

**AIR RESOURCES COUNCIL
MINUTES OF MEETING #260
09/10/2019
DRAFT**

MEMBERS PRESENT: Chairman Robert Duval, Vice Chair David Collins, Elizabeth Tillotson, J. Ryan Bielagus, David Cribbie, Mark Lambert, Georgia Murray

MEMBERS NOT PRESENT: Kris Blomback

NHDES – ARD PERSONNEL: Director Craig Wright, Cathy Beahm, Karla McManus, Timothy White, Joe Fontaine, Megan King, Sheila Rydel, Barbara Dorfschmidt and Paula Scott.

OTHERS PRESENT: Shelley Marshall

MEMBERS OF THE PUBLIC PRESENT: John Tuthill, Viggo Fish, Attorney, William Howard,

Call to Order:

Chairman Robert Duval called Meeting #260 of the Air Resources Council (ARC) to order at 9:34 a.m. on Tuesday, September 10, 2019. Chair Robert Duval announced that a quorum of the ARC was present.

Approval of Minutes:

A motion to approve the minutes of meeting #259 moved by Mark Lambert and seconded by David Cribbie. Air Council all in favor.

Division Activities and Legislative Update:

Chairman Robert Duval introduced Director Craig Wright of the Air Resources Division (ARD). Director Wright briefly updated members of the ARC regarding issues relative to the ARD, including:

- **Budget:** On September 30, 2019, ARD was given a 25% budget based on Fiscal Year (FY) 2019. Two of ARD's positions were not funded. Travel and training budgets were both impacted. Director Wright's signature is required for all expenditures for EPA FY 2020 priorities and commitment list. U.S. Environmental Protection Agency (EPA) and ARD met on Aug 28, 2019 to negotiate the federal work plan for Fiscal Year 2020.
- **Permitting:** St Gobain Permit Application for BACT – Public Hearing tentatively set for November 5, 2019 in Merrimack. Cathy Beahm is the lead; engineering review is largely completed. The engineering summary and draft permit is being prepared and due to be complete by October 5, 2019.
- On September 16, 2019. DES/GSCCC will sponsor the "Charge Forward Electric Vehicle Relay." This will be a press event with a 7-stop relay. Jessica Wilcox will represent ARD. Each leg will host a different electric vehicle (EV), driver and a NH landmark, and Governor Chris Sununu is invited! Commissioner Sheehan representing the of Department of Transportation has already committed to attending the event.

- New Hires: ARD recently filled the Air Permit Programs manager position with Todd Moore who has previously worked with the Air Resource Division. ARD has also filled our support staff position. Alyssa Moody was hired from the Waste Management Department. ARD re-classified the position from a Data Control Clerk to a Program Assistant II position, which fits the Permitting Bureau better.

Status of Appeals

Paula Scott, Appeals Clerk briefly updated members of a recent appeal to ARD, including:

Docket No. 19-11 ARC Katie Lajoie and John Tuthill Appeal

Subject: 6/6/19 denial of request for public hearing regarding draft Title V Operating permit for Waste Management of NH, application #'s: 16-0124 and 18-0247. Hearing Officer: Not assigned. Status: 7/5/19 received Notice of Appeal. 7/8/19 issued receipt of appeal letter. 7/22/19 received Motion to Deny Acceptance of Appeal as a Matter of Law. 7/29/19 received Objection to Motion to Deny Acceptance of Appeal. 9/4/19 received Appearance of Heather Neville for the Department.

Council Member Murray asked for clarification of what rule they were referencing in the appeal filed by Katie Lajoie and John Tuthill, which referred to ENV-A200. Director Wright stated that they are referring to the Air Resources rule ENV-A200 and not Air Council rule ENV-AC200. There was discussion among the members about the typical procedure used by ARD relative to holding public hearings; Chair Duval reminded the council members that the council were not here today to hold a hearing; but to decide if the Council would vote to accept the appeal and have a hearing later.

Several Council Members expressed the opinion that the Department simply followed standard procedure as outlined in their letter to the appellants, and were against accepting the appeal. Vice Chair Collins entered a motion to deny acceptance of the appeal, and Member Bielagus seconded it. The motion passed with five council members voting to deny the appeal. Members voting against the motion were Chair Duval and Member Murray. Appeals clerk Paula Scott stated that since the Council votes to deny acceptance of the appeal, it is up to the Chair to prepare the written decision for the denial.

Docket No. 19-05 ARC- Textile Coated, Inc. (TCI) Appeal

Subject: 3/27/19 Administrative Order No. 19-007 ARD. On 5/13/19 the Hearing Officer: Requested Hearing Officer to be assigned. 5/17/19 - Attorney General appointed David Conley. Status: 4/25/19 - received notice of Appeal. 4/30/19 - issued receipt of appeal letter. Council to accept or decline appeal today (5/13/19). 5/13/19 - issued appeal accepted letter. 5/20/19- issued Notice of Pre-hearing Conference scheduled for June 17, 2019 at 8:30 a.m. 5/21/19- received appearance for Allen Brooks for the Department. 6/17/19 - issued Pre-hearing Order scheduling another Pre-hearing Conference for August 7, 2019 at 9 a.m. 7/24/19 - issued follow-up written Pre-hearing Order. 8/7/19 - issued another Pre-hearing order scheduling hearing for Sept. 10, 2019 at 10 a.m. 8/14/19 - received Motion for Reconsideration and Motion for Stay. 8/21/19 - received Objection to Motion to Stay, Objection to Motion for Reconsideration and DES' Witness and Exhibit List. 8/29/19 - issued Order on Appellant's Motion for Reconsideration and Motion for Stay. 8/30/19 - received motion to Continue. 9/3/19 - received Stipulation Regarding DES' Motion to Continue. 9/4/19 - issued ruling Granting Motion to continue and rescheduling hearing to Nov. 18, 2019 at 9 a.m.

Chair Robert Duval asked Karla McManus if the Air Resources Division would have any rules for our scheduled Air Council on November 18, 2019, because it is the same day of the rescheduled hearing for the Textile Coated, Inc. (TCI), Docket No. 19-05 ARC appeal. Karla McManus stated that she has no rules on her calendar for the November 18th ARC meeting at this time, therefore Chair Robert Duval decided that we would cancel November's regularly scheduled Air Council meeting and still have all council members attend the appeal hearing scheduled for 9:00 am. November 18, 2019.

Rules

- **Env-A 1500 Conformity**

Tim White & Karla McManus

ARD is proposing to readopt and amend Env-A 1500, *Conformity*, which implements the Clean Air Act and the code of federal regulations relative to transportation conformity (40 CFR 93). There are only a few amendments proposed for this rule.

