MEETING MATERIALS

December 1, 2020

ANDREW M. CUOMO
Governor

RICHARD L. KAUFFMAN
Chair

DOREEN M. HARRIS
Acting President and CEO

NOTICE OF MEETING AND AGENDA

November 20, 2020

TO THE MEMBERS OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY:

PLEASE TAKE NOTICE that a Special Meeting (the 249th) of the New York State Energy Research and Development Authority ("Authority") will be held via video conference, on Tuesday, December 1, 2020, commencing at 12:00 p.m., for the following purposes:

1. To consider and act upon a resolution adopting revisions to Part 507 to Chapter XI of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York, concerning the administration and implementation of a CO_2 Allowance Auction Program known as the Regional Greenhouse Gas Initiative.

2. To transact such other business as may properly come before the meeting.

As the Authority continues to follow the guidance for addressing the impacts of COVID-19, Members of the public may attend the meeting via the video conference which can be accessed at https://www.nyserda.ny.gov/About/Board-Governance/Board-and-Committee-Meetings.

The Authority will be posting a video and a transcript of the meeting to the web as soon as practicable after the meeting. The video and transcript will be posted at http://www.nyserda.ny.gov/About/Board-Governance/Board-and-Committee-Meetings.

Peter J. Costello
Secretary

Updated from version effective October 8, 2008

Express Terms

Part 507 CO_2 Allowance Auction Program

Contents

507.1: Purpose

The purpose of this part is to provide for the administration and implementation by the New York State Energy Research and Development Authority ("Authority") of CO_2 Allowance Auctions and programs to promote the purposes of the Energy Efficiency and Clean Energy Technology Account ("the Account") as provided by the CO_2 Budget Trading Program at 6 New York Codes, Rules and Regulations ("NYCRR") Part 242. This part complements the provisions of the CO_2 Budget Trading Program, which was established by the New York State Department of Environmental Conservation to stabilize and then reduce anthropogenic emissions of CO_2, a greenhouse gas, from CO_2 budget sources in an economically efficient manner.

507.2: Definitions

Part 507 incorporates by reference the definitions established by the Department at 6 NYCRR Part 242. In addition, the following definitions apply:

(a) Ascending Price, Multiple Round Auction: A multiple round auction starting with an opening price with increases each round by predetermined increments. In each round, bidders offer the quantity they are willing to purchase at the posted price. Rounds continue so long as demand exceeds the quantity offered for sale. At the completion of the final round, allowances may be allocated, subject to Section 507.6:

(i) at the final price to remaining bidders and withhold unsold allowances for a future auction, or

(ii) at the penultimate price, first to final round bidders and then to bidders in the penultimate round in chronological order of bid during the penultimate round for all remaining allowances, or

(iii) according to an alternative mechanism designed to effectuate the objectives of this Part.

(b) Auction Advisory Committee: A committee comprised of the Commissioner of the Department, the President and Chief Executive Officer of the Authority, and the Chairperson of the New York State Public Service Commission, or their respective designees ("the Committee"). The Committee shall advise the Authority on procedures relevant to conducting the CO_2 Allowance Auctions provided for in this Part.

(c) Authority: the New York State Energy Research and Development Authority.

(d) Authority Contact Person: An employee of the Authority designated to communicate with the public regarding CO_2 Allowance Auctions, as identified on the CO_2 Allowance Auction Website.

(e) CO_2 Allowance Auction Website: The website containing information regarding the auctions to be conducted pursuant to this Part and 6 NYCRR Part 242. The website shall be available through a link from the Authority's main website at www.nyserda..ny.gov.

<u>(f) CO_2 cost containment reserve allowance or CO_2 CCR allowance: A CO_2 allowance that is offered for sale at an auction by NYSERDA or its agent for the purpose of containing the cost of CO_2 Allowances</u>. CO_2 CCR allowances offered for sale at an auction are separate from and additional to CO_2 allowances allocated from the CO_2 Budget Trading Program base and

adjusted budgets. CO_2 CCR allowances are subject to all applicable limitations contained in this Part and in 6 NYCRR Part 242.

(g) CO_2 Cost containment reserve trigger price, or CCR trigger price: The CCR trigger price is the minimum price at which CO_2 CCR allowances are offered for sale by the Authority or its agent at an auction. The CCR trigger price shall be $10.00 per CO_2 allowance in calendar year 2017. Each calendar year thereafter through 2020, the CCR trigger price shall be 1.025 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent. The CCR trigger price in calendar year 2021 shall be $13.00. Each calendar year thereafter, the CCR trigger price shall be 1.07 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 1 below.

Table 1. CO_2 CCR Trigger Price

2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	20208	2029	2030
$10.25	$10.51	$10.77	$13.00	$13.91	$14.88	$15.92	$17.03	$18.22	$19.50	$20.87	$22.33	$23.89

h) CO_2 emissions containment reserve allowance or CO_2 ECR allowance: A CO_2 allowance that is withheld from sale at an auction by the Authority or its agent for the purpose of additional emission reduction in the event of lower than anticipated emission reduction costs.

(i) CO_2 emissions containment reserve trigger price, or ECR trigger price: The ECR trigger price is the price below which CO_2 allowances will be withheld from sale by the Authority or its agent at an auction. The ECR trigger price in calendar year 2021 shall be $6.00. Each calendar year thereafter, the ECR trigger price shall be 1.07 multiplied by the ECR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 2.

Table 2. CO_2 ECR Trigger Price									
2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
$6.00	$6.42	$6.87	$7.35	$7.86	$8.41	$9.00	$9.63	$10.30	$11.02

(j) Control Period: The time periods established by the Department under 6 NYCRR Part 242. (g) Department: The New York State Department of Environmental Conservation.

(k) Energy Efficiency and Clean Energy Technology Account: A general account to be established by the Authority, into which the Department shall allocate CO_2 Allowances.

(l) Environmental Notice Bulletin: An official Department publication pursuant to Environmental Conservation Law Section 3-0306(4).

(m) Participating State: A state that has established a corresponding regulation or statute as part of the CO_2 Budget Trading Program.

(n) Reserve Price. The minimum acceptable price for each CO_2 allowance in a specific auction. The reserve price at an auction is either the minimum reserve price or the CCR trigger price as specified in section 242-5.3(b) in 6 NYCRR Part 242.

(n) Single Round Sealed-Bid Uniform Price Auction: A single round sealed-bid uniform price auction format, under which bidders may submit multiple bids at different prices; the price paid by all awarded bidders will be uniform and equal to the highest rejected bid price.

507.3: Multi-State Auctions

(a) The Authority shall participate in a multi-state CO_2 Allowance Auction or Auctions if the Authority determines, in consultation with the Committee, that:

(1) a multi-state auction capability and process is in place for the Participating States;

(2) the multi-state auction can provide benefits that meet or exceed the objectives of the auction and purposes of the Account, as described in this Part, and;

(3) the multi-state auction process would be consistent with the process described in this Part.

(b) Should the Authority, in consultation with the Committee, find that these conditions have not been satisfied, the Authority may conduct a New York State auction or auctions pursuant to this Part.

(c) The Authority shall retain control over the proceeds associated with the sale of all of New York's CO_2 Allowances, whether sold in a multi-state or a New York State CO_2 Allowance Auction.

507.4: The Energy Efficiency and Clean Energy Technology Account

(a) The Authority will establish and administer the Account in accordance with the provisions of 6 NYCRR Part 242-1.2(35) and 242-5.3.

(b) The Authority will administer the Account in such a manner that allowances allocated to the Account by the Department from the CO_2 Budget Trading Program will be made available for sale in CO_2 Allowance Auctions as described in this Part.

(c) The proceeds of the CO_2 Allowance Auctions will be placed into a segregated Authority funding account, and shall not be commingled with other Authority funds.

(d) The proceeds of the CO_2 Allowance Auctions will be used by the Authority to promote and implement programs for energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential, where such investments will be consistent with the provisions of the Climate Leadership and Community Protection Act, including Section 75-0117of the environmental conservation law, which established a goal for disadvantaged communities to receive 40%, and no less than 35%, of the overall benefits from the investment of the proceeds, and for reasonable administrative costs incurred by the Authority in undertaking the activities described in Part 507 and for administrative costs, auction design and support costs, and program design and support costs associated with the CO_2 Budget Trading Program, whenever incurred.

(e) At least annually, the Authority shall convene an advisory group of stakeholders representing a broad array of energy and environmental interests to advise it on how to best utilize said funds to achieve the goals of the Account.

507.5: Implementation of CO_2 Allowance Auctions

(a) The Authority will design, implement and administer CO_2 Allowance Auctions in accordance with the objectives identified in 6 NYCRR Part 242.

(b) Implementation and administrative support functions for any auction conducted pursuant to this Part and with respect to the administration of the Account may be delegated by the Authority to a designee deemed qualified by the Authority to perform such functions, provided that such designee shall perform all such functions under the direction and oversight of the Authority.

507.6: Commencement, Frequency and Quantity of CO_2 Allowance Auctions

(a) Commencement: Upon notification from the Department that it has allocated CO_2 Allowances into the Account, the Authority shall participate in or conduct CO_2 Allowance Auctions to sell such allowances pursuant to this Part.

(b) Frequency: CO_2 Allowance Auctions will be held quarterly, or as often as practical and necessary to effectuate the objectives of the CO_2 Budget Trading Program, in consultation with the Committee.

(c) Calendar: The Authority or its designee shall maintain a calendar of anticipated auction dates on the CO_2 Allowance Auction Website. The calendar shall indicate the auction format and the number of allowances and allocation years of allowances to be auctioned at each auction. The Authority may periodically revise the calendar, provided that the information relevant to the next scheduled CO_2 Allowance Auction shall be fixed no later than 45 calendar days prior to such auction. The calendar shall include the dates of at least the next four (4) CO_2 Allowance Auctions and may also include the anticipated number of allowances to be auctioned at each Auction. The Authority may periodically modify the anticipated dates of Auctions listed on such calendar.

(d) Quantity: Prior to the end of each Control Period, CO_2 Allowances in a quantity equal to the number of CO_2 Allowances allocated to the Account for such Control Period will be made available for sale. CO_2 Allowances will be made available for sale by allocation year. Specific quantities of CO_2 Allowances that will be offered for sale will be included in each Notice of CO_2 Allowance Auction.

(e) Lot Sizes: The Authority shall make CO_2 Allowances available for sale in lot sizes of 1,000 allowances, except where available supply requires a smaller lot size.

(f) Reserve Price: In administering Auctions, the Authority or its agent shall employ the use of a Reserve Price in a manner and form as provided for in Part 242. The Authority shall publish or announce such reserve price prior to each CO_2 Allowance Auction.

(g) CO_2 Cost Containment Reserve (CCR): The Authority or its agent shall administer the rules for the sale of CO_2 CCR allowances at Part 242-5.3(b).

(h) CO_2 Emissions Containment Reserve (ECR): The Authority or its agent shall withdraw allowances from auctions in accordance with part 242-5.3(c).

(i) Unsold Allowances: Unsold CO_2 Allowances may be retired or made available for sale in a form and manner provided under 6 NYCRR Part 242.

507.7: Auction Format

The initial auction shall be conducted as a Single Round Sealed-Bid Uniform Price Auction. The Authority, in consultation with the Committee, may employ a Single Round Sealed-Bid Uniform Price Auction or an Ascending Price, Multiple Round Auction in subsequent auctions.

507.8: Participant Eligibility and Limitations

(a) The owners of CO_2 Budget Units located in New York shall be eligible to participate in all auctions.

(b) Categories of bidders that may be eligible to participate in auctions include:

(1) owners of CO_2 Budget Units located outside of New York but within those states that have final CO_2 Budget Trading regulatory provisions in place at the time of the CO_2 Allowance Auction and are Participating States;

(2) owners of fossil fuel-fired generation units located outside of the Participating States,

(3) brokers,

(4) environmental groups,

(5) financial and investment institutions, and

(6) other market participants.

