Reclaiming Contaminated Land: Strategic Integration of New York's Brownfield Cleanup Program with Renewable Energy Policy

By Patrick J. Redmond

Introduction

Given intensifying climate change concerns and a persistent legacy of industrial land degradation, state and federal policymakers continue to seek mechanisms for repurposing contaminated and underutilized sites – often referred to as "brownfields" – to serve other policy objectives. Brownfields, defined under New York law as real property where a contaminant is present at levels exceeding health-based standards, represent both an environmental liability and a policy opportunity.[1] Frequently also located in historically overburdened communities, these sites may offer a nexus for addressing two critical challenges: environmental remediation and the transition to renewable energy.

New York's Brownfield Cleanup Program (BCP), administered by the Department of Environmental Conservation (DEC) and codified in Article 27, Title 14 of the Environmental Conservation Law (ECL), has evolved into a sophisticated statutory regime that offers both regulatory clarity and powerful financial incentives for site remediation and redevelopment. Importantly, the BCP is no longer an isolated cleanup mechanism. Through institutional coordination – most notably with the New York State Energy Research and Development Authority (NYSERDA) and its Build-Ready Program – the BCP increasingly facilitates renewable energy deployment on remediated sites.

This article explores how project developers and their counsel can utilize New York's integrated approach and investigates how this approach exemplifies the possibilities of a combined land-use and climate strategy. It reviews the legal and tax architecture of the BCP, as well as how the program has interfaced with federal tax credits under the Inflation Reduction Act (IRA), and then it highlights the unique features of New York's program by comparing this model to emerging programs in Massachusetts, Pennsylvania, and Maryland. The article aims to provide a roadmap to the potential for a harmonized state brownfield-renewables policy that unlocks the dual benefits of environmental remediation and clean energy infrastructure development.

A Review of the Legal Architecture of New York's BCP

A. Statutory Foundation and Program Goals

The BCP was enacted by the New York State Legislature in 2003[2] and later codified as ECL §§ 27-1401 to 27-1431. The program's stated purpose is to "encourage persons to voluntarily remediate brownfield sites for reuse and redevelopment" through a structured process that offers tax incentives and liability protections.[3] The DEC oversees the program with technical input from the Department of Health (DOH), and its implementation is governed by extensive regulations in 6 N.Y.C.R.R. Part 375.

Chart 1 – New York Brownfield Cleanup Program (BCP) Overview

Step/Mechanism	Details
Entry Point	Following preliminary site eligibility determination, a formal Brownfield Cleanup Agreement (BCA) with DEC, committing to approved remedial investigation and cleanup
Applicant Categories	Two categories: Volunteers: Not responsible for contamination Participants: Potentially liable for contamination
Technical Milestones	1. Remedial Investigation (RI) 2. Remedial Action Work Plan (RAWP) 3. Remedy Implementation 4. Final Engineering Report (FER)
Certificate of Completion (COC)	Issued by DEC upon verification of meeting all requirements
COC Benefits	1. Liability protection under state environmental law for addressed contamination 2. Eligibility for Brownfield Redevelopment Tax Credit (BRTC) under N.Y. Tax Law § 21
Environmental Easement (if applicable)	Required for restricted uses (e.g., commercial/industrial) to ensure long-term compliance with engineering controls; recorded and enforceable

The BCP defines a "brownfield site" as any real property where contamination exceeds DEC's soil cleanup objectives (SCOs) or other applicable environmental criteria, based on the site's reasonably anticipated future use.[4] Sites subject to active federal or state enforcement, or those listed as Class 1 or 2 on the Inactive Hazardous Waste Disposal Site Registry with viable responsible parties, are excluded, so as not to create perverse incentives for responsible parties to circumvent or delay enforcement actions by shifting to a "voluntary" cleanup framework.[5]

The program is designed not merely to address contamination, but to encourage private investment in redevelopment, especially in economically distressed communities. This mission is reinforced by the use of refundable tax credits and by statutory reforms that prioritize projects involving affordable housing and renewable energy.