Specifically, the reference date for the CFR was updated from July 1, 2011 to July 1, 2018. Additional edits include, but are not limited to updated language; clarification of agency responsibilities; modifications to the New Hampshire Department of Transportation (NHDOT) responsibilities related to travel demand modeling and project-level conformity determinations; changes to the frequency of interagency consultation meetings and to the length of public comment periods. A reference to the NHDOT State Transportation Implementation Plan (STIP) Revisions Procedures has also been added to the language in Env-A 1503.19.

Member Tillotson motioned to start a 15-day review and Member Bielagus second the motion. All council members were in favor.

- **Env-A 1700 Permit Application Forms**

Meg King & Karla McManus

ARD is proposing to readopt and amend Env-A 1700, *Permit Application Forms*, because it is due to expire on October 1, 2019.

Specifically, the forms are being streamlined, clarified and updated to more accurately obtain data for regulatory applicability and in response to a recommendation from the 2018 Performance Audit by the Office of the Legislative Budget Assistant. Due to a change in the rulemaking standards, forms can now be incorporated by reference as an appendix to the rule. Since these forms will be used electronically in the future, they are being reformatted to fit that goal.

Break: 10:25 – Needed to switch rooms

Re-opened meeting – 10:34

Member Lambert motioned to start a 15-day review and Member Bielagus second the motion. All council members were in favor.

- **Env-A 2900 Sulfur dioxide and Nitrogen Oxides Annual Budget Trading and Banking Program**
Joe Fontaine & Karla McManus

ARD is proposing to readopt and amend Env-A 2900, *Sulfur dioxide and Nitrogen Oxides Annual Budget Trading and Banking Program*. There are only a few amendments proposed for this rule. Specifically, the reference date for the code of federal regulations (CFR) were updated from 2011 to 2018.

Member Tillotson motioned to start a 15-day review and Member Bielagus second the motion. All council members were in favor.

- **Regional Greenhouse Gas Initiative - (RGGI)**
Joe Fontaine and Karla McManus

- **Env-A 4600 Carbon Dioxide (CO₂) Budget Trading Program**
- **Env-A 4700 Carbon Dioxide (CO₂) Offset Projects**
- **Env-A 4801.03, RGGI – Auctions**

The Regional Greenhouse Gas Initiative (RGGI) RGGI is composed of individual CO₂ Budget Trading Programs in each of the nine RGGI participating states. Each participating state's CO₂ Budget Trading Program is based on the 2008 RGGI Model Rule, which was developed to provide guidance to states as they implemented the RGGI program. RGGI participating states completed a 2012 Program Review and made amendments to the 2008 RGGI Model Rule which were finalized in February 2013. RGGI participating states completed another Program Review in 2017 which resulted in amendments to the RGGI Model Rule, finalized in December 2017.

In response to changes made to the RGGI Model Rule in 2017, the New Hampshire Legislature proposed amendments to RSA 125-O:8, and RSA 125-O:20-29, and Governor Sununu signed them into Law on July 11, 2019. The amendments will go into effect on January 1, 2020.

The proposed rule implements the changes to the Model Rule and the above-referenced Statutes. Specifically, the Statute repeals the Carbon Dioxide (CO₂) Offset Projects portion of RGGI, the Env-A 4700 rule, in New Hampshire. As a result, the Env-A 4700 rule is being repealed and the reference to Env-A 4700 in Env-A 4801.03 is being deleted. Major changes to the NH Law, and proposed amendments to our Env-A 4600 RGGI Rules, are attached (see the regional summary at https://www.rggi.org/sites/default/files/Uploads/Program-Review/12-19-2017/Summary_Model_Rule_Updates.pdf).

Reducing Carbon Dioxide from Power Plants under the Regional Greenhouse Gas Initiative

