

Article X Siting Changes



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Overview

- ▶ Purpose of new law
- ▶ Implementation
- ▶ What is the same
- ▶ What is different
- ▶ NYSERDA
- ▶ How municipalities are impacted



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Purpose

- ▶ To accelerate the siting of renewable energy projects in order to meet the Climate Leadership and Community Protection Act goals:
 - ▶ 6,000 MW of Solar by 2025
 - ▶ 3,000 MW of Energy Storage by 2030
 - ▶ 70% Renewable Energy by 2030
 - ▶ 9,000 MW of Offshore Wind by 2035
 - ▶ 100% Carbon-free Electricity by 2040



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Implementation

- ▶ Applies to projects going forward
- ▶ Existing 20-24 MW projects may, but are not required, to elect in to the new process from Article 10.
- ▶ Draft regulations are out but not finalized

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What is the Same

- ▶ Similar requirements in general, but specifics have changed.
- ▶ Intervenor funding availability
- ▶ PILOT Agreements
- ▶ Public involvement
- ▶ Local Laws

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Intervenor funding

- ▶ Applicants charged \$1,000 per megawatt as part of permit application
- ▶ Funds to be used for ensuring compliance with local laws and participate in public comment/hearing



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PILOT Agreements

- ▶ Municipalities have retained the ability to enter into PILOT agreements
- ▶ Something to watch as original bill called for standardized PILOT agreements

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Public Involvement

- ▶ Applicants are still required to reach out to public prior to submitting their applications.



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Local Laws

- ▶ Substantive local laws will continue to apply unless waived.
- ▶ But potential issues with some substantive local laws:
 - ▶ Setbacks
 - ▶ Noise
 - ▶ Decommissioning



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What is different

- ▶ New office
- ▶ Changes to existing requirements
- ▶ Standardized requirements
- ▶ Shot clocks on permitting
- ▶ Hearings
- ▶ Court Challenges



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New Office

- ▶ Office of Renewable Energy Siting within the Department of State
- ▶ Office has published draft regulations



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Changes to existing requirements

- ▶ Public involvement
- ▶ Local laws



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Public Involvement

- ▶ At least 60 days before application, the applicant must meet with CEOs of the municipalities where the proposed facility will be located and any local agencies identified by the CEOs.
- ▶ At least 60 days before application and after meeting with the CEOs the applicant must meet with community members who may be adversely impacted by the siting of the facility

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Local Laws

- ▶ Applicant may request waiver where local laws would be “unreasonably burdensome in view of the CLCA targets and the environmental benefits”
- ▶ Standard is potentially more flexible than current “unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality”



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Local Laws (Continued)

- ▶ Some substantive local laws may be more likely to be waived because of standardized state requirements.

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Standardized Requirements

- ▶ Contained within the proposed regulations
- ▶ Noise, light flicker, setback requirements
- ▶ Decommissioning



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Decommissioning

- ▶ All facility components removed 4 feet below grade in agricultural land and 3 feet below grade in non-agricultural land
- ▶ Removal and restoration of access road locations, where appropriate,
- ▶ The gross cost estimates shall include a 15% contingency cost based on the overall decommissioning estimate.

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Shot Clocks

- ▶ Complete applications
- ▶ Final permitting
- ▶ Brownfield sites



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Complete Application

- ▶ Must issue a decision on completeness within 60 days or deemed complete.



The image shows a hand holding a tablet displaying a digital application form. The form is titled 'APPLICATION FORM' and has a section labeled 'PERSONAL INFORMATION'. The fields in this section are: Last Name, First Name, Middle, Address, City, State, Phone, and Email address. The form is presented in a clean, professional layout with a white background and black text.

PERSONAL INFORMATION			
Last Name	First Name	Middle	
Address	City	State	
Phone	Email address		

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Final Permitting

- ▶ Must issue decision on final permitting within 1 year from completion of application or deemed complete.



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Brownfield Sites

- ▶ Final decision on siting permit within 6 months or deemed granted
- ▶ brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, or previously disturbed sites

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Hearings

- ▶ Hearings are no longer a given, permit may be granted at close of public comment period
- ▶ Must raise “substantive and significant issue”

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Court Challenges

- ▶ Must be brought within 90 days of final decision and must be brought at Appellate Division level.
- ▶ Challenges have precedent over other matters
- ▶ Limited review



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NYSERDA

- ▶ Directed to identify build-ready sites and facilitate transfer for creating renewable sites
- ▶ Authority to negotiate host community benefits and transfer benefits to host community



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How municipalities are impacted

- ▶ Less to negotiation leverage
- ▶ Local laws more likely waived
- ▶ Must be ready to act relatively quickly
- ▶ Funding challenges

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Questions?

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