B. BCP Mechanisms

Chart 1 on the previous page summarizes essential information about New York's BCP application and participation mechanisms.[6]

1. Fiscal Incentive Structure: Reviewing N.Y. Tax Law § 21

A defining feature of New York's BCP is its robust, refundable tax incentive structure, codified in N.Y. Tax Law § 21 and reinforced through cross-references to other tax code provisions. These credits were originally enacted as part of the BCP's authorizing legislation in 2003,[7] and they remain among the most generous brownfield redevelopment incentives in the country. In contrast to grant-based programs, New York's model relies on market-responsive tax policy to catalyze private-sector investment in contaminated sites.

Chart 2 summarizes the financial and tax incentive structure of New York's Tax Law § 21 and its connection to the Brownfield Cleanup Program (BCP), including an overview of Section 21's Brownfield Redevelopment Tax Credit (BRTC).

2. Leveraging Brownfields for Renewable Energy: NYSERDA's Build-Ready Program

A. Legislative Genesis and Structural Mandate

New York's Build-Ready Program, developed and implemented by the New York State Energy Research and Development Authority (NYSERDA), is a flagship component of the State's energy transition strategy. Established through the

Chart 2 – Brownfield Tax Incentives

Component	Details
Core Principle	Market-responsive tax policy to incentivize private investment in contaminated sites; offsets externalities of contamination
Credit Type	Refundable tax credit (BRTC) – developers with little/no tax liability can still benefit; Performance-based and tied to project milestones, such as COC
Credit Structure	Tripartite: 1. Site Preparation Credit: Covers percentage of expenses to prepare site for redevelopment (e.g., demolition, environmental investigation, hazard abatement) 2. On-Site Groundwater Remediation Credit 3. Tangible Property Credit (TPC): Base credit is 10% of eligible basis; up to 14% in "bump-ups" for meeting specific criteria (see below)
Tangible Property Credit "Bump-Ups"	Location in an En-Zone Designation within a Brownfield Opportunity Area (BOA) Provision of at least 25% affordable housing Location in a Disadvantaged Community under the Climate Leadership and Community Protection Act (CLCPA) Use of the property as a renewable energy facility certified by NYSERDA
TPC Credit Caps	$35 million per site (non-manufacturing) / $45 million per site (manufacturing)
Eligibility Timing	Site must be accepted into BCP by December 31, 2032. COC must be issued by December 31, 2036
Federal Tax Considerations	Internal Revenue Service treats refunded BRTC amounts as taxable income unless the expenditure is otherwise deductible or capitalized. This requires careful basis allocation and cost segregation analysis. Tax-exempt parties use rules (IRC § 168(h)), which may impact sale-leaseback structures.
"Stacking" Incentives	BRTC can be combined with: NYSERDA Build-Ready acquisition discounts/interconnection studies; Local IDAs (property/sales tax abatements); Federal Investment Tax Credit (ITC); Energy Community Bonus Credit (IRA); and Other IRA bonus credits

2020 Accelerated Renewable Energy Growth and Community Benefit Act,[8] the Build-Ready Program reflects a statutory commitment to removing siting barriers and enabling large-scale renewable energy deployment on underutilized land parcels.[9] The program is rooted in the legislative findings that existing regulatory bottlenecks, soft costs, and land-use conflicts were slowing progress toward the CLCPA's 2019 goals of 70% renewable electricity by 2030 and 100% zero-emission electricity by 2040.[10]

The Build-Ready Program authorizes NYSERDA to proactively identify, evaluate, pre-permit, and market sites for private renewable energy developers, particularly brownfields, landfills, former industrial sites, and dormant electric generating properties. Through this authority, NYSERDA acts as an initial developer, absorbing project origination risk that could otherwise disincentivize private capital investment in complex properties, especially those burdened by environmental constraints or located in disadvantaged communities.

