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New York's Finalized Mandatory Greenhouse Gas Reporting Program: Who Is Covered, Key Deadlines, and Regulatory Context

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establishing a mandatory greenhouse gas (GHG) reporting program for fuel suppliers, waste haulers and transporters, electric power entities, and certain other industries as well as large emissions sources located in New York.¹ The program is for data collection only and does not impose requirements to reduce GHG emissions or obtain emission allowances. The final regulations closely align with the proposed program announced in March 2025, and became effective on December 25, 2025.²

The regulation impacts large emissions sources and specific industries, focusing on data collection.

These regulations—Part 253 of Title 6 of the New York Codes, Rules, and Regulations (NYCRR), Mandatory Greenhouse Gas Reporting (the NY Reporting Rule)—require subject industries and large facilities and emitting sources to monitor their annual GHG emissions, annually report such emissions and other data to DEC, and follow specified recordkeeping requirements for supporting data.

The NY Reporting Rule shares a number of similarities with California's Mandatory Greenhouse Gas Reporting Regulation (the California MRR), promulgated in 2009 pursuant to the California Global Warming Solutions Act of 2006 (AB 32).³

Introduction

On December 1, 2025, the New York State Department of Environmental Conservation (DEC) announced final regulations

¹ 6 N.Y.C.R.R. Part 253; N.Y. Dept. of Env't Conservation (DEC), *Express Terms Part 253 Mandatory Greenhouse Gas Reporting Program* (not dated) [hereinafter *Express Terms Part 253*], <https://dec.ny.gov/sites/default/files/2025-03/part253expressterms.pdf>.

² Press Release, DEC, DEC Releases Draft Regulations to Collect Greenhouse Gas Emissions Data (Mar. 26, 2025), <https://dec.ny.gov/news/press-releases/2025/3/dec-releases-draft-regulations-to-collect-greenhouse-gas-emissions-data> [<https://perma.cc/DW52-BRVM>]; DEC, *Statewide - 6 NYCRR Part 253 Mandatory Greenhouse Gas Reporting Program, 6 NYCRR Part 200 General Provisions*, ENB (Dec. 10, 2025), <https://dec.ny.gov/news/environmental-notice-bulletin/2025-12-10/public-notice/statewide-6-nycrr-part-253-mandatory-greenhouse-gas-reporting-program-6-nycrr-part-200-general-provisions> [<https://perma.cc/FP58-KRJB>].

³ See *AB 32 Global Warming Solutions Act of 2006*, CAL. AIR RES. BD. (CARB), (Sep. 29, 2018), <https://ww2.arb.ca.gov/resources/fact-sheets/ab-32-global-warming-solutions-act-2006> [<https://perma.cc/7AT2-X8X6>].

The California MRR requires electricity generators, industrial facilities, fuel suppliers, and electricity importers to report GHG emissions annually.⁴ California has collected almost two decades' worth of data on GHG emissions and related industrial activity. In 2011, California promulgated an economy-wide Cap-and-Invest Program (formerly called the Cap-and-Trade Program) that requires most entities subject to the California MRR to cover their emissions by surrendering allowances.⁵

With the adoption of the NY Reporting Rule, New York joins California in requiring large emitters to report, verify, and monitor their GHG emissions. The NY Reporting Rule requires reporting entities to submit first reports by June 1, 2027, for the 2026 emissions year. If applicable, third-party verification statements for 2026 emissions are due by December 1, 2027. Reports are to be submitted annually.

This article identifies which facilities and entities are in scope, compares the NY Reporting Rule to existing regimes, and discusses potential impacts and next steps.

What Facilities and Entities Are in Scope?

The NY Reporting Rule requirements have two categories for in-scope entities, which are determined based on emissions source and degree of emissions in a given year: Reporting Entities and Large Emissions Sources.

Reporting Entities

These include:

- **Owners and operators of a facility⁶ in New York that emits 10,000 metric tons (MT) or more of carbon dioxide equivalent (CO₂e) per year**, such as, but not exclusively, electric generation facilities, stationary combustion facilities, landfills, waste-to-energy facilities, and natural gas compressor stations;

- **Fuel suppliers** that generate any amount of GHG emissions per year and deliver fossil fuel or petroleum products such as natural gas, liquid fuels, petroleum products, and coal to an end user in New York;
- **Waste haulers and transporters** for which the estimated emissions from solid wastes transported to landfills or combustion facilities outside of New York exceed 10,000 MT CO₂e emissions in any year;
- **Electric power entities** that emit any GHG emissions or import megawatt hours into New York;
- **Agricultural lime and fertilizer suppliers** that supply a quantity of agricultural lime and commercial fertilizer necessary to generate any GHG emissions per emission year; and
- **Owners and operators of anaerobic digestion and liquid storage of waste facilities** where wastes imported to, or generated at, the facility would generate 10,000 MT CO₂e per year, such as wastewater treatment plants and concentrated animal feeding operations.

The NY Reporting Rule also provides for several exemptions. For example, retailers of fuel are exempt from the reporting requirements unless the retailer is a “facility” or “fuel supplier” as defined under the rule. Furthermore, the verification obligation does not apply to certain GHG emissions and facilities and certain owners and operators of facilities that are partly dedicated to residential use.

Large Emissions Sources

If a Reporting Entity exceeds a given higher emissions threshold, it will be considered a Large Emissions Source. These include:

- Facilities that emit more than 25,000 MT CO₂e per year;

⁴ The California program borrowed heavily from the U.S. Environmental Protection Agency (EPA) Greenhouse Gas Reporting Program (GHGRP), and the NY Reporting Rule also makes reference to and draws upon the GHGRP. *See* 40 C.F.R. pt. 98.

⁵ *See Cap-and-Invest Program*, CARB, <https://ww2.arb.ca.gov/our-work/programs/cap-and-invest-program> [<https://perma.cc/Z2NA-QDFK>] (last visited July 10, 2026).

⁶ *Express Terms Part 253*, *supra* note 1, at 47 (defining facility broadly to include “any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits, may emit, or may cause to emit any GHG”).

- Suppliers of natural gas, liquefied natural gas, and compressed natural gas that supply more than 15 million cubic feet per year;
- Liquid fuel and petroleum product suppliers that supply more than 100,000 gallons of affected liquid fuels per year;
- Coal suppliers that supply more than 500 US tons of coal per year; and
- Waste haulers and transporters that emit more than 25,000 MT CO₂e per year, including the sum of emissions reported for out-of-state landfill facilities and out-of-state combustion facilities for all waste exported out of New York.

What Are the Key Requirements?

If an entity meets the criteria of a Reporting Entity for a given year, it must report annual GHG data as well as industrial product data relevant to the emissions source, and it must prepare a GHG monitoring plan and retain specified records. Emissions reports are due by June 1 of the given reporting year, with first reports due June 1, 2027, for 2026 data. Each Large Emissions Source must submit its GHG monitoring plan by December 31, 2026, or the first year that it is in scope of the NY Reporting Rule.

