

State Clean Fuel Implementation Momentum Growing in New York, Minnesota, and New Mexico, though Near-Term Hurdles Remain

May 11, 2023

**This note is the first in a two-part series on state-level clean fuel implementation. This note focuses on states with the greatest momentum towards a clean fuel standard.*

EXECUTIVE SUMMARY

- Capstone believes momentum is growing in New York, Minnesota, and New Mexico for legislation or to begin a rulemaking that implements a clean fuel standard (CFS) to incentivize low-carbon fuels. Although we think passage is generally unlikely until after 2024, we believe the policy backdrops in these three states provide the best path for state-level action that would increase demand for clean fuels.
- CFS frameworks in most states face challenges from either progressive environmental groups that oppose any biofuel development or agriculture stakeholders that believe a CFS will lead to higher fuel prices. Most of these states can implement a CFS program administratively via a directive from their respective governors, although Capstone sees this as unlikely in most states given that political considerations make governors hesitant to circumvent the legislature.
- Broadly, while Capstone believes the probability of CFS in these states is low for 2023 and 2024, we believe it is likely that at least some states will eventually adopt CFS programs as a means to reduce greenhouse gas emissions and make low-carbon fuels more available. As states begin to implement these programs, we expect investment opportunities to proliferate.

Capstone's Call at a Glance

Our Prediction	<p>New York Clean Fuel Standard: 32% chance New York will implement a CFS in 2023 and 44% chance in 2024.</p> <p>Minnesota Clean Fuel Standard: 19% chance Minnesota will initiate a CFS program in 2023 and a 56% chance in 2024.</p> <p>New Mexico Clean Fuel Standard: 10% chance New Mexico will implement a CFS in 2023 and a 41% chance in 2024.</p>
Companies Impacted	Montauk Renewables Inc. (MNTK), Clean Energy Fuels Corp. (CLNE), Darling Ingredients Inc. (DAR), Neste Oyj (NTOIY), EVgo Inc. (EVGO)
Potential Impact	States implementing a CFS would increase prices and demand in that market. As a proxy for demand, below are highway vehicle miles traveled on state highways in 2021 compared to California's 310,823, in millions (% of the national total): <ul style="list-style-type: none"> • California: 310,823 (9.9%) • New York: 106,870 (3.4%) • Minnesota: 57,171 (1.8%) • New Mexico: 26,823 (0.9%)

*Capstone's predictions are informed by rigorously examining historical occurrences and current conditions while rooting out cognitive biases systematically. We update our probabilities often to reflect the latest information. Read more [here](#).

New York: There is more momentum amongst lawmakers for a cap and invest program rather than a CFS. Progressive environmental groups oppose a CFS because it will prolong carbon emissions while slowing the transition to clean energy.

Minnesota: Governor Tim Walz (D) is a strong supporter of a CFS, but legislation this year faced strong opposition in the state legislature from agriculture groups concerned about its potential impact on fuel prices.

New Mexico: Similar to Minnesota, stakeholder groups in New Mexico, and by extension lawmakers, are concerned about a CFS program’s effect on fuel prices. Legislative efforts this session failed, although CFS legislation will likely be introduced and considered next year, albeit during a constitutionally-shortened legislative session.

A DEEPER LOOK

New York

CFS Probability by Year	Reasoning
2023: 32%	<ul style="list-style-type: none"> 6.8% of bills introduced in the New York legislature in the 2021 Regular Session were signed into law. Capstone expects progressive resistance will ultimately stop serious consideration of CFS legislation in 2023. Large contingencies of environmental justice and progressive groups in New York view biofuel development as a key driver in prolonging adverse climate impacts and are influencing legislatures against CFS legislation. Capstone believes there is a 25% probability that Governor Kathy Hochul (D) will implement a CFS program administratively by the end of 2024. The governor received significant pushback from progressive environmental groups when attempting to align the state’s greenhouse gas reporting horizon with most other states. Given their opposition, we believe the governor will be unwilling to seriously address a CFS. Following the conclusion of negotiations, the unified state budget includes a cap and invest program, a priority for the governor and most stakeholder groups.
2024: 44%	

