APPENDIX F

NEW YORK SITING PROCESS

In the State of New York, applications to construct and operate an electric generating facility with a capacity of 80 MW or more are ruled upon by the New York State Board on Electric Generation Siting and the Environment (NYS Siting Board) after various filings and hearings. The NYS Siting Board is comprised of chairmen and commissioners of various state agencies. The NYS Siting Board also includes two members of the public, appointed by the Governor of New York for each project, who reside near the proposed site.

The New York siting process requires the applicant to file a preliminary scoping statement for the proposed project, describing the following: the proposed facility and its environmental setting; potential environmental impacts from construction and operation; proposed mitigation of potential environmental impacts; and reasonable alternatives to the proposed facility. During this pre-application phase, a hearing examiner may mediate disagreements on the scope and method of any environmental impact studies needed in the application.

The application itself must contain the following: a description of the facility and the site including all applicable environmental characteristics; studies of impacts on air, water, visual resources, land use, noise levels, health, and other matters; proof that the proposed facility will meet state and federal health, safety, and environmental regulations; applications for air and water permits; and a complete report of the applicant's public involvement program activities and how it encouraged citizens to participate.

The applicant must publish notice that it filed the preliminary scoping statement and the application, and serve copies of those documents on interested state agencies, members of the legislature, municipalities, local libraries, and other interested persons and organizations. During the siting process, the applicant must carry out a meaningful public involvement program. The applicant is expected to hold public meetings, offer presentations to individual groups and organizations, and establish a presence in the community (*e.g.*, establishing a local office, toll-free telephone number, Internet Web site, or a community advisory group).

To facilitate the ability of local government and the public to evaluate the proposed project, New York requires that the applicant provide funds for intervenors to use in the siting process. When the applicant submits the application, it must include a fee of $1,000 per MW of capacity, not to exceed $300,000, to be used as an intervenor fund. The funds are awarded to municipal and other local parties to help pay for the expenses of expert witnesses and consultants. At least 50% of the fund is designated for the use of municipalities. The applicant receives any intervenor funds remaining at the end of the case.

The New York State Department of Environmental Conservation (DEC) reviews applications for air and water permits submitted as part of the siting process application. The DEC must provide the permits to the NYS Siting Board before that board decides whether to

approve siting by granting the applicant a Certificate of Environmental Compatability and Public Need. To grant a Certificate, the NYS Siting Board must determine:

- Either:

  Construction of the facility is reasonably consistent with the most recent state energy plan (the final 1994 plan assesses the state's current energy supplies, infrastructure, and policies, and forecasts energy needs and supplies through 2012), or

  The electricity generated by the facility will be sold into the competitive market;

- The nature of the probable environmental impacts, including an evaluation of cumulative air quality impacts;

- The facility minimizes adverse environmental impacts, given environmental and other pertinent considerations;

- The facility is compatible with public health and safety;

- The facility will not discharge or emit any pollutants in violation of existing requirements and standards;

- The facility will control the disposal of solid and hazardous wastes;

- The facility is designed to operate in compliance with state and local legal provisions, other than those local legal provisions that the NYS Siting Board finds unreasonably restrictive; and

- The construction and operation of the facility is in the public interest.

Various state agencies involved in the environment, public health, or energy are normally active parties in the New York siting process. Any municipality or resident within a five-mile radius of a proposed facility can become a party to the proceeding. Any organization or resident outside of the five-mile radius may request party status. Party status enables the person or entity to submit testimony, cross-examine witnesses, and file legal briefs. The NYS Siting Board's goal is to decide whether to grant siting within 14 months after it receives the application.

APPENDIX G

CALIFORNIA SITING PROCESS

California has empowered the California Energy Commission (CEC) to conduct a consolidated approval process for siting all power plants that will have electric generating capacities of 50 MW or larger. The CEC's siting responsibilities include statewide planning analysis. The siting process allows the project applicant to submit a single application for all necessary state and local approvals and provides analysis of all aspects of a proposed project, including need, environmental impact, safety, efficiency, and reliability.

The CEC has exclusive authority to approve the construction and operation of these plants. While the CEC's authority supercedes the authority of other state and local agencies, the CEC solicits their participation in the siting process to ensure compliance with all applicable requirements, including local requirements. Under this approach, the applicant seeks a single regulatory permit from the CEC.

The California siting process, which has public hearings and allows the public to participate, has two main phases. The first phase is expected to take nine months to one year to complete. It typically involves a conceptual review of the project, determining the need for a proposed plant, site suitability and acceptability, and alternatives to the proposed project. The second phase is expected to take 12 to 18 months to complete. It involves consideration of the specific site, technology, and equipment. In the second phase, the design, construction, operation, and closure of the power plant is reviewed against applicable laws, rules, and ordinances. The second phase is used to identify negative environmental effects and ways to mitigate them. The CEC also determines, or reconfirms, the need for the facility.