In addition, if an entity qualifies as a Large Emissions Source for a given year, it will be required to engage a third-party verifier accredited by DEC to verify the reported emissions and industrial product data. Verification statements are due annually, with first verification statements due December 1, 2027, for 2026 data and December 1, 2028, for 2027 data. Each year thereafter,

verification statements must be submitted by August 10, starting with 2028 data, which will be due in 2029.

Reports are to be submitted via the New York State Greenhouse Gas Reporting Tool (NYS e-GGRT), an electronic reporting platform being developed by DEC.

How Does the NY Reporting Rule Compare to Other Regimes?

California Regime

The NY Reporting Rule appears to mirror the California MRR.⁷ AB 32 established comprehensive, long-term climate-based policies, including the California MRR. AB 32 also initially established the goal of reducing California's GHG emissions to 1990 levels by 2020. Subsequent legislation has ratcheted down the goals, with the most recent target being achievement of carbon neutrality by 2045 or earlier.⁸

The California MRR has been amended several times since its inception, with the most recent amendments becoming effective in April 2019. The California Air Resources Board (CARB) is currently considering Proposed 2026 Amendments to the California MRR.⁹ The California MRR classifies three types of reporting entities: industrial facilities that emit more than 10,000 MT CO₂e per year; suppliers of natural gas, carbon dioxide (CO₂), and transportation fuels; and electric power entities. These entities must report their annual GHG emissions to CARB.¹⁰ According to CARB, the California MRR program captures approximately 80% of the GHG emissions included in California's GHG inventory.¹¹

⁷ See *Mandatory Greenhouse Gas Reporting Regulation*, CARB, <https://ww2.arb.ca.gov/mrr-regulation> [https://perma.cc/2U6N-ZR49] (last visited July 9, 2026).

⁸ California Climate Crisis Act, 2022 Cal Stats. ch. 337 (AB 1279), https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1279 [https://perma.cc/77V3-CK37].

⁹ *Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions*, CARB [hereinafter *California MRR Updates*], <https://ww2.arb.ca.gov/rulemaking/2026/mrr2026> [https://perma.cc/5YFN-L47N] (last reviewed Apr. 28, 2026). On January 20, 2026, CARB posted a notice of public hearing and related materials for the Proposed 2026 Amendments to the California MRR. The deadline to submit public comments was May 6, 2026, or at the public hearing, which took place on May 28, 2026.

¹⁰ See *Mandatory Greenhouse Gas Reporting Regulation*, *supra* note 7. Note that agricultural emissions, high global warming potential gases, emissions from landfills and composting, and select fugitive emissions are not captured under the California MRR.

¹¹ See *Mandatory GHG Reporting - Reported Emissions*, CARB, <https://ww2.arb.ca.gov/mrr-data> [https://perma.cc/HGV9-QHH9] (last visited July 9, 2026).

Each year, CARB prepares a public summary of GHG emissions data reported under the California MRR.¹²

While there are minor differences between the NY Reporting Rule and the California MRR—such as differences in third-party verification requirements—the rules are similar in many ways. Namely, both programs focus on transparency rather than mandate emissions reductions. However, these reporting requirements may help inform other state policies designed to address climate change and GHG emissions.

For example, the California MRR is a key component of the state's Cap-and-Invest Program, a market-based system that is designed to reduce the state's GHG emissions.¹³ Under the Cap-and-Invest Program, CARB has set a declining cap on statewide emissions. Based on this cap, CARB generates a number of carbon credits—each representing 1 metric ton of CO₂e—and entities acquire a certain number of tradable credits, or allowances. These credits determine how much CO₂e an entity may emit.¹⁴ Entities that emit 25,000 MT or more of CO₂e per year are subject to the Cap-and-Invest Program. Accordingly, the data reported under the California MRR is used for compliance within the Cap-and-Invest Program.

The NY Reporting Rule is similarly intended to gather information in order to inform future programs in support of the Climate Leadership and Community Protection Act (CLCPA).¹⁵ For example, the rule may help lay the necessary groundwork for a cap-and-invest program, similar to the strategy used by California.

Federal Government Regime

The federal government is prioritizing deregulation, particularly as it relates to GHG regulations and climate change-related programs. On September 12, 2025, the U.S. Environmental Protection Agency (EPA) announced a proposed rule to end the Greenhouse Gas Reporting Program (GHGRP).¹⁶ EPA claims that ending the GHGRP will save up to \$2.4 billion in regulatory costs over a 10-year period, while satisfying the agency's statutory obligations under the Clean Air Act (CAA).¹⁷

The proposal seeks to permanently remove program obligations for 46 of the 47 industries (also called “source categories”) currently required under the GHGRP to measure and report their GHG emissions to EPA. If adopted, the final language of the proposal will take effect 60 days after its publication in the Federal Register, and previously subject entities would no longer be required to report starting in 2026. The proposal is likely to face legal challenges, including to EPA's authority under the CAA to rescind the program.

Should the proposed changes to the GHGRP enter into effect, the NY Reporting Rule and California MRR may function to fill the gap left by the federal reporting requirements. DEC may also issue clarification as the NY Reporting Rule includes numerous references to the GHGRP.

¹² *Mandatory GHG Reporting - Reported Emissions*, *supra* note 11.

¹³ See *Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation*, CARB [hereinafter *California Cap-and-Invest Updates*], <https://ww2.arb.ca.gov/rulemaking/2026/cap-and-invest2026> [https://perma.cc/4CGM-NA96] (last reviewed June 10, 2026); Press Release, CARB, CARB Adopts Updates to California's Cap-and-Invest Program to Support Affordability and Align with Climate Goals (May 29, 2026), <https://ww2.arb.ca.gov/news/carb-adopts-updates-californias-cap-and-invest-program-support-affordability-and-align-climate> [https://perma.cc/UNY6-V3M3]. In addition to considering changes to the California MRR, CARB has recently adopted amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation. On January 20, 2026, CARB posted a notice of public hearing and related materials for the Proposed 2026 Amendments. The deadline to submit public comments was March 9, 2026, or at the public hearing, which took place on May 28, 2026. The amendments were approved by CARB on May 29, 2026, and are effective September 1, 2026.

¹⁴ *California Cap-and-Invest Updates*, *supra* note 13. The Cap-and-Invest Program also uses offsets, a tradable compliance instrument that represents a GHG reduction or GHG removal enhancement of 1 metric ton of CO₂e.

¹⁵ See Climate Leadership and Community Protection Act, 2019 N.Y. Laws 106 (S6599), <https://www.nysenate.gov/legislation/bills/2019/S6599>. On May 26, 2026, New York State amended the CLCPA via the 2026-2027 budget, pushing back the state's GHG emissions targets and deadlines and including an extension until December 31, 2028 for DEC to issue regulations for achieving required GHG emissions reduction targets. 2026 N.Y. Laws 58 pt. VV (A10008/S09008), https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A10008&term=2025&Summary=Y&Actions=Y&Text=Y#jump_to_Text [https://perma.cc/47KQ-CWE5].

