficient allowance availability even under an extremely pessimistic outlook on clean energy deployment (Policy Case A). The RGGI Program also allows participating entities to bank allowances from earlier years and use them at a later time. While this may cause regional emissions to deviate from a steadily decreasing trajectory in certain years, the RGGI Program still requires that the aggregate cap be met with current emissions reductions or the use of banked allowances. The modeling assumed that 79 million tons of banked allowances were in the possession of market participants at the start of the modeling time horizon, and they can be used in any year for compliance. The State is closely monitoring market and program dynamics and will make timely advanced preparations for the commencement of the Fourth Program Review.

**Comment 26:** The commenter argues that the proposed cap is inconsistent with the State Energy Plan (SEP), and the Department must reevaluate the proposal and make the cap consistent with the SEP Modeling. Commenter also states that the Department cannot finalize the proposal unless it explicitly finds the relevant provisions of the SEP are no longer reasonable. (Commenter 13)

**Response:** The core case in the SEP analysis is the Additional Action case, and it is consistent with the proposed cap. In the Additional Action case, the cap and emissions reach zero by 2040. The same result is also achieved in the Current Policies case in the

SEP. As noted in response to Comment 25, the proposed cap determined as an outcome of the RGGI Program Review is on a pathway to zero emissions by 2040.

**Comment 27:** The commenter argues that the proposed reduction in the cap (21.9 million tons in 2027 to 2.3 million tons in 2037) threatens to expire allowances faster than the rate at which non-$CO_2$ emitting electricity generating units can be brought online. The commenter asserts that the cap reduction should align with the provisions of the State Energy Plan. (Commenter 19)

**Response:** The influence of the proposed reduction to the cap on the build out of new generation units has been modeled as part of the analysis supporting this rule making. These modeling results identify the new units that would come on-line to meet the anticipated electricity demands. As described in the modeling, there are sufficient resources to generate enough electricity to meet anticipated demand. The proposed amendments also include flexibility mechanisms to provide additional allowances if prices exceed the cost containment triggers. See also the responses to Comments 26 and 28.

**Comment 28:** The commenter argues that the State Energy Plan was developed when the energy sector faced uncertainty and federal pressures away from renewable energy, and the four-year Third Program Review was launched before those uncertainties and federal pressures were visible. Therefore, the analytical work is now outdated as it relates to setting caps for New York compliance entities. (Commenter 13)

**Response:** While there are hurdles related to the change in federal policy, Policy Case A is still representative of a future similar to current circumstances. To clarify, Policy Case A assumes that only clean energy projects currently under contract at the time of the modeling would be added through state policies and programs. It is extremely conservative to assume state programs will not foster the addition of other resources by 2037. While the scenario did include Inflation Reduction Act incentives that could yield some additional renewable capacity to foster renewable projects, the resulting builds beyond those already contracted were modest (e.g., 3,381 MW of onshore wind and 408 MW of solar), and we anticipate that those build levels are less than what state programs would actually accomplish.

In assessing the Program Review modeling's alignment with the State Energy Plan and expectations of offshore wind builds, it is important to look specifically at Integrated Planning Model (IPM) estimations of New York offshore wind capacity additions. In response to the provided offshore wind data, under the Policy Case A scenario, only 1,876 MW of offshore wind is operational in 2037 in New York. This represents the completion of Empire Wind 1 and Sunrise Wind along with the existing South Fork project – all firm capacity additions that are contracted and either already operational or currently under construction. The IPM modeling estimates no economic capacity additions under the Policy Case A scenario, i.e., units that would be expected to come online based on their cost-effectiveness of meeting forecasted load and reliability requirements.

**Comment 29:** The commenter notes that the Third Program Review took much longer than expected. The commenter requests a clearer, predefined timeline for the next program review. (Commenter 14)

**Response:** The Participating States have agreed to start the Fourth Program Review no later than 2028. The length of program reviews is not pre-determined.

**Comment 30:** The commenter agrees with removing the current offset provisions but disagrees with eliminating offsets entirely. They mention offsets were used minimally in prior years of the RGGI Program because of low RGGI allowance prices and the rigidity of eligible offset methodologies. The commenter argues that with electricity demand and cost of allowances expected to increase, high-integrity offset credits could become more important than ever across the regional market.