www.rggi.org

Air Resources Council

September 9, 2019

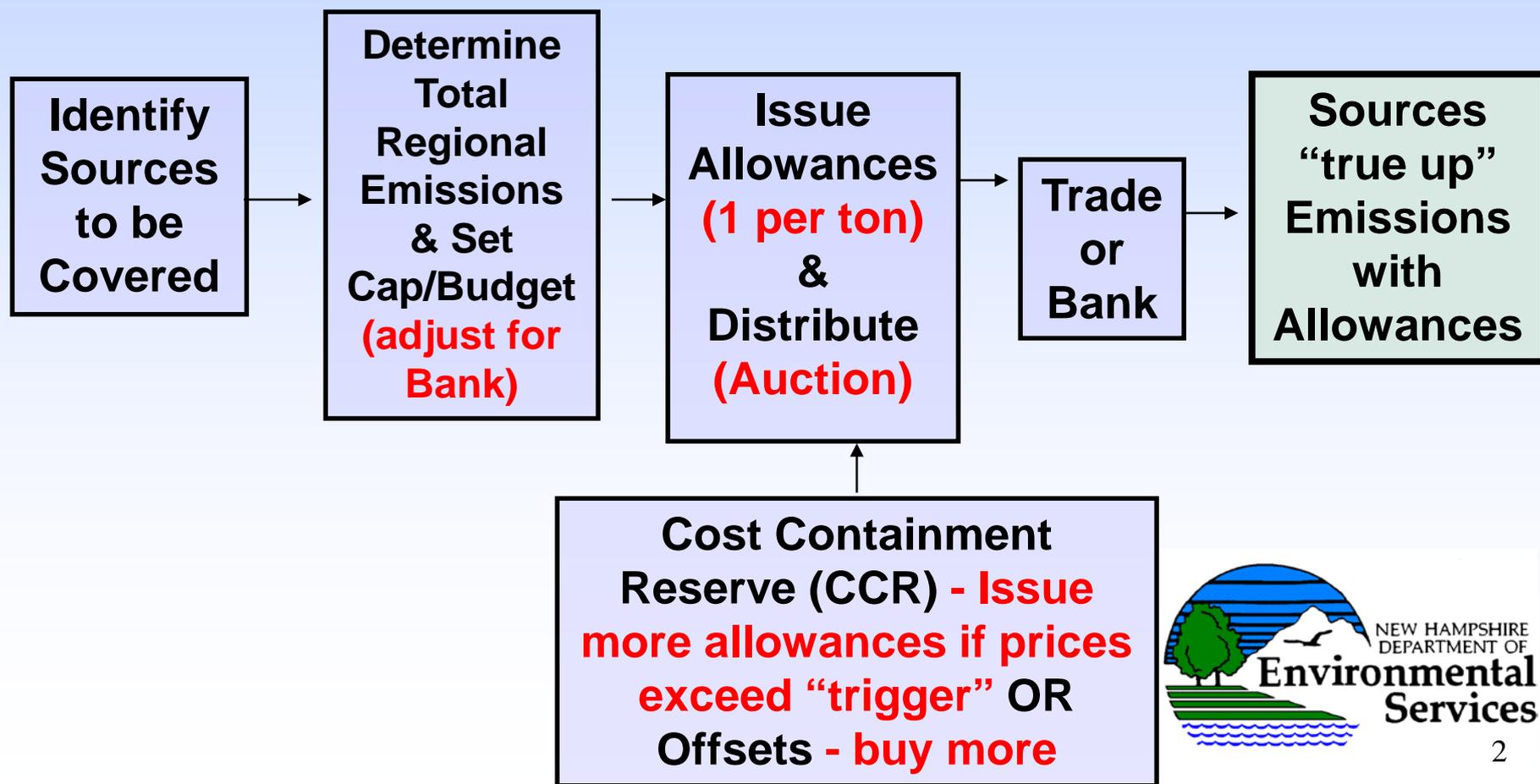
Joe Fontaine, RGGI Program Manager

Air Resources Division

joseph.fontaine@des.nh.gov, 271-6794



Flexible Regional Greenhouse Gas Initiative (RGGI) Cap-and-Trade Program



Pre-RGGI: NH Clean Power Act (RSA 125-O)

- Enacted July 1, 2002
- Included provision for cap-and-trade of carbon dioxide (CO₂) allowances
- Implementation of 5,425,866 ton cap (1990 level) began in 2007
- Applied only to large fossil fueled electric generating existing prior to 2002



RGGI History

- **2003** - Governors from CT, DE, ME, MA, NH, NJ, NY, RI, & VT began discussions
- **2004/2005** – Extensive computer simulation (aka modeling) conducted*
- **December 20, 2005** - 7 states announced an agreement to implement the RGGI, as outlined in a [Memorandum of Understanding \(MOU\)](#) signed by the Governors
- **August 2006**, a [Model Rule](#) published, which provided a regulatory framework for the development of individual state regulatory and/or statutory proposals
- **In early 2007**, MA & RI, which had participated in the early development of RGGI, signed the MOU, as did Maryland later that year
- **January 1, 2009** - The first compliance period for each state's linked CO₂ Budget Trading Program began

* Stakeholder meetings held throughout timeline



RGGI History

- **Effective January 1, 2012** New Jersey withdrew from the MOU
- **Beginning in 2012**, a program review was conducted. Proposed amendments to the program were incorporated in an Updated Model Rule (released on **February 7, 2013**) guiding each state as it followed its own statutory and/or regulatory procedures to propose updates to its CO₂ Budget Trading Program
- **NH legislation (2013)** required compliance with updated program **January 1, 2014**
- **2016/2017** – Second program review; updated Model Rule
- **2019** – NH follows its own statutory and/or regulatory procedures to propose updates to its CO₂ Budget Trading Program
- **2020** – NJ participates again
- **2021** – Begin Third program review

* Stakeholder meetings held throughout timeline



Initial Regional Greenhouse Gas Initiative (RGGI) RSA 125-O:19-29

(and companion regulations Env-A 4600, 4700, & 4800)

- Stabilize emissions at current levels (2009 – 2014), reduce by 2.5% per year (2015 – 2018)
- Allowance prices initially expected to be \$2 - \$4 (RGGI modeling and UNH Economic Analysis), currently trading at \$5 - \$6 as anticipated
- Allowance auction revenues invested in energy efficiency
- Could be proposed as alternative to federal requirements, if/when federal requirements are implemented