¹⁶ News Release, EPA, EPA Releases Proposal to End the Burdensome, Costly Greenhouse Gas Reporting Program, Saving up to \$2.4 Billion (Sep. 12, 2025), <https://www.epa.gov/newsreleases/epa-releases-proposal-end-burdensome-costly-greenhouse-gas-reporting-program-saving-24> [https://perma.cc/6KLM-M2WN]; see also Reconsideration of the Greenhouse Gas Reporting Program, 90 Fed. Reg. 44,591 (Sep. 16, 2025) (to be codified at 40 C.F.R. pt. 98), <https://www.govinfo.gov/app/details/FR-2025-09-16/2025-17923> [https://perma.cc/JBK7-W5J3].

¹⁷ EPA, *Fact Sheet—Proposed Rule: Reconsideration of the Greenhouse Gas Reporting Program* (Sep. 2025), <https://www.epa.gov/system/files/documents/2025-09/reconsideration-of-ghgrp-proposal-fact-sheet.pdf> [https://perma.cc/8SJE-LQNF].

Comparison of GHG Reporting Programs by Jurisdiction			
	Federal	New York	California ¹⁸
Name of law	Greenhouse Gas Reporting Program	NYCRR Part 253, Mandatory Greenhouse Gas Reporting	California Global Warming Solutions Act of 2006 (AB 32), Regulation for the Mandatory Reporting of Greenhouse Gas Emissions
Scoping criteria	Facilities and suppliers are generally required to submit annual reports under Part 98 if (i) GHG emissions from covered sources exceed 25,000 MT CO ₂ e per year; (ii) supply of certain products would result in over 25,000 MT CO ₂ e of GHG emissions if those products were released, combusted, or oxidized; or (iii) the facility receives 25,000 MT or more of CO ₂ for underground injection.	The NY Reporting Rule applicability is determined based on an entity's emissions source and degree of emissions in a given year.	The California MRR requires annual reporting of GHGs by industrial sources that emit more than 10,000 MT CO ₂ e, transportation and natural gas fuel suppliers, and electric power entities (both in-state generators and certain importers). Abbreviated reporting is permitted for entities that emit between 10,000 and 25,000 MT CO ₂ e, so long as they are not a fuel supplier or electric power entity, not subject to a cap-and-trade program, and not subject to GHGRP reporting for sectors included in CARB regulation.
Regular disclosure requirements	Annual GHG emissions data	Annual GHG emissions data; Specific industrial product data	Annual GHG emissions data; Specific industrial product data
Verification requirement	Reporters are required to self-certify the data they submit to EPA. EPA verifies the data submitted. EPA does not require third-party verification.	Verification is required, but only for entities that meet the higher Large Emissions Source thresholds for the given industry.	Verification is required for reporting entities that submit an emissions data report that indicates emissions equaled or exceeded 25,000 MT CO ₂ e, electric power entities that are electricity importers or exporters, certain specified facilities, or each reporting entity that has or has had a compliance obligation under the cap-and-trade regulation in any year of the current compliance period. An abbreviated emissions data report is not subject to the third-party verification requirements.
Due date of first report	Not applicable	The first report is due on June 1, 2027, for 2026 data, and subsequent reports are due annually thereafter.	Not applicable

¹⁸ See *California MRR Updates*, *supra* note 9; *California Cap-and-Invest Updates*, *supra* note 13. Note that while CARB is currently considering amendments to the California MRR and has recently adopted updates to the California Cap-and-Invest Program, this chart discusses the rules in effect as of February 9, 2026.

Comparison of GHG Reporting Programs by Jurisdiction			
	Federal	New York	California¹⁸
Due date for verification	Self-certification is required upon submittal.	The due date for verification is December 1, 2027, for 2026 data, and December 1, 2028, for 2027 data. Starting in 2029, the verification is due by August 10, for the prior year's data, and annually thereafter.	The due date for verification is August 10 each year, for the previous year's data.
Where reporting must be placed, filed, and posted	Greenhouse Gas Reporting Tool (e-GGRT), an electronic reporting tool	New York State Greenhouse Gas Reporting Tool (NYS e-GGRT), an electronic reporting tool	California Electronic Greenhouse Gas Reporting Tool (Cal e-GGRT), an electronic reporting tool
Due date for ongoing reporting	Annual reports covering emissions from the prior calendar year are due by March 31 of each year.	Reports are due annually by June 1.	The reporting deadline for facilities and suppliers of fuels and CO ₂ , except when subject to abbreviated reporting, is April 10 each year. The reporting deadline for submitting electric power entity reports and for those subject to abbreviated reporting is June 1 each year.
Effective date	The rule was published in October 2009 and took effect in January 2010.	The final rule became effective on December 25, 2025.	The California MRR was originally approved in 2007 and revised in 2010, 2012, 2013, and 2014. Amendments to the California MRR were approved by the Office of Administrative Law on March 29, 2019, and became effective on April 1, 2019. CARB is currently considering further amendments to the California MRR. On January 20, 2026, CARB posted a notice of public hearing and related materials for the Proposed 2026 Amendments to the California MRR. The public hearing took place on May 28, 2026.

Potential Impacts and Next Steps

Entities are required to begin collecting their GHG emissions data starting in January 2026. As an initial step, entities should review the NY Reporting Rule to confirm whether it applies to their business and, if so, whether they qualify for any of the exemptions. Reporting Entities will need to prepare a GHG monitoring plan and familiarize themselves with the NYS e-GGRT reporting tool.

The NY Reporting Rule obligations may require the dedication of significant time and resources for Reporting Entities, particularly those that do not yet have established internal processes for tracking GHG emissions or that need to engage consultants for support with compliance. By contrast, Reporting Entities that are already subject to the California MRR and the GHGRP, or entities that track GHG emissions under other voluntary or mandatory frameworks, are less likely to be burdened by the NY Reporting Rule requirements.

DEC stated that questions on the new requirements can be submitted in writing to DAR.253MRR@dec.ny.gov or DEC Division of Air Resources, 625 Broadway, Albany, NY 12233. Additionally, DEC has developed a GHG Estimation Tool to assist fuel suppliers with approximating whether they may be in scope.¹⁹

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This article was prepared with the assistance of law clerk Sruthi Sathya.

