

**Responses to Public Comments:  
DEC Commissioner’s Policy, Climate Change and DEC Action**

<b>Responsiveness Table</b>	
<b>Comment</b>	<b>Response</b>
<p>Proposed mitigation and adaptation objectives outlined in the Commissioner’s climate change policy provide a vital framework to strengthen the DEC’s role in preserving the Hudson Valley’s irreplaceable natural resources.</p> <p>Source: Scenic Hudson</p>	<p>The Policy makes clear that mitigation and adaptation to climate change are part of DEC’s core mission of conserving, improving, and protecting the state’s natural resources and environment. DEC has been actively working to address climate change mitigation and adaptation objectives in the Hudson Valley and other regions of the state.</p>
<p>The science behind climate change is not “settled” and hundreds of credentialed scientists are skeptical and/or absolutely opposed to the theory of anthropogenic global warming (AGW). “To attempt to impose a standard as extreme as “80 by 50” upon the assumptions of AGW is fraught with unknown and certainly unintended consequences.”</p> <p>Source: New York Construction Materials Association</p>	<p>In addition to Executive Order 24, consideration of climate change has already been a recognized policy objective in New York in State laws that provided for the State Energy Plan, implemented the Great Lakes-St. Lawrence River Water Resources Compact and established the Sea Level Rise Task Force. The National Research Council of the National Academy of Science released its most comprehensive assessment of climate change in May of 2010. Their report reinforces the DEC Policy by concluding that “a strong, credible body of scientific evidence shows that climate change is occurring, is caused largely by human activities, and poses significant risks for a broad range of human and natural systems.”</p>
<p>The Policy represents an attempt by the Commissioner to assume powers and jurisdiction DEC does not have. DEC intends to implement a greenhouse gas regulatory program through the policy, rather than a rulemaking with opportunity for public comment. As such, it is illegal. Similarly, Executive Order 24 does not constitute a “statute, rule or other legal requirement.’</p> <p>Source: New York Construction Materials Association, IPPNY</p>	<p>The essence of this Policy is a directive to DEC staff to consider climate change as they implement DEC’s core programs under existing laws and regulations. The Policy does not establish any new regulatory requirements for any entity. The draft policy explicitly states that DEC staff should implement the Policy’s goals and objectives within their existing authorities and regulations.</p>

<p>DEC's relationship to RGGI can easily jeopardize and interfere with creating independent goals for climate change (such as green energy) and a balanced SEQR process, especially if the focus of Climate Change supersedes or is in conflict with other environmental concerns. It would be more beneficial to prevent or limit the monetary mitigation of significant environmental impacts. Mitigation should try to "remedy" the situation not "pay off" the Lead Agency.</p> <p>Source: Alice Sokolow</p>	<p>This Policy directs DEC staff to consider climate change in decision-making; it does not indicate that climate change would supersede other considerations. Section II of the Policy states "climate change considerations must be examined along with other relevant factors." DEC will always fulfill its wide range of statutory and regulatory responsibilities.</p> <p>Mitigation, as used in this Policy, refers to the prevention of emissions that cause global warming, and does not carry the same meaning as mitigation does under the SEQRA.</p>
<p>DEC has elected to ignore the intent of Executive Order 24 and the timelines and procedures set forth for the Climate Action Council. It has taken upon itself to attain the "80 by 50" goal and will pre-empt the completion of the Climate Action Plan.</p> <p>Source: New York Construction Materials Association and IPPNY</p>	<p>DEC continues to work in concert with other State agencies to develop the Climate Action Plan required by EO24. The draft Policy establishes a directive to DEC staff to work towards EO 24's goals. Attaining the "80 by 50" goal will require many actions by government and the private sector, and cannot be achieved by DEC on its own.</p>
<p>The sense of urgency and the actual society-wide adaptive changes necessary are missing from the Policy. The Policy should go beyond 80 x 50, and strive to get CO2 atmospheric concentrations below 350 ppm if we are to avoid catastrophic climate change. New Yorkers should do more sooner.</p> <p>Source: Dooley Kiefer, Jeanne Fudala</p>	<p>Executive Order 24 made a policy statement that New York should take leadership role in responding to climate change. Attaining the "80 by 50" goal will require many actions within government and the private sector, and cannot be achieved by DEC on its own. DEC will implement the Policy through its existing legal authorities and regulations to ensure that climate change is considered in the full range of the Department's activities.</p>
<p>GHG reduction should be considered with, but not trump, water quality, air quality and public health in policy decisions and environmental assessments.</p> <p>Source: Sally Howard</p>	<p>Section II of the Policy states "that climate change considerations must be examined along with other relevant factors." The Policy expresses that climate change should be considered in the routine daily work of the Department.</p>
<p>DEC should incorporate this policy of including climate considerations as an integral part of its external work, particularly environmental analyses of</p>	<p>The Policy applies to all DEC functions, including permitting and the SEQR process. Additionally, DEC issued a policy in 2009 providing guidance with respect to</p>