B. Programmatic Framework and Lifecycle

The Build-Ready Program operates through a structured four-phase lifecycle, intended to reduce time-to-market for clean energy projects and facilitate community-aligned siting:

1. Site Nomination and Screening: properties may be nominated by landowners, municipalities, or community stakeholders. NYSERDA prioritizes sites with low land-use conflict, existing electrical interconnection potential, and alignment with local or regional development plans. Brownfields remediated under the BCP, or those eligible for BCP enrollment, are primary candidates.[11]
2. Feasibility Analysis and Site Control: NYSERDA conducts technical evaluations, including:
    - Phase I and II Environmental Site Assessments;
    - Wetlands, threatened species, and cultural resource assessments;
    - Grid interconnection studies (via the NYISO queue or utility coordination); and
    - Title analysis and landowner negotiations for site control via lease, option, or purchase.
3. Permitting and Community Engagement: NYSERDA secures required permits under Executive Law § 94-c, replacing the former cumbersome Public Service Law Article 10 siting process for major electric generating facilities. The Office of Renewable Energy Siting (ORES) plays a pivotal role in streamlining review while ensuring compliance with environmental and land use standards. Simultaneously, NYSERDA engages host communities to:
    - Solicit input on visual impact, traffic, noise, and site design;
    - Craft Community Benefit Packages, including payments in lieu of taxes (PILOTs), host community agreements, or job training commitments;
    - Align with Disadvantaged Community benefit mandates under the CLCPA.
4. Auction and Project Transfer: Once pre-development is complete, NYSERDA issues a Request for Proposals (RFP) for private developers to acquire the site rights. Proposals are evaluated based on project feasibility, community engagement plans, workforce utilization (including prevailing wage and apprenticeship commitments), and environmental stewardship. Winning developers assume responsibility for construction, ownership, and long-term operation of the renewable facility.

This proactive model is relatively unique and differs substantially from traditional land acquisition and entitlement strategies, particularly in those other states where developers bear full responsibility for site selection, permitting, and community relations.

C. Legal Coordination with the Brownfield Cleanup Program

The Build-Ready Program is uniquely situated to interface with the BCP under ECL Article 27, Title 14. Although administered separately, both programs benefit from interagency coordination between NYSERDA and the DEC.

When a brownfield site is targeted for Build-Ready development, developers can pursue dual-track remediation and renewable deployment, with NYSERDA often facilitating preliminary technical evaluations while the applicant enters into a BCA with the DEC. Key areas of alignment are included below:

- Engineering Controls and Soil Management: clean energy infrastructure – particularly solar arrays – can often be deployed atop engineered caps or disturbed soil strata, provided long-term protections (e.g., vegetative cover, vapor mitigation) are preserved. DEC guidance in DER-10 explicitly allows for coordination of remedial alternatives with post-remediation use, subject to professional engineering certification.[12]
- Institutional Controls and Environmental Easements: where remediation results in a site suitable only for restricted use (e.g., commercial or industrial), DEC may impose an environmental easement under ECL § 71-3601. These restrictions can accommodate renewable generation facilities if the use does not in-

terfere with the remedy and long-term controls are maintained.[13]

- Tax Credit Optimization: If a Build-Ready site is concurrently remediated under the BCP, the developer may claim the BRTC under N.Y. Tax Law § 21. Significantly, renewable energy projects certified by NYSERDA may receive an enhanced Tangible Property Credit of up to 24%, including bump-ups for En-Zones, Disadvantaged Communities, and BOAs.[14] This "stacking" of incentives maximizes return on investment for developers pursuing socially beneficial projects on contaminated land.
- Environmental Justice Integration: Both the CLCPA (§ 75-0117) and Build-Ready Program mandate that at least 35% of clean energy program benefits flow to Disadvantaged Communities, a designation determined by metrics of pollution burden, income, and public health.[15] Brownfield sites frequently overlap with these communities, creating aligned incentives for environmental justice investment and equitable access to clean energy.

D. Early Results and Implementation Challenges

As of early 2024, NYSERDA reported that over 30 sites had entered the Build-Ready pipeline, including municipal landfill sites on eastern Long Island.[16] In October 2023, the program reached a milestone with the auction of its first fully developed site, a 12 MW solar project on a former mining site in St. Lawrence County.[17] The winning bidder assumed construction rights after NYSERDA completed permitting and site preparations, dramatically accelerating project delivery.