Capstone Perspective in Brief

Capstone believes progressive resistance will ultimately stop serious consideration of CFS legislation in 2023, and some lawmakers will be hesitant to consider the issue in 2024, given it will be an election year. While moderate environmental interest groups support a clean fuel standard as a valid decarbonization strategy, coalitions of environmental justice and progressive environmental groups in New York are outspoken in their opposition to biofuels and any policy framework they view as prolonging fossil fuel use. Due to their influence, Capstone believes progressive state lawmakers will be unwilling to vote for CFS bills [A964](#) and [S1292](#), and neither will advance.

Capstone believes there is a 25% chance that New York Governor Kathy Hochul (D) will authorize a CFS through administrative pathways by the end of 2024. Implementation of a cap and invest program was a larger priority for the Governor and is generally viewed more favorably amongst stakeholder groups. Despite this, even the cap and invest program was a major point of

contention during the budget negotiation process between the governor and both chambers of the legislature.

Background

In 2019 the New York State Legislature and then-Governor Andrew Cuomo passed and signed into law the [Climate Leadership and Community Protection Act](#) (CLCPA). The law created the Climate Action Council (CAC) to develop a [scoping plan](#) that outlines viable decarbonization strategies. The CAC's [Final Scoping Plan](#) sets a greenhouse gas (GHG) reduction target of 40% from 1990 levels by 2030 and 85% by 2050. Importantly, the scoping plan also [recommended](#) that the state adopt a clean transportation standard to support the electrification of New York's transportation sector.

The [governor's](#) office, state [assembly](#), and state [senate](#) released their respective budget proposals earlier this year. The governor and senate's proposals called for a cap and invest scheme to set economy-wide carbon intensity (CI) reduction targets, a proposal that enjoyed broad support amongst state officials and stakeholders before budget negotiations began in earnest. The three parties agreed to a single unified [budget](#) on May 3, well after the original April 1 deadline, in which the governor's office deferred many details about the program and its implementation to DEC.

On March 31 Governor Kathy Hochul (D) added a [proposal](#) to the executive budget to change New York's accounting method for greenhouse gas emissions from a 20-year measurement horizon to 100 years, a timeline in line with most other states. The Governor dropped the proposal after significant pressure from environmental groups that criticized the change as an attempt to diminish the measured impacts of greenhouse gas emissions.

Both chambers of the legislature are considering bills this session to establish a clean fuel standard in New York. [A964](#) (Assemblywoman Carrie Woerner (D)) and [S1292](#) (Sen. Kevin Parker (D)) would reduce the emissions of on-road transportation fuels by at least 20% by 2031. These measures build on previous legislative efforts to establish a clean fuel standard: [S4003](#) and [A5262](#) in the 2019-2020 legislative session and [S2962](#) and [A862](#) in the 2021-2022 session. Aviation fuel would be exempted from the New York clean fuel standard, but sustainable aviation fuel (SAF) will be eligible to generate credits on an opt-in basis.

Our Take

Capstone expects the governor's emissions reporting maneuver will increase environmental groups' distrust of state officials on broad climate initiatives; stakeholders criticized the governor's proposed change as a concession to fossil fuel interests. This will ultimately harm the chances that the state legislature will pass clean fuels legislation in 2023 as these groups are now hyper-focused on any policy that could be perceived as friendly to fossil fuel interests and will influence state legislatures as such. Groups like NY Renews, a coalition of environmental justice, and labor organizations [opposed](#) the inclusion of "false solutions" like biofuels and renewable natural gas in the scoping plan, and generally view clean fuel schemes as not doing enough to meet carbon reduction goals.