(c) For the initial CO_2 Allowance Auction, all categories of bidders will be eligible to participate. For each subsequent auction, the Authority, in consultation with the Committee, may preclude or limit the participation of any one or all of the categories of bidders. Notification of eligible categories of bidders will be included in each Notice of CO_2 Allowance Auction.

(d) Any bidder wishing to participate in a CO_2 Allowance Auction will be required to open and maintain a compliance or general account pursuant to the provisions in 6 NYCRR 242-6.2.

(e) Limitations: Participation in any auction may be limited to the level of financial security provided.

(f) The Authority shall institute a purchasing and/or bidding limitation in each auction. In no instance shall this limitation be greater than 25% of the allowances available in an auction. Any such limitations shall be included in the Notice of CO_2 Allowance Auction.

(g) Any applicant or bidder that has been found to have violated any rule, regulation, or law associated with any commodity market or exchange may be denied eligibility or precluded from participation in CO_2 Allowance Auctions.

507.9: Participation Requirements

(a) Qualification: Any party wishing to participate in a CO_2 Allowance Auction or Auctions shall submit an application for qualification in the form and manner provided in the Notice of CO_2 Allowance Auction to the Authority on or before the application deadline date specified in the Notice of CO_2 Allowance Auction, which date shall be no sooner than 15 days following the date of publication of the Notice. Application information and forms shall be made available electronically on the CO_2 Allowance Auction Website. As a part of their application, applicants will be required to provide information and documentation relating to their ability and authority to execute bids and honor contractual obligations. Such documentation may include but may not be limited to:

(1) Information and documentation regarding the corporate identity, ownership, affiliations, and capital structure of the applicant;

(2) Declarations as to the beneficial ownership of any allowance that may be acquired through the auction;

(3) The identification of any indictment or felony conviction of the bidder, or any member, director, principle, partner or officer of the applicant or any affiliate or related entity;

(4) A statement by the applicant as to prior findings of non-responsibility with regard to any New York State procurement including findings under Section 139-j of the New York State Finance Law;

(5) The identification of any previous or pending investigation with respect to any alleged violation of any rule, regulation, or law associated with any commodity market or exchange.

(6) Evidence demonstrating that such applicant has opened a general or compliance account as provided for in the provisions in 6 NYCRR 242-6.2 and identification of relationships with any other account holder.

(7) Applicants may be denied qualification based on the information provided or upon information as to such applicant obtained independent of the application process.

(b) The Authority will review each application for qualification and make determinations as to qualification to participate or otherwise submit bids in CO_2 Allowance Auctions. Failure to provide any information required by the Notice of CO_2 Allowance Auction may result in the application being declared incomplete or otherwise deficient. If an application for qualification is determined to be incomplete or otherwise deficient, the Authority shall notify the Applicant and state the reason therefore. Applicants whose applications for qualification have been determined to be incomplete or deficient will be given a reasonable opportunity, and in no event less than 5 business days to provide additional information and to cure such deficiencies.

(c) Parties found qualified for participation under subsection (b) will be qualified for subsequent CO_2 Allowance Auctions, and will be qualified to participate in such auctions within the financial security limitations of section 507.9(h); provided that there has been no material change to the information provided in the previously submitted application, that the party is within one of the categories of eligible bidders described in the Notice of CO_2 Allowance Auction for such auction, and such party meets all other requirements for participation. Any party found qualified shall notify the Authority of any material change in the information provided in the application for qualification no later than the date on which qualification applications for the next auction are due. Such notification shall state the date the change occurred and describe the change in sufficient detail to enable the Authority to determine if a change in the qualification status to participate in future auctions is warranted.

(d) The Authority may require parties previously found qualified to up-date and re-file applications for qualification on an annual basis.

(e) The Authority may suspend or revoke qualification of any party if such party fails to comply with this Part 507 and/or the provisions of 6 NYCRR Part 242.

(f) Bid Submittal Instructions. All bids shall be in a form prescribed by the Authority, which shall be made available electronically on the CO_2 Allowance Auction Website, as appropriate. All bids submitted will be considered binding offers for the purchase of allowances under the rules of the auction, this Part, and 6 NYCRR 242.

(g) If the Authority determines that a bidder has provided false or misleading information, or has withheld pertinent information in its application, or has otherwise failed to comply with any material provision of Part 507 or has violated any part of the auctions rules, the bidder may be prohibited from participating in any future CO_2 Allowance Auctions.

(h) To receive approval to participate in any specific auction, otherwise qualified bidders will be required to provide financial security in the form of a bond, cash, certified funds, or an irrevocable stand-by letter of credit, in a form acceptable to the Authority. Financial security shall be provided in a form and manner as described in the Notice of CO_2 Allowance Auction.

(1) Parties who have posted financial security may request return of their financial security at any time prior to or following any CO_2 Allowance Auction, and the Authority 12 shall return said financial security provided that the Authority has no current or pending claim to such security as a result of a failure of the party to comply with these regulations or to pay the full amount of its accepted bid when due.

(2) Financial security may be forfeited to and retained by the Authority in the event the bidder's offer is accepted in a CO_2 Allowance Auction and the bidder fails to tender payment of the full amount when due.

507.10: Notice of Auctions

(a) A Notice of CO_2 Allowance Auction ("Notice") shall be published on the CO_2 Allowance Auction Website no later than 45 days prior to the date upon which each auction may be conducted. Such Notices may be transmitted electronically to parties requesting such notification provided they have submitted an electronic-mail address to the Authority Contact Person.

(b) Each Notice will provide a specific description of all auction participation requirements, and shall include but not be limited to information including the date, time and location of the CO_2 Allowance Auction, the categories of bidders who will be eligible to bid, the quantity of CO_2 Allowances to be auctioned (by allocation year), the auction format, amount and type of security required, any participation limitations, information regarding settling and clearing of allowance payments, instructions as to qualification applications, the terms and conditions that will govern auction transactions, other pertinent rules of the auction, and identification of an Authority Contact Person for further information.

507.11: Auction Reporting and Transfer of CO_2 Allowances

A professional independent monitor such as a certified public accounting firm or similar entity shall observe the conduct and outcome of each auction and issue a report to the Committee in accordance with professional auditing standards addressing whether the auction was conducted in accordance with the rules and procedures in the respective Notice of CO_2 Allowance Auction. Upon receipt and approval by the Committee of the report and upon payment in full by successful bidders, the Authority shall transfer or have transferred the corresponding CO_2 Allowances to each successful bidder's applicable compliance or general account.

507.12: Auction and Secondary Market Monitoring

(a) In advising the Committee, the professional independent auction monitor will monitor each CO_2 Allowance Auction and develop and apply data collection methods, metrics, and analytic techniques, and thresholds for identifying any bidding behavior or activity that may have a significant impact on the efficiency and performance of such auctions, including, but not limited to:

(1) Collusion,

(2) Market power, and/or

(3) Price manipulation.

(b) The professional independent auction monitor shall also monitor allowance market data and information known to the Department and the Authority including allowance transactions and associated pricing reported in the CO_2 Allowance Tracking System, and other relevant data and information to ensure fair competition, efficient pricing, and protection against collusive or manipulative behavior in the CO_2 Allowance Auctions and the CO_2 Budget Trading Program.

507.13: Publication of Results

Within 10 days of the Transfer of CO_2 Allowances provided for under Subpart 507.11, the Authority or its designee shall publish on the CO_2 Allowance Auction Website the auction clearing price and the total amount of Allowances sold in such Auction.

Assessment of Public Comments Summary

21 NYCRR Part 507, CO2 Allowance Auction Program

Comments Received from May 13, 2020 to July 13, 2020

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States[1] and is 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 established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030.[2] Accordingly, New York and the then-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. To implement the updated RGGI program in New York State, the New York State Energy Research and Development Authority (the Authority) proposed revising 21 NYCRR Part, CO_2 Allowance Auction Program (the Program).

The Authority proposed revisions to Part 507 on May 13, 2020. The public comment period closed at 5:00 P.M. on July 13, 2020. The Authority received written and video comments from over 900 commenters on the proposed revisions to Part 507 and on the Department of Environmental Conversation (DEC's) April 29, 2020

[1] In addition to New York, the RGGI Participating States include: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. Pennsylvania has expressed interest in potentially becoming a RGGI Participating State, while Virginia recently finalized its own regulation so that it will become a RGGI Participating State as of January 1, 2021.

[2] The Participating States released the Updated Model Rule on August 23, 2017. The Participating States also released Principles to Accompany Model Rule Amendments on December 19, 2017.

proposals for 6 NYCRR Part 242, CO2 Budget Trading Program and 6 NYCRR Part 200, General Provisions. All of these comments have been reviewed, summarized, and responded to by the Authority and/or DEC.

The vast majority of commenters, while supportive of the revisions to the Program, emphasized the need to ensure alignment with the Climate Leadership and Community Protection Act (CLCPA).[3] Most notably, comments on specific aspects of the proposed revisions to the Program addressed the process and use of RGGI CO_2 allowance auction proceeds by the Authority and the need to dedicate a minimum percentage of the overall benefits of such investments to disadvantaged communities in accordance with the CLCPA and in a transparent manner. Other comments addressed the reduction in the CO_2 emission cap relative to the goals and requirements of the CLCPA, the applicability expansion to certain units 15 megawatts (MW) and larger and the need to cover additional sources, as well as the need for transparency in emission reporting. Additional commenters requested RGGI funds be used to support certain types of activities, including specific projects. The Authority's responses to these and all other comments received are summarized below.

First, a substantial number of comments were received asking the Authority to ensure that RGGI proceeds are invested in ways that prioritize frontline, environmental justice, and disadvantaged communities, with at least 40% of the revenue dedicated to projects and programs that directly benefit disadvantaged communities. The Authority responded that changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of benefits from investments in energy efficiency and clean energy, and not less than 35% of benefits, are realized by disadvantaged communities. Further, the Authority noted it will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities. Several commenters also requested there be a

[3] Actions under the CLCPA can be tracked at: https://climate.ny.gov/.

means by which to see how these provisions are being met, to which the Authority replied that its annual budget process will examine the allocation of projected funds that will be expected to meet the requirements. Other comments requested that the Authority collaborate with the Climate Justice Working Group and disadvantaged communities in developing its plans for use of RGGI proceeds. The Authority replied that it is developing an approach for collaborating with stakeholders and disadvantaged communities on program and initiative development through its Energy Affordability and Equity team. This collaboration will include input from the Climate Justice Working Group, in furtherance of realizing the stated directions of the Climate Act regarding investments and benefits for disadvantaged communities.

The Authority received comments requesting that the reduction targets under the Program reflect the greenhouse gas (GHG) emissions reduction and renewable energy requirements of the CLCPA. DEC also received similar comments. In response, DEC recognized that additional GHG emission reductions from power plants beyond those addressed in the revisions to Part 242 will be necessary on a Statewide basis to meet the requirements of the CLCPA. The DEC noted that the CO_2 budgets established are consistent with the State's commitment to implement the proposed changes previously announced by RGGI participating states. Furthermore, the next program review scheduled to begin in 2021 will allow New York to factor the CLCPA's requirements and process in that review.

A couple of commenters, while noting that the Program reduced the number of offset categories, offered suggestions about the potential for additional offset categories in the future with a primary focus on farming. DEC responded by indicating it would take this potential for additional offsets under the RGGI program into consideration during the next RGGI program review. DEC also noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA.