The commenter believes that RGGI should follow California's lead in developing a new offset approach. They argue that taking offsets out of RGGI to create an offset program at arm's length could enhance efficiency and ensure affordability. The commenter recognized that the Department has the ability to allow offsets for New York-based compliance entities, and they would support this approach.

The commenter also argues that there are legitimate concerns about integrity for certain types of carbon credits, but none of the concerns are relevant for the offset credits that RGGI proposed to use. They say that credit quality has been drastically improved over the last few years with the establishment of the Integrity Council for the Voluntary Carbon Market, which approves carbon projects as certified under Core Carbon Principles (CCP), meaning they meet ten benchmarks related to governance, emissions impact, and sustainable development. The commenter suggests RGGI could consider adopting some of these principles for offsets or require that RGGI offsets are CCP certified.

The commenter states that if there are concerns about local pollution then they believe that it should be treated separately from the wider climate issue that RGGI addresses. They recognize the desire for offset developments to benefit the regions they were generated in and argues that an option could be to mandate that a certain portion of compliance offsets originate from the State where they are retired. They state that California's approach is that at least half of all compliance offsets provide Direct Environmental Benefits (DEBs) to California. Finally, they say that RGGI previously allowed only offsets from RGGI states to be used for RGGI compliance and they support continuing that approach.

The commenter states that in the future there are several factors that could put upward pressure on RGGI allowance prices, such as data center growth, declining emission caps, and extreme weather. The commenter strongly believes that high-integrity offsets are an important mechanism to provide compliance flexibility and ensure affordability. (Commenter 14)

**Response:** Under the proposed revisions to Part 242, the Department does not intend to pursue integrating a third party offset registry into the RGGI Program at this time. Previously New York reduced the number of offset categories from their regulations. While the allowance prices increased since the RGGI Program was last amended, no new offset project applications were received by the Department. The Department and NYSERDA received no comments from potential offset project owners during this comment period. The proposed amendments to the RGGI Program include cost containment provisions, including the addition of a second-tier cost containment reserve providing a substantial number of RGGI allowances that could allow sources to meet grid reliability needs and protect against cost volatility. The volume of allowances available in both cost containment reserve tiers is also significantly expanded.

**Comment 31:** The commenter states that the RGGI Program is commendable but the current update to the RGGI Program highlights the need to pair RGGI's price on power generation emissions with a similar mechanism for other sectors. The commenter states that the State Energy Plan is built around electrification of other sectors and to create economic signals that encourage electrification, the electric sector cannot remain the only sector of New York's economy that is internalizing a portion of the costs of its GHG emissions. The commenter states that the Department should move forward with an economy-wide cap-and-invest program. (Commenter 15)

**Response:** The Department and NYSERDA thank the commenter for their support. The development of an economy-wide cap-and-invest program is outside the scope of this rule making.

**Comment 32:** The commenter describes the importance of state-level climate policy and urges the Department and NYSERDA to finalize the proposed revisions to the RGGI Program quickly. (Commenter 16)

**Response:** The Department and NYSERDA agree that state action on climate change is important.

**Comment 33:** Multiple commenters make note of the financial benefits yielded from the RGGI Program. They highlight the fact that in New York alone, RGGI's investments to date are projected to save ratepayers nearly twelve billion dollars over their lifetime, representing a six to one return on the approximately two billion dollars invested. (Commenters 16, 22, 25)

**Response:** The Department and NYSERDA recognize the significant financial benefits the RGGI Program have yielded within New York and remain committed to affordability as well as the reduction of GHG emissions.

**Comment 34:** The commenter states that one of the hallmarks of the RGGI Program's success is New York's commitment to continuously reviewing the RGGI Program. They assert that periodic program review allows states to improve RGGI based on

stakeholder input and market conditions. The commenter says that the review process allows states to balance key factors like emissions ambition, grid reliability, and affordability. The commenter also commends New York and other RGGI Participating States for committing to a Fourth Program Review. The commenter asserts that this upcoming program review will continue to support the long-term success of the RGGI Program and also provide an opportunity for New York to demonstrate its commitment to the Climate Leadership and Community Protection Act (Climate Act) and continue progress toward the law's requirements. (Commenter 16)

**Response:** The Department and NYSERDA thank the commenter for their comment. The Department and NYSERDA remain committed to continued evaluation of the RGGI Program and evaluating future regulatory actions, including participating in the Fourth Program Review.