<p>proposed projects and operations.</p> <p>Source: Jeanne Fudala</p>	<p>how GHGs and energy use should be included in an EIS completed pursuant to SEQR. In all cases, DEC will be bound by existing statutory and regulatory authority in its review of proposed projects.</p>
<p>The terms “mitigation” and “adaptation” are not broad enough and should be replaced with “prevention” and “preparation”.</p> <p>Source: Citizens’ Environmental Coalition</p>	<p>While DEC appreciates the appeal of plain English, mitigation and adaptation are terms of art routinely used by research and resource management agencies and organizations, including the Intergovernmental Panel on Climate Change. Mitigation includes the concept of preventing emissions of greenhouse gases, but also includes other approaches to reduce ambient levels of these gases in the atmosphere, such as enhancing carbon “sinks”. Adaptation involves reducing the vulnerability of natural and human systems against actual or expected climate change effects, and could include the preparatory actions suggested. Further, climate change has been judged to be occurring now, and cannot be completely prevented. As stated in the Policy, even if GHG emissions were immediately reduced to zero, climate change would continue to occur. Due to these reasons, DEC believes that mitigation and adaptation are more appropriate terms.</p>
<p>While the climate change Policy provides a general procedure to be followed by DEC, it does not provide specific steps and timeframes to be taken by DEC to respond to climate change and to respond to the goals within Executive Order 24. The Policy should ensure that its requirements are implemented and should include the development of a more detailed plan consisting of chronological steps and a rough timeline.</p> <p>Specific steps, such as encouraging the use of greywater systems in parallel with sewage systems and mapping “at risk” coastal areas, should be taken by DEC to</p>	<p>The draft document is an agency-wide policy and was not intended to be a detailed work plan. Concrete steps to address mitigation and adaptation objectives will more appropriately come from the internal processes established by the Policy (see Section V, Procedures) and the NYS Climate Action Plan (per Executive Order 24).</p> <p>Section III of the Policy highlights a range of DEC actions related to climate change that have taken place or are on-going. The suggestions made for specific future DEC actions will be considered as the Policy is implemented.</p>

<p>respond to climate change.</p> <p>Source: Pace Energy and Climate Center, Jon Bosak</p>	
<p>While the Climate Change Policy includes support for energy efficiency, DEC may consider adding renewable energy sources to its mitigation objectives.</p> <p>Source: Pace Energy and Climate Center</p>	<p>The Policy was revised (see Section II and V.2) to include zero or near-zero carbon renewable energy as a mitigation objective.</p>
<p>The Climate Change Policy mentions “the best available scientific predictions” (Section II, Adaptation Objectives), “the most current science regarding changing environmental conditions” (Section III), and “the best scientific projections and data” (Section V (2) (a)). DEC should consider using consistent terminology and also defining what is meant by the “best” or “most current” information.</p> <p>Source: Pace Energy and Climate Center</p>	<p>The Policy was revised to be more consistent with the use of these terms (see Section II and III).</p>
<p>DEC should prepare maps of coastal regions most likely to be affected by climate change. The maps will help the DEC to focus its efforts on places where the greatest risk to the environment, infrastructure and public health exists. They also will allow the DEC to better educate state and local policymakers and the public on how human activities, such as best management practices of water and energy resources, can mitigate climate-change impacts.</p> <p>Source: Scenic Hudson</p>	<p>Concrete steps to address mitigation and adaptation objectives will come from the internal processes established by the Policy (see Section V, Procedures) and the NYS Climate Action Plan (per Executive Order 24). This suggestion for potential DEC action is being considered through the Sea Level Rise Task Force, and will be considered as the Policy is implemented and within the Agency’s existing resources and authority.</p>
<p>In order to provide accountability for exercising these discretionary privileges and to increase credibility in the eyes of the public, the process in which DEC complies with the Climate Change Policy should be transparent and made available to the public. This should include the product of the annual programmatic review.</p>	<p>Decisions which derive from this Policy will be made pursuant to the Department’s existing processes, including all applicable public notice and information processes for DEC work products.</p>

<p>How would deviations from the Policy be made and announced to the public?</p> <p>Source: Jeanne Fudala, Pace Energy and Climate Center</p>	
<p>The Policy fails to reference the DEC's role in protecting public health and air quality in its climate change responses.</p> <p>Source: Citizens' Environmental Coalition</p>	<p>The Policy was revised to reference air quality and public health in the context of considering the impacts of climate change.</p>
<p>Biogenic CO2 emissions should be evaluated in DEC reviews.</p> <p>Source: Citizens' Environmental Coalition</p>	<p>Biogenic CO2 emissions refer to biologically-derived carbon of recent origin (non-fossil fuels). Issues related to the combustion of biogenic materials and biomasses, and the subsequent release of CO2, are currently being considered by DEC policy makers. DEC will continue to work with NYSERDA to monitor carbon accounting principles being discussed through international protocols, and will make modifications to its approach accordingly.</p>
<p>Renewable energy will continue to play an essential role as the nation transitions to a low/zero carbon economy, and DEC should promote renewables within the Policy. DEC should consider adding the extent to which energy efficiency or renewable energy strategies could mitigate the emissions of GHGs as described in Section V(2)(c).</p> <p>Source: Alice Sokolow, Pace Energy and Climate Center, Sally Howard</p>	<p>The Policy was amended to be more explicit regarding the importance of renewable energy and energy efficiency.</p>