Despite these successes, several implementation challenges remain:

- Interconnection Delays: Even after Build-Ready facilitation, transmission availability remains a bottleneck for large-scale renewables in upstate New York, necessitating further coordination with the New York Independent System Operator (NYISO) and utility providers.[18]
- Municipal Buy-In: While community engagement is emphasized, local land use resistance – particularly in suburban or exurban settings – can still delay project execution. Future statutory amendments may consider stronger preemption mechanisms or incentives for municipal cooperation.
- Resource Constraints: NYSERDA's capacity to identify, pre-permit, and auction dozens of sites annually is bounded by budgetary and human capital limitations. Additional legislative appropriations or federal infrastructure support may be necessary to scale the program to meet CLCPA targets.

Federal Integration: The Inflation Reduction Act and Energy Communities

A. Overview: The IRA's Transformative Role in Clean Energy Siting

Among the many provisions of the federal Inflation Reduction Act of 2022, IRA restructured and extended the Investment Tax Credit (ITC) and Production Tax Credit (PTC) under Internal Revenue Code (IRC) sections 48 and 45, respectively, while introducing new credits under sections 45Y and 48E for clean electricity projects placed in service after 2024.[19] However, July 2025's One Big Beautiful Bill Act (OBBBA) terminates ITC and PTC eligibility for wind and solar facilities that begin construction after July 4, 2026, unless a facility is placed in service by December 31, 2027.[20] The OBBBA leaves ITC eligibility for energy storage technology projects intact. Following OBBBA enactment, a presidential executive order[21] called for the Treasury Department to issue new guidance by August 18, 2025 to "strictly enforce" the ITC and PTC terminations in regard to "beginning of construction" policies, including "by preventing the artificial acceleration or manipulation of eligibility and by restricting the use of broad safe harbors." It remains to be seen to what extent current eligibility standards may be disrupted.

The IRA introduced bonus credit mechanisms to increase the value of the ITC and PTC for projects that meet certain geographic, labor, or equity-based criteria. One of the most impactful of these is the Energy Community Bonus Credit, which for brownfield sites, or other locations meeting the definition of "energy communities,"[22] provides a 10 percentage point increase to the ITC and a 10% increase to the PTC for qualifying projects.[23] This bonus is particularly relevant to brownfield redevelopment, as brownfield sites are explicitly included in the statutory definition of "energy communities."[24]

Before the IRA, renewable energy projects often relied on complex and costly tax equity financing structures to monetize tax credits. The IRA's direct pay and transferability provisions significantly expand the pool of eligible project sponsors by allowing tax-exempt entities to receive cash payments and by allowing taxable entities to sell their credits to a wider range of buyers. These provisions also reduce the need for complex tax equity deals, lowering transaction costs and making it easier for renewable energy projects to get financed. They significantly expand the pool of eligible project sponsors and reduce the need for complex tax equity financing structures.

Chart 3 summarizes how selected IRA provisions interact with the BCP.

B. Strategic Integration With New York's BCP and Build-Ready Program

The Energy Community Bonus Credit is particularly powerful when combined or "stacked" with New York's BCP tax credits and NYSERDA's Build-Ready Program. A developer who remediates a brownfield under the BCP may:

- Receive up to 24% of qualified capital costs as a refundable state tax credit under N.Y. Tax Law § 21;
- Claim a 40% federal ITC (30% base + 10% energy community bonus) under IRC § 48;

