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A Legislative and Regulatory Update on Environmental Issues in New York State

March 22, 2023

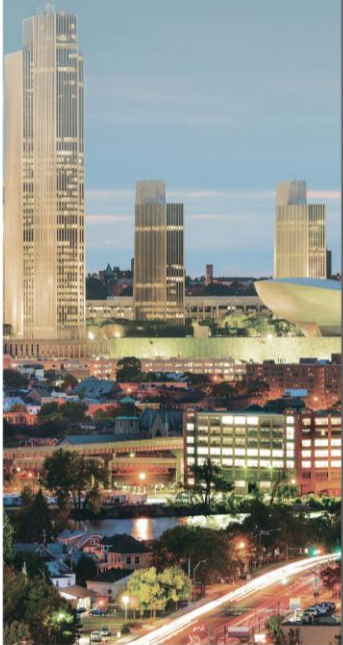
Capital District Regional Planning Commission

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State Implementation of the CLCPA

(aka the “Climate Law”)



70%



of the State's electricity will be generated by renewable energy by 2030

100%



zero-emissions electricity by 2040

Climate Leadership & Community Protection Act

signed into law & directs the formation of the Climate Action Council

2019

2020
March

The 22-member Climate Action Council held its first meeting

2020
and **2021**

Seven sector-specific Advisory Panels

met & developed recommendations for a Draft Scoping Plan

Stakeholder outreach conducted & feedback submitted

2021
April-June

An Integration Analysis outlining costs and benefits of the Plan was developed

2021
Sept-Dec

Draft Scoping Plan was prepared & released

following nearly 20 public meetings of the Climate Action Council

2022
Jan-July

Public comment period held to receive feedback on the Scoping Plan; 11 public hearings and 35,000+ written comments

2022
June-Oct

Subgroups of the Climate Action Council met

to discuss sectors of the Plan and work to reach consensus

2022
Dec 19, 2022

Climate Action Council voted to advance the Scoping Plan to advance New York's nation-leading climate goals.

Efforts Focused on Reducing Greenhouse Gas Emissions Statewide

- State agencies will consider consistency with the statewide greenhouse gas emission limits under the Climate Act in all administrative decision-making, including permits.
- Air Permit Guidance: Applicants must provide objective analysis of the GHG and CO₂e emissions from the project, including any upstream or downstream emissions. If a project is found to increase GHG emissions, the Applicant must propose alternatives or GHG mitigation measures from the facility owner or operator.
- Energy efficiency standards for certain appliances and electrification of new and altered buildings.

Advanced Building Codes, Appliance and Equipment Efficiency Standards Act of 2022

(effective June 28, 2023)

- NYSERDA, in consultation with the Department of State, is required to adopt efficiency standards for products and appliances that reduce energy and/or water consumption.
- First batch of standards will take effect on June 26, 2023 and covers:
 - Air purifiers
 - Commercial battery chargers
 - Commercial dishwashers
 - Commercial fryers
 - Commercial hot food holding cabinets
 - Commercial ovens
 - Commercial steam cookers
 - Computers
 - Computer monitors
 - Electric vehicle supply equipment (EVSE)
 - Faucets
 - Linear fluorescent lamps
 - Gas fireplaces
 - Lawn spray sprinklers
 - Replacement dedicated-purpose pool pump motors
 - Portable electric spas
 - Residential Ventilation fans
 - Showerheads
 - Toilets
 - Urinals
 - Water coolers

All-Electric Building Act

(in committee)