The California siting process includes a public adviser, nominated by the CEC and appointed by the Governor of California to a three-year term. The public adviser is responsible for ensuring that the public and other interested parties have full opportunities to participate in the siting process. The public adviser does not act as the public's legal counsel before the CEC but instead advises the public on how to effectively participate in the proceedings.

California has experienced delays with its siting process, resulting in changes to the program. The CEC amended its procedures to allow any proponent of a natural-gas fired merchant power plant to proceed to the second phase without applying for an exemption from the first phase. Apparently the California legislature created a "fast track" siting process of six months for new electric generating facilities presenting no significant adverse environmental impacts. It also appears that, under that legislation, a simple cycle peaker plant can receive a three-year operating permit in less than four months if it presents no significant adverse environmental impacts and is equipped with certain stringent emission control technology. A permit condition, however, requires the facility, within three years, to either convert to a combined cycle operation or cease operating.

APPENDIX H

ILLINOIS SB 172 SITING CRITERIA

The Environmental Protection Act's pollution control facility siting criteria are as follows:

i. the facility is necessary to accommodate the waste needs of the area it is intended to serve;

ii. the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

iii. the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;

iv. (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100 year floodplain or the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed;

v. the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

vi. the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;

vii. if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;

viii. if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; and

ix. if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met. 415 ILCS 5/39.2(a) (1998).

APPENDIX I

State Laws & Regulations
Peaker Plants

Area	LAWS and REGULATIONS	DESCRIPTION
	ARIZONA	
Energy Portfolio	**Electric Utility Restructuring Efforts** (5/00) http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	The ACC issued an order that requires electricity providers to derive 1.1 % of their total product from renewable energy sources by 2007. Implementation will begin with 0.4 % from renewables by January 1, 2001. 50 % of their renewable power must be derived from solar-generating facilities.
	CALIFORNIA	
Siting	"**Guidance for Power Plant Siting and Best Available Control Technology**," July 22, 1999 http://www.arb.ca.gov/powerpl/powerpl.htm	In July 1999, the CA Air Resources Board approved guidelines for major power plant permits. The guidelines are intended to ensure that air districts require power plants to use the cleanest emissions control technology currently available. Districts will also be expected to require newer, cleaner control technology as it becomes available. This document doesn't establish any new laws or rules but provides guidance on applying existing state & federal rules and authority to peaker/merchant power plants. • **SITING:** California Energy Commission (CEC) and local Air Districts have control over siting power plants >50 MW. Electric generating facilities >50 MW are required to receive certification from the Energy Facilities Siting and Environmental Protection Division. Certifications are open to the public. In the siting phase, the design, construction, operation, and closure of the power plant is closely examined in relation to applicable laws, ordinances, rules, and standards. Adverse environmental effects are identified and mitigation measures established. The need for the facility is determined, or reconfirmed, if preceded by a Notice of Intent. The siting process ensures that the proposed power plants are safe, reliable, environmentally sound, and comply with all applicable requirements. The Siting Division also oversees construction and operation.
Air		• **AIR DISTRICTS:** Local Air Districts provide analysis and recommendations to the CEC on proposed projects to determine compliance with air pollution control regulations. The Local Air Districts utilize a permitting process to control emissions from non-vehicular sources (stationary sources) that is incorporated into the CEC's power plant siting process. The CEC's power plant siting regulations specifically provide for the district's participation in the process. Each district's regulations may vary depending on the air quality conditions in the district and the district's policies and strategies for attaining or maintaining compliance with the federal and State ambient air quality standards. The district's analysis and recommendations are provided to the CEC in a document known as a Determination of Compliance (DOC).

Air		• **BEST AVAILABLE CONTROL TECHNOLOGIES:** Major sources are required by permit to use "California BACT", which is equivalent to the more stringent federal lowest achievable emission rate (LAER) in most California air districts. • **EMISSIONS OFFSETS:** Air pollution control and air quality management district (district) new source review (NSR) rules and regulations employ both best available control technology (BACT) and emission offset requirements to reduce the impact on air quality from new or modified stationary sources. If emission increases are above certain specified levels, district NSR rules require the application of BACT. If the emission increases after the installation of BACT are still above specified levels, then emission offsets may be required. • **AIR IMPACT ANALYSIS:** California Health & Safety Code requires Air Districts to evaluate air quality impacts in addition to the Federal CAA requirements on Prevention of Significant Deterioration. This ensures new permits will not be issued for emission units (sources) that will prevent or interfere with the attainment or maintenance of any applicable air quality standard. • **HEALTH RISK ASSESSMENT:** Power plant applicants are asked to submit a Health Risk Assessment under the California Environmental Quality Act and the Health & Safety Code. A health risk assessment addresses three categories of health impacts from all pathways of exposure, if appropriate: acute health effects from inhalation only, chronic non-cancer health effects, and cancer risks from multiple exposure paths. • **ADDITIONAL PERMITTING CONSIDERATIONS:** Permits address startup/shutdown emissions, continuous air monitoring, sulfur content of fuel, and ammonia slip from air pollution controls.
Water	**Water Recycling Act of 1991** http://leginfo.ca.gov	• Established grants and loans for water reclamation projects and encouraged water reuse among suppliers. • Applies only to public entities that produce or supply water and to entities responsible for groundwater replenishment.
	CONNECTICUT	
Energy Portfolio	**An Act Concerning Electric Restructuring** *(RB 5005)* (4/98) http://www.eia.doe.gov/cneaf/electricity/chg_str/tab5rev.html#CT	• The bill requires renewable energy funding, a 5.5 % renewable portfolio standard, and environmental protections.
Noise	**State Policy Regarding Noise** *(CT General Statutes Ch. 442, Sec. 22a-67 to 22a-76)* http://www.cslib.org////statutes/title22a/t22a-p5.htm	• Noise regulations address impulse noises and a model ordinance.