A couple of commenters suggested that the DEC should track and report emissions of CO_2 and co-pollutants from affected sources in a transparent manner. DEC responded that emissions for facilities are already posted on a quarterly basis in a transparent manner in the RGGI CO_2 Allowance Tracking System (COATS) found at: https://rggi-coats.org/eats/rggi/. In addition, co-pollutant emissions, including criteria pollutants and hazardous air pollutants, are posted to the Open NY website at: https://data.ny.gov/Energy-Environment/Title-V-Emissions-Inventory-Beginning-2010/4ry5-tfin.. The Authority also noted that RGGI investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies may also reduce co-pollutants.

While a number of commenters approved of the Program revisions to expand applicability to units 15 MW, they suggested a further applicability expansion to units smaller than 15 MW given the disproportionate impact these facilities have on environmental justice communities. DEC noted that the CLCPA includes multiple provisions that recognize that historically disadvantaged communities often suffer disproportionate and inequitable impacts from climate change, and that the revisions to Part 242 to expand its applicability are consistent with those provisions. DEC added that it will consider further expansion of the applicability provisions in Part 242 as part of the next RGGI program review. In addition to factoring in the requirements of the CLCPA process, this will allow DEC to be informed by the deliberations and actions of the CJWG established by the CLCPA, including the CJWG's identification of disadvantaged communities pursuant to the statute.

Several commenters discussed using RGGI funding to improve farming practices. One commenter mentioned in detail that practices that improve on-farm resiliency represent great untapped potential in climate policy in New York and that a soil health program should be a major component of or companion parallel program to any serious effort to address climate change. Another urged measures to help farmers sequester carbon in soils and site wind turbines. In response, while outside the scope of this rulemaking, DEC recognized that additional GHG emission reductions will be informed by the deliberations of the CAC pursuant to the CLCPA and noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA. In addition, the Authority mentioned that the RGGI auction proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential" in accordance with Part 507.

Finally, a number of requestors made specific requests for uses of RGGI funds. The Authority replied by stating it welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507.

Assessment of Public Comments Summary

6 NYCRR Part 242, CO_2 Budget Trading Program

6 NYCRR Part 200, General Provisions

Comments Received from April 29, 2020 to June 29, 2020

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States[4] and is 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 established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030.[5] Accordingly, New York and the then-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. To implement the updated RGGI program in New York State, the Department of Environmental Conservation (Department) proposed revising 6 NYCRR Part 242, CO_2 Budget Trading Program (the Program) and 6 NYCRR Part 200, General Provisions.

The Department proposed revisions to Part 242 on April 29, 2020. The public comment period closed at 5:00 P.M. on June 29, 2020. The Department received written and video comments from just over 500 commenters on the proposed revisions to Part 242 and on the New York State Energy Research and Development

[4] In addition to New York, the RGGI Participating States include: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. Pennsylvania has expressed interest in potentially becoming a RGGI Participating State, while Virginia recently finalized its own regulation so that it will become a RGGI Participating State as of January 1, 2021.

[5] The Participating States released the Updated Model Rule on August 23, 2017. The Participating States also released Principles to Accompany Model Rule Amendments on December 19, 2017.

Authority's (NYSERDA's) May 13, 2020 proposal for 6 NYCRR Part 507, "CO_2 Allowance Auction Program". All of these comments have been reviewed, summarized, and responded to by the Department and/or NYSERDA.

The vast majority of commenters, while supportive of the revisions to the Program, emphasized the need to align the revisions with the Climate Leadership and Community Protection Act (CLCPA).[6] Most notably, comments on specific aspects of the proposed revisions to the Program addressed the reduction in the CO_2 emission cap relative to the goals and requirements of the CLCPA, the process and use of RGGI CO_2 allowance auction proceeds by NYSERDA and the need to dedicate a minimum percentage of the overall benefits of such investments to disadvantaged communities in accordance with the CLCPA, the applicability expansion to certain units 15 megawatts (MW) and larger and the need to cover additional sources, as well as the need for transparency in emission reporting. A couple of commenters expressed some technical concerns regarding the Third Adjustment for Banked Allowances (TABA). The Department's responses to these and all other comments received are summarized below.

First, a substantial number of comments were received asking the Authority to ensure that RGGI proceeds are invested in ways that prioritize frontline, environmental justice, and disadvantaged communities, with at least 40% of the revenue dedicated to projects and programs that directly benefit disadvantaged communities. The Authority responded that changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of benefits from investments in energy efficiency and clean energy, and not less than 35% of benefits, are realized by disadvantaged communities. Further, the Authority notes it will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities. Several commentors also requested there be a

[6] Actions under the CLCPA can be tracked at: https://climate.ny.gov/.

transparent method of , to which to the Authority noted that its annual budget process will examine the allocation of projected funds that will be expected to meet the new 507 requirements.

A couple of commenters, while noting that the Program reduced the number of offset categories, offered suggestions about the potential for additional offset categories in the future with a primary focus on farming. The Department responded by indicating it would take this potential for additional offsets under the RGGI program into consideration during the next RGGI program review. The Department also noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA.

A couple of commenters suggested that the Department should track and report emissions of CO_2 and co-pollutants from affected sources in a transparent manner. The Department responded that emissions for facilities are already posted on a quarterly basis in a transparent manner in the RGGI CO_2 Allowance Tracking System (COATS) found at: https://rggi-coats.org/eats/rggi/. In addition, co-pollutant emissions, including criteria pollutants and hazardous air pollutants, are posted to the Open NY website at: https://data.ny.gov/Energy-Environment/Title-V-Emissions-Inventory-Beginning-2010/4ry5-tfin.

While a number of commenters approved of the Program revisions to expand applicability to units 15 MW, they suggested a further applicability expansion to units smaller than 15 Mw given the disproportionate impact these facilities have on environmental justice communities. The Department noted that the CLCPA includes multiple provisions that recognize that historically disadvantaged communities often suffer disproportionate and inequitable impacts from climate change, and that the revisions to Part 242 to expand its applicability are consistent with those provisions. The Department added that it will consider further expansion of the applicability provisions in Part 242 as part of the next RGGI program review. In addition to factoring in the requirements of the CLCPA process, this will allow the Department to be informed by the deliberations and actions of the CJWG established by the CLCPA, including the CJWG's identification of disadvantaged communities pursuant to the statute.

Two commenters had concerns with the timing of and with specific language in the revisions to Part 242 for the TABA. The Department agreed with both commenters that there was a typographical error in the definition for TABA and made the correction to reflect the correct date of March 15, 2021 in the final rule. The Department also addressed both commenters' concerns about the timing of the TABA relative to final compliance true-up, by noting that all compliance account holdings are known and frozen as of March 1st and that the remaining information, such as emissions, will be readily available on March 15th. Lastly, the Department added text to further clarify that the TABA would properly account for interim compliance for 2018 and 2019.

One commenter mentioned in detail that practices that improve on-farm resiliency represent great untapped potential in climate policy in New York and that a soil health program should be a major component of or companion parallel program to any serious effort to address climate change. Another urged measures to help farmers sequester carbon in soils and site wind turbines. In response, while outside the scope of this rulemaking, the Department recognized that additional GHG emission reductions will be informed by the deliberations of the CAC pursuant to the CLCPA and noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA.

One commenter indicated that they supported the revisions to the Cost Containment Reserve (CCR) but noted that the Department should consider moving the CCR under the cap during the next program review. In response, the Department and NYSERDA noted they will work with the other RGGI participating states to evaluate all aspects of the Program as part of the next RGGI program review, including whether to continue to include the CCR above the cap or bring it underneath the cap. Another commenter suggested that the Department use the non-baseload or marginal emission rate in calculating the allowance surrender under the Voluntary Renewable and Eligible Biomass Set-Aside provisions of the Program. Similar to previous responses, the Department replied that this would be considered during the next program review.

One commenter raised concerns about the lack of solar on state and municipal buildings. While outside the scope of this rulemaking, the Department noted that this would be addressed by various advisory panels of the CAC as part of the overall implementation of the CLCPA.

Lastly, one commenter had a number of concerns and disagreements with the justification to support the revisions to Part 242; the resources cited in the Regulatory Impact Statement for the need and benefits from reductions in GHGs and co-pollutants; the reductions attributable to the Program; the proposed applicability expansion to units 15 MW and larger; the revised budgets, cap decline and potential allowance shortage; impacts of a binding cap and anticompetitive behavior; apportionment; impacts of the Program on Jamestown and Freeport; and other miscellaneous comments that were outside of the scope of the revisions to the Program.

In response to the first concern, the Department respectfully disagreed with the commenter's conclusions and noted that there is overwhelming scientific evidence that action to address climate change is necessary. In response to the reports cited, the Department reiterated that the science is clear and that the cited reports should be considered as additional background in support of the rulemaking. In its response to the reductions attributable to the cap over time, the Department noted that while other market drivers may have contributed to GHG reductions, the cap ensures that such reductions are maintained. To address the concerns about applicability expansion, the Department mostly agreed with the commenter's analysis regarding the quantity of facilities and emissions covered by the expansion, while replying that the expansion would be retained because it adds a carbon price to these sources and brings their emissions underneath the cap as part of the State's continued efforts to address climate change.

The Department addressed this commenter's concerns about the revised budgets and cap decline by noting that actual CO_2 emissions continue to be well below the regional cap for all participating states. Any concerns about an allowance shortfall are addressed by the fact that this beneficial emission trend continued since the completion of program review, existing Program flexibility, and the 10 percent of additional allowances that could be added to the market under the CCR. To address the commenter's concerns about a binding cap and anti-competitive behavior, the Department noted that while the potential for this behavior may increase as the surplus of allowances decreases, the market monitor would continue to evaluate the market for this type of behavior. The Department added that the potential for anti-competitive behavior is diminished by important Program design elements, including the CCR, emission containment reserve (ECR), relatively long compliance periods, the size and scope of the overall Program, and low barriers to access to the allowance market. To address the apportionment comment, the Department replied that the environmental benefits of the Program are set by the regional cap and other design elements, and that apportionment is the manner in which that regional cap is split between participating states. While the Department agreed with and modified the RIS to address the commenter's concerns about the range of compliance options available to Jamestown and Freeport, the Department made it clear that the cost of a CO_2 allowance does not constitute a tax. Lastly, the Department replied accordingly when a comment was outside the scope of the proposed Program revisions.

Assessment of Public Comments

Proposed Revisions to NYSERDA Part 507

Comments Received from May 13, 2020 to July 13, 2020

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative, historic effort among New York and nine Participating States[1] and is 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 established under RGGI to approximately 75 million tons in 2021, declining 3.0 percent a year through 2030.[2] Accordingly, New York and the then-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. To implement the updated RGGI program in New York State, the New York State Energy Research and Development Authority (NYSERDA) proposed revising 21 NYCRR Part 507, CO_2 Allowance Auction Program.

NYSERDA proposed revisions to Part 507 on May 13, 2020. The public comment period closed at 5:00 P.M. on July 13, 2020. NYSERDA received written and video comments from over 900 commenters on the proposed revisions to Part 507 and on the Department of Environmental Conservation's New York State Energy Research and Development Authority's May 13, 2020

[1] In addition to New York, the RGGI Participating States include: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. Pennsylvania has expressed interest in potentially becoming a RGGI Participating State, while Virginia recently finalized its own regulation so that it will become a RGGI Participating State as of January 1, 2021.
[2] The Participating States released the Updated Model Rule on August 23, 2017. The Participating States also released Principles to Accompany Model Rule Amendments on December 19, 2017.

proposal for 6 NYCRR Part 507, "CO_2 Allowance Auction Program". All of these comments have been reviewed, summarized, and responded to by NYSERDA and/or the Department of Environmental Conservation.