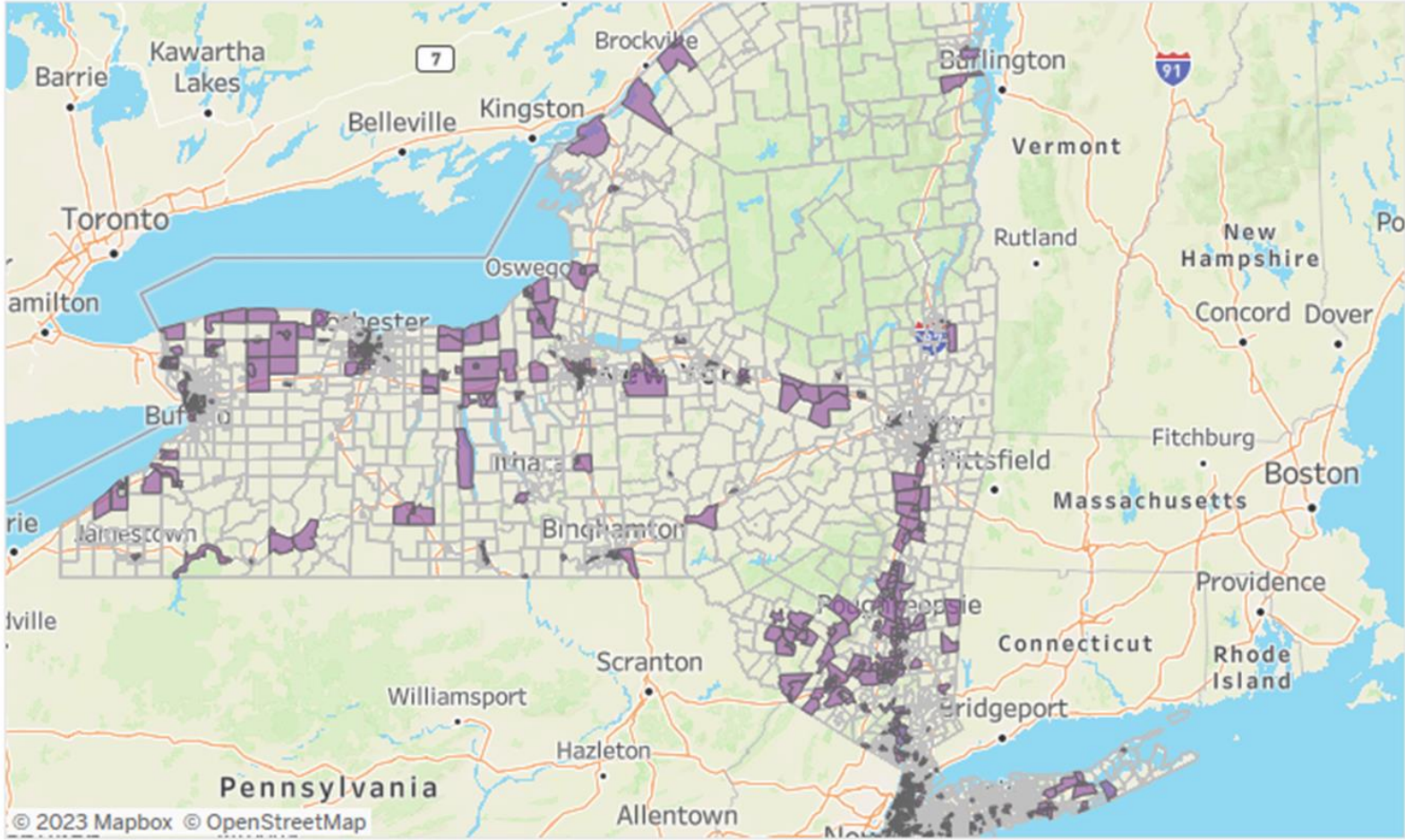
- State energy conservation construction code shall prohibit infrastructure, building systems, or equipment used for the combustion of fossil fuels in new construction statewide no later than December 31, 2023 if the building is less than seven stories and July 1, 2027 if the building is seven stories or more.

Gas Transition and Affordable Energy Act

(in committee)

- Removes the legal basis and subsidies driving the expansion of gas systems and requires the PSC to adopt rules and develop a statewide gas service transition plan that aligns with decreasing gas sales and, where appropriate, the decommissioning of the gas system.

Disadvantaged Communities



Criteria for Disadvantaged Communities

- The Climate Act charged the Climate Justice Working Group (CJWG) with the development of criteria to identify disadvantaged communities.
- The CJWG used 45 indicators to identify 35% of New York State census tracts as disadvantaged communities.
- The indicators include climate-related risks, such as flooding or extreme heat, health vulnerabilities like asthma and COPD, and emergency department visits, as well as several socio-economic factors including race, ethnicity, and income.

Table 1. Percentage of census tracts in each region designated a draft DAC

Region	% of tracts identified as draft DACs
New York City	45%
Long Island	12%
Mid-Hudson	45%
Western NY	32%
Finger Lakes	35%
Capital Region	22%
Central NY	36%
Southern Tier	18%
Mohawk Valley	19%
North Country	15%
Total	35%

Table 2. Environmental burdens and climate change risks: Draft indicators

Total

35%

Environmental Burdens and Climate Change Risk		
Land use and facilities associated with historical discrimination or disinvestment	Potential climate change risks	Potential pollution exposures
Proximity to remediation sites	Extreme heat projections	Vehicle traffic density diesel truck and bus traffic
Proximity to regulated management plan sites	Flooding in coastal and tidally influenced areas (projected)	Particulate matter (PM2.5)
Proximity to major oil storage facilities	Flooding in inland areas (projected)	Benzene concentration
Proximity to power generation facilities	Low vegetative cover	Wastewater discharge
Proximity to active landfills	Agricultural land	
Proximity to municipal waste combustors	Driving time to hospitals or urgent/critical care	
Proximity to scrap metal processors		
Industrial/manufacturing/mining land use		
Housing vacancy rate		