Chart 3 – Inflation Reduction Act Tax Incentives and Brownfields

Key Feature	Details
Impact on IRC Credits	Restructured and extended ITC/PTC (IRC §§ 48, 45); introduced new credits §§ 45Y, 48E for clean electricity (post-2024), but wind and solar eligibility terminated as of 2026/27 by OBBBA (see text)
Energy Community Bonus Credit	Increases ITC by 10 percentage points and PTC by 10% for qualifying projects; explicitly includes brownfields in the definition of "energy communities"
"Energy Community" Definition	Three categories (IRC §§ 45(b)(11)(B) & 48(a)(14)): 1. Brownfield Sites: defined by reference to CERCLA § 101(39)(A) (contaminated property); excludes Superfund sites, those subject to federal enforcement, and certain RCRA facilities 2. Statistical Areas (MSAs/non-MSAs) with Fossil Fuel Employment & High Unemployment 3. Coal Closure Census Tracts
IRS Safe Harbor for Brownfields[25]	1. Government Listing: listed in federal/state/tribal brownfield inventory (e.g., EPA's "Cleanups in My Community") 2. Phase II ESA: Phase II ESA confirms hazardous substance presence 3. Phase I ESA (Small Projects): for projects < 5 MW, Phase I ESA identifying Recognized Environmental Conditions (RECs) suffices
Credit Enhancement Conditions	Prevailing Wage & Apprenticeship Requirements (IRC §§ 45(b)(6) & 48(a)(10)) (failure to meet these reduces ITC to 6% and PTC to 0.5¢/kWh)
IRA Credit Monetization	Direct Pay (Elective Payment): tax-exempt entities receive a cash refund in lieu of credit. Transferability: taxable entities may transfer credits to unrelated parties for cash
Integration with NY BCP/Build-Ready	See Part B below

- Monetize the federal credit via transfer or direct pay (if eligible);
- Benefit from Build-Ready site preparation, permitting, and community engagement support.

This multi-layered incentive architecture can reduce net capital costs by more than half, transforming marginal sites into viable clean energy assets. Moreover, many brownfields are located in disadvantaged communities, satisfying both CLCPA equity mandates and IRA bonus criteria.

Other States' Programs: Massachusetts, Pennsylvania, and Maryland

A. A Quick Comparative Analysis

A quick, comparative look at brownfield cleanup and renewable energy incentive programs in the nearby East Coast states of Massachusetts, Pennsylvania, and Maryland highlights the unique strengths and limitations of each state's approach, ultimately underscoring the effectiveness of New York's integrated and climate-focused program.

Massachusetts' SMART Program[25] offers financial incentives through "adders" for solar projects on brownfields and landfills.[26] However, the program's decentralized structure leaves developers to navigate complex permitting and stakeholder engagement processes independently. Additionally, as the base compensation rates for solar projects under the program have decreased over time, the financial returns on investment have diminished, making it less appealing for developers to pursue brownfield solar projects and to some extent reducing its effectiveness.

Pennsylvania's primary brownfield remediation framework is the Land Recycling and Environmental Remediation Standards Act ("Act 2 of 1995").[27] Act 2 provides a flexible framework for brownfield remediation but lacks dedicated incentives for renewable energy development. The state relies on local and regional initiatives like the Commercial Property Assessed Clean Energy program (C-PACE) for financing energy efficiency and renewable energy improvements through a voluntary property tax assessment, and on municipal programs to bridge this gap. While innovative, this fragmented approach limits scalability and places a premium on developer sophistication and local government cooperation.

Maryland offers a more structured approach through its Brownfields Revitalization Incentive Program (BRIP) and the Renewable Energy Development and Siting (REDS) Act. BRIP provides property tax credits for remediated brownfields, while the REDS Act waives fees for clean energy projects on contaminated sites. Maryland's integrated planning approach, involving stakeholders from various sectors, is noteworthy. However, the state still lacks the comprehensive support and financial incentives offered by New York.

By contrast with these other state initiatives, New York's BCP and Build-Ready initiative present a vertically integrated model, combining substantial financial incentives, centralized permitting support, site preparation assistance, and community engagement facilitation. This comprehensive strategy reduces development timelines, lowers soft costs, and provides a more predictable pathway for developers. New York's program stands out for its ability to align environmental remediation, renewable energy deployment, and community benefits in a single, streamlined process.

B. New York BCP's Unique Synergies

Building on the comprehensive background provided, it is clear that New York's integrated approach to brownfield remediation and renewable energy development offers unique opportunities and synergies for developers and their legal counsel not available in other states.

When combined with NYSERDA's Build-Ready Program and the IRA incentives, this approach offers several key advantages:

Comprehensive Financial Incentives: New York's refundable Brownfield Redevelopment Tax Credit (BRTC) under N.Y. Tax Law § 21 provides a substantial financial boost not matched in other states. When combined with the IRA's Energy Community Bonus Credit, developers can potentially offset more than half of their project costs. This powerful "stacking" of state and federal incentives makes previously marginal sites economically viable.

