GREENHOUSE GAS EMISSIONS LOOPHOLE
(CCPA Section 2: Section 75-0101 Definitions, Subdivision 9.)

For the CCPA’s goal of 100% greenhouse gas (GHG) reduction to be credible, it needs to address all, or nearly all, GHG emissions. The bill’s definition of “greenhouse gas emission source” does not do this. The current definition would let DEC ignore any source that it decides will not “enable the department to effectively reduce GHG emissions” or is not “capable of being monitored for compliance.” The first part of this could be interpreted to let DEC simply not count whatever source that it thinks is too difficult to reduce. The second part could exempt the vast majority of sources in the state, depending on how the word “monitor” is interpreted. It is important to understand that GHG emissions from most sources in NY (including cars, heating systems, and other types of fossil fuel-burning equipment) are not directly “monitored.” Instead, they are estimated using empirical data and statistics, with those estimates contributing to the state’s total GHG inventory.

As written, this loophole could render the bill’s 100% GHG reduction mandate meaningless. Fighting climate change will require the most accurate and complete inventory of GHG emissions possible with an honest effort to ensure that their net total is brought as close as possible to zero. If there are to be any exemptions, it should only be for sources that the state is truly incapable of influencing (like airplanes that fly non-stop across NY airspace). Any emission source that the state can regulate, or influence through non-regulatory programs should be counted.

The definition should be changed to something like:

9. “Greenhouse gas emission source” or “source” means any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions for which the state has regulatory authority or has the ability to influence through non-regulatory programs.

COMPLIANCE LOOPHOLE (CCPA Section 9: Subdivision 2.)

Transforming New York’s energy system won’t be possible if emission limits are violated. Near the end of the bill, the CCPA says that all agencies must consider whether approvals or decisions are “inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits.” If they are, then the bill merely requires a “statement of justification as to why such limits/criteria may not be met” and the “identification” of alternatives or some amount GHG mitigation “where the project is located.” The bill does not require that those alternatives or mitigation measures fully compensate for additional GHG emissions caused by the project approval or decision. Furthermore, since it says that any mitigation must be “where the project is located,” the amount of mitigation provided

is likely to be trivial. This loophole should be closed by requiring that actions taken to ensure that statewide GHG emission limits are not violated.

The second sentence in this section should be modified to say:

Where an approval or decision is deemed to be inconsistent with or will interfere with the attainment of statewide greenhouse gas emissions limits, the agency, office, authority, or division shall either reject the approval or decision, or shall require additional greenhouse gas reduction measures of equal value to ensure attainment of statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law.

WEAK ELECTRICITY MANDATE AND LOOPHOLES (CCPA Section 4: Section 66-P, Subdivision 2, 3, 4.)

A fundamental flaw in the CCPA is that it is completely silent about electricity after 2030. Fixing this part of the bill is critical—especially since the electrification of other sectors (transportation, heating, and industry) will require more electricity than today. New York must plan now for the renewables it will need after 2030 so that it will have the electricity to meet demand.

The CCPA should adopt 2030 and 2040 mandates for electricity from load serving entities meeting statewide electrical energy demand that are at least as strong as Governor Cuomo's climate bill, the Climate Leadership Act. Like the Governor's bill, the CCPA should also require the establishment of minimum annual percentage targets.

Unlike the Governor’s bill, the state’s climate bill should not allow nuclear power due to the calamitous potential for contamination of natural resources and health impacts and the high long-term cost of safely isolating and protecting the spent fuel.