Department of Environmental Conservation

NYSERDA

Table 3. Population Characteristics and Health Vulnerabilities: Draft Indicators

Population Characteristics and Health Vulnerabilities

Income

- Percent <80% area median income
- Percent <100% of federal poverty line
- Percent without bachelor's degree
- Unemployment rate

Race and Ethnicity

- Percent Latino/a or Hispanic
- Percent Black or African American
- Percent Asian
- Percent Native American or Indigenous

Health Outcomes & Sensitivities

- Asthma emergency department visits
- COPD emergency department visits
- Heart attack (MI) hospitalization
- Premature deaths

Housing Mobility & Communications

- Percent renter-occupied homes
- Housing cost burden (rental costs)
- Energy poverty / cost burden
- Manufactured homes

2023 Environmental Siting Bill

(takes effect June 28, 2023)

- Amends **SEQRA** to define and include various requirements for examining impacts to Disadvantaged Communities.
- Initial Determinations (on whether EIS is needed) must consider whether the project “may cause or increase a disproportionate burden on a disadvantaged community.”
- EIS must assess the effects of an action on disadvantaged communities, including whether the action would cause or increase a “disproportionate pollution burden.”

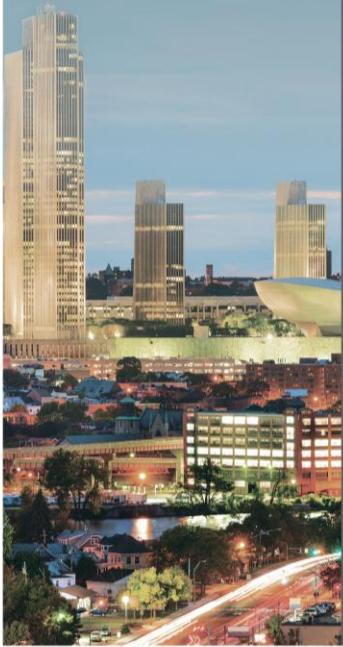
2023 Environmental Siting Bill

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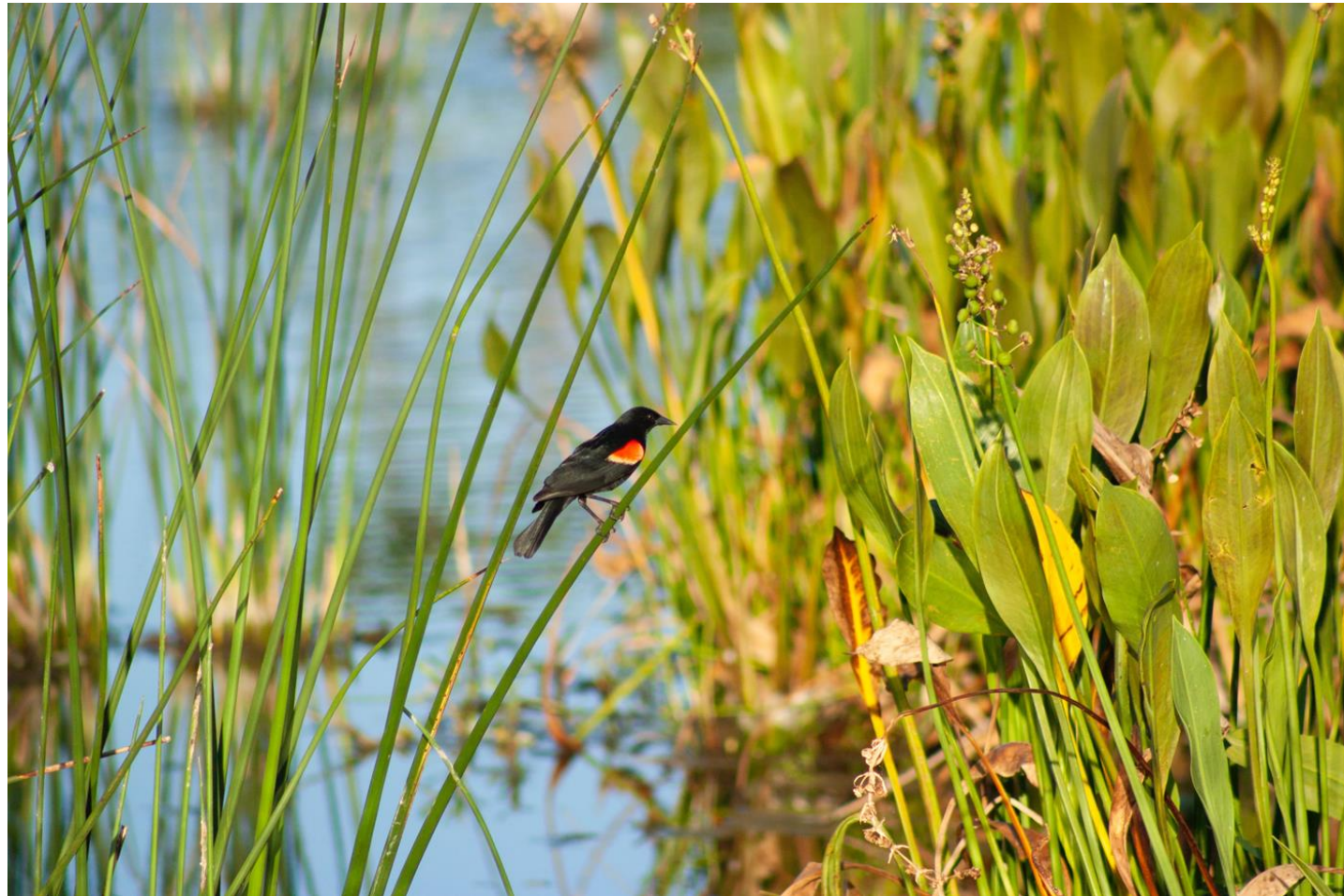
- Amends **Uniform Procedures Act** to require major regulatory programs of NYSDEC to prepare an Existing Burden Report.
- An Existing Burden Report describes the existing pollution burden in a disadvantaged community.
- Permits shall not be approved or renewed if it “may cause or contribute to, directly or indirectly, a disproportionate / inequitable pollution burden on a disadvantaged community.”