LEGAL DEVELOPMENTS

ENERGY

State and Federal Courts Rejected Challenges to Approvals for South Fork Wind Farm

In a summary order, the Second Circuit Court of Appeals affirmed the dismissal of a pro se plaintiff's action challenging federal approval of the South Fork Wind Farm off the coast of Long Island. The Second Circuit agreed with the district court that the plaintiff lacked standing for his claims against federal defendants because his alleged environmental harms were related to installation of shore transmission cables and associated infrastructure that was outside federal jurisdiction. The plaintiff also alleged that he paid higher utility rates but did not explain how the federal defendants' approval caused the higher rates. The causation element of standing therefore was lacking. The Second Circuit rejected the plaintiff's argument that the district court overlooked Second Circuit precedent stating that there is standing if a defendant's actions had "a determinative or coercive effect" on a third party that directly caused the plaintiff's claimed injury.

¹⁹ Mandatory Greenhouse Gas Reporting: GHG Estimation Tool, DEC, <https://dec.ny.gov/environmental-protection/air-quality/mandatory-greenhouse-gas-reporting> [<https://perma.cc/3SWC-MYUY>] (last modified Dec. 1, 2025).

The Second Circuit found that the federal defendants “did not have a sufficiently ‘determinative or coercive effect’ on the state and local decisions about the onshore transmission infrastructure and rate agreement.” The Second Circuit also agreed with the district court that the plaintiff did not state a fraud claim against the wind farm’s developer. The court found that the plaintiff failed to allege that he relied on statements the developer made in federal regulatory filings. In addition, the court found that the district court did not abuse its discretion in denying reconsideration and that the district court properly denied leave to amend as futile. *Kinsella v. South Fork Wind, LLC*, 2026 U.S. App. LEXIS 9554 (2d Cir. Apr. 2, 2026). [Editor’s Note: This case was previously covered in the December 2024 and April 2025 issues of *Environmental Law in New York*.]

In a proceeding brought by the same individual challenging the certificate of environmental compatibility and public need approved by the New York State Public Service Commission for the construction and operation of the submarine export cable in connection with the South Fork Wind Farm, the Appellate Division, Second Department dismissed the proceeding for failure to join the developer as a necessary party to the proceeding. The Second Department found that the petitioner failed to timely join the developer within the 30-day statute of limitations under Public Service Law § 128. *Matter of Kinsella v. New York State Public Service Commission*, 248 A.D.3d 1250 (2d Dept. 2026).

FREEDOM OF INFORMATION

Appellate Division Said Not-for-Profit that Manages Programs to Protect New York City Watershed Was Not “Agency” Subject to FOIL

The Appellate Division, Third Department concluded that the Supreme Court, Delaware County properly found that Watershed Agricultural Council of the New York City Watersheds, Inc. (Council) is not an “agency” subject to New York’s Freedom of Information Law (FOIL). The Council is a not-for-profit environmental corporation that contracts with the New York City Department of Environmental Protection (DEP) to manage the incentives program for farm and forest landowners in the New York City watershed to participate in programs to reduce water contamination. A farm owner requested documents from the Council under FOIL and the Council’s transparency policy and filed this lawsuit after the Council responded that it was not subject to FOIL and indicated it would produce documents pursuant to the transparency policy upon receipt of a payment of \$2,600 to compensate the Council for the time required to prepare the response. The Third Department found that the “totality” of the evidence “weighs heavily in favor of the conclusion that [the Council] is not an agency within the meaning of FOIL.” The court noted that the Council’s board of directors included only one DEP representative and that the Council performs its work for DEP on a fee-for-service basis, retains control over areas such as hiring and budgeting, must maintain its own insurance policies on behalf of its employees, and does not have space in a DEP

building or provide governmental benefits to its employees. The court concluded that the Council’s performance of a “government function” on a fee-for-service basis did not render it an agency. In addition, the Third Department found that the fact that funds from the DEP contract account for 95% of the Council’s revenues did not render it an agency. The Third Department also stated that it was “well settled” that the court was not bound by a 2009 Committee on Open Government advisory opinion that the respondent was an agency subject to FOIL. The Third Department further concluded that the Supreme Court properly denied the farm owner’s alternative request for discovery. The court found that the farm owner “failed to demonstrate a sound basis for the disclosure sought beyond speculation and conjecture that it might disclose that DEP exercised some degree of control over the quality of respondent’s contract performance.” *Ryan v. Watershed Agricultural Council of the New York City Watersheds, Inc.*, 2026 N.Y. App. Div. LEXIS 4042 (3d Dept. June 18, 2026).

HAZARDOUS SUBSTANCES

Federal District Court Dismissed Village of Endicott Claims to Recover Costs Related to Water Supply Well Within Superfund Site but Allowed Claims Concerning Other Wells to Proceed

The federal district court for the Southern District of New York granted in part and denied in part International Business Machines Corporation’s (IBM’s) motion to dismiss claims brought by the Village of Endicott under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA) and state law in connection with IBM’s alleged contamination of groundwater and three municipal water supply wells with hazardous substances, including 1,4-dioxane and per- and polyfluoroalkyl substances (PFAS). The Village alleged that IBM’s operations at its industrial and manufacturing campus resulted in the release of hazardous substances into the environment through spills, leaks, and improper disposal practices. The court concluded that the Village could not pursue cost recovery claims under CERCLA § 107(a) for costs associated with one of the wells (Well 32) because the well was part of the Endicott Village Well Field Superfund Site designated by the U.S. Environmental Protection Agency (EPA) in 1986 and the Village had entered into settlements with EPA concerning liability for the site, which included the Village landfill. The Village therefore was limited to pursuing contribution under CERCLA § 113(f)(3)(B) for costs associated with the well. The court rejected the Village’s argument that the removal costs associated with 1,4-dioxane and PFAS were not related to the Superfund site. The court further concluded that claims for costs related to Well 32 were barred by CERCLA § 122(e)(6), which bars potentially responsible parties from undertaking remedial action at facilities where EPA has initiated a remedial investigation and feasibility study unless EPA has authorized the remedial action. The court rejected the Village’s argument that its costs were associated with a “removal” action rather than a “remedial” action, finding that

the Village's claims were related to actions that were "long-term and remedial in nature because they seek permanent solutions" and were therefore subject to Section 122(e)(6)'s bar. The court also concluded that the Village lacked standing with its claims related to Well 32 because the court could not redress the alleged injury in the absence of EPA authorization. However, because the record was insufficient to conclude that the other two wells (Wells 5 and 28) fell within the Superfund site, the court concluded that the Village's claims related to these wells could proceed under CERCLA § 107(a) and were not barred by CERCLA § 122(e)(6). In addition, the court found that dismissal on statute of limitations grounds at this stage was not warranted and that the Village's allegations were sufficient to state a claim under Section 107(a). The court also allowed the Village to proceed with negligence, public nuisance, and trespass claims concerning Wells 5 and 28 but found that the state law claims were preempted by CERCLA § 122(e)(6) to the extent they related to Well 32. The court also dismissed a failure-to-warn claim as duplicative of the negligence claim. The court declined at this time to dismiss the Village's claims on the grounds that the Village sought double recovery for damages already addressed in a \$13 billion class action settlement in multidistrict litigation with a different defendant. The court said discovery was required to determine what damages the Village received from the settlement and whether Wells 5 and 28 were connected to Well 32 and covered by the settlement. *Village of Endicott v. International Business Machines Corp.*, 2026 U.S. Dist. LEXIS 103018 (S.D.N.Y. May 6, 2026).