**Comment 35:** The commenter supports the revisions to the RGGI Program because they better align with Climate Act requirements, including emission reduction goals and the target of 70 percent renewable energy by 2030 and 100 percent by 2040. (Commenter 16)

**Response:** The Department and NYSERDA thank the commenter for their comments.

**Comment 36:** Commenter describes the projected macroeconomic benefits of the proposed revisions to the RGGI Program and states that the RGGI Program shows that emission reduction, affordability, and economic benefit are not conflicting objectives; all three goals can be achieved simultaneously through the RGGI Program's successful and effective approach to climate policy. (Commenter 16)

**Response:** The Department and NYSERDA agree that emission reductions, affordability, and economic benefits can all be achieved together by the adoption of the proposed rules.

**Comment 37:** The commenter is concerned about the proposed changes to measures intended to address $CO_2$ allowance market stability and that they could result in additional emissions over and above the cap. However, the commenter does appreciate the Department and NYSERDA's efforts to balance program ambition, reliability, and cost considerations. (Commenter 16)

**Response:** The RGGI program is a regional budget trading system that allows flexibility while lowering the overall supply of allowances. In any one year, emissions can be greater than that year's cap due to these flexibilities, such as banked allowances. However, the allowances used to cover current emissions would not be available in future years, and the decreased availability of allowances in the future increases the stringency of the cap.

**Comment 38:** The commenter believes that given the design of CCR tier 1 and CCR tier 2, along with the ability to bank allowances for future use, $CO_2$ emissions could

significantly exceed the emission cap in a given year. Additionally, the commenter states that the trigger prices are set at levels far below the social cost of carbon pursuant to the Department's Value of Carbon guidance. However, the commenter acknowledges that the CCR provides an important cost containment function, and the design ensures additional allowances are only available at higher allowance prices. (Commenter 16)

**Response:** The Department and NYSERDA agree that the flexibility mechanisms could allow emissions to exceed the cap in any one year. However, the emissions in one year would be balanced by the reduced availability of allowances in other years, increasing the stringency of the cap in those years. The modeling relied on for this rule making does not show that the CCR would be triggered in all years, depending on the scenario. In the event that both CCR tiers were fully awarded in all years, which is unlikely, the number of allowances in both CCRs and cap in 2037 would still be about 62% lower than the 2025 cap.

**Comment 39:** The commenter states that the proposed RGGI amendments are an important step toward the full implementation of the Climate Act mandates. However, the statewide cap-and-invest program as envisioned by the Clean Air Initiative would ensure emissions limits across all major sectors and generate long-term funding for clean energy investment, affordability programs, and environmental justice initiatives. They urge New York to fully implement the Climate Act while also reaping the benefits of an approach like RGGI but on a broader scale beyond power plants by advancing the Clean Air Initiative as soon as possible and to pursue other policies that would address major sources of GHG emissions. (Commenter 16)

**Response:** The Department and NYSERDA thank the commenter for their comment. An economy-wide cap-and-invest program and other policies to reduce GHG emissions are outside the scope of this rule making.

**Comment 40:** Commenters outline the ongoing and future benefits of the NY $CO_2$ Budget Trading Program and the use of RGGI proceeds to facilitate the clean energy transition. They highlight consumer savings, economic benefits, emissions reductions, buildout of clean energy, energy efficiency, community investment, and affordability. (Commenters 16, 22)

**Response:** The Department and NYSERDA thank the commenter for their comment. While specific strategies for the investment of RGGI proceeds are outside of the scope of this rule making, it is important to note the expected benefits of the RGGI Program updates. Comments on specific investment strategies are best addressed through the process for adopting the annual RGGI Operating Plan as described on the NYSERDA website: https://www.nyserda.ny.gov/About/Funding/Regional-Greenhouse-Gas-Initiative/Auction-Proceeds.