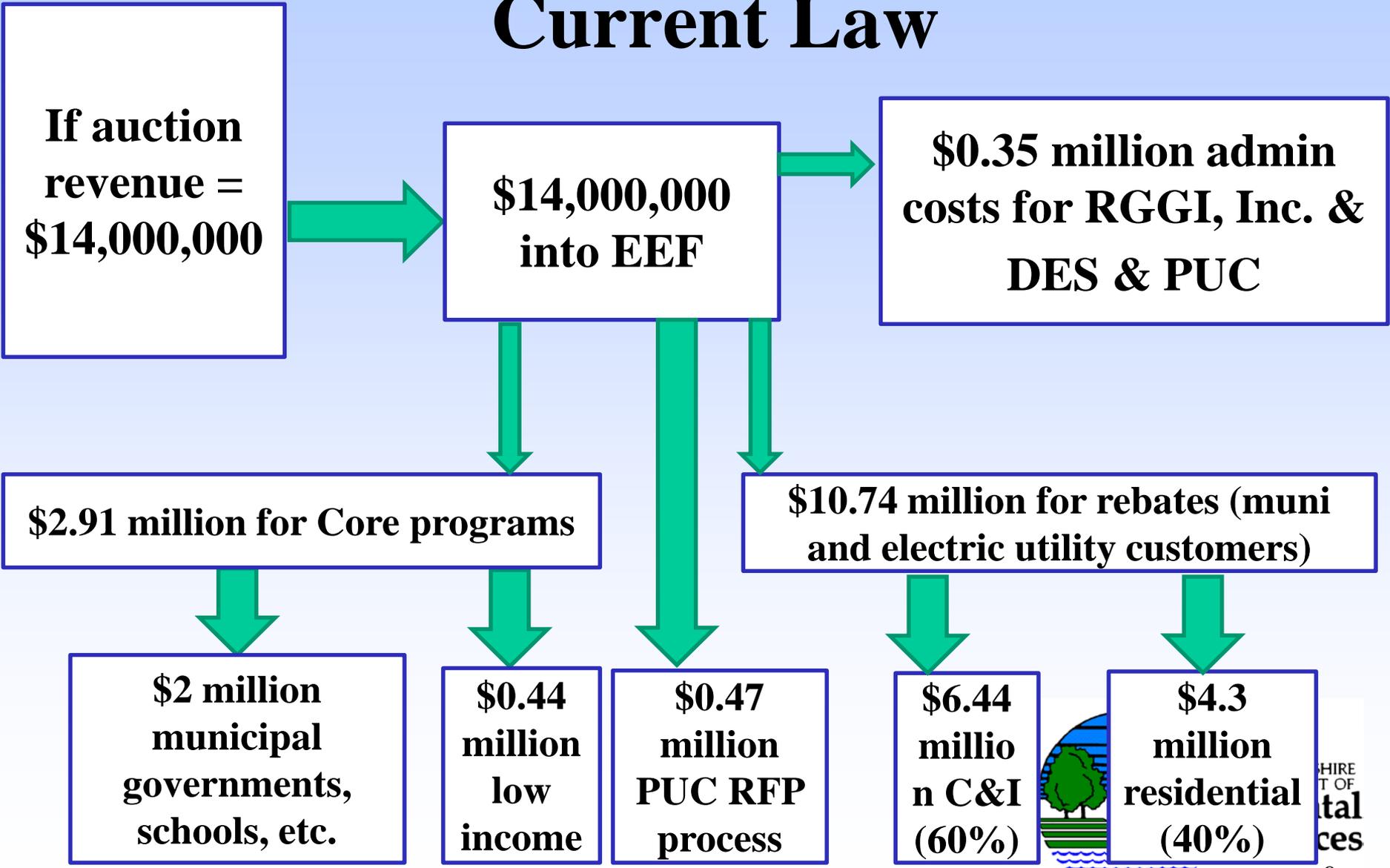


Changes to NH's RGGI Statute as amended by HB 1490 (2012) eff. 1/1/13

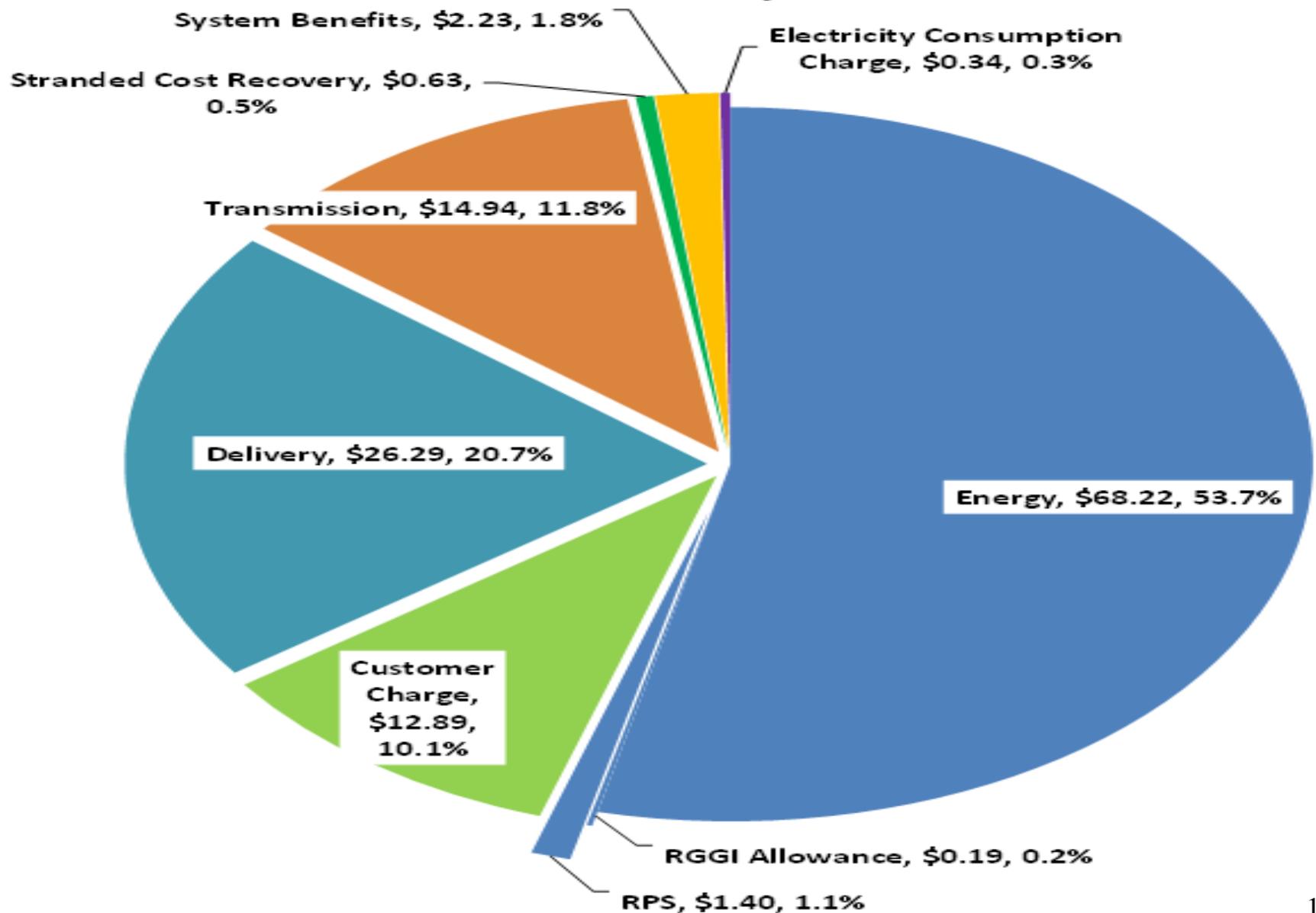
- **125-O:19 Purpose & Findings** – deleted
- **125-O:23 Greenhouse Gas Emissions Reduction Fund** – replaced by Energy Efficiency Fund
 - The first \$1 (less admin expenses) per allowance sold at auctions allocated to electric distribution companies for CORE energy efficiency programs
 - All amounts in excess of \$1 per allowance sale shall be rebated to ratepayers
- **Contingent Repeal**
 - If any 2 New England states end their participation or
 - If a New England state which has at least 10% of the total load of the New England states ends its participation



RGGI Revenue Allocation under Current Law



Eversource Components of Electric Rates for 625 kWhs of Consumption as of January 1, 2017