HISTORIC PRESERVATION

Appellate Division Upheld Southampton Village Board's Disapproval of As-Built Modifications to Tudor Revival-Style Home's Exterior

The Appellate Division, Second Department affirmed the dismissal of an Article 78 proceeding challenging the Incorporated Village of Southampton Board of Architectural Review and Historic Preservation's 2022 determination denying approval for modifications to the exterior of a Tudor Revival-style home. The Board previously approved architectural plans for the renovation, at which time the petitioners agreed to forgo installation of a standing seam metal roof, black window trim, and a second-story balcony. The petitioners subsequently altered the exterior to include those features and filed a second application for approval of the as-built modifications. The Board's 2022 determination denied the second application. The Second Department concluded that the Board's determination was not arbitrary and capricious, finding that the Board "considered various objective factors including, among other things, the historic Tudor Revival-style of the premises and did not base its determination solely upon subjective factors, such as community opposition." In addition, the Second Department found that the petitioners did not establish the existence of prior Board determinations "with sufficient factual similarity to their application so as to warrant an explanation from the Board for its alleged departure from its prior precedent."

Matter of Falcao v. Incorporated Village of Southampton Board of Architectural Review & Historic Preservation, 2026 N.Y. App. Div. LEXIS 3373 (2d Dept. May 20, 2026).

LAND USE

Appellate Division Said "Clubhouse" Could Not Include Dwellings

The Appellate Division, Second Department affirmed the dismissal of a lawsuit challenging the denial of a special use permit for construction of a four-story clubhouse in the Village of Nyack for use by a "domestic fraternal society/club." The proposed clubhouse included four two-story dwelling units. The Village's Zoning Board of Appeals affirmed the Chief Building Inspector's denial of the application based on the inspector's determination that under the Local Zoning and Planning Law (the Code), "a clubhouse shall not include dwellings or sleeping units." Because the Code did not define "clubhouse," the Second Department followed the Code's directive to consult instead the latest edition of Webster's Collegiate Dictionary, which defined clubhouse as (1) "a house occupied by a club or used for club activities," (2) "locker rooms used by an athletic team," or (3) "a building at a golf course typically housing a locker room, pro shop, and restaurant." The Second Department rejected the petitioners' contention that the word "house" in the first definition suggested that a clubhouse may be used for living/sleeping purposes, finding that "the more reasonable construction" of "house" was "that of a building where people gather for a specified kind of activity." The Second Department found that this interpretation was in keeping with the Code, which in two-family residential districts characterized clubhouses as "Public and Institutional" uses. The Second Department also agreed with the Supreme Court that the petitioners failed to state causes of action under the Fair Housing Act because their assertion of discriminatory conduct was "not supported by the requisite factual allegations indicative of disparate impact or disparate treatment." *Matter of Casa Lajas, LLC v. Village of Nyack*, 2026 N.Y. App. Div. LEXIS 3993 (2d Dept. June 17, 2026).

Appellate Division Agreed that Open Meetings Law Challenge to Village Lease for Wireless Facility Was Time-Barred

The Appellate Division, Second Department agreed with the Supreme Court, Nassau County that an Open Meetings Law challenge to the Incorporated Village of Muttontown's lease with New Cingular Wireless PCS, LLC for installation of a wireless facility on Village-owned land was time-barred. Two residents alleged that the lease was void because the Village Board of Trustees held secret Tuesday evening meetings at which competing proposals were discussed and that the lease was approved at one of these meetings before the December 2020 public vote. The Second Department found that because the challenge could have been brought as an Article 78 proceeding, the four-month

statute of limitations applied even though the plaintiffs brought the challenge as an action seeking declaratory and injunctive relief. The court further found that the defendants met their initial burden of demonstrating that the suit was not commenced within four months of the municipal determination becoming final and binding. The court also found that the defendants demonstrated that no meetings attended by a quorum of the Board occurred prior to December 2020. The court found that the plaintiffs failed to raise a triable issue of fact in opposition or to support their argument that because the alleged secret meetings constituted executive sessions, the limitations period had not yet begun to run under the Open Meetings Law's provision that the limitations period begins to run "from the date the minutes of [an] executive session have been made available to the public." *McRory v. Incorporated Village of Muttontown*, 2026 N.Y. App. Div. LEXIS 3852 (2d Dept. June 10, 2026).

OIL SPILLS AND STORAGE

Appellate Division Found that Defendant Raised a Triable Issue of Fact as to Homeowners' Culpable Conduct in Oil Spill Case

The Appellate Division, Second Department affirmed the Supreme Court, Suffolk County's denial of summary judgment to homeowner plaintiffs in an action under Navigation Law § 181 to recover damages resulting from the defendant's delivery of fuel oil to their residence. The plaintiffs had converted their residence from oil home heating to natural gas home heating. The oil tank, but not the fill pipe, had been removed, and the defendant pumped oil through the pipe into the plaintiffs' basement. The Second Department found that the defendant raised a triable issue of fact as to whether the plaintiff contributed to the spill by demonstrating that the plaintiffs failed to remove the fill pipe or fill it with concrete. The Second Department therefore found that the Supreme Court properly denied the plaintiffs' motion for summary judgment on the issue of liability and declined to dismiss the defendant's affirmative defense alleging culpable conduct. The Second Department further found, however, that the Supreme Court should have dismissed the defendant's affirmative defense alleging assumption of risk because the defense was inapplicable in this case's circumstances. The Second Department further found that the plaintiffs' evidence regarding their "diligent efforts" to mitigate damages, including by reporting the spill and undertaking professional mitigation, established prima facie entitlement to judgment as a matter of law dismissing the defendant's affirmative defense alleging a failure to mitigate damages and that the defendant failed to raise a triable issue of fact in response. The Second Department declined the defendant's request that it search the record and award it summary judgment. *Sidoruk v. Ben Oil Co.*, 249 A.D.3d 1210, 256 N.Y.S.3d 743 (2d Dept. 2026).