**Comment 41:** The commenter argues that the amendments amount to an unlawful regulatory taking by rendering lawful, reliable, and affordable energy resources

economically nonviable through artificial scarcity and price manipulation. The commenter asserts that New York cannot accomplish indirectly though regulation what it cannot lawfully do directly, which is to eliminate an entire class of lawful energy production without just compensation or legislative authorization. (Commenter 17)

**Response:** The Department's authority to regulate air pollution including GHGs is clearly established in law, including provisions of the Environmental Conservation Law. The proposed amendments continue to offer flexibility in the availability of allowances through banking, trading, and through the cost containment reserve. The RGGI Program allows the market to identify the most efficient methods to reduce emissions accordingly. There are no restrictions in these amendments in how individual electricity generating units produce power.

**Comment 42:** The commenter argues that the proposed amendments raise constitutional concerns such that the rule making violates principles of substantive due process by imposing economic burdens on ratepayers. The commenter further states that the policy makes energy unaffordable for broad segments of the population, especially those who do not qualify for subsidies or discount programs and are not rationally related to a legitimate governmental interest when less restrictive alternatives exist. (Commenter 17)

**Response:** This rule making complies with the State Administrative Procedure Act and the authority granted to the Department and NYSERDA by the legislature as discussed in the regulatory support documents. New York's authority to adopt this regulation is not prohibited by any provision of the U.S. Constitution or federal law. The proposed amendments are estimated to have no significant impact on utility bills and are expected to lead to a slight decrease in costs as compared to the no action alternative. The bills analysis applies to all ratepayers, not just those who receive rebates or take advantage of direct investment opportunities.

**Comment 43:** The commenter asserts that the amendments interfere with interstate and intrastate commerce, distort competitive markets, and exceed the scope of administrative authority by mandating reliance on a limited set of energy sources. The commenter reasserts that decisions of this magnitude must be made by the legislature and not imposed through agency rule making that lacks democratic accountability. (Commenter 17)

**Response:** This rule making complies with the State Administrative Procedure Act and the authority granted to the Department and NYSERDA by the legislature as discussed in the regulatory support documents. The amendments update an existing $CO_2$ budget trading program to encourage emissions reduction consistent with New York State law and policy. The amendments do not violate federal law or the US Constitution by impermissibly regulating interstate or intrastate commerce..

**Comment 44:** The commenter argues that fossil fuels remain affordable and dependable and until alternative energy sources can meet reliability and affordability

standards at scale, New York cannot constitutionally justify regulations that force consumers to bear higher costs and increased risk of grid instability. They argue that a regulatory scheme that constrains consumer choice, inflates energy prices, and compels reliance on one preferred form of energy is neither lawful nor sustainable. (Commenter 17)

**Response:** Costs were considered when proposing amendments to the RGGI Program. The proposed amendments retain flexibility mechanisms to address potential increases in demand, and modeling shows that there are sufficient generation resources to meet forecasted demand. Additionally, the Department and NYSERDA note that the use of fossil fuels contributes to air pollution which the legislature has directed the Department and NYSERDA to address. The costs associated with air pollution impacts to human health and the environment should be accounted for when proposing regulations. The societal benefits of the GHG emissions reductions anticipated by these amendments range from 2.6 to 15.8 billion dollars. Finally, the Department and NYSERDA note that consumers are anticipated to see no significant change in their bills as a result of this rule making, with slight decreases in utility bills estimated even under pessimistic projections of renewable energy deployment.

**Comment 45:** The commenter asks that the Department withdraw or revise the proposed amendments and pursue a lawful approach that respects constitutional limits, protects ratepayers, and preserves a diverse and reliable energy portfolio. (Commenter 17)

**Response:** The Department is adopting these proposed amendments, as they are within the authority granted by the legislature and have been publicly proposed in accordance with New York State law.

**Comment 46:** The commenter is concerned that the proposed $CO_2$ allowance trajectory will affect energy affordability for Long Island customers. The commenter expresses that they share New York State's commitment to reducing GHG emissions while maintaining energy reliability and minimizing ratepayer impacts. (Commenter 18)

**Response:** While the analysis underpinning the proposed changes does not speak to rate impacts in specific regions of New York or specific utilities, it estimates no significant changes to utility bills on average relative to the status quo after including mitigating factors, particularly the benefits of investing RGGI Program proceeds in energy efficiency and clean energy. The analysis draws this conclusion even in a future scenario under pessimistic projections of renewable energy deployment.

