NEW YORK STATE COMMUNITY RISK AND RESILIENCY ACT
SUMMARY

On September 22, 2014, Governor Andrew Cuomo signed bill A06558/S06617-B, the Community Risk and Resiliency Act (CRRA). The purpose of the bill is to ensure that certain state monies, facility-siting regulations and permits include consideration of the effects of climate risk and extreme-weather events. The bill’s provisions will apply to all applications and permits no later than January 1, 2017.

CRRA includes five major provisions:

1. OFFICIAL SEA-LEVEL RISE PROJECTIONS
CRRA adds a new section to Environmental Conservation Law (ECL) that requires the Department of Environmental Conservation (DEC) to adopt science-based sea-level rise projections into regulation by January 1, 2016.

2. CONSIDERATION OF SEA-LEVEL RISE, STORM SURGE AND FLOODING IN FACILITY SITING, PERMITTING AND FUNDING
CRRA amends the ECL, Agriculture and Markets Law, and Public Health Law to require applicants for permits or funding in a number of specified permitting and funding programs to demonstrate that future physical climate risk due to sea-level rise, storm surge and flooding have been considered, and that these factors be incorporated into certain facility-siting regulations.

Permitting programs identified in CRRA:
- CRRA Section 14-a: Oil and natural gas wells
- CRRA Section 15: Major projects:
  - Protection of Waters
  - Sewerage Service
  - Liquefied natural gas and liquefied propane facilities
  - Mined land reclamation
  - Freshwater wetlands
  - Tidal wetlands
  - Coastal erosion hazard areas
All of the above permitting programs are managed by the DEC.

Facility-siting programs identified in CRRA:
- CRRA Section 4: Hazardous waste transportation, storage and distribution facility siting
- CRRA Section 9: Petroleum bulk storage
- CRRA Section 5: Hazardous substance bulk storage
DEC manages all of the above facility-siting programs by regulation.
Funding programs and agencies identified in CRRA:

- CRRA Section 3: Water Pollution Control Revolving Fund (DEC, EFC)
- CRRA Section 13: Drinking Water Revolving Fund (DOH, EFC)
- CRRA Sections 6, 7: Open space acquisition (DEC, Office of Parks, Recreation and Historic Preservation [OPRHP])
- CRRA Section 7: Open space project operation and maintenance agreements (OPRHP)
- CRRA Section 8: Landfill closure assistance (DEC)
- CRRA Section 11: Coastal rehabilitation project assistance (DEC)
- CRRA Section 10: Local waterfront revitalization (Department of State [DOS])
- CRRA Section 12: Agricultural and farmland protection (DAM)

CRRA requires DEC, in consultation with DOS, to prepare guidance on implementation of the act by January 1, 2017.

While DEC is required to adopt projections of only sea-level rise, the specified facility-siting, permitting and funding programs must consider storm surge and flooding as well. The inclusion of this language therefore clarifies the scope of the statute to extend beyond coastal areas. The linkage to extreme weather events is particularly significant given the number of non-tidal communities in New York State that recently have experienced flooding or storm surge, or are at risk.

3. Smart Growth Public Infrastructure Policy Act Criteria

CRRA amends ECL Article 6 (Smart Growth Public Infrastructure Policy Act [SGPIPA]) to add mitigation of risk due to sea-level rise, storm surge and flooding to the list of smart-growth criteria. Implementation of SGPIPA is the responsibility of each affected infrastructure agency, but CRRA requires DEC, in consultation with DOS, to develop guidance for implementation of CRRA.

4. Model Local Laws Concerning Climate Risk

CRRA requires DOS, in cooperation with DEC, to develop model local laws that include consideration of future risk due to sea-level rise, storm surge and/or flooding. These model local laws must be based on available data predicting the likelihood of extreme-weather events, including hazard-risk analysis.

5. Guidance on Natural Resiliency Measures

CRRA requires DEC, in consultation with DOS, to develop guidance on the use of natural resources and natural processes to enhance resiliency.

The state agencies responsible for implementing CRRA are currently identifying information needs and organizing staff teams to develop guidance required by CRRA. These agencies anticipate providing regular updates on progress and providing opportunities for public input beginning in late 2015 and continuing through 2016.