<u>Comment 1:</u> I urge you to modify the proposal regulations so that final ones esnure [sic] the RGGI proceeds are invested in ways that prioritize frontline, environmental justice, and disadvantaged communities, with at least 40% of the revenue dedicated to projects and programs that directly benefit disadvantaged communities. (Commenters 1-246, 248-839, 841-944, 967)

<u>Comment 2:</u> should also reflect the requirement of the CLCPA that state agencies prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities. (Commenter 946 and 947)

<u>Comment 3:</u> We urge that NYSERDA modify the proposed regulations to ensure that at least 40% of RGGI proceeds are invested in ways that directly benefit frontline, environmental justice, and disadvantaged communities. (Commenter 947)

<u>Comment 4</u>: NYSERDA's proposed regulations state that disadvantaged communities will receive at least 35% of the overall benefits of the spending. The final regulations should clearly state that the percentage mandate be applied to programs in a manner that requires investment in and the delivery of direct benefits to environmental justice communities. (Commenters 947 and 948)

<u>Comment 5:</u> If the equity screen of the CLCPA were applied to the funds raised by RGGI for New York, there would be $20 million available for clean energy projects and jobs for people in my Harlem neighborhood. I ask NYSERDA to ensure that at least 40% of the RGGI proceeds be invested in ways that directly benefit frontline communities. (Commenter 951)

<u>Comment 6:</u> I want a firm commitment that at least 40% of RGGI funds are spent on projects that directly benefit frontline communities. (Commenter 954)

<u>Comment 7:</u> I'd encourage NYSERDA to modify the proposed regulations so that at least 40% of RGGI proceeds are invested in environmental justice programs. (Commenter 956)

Comment 8: It is incredibly important that these funds are redirected to disadvantaged communities, frontline, environmental and climate justice communities, the folks who need these resources the most. (Commenter 959)

Comment 9: I urge for at least 40% of the proceeds to directly invest in frontline, environmental justice, black, indigenous communities, and communities of color. (Commenter 960)

Comment 10: I think it would be criminal if this 40% of the money was not redirected into who, as one of the women before me said, the people who created the mess are obligated to pay for the clean-up. (Commenter 961)

Comment 11: we concur with the point raised by several others that the ""overall benefits"" should include a high percentage of programs that provide direct benefits to the disadvantaged communities that have borne the greatest burdens of air pollution and climate change. (Commenter 968)

Comment 12: The proposed regulations should be clarified to explicitly state that RGGI funds will be spent to directly benefit disadvantaged communities (Commenter 971)

Comment 13: Regulations Should Ensure that At Least 35% of RGGI Funding be Invested in Low Income and People of Color Communities, With a Goal of 40% or Higher... final regulations must mandate that 35% of the funds be invested in disadvantaged communities, and we recommend that DEC and NYSERDA seek to meet or exceed the 40% target. (Commenter 972)

Comment 14: allocating at least 40% of RGGI funds towards projects that directly benefit frontline communities (Commenter 973)

Response to Comments 1-14: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities. RGGI investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies may also reduce co-pollutants.

Comment 15: RGGI proceeds should be invested in ways that prioritize frontline, environmental justice, and disadvantaged communities. Any regulations that are developed should further the CLCPA's requirement that all state agencies, authorities and entities invest or direct their resources in a manner so that disadvantaged communities receive a minimum of 40% of the overall benefits of spending on clean energy and energy efficiency programs, projects or investments. In order to fully effectuate the CLCPA's mandate, NYSERDA should: a) direct a minimum of 40% of its RGGI operating budget to disadvantaged communities, and b) ensure that spending directly benefits these communities. While the proposed regulations state that disadvantaged communities will receive 40% of the overall benefits of the spending, we believe they should be modified to specify that NYSERDA will direct a minimum of 40% of RGGI proceeds to projects and programs that directly benefit disadvantaged communities. (Commenter 949)

Response to Comment 15: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities.

Comment 16: These same disadvantaged communities must become the major beneficiaries of revenues collected through RGGI. In compliance with the CLCPA, at least 35% and hopefully 40% of the money should go into them, helping solar to replace dirty fuels, creating good, green jobs, and redesigning neighborhoods to reduce the heat island effect (Commenter 958)

Response to Comment 16: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities.

In addition, the RGGI auction proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential" in accordance with Part 507.

Comment 17: However, we do not believe that the proposed wording of the changes to [sec]507.4(d) fully reflect the Act's oblications [sic] as set forth in ECL [sec]75-0117. The Act's spending requirement, with the goal of providing tangible benefits to communities that are already disadvantaged and will likely experience the most significant impacts from climate change, is one of the most important components of the Act and the regulations should better reflect that standard. Instead, the proposed language is an abbreviated and incomplete description of the actual process. The RGGI rules should track the statute and provide that the auction proceeds shall be used ""in a manner designed to achieve a goal for disadvantaged communities to receive 40% of overall benefits of spending on clean energy and energy efficiency programs, projects or investments... provided, however, that... benefits"" of such spending. The Act's emphasis that the use of the resources must be designed to provide 40% of the overall benefits to disadvantaged communities is an intentional effort to prevent reliance on after-the-fact accounting to try to add up to a 35% total. (Commenter 968)

Response to Comment 17: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities.

NYSERDA's annual budget process will examine the allocation of projected funds that will be expected to realize the mandate in NYSERDA's changes to Part 507 that disadvantaged communities receive CLCPA directions "that 40%, and no less than 35%, of the overall benefits from the investment of the [CO2 Allowance Auctions] proceeds" so that investments in energy efficiency and clean energy are realized by disadvantaged communities.

Comment 18: The final regulations should clearly state that the percentage mandate be applied to programs in a manner that requires investment in and the delivery of direct benefits to environmental justice communities. (Commenter 947)

Comment 19: Many distresses [sic] upstate communities (in addition to many communities in the New York metropolitan area and Long Island), and in some instances, entire municipalities will qualify for this designation. For example, the cities of Syracuse (30.3%), Rochester (29.1%), Buffalo (28.6%), Utica (27.5%), Elmira (26.5%), Binghamton (26.4%) Newburgh (25.5%) and Albany (25.4%) all have poverty rates comparable to the Bronx, which, at 27.9%, is the poorest county in New York City. Citizen Action has active supporters in two of these distressed communities in Albany. In particular, 31% of residents of Albany's West Hills/South End neighborhood, which is 72% non-white, are below the Federal Poverty Level, and 20% have less than a high school education. The South End has a history of environmental health concerns, including train shipments of highly explosive crude oil through the neighborhood, and numerous interstate trucks releasing exhaust as they pass through. And, as discussed further below, Arbor Hill and the adjoining Sheridan Hollow neighborhood, which also have high percentages of people of color and low income people, have a history of projects sited in their communities that have resulted in serious health concerns. We therefore hope these communities will seriously be considered for funding under the 40% provision, including RGGI funds. (Commenter 972)

<u>Response to Comments 18 and 19:</u> Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities.

NYSERDA's annual budget process will examine the allocation of projected funds that will be expected to realize the NYSERDA's changes to Part 507 mandate that disadvantaged communities receive "CLCPA directions that 40%, and no less than 35%, of the overall benefits from the investment of the [CO2 Allowance Auctions] proceeds" investments in energy efficiency and clean energy are realized by disadvantaged communities.

<u>Comment 20:</u> With input from stakeholders in disadvantaged communities, NYSERDA can develop a set of criteria for ensuring its programmatic spending and grants provide direct benefits to people in those communities. For example, NYSERDA can expand and develop programs and grant opportunities that adequately support community energy planning and community ownership in the transitions to renewable and resilient energy systems. It can expand existing energy efficiency programs for low- and moderate-income households, prioritizing those within designated communities (Commenter 949)

<u>Comment 21:</u> there also must be guarantee that these funds are invested directly in the communities that have suffered from the decades of health hazards caused from fossil fuel infrastructure and from climate change impacts such as the urban heat effect (Commenter 955)

<u>Comment 22:</u> underserved communities should be prioritized in the creation of good clean energy by training partnerships with local entities (Commenter 957)

Response to Comments 20-22: Thank you for your comment. Part 507 states that proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential." Through its annual program planning process, NYSERDA will work with stakeholders on approaches for investments that expand the manner and ability of stakeholders living in disadvantaged communities to realize the benefits of energy efficiency and clean energy.

Comment 23: We urge you to modify the proposed regulations so that final ones ensure the RGGI proceeds are invested in ways that prioritize frontline environmental justice communities (Commenter 967)

Response to Comment 23: Thank you for your comment. NYSERDA's annual budget process will examine the allocation of projected funds that will be expected to realize the mandate in NYSERDA's changes to Part 507 that disadvantaged communities receive CLCPA directions "that 40%, and no less than 35%, of the overall benefits from the investment of the [CO2 Allowance Auctions] proceeds" so that investments in energy efficiency and clean energy are realized by disadvantaged communities.

Comment 24: Additionally, I believe there should be more specific information included in how the environmental justice funding will be distributed. The current language, which to my knowledge only specifies "an advisory group of stakeholders representing a broad array of energy and environmental interests", is insufficient to ensure that all necessary viewpoints are included in this process. I urge NYSERDA to add specific reference to the stakeholder categories of environmental justice advocates and community representation (such as legislators) as well as a commitment to ensure that the advisory group reflects the demographic makeup of New York State. It is imperative that the investment revenue generated by the RGGI program in New York State is used as intended to address decades of environmental malfeasance, which has largely been concentrated in low-income communities of color (Commenter 970)

Response to Comment 24: Thank you for your comment.

Comment 25: As implementation of the law begins, modernizing the RGGI regulations is a wonderful opportunity to align our clean enegy [sic] and air pollution reduction measures with the the [sic] equity and justice provisions of the CLCPA. (Commenters 1-123, 125-242, 244-246, 248-374, 376-429, 431-502, 504, 505, 507-511, 513-584, 586-635, 637-646, 650-682, 684-740, 742, 743, 745-805, 807-827, 829-839, 841-845, 847-933, 935-937, 939-941, 943)

Comment 26: It is critical that the amendments meet the pollution reduction, climate justice and equity mandates established by the CLCPA, especially when it comes to direct investments in environmental justice and disadvantaged communities, cutting carbon emissions and co-pollutants, and assessing the impact RGGI is having on disadvantaged communities across the state. (Commenter 947)

Comment 27: The final regulations should also reflect the requirement of the CLCPA that state agencies prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities. RGGI funded programs should be designed to maximize reductions of both carbon emissions and co-pollutants, like particle pollution, in a manner that supports community energy planning and community leadership in the transitions to renewable and resilient energy systems, as well as energy efficiency. (Commenter 947, 969)

Response to Comment 25-27: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities. RGGI investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies may also reduce co-pollutants.

In addition, the RGGI auction proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential" in accordance with Part 507.

NYSERDA also appends DEC's response to Comments 12, 13 and 14. Attached here in Appendix A.

Comment 28: ensure that the carbon pollution reduction targets for power plants reflect the greenhouse gas emissions reduction and renewable energy goals in the CLCPA that mandate 100% carbon free electricity by 2040. (Commenters 1-246, 248-635, 637-646, 650-682, 684-716, 718-733, 735-740, 742-743, 745-805, 807-827, 829-839, 841-845, 847-933, 935-937, 939-941, 943, 947, 967)

Comment 29: I would like to see the changes to the RGGI reflect the priorities and standards laid out in the CLCPA (Commenter 247)

Comment 30: The first thing is that we meet or exceed our carbon pollution reduction goals outlined in the CLCPA and our renewable energy goals that mandate 100% carbon-free electricity by 2040 (Commenter 950)

Comment 31: I ask that the DEC ensure that the carbon pollution reduction targets for power plants reflect the greenhouse gas emissions reductions and renewable energy goals in the CLCPA that mandate 100% carbon-free electricity by 2040 (Commenter 960)

Comment 32: The Regulations Must Ensure that DEC and NYSERDA Meet the GHG and Electricity Targets in the CLCPA implementing a reduction schedule that achieves [a carbon-free future by 2040] (Commenter 972)

Response to Comment 28-32: Thank you for your comment. NYSERDA appends DEC's response to Comment 3.