**Comment 47:** The commenter is concerned about the proposed rate of reduction in $CO_2$ allowances through 2037 and how it may outpace emission reductions, especially in the near to medium-term. They state that allowances could become scarce, which will lead to higher allowance prices and higher energy costs for customers, especially for

customers downstate where fossil generation plays an important role in maintaining system reliability. (Commenter 18)

**Response:** The analysis supporting the proposed regulations estimates that emissions will be below the cap through 2032, and if the deployment of clean energy significantly lags the pace set by state clean energy policies such as New York's Clean Energy Standard, the program has built-in measures for cost containment.

The selected emissions budget trajectory is compatible with New York's state-level policy since it is on a pathway to zero emissions by 2040. The analysis is congruent with the selected cap trajectory, since the regional modeling results show emissions below the cap until 2032. While emissions in the policy cases modeled during the Third Program Review, and relied upon to support this rule making, trend above the cap after 2032, mechanisms exist to address a potentially slower pace of clean energy deployment and higher allowance demand, namely an expanded CCR tier 1 and the creation of CCR tier 2 allowances. When considering additional allowance volume through the CCR, there is sufficient allowance availability even under an extremely pessimistic outlook on clean energy deployment (Policy Case A). The RGGI Program also allows participating entities to bank allowances from earlier years and use them at a later time. While this may cause regional emissions to deviate from a steadily decreasing trajectory in certain years, the RGGI Program still requires that the aggregate cap be met with current emissions reductions or the use of banked allowances. The modeling assumed that 79 million tons of banked allowances were in the possession of market participants at the start of the modeling time horizon, and they can be used in any year for compliance.

**Comment 48:** The commenter states that the proposed allowance caps do not align with emission projections in RGGI's July 2025 Program Review analysis, which projected higher emissions in outer years under all scenarios than those in the proposed caps. The commenter says that aligning allowance trajectories with emission forecasts can help promote market stability, support compliance, and reduce the risk of unnecessary costs to customers. (Commenter 18)

**Response:** The proposed amendments to the RGGI Program contain substantial flexibility mechanisms to maintain market stability, support compliance, and reduce the electricity cost burden to customers. See also the response to Comment 47 for more detail.

**Comment 49:** The commenter points out Long Island's unique challenges to reducing covered emissions while meeting reliability standards and accommodating future growth. They state that recent federal and state developments, including changes affecting offshore wind deployment timelines, further indicate the importance of maintaining flexibility as the State advances its clean energy transition. (Commenter 18)

**Response:** The RGGI Program has not posed challenges for reliability in the past, and there is nothing in the analysis – which factors in future load growth – to suggest that it

will if the proposed amendments are adopted. In the analysis underpinning the proposed changes, which assumes only currently contracted renewables are built over the next decade, offshore wind deployment in New York is held to 1,876 MW--including the only currently operational project and the addition of two other projects that are well underway. Even under this pessimistic outlook for clean energy deployment, the analysis does not foresee reliability challenges or price spikes relative to the status quo. Lastly, the RGGI Program has built-in flexibility mechanisms, such as a bolstered CCR tier 1 and the addition of CCR tier 2, that support continued reliability under conditions of slower than anticipated clean energy deployment.

**Comment 50:** The commenter states that if the amendments are adopted then they encourage the Department in coordination with other RGGI Participating States to initiate the next program review as early as practicable to facilitate meaningful updates considering evolving market conditions and implementation experience while also advancing the Program's climate objectives. (Commenter 18)

**Response:** The Participating States have agreed to start the Fourth Program Review no later than 2028.

**Comment 51:** Multiple commenters express their appreciation to the Department for considering comments. Commenters look forward to collaborating with the Department to support the implementation of the RGGI Program in a manner that maintains electricity system reliability for New Yorkers. (Commenters 18, 20)

**Response:** The Department and NYSERDA thank the commenters for their comments.

**Comment 52:** Commenter describes the SEP discussion of combustion related electricity generating units remaining in place until replaced by other resources and that the draft SEP projected the Zero by 2040 emissions target in the Climate Act would be reached by 2045. They argue that the cap decline should be linked to the expected deployment of dispatchable, emissions-free resources. (Commenter 19)

**Response:** The core case in the SEP analysis is the Additional Action case, and it is consistent with the proposed cap. In the Additional Action case, the cap and emissions in the electricity sector reach zero by 2040. The same result is also achieved in the Current Policies case in the SEP. As noted in response to Comment 26, the cap trajectory outlined is on a pathway to zero emissions by 2040.

