



# Empire State Energy Association, Inc.

250 Jordan Road • Troy, NY 12180  
518-280-6645 • 518-280-6670 (Fax) • [www.eseany.org](http://www.eseany.org)

## **New York State Climate Action Council Releases Its Final Scoping Plan**

On December 19, 2022, the New York State Climate Action Council (CAC) approved a Final Scoping Plan (FSP) that contains its recommendations on how the state should achieve the various greenhouse gas (GHG) reduction targets contained in the Climate Leadership and Community Protection Act (CLCPA). The massive 445 page document comes after three years of work by the Council. ESEA is in the process of reviewing the plan and formulating strategies to engage in the regulatory and legislative efforts that will occur in 2023 to implement the Plan's recommendations. For the past several years, we have provided input and analysis as the CAC has worked towards producing the FSP, and while we have significant concerns regarding many of these recommendations, the policies set forth in the FSP were not surprising.

Under the CLCPA, the Department of Environmental Conservation (DEC) is required to promulgate regulations to ensure compliance with the Act's statewide emission reduction limits. The statutory deadline is the end of 2023 which, given the monumental and massive requirements of the FSP, is an extremely limited time. In addition, it is likely that other agencies will need to promulgate regulations and the legislature will need to pass legislation to address all the various aspects of the FSP.

While we are conducting our analysis and review, there are several overarching themes of which members should be aware.

Electrification of Buildings. The FSP recommends that all new construction in the state emit zero emissions commencing in 2025. This is interpreted by most to mean that all new construction must only use electricity as a heat source. Legislation known as the "all electric building act" introduced this past session would have prohibited all fossil fuels in new construction starting in 2024, including biomass-based renewable liquid fuels (RLFs). We have no doubt that similar legislation will be reintroduced next year. However, the bill language (whether it will be zero emissions or exclusively restricted to electrification) is unknown. The FSP also requires any fossil fuel-burning appliance at the end of its useful life to be replaced with zero emission equipment starting in 2030.

Transportation. The FSP contains a recommendation that the state adopt a Clean Fuel Standard (CFS) for transportation fuels similar to the one in existence in California. While the main push for the CFS is to attempt to electrify the transportation sector as much as possible, it enables biomass-based renewable liquid fuels to participate in fueling the transportation sector. Nonetheless, the details, scope and

expense of a CFS will depend on what is adopted through regulatory and legislative proceedings in the coming year.

Cap and Invest. A cap-and-invest program would impose a price on emissions from regulated entities, such as the suppliers of fossil fuels (transportation fuels, heating fuels, and utilities). The price is determined based on the available supply of and demand for emission allowances, rather than by the state. Regulated entities would be required to purchase emission allowances, usually at an auction, to match their emissions. The State would use proceeds from the auction for a variety of purposes consistent with the CLCPA, including investing in clean energy, undertaking emission reduction strategies identified in the FSP, and meeting the Climate Act's requirements for investment in Disadvantaged Communities.

The details of a cap and invest program are dependent upon the language and implementation plans that will be finalized through regulatory and legislative proceedings.

Alternative Fuels. In addition to opportunities in the transportation sector, the FSP recommends that the state should assess and support R&D of the potential of some alternative fuels. Among the various fuels listed are high-percentage biodiesel blends. While this is encouraging, it seems to be contradicted by major provisions of the FSP that support complete electrification.

Cost of Recommendations. While the CAC believes it has accounted for the cost of its recommendations, many strongly disagree. Critics contend that low to middle-income New Yorkers will not have the resources necessary to complete the transition to a carbon-reduced future. The issue of funding the FSP's recommendations will be mostly addressed in 2023 as state legislators and officials grapple with how to pay for a massive transition from fossil fuels to renewables in a brief period of time.

Innovation. A passage in the Plan responsibly pays tribute to innovation in the energy sector that should be pursued over the next decades. Our industry's use of biomass-based renewable liquid fuels would not only fall under this approach, but should stand as the perfect example of how innovation can assist the state in meeting its carbon reduction goals.

Without question, ESEA and its industry allies must participate loudly and clearly, not only for the benefit of its industry, and its consumers, but actually to promote New York State's economy and environment in a cost effective and sensible manner. We stand ready to meet the legislative and regulatory challenges in the coming year.