Streamlined Permitting and Site Preparation: The Build-Ready Program's ability to handle pre-development work, including permitting through the Office of Renewable Energy Siting (ORES), dramatically reduces regulatory complexity and time-to-market for projects. In states like Massachusetts or Pennsylvania, developers must navigate these processes independently.

Community Engagement: NYSERDA's structured approach to community benefits and engagement through the Build-Ready Program provides a clear pathway for developers to address local concerns and secure community support. This proactive engagement model reduces potential conflicts and delays that often plague renewable energy projects in other states.

Alignment with Federal Initiatives: New York's programs are uniquely positioned to capitalize on federal initiatives like the Justice40 Initiative and IRA incentives. The state's focus on disadvantaged communities aligns perfectly with federal priorities, allowing developers to maximize benefits from both state and federal programs.

Risk Mitigation: The BCP's liability protections, combined with NYSERDA's site assessment support, significantly reduce environmental and legal risks for developers.

Interagency Coordination: The coordination between DEC (administering the BCP) and NYSERDA (running Build-Ready) offers a level of regulatory coherence that is rare in other states. This reduces the complexity of navigating multiple agency requirements, a common challenge in states with more fragmented approaches.

Long-term Policy Stability: New York's commitment to ambitious climate goals through the Climate Leadership and Community Protection Act (CLCPA) provides a stable, long-term policy environment. This stability allows for more confident investment strategies and reduces regulatory uncertainty compared to states with less defined clean energy commitments.

Advanced Site Identification and Mapping: NYSERDA's proactive site identification and mapping efforts provide developers with valuable data for site selection and due diligence.

Flexible Project Structuring: The ability to combine remediation, renewable energy development, and community benefits into a single project allows for innovative deal structures.

Enhanced Grid Integration Support: While interconnection challenges remain, New York's integrated approach, including NYSERDA's involvement in grid studies, provides more support for navigating these issues than is typically available in other states.

For project developers (and their counsel), these advantages translate into opportunities for more comprehensive and innovative project structuring. Developers and attorneys can leverage the integrated incentive structure to create more attractive financial models, navigate a more streamlined regulatory landscape, and develop more robust community benefit agreements. Moreover, the clear statutory and regulatory framework provided by New York's programs allows for more predictable legal outcomes and risk assessments. This enables attorneys to provide more confident guidance to their clients on project viability and compliance issues.

This enables more efficient, less risky, and potentially more impactful brownfield redevelopment projects, positioning New York as a leader in aligning environmental remediation with clean energy development.

Conclusion: A Model for Sustainable Transformation

New York's BCP, when viewed in conjunction with the NYSERDA Build-Ready Program and federal incentives under the Inflation Reduction Act (IRA), represents a potentially replicable model for sustainable land reuse that integrates environmental remediation, renewable energy deployment, and equitable economic development. What began in 2003 as a liability relief and tax incentive mechanism for contaminated sites has evolved into a multi-dimensional legal and policy framework that aligns with 21st-century climate and infrastructure goals. The BCP's robust tax incentive structure offers refundable credits up to 24% of qualified capital costs, with additional benefits for projects in priority areas or involving affordable housing and renewable energy. This fiscal

framework acts as a policy instrument, directing private capital towards socially and environmentally beneficial outcomes.

The synergy between the BCP and NYSERDA's Build-Ready Program amplifies the impact of both initiatives. Build-Ready de-risks and pre-permits renewable energy projects on underutilized lands, including brownfields, by handling site control, environmental review, and community engagement. This state-led approach significantly reduces soft costs and accelerates project timelines, particularly valuable for complex brownfield sites. When combined with federal IRA incentives, such as the Energy Community Bonus Credit, New York's integrated scheme can potentially reduce net capital costs for brownfield-to-renewable projects by more than half. This compounded or "stacked" benefit structure helps to transform previously marginal sites into financially viable clean energy assets.