Future cap declines will be informed by State Administrative Procedure Act review requirements. New York intends to participate in the next RGGI program review which will start no later than 2028 and will include extensive analysis on the expected pace of clean energy deployment and future load growth. This process will include opportunities for the public to weigh in on future changes to the cap and scenario analysis that supports decisions on the cap trajectory. The next program review could also inform changes to the current cap trajectory, if it is determined that changes are needed to ensure reliability and affordability.

**Comment 53:** The commenter states that a cap decline that is too steep would likely present compliance problems due to the unavailability of dispatchable emissions free resources. They also state that an overly steep cap decline would result in higher electricity bills. (Commenter 19)

**Response:** The analysis supporting the proposed rule making estimates emissions will be below the cap through 2032, and if the deployment of clean energy significantly lags the pace set by state clean energy policies such as New York's Clean Energy Standard, the program has built-in measures for cost containment. When considering additional allowance volume through an enlarged CCR tier 1 and a new CCR tier 2, there is sufficient allowance availability even under an extremely pessimistic outlook on clean energy deployment (Policy Case A). The analysis also estimates no significant changes to utility bills on average relative to the status quo after including mitigating factors, particularly the benefits of investing RGGI Program proceeds in energy efficiency and clean energy. The analysis draws this conclusion even in a future scenario under pessimistic projections of renewable energy deployment.

**Comment 54:** The commenter states the cap decline must be made more flexible to account for the lack of dispatchable emissions free resources, and to mitigate burdening electric ratepayers with even higher bills. Establishing an emissions cap consistent with the provisions of the State Energy Plan would acknowledge the challenges of increasing load and the time it takes to develop new sources of electrical generation. (Commenter 19)

**Response:** As noted in previous responses to comments, the RGGI Program has built-in measures for cost containment, namely an expanded CCR 1 and the creation of a new CCR tier 2. When considering additional allowance volume through the CCR, there is sufficient allowance availability even under an extremely pessimistic outlook on clean energy deployment. The SEP's core scenarios still envision a zero-emissions electricity sector by 2040.

**Comment 55:** The commenter asks for clarification on the availability of allowances for the long-term contracts. (Commenter 19)

**Response:** The allowances set-aside for long-term contracts as shown in Table 5 of Part 242 are envisioned to maintain enough supply of allowances to accommodate anticipated demand through October 31, 2036.

**Comment 56:** Commenter expresses the importance of maintaining electric system reliability. They argue that the RGGI Program must have safeguards in place to deal with unplanned situations. They argue that reliable, dispatchable electricity is essential to daily life, the State's economy, and achieving the electrification goals outlined in the Climate Action Council's Scoping Plan and State Energy Plan, especially as electricity use grows. (Commenter 20)

**Response:** The RGGI Program includes and will continue to include many flexibility mechanisms, such as the three-year compliance period, only requiring 50 percent of emissions to be covered by surrendered allowances during annual interim compliance periods; allowing allowances to be banked forever; and significantly expanding cost containment reserves. These mechanisms provide flexibility for the electricity generators to respond to real-time demands to meet load and reliability requirements while allowing time to acquire allowances by the compliance deadline. These mechanisms will help to maintain energy reliability while reducing GHG emissions.