SEQRA/NEPA

State Supreme Court Rejected Challenge to Conversion of Homeless Housing Facility to Citywide Intake Center for Homeless Adult Men; Said Project Constituted Type II Action

The Supreme Court, New York County dismissed an Article 78 proceeding challenging the conversion of a facility in the East Village in lower Manhattan from a 175-bed transitional residential housing facility for homeless men to a citywide intake center for adult men. Citing past judicial decisions, the court found that neither the change in use nor the renovations undertaken by the New York City Department of Homeless Services (DHS) were substantial enough to constitute a "site selection" that triggered Uniform Land Use Review Procedure (ULURP) review. The court also agreed with the City respondents that the proposed change constituted a Type II action not subject to review under the State Environmental Quality Review Act and City Environmental Quality Review. The court found that the proposed change in use constituted "routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment," 6 N.Y.C.R.R. § 617.5(c)(26). The court concluded that this Type II designation was proper, given that DHS "regularly shifts populations and services within its existing shelter facilities." The court further found that the renovation and construction at the facility constituted "replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site," 6 N.Y.C.R.R. § 617.5(c)(2). The court noted that it was "well settled" that "exact replication" was not required for this Type II category to apply. In addition, the court agreed with the City respondents that no Fair Share analysis was required because the intake center did not constitute a substantial change in use, a discontinuance of the property's use, or a reduction in the facility's capacity to deliver service on site. The court also found that although the City respondents did not explain why they chose to relocate the intake center to the East Village site as opposed to other premises, the petitioners presented no legal authority to show such analysis was required. Because the respondents provided a rational explanation for the decision to relocate the intake center to the East Village facility, the court found the determination was not arbitrary and capricious. *V.O.I.C.E. v. City of New York*, 2026 N.Y. Misc. LEXIS 7595 (Sup. Ct. New York County June 10, 2026).

TOXIC TORTS

Appellate Division Rejected Town of Brookhaven's Attempt to Dismiss Personal Injury Claims Related to Landfill Pollution

The Appellate Division, Second Department held that CERCLA § 309 (42 U.S.C. § 9658) preempted New York State's limitations

period in CPLR 214-c for toxic tort actions based on exposure to hazardous substances. The appellate court therefore affirmed the denial of the Town of Brookhaven's motion to dismiss as time-barred claims brought by current or former employees and students of an intermediate school located approximately one mile from the Brookhaven Landfill as well as current or former residents of communities surrounding the Landfill who alleged that their exposure to toxic and noxious substances and odors emanating from the Landfill caused them to develop cancers and other medical conditions. The majority of the plaintiffs alleged that their state law causes of action—negligence, wrongful death, private nuisance, trespass, and strict liability—arose on July 6, 2018, when the New York State Department of Health (DOH) announced a cancer research initiative to study “cancer clusters” near environmental facilities. The Town argued that the plaintiffs’ claims were time-barred pursuant to CPLR 214-c, which permits plaintiffs in toxic tort cases to commence actions within one year of the date of discovery of the cause of the alleged injury, where discovery of the cause of the injury occurs no later than five years after discovery of the injury and plaintiffs can prove that “technical, scientific or medical knowledge and information to ascertain the cause of [the] injury had not been discovered, identified or determined prior to the expiration of the period within which the action or claim would have been authorized.” CERCLA § 309 creates a discovery rule that provides that in an action under state law for personal injury or property damages caused by a hazardous substance released from a facility, if the commencement date for a state statute of limitations is earlier than the “federally required commencement date,” the limitations period shall commence on the federally required commencement date rather than the date specified in state law. The federally required commencement date is the date a plaintiff “knew (or reasonably should have known)” the cause of the alleged personal injury or property damage. The Second Department rejected the Town of Brookhaven’s argument that CERCLA § 309 did not preempt the state provision because the Landfill was not a Superfund site within CERCLA’s purview. After noting that federal courts had reached “contradictory conclusions” on this question, the Second Department concluded that CERCLA § 309’s plain language evidenced Congress’s intent for the provision to apply in state actions “regardless of whether the environmental hazard at issue might otherwise be actionable under CERCLA.” The Second Department therefore held that CERCLA § 309 allowed plaintiffs to bring suit within one year of the discovery of the cause of any injury even if more than five years had elapsed since discovery of the injury. The Second Department further found that Brookhaven failed to establish that plaintiffs knew or reasonably should have known that the Landfill was the cause of their injuries more than one year before the action was commenced on April 3, 2019. The court concluded that although there was “a history of public suspicion regarding harm caused by the Landfill,” investigations by DOH and others “repeatedly and consistently concluded that emissions from the Landfill ... posed no threat, or were otherwise unable to connect the emissions to the plaintiffs’ injuries.” The Second Department also rejected the Town’s contentions that the complaint should be dismissed because the plaintiffs’ notices of claim did not comply

with General Municipal Law § 50-e(2) or because the complaint failed to state causes of action for trespass, private nuisance, or strict liability. *Klaus v. Town of Brookhaven*, 2026 N.Y. App. Div. LEXIS 3863 (2d Dept. June 10, 2026).

Appellate Division Affirmed Order Limiting Admissibility of Expert Testimony Linking Mold Exposure to Injuries

In a personal injury action in which the plaintiff alleged that her exposure to mold in a home leased from the defendants caused several injuries, the Appellate Division, Second Department affirmed an order of the Supreme Court, Orange County precluding proposed expert testimony regarding medical causation except as to minor respiratory ailments. The plaintiff alleged that her exposure to mold resulted in respiratory ailments, and also invasive fungal infections, neurological symptoms, and immunosuppression. The Second Department found that the record supported the Supreme Court’s determination that the plaintiff failed to establish that the expert’s testimony met the standard of *Frye v. United States*, which provides that “expert testimony based on scientific principles or procedures is admissible but only after a principle or procedure has gained general acceptance in its specified field.” The Second Department noted that the defendants’ expert relied on a 2006 position paper of the American Academy of Allergy, Asthma and Immunology that “directly challenges the plaintiff’s expert’s theory of causation” and asserts that mold-related toxicity from inhalation of toxic mold products is not supported by the data, that mold can cause irritant respiratory reactions, and that mold exposure does not cause immune dysregulation. The Second Department found that the scientific literature and testimony proffered by the plaintiff’s expert were insufficient to demonstrate that the plaintiff’s theory of general causation had gained general acceptance in the scientific community. The Second Department further found that the plaintiff did not establish that her expert’s method for establishing specific causation satisfied *Frye*. The Second Department noted that the expert “did not and could not quantify the plaintiff’s exposure to mold or mycotoxins” and further found that the expert’s differential diagnosis did not use accepted methods of diagnosing mold-related illness. *Liese v. Hennessey*, 2026 N.Y. App. Div. LEXIS 3368 (2d Dept. May 20, 2026).