Minnesota

CFS Probability by Year	Reasoning
<p>2023: 19%</p> <p>2024: 56%</p>	<ul style="list-style-type: none"> About 2% of bills introduced in the Minnesota Legislature’s 2021-2022 session were signed into law. While a CFS enjoys strong support from the governor’s office, outreach contacts informed Capstone that relevant legislation is facing stiff resistance from agriculture groups in the southern part of the state over concerns about high fuel prices. Additionally, neither bill is a priority for caucus leaders. The governor can authorize the state Pollution Control Agency to initiate a CFS, however outreach contacts informed Capstone this would likely anger a significant portion of stakeholder coalitions and be politically unpopular if the governor addressed the issue in 2023. They believe a potential CFS program would receive significantly more public support this year if it were implemented via the legislative process, which we see as unlikely. Given the political nature of the issue amongst legislatures and per Capstone’s conversations with contacts familiar with the governor’s office, we assign CFS probabilities of 19% for 2023 and 56% for 2024.

Capstone Perspective in Brief

A clean fuel standard is a priority for Minnesota Governor Tim Walz (D). Given his strong support for a program in his budget, and according to our conversations with Minnesota stakeholders, Capstone believes political conditions will improve and the governor will be more willing to initiate a CFS next year. We believe there is a high likelihood that Governor Walz will implement a program administratively in 2024.

The issue is more politically divisive in the state legislature, as agricultural groups pressure moderate Democratic members to oppose a CFS on beliefs that it will lead to higher fuel prices. This led to intra-party conflicts amongst democratic members that ultimately killed legislation in the 2022 session.

Background

In the 2021-2022 session, the Minnesota legislature considered [HF 2083](#) and [SF 2027](#). The “Future Fuels Act” would set gradually reducing carbon intensity (CI) targets of 25% by 2030, 75% by 2040, and 100% by 2050. The Future Fuels Act language was not included in the state’s climate and energy omnibus bill [HF 3337](#) but was supported by Minnesota Gov. Tim Walz (D). Following a February 2022 [white paper](#) calling for an economic impact analysis of a potential CFS in the state, the Governor’s office released the [Climate Action Framework](#) in September of last year, calling for a variety of decarbonization initiatives in Minnesota, including a clean fuel standard.

On March 16 of this year, the Governor’s office released their [revised budget](#) allocating [\\$250,000](#) for a clean fuel standard economic impact study and working group and [\\$5.3 million](#) to develop tax credit structures for users of Sustainable Aviation Fuel (SAF) use in the state.

The state legislature is considering legislation this session to implement a clean transportation standard, [SF 2584](#) and [HF 2602](#). These set identical CI reduction targets to HR 2083 and SF 2027

from the last session, task the Minnesota Pollution Control Agency with implementing the program, and use the GREET model to determine fuel pathways.

Our Take

Outreach contacts familiar with the Minnesota Governor’s office expressed to Capstone that the Governor is prioritizing the economic impact study and SAF credits this year and is looking to next year to implement the full clean fuel standard. Capstone believes Governor Walz will implement a CFS administratively in 2024 given our outreach conversations with Minnesota stakeholders, the funds allocated in the revised budget, and Governor Walz’s strong support of clean fuels in general. State contacts told Capstone the implementation period will likely take about a year, pointing to early 2026 as the earliest that investment in the program can begin.

Stakeholders close to the Minnesota legislature believe SF 2584 and HF 2602 have little chance of passing this session. Authors Sen. Nick Frentz (D) and Rep. Jeff Brand (D) represent agriculture-heavy districts in the southern part of the state and are receiving major pushback on the legislation from agriculture groups who are concerned about the bill’s effect on fuel prices. Furthermore, these contacts told Capstone that neither bill is being pushed by caucus leaders, minimizing the chance they will be brought to a vote. The legislature is scheduled to adjourn on May 22.