**Comment 57:** Commenter argues that the RGGI Program design must provide electric generators the flexibility to operate and maintain system reliability and serve consumer demand. They also argue that overly restrictive compliance obligations could prevent emitting generation from operating to support system reliability or serving consumer demand and potentially force generators to retire before suitable replacement resources are available. The commenters mentioned how the state continues to encourage sectors to electrify to support economy-wide emission reductions and this will require electric generators to increase operations and flexibility to meet rising demand, further stating that the generators must be able to procure sufficient allowances at a viable market price to support reliability. The commenter argues that electricity must be both available and economically attractive to be an alternative to fuels currently relied on by other sectors. (Commenter 20)

**Response:** The RGGI Program is inherently a market-based system using economics and market forces to drive feasible and efficient emission reductions. The modeling that supported this rule making indicates that the proposed amendments provide sufficient allowances, especially when accounting for cost containment reserve allowances, such that electrical generators can access sufficient allowances while reducing emissions over time. The annual interim and full three-year compliance schedule also offers flexibility for procuring allowances to account for electricity market fluctuations over time.

**Comment 58:** The commenter recommends future consideration of emergency or reliability set-asides to provide further operation and financial flexibility for generators. The commenter explains that such allowances could be procured and/or used to demonstrate compliance at prices above CCR 2 as an incentive not to be relied upon for ordinary operation, but instead to be available to respond to unforeseen episodic extreme/emergency conditions. (Commenter 20)

**Response:** The Department and NYSERDA may evaluate such mechanisms as necessary. However, at this time the projected electricity demand and projected generation sources shown in the modeling developed to support this rule making do not indicate a need for additional allowances beyond those already provided through existing cost containment measures.

**Comment 59:** The commenter largely supports the proposed revisions to Part 242 but has some constructive input on the use of eligible biomass and its inclusion in the

budget trading program in the future. The commenter agrees with the removal of eligible biomass under the current definition, but advocates for the use of renewable natural gas (RNG) more broadly, especially from wastewater treatment centers. They recommend that the Department monitors developments regarding the use of RNG from wastewater treatment. (Commenter 21)

**Response:** The State's strategic use of RNG is beyond the scope of this rule making. The original eligible biomass provision[6] relates to the burning of forest-based woody biomass as a replacement for fossil fuels. It included the provision that the forest the fuel was harvested from was required to be protected until it had re-sequestered an equivalent amount of carbon to the biomass harvested. This utilization of sustainably harvested eligible biomass was not common, and the only facility receiving such allowances has closed. The capture and redistribution of RNG and its use as a replacement to fossil fuel may not be sufficiently tracked within the natural gas distribution system such that specific fuels can be attributable to a specific facility. There is not currently an equivalent way to identify the re-sequestration of the carbon of the combusted RNG in a way that establishes an eligible RNG provision. The Department anticipates monitoring fuel supply data, including through the provisions of the Mandatory Greenhouse Gas Reporting regulation, 6 NYCRR Part 253. These provisions are separate from and beyond the scope of this rule making.

**Comment 60:** Commenter states that both New York City and New York State share the same climate goals. They highlight the City's commitment to becoming carbon neutral by 2050, and the City's support to reduce the State's emission cap. The commenter asserts that this emissions cap reduction will ensure that the reductions are consistent with the City's and State's clean energy commitments. (Commenter 21)

**Response:** The Department and NYSERDA agree that the RGGI Program helps the State reduce GHG emissions.

**Comment 61:** Commenter does not object to the removal of the Emissions Containment Reserve (ECR) given that it has never been triggered. They assert that removal of the ECR would not interfere with the goals of RGGI, New York State, or New York City. However, the commenter believes that the Department should continue to monitor auction processes and intervene if needed to "avoid adverse impacts to New Yorkers." (Commenter 21)

**Response:** The removal of the ECR and the raising of the minimum reserve price would only limit the availability of allowances when the auction clearing price is lower than the minimum reserve price. The Department and NYSERDA will continue to monitor the auction outcomes.

[6] DAR-12: "Sustainably Harvested" Determination for Purposes of "Eligibile Biomass," Part 242
https://extapps.dec.ny.gov/docs/air_pdf/dar12.pdf

**Comment 62:** Commenter asserts that the RGGI Program is a leading example of effective and collaborative climate policy. They suggest that the RGGI Program demonstrates New York State's commitment to climate goals and energy affordability. (Commenter 22)

**Response:** The Department and NYSERDA agree that the RGGI Program helps the State reduce GHG emissions.

**Comment 63:** Commenters describe the air quality and public health benefits of the RGGI Program since its launch in 2009. (Commenters 16, 22)

**Response:** The Department and NYSERDA agree that the air quality and public health benefits since the inception of the RGGI Program have been substantial and impactful for New Yorkers.