WATERS

Appellate Division Ruled that New York City Department of Environmental Protection Failed to Comply with Sewage Pollution Public Notification Requirements

The Appellate Division, Second Department affirmed an order of the Supreme Court, Queens County granting Riverkeeper and other petitioners’ request for mandamus compelling the New York City Department of Environmental Protection (DEP) to promptly notify the public of discharges of untreated and partially untreated

sewage in compliance with the Sewage Pollution Right to Know Act (SPRTKA). The Second Department also remitted the case to the Supreme Court for entry of an amended judgment declaring (1) that DEP's "past failures to sufficiently notify the public of sewage discharges on a waterbody or individual combined sewer overflow event [(CSO)] basis" was in violation of the SPRTKA and (2) that DEP's water quality advisories in their current form did not comply with the SPRTKA. The court noted that mandamus was an "extraordinary remedy" but found that the petitioners established a "clear legal right" to mandamus by demonstrating that DEP had a "nondiscretionary legal duty" to provide notifications under the SPRTKA and DEC's implementing regulations and by submitting evidence that established that DEP failed to provide the required notifications on at least one occasion in 2019. In particular, the petitioners provided evidence of 20 dates in 2019 on which enough rain fell to trigger a CSO event but where DEP did not release an "NY Alert"; the petitioners also submitted a copy of an NY Alert that did not include required information about the location of the impacted area and an estimate of the rate of discharge. Regarding the declaratory judgment, the court found that the Supreme Court appropriately reached the merits of the cause of action, that the petitioners established prima facie that DEP failed to comply with the SPRTKA and implementing regulations, and that DEP failed to establish in opposition either that it was in compliance or to raise a triable issue of fact regarding its compliance. The court further found that DEP failed to demonstrate that compliance through use of telemetered CSOs was not possible or would impose a financial burden such that implementation could not be accomplished. *Matter of Riverkeeper, Inc. v. New York City Department of Environmental Protection*, 2026 N.Y. App. Div. LEXIS 3602 (2d Dept. June 3, 2026). [Editor's Note: This proceeding was previously covered in the February 2024 issue of *Environmental Law in New York*.]

Appellate Division Ruled that DEC Should Apply More Deferential Review Standard to New York City Water Board's Rates for Sale of "Excess Water" to Upstate Communities

The Appellate Division, Third Department reversed a Supreme Court decision that declared that DEC should employ a "fair and reasonable" standard in adjudicating challenges by upstate municipalities and water districts to rates set by the New York City Water Board for the upstate communities' withdrawals of "excess water" from the New York City water supply system beyond the amounts to which the communities are statutorily entitled. The New York City Administrative Code requires that "entitlement water" be sold at a fair and reasonable rate pursuant to a set formula but does not provide a formula for the Water Board's voluntary sale of "excess water." The Third Department concluded that the proper standard for DEC to apply when reviewing rates for excess water is one articulated by the New York Court of Appeals in *Matter of Prometheus Realty Corp. v. New York City Water Board* (2017) and *Carey Transportation v. Triborough Bridge & Tunnel Authority* (1976): that the Water Board has "unfettered discretion to fix rates as it will so long as invidious illicit discriminations

are not practiced and differentials are not utterly arbitrary and unsupported by economic or public policy goals as it reasonably conceives them." The Third Department found that the Supreme Court's reliance on Environmental Conservation Law standards for DEC's permit-granting function was misplaced because those provisions addressed a context in which one water system is entitled to water from another and where "fairness is paramount." The Third Department also stated that it did not share the Supreme Court's apprehension regarding DEC deference to the Water Board, noting that the Water Board has its own statutory mandates under the Public Authorities Law that include both conservation of the water supply as well as other economic and public policy concerns. The Third Department found that requiring DEC to substitute its own judgment on these latter issues "would obligate DEC to act outside the scope of its conservation mandate." *Matter of City of Yonkers v. New York State Department of Environmental Conservation*, 248 A.D.3d 1612 (3d Dept. 2026). [Editor's Note: This proceeding was previously covered in the November 2024 issue of *Environmental Law in New York*.]

Appellate Division Rejected Town of Carmel's Challenge to Rates Set by New York City Water Board

The Appellate Division, Second Department ruled in favor of the New York City Water Board in the Town of Carmel's lawsuit challenging rate increases adopted in 2023 for water drawn by the Town in fiscal year 2024 from Lake Gleneida, a natural body of water owned by the City of New York. The Second Department concluded that for the Town's Article 78 claims challenging the Water Board's general authority to set rates and seeking an order directing the Water Board to apply a credit to the Town for water treated and subsequently returned to the New York City water supply, there was no "definitive position" taken by the Water Board that would be subject to Article 78 review and the claims should be dismissed. In the interest of judicial economy, however, the Second Department addressed the Town's ripe claim for declaratory relief regarding whether the Water Board's setting of rates for excess water consumption contravened an established statutory scheme. The Town argued that under Environmental Conservation Law § 15-1521—which applies to applications "for a new or increased withdrawal of water for a public water supply system"—the New York State Public Service Commission and not the Water Board had authority to set excess rates. The Second Department disagreed, finding that the Water Board's setting of rates for excess water did not involve an application covered by the Environmental Conservation Law but instead involved an existing agreement to withdraw water from City-owned sources. The Second Department noted that it was well-settled that pursuant to Public Authorities Law § 1045-j, the Water Board retained authority to set rates for non-City users, subject to DEC review. The Second Department further found that the Supreme Court properly dismissed the Town's claim that the Water Board failed to set a "separate, fair and reasonable rate" and challenges to the fairness of other water rates because the Town failed to exhaust its administrative remedies, including by administratively

appealing the Water Board's determinations to DEC. The Second Department also found that the Town lacked standing for its cause of action alleging that the Water Board failed to comply with the State Environmental Quality Review Act (SEQRA). The court found that the Town only alleged economic harm, which was insufficient to confer standing for the SEQRA claim. *Matter of Town of Carmel v. New York City Water Board*, 2026 N.Y. App. Div. LEXIS 3850 (2d Dept. June 10, 2026).

NEW YORK NEWSNOTES

State Law Extended Availability of New York City Green Roof Tax Abatement Through June 2031

On June 26, 2026, Governor Kathy Hochul signed a bill extending a tax abatement for green roofs in New York City. The law (Chapter 153) extended the availability of the tax abatement through June 30, 2031. Previously the availability of the abatement was scheduled to expire after June 30, 2027. The memorandum in support of the extension cited the benefits of green roofs, including retention of stormwater runoff, air quality improvement, reduction of greenhouse gas emissions, mitigation of the urban heat island effect, and increased biodiversity. The law provides for an abatement of \$10 per square foot of a green roof, but an enhanced abatement of \$15 per square foot is available for green roofs at a property within specifically designated New York City priority community districts. To determine which community districts qualify for the enhanced abatement, the City evaluates districts based on the Department of Health and Mental Hygiene's Heat Vulnerability Index and also considers the extent to which a community district's land area is within a Combined Sewer Overflow (CSO) Priority Area designated by DEP. The City's rules are codified at 43 R.C.N.Y. Chapter 18. The total amount of a green roof tax abatement may not exceed \$200,000. If the tax abatement exceeds the tax liability in a given tax year, the remaining amount may be applied to the tax liability in succeeding tax years. The maximum amount available for such abatements is \$4 million. An application must be filed with the New York City Department of Buildings to obtain the tax abatement. Under the amended law, the deadline for filing an application is March 15, 2030. The green roof tax abatement law is codified at Real Property Tax Law §§ 499-aaa to 499-ccc.

