What a New York climate ruling means for companies preparing for emissions reporting

By Pamela Wu, Esq., Morgan Lewis

NOVEMBER 14, 2025

The Supreme Court of New York (Albany County) on Oct. 24, 2025, ruled that New York's Department of Environmental Conservation (DEC) must issue rules and regulations to ensure compliance with the greenhouse gas (GHG) emissions limits that were established to achieve the requirements of the Climate Leadership and Community Protection Act of 2019 (Climate Act).

The court found that DEC failed to issue the required rules by the Jan. 1, 2024, statutory deadline and ordered DEC to issue regulations that comply with the Climate Act by Feb. 6, 2026. This significant ruling addresses agency obligations stemming from climate regulations and sets a precedent for enforcement of statutory requirements in the climate policy arena.

The Climate Leadership and Community Protection Act of 2019

The Climate Act was enacted by the New York State Legislature in 2019, with the express goal of making New York a leader in addressing climate change through reduced GHG emissions. The Climate Act committed New York to achieving a 40% reduction in GHG emissions by 2030 and an 85% reduction by 2050, measured against 1990 emissions levels.

The Climate Act established a three-step process. First, DEC was required to determine the statewide GHG limits necessary to achieve the Climate Act's requirements.

Second, the Climate Act created a Climate Action Council, which was tasked with preparing a Scoping Plan with recommendations for attaining the statewide GHG emissions limits.

Third, the Climate Act required the DEC, relying on the Scoping Plan, to issue regulations that would ensure that the aggregate GHG emissions will not exceed the statewide GHG limits that were established to achieve the Climate Act's requirements while also reflecting the findings of the Scoping Plan.

Although DEC completed the first step, and the Climate Action Council prepared and issued the Scoping Plan, DEC did not promulgate regulations by the deadline, which passed on or about Jan. 1, 2024, and has not done so since the statutory deadline passed. The petitioners sued to compel DEC to comply with the Climate Act by promulgating rules and regulations that fulfill the mandates of the Climate Act.

Findings of the New York state court

The court found that the use of the term "shall" in the statutory language of the Climate Act imposes mandatory duties on the DEC and that the DEC was required to issue regulations that fulfill the Climate Act. The court noted DEC's argument that the regulations would fall far short of the 40% and 85% reduction in GHG emissions by 2030 and 2050, respectively, that were mandated by the Climate Act and that therefore, such regulations would not "ensure" compliance with the Climate Act.

This significant ruling addresses agency obligations stemming from climate regulations and sets a precedent for enforcement of statutory requirements in the climate policy arena.

The court also acknowledged that DEC deemed the regulations to be infeasible because, in its opinion, achieving the Climate Act's targets would require imposing extraordinary and damaging costs upon New Yorkers. However, the court held that determining whether DEC's conclusion is right or wrong is beyond the scope of its authority under the Climate Act, as the Legislature has already decided that the Climate Act's goals "shall" be achieved.

The court noted that the DEC could raise its concerns to the Legislature so that the state's elected representatives could determine the costs that their constituents can or cannot bear. The court also stated that the Legislature could amend the Climate Act and modify DEC's obligations under the Climate Act. However, what DEC could not do is unilaterally determine the course of New York's environmental policy by refraining from issuing legally mandated regulations.

The court directed the DEC to draft and issue rules and regulations to ensure compliance with the statewide emissions reduction limits on or before Feb. 6, 2026. The court noted that it is unlikely to grant extensions of this deadline given the time DEC has had to develop its regulations and address its concerns to the political branches.

Takeaways

This ruling comes amid increased attention to climate disclosures and emissions reductions. It underscores the judiciary's role in ensuring that legislative directives are carried through and met and clarifies that fulfilling statutory requirements is not subject to an agency's discretion based on policy, cost, or complexity.

The court found that the use of the term "shall" in the statutory language of the Climate Act imposes mandatory duties on the DEC and that the DEC was required to issue regulations that fulfill the Climate Act.

Although the court's ruling may be appealed and may lead to other litigation, companies that are or may be subject to the forthcoming regulations should stay apprised of DEC's rulemaking process and potential legislative changes.

As part of the rulemaking process, the DEC will need to publish proposed regulations and provide for a comment period during which stakeholders, including companies that may be impacted by the proposed regulations, can submit comments on the proposed regulations or specific aspects of the proposed regulations for the DEC's review and consideration.

Companies should also monitor climate disclosure and reporting laws more broadly. For example, two climate disclosure laws in California, the Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261), require emissions reporting and climate-related financial risk reporting in 2026.

In addition, as of Jan. 1, 2025, California's Voluntary Carbon Market Disclosures Act (AB 1305) requires companies to make disclosures about their voluntary carbon offset transactions and any net zero or carbon-neutral claims.

Companies that may be subject to climate disclosures should track such regulatory developments, assess their potential impact and implications for their companies, and identify potential compliance requirements. They should prepare for compliance with these existing and forthcoming rules and ensure they do and can continue to meet the compliance requirements and have relevant documentation and support needed to do so.

Pamela Wu is a regular contributing columnist on energy and decarbonization issues for Reuters Legal News and Westlaw Today.

About the authors

Pamela Wu, a partner at **Morgan Lewis**, represents companies in the energy industry in a range of matters involving rates, market rules and regulation, and energy commodity trading before the Federal Energy Regulatory Commission (FERC) and Commodity Futures Trading Commission (CFTC). She advises clients seeking to reduce their carbon footprint through new infrastructure assets, clean energy technologies, and transacting carbon credits and carbon offsets. An active member of the firm's energy commodity trading and compliance working group, hydrogen working group, electric vehicles working group, and renewables working group, she is resident in the Washington, D.C., office and can be reached at pamela.wu@morganlewis.com.

This article was first published on Reuters Legal News and Westlaw Today on November 14, 2025.