**Comment 64:** The commenter states they want the Department to continue to support the participation of non-power-plant bidders in the allowance trading auctions, further stating they are the largest conservation buyer of RGGI allowances and intend to continue to purchase allowances and hold them in perpetuity so that they may never be used to create carbon pollution. Additionally, the commenter states that they contribute public education efforts to allow individuals and institutions to retire carbon pollution through the purchase of a carbon retirement certificate. (Commenter 23)

**Response:** The proposed amendments to the regulations do not change the auction eligibility provisions.

**Comment 65:** The commenter is concerned that adding a second tier of the Cost Containment Reserve could, if triggered, undermine the integrity of the stronger emissions cap. The commenter is encouraged that updates include a higher minimum auction reserve price that matches the trigger price trajectory of the former ECR. The commenter urges the Department to closely monitor the impacts of the updates to RGGI's price protection mechanisms to ensure the changes strengthen the initiative and its goals. (Commenter 24)

**Response:** The Department and NYSERDA appreciate the concern with regard to the emissions cap integrity. If both tiers of CCR allowances were triggered in each calendar year, New York's cap would still be reduced by about 66 percent between 2027 and 2037. While this could result in less emissions reductions, it would also signal a need for these allowances that is in excess of the modeled scenarios conducted to support this rule making.

**Comment 66:** The commenter supports efforts outlined in New Yorks's RGGI Operating Plan Amendment for 2026 that prioritize investments to lower consumer's electricity bills and develop large-scale clean energy generation. (Commenter 24)

**Response:** The Department and NYSERDA appreciates the commenter's support. However, comments on the RGGI Operating Plan are beyond the scope of this regulation and are best addressed through the process described on the NYSERDA website for the RGGI Operating Plan use of auction proceeds: https://www.nyserda.ny.gov/About/Funding/Regional-Greenhouse-Gas-Initiative/Auction-Proceeds.

**Comment 67:** The commenter urges New York State to apply the lessons and best practices from RGGI and establish the Clean Air Initiative to meet the requirements of the Climate Act. The commenter mentions the urgency of the climate crisis and that the mandates to achieve goals outlined in the Climate Act require continued timely intentional action to advance to a clean energy economy and protect the environment. (Commenter 24)

**Response:** Comments about the Clean Air Initiative are beyond the scope of this rule making.

| List of Commenters | | |
|---|---|---|
| **Commenter Number** | **Commenter Name** | **Commenter Organization** |
| 1 | John Agiro | None |
| 2 | David Newman | None |
| 3 | John Eaves | None |
| 4 | Michael Byrne | None |
| 5 | Brenda Lidestri | None |
| 6 | Kurt M. Sanger | None |
| 7 | Donald Strine | None |
| 8,9 | Chuck Anschutz | None |
| 10 | Tony Dorazio | None |
| 11 | Gary Nelson | None |
| 12 | Karen Argenti/Robert Fanuzzi | Bronx Council for Environmental Quality |
| 13 | William Slade | Environmental Energy Alliance of NY |
| 14 | Adarsh Srinivasan | IETA |
| 15 | Josh Berman | Sierra Club |
| 16 | Niamh Moore | Environmental Advocates NY |
| 17 | Kathleen Sullivan | Protect Our Coast Long Island NY |
| 18 | Kara Krueger | PSEG Long Island |
| 19 | Radmila Miletich | Independent Power Producers of NY |
| 20 | Alexander Morse | NY Independent System Operator |
| 21 | Samantha Maurer | City of New York |
| 22 | Nora Goodman | Acadia Center<br>Alliance for Clean Energy NY<br>American Lung Association – New York<br>Elected Officials to Protect America<br>Environmental Advocates NY<br>Environmental Defense Fund<br>Natural Resources Defense Council (NRDC)<br>New York League of Conservation Voters<br>New Yorkers for Clean Power<br>Save the Sound<br>Sierra Club<br>Sustainable Westchester<br>Tompkins County Climate Protection Initiative |
| 23 | John Sheehan | Adirondack Council |
| 24 | Echo Cartwright | Nature Conservancy |
| 25 | Kate Courtin | Environmental Defense Fund |