Regional Economic Benefits of RGGI Investments

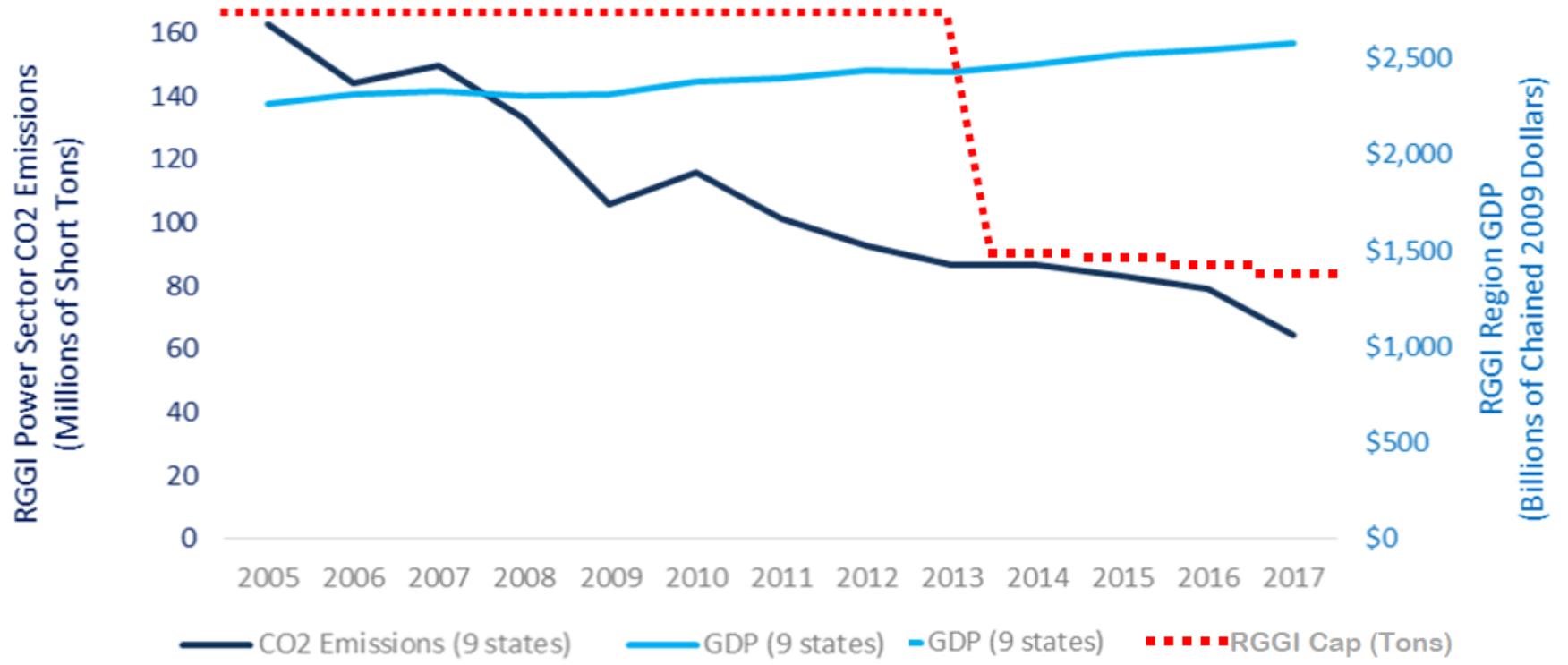
[“The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeastern and Mid-Atlantic States.”](#) Analysis Group. July 2015

[“The Economic Impact of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States.”](#) Analysis Group. November 2011

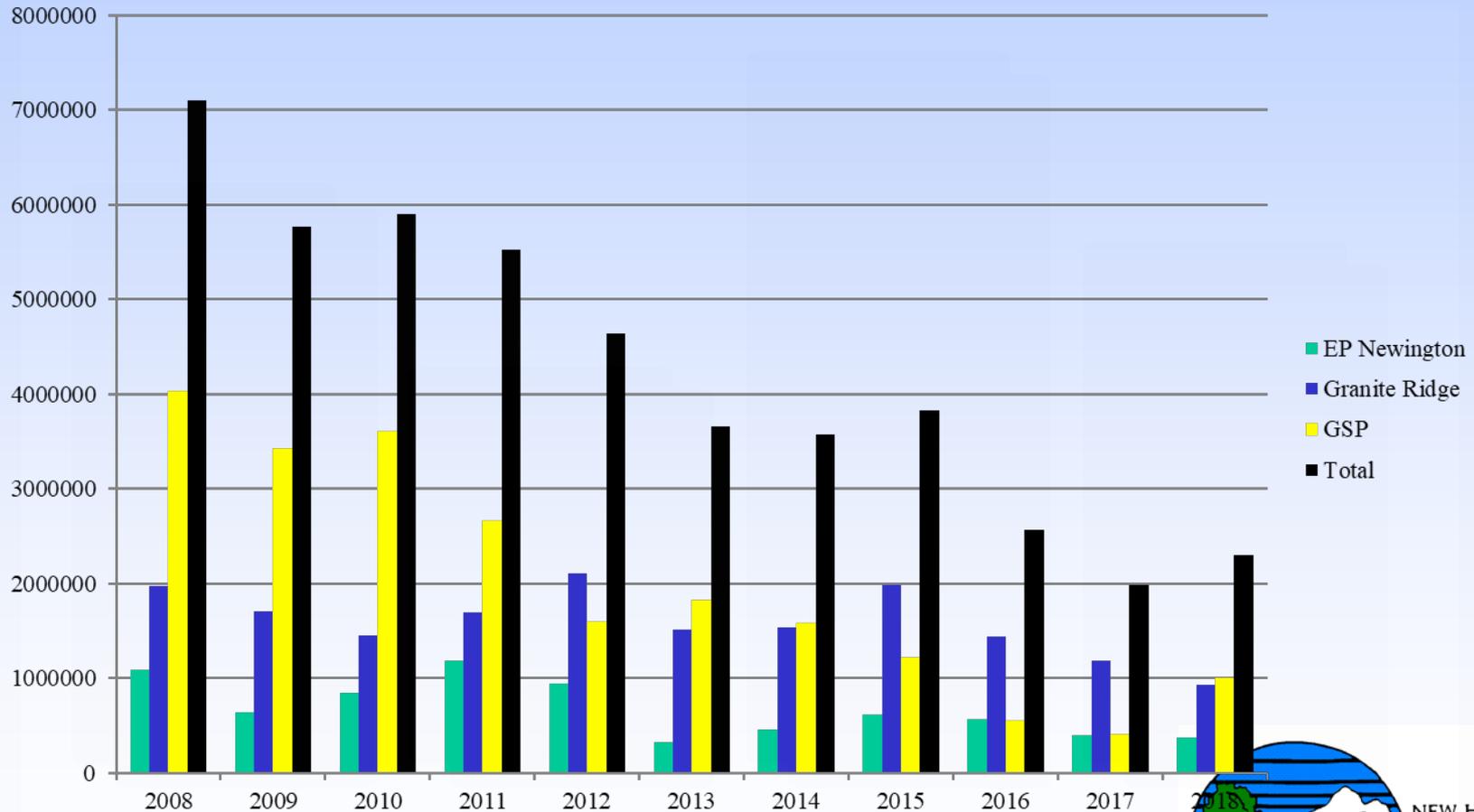
- Independent reports from the Analysis Group have found that RGGI is creating jobs and generating significant economic benefits.
 - A 2015 report found that RGGI’s second three-year period is creating \$1.3 billion in net overall economic benefit for the region, and generating benefits in every state.
 - This is in addition to \$1.6 billion that is being generated from RGGI’s first three years.