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Endnotes

1. N.Y. Envtl. Conserv. Law (ECL)§ 27-1405(2); see also N.Y. Comp. Codes R. & Regs. tit. 6, § 375-1.2(b)(9) (N.Y.C.R.R).
2. 2003 N.Y. Laws ch. 1, §§ 27-1401 to 27-1431.
3. ECL § 27-1403.
4. *Id.* § 27-1405(2); 6 N.Y.C.R.R. § 375-6.8.
5. ECL § 27-1405(2)(a)-(e).
6. *See* DEC, *Site Cleanup,* https://dec.ny.gov/environmental-protection/site-cleanup (last visited July 30, 2025).
7. 2003 N.Y. Laws ch. 1.
8. *See* B. No. A09508B, N.Y. State Assemb. https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A09508&term=2019&Actions=Y&Text=Y (last visited July 18, 2025).
9. Part JJJ, Ch. 58, Laws of 2020 (codified at N.Y. Pub. Auth. Law § 1854-c and N.Y. Exec. Law § 94-c).
10. *Id.*; *see also* ECL § 75-0103(11); N.Y. State Climate Action Council, New York State Climate Action Council Scoping Plan (2022).
11. NYSERDA, *Nominate a Build-Ready Site*, https://www.nyserda.ny.gov/All-Programs/Build-Ready-Program/Site-Nomination (last visited July 30, 2025).
12. DEC, DER-10: Technical Guidance for Site Investigation and Remediation, App'x 5 (2010).
13. *See id.* (providing DEC's general approach of considering post-remediation use).
14. N.Y. Tax Law § 21(a)(3); *see also* DEC, *BCP Tax Credit Eligibility and Rates*, https://dec.ny.gov/environmental-protection/site-cleanup/brownfield-and-state-superfund-programs/brownfield/work-plan-report-documents/brownfield-cleanup-program-tax-credit-eligibility-and-rates (last visited July 30, 2025).
15. *See* ECL § 75-0101.
16. *See* New York State Energy Research and Development Authority, Operations, Accomplishments, Mission Statement, and Performance Measurement Annual Report (2024), available at https://www.nyserda.ny.gov/-/media/Project/Nyserda/Files/Publications/Annual-Reports-and-Financial-Statements/Annual-Report-on-Operations-and-Accomplishments-and-Mission-Statement-and-Performance-2024.pdf (last visited July 18, 2025).
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18. *See* New York Independent System Operator (NYISO), Comprehensive System Planning Process, www.nyiso.com/cspp, (last Visited Jul. 28, 2025).
19. *See* Tit. I, Subtit. D (*Energy Security*) of Pub. L. 117-169, available at https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf.
20. One Big Beautiful Bill Act, Pub. L. 119-21, §§ 70512 & 70513.
21. Exec. Order No. 14315, 90 Fed.Reg, 30821, "Ending Market Distorting Subsidies for Unreliable, Foreign Controlled Energy Sources," (July 7, 2025).
22. 26 U.S.C. § 45(b)(11), added to IRC by § 13101(g) of Pub. L. 117-169 (Aug. 16, 2022).
23. IRS, Energy Community Bonus Credit Amounts under the Inflation Reduction Act of 2022, Notice 2023-29, available at https://www.irs.gov/pub/irs-drop/n-23-29.pdf; *see also* IRS, *Frequently asked questions for energy communities*, available at https://www.irs.gov/credits-deductions/frequently-asked-questions-for-energy-communities (last visited July 18, 2025).
24. *See* IRS, *IRS issues guidance for energy communities and the bonus credit program under the Inflation Reducation Act*, https://www.irs.gov/newsroom/irs-issues-guidance-for-energy-communities-and-the-bonus-credit-program-under-the-inflation-reduction-act (last visited July 18, 2025) (for current developments. Note that the IRS has not yet issued revised guidance in 2025 as to the brownfields category of energy communities).
25. *See* IRS, Notice 2023-29, *supra note* 23.
26. Massachusetts Department of Energy Resources (DOER), Solar Massachusetts Renewable Target (SMART) Program.
27. Mass., 310 CMR 40.0000: Massachusetts Contingency Plan; *see also* DOER, SMART Land Use Policy Update, available at https://www.mass.gov/doc/smart-land-use-framework-12102024/download.
28. Codified at 35 P.S. §§ 6026.101 *et seq.* and implemented through 25 Pa. Code Ch. 250.