Summary of Express Terms

Amendments to 6 NYCRR Part 242, CO_2 Budget Trading Program

Amendments to 6 NYCRR Part 200, General Provisions

Amendments to 21 NYCRR Part 507, CO_2 Allowance Auction Program

The New York State Department of Environmental Conservation (department) is proposing to amend 6 NYCRR Part 242. The purpose of the amendment would be to reduce the annual budget of allowances, implement second tier cost containment reserve (CCR) and increase the size of the first tier of CCR allowances. The emissions containment reserve would be removed, and the minimum reserve price would be increased to the value of emissions containment reserve (ECR). Offset projects would be removed, while historically awarded offset allowances remain valid as compliance instruments. Eligible biomass would be removed, and other text would be revised to improve clarity and simplify language. Notable proposed amendments to Part 242 are described below. Additional minor, non-substantive, grammatical, and formatting changes are proposed in each Subpart as needed. The remaining sections of Part 242 are unchanged. The department also proposes attendant revisions to 6 NYCRR Part 200 to update incorporations by reference contained in Part 242. As the auction administrator, the New York State Energy Research and Development Authority has proposed revisions to the CO_2 Allowance Auction Program as set forth in Part 507 of Title 21 NYCRR, which are designed to complement revisions proposed by the department.

6 NYCRR Part 242 Summary

Changes to section 242-1.2 (Definitions) include:

- *Allocate or allocation:* reference to the general account of the sponsor of an approved CO_2 emissions offset project is removed
- *Award:* repealed
- *Billing meter:* repealed
- *CO2 Allowance Tracking System (COATS):* amended to add new administrative functions, delete language regarding offsets, allowance prices, and CO_2 budget tracking
- *CO2 allowance transfer deadline:* repealed and replaced
- *CO2 budget emissions limitation:* revised to include that the CO_2 allowances for interim control period are doubled
- *CO2 Budget Trading Program adjusted budget:* repealed
- *CO2 Budget Trading Program base budget:* amended to include references to CO_2 CCR tier 1 and tier 2 allowances

- *CO2 cost containment reserve tier 2 allowance or CO2 CCR tier 2 allowance:* added
- *CO2 Cost containment reserve tier 1and 2 trigger price, or CCR tier 1and 2 trigger price:* added
- *CO2 emissions offset project:* revised
- *CO2 offset allowance:* amended to include deadline and remove the reference
- *CO2 emissions containment reserve allowance or CO2 ECR allowance:* repealed
- *CO2 Cost containment reserve trigger price, or CCR trigger price:* repealed
- *CO2 emissions containment reserve trigger price, or ECR trigger price:* repealed
- *Eligible biomass:* repealed
- *First control period interim adjustment for banked allowances*: repealed
- *Global warming potential (GWP):* repealed
- *North American Industry Classification System (NAICS) code(s):* added
- *Second control period adjustment for banked allowances*: repealed
- *Third adjustment for banked allowances:* repealed

Section 242-5.1: repealed and replaced to reflect a reduction in the annual budget of allowances from 21,914,493 tons allowances in 2027 to 2,347,982 tons allowances in 2037

Section 242-5.2: repealed

Section 242-5.3: amended to include 6 NYCRR 242 5.3(a) provision that, in support of the statewide goal of the CLCPA, at least 40% and no less than 35% of the overall benefits from the related investments must be realized in disadvantaged communities. 6 NYCRR 2425.3(b) is added to include CO_2 CCR tier 1 and tier 2.

Section 242 5.3(b)(1)(i): repealed and replaced with new allocations for 2027 and subsequent years; the department would allocate 3,687,535 CO_2 CCR tier 1 and 3,687,535 CO_2 CCR tier 2 allowances to the energy efficiency and clean energy technology account. Table 6 is removed.

Sections 242 5.3(b)(2)(iii-iv, vi, viii) are added to specify new provisions about the auctioning process for CCR tier 2 allowances.

Section 242 5.3(b)(2)(x) has been added to include that if a certain condition in subparagraph(iii) is not satisfied, no CO2 CCR tier 2 allowances shall be auctioned, and the reserve price shall be determined accordingly. Two new clauses have been added to subparagraph (x) to specify that if the condition of subparagraph (i) is met, the reserve price shall be equal to CCR tier 1 trigger price, otherwise, the reserve price will be set at the minimum reserve price.

Section 242 5.3(b)(4) has been added to clarify that any CCR tier 1 and tier 2 allowances left in the energy efficiency and clean energy account after the final auction of the year shall not be carried over for future auctions or sale.

Section 242 5.3(c): repealed

Section 242 5.3(d): has been renumbered to subdivision (c) and amended to include Table 4 VREM Set-aside Allocations by year, lower the number of allowances distributed to the set-aside, remove all references to eligible biomass, clarify that department may use an emission factor different from that provided by VREP applicant, and clarify the procedures the department would undertake if the allowances requested were greater than the allowances in an allocation year.

Section 242 5.3(e): has been renumber to subdivision (d) and amended to include Table 5 LTC Set-aside Allocation by Year, lower the number of allowances distributed to the set-aside, end allocations to the set aside in 2036, and clarify the procedures the department would undertake if allowances requested were greater than the allowances in an allocation year.

Section 242 5.3(f): repealed

Section 242-6.1(a): amended to clarify use of compliance accounts and allocation of CO_2 allowances for long-term contract.

Section 242-6.4(a): amended to remove language related to transfer allowances from CO_2 budget trading program adjusted budget to the program review retirement set aside upon the effective date of the 2020.

Section 242-8.1: repealed and replaced with text simplifying references to monitoring requirements but not changing monitoring requirements.

Section 242-8.2: repealed

Section 242-8.3: repealed

Section 242-8.4: repealed

Section 242-8.7: repealed

Subpart 242-10: repealed

6 NYCRR Part 200 Summary

Amends existing Part 200 by making additions and removals to 200.9 Referenced Material-Table 1 to capture all incorporation by reference documents from Part 242.

21 NYCRR Part 507 Summary

Amends existing Part 507 by making additions and removals to add a second-tier cost containment reserve, remove the emissions containment reserve, and raise the minimum reserve price.