Siting	**FLORIDA**	
	Electrical Power Plant Siting Act, 1973 *(Florida Statute Section 403.501-.518)* http://www.dep.state.fl.us/siting/Programs/progER-pps.htm	• FL has an **Siting Coordination Office** that is responsible for siting of: ➢ Electrical Power Plants ➢ Electrical Transmission Lines ➢ Natural Gas Transmission Pipelines ➢ High Speed Rails ➢ Hazardous Waste Facilities • Electrical Power Plant Siting Act applies only to steam or solar electric generation > 75MW. This would include combined-cycle plants but not simple-cycle combustion turbines. • Final approval body for the permits is not the Siting Board, but the Department of Environmental Protection. • Fees are charged to the applicant. • BACT for NOx is 9 ppm based on dry low NOx combustion technology.
	Ten Year Site Plan Requirements (TYSP) *(Part of the electrical power plant siting process)*	• The Public Service Commission (PSC) oversees the submission of plans by the utilities that describe current generation capacity and anticipated need for more capacity. The TYSPs also provide generic information on future sites for power plants to accommodate the anticipated need. This information includes land use data, environmental factors, and similar topics which allows other state and local agencies to comment on the Plans to the PSC. Based on this information and its own conclusions, the PSC will determine the suitability of the plan.
	Need Determination *(Part of the electrical power plant siting process, s. 403.519, F.S.)*	• Need Determination is a formal process and is conducted by the Public Service Commission (PSC). The PSC reviews the need for the generation capacity that would be produced by the proposed facility in relation to the needs of the region, and to the state as a whole. The PSC also looks at whether the facility would be the most cost-effective means of obtaining the capacity.
	Environmental Impact Statement *(Statute section 62-1.211(1), F.A.C.)* http://www.dep.state.fl.us/siting/Law_Rule/apform-pps-a.htm	• Site certification application forms for power plants resemble an Environmental Impact Statement. Site Certifications are issued by the Governor and Cabinet. Prior to issuance of a Site Certification, the Department of Environmental Regulation (DER), Department of Community Affairs (DCA), Public Service Commission (PSC), Water Management Districts (WMD), and other affected agencies are required to assess the potential effects upon the environment, ecology and society by the proposed plant in order to insure that the construction and operation of the plant will be consistent with applicable environmental standards.
Water	**GEORGIA**	
	Water Withdrawal Permits http://www.ganet.org/dnr/environ/aboutepd_files/branches_files/wrb.htm	• GA has a Water Withdrawal Permit Program. • Develops short-term and long-term water management policies and strategies to address environmental problems induced by unsustainable use of Georgia's water resources.
Air	**Air Permit Modeling** http://167.193.59.200/metdata/	• GA maintains a Web site with geographical meteorological data for air permit modeling based on 5 years of data.
	HAWAII	

Noise	**Noise Pollution** *(Hawaii Revised Statutes Chapter 342F)* http://www.capitol.hawaii.gov/hrscurrent/Vol06/hrs342f/HRS_342F.htm	• Hawaii's noise regulations incorporate both a permit program and enforcement provisions.
	ILLINOIS	
Air	**Air Pollution** *(35 IL Admin Code, Subtitle B)* http://www.ipcb.state.il.us/title35/35conten.htm	• State rules follow federal requirements.
Energy Portfolio	**Renewable Energy Initiatives** http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• 09/00 - Chicago Mayor Richard M. Daley announced that the City of Chicago and 47 other local government bodies plan to buy electric power as a group, requiring that 20% of the purchase (80 MW) come from renewable energy. The City has issued a request for proposals to the 13 licensed power providers in Illinois. This is the first opportunity that government agencies have had to purchase power competitively since Illinois passed its restructuring law. • 10/99: Commonwealth Edison plans to allocate $250 million to a special fund to support environmental initiatives and energy-efficiency programs throughout the State.
Noise	**Noise** *(35 Illinois Admin. Code 900 – 952)* http://www.ipcb.state.il.us/title35/35conten.htm	• According to Greg