Comment 33: It is essential that the mandates in the recently passed Climate Leadership and Community Protection Act ("CLCPA") are fully implemented in DEC and NYSERDA's proposed revisions. We applaud these agencies for proposing strong updates that integrate parts of the Climate Act into these new regulations, but we see the need to highlight areas where DEC and NYSERDA can improve these regulations to build on important directives the Climate Act demands. (Commenter 949)

Response to Comment 33: Thank you for your comment. NYSERDA appends DEC's response to Comments 68 and 69. See also DEC response to Comment 3. Attached here in Appendix A.

Comment 34: The proposed reductions to the cap on carbon pollution must be aligned with emission reductions and clean energy targets established by the CLCPA. The cap levels proposed in the proposed regulations are based on outdated modeling that took place prior to the passage of New York's climate law. The proposed cap does not take into account the mandate that 70%

of New York's electricity needs must be met by renewable resources by 2030 and the entire system be carbon free by 2040. We urge DEC to reexamine the cap levels and propose an emissions reduction plan for the region that meets the standards established by the CLCPA. (Commenter 947, 948, 961)

Response to Comment 34: Thank you for your comment. NYSERDA appends DEC's response to Comment 15. Attached here in Appendix A.

Comment 35: The proposed reductions to the cap on carbon pollution must be aligned with emission reductions and clean energy targets established by the CLCPA. (Commenters 947 and 949)

Comment 36: DEC should reexamine the cap levels to determine if more aggressive reductions are necessary. (Commenter 949)

Response to Comment 35 and 36: Thank you for your comment. NYSERDA appends DEC's response to Comment 74. Attached here in Appendix A.

Comment 37: I ask that the DEC ensure that the carbon pollution reduction plans for power plants reflect the greenhouse gas emissions reductions and renewable energy goals of the CLCPA. (Commenter 954)

Comment 38: I want a pollution-reduction schedule that puts New York on the path to a carbon-free future by 2040 (Commenter 954)

Response to Comment 37 and 38: Thank you for your comment. NYSERDA appends DEC's response to Comments 107 and 108. Attached here in Appendix A.

Comment 39: It is vital that any changes to the state's participation in RGGI lead to greater reductions in greenhouse gas emissions and increased funding for environmental justice programs that serve disadvantaged communities. I would encourage the DEC to ensure that carbon emissions reductions, the reduction cap for power plants reflect the targets of the Climate Leadership and Community Protection Act and lead us toward a carbon-free electricity by 2040. (Commenter 956)

Response to Comment 39: Thank you for your comment. NYSERDA appends DEC's response to Comments 112-120. Attached here in Appendix A.

Comment 40: support the proposal to close the loophole that has allowed certain power plants to avoid compliance with RGGI. (Commenters 1-242, 244-246, 248-635, 637-646, 650-682, 684-716, 718-733, 735-740, 742-743, 745-805, 807-827, 829-839, 841-845, 847-933, 935-937, 939-941, 943)

Response to Comment 40: Thank you for your comment. NYSERDA appends DEC's response to Comment 4. Attached here in Appendix A.

Comment 41: And finally, please close the loophole that has allowed certain power plants to avoid compliance with RGGI. (Commenter 243)

Response to Comments 41: Thank you for your comment. NYSERDA appends DEC's response to Comments 107 and 108. Attached here in Appendix A.

Comment 42: We support New York's decision to go beyond the 2017 regional model rule and close the loophole that has allowed peaking facilities to avoid compliance with RGGI. Given the disproportionate impact of peaking facilities on environmental justice communities, the inclusion of this provision satisfies a critical component of the CLCPA requiring state agencies to prioritize reductions of greenhouse gas emissions in disadvantaged communities. We encourage the state to consider lowering the threshold to cover units 15MW or larger, regardless of co-location status. (Commenter 947)

Response to Comment 42: Thank you for your comment. NYSERDA appends DEC's response to Comment 16. Attached here in Appendix A.

Comment 43: We urge that the DEC final regulations apply to smaller fossil fuel power plants under 20MW (Commenter 947)

Response to Comment 43: Thank you for your comment. NYSERDA appends DEC's response to Comment 94. Attached here in Appendix A.

Comment 44: We support the proposal to close the loophole allowing certain power plants to avoid compliance. (Commenter 947)

Response to Comment 44: Thank you for your comment. NYSERDA appends DEC's response to Comments 4 and 5. Attached here in Appendix A.

Comment 45: While the proposal, as written, will bring a significant number of generating units into compliance, we recommend DEC lower the overall nameplate capacity threshold to 15 MW, and lower the threshold for co-located units to 10 MW. (Commenter 949)

Response to Comment 45: Thank you for your comment. NYSERDA appends DEC's response to Comment 76. Attached here in Appendix A.

Comment 46: Right now, peaker plants are exempt from RGGI which is both a massive and deadly loophole. Peaker plants are almost exclusively located in environmental justice communities. These are the same communities that have been hit hardest by both the climate crisis and also the recent COVID-19 crisis, which is no mistake. It's a result of decades of disinvestment and environmental racism. As a result, I just want to make sure to the DEC that these final regulations do in fact address these smaller fossil fuel power plants as they have proposed and making sure to do that in the strongest possible way. These rules should apply to power plants under 20 megawatts to ensure better air quality for these communities. (Commenter 955)

Response to Comment 46: Thank you for your comment. NYSERDA appends DEC's response to Comment 111. Attached here in Appendix A.

Comment 47: They are poisoned by peaker power plants. It is in your power to close the loophole that allows such pollution to occur. You must close it now. (Commenter 958)

Response to Comment 47: Thank you for your comment. NYSERDA appends DEC's response to Comment 112-120. Attached here in Appendix A.

Comment 48: These regulations must include smaller fossil fuel power plants, specifically those under 20 Megawatts (Commenter 960)

Comment 49: And this is the time for New York State to really do the right thing by investing the money in the right place and capping the loopholes. (Commenter 961)

Comment 50: as others have said, the final rules should apply to power plants smaller than 20 Megawatts (Commenter 962)

Comment 51: We ask that DEC ensure that the final regulations address smaller fossil fuel power plants and lower the threshold to include more peaker power plants and be aligned with the emission reduction goals and investment mandates in the CLCPA. We are also in support in closing the loophole that allows certain peaker power plants, including two in Sunset Park, to avoid compliance with RGGI. (Commenter 963)

Response to Comments 48-51: Thank you for your comment. NYSERDA appends DEC's response to Comments 112-120. Attached here in Appendix A.

Comment 52: It's my understanding that one of the recent NYSERDA/DEC proposed changes to RGGI regulations stipulates that peaking power plants be included in the carbon cap. Is that in fact the case? If so, are you considering particular peaking power plants? (Commenter 965)

Response to Comment 52: Thank you for your comment. NYSERDA appends DEC's response to Comment 103. Attached here in Appendix A.

Comment 53: I propose that the RGGI Cap and Trade program be applied to all fracked gas consuming electric generation units/sites... . All fracked gas fueled electric generation, no matter the stated efficiencies, should be in the RGGI Cap and Trade program (Commenter 966)

Response to Comment 53: Thank you for your comment. NYSERDA appends DEC's response to Comment 103. Attached here in Appendix A.

Comment 54: We support covering as many “peaker” units as possible and recommend the regulations be amended to cover all units 15 MW or larger regardless of co-location status. (Commenter 971)

Response to Comment 54: Thank you for your comment. NYSERDA appends DEC's response to Comment 103.

Comment 55: Closing the peaker loophole that allows ""peaker"" power plants in disadvantaged communities to avoid compliance with the state's carbon pollution rules. Peakers can be replaced with a system of localized renewable energy generation and battery storage. (Commenter 973)

Response to Comment 55: Thank you for your comment. NYSERDA appends DEC’s response to Comments 4 and 5. Attached here in Appendix A.

Comment 56: We support New York’s election to eliminate four of the five offset categories, and would support the elimination of the final offset category as well. While we strongly support emission reductions from other sectors, with New York’s passage of economy-wide greenhouse gas emission reduction targets under the CLCPA, emission reductions from outside the power sector would be most appropriately and beneficially achieved through programs that directly address those sectors rather than through offsets under the RGGI program. In light of New York’s commitment to achieving carbon neutrality by 2050 under the CLCPA, reducing greenhouse gas emissions from all sectors will be critical. We strongly support the development and adoption of specific programs and policies to address emissions from all sectors, including from agricultural and manure management operations. (Commenter 946)

Response to Comment 56: Thank you for your comment. NYSERDA appends DEC's response to Comment 64. Attached here in Appendix A.

Comment 57: The decision to go beyond the regional model rule by eliminating all but one of the offset categories will help to better align RGGI with the climate law. We urge DEC to consider final regulations that eliminate all offset categories. (Commenters 947, 949, 969)

Comment 58: I also request... eliminating offset provisions. (Commenter 973)

Response to Comment 57 and 58: Thank you for your comment. NYSERDA appends DEC's response to Comment 17. Attached here in Appendix A.

Comment 59: RGGI should prioritize localized and in-state emission reductions, and reject false solutions. (Commenter 949)

Response to Comment 59: Thank you for your comment.

Comment 60: As part of the next RGGI program review, we strongly urge DEC and NYSERDA to continue working with other states to address the CCR's third flaw by bringing CCR allowances below the cap, such as by adjusting future years' cap levels downward to account for any CCR allowances released. Such a change is critical to ensure RGGI's environmental integrity and that the states' climate goals are achieved. We further urge New York and other states to continue evaluating whether the updated CCR trigger prices should be further raised and to evaluate whether the current CCR size is correct. (Commenter 946)

Response to Comment 60: Thank you for your comment. NYSERDA appends DEC's response to Comment 62. Attached here in Appendix A.

Comment 61: The trigger price to withhold CO2 allowances should be higher than the proposed $6.00 in 2021. (Commenter 970)

Response to Comment 61: Thank you for your comment. NYSERDA appends DEC's response to Comment 62. Attached here in Appendix A.

Comment 62: We urge NYSERDA to consider revising its rules to establish a stakeholder advisory council that includes equitable representation from communities that bear the burdens of negative public health effects, environmental pollution and impacts of climate change. The rules should require NYSERDA to coordinate the development of its annual RGGI operating plan with the Climate Justice Working Group established by the CLCPA. (Commenter 946)

Comment 63: The process for the development of RGGI spending plans should be formalized to facilitate a meaningful stakeholder engagement process. Simply requiring the formation of an advisory council, as stated in the current regulations, has proven to be insufficient. In fact, this advisory council was disbanded. We urge NYSERDA to revise its proposal and establish in final regulations a stakeholder advisory council that includes equitable representation from communities that bear the burdens of negative public health effects, environmental pollution and impacts of climate change. The final regulations should require NYSERDA to coordinate the development of its annual RGGI operating plan with the Climate Justice Working Group established by the CLCPA. (Commenter 947, 969)

Comment 64: The regulations should require NYSERDA to coordinate the development of its annual RGGI operating plan with the Climate Justice Working Group established by the CLCPA. As well as direct NYSERDA to co-design RGGI-funded programs in collaboration with environmental justice, frontline, and disadvantaged communities. (Commenter 948, 949)

Comment 65: We also believe that paragraph [d] should explicitly reference that such proceeds will be used by the Authority "in consultation with the Environmental Justice Working Group and the Climate Action Council"… The statutory requirement that expenditures shall be designed to achieve a specified level of benefits to disadvantaged communities strongly suggests that the review and selection of programs should include active participation by members of these communities. In addition to the consultation already required by the Act, this can be facilitated through adding language explicitly requiring that the planning process to achieve the 40% goal must be informed by input and involvement of community stakeholders, potentially including programs for community involvement in project selection such as California's Transformative Climate Communities Program. (Commenter 968)

Response to Comment 62-65: Thank you for your comment. NYSERDA awaits the Climate Justice Working Group work regarding the definition and list of disadvantaged communities, or the development of an interim approach for energy efficiency or clean energy investments, which will inform investments that benefit disadvantaged communities.

Comment 66: NYSERDA should reconfigure and then reconvene the Stakeholder Advisory Group, a group that at one time included legislative representation, to ensure a makeup that is more reflective of the Environmental Justice communities RGGI programs will be designed to serve. In developing the annual RGGI operating plan, NYSERDA and the Stakeholder Advisory Group should be required to consult and coordinate with the Climate Justice Working Group established by the CLCPA. The regulations should also require transparent and accessible tracking of spending in disadvantaged communities and the benefits realized by those communities. (Commenter 971)

Response to Comment 66: Thank you for your comment. While the matter is not within the scope of the proposed modifications, we will take the suggestion under future advisement.

Comment 67: The [equity] analysis should be accompanied by a tracking mechanism that will allow the public to monitor RGGI spending and benefits on a community by community basis. (Commenter 948)

Comment 68: The final regulations should require DEC and NYSERDA to assess how RGGI is impacting environmental justice communities across the state, including an equity analysis of the distribution of RGGI funds and other climate investments regarding the specific needs of frontline, environmental justice, and disadvantaged communities. The analysis should be accompanied by a regularly updated tracking mechanism that will allow the public to monitor RGGI spending and benefits on a community by community basis. (Commenter 947)

Comment 69: DEC should also provide improved and streamlined public access to RGGI individual power plant emissions data, as well as which power plants and generating units are regulated and paying into RGGI. (Commenter 949)

Comment 70: Finally, a high degree of transparency in the use of RGGI auction proceeds is important in ensuring that the public is aware of the nature and location of projects and their impacts on climate and communities. The regulations should provide for development and maintenance of a dashboard that includes both aggregate and project-specific information on emissions, expenditures and benefits. (Commenter 968)

Comment 71: The CLCPA directs the state to address climate change in a manner that prioritizes climate and environmental justice. The rules governing New York's programs must reflect the intent of the CLCPA. The rules should require DEC and NYSERDA to assess how RGGI is impacting environmental justice communities across the state, including an equity analysis of the distribution of RGGI funds and other climate investments regarding the specific needs of frontline, environmental justice, and disadvantaged communities. (Commenter 946)

Comment 72: DEC and NYSERDA should be required to study how environmental justice communities are impacted by RGGI such as an equity analysis of the distribution of funds (Commenter 971)

Response to Comments 67-72: Thank you for your comment. NYSERDA reports on both the proposed use of funds in our annual operating plan as well as investments made with RGGI funds in our periodic program reports. In collaboration with the Climate Justice Working Group, NYSERDA is developing an approach that will further reveal investments and benefits to disadvantaged communities.

Comment 73: In addition, DEC should track whether GHG emissions reductions attributable to the RGGI program also reduce co-pollutants on a localized basis, with a particular focus on disadvantaged and environmental justice communities. (Commenter 949)

Response to Comment 73: Thank you for your comment. NYSERDA appends DEC's response to Comment 72. Attached here in Appendix A.

Comment 74: It is critical that RGGI funds, especially those dedicated to disadvantaged communities, be protected from diversions for purposes other than clean energy and carbon abatement. Since 2015, over $200 million in RGGI proceeds have been transferred to the State Budget to supplant state spending on tax credits and other programs that are inconsistent with the equitable spending requirements included in the CLCPA. The final regulations should include safeguards to help prevent these budget raids in the future. (Commenter 949)

Response to Comment 74: Thank you for your comment. Decisions on the allocation of proceeds for support for environmental tax credits or other State activities are done at the direction from the state legislature through the State Budget process.

Comment 75: The regulations governing New York's programs must reflect the intent of the CLCPA. The regulations should require DEC and NYSERDA to assess how RGGI is impacting environmental justice communities across the state, including an equity analysis of the distribution of RGGI funds and other climate investments regarding the specific needs of frontline, environmental justice, and disadvantaged communities. (Commenter 949)

Response to Comment 75: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities.

NYSERDA reports on both the proposed use of funds in our annual operating plan as well as investments made with RGGI funds in our periodic program reports. In collaboration with the Climate Justice Working Group, NYSERDA is developing an approach that will further reveal investments and benefits to disadvantaged communities.

Comment 76: The process for the development of RGGI spending plans should be formalized to facilitate a meaningful stakeholder engagement process. Simply requiring the formation of an advisory council, as stated in the current regulations, has proven to be easily circumvented. We urge NYSERDA to consider revising its regulations to establish a stakeholder advisory council that includes equitable representation from communities that bear the burdens of negative public health effects, environmental pollution and impacts of climate change. (Commenter 949)

Response to Comment 76: Thank you for your comment. NYSERDA takes this comment under advisement. NYSERDA is developing an approach for collaborating with stakeholders and disadvantaged communities on NYSERDA program and initiative development through its Energy Affordability and Equity team. This collaboration will include input from the Climate Justice Working Group, in furtherance of realizing the stated directions of the Climate Act regarding investments and benefits for disadvantaged communities.

Comment 77: it cannot be stressed enough how important it is to strongly define how the 35% provision for environmental justice funding will be spent and to make sure that it is really going to truly benefit frontline environmental justice and disadvantaged communities. Making sure there are government groups in place to work directly with, and take lead from grassroots community organizations is a good starting point to address the needs of different communities. (Commenter 950)

Response to Comment 77: Thank you for your comment. NYSERDA's proposed change to Part 507 is designed to incorporate the Climate Act provision that programs be designed in a manner to achieve 40% of the overall benefits of investments in clean energy and energy efficiency programs, projects or investments, provided that disadvantaged communities receive no less than 35%, of the overall benefits from such investments. Reference to this provision in Part 507 will help to synchronize the outcomes stated in the Climate Act with Part 507.

NYSERDA is developing an approach for collaborating with stakeholders and disadvantaged communities on NYSERDA program and initiative development through its Energy Affordability and Equity team. This collaboration will include input from the Climate Justice Working Group, in furtherance of realizing the stated directions of the Climate Act regarding investments and benefits for disadvantaged communities.

Comment 78: I hope that the proceeds and investments from the RGGI auctions are put under the directions of our communities and local workforces with the intention to increase climate resiliency, whether it's through regenerative agriculture, composting, community solar, home retrofits, or other green workforce opportunities (Commenter 960)

Comment 79: We also agree with other climate justice and community groups who are urging the establishment of a meaningful stakeholder process for the development of RGGI spending plans, with strong representation from environmental justice communities that have historically borne a disproportionate burden of environmental pollution and the impacts of climate change. (Commenter 972)

Response to Comments 78 and 79: Thank you for your comment. NYSERDA is developing an approach for collaborating with stakeholders and disadvantaged communities on NYSERDA program and initiative development through its Energy Affordability and Equity team. This collaboration will include input from the Climate Justice Working Group, in furtherance of realizing the stated directions of the Climate Act regarding investments and benefits for disadvantaged communities.

Comment 80: In accordance with these principles, an equity analysis should be done of the distribution of RGGI funds and other climate investments to determine whether the 40% provision is being complied with, accompanied by a tracking mechnaism [sic] that will allow the public to detemine [sic] whether RGGI spending is meeting its goals, including advancing the equity and climate goals of the CLCPA. (Commenter 972)

Response to Comment 80: Thank you for your comment. NYSERDA's changes to Part 507 are consistent with the Climate Leadership and Community Protection Act (CLCPA) goal that 40% of the benefits from investments in energy efficiency and clean energy, and not less than 35% of the benefits, are realized by disadvantaged communities. NYSERDA will look to the outcome of the work of the Climate Justice Working Group, which is tasked with developing a definition and list of disadvantaged communities.

NYSERDA is developing an approach for collaborating with stakeholders and disadvantaged communities on NYSERDA program and initiative development through its Energy Affordability and Equity team. This collaboration will include input from the Climate Justice Working Group, in furtherance of realizing the stated directions of the Climate Act regarding investments and benefits for disadvantaged communities.

Comment 81: We urge your agencies to carefully consult with disadvantaged communities in funding decisions. (Commenter 972)

Response to Comment 81: Thank you for your comment. NYSERDA is developing an approach for collaborating with stakeholders and disadvantaged communities on NYSERDA program and initiative development through its Energy Affordability and Equity team. This collaboration will include input from the Climate Justice Working Group, in furtherance of realizing the stated directions of the Climate Act regarding investments and benefits for disadvantaged communities. NYSERDA also appends DEC's response to Comments 84 and 85. Attached here in Appendix A.

Comment 82: A soil health program should be a major component of or companion parallel program to any serious effort to address climate change. Instead, what NYS needs is to nurture a culture of soil health among everyone who manages land on any scale, mobilizing all relevant programs For benefit of the entire State of New York, we ask that RGGI auction proceeds be invested in the support of organic farming and gardening and the transition of more land to organic systems. (Commenter 945)

Response to Comment 82: Thank you for your comment. NYSERDA appends DEC's response to Comment 8. In addition, the RGGI auction proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential" in accordance with Part 507.

Comment 83: There are already programs in place that move farmers in the needed direction, providing incentives for environmental planning and the implementation of practices like cover cropping, tree planting, and regenerative pasture management. RGGI funds should increase investments in these programs – the Agriculture Environmental Management, Non-Point Source Pollution and Climate Resilient Agriculture programs managed by the Soil and Water Conservation Districts. (Commenter 945)

Comment 84: RGGI funding should also go to organizations like NOFA-NY that work with the most innovative farmers who are tapping into indigenous systems and combining ancient practices with the latest scientific and farmer innovations. (Commenter 945)

Comment 85: RGGI funding should also go to organizations like NOFA that work with the most innovative farmers who are tapping into indigenous systems that go back millenia in Africa, Asia, Europe, and North America, combining ancient practices with the latest scientific and farmer innovations. (Commenter 964)

Comment 86: Farmers and the people who work on our farms are among the frontline communities that suffer most immediately from climate extremes and we urge that some of the RGGI funding be allocated to transforming NYS agriculture to reduce energy use and benefit from the ecosystem services that organic regenerative farming systems provide. (Commenter 945)

Comment 87: There are already programs in place that move farmers in the needed direction, providing incentives for environmental planning and the implementation of practices like cover cropping, reducing tillage, tree planting, and regenerative pasture management. RGGI funds should increase investments in these programs (Commenter 964)

Response to Comments 83-87: Thank you for your comment. NYSERDA appends DEC's response to Comments 49 – 53. In addition, the RGGI auction proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential" in accordance with Part 507.

Comment 88: we urge that some of the RGGI funding be allocated to transforming New York State agriculture to reduce energy use and to benefit from the ecosystem services that organic farming systems provide... In conclusion, NOFA-NY asks that RGGI funds support the transition to regenerative organic agriculture and a culture of soil health for all New York lands and that the state will invest in secure, resilient supply of locally-grown, healthy farms available to all New York residents (Commenter 964)

Response to Comment 88: Thank you for your comment. NYSERDA appends DEC's response to Comments 112-120. Attached here in Appendix A.

Comment 89: RGGI funding must include just transition planning with the goal of improving the situation of farmworkers through investments in family-scale farms (Commenter 964)

Comment 90: RGGI funding should prioritize programs that enable farmers of color and limited resource farmers to access land and the resources needed to farm (Commenter 964)

Response to Comments 89 and 90: Thank you for your comment. NYSERDA appends DEC's response to Comments 54 and 55. In addition, the RGGI auction proceeds will be directed into the Energy Efficiency and Clean Energy Technology Account, which will "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential" in accordance with Part 507.

Comment 91: New York MUST adopt stronger RGGI regulations, grounded in equity, that will serve as a model for the rest of the region. (Commenter 512)

Response to Comment 91: Thank you for your comment. NYSERDA appends DEC's response to Comments 4 and 5. Attached here in Appendix A.

Comment 92: RGGI must establish a deadline at which no new vehicles or buildings will be sold that use fossil fuels as the major source of energy. This is required to save a livable planet according to planet specialists. If RGGI wants to lead on saving the planet it must act to set a deadline for all states in the NE USA... Suggested major funding is needed for hydrogen based transportation and all green all-electric buildings. The build-out program of H2USA.com should be accellerated [sic]. German studies and experience has shown the hydrogen economy is the least expensive major change needed. A business, government, and public support approach has worked in CA and MA and appears the most practical. RGGI needs to become a part of the abandonment of fossil fuel pollution which requires more green energy mostly from the SUN that shines through our atmosphere. Climate scientists call for a major shift in our energy use and carriers saying nothing else will do. Will RGGI actually listen and act? (Commenter 840)

Response to Comment 92: Thank you for your comment. NYSERDA takes this comment under advisement, though these actions are beyond the scope of the CO2 Allowance Auction Program.

Comment 93: While we strongly support adoption of the proposed rules to implement the agreed upon cap reductions, these cap levels should not represent the final word on emission reductions in the region through 2030. As further discussed below, power sector emissions levels in the RGGI region are persistently far below negotiated cap levels, highlighting the critical need to reevaluate and further strengthen the cap trajectory in the upcoming third regional program review. (Commenter 948)

Response to Comment 93: Thank you for your comment. NYSERDA appends DEC's response to Comment 59. Attached here in Appendix A.

Comment 94: While the August 2017 RGGI agreement and Model Rule included numerous enhancements to the current RGGI program, additional improvements are necessary to ensure that RGGI delivers equitable benefits and to help achieve New York and other states' climate commitments.

Accordingly, we urge DEC and NYSERDA to work with the other RGGI states to ensure that RGGI's third regional program review begins as soon as possible—before the end of this calendar year—and to champion additional program improvements as part of the next RGGI program review, including:

• Ensuring that the review prioritizes equity in both its processes and outcomes. This should include measures to create a more accessible stakeholder process, particularly for communities facing health and economic harms from the region's polluting power plants. New York should also urge other states to adopt explicit provisions requiring increased investment of RGGI proceeds in environmental justice and under-resourced communities.

• Establishing a RGGI emissions cap aligned with achieving the CLCPA's requirement to decarbonize New York's electricity sector by 2040. The current RGGI emissions reduction trajectory falls short of the region's climate targets and requires only negligible reductions from the status quo: 2019 RGGI emissions were low enough to comply with the nine-state RGGI cap set for 2027. The RGGI states must show greater ambition over the next decade to deliver climate leadership. A stronger regional RGGI program will help meet that demand while ensuring that New York and the rest of the RGGI states decarbonize the electric sector with maximum benefits and at least cost.

• Taking and committing to meaningful measures to address emissions in sectors beyond the power sector. To achieve the CLCPA's economy-wide emission reduction requirements and climate laws adopted by other RGGI states, New York and its RGGI partners must also tackle emissions from other sectors, which are a growing part of the climate challenge. We urge New York to work with other states to scale up climate action and ensure continued, equitable progress toward and strengthening of climate goals, consistent with its commitments under the CLCPA and the imperative to reduce climate pollution quickly and at the scale necessary to protect public health and avoid the worst impacts of the climate crisis. (Commenter 946)

Response to Comment 94: Thank you for your comment. NYSERDA appends DEC's response to Comments 68 and 69. Attached here in Appendix A.

Comment 95: Finally, we urge DEC and NYSERDA to work with other RGGI states to continue to strengthen the regional RGGI program as part of the next multistate RGGI program review and to begin this review before the end of this calendar year. (Commenter 948)

Response to Comment 95: Thank you for your comment.

Comment 96: Because agriculture and food are major greenhouse contributors, we urge measures to help farmers to sequester carbon in soils, and to site wind turbines, which have a small footprint blocking sunlight but can boost farm income (Commenter 947)

Response to Comment 96: Thank you for your comment. NYSERDA appends DEC's response to Comment 97. Attached here in Appendix A.

Comment 97: The cost of carbon must rise to reflect its real cost, and for people of color, that cost is much too high. (Commenter 958)

Response to Comment 97: Thank you for your comment. The cost of carbon is outside the scope of this rulemaking.

Comment 98: We also expect that, in keeping with the aggressive emissions reductions called for by Chapter 106, New York will continue to exercise its leadership in seeking additional climate protections in the RGGI program. (Commenter 968)

Response to Comment 98: Thank you for your comment.

Comment 99: I believe that New York and other RGGI-participating states should decrease the annual regional emissions cap by more than the proposed 3.0% each year (Commenter 970)

Response to Comment 99: Thank you for your comment. NYSERDA appends DEC's response to Comment 25. Attached here in Appendix A.

Comment 100: The target we establish for greenhouse gas reduction cannot merely be intended to arrest the continual increase in atmospheric carbon dioxide concentration, but rather it should actively attempt to reduce the overall levels back to a sustainable threshold – broadly agreed to be a maximum of 350 parts per million. I believe this can only be done with a rapid, widespread shift from carbon-based fuel sources to zero-emission energy and it is the appropriate role of NYSERDA to incentivize the private sector to invest in this transition. (Commenter 970)

Response to Comment 100: Thank you for your comment.

Comment 101: We believe that the proposed amendments to Part 242 can be strengthened by setting a more stringent cap on carbon that is better aligned with the state law of eliminating carbon emissions by 2040. (Commenter 971)

Response to Comment 101: Thank you for your comment. NYSERDA appends DEC's response to Comment 104. Attached here in Appendix A.

Comment 102: A program to address the climate crisis must provide a just transition for communities and workers (Commenter 947)

Response to Comment 102: Thank you for your comment.

Comment 103: NYSERDA programs funded with RGGI dollars must be designed to maximize reductions of both greenhouse gases and co-pollutants in disadvantaged communities. The CLCPA requires that the state prioritize projects that both reduce GHG emissions and eliminate criteria pollutants in historically disadvantaged communities when the state acts to meet its GHG reduction goals (Commenter 949)

Response to Comment 103: Thank you for your comment. RGGI investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies may also reduce co-pollutants. NYSERDA also appends DEC's response to Comments 70 and 71.

Comment 104: The regulations should also be updated to reflect the provisions of the CLCPA to prioritize the reduction of co-pollutants when dedicating clean energy resources to disadvantaged communities (Commenter 971)

Response to Comment 104: Thank you for your comment. RGGI investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies may also reduce co-pollutants. NYSERDA also appends DEC's response to Comments 105 and 106. Attached here in Appendix A.

Comment 105: RGGI operating funds should be used to develop programs and grant opportunities that adequately supports community energy planning and community leadership in the transitions to renewable and resilient energy systems, as well as energy efficiency. (Commenter 948)

Response to Comment 105: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comments 65, 66, and 67. Attached here in Appendix A.

Comment 106: For environmental justice communities like the Albany South End and Arbor Hill to benefit, we urge that RGGI auction proceeds investments go to such measures as community owned solar, local hiring and on the job training, and home weatherization. Priority for investments should take into account the fact that energy efficiency and renewable supply reduce monthly fuel costs; their costs are concentrated at the front end, but low income, vulnerable communities have the least capacity to invest for the future (Commenter 947)

Response to Comment 106: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comment 96.

Comment 107: We urge that RGGI funding supports local hiring and on the job training, home weatherization, renewable microgrids and/or district heating, to help EJ communities recover from job losses due to the COVID crisis. (Commenter 947)

Response to Comment 107: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comments 98-100. Attached here in Appendix A.

Comment 108: Funding should also be made available for the development of community driven Just Transition plans to identify the needs – and the resources necessary to address those needs – of communities impacted by the shift away from a fossil-fuel based economy. Finally, any RGGI proceeds contributing to development that prevents, rather than enables, gentrification and displacement from disadvantaged communities

Other examples of direct benefits may include:

- Reduction in localized pollution from stationary and mobile sources and related health benefits.
- Health benefits related to reduction in thermal vulnerability and exposure to extreme heat and cold, as well as improved indoor environmental quality resulting from the mitigation and abatement of legacy environmental hazards (e.g., lead, asbestos).
- Economic benefits, including but not limited to job creation, energy efficiency savings, utility bill assistance, energy resilience, and community ownership of renewable distributed energy resources.
- Job training, apprenticeship programs, entrepreneurship opportunities and small business support for residents and youth, both now and as public and publicly-leveraged investment expands employment in emerging clean energy sectors. This should include community-based models for inclusive job creation, such as UPROSE's Green Resilient Industrial District (GRID) proposal for Sunset Park, Brooklyn. These models can be a guide for inclusive job creation as part of compliance to the CLCPA.
- Funding, education, and resources for existing businesses to adopt climate adaptive and mitigative practices, designs, and operations.
- Workforce and business funding and technical support programs to prevent clean energy transition-related worker displacement.
- Quality of life benefits, such as housing security and protection from neighborhood displacement, as well as increased access to mass transit/active mobility, green infrastructure, recreational green spaces, and public amenities.
- Benefits related to democratic participation, such as access to community-determined climate and clean energy planning and decision making processes and accountability frameworks. (Commenter 949)

Response to Comment 108: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comments 70 and 71. Attached here in Appendix A.

Comment 109: I would also ask that RGGI auction proceeds specifically be invested in programs that provide training for jobs in a rapidly-growing clean energy sector. (Commenter 956)

Response to Comment 109: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comments 112-120. Attached here in Appendix A.

Response to Comments 109 and 110: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comments 112-120. Attached here in Appendix A.

Comment 111: SHARE is urging NYPA to instead install a geothermal system to meet the heating and cooling needs of the state, which would lower the state's carbon footprint while protecting an Albany disadvantaged community; funding under the 40% provision could be considered for this purpose. (Commenter 972)

Comment 112: In addition, as proposed by SHARE, RGGI funding could be dedicated to expanding the generating capacity of the Green Island Hydroelectric Station, roughly 7 miles north of Albany, providing reliable baseload electricity to power the Capitol and ESP, while helping to meet the CLCPA's GHG reduction goals. (Commenter 972)

Comment 113: SHARE's proposals are just examples of how RGGI and other state energy funds could be used to meet our state's ambitious climate goals, while providing enormous benefits to such disadvantaged communities, in terms of pollution reduction, improved health care outcomes and economic development for these communities. Other examples are weatherization and other energy efficiency efforts, expanding access to community, solar, and expanding the use of electric buses for public transportation to serve poor rural communities. (Commenter 972)

Response to Comments 111-113: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507. NYSERDA also appends DEC's response to Comments 84 and 85. Attached here in Appendix A.

Comment 114: I ask that the RGGI auctions proceeds investments be used in three areas: first, the continued retrofitting and installation of solar HVAC systems and electric heat pumps on public buildings... The retrofitting should be expanded to NYCHA buildings and to affordable housing and for low-income homeowners' retrofits... Second, NYSERDA should work with New York City to create a funding stream for publicly-owned local renewable energy generation and transmission. (Commenter 957)

Comment 115: I also request... Approving new investments for affordable solar in disadvantaged communities. (Commenter 973)

Comment 116: Landscaping equipment should NOT be left out of the equation. Small engine lawn and garden equipment especially two stroke engine gas leaf blowers and trimmers produce copious amounts of pollution. Other state like CA are in the process of eliminating them. (Commenter 734)

Response to Comments 114-116: Thank you for your comment. NYSERDA welcomes engagement and input that will advance the stated purpose of the Energy Efficiency and Clean Energy Technology Account, which is to "promote and implement programs in energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential" as stated in Part 507.

Comment 117: I am reminding you the DEC our DEPARTMENT OF ENVIRONMENTAL CONSERVATION to do everything you can to protect us, our environment and our communities and NOT the pockets of these pollution corporations! (Commenter 512)

Response to Comment 117: Thank you for your comment.

Appendix A

New York State Department of Environmental Conservation

Assessment of Public Comments

6 NYCRR Part 242, CO_2 Budget Trading Program

6 NYCRR Part 200, General Provisions

Comments Received from April 29, 2020 to June 29, 2020

Response to Comment 3: The Department recognizes that additional greenhouse gas (GHG) emission reductions from power plants beyond those addressed in the revisions to Part 242 will be necessary on a Statewide basis to meet the requirements of the CLCPA. The CO_2 budgets established in the revisions to Part 242 are consistent with the State's commitment to implement the proposed changes announced by the RGGI participating states at the end of the 2017 RGGI program review. The next program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the next RGGI program review.

Response to Comments 4 and 5: Thank you for your comments.

Response to Comments 12, 13 and 14: The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program or as noted "RGGI" proceeds were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

In addition, as noted in Response to Comment 3, the Department recognizes that, beyond those addressed in the revisions to Part 242, additional GHG emission reductions from power plants will be necessary on a Statewide basis to meet the requirements of the CLCPA. This will be addressed in the next RGGI program review and informed by the deliberations of the CAC pursuant to the CLCPA.

<u>Response to Comment 15:</u> As noted in Response to Comment 3, the Department recognizes that, beyond those addressed in the revisions to Part 242, additional GHG emission reductions from power plants will be necessary on a Statewide basis to meet the GHG emission reduction and clean energy requirements of the CLCPA. Moreover, while the State's participation in RGGI is a critical component of efforts to reduce GHG emissions, RGGI is only one example of State programs and policies aimed at reducing GHG emissions and combating climate change. The CAC, including its Power Generation Advisory Panel, will continue to consider additional policies to recommend in order to ensure the State meets the requirements of the CLCPA.

As it relates to this rulemaking, the CO_2 budgets established in the revisions to Part 242 are consistent with the State's commitment to implement the proposed changes announced by the RGGI participating states at the end of the 2017 RGGI program review. The next program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the next RGGI program review.

<u>Response to Comment 16:</u> Thank you for your comment. As discussed in the Regulatory Impact Statement and as recognized by the commenter, the CLCPA includes multiple provisions that recognize that historically disadvantaged communities often suffer disproportionate and inequitable impacts from climate change. The revisions to Part 242 to expand its applicability to include certain smaller sources, many of which are located in such communities, are consistent with these provisions of the CLCPA.

While the applicability expansion in the revisions to Part 242 capture the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department based the expanded applicability threshold on the types and relative size of sources regulated by the Department under programs to address emissions of oxides of nitrogen. In addition, an additional applicability expansion would likely capture only a relatively small amount of additional GHG emissions.

The Department will consider further expansion of the applicability provisions in Part 242 as part of the next RGGI program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review. It will also allow the Department to be informed by the deliberations and actions of the Climate Justice Working Group (CJWG) established by the CLCPA, including the CJWG's identification of disadvantaged communities pursuant to the statute.

Response to Comment 17: While the reduction in the number of offset categories in the proposed revisions to Part 242 leaves only one remaining offset category, as noted in the comment, it does not eliminate all of them. The Department will consider the elimination of offsets in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review. The CAC is currently deliberating recommended actions, including regulatory changes, necessary to ensure the State meets the Statewide GHG emission reduction and other requirements of the Climate Act.

To date over the decade-plus history of the RGGI program in New York, no RGGI offsets have been issued by the Department, and no RGGI offset allowances have been utilized for compliance with Part 242 by State CO_2 budget sources.

Response to Comment 25: The proposed revisions to Part 242 further reduce the CO_2 budget, or New York's component of the RGGI regional emissions cap, consistent with similar actions taken by the 9 other participating states. These cap reductions, along with the bank adjustments and the inclusion of the emissions containment reserve, ensure the continued decline in emissions across the 10 participating states. While other electricity market drivers, such as natural gas prices, may have played a significant role in driving down emissions across the RGGI region, the RGGI cap ensures that these emission reductions are maintained. While market factors may change over time, the regulatory emissions cap and other elements of RGGI provide certainty that emissions will not exceed a specified amount and will continue to decrease over time.

Response to Comment 42: The Department appreciates the commenter's interest in the public health studies cited by the Department in the Regulatory Impact Statement and in critically evaluating the connection between the RGGI program and the impacts on co-pollutant reductions in New York State. The information provided in the RIS, including the citations should be considered as additional background and support for this rulemaking. As noted by the commenter, air quality trends have shown greater improvements over time than the those cited in the 10 percent example cited in the RIS. These reductions are a result of a number of regulatory actions undertaken by the State as well as market transformations across all sectors of the inventory.

As described above, including in Response to Comment 3, the current regulation is just one of many Departmental and State policies and actions aimed at reducing GHG emissions that will result in associated co-pollutant emissions benefits moving forward. As a result, the Department anticipates it will continue to see a downward trend in co-pollutant emissions over time.

Response to Comment 59: The Department recognizes that, beyond those addressed in the revisions to Part 242, additional GHG emission reductions from power plants will be necessary on a Statewide basis to meet the requirements of the CLCPA. The CO_2 budgets established in the revisions to Part 242 are consistent with the State's commitment to implement the proposed changes announced upon by RGGI participating states at the end of the 2017 RGGI program review. The next program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the next RGGI program review.

Response to Comment 62: The next program review is scheduled to begin in 2021. This timing will allow the Department and NYSERDA to again evaluate the provisions of the CCR to determine what, if any, changes to those provisions need to be made. This may include adjustments to the quantity of allowances in the CCR, the CCR trigger price, or other changes. It will also allow New York to factor the CLCPA's requirements and process into the next RGGI program review.

Response to Comment 64: While the reduction in the number of offset categories in the revisions to Part 242 leaves only one remaining offset category, as noted in the comment, it does not eliminate all of them. The Department will consider the elimination of offsets in Part 242 as part of the next RGGI program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

The CAC is currently deliberating recommended actions, including regulatory changes, necessary to ensure the State meets the Statewide GHG emission reduction and other requirements of the Climate Act. The CAC will also make recommendations regarding actions to ensure reductions of GHG emissions in all sectors, in order to meet the requirements of the CLCPA.

To date over the decade-plus history of the RGGI program in New York, no RGGI offsets have been issued by the Department, and no RGGI offset allowances have been utilized for compliance with Part 242 by State CO_2 budget sources.

Response to Comments 65, 66 and 67: The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Response to Comments 68 and 69: The next program review is scheduled to begin in 2021. This timing will allow the Department and NYSERDA to again evaluate the RGGI program to determine what, if any, changes to those provisions need to be made. It will also allow New York to factor the CLCPA's requirements and process into the next RGGI program review.

See also Response to Comment 3.

Response to Comments 70 and 71: The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Response to Comment 72: The Department believes that emissions for facilities are already being tracked in RGGI COATS found at: https://rggi-coats.org/eats/rggi/. COATs contains quarterly emissions for all CO_2 budget units from the start of RGGI reporting in 2009 through the most recently completed calendar quarter. Please note emissions for the latest calendar quarter are added to COATs approximately 1 month after the completion of the calendar quarter (i.e., Q2 emissions for April, May and June are typically posted in July). In addition, pursuant to Subpart 202-2, sources subject to Title V permitting in New York are required to submit information regarding emissions of greenhouse gases, criteria pollutants and hazardous air pollutants. A summary of emissions from these sources is posted to the Open NY website at: https://data.ny.gov/Energy-Environment/Title-V-Emissions-Inventory-Beginning-2010/4ry5-tfin. Therefore, information is already publicly available regarding both GHG emissions and co-pollutants, including regarding the location of such emissions.

Response to Comment 74: The CO_2 budgets established in the revisions to Part 242 are consistent with the State's commitment to implement the proposed changes announced by the RGGI participating states at the end of the 2017 program review. The next program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the next RGGI program review.

See also Response to Comment 3.

Response to Comment 76: Thank you for your comment. While the applicability expansion in the proposed revisions to Part 242 captures the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department will consider further expansion of the applicability provisions in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

See also Response to Comment 16.

Response to Comments 84 and 85: The CO_2 budgets established in the revisions to Part 242 are consistent with the State's commitment to implement the proposed changes announced by RGGI participating states at the end of the 2017 RGGI program review. The next program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the next RGGI program review. It will also allow the Department to be informed by the deliberations and actions of the Climate Justice Working Group (CJWG) established by the CLCPA, including the CJWG's identification of disadvantaged communities pursuant to the statute. See also Response to Comment 3.

The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Finally, as noted in the Regulatory Impact Statement, the CLCPA includes multiple provisions that recognize that historically disadvantaged communities often suffer disproportionate and inequitable impacts from climate change. This includes the provisions cited by the commenters, which will continue to be critical for the State to address as it implements the CLCPA.

Response to Comment 94: Thank you for your comment. While the applicability expansion in the proposed revisions to Part 242 captures the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department will consider further expansion of the applicability provisions in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

See also Response to Comment 16.

Response to Comment 97: Thank you for your comment. It should be noted that the Agriculture and Forestry Advisory Panel of the CAC is considering various policies to further reduce or sequester GHG emissions from this sector, as part of the overall implementation of the CLCPA.

Response to Comments 98-100: The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Response to Comment 103: Thank you for your comment. While the applicability expansion in the proposed revisions to Part 242 captures the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department will consider further expansion of the applicability provisions in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

See also Response to Comment 16.

Response to Comment 104: The CO_2 budgets established in the revisions to Part 242 are consistent with the State's commitment to implement the proposed changes announced by RGGI participating states at the end of the 2017 RGGI program review. The next program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the next RGGI program review. See also Response to Comments 3 and 91.

Response to Comments 105 and 106: The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Response to Comments 107 and 108: Thank you for your comment. While the applicability expansion in the proposed revisions to Part 242 captures the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department will consider further expansion of the applicability provisions in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

See also Response to Comment 16.

The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same or similar comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Response to Comment 111: Thank you for your comment. While the applicability expansion in the proposed revisions to Part 242 captures the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department will consider further expansion of the applicability provisions in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

See also Response to Comment 16.

Response to Comments 112 - 120: Thank you for your comment. While the applicability expansion in the proposed revisions to Part 242 captures the next largest grouping of emissions from the electric generating sector, as noted in the comment, it does not capture all generating sources. The Department will consider further expansion of the applicability provisions in Part 242 as part of the next program review. This program review is scheduled to begin in 2021. This timing will allow New York to factor the CLCPA's requirements and process into the RGGI program review.

See also Response to Comment 16.

The percentage and process for distribution of proceeds under New York's CO_2 Budget Trading Program were addressed in a companion rulemaking proposed by NYSERDA on May 13, 2020. While the revisions to Part 242 establish the annual emissions budgets for New York under the RGGI program, the proposed revisions to 21 NYCRR Part 507, "CO_2 Allowance Auction Program" address the use of proceeds. Since the same comments were received by both the Department and NYSERDA as part of our respective rulemaking efforts, the Department has appended NYSERDA's response to these comments to the end of this document.

Finally, in terms of the need to meet the GHG emission reduction and clean energy generation requirements of the CLCPA, see also Response to Comments 3 and 91.

Resolution No. ____

RESOLVED, that the amendments to Part 507 of Chapter XI of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York, as presented at this December 1, 2020 meeting, be, and the same hereby are, adopted as the amended rules and regulations of the Authority; and

BE IT FURTHER RESOLVED, that the Acting President and CEO be, and is hereby, authorized and empowered on behalf of the Authority to execute, certify, and deliver all such documents, and to take all such other actions and make such other changes, omissions, insertions, revisions, or amendments to the documents necessary or appropriate to promulgate the aforesaid amended rules and regulations.