New Mexico

CFS Probability by Year	Reasoning
<p>2023: 10%</p> <p>2024: 41%</p>	<ul style="list-style-type: none"> • 17% and 19% of all bills introduced in the 2021 and 2022 legislative sessions, respectively, were signed into law in New Mexico. 25% of all bills introduced in three separate special sessions were signed into law as well. • The success of potential CFS legislation in New Mexico in 2024 is largely dependent on the ability of moderate and progressive Democratic members to reach a compromise on CFS legislation given it was intra-party political conflict that caused legislation to fail this session. • Like other states, the governor can technically implement a CFS administratively, although it is politically unpopular. Given these dynamics, Capstone assigned probabilities of 10% for 2023 and 41% for 2024.

Capstone Perspective in Brief

The New Mexico legislature finished its 2023 session on March 18. Potential CFS legislation in the 2024 legislative session will be contending with similar gas price opposition as other states and a statutorily shortened even-year legislative session. Despite these obstacles, outreach contacts expressed optimism that CFS legislation is at least considered in 2024. The New Mexico Environment Department, Economic Department, and numerous environmental groups support a CFS program. While a CFS can be implemented by the governor, the politicization of the issue over gas price concerns makes this unlikely.

Background

The New Mexico legislature is unique. Per the state constitution, it meets for 60 days in odd-numbered years and 30 days in even-numbered years. During the shorter even-numbered year sessions legislatures are limited on what they are able to consider and the governor has a significant amount of influence large influence on what lawmakers can and can't discuss. The governor may also call the legislature into a "[special session](#)" at any time in which lawmakers consider issues at the governor's discretion. The Legislature can also call itself into an "extraordinary session," but this has only happened once.

In 2022 the New Mexico State Legislature considered [SB 14](#) to implement a clean fuel standard in the state. The bill passed the Senate 25-16 but due to political disagreements among House Democratic members, the bill only received a 33-33 vote in the House of Representatives and officially died at the end of the 30-day session on February 17, 2022. Clean fuel legislation this session, [HB 426](#), did not have enough political momentum and failed to advance out of the House.

Our Take

Our contacts believe the state legislature is often hesitant to address a CFS based on the belief that it will ultimately lead to higher gas prices. This is often the argument of Republicans in the state legislature against any potential CFS and a sentiment shared by industry groups. However, with Democratic majorities in both chambers, the larger dynamic at play are concerns from moderate Democratic members that voting for a clean fuels program will adversely affect their election chances based on the higher gas prices argument. Outreach contacts believe that the chance of CFS legislation passing is ultimately a question of education; informing state legislatures and stakeholder interest groups of the true nature and effects of a potential CFS.

Despite this opposition, Capstone's contacts noted a CFS has the support of the New Mexico Environment Department and Economic Department, and most environmental groups like the Sierra Club, Environmental Defense Fund, Conservation Voters of New Mexico, and Western Resource Advocates agree on the necessity of a clean fuel standard to meet decarbonizing goals.

However, with the upcoming even-numbered year legislative session, the Governor will have a large influence on the issues the legislature considers, and Capstone does not expect the Governor to make a CFS a priority given the strong opposition to clean fuel programs from certain stakeholder groups and reflected by members of the legislature.

In Case You Missed It: A Roundup of Capstone's recent notes on clean fuel developments:

[LCFS Quick Take: CARB Workshop Points to the Addition of Automatic Acceleration Mechanism to the Program, a Positive for Clean Fuels](#). February 23, 2023.

[California Low Carbon Fuel Standard Rulemaking to Raise Credit Prices in 2023, Prevent Future Price Drops; Tailwinds for Clean Fuels Producers](#). February 21, 2023.

Outlook on Clean Fuel Standards for New York Conference Call

Wednesday, May 24, 2023, at 1:00 p.m. ET

On May 24th, Capstone Energy Analyst Sam Owen will host a conference call with Patrick McClellan, Director of Policy for the New York League of Conservation Voters, to discuss the outlook for establishing a clean fuel standard in the state. On the call, they will discuss the pathway toward regulatory approval and potential standards.

If you are interested in attending, please contact your Capstone sales representative or RSVP@capstonedc.com.