In addition, loopholes in the CCPA that allow the state to miss its electricity targets should be eliminated. For example, Subdivision 3 (after Subdivision 2 above), allows targets to be extended for various reasons, including “the electrification of transportation, heating, and industrial processes.” This defeats the purpose of electrifying other sectors, because if those targets are missed, additional demand for electricity will have to be met with fossil fuels. Furthermore, if target dates are missed, New York will have failed to act within the short amount of time we have left to avoid climate catastrophe. To be effective, climate legislation must synchronously provide for both the electrification of sectors and the electricity needed to support doing so. Following this, Subdivision 4 (after Subdivision 3 above) allows the state to “suspend or modify obligations” to ensure safe, adequate, and affordable electricity. Again, these fundamental provisions, along with affordability assistance for those who may need it, should be part of the plan. (The Governor already has executive authority that he can take in the event of extreme emergencies.)
These loopholes are NOT in the Governor’s climate bill. So they should not be in the CCPA either. To close them, the last sentence of subdivision 3 and all of subdivision 4 described above should be deleted.²

It would also be helpful to include language requiring that the state plan for additional electricity needed to support the electrification of other sectors:

*The Climate Action Council shall recommend plans for the procurement of electricity necessary to meet demand caused by the electrification of end-user systems, consistent with achieving statewide greenhouse gas emission limits and the requirements of subdivision 2 of this section.*

**COORDINATION OF EFFORTS** (CCPA Section 2: Article 75)

The CCPA presently sets up the Climate Action Council as an arm of DEC, and chaired by DEC. But successfully reducing GHG emissions requires more than setting emission limits. It requires a comprehensive set of rules, regulations, and programs to synchronously phase in and phase out real systems (power plants, heating systems, vehicles, etc). The Governor’s Climate Leadership Act actually addresses this in a more comprehensive way with a Climate Action Council co-chaired by both DEC and NYSERDA. This is a very good approach, because it ties emission limits to real action. The Governor’s bill also ties work of the Climate Action Council to the State's Energy Plan, which is important.

The CCPA, or whatever legislation is adopted, should take a similar approach. The “scoping plan” required by the CCPA should be amplified to the level of an actual plan for implementation, and it should call for the development of specific programs to tackle all aspects of the problem on a sector basis.

Many GHG emission sources, ranging from home furnaces to large power plants, are designed to last 30 or 40 years. This means the technology that consumers and energy companies buy or install will still be in operation decades from now, when emissions will need to have dropped to zero. Consequently, the only way for New York to meet a goal of zero GHG emissions by 2050 is to require that new technology, starting now, be zero-emission. This is a major lift that will require a well-funded, coordinated approach with programs to facilitate the transition at every level.

Language that conveys the magnitude of this task should be added to the bill. It should require the development of:

- Programs to incentivize renewable energy at every level from residential to utility scale

² Delete: “The commission shall evaluate the annual targets established pursuant to subdivision two of this section and determine whether the annual targets should be accelerated, increased or extended, taking into consideration load modifications associated with, but not limited to, energy efficiency measures and the electrification of transportation, heating systems and industrial processes.” Also delete “4. The commission may temporarily suspend or modify the obligations under such program provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that the program impedes the provision of safe and adequate electric service or that there is a significant increase in arrears or service disconnections that the commission determines is related to the program.”
• Requirements for the phase out of existing fossil fuel power plants and prohibition of new ones (except for onsite backup generators used only during emergencies at facilities, like hospitals, that provide emergency services)

• Improvements to the electrical grid and related techniques such as energy storage, transmission, and demand response

• Requirements for the purchase, sale, and operation of zero-emission technology, such as electric vehicles and heat pumps, taking into account equipment lifetimes

• Requirements for net-zero building in new construction

• Requirements for industry to use electric, rather than fossil fuel machinery

• Revisions to building codes and adoption of expanded efficiency requirements for both new construction and existing buildings (some of this is in the Governor's bill)

• Financial incentives to encourage green investments, including the purchase of electric vehicles, heat pumps, and building efficiency improvements

• Financial disincentives to discourage the use of fossil fuels and products or services with a significant carbon footprint

• Conversion of public facilities to zero-emission technology, including government buildings, government vehicle fleets, and public transportation

• Programs and incentives for the capture of agricultural emissions

• Conservation, forest land protection, and other land management programs that sequester carbon

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