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Enhanced Protection of Natural Resources



Enhanced Wetland Protections



Revised Federal Definition of Waters of the United States (WOTUS) (takes effect March 20, 2023)

- traditional navigable waters, the territorial seas, and interstate waters (“¶ (a)(1) waters”)
- impoundments of “waters of the United States” (“¶ (a)(2) impoundments”)
- tributaries to traditional navigable waters, the territorial seas, interstate waters, impoundments when the tributaries meet either the relatively permanent standard or the significant nexus standard (“jurisdictional tributaries”)
 - wetlands adjacent to ¶ (a)(1) waters, wetlands adjacent to and with a continuous surface connection to relatively permanent ¶ (a)(2) impoundments, wetlands adjacent to tributaries that meet the relatively permanent standard, and wetlands adjacent to ¶ (a)(2) impoundments or jurisdictional tributaries when the wetlands meet the significant nexus standard (“jurisdictional adjacent wetlands”); and
 - intrastate lakes and ponds, streams, or wetlands not identified in ¶ (a)(1) - (4) that meet either the relatively permanent standard or the significant nexus standard (“¶ (a)(5) waters”).

Revised NYS Definition of Freshwater Wetlands

(effective January 1, 2025)

- Definition no longer relies on the Freshwater Wetlands Map, which now merely depicts the “approximate location” of wetlands and is “not necessarily determinative as to whether a permit is required.”
- Lands and waters of the state, that are not tidal wetlands, that have an area of at least twelve and four-tenths acres or, if less than twelve and four-tenths acres in size, are of unusual importance, and which contain any of the criteria specified (e.g. marshes, swamps, bogs, etc., lands enclosed by aquatic vegetation, waters overlying these areas).

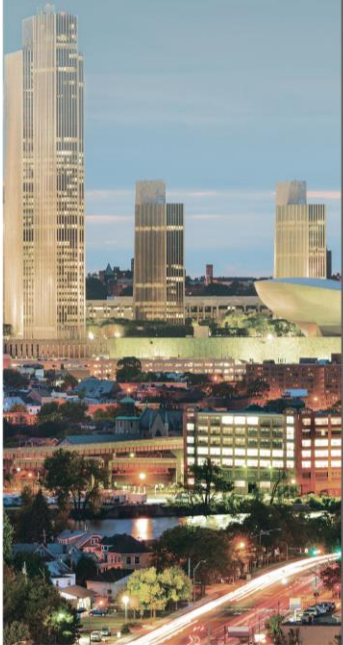
Federal Protections for Northern Long-Eared Bat

(status change from Threatened to Endangered Species, effective March 23, 2023)



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State Attempts to Take Over Local Zoning Jurisdiction



Solar and Wind Utility Scale Projects



- Office of Renewable Energy Siting (ORES) created to consolidate the environmental review and permitting of major renewable energy facilities in New York State





- 2023 NYS Budget includes a \$25 billion, five-year housing plan to create/preserve 100,000 affordable homes across the State

Comments or Questions?

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