Governor Hochul Signed Three-Year Extension for Recreational Spearfishing

On June 26, 2026, Governor Hochul signed legislation authorizing recreational spearfishing in New York's marine and coastal waters to continue until June 1, 2029. Previously the law authorizing recreational fishing with spears and spearguns was scheduled to expire on June 1, 2026. The law was originally enacted in 2014. The bill places restrictions on the use of

spearguns, including that they must be submerged when used to take fish and that they "may only release that amount of energy that the diver has provided ... from such diver's own muscles" (though they may use temporary energy-storing devices such as rubber bands, springs, and sealed air chambers). In addition, spears and spearguns may not be used to take food fish within 100 yards of a public bathing area. The marine and coastal district in which recreational spearfishing is authorized includes the waters of the Atlantic Ocean within three nautical miles from the coast line and all other tidal waters within the state, including the Hudson River up to the Governor Mario M. Cuomo (formerly Tappan Zee) Bridge. The 2014 law is codified in Environmental Conservation Law §§ 11-0103 and 11-1301.

Minor Repair Program for Damaged Pesticide Containers Extended to 2028

On June 26, 2026, Governor Hochul signed a law (Chapter 139) extending New York's "minor repair program" for pesticide containers until July 1, 2028. The minor repair program allows retailers and distributors to avoid disposal of pesticides in damaged containers if the containers are repaired in accordance with a minor repair program approved by EPA pursuant to EPA's "Pesticide Container Repair Interim Policy" issued in October 2009. A copy of the approved program must be forwarded to DEC, and a copy must also be kept at the retailer's or distributor's place of business and be available for DEC review upon request. New York's program was first established in 2010. This is its seventh extension.

Public Service Commission Released White Paper on Clean Energy Zone Program for Public Comment

In the June 10, 2026 issue of the *NYS Register*, the New York State Public Service Commission (PSC) published notice that it was considering a white paper prepared by Department of Public Service staff presenting options for a Clean Energy Zone (CEZ) Program to "better coordinate investment in clean generation and transmission in areas of the State experiencing current or planned load growth, or those areas otherwise well-suited for energy infrastructure investments, while streamlining and prioritizing community engagement and collaboration." The white paper presented two possible approaches: (1) one in which the PSC would administratively select the CEZs and allocate community benefits using a formula across all communities in the CEZ and (2) one in which host communities in priority areas would submit proposals volunteering to serve as hosts for development and would receive enhanced community benefits. Under both approaches, the PSC would use the findings of the Coordinated Grid Planning Process and other planning studies to designate priority areas with "high clean generation resource potential, significant development activity, and opportunity for cost-effective grid expansion." The white paper further proposed

that municipalities and economic development stakeholders have central roles in identifying, designing, and deploying community and economic benefits associated with CEZs, with one potential option being the creation of a single community benefits fund rather than having multiple community benefits agreements with other entities. The PSC said it would receive public comment for 60 days after publication of the notice.

Mayor Mamdani Issued Executive Order on Protecting Workers from Extreme Heat

On June 22, 2026, New York City Mayor Zohran Mamdani issued Executive Order No. 17 on “Protecting Workers from Extreme Heat.” The executive order included directives regarding implementation of existing policies as well as requirements for City agencies to evaluate the need for additional actions and to make recommendations regarding such actions. The executive order cited increased risks of all types of injuries to workers during periods of extreme heat as well as reductions in worker productivity. The order noted that more than 1.4 million workers are estimated to work outdoors in New York City for prolonged periods of time and that by the 2050s, New York City could experience more than four times as many heat waves annually compared to current rates. The order specified multiple actions to be taken by the Department of Health and Mental Hygiene (DOHMH), including development of worker heat illness prevention guidance and education materials that recommend best practices to prevent heat-related illnesses, injuries, and deaths for employers and outdoor and indoor workers. The order directed DOHMH to prepare the guidance for outdoor workers as soon as practicable and to submit indoor worker guidance to the Deputy Mayor for Economic Justice and the Deputy Mayor for Health and Human Services by March 1, 2027. The guidance is to be disseminated widely to workers and employers by other City agencies. In addition, the executive order directed DOHMH to review claims filed with the New York State Workers’ Compensation Board by City employees to understand patterns related to temperature and to evaluate whether heat-related illnesses should be included among the *Diseases and Conditions of Public Health Interest That Are Reportable* pursuant to the New York City Health Code. The order tasked the New York City Department of Buildings (DOB) with reviewing current construction safety and training requirements to determine if they sufficiently protect against worker heat illness and to make recommendations for new guidance. In addition, during times of high heat, DOB must notify and remind property owners and others in control of construction sites of their obligation to report heat-related incidents. All mayoral agencies must develop and implement indoor and outdoor worker heat illness plans. When the City’s Heat Emergency Plan is activated, New York City Emergency Management must communicate worker heat illness prevention information based on the forecasted temperature, including recommendations for employers.

WORTH READING

Peter S. Borock, Nick Hockens, & Tatiana Codner, *Balancing Development and Property Rights: The Impact of the Amendments to RPAPL Section 881*, N.Y.L.J. (June 15, 2026), <https://perma.cc/NC8Z-9FFF>

Yulia Chikish et al., *Congestion Pricing and Emergency Medical Service Response: Evidence from New York City*, Nat’l Bur. of Econ. Rsch. Working Paper 35414 (July 2026), <https://www.nber.org/papers/w35414>

Wojciech Voytek Jackowski, *Understanding Local Law 11: Evolving Façade Regulation in New York City*, N.Y.L.J. (June 15, 2026), <https://perma.cc/HS52-59YX>

Chris Chaeha Lim et al., *Wildfire Smoke Exposure and School Absences in New York City Public Schools, 2011–2019*, 212 Env’t Int’l 110299 (June 2026), <https://doi.org/10.1016/j.envint.2026.110299>

N.Y.C. Dept. of Transp. & Metro. Transp. Auth., *Next Stop: Fast Buses, Better Service* (July 2026), <https://perma.cc/FH4U-R33S>

Stuart M. Saft, *New York City’s Affordability Crisis*, N.Y.L.J. (June 15, 2026), <https://perma.cc/6YES-3HY8>

UPCOMING EVENTS

September 20–27, 2026

Climate Week NYC, New York City. For information, see <https://www.climateweeknyc.org>.

September 27–28, 2026

NYSBA Environmental & Energy Law Section Fall Meeting, The Equinox, Manchester Village, Vermont. For information, see <https://nysba.org/committees/environmental-energy-law-section/>.

October 21–22, 2026

ACE NY (Alliance for Clean Energy New York) 2026 Fall Conference, Albany Capital Center, Albany. For information, see <https://www.aceny.org/fall-conference>.

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