RGGI Power Sector Pollution Reductions



NH CO₂ emissions from applicable sources (tons) (NH 2018 Allowance Base Budget = 4,291,624)

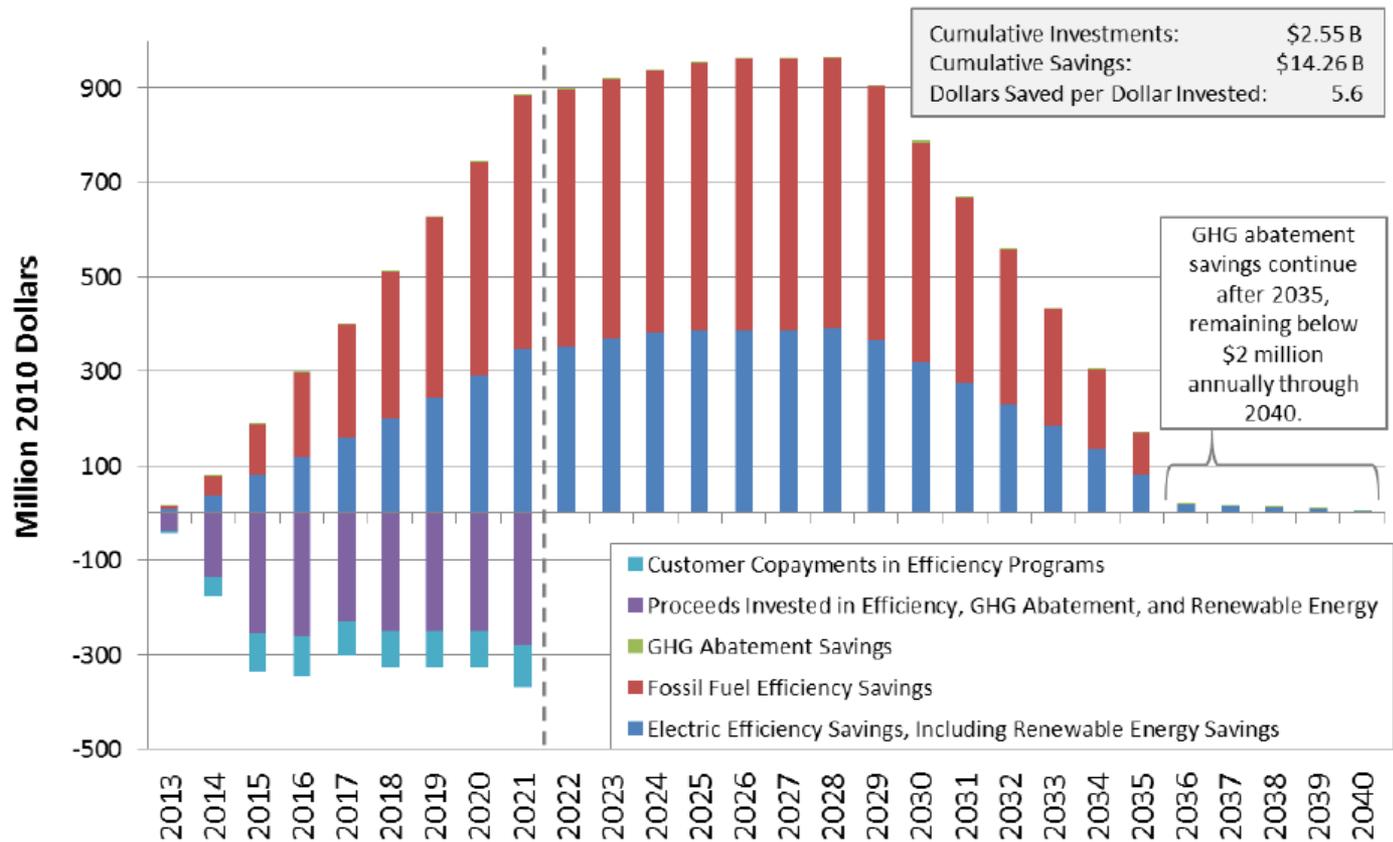


How were emissions reduced?

- Increased energy efficiency, due in part to investment of RGGI funds
- Increased generation from non-emitting sources: Solar, Wind, Hydro, and Nuclear
- Fuel switching from oil and coal to natural gas due to:
 - relatively lower natural gas prices
 - RGGI cap



91 Case REMI Inputs: Investments in Efficiency and Bill Savings





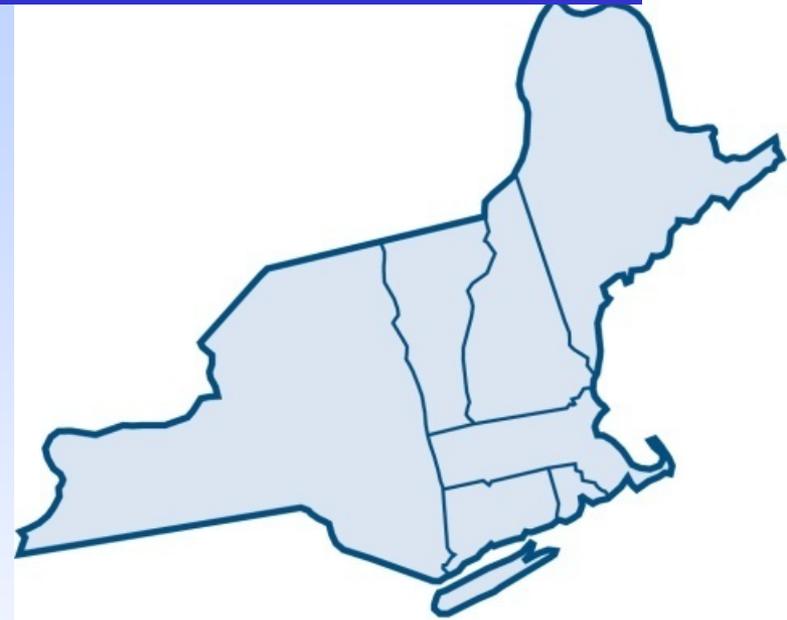
Proposal for Post-2020 RGGI



RGGI 2016 Program Review

Recommendation for post-2020

- Maintains similar glide-path
 - 2.5% of 2014 cap
 - Annual cap reduction = 2,275,000 tons regionally (NH=118,725)
 - No changes before 2021
 - 7 states do more in 2021; NH & ME do no added reductions and no ECR



NEW HAMPSHIRE
DEPARTMENT OF
Environmental
Services

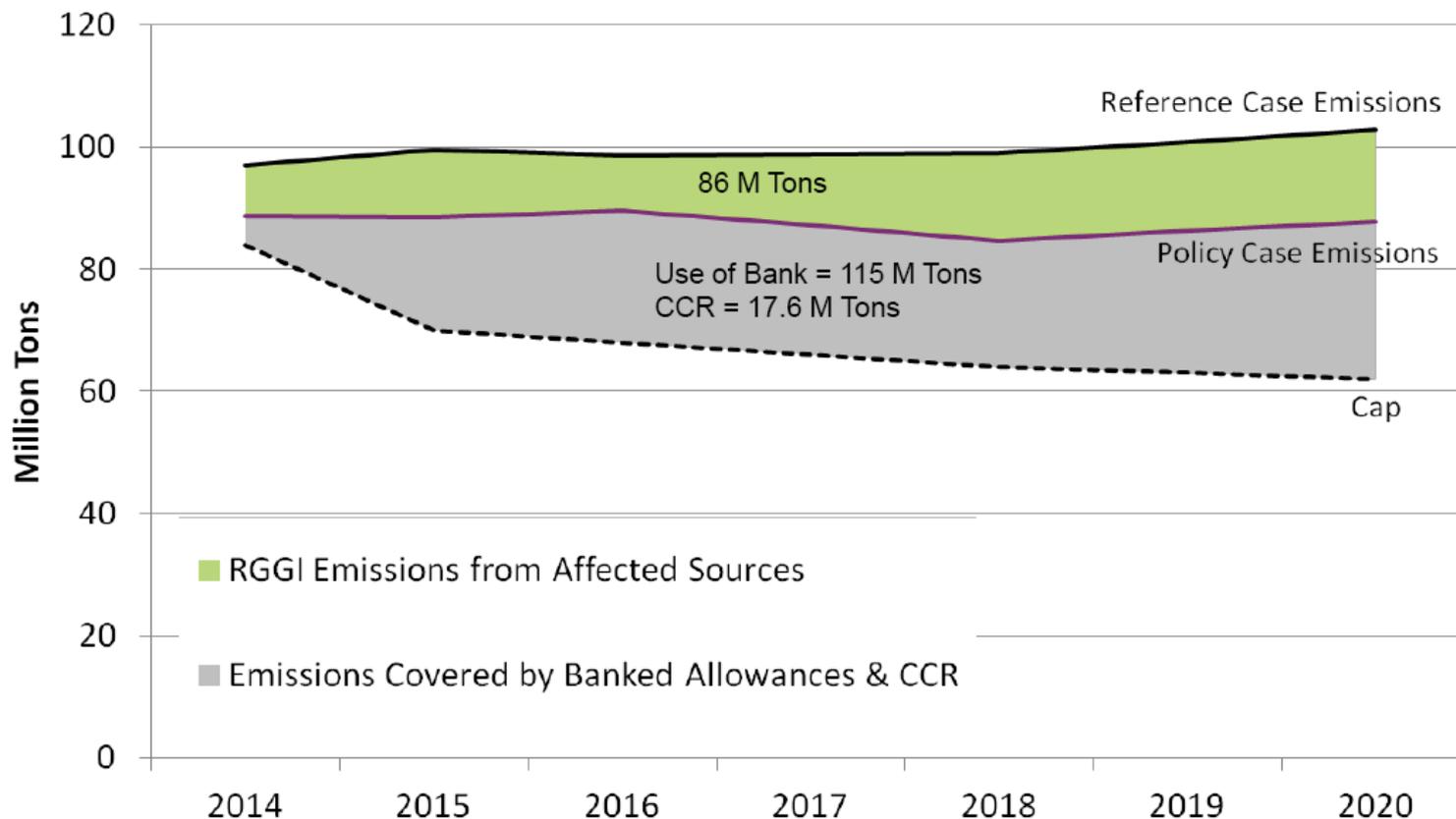
2021 Cap Stepdown

- **Current 2020 regional cap (78.2 million) minus annual decline (2.275 million) = 75.9 million**
- **Additional 825,215 reduction discussed for 2021 to accommodate NY's request for a 30% reduction 2020-2030**
 - **NH (5.22%; 43,000) & ME (3.6%; 29,000) excluded**
 - **7 States proposed 2021 added reduction (750,000)**
- **Proposed regional cap =**
 - **2021 - 75,147,784**
 - **2030 – 54,672,784**

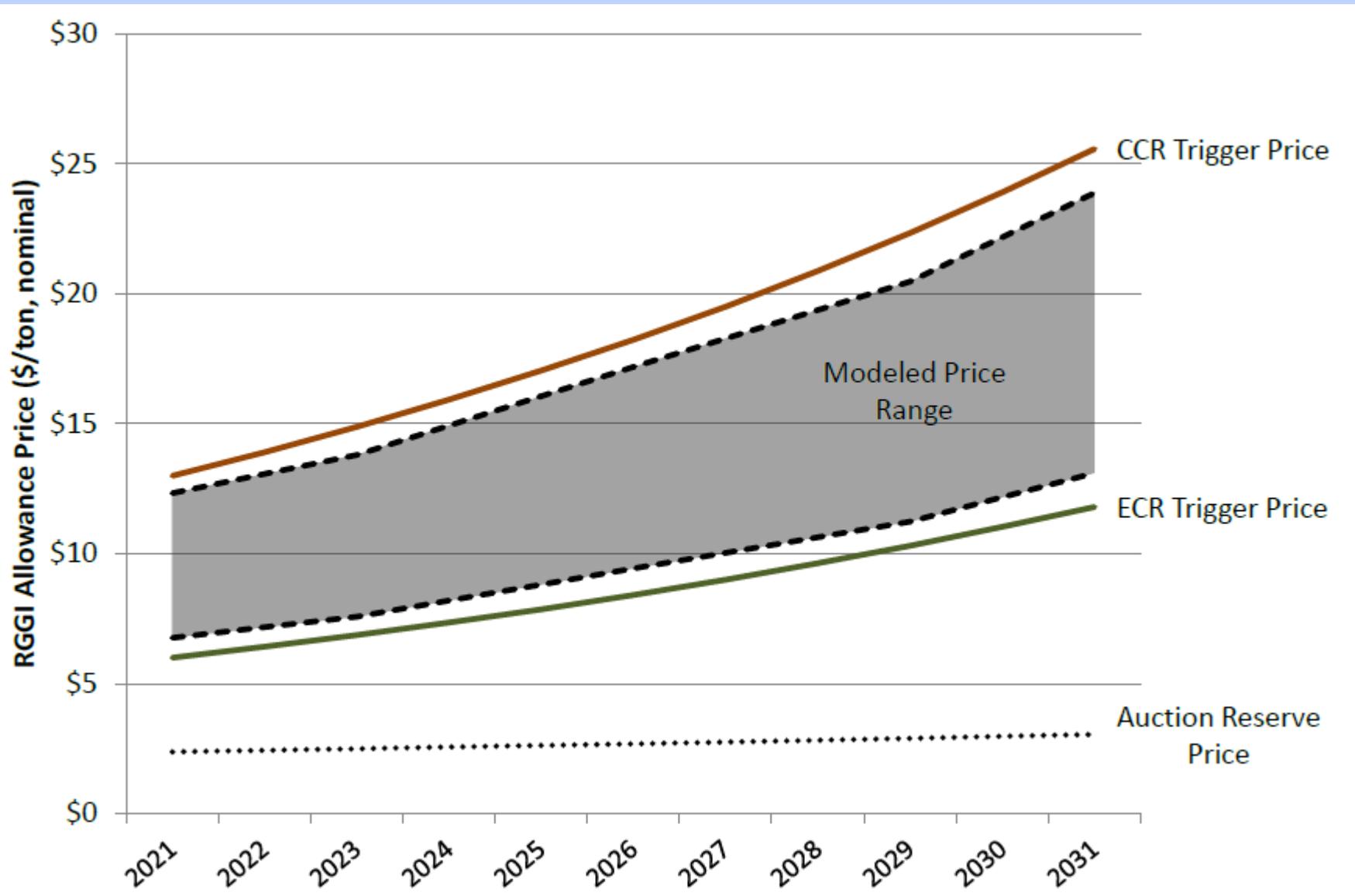


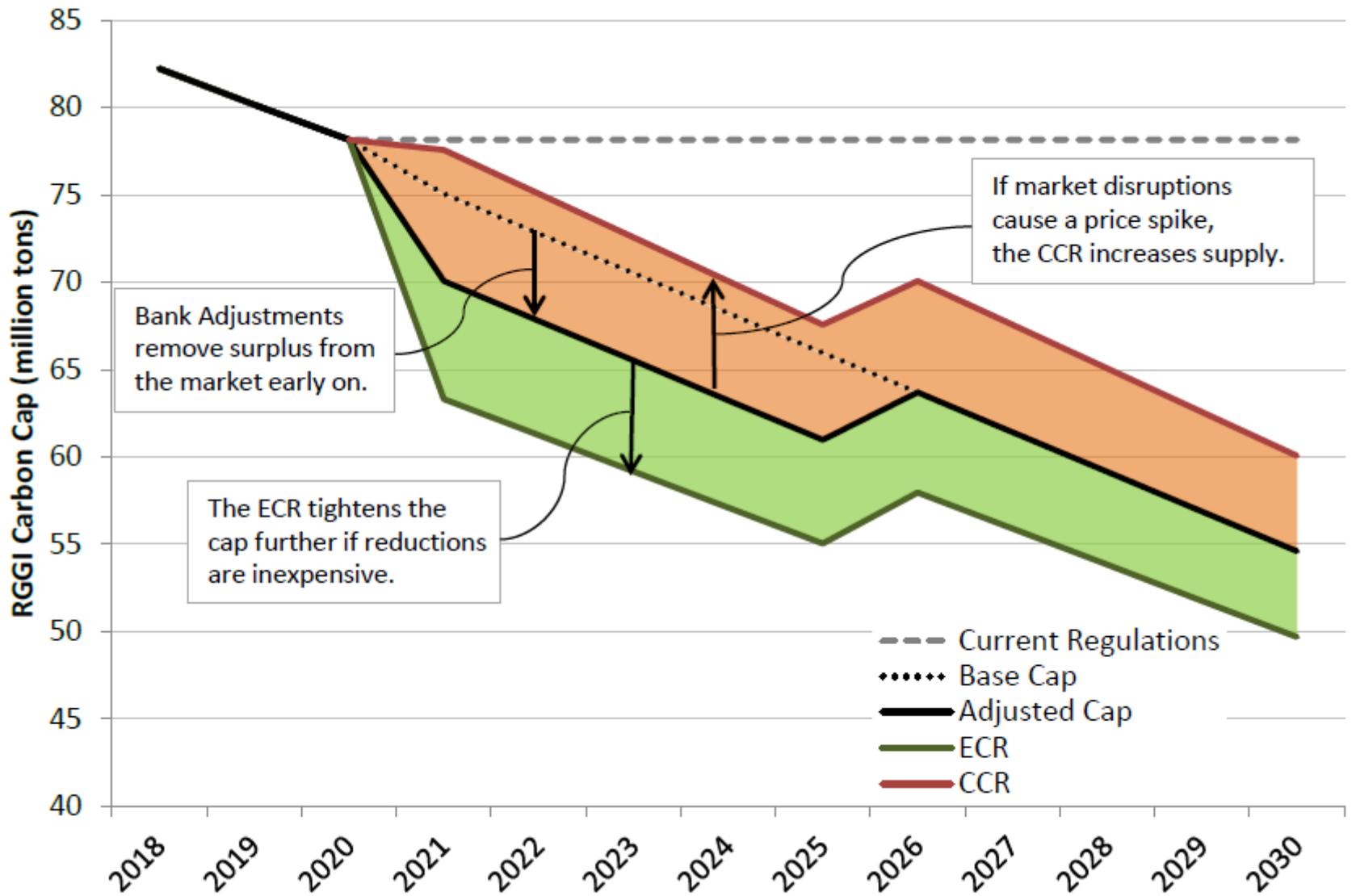
RGGI Model Rule Scenario Results

Sources of Emission Reductions 91 Cap_Bank_MR



CCR and ECR Price Triggers





New Business:

There was no new business to report.

Public Commentary:

No one from the public spoke when asked from the council.

Adjourn:

Having no further business to discuss, a motion to adjourn made by David Cribbie and seconded by J. Ryan Bielagus; all were in favor. Meeting #260 of the Air Resources Council adjourned at 11:15 a.m. on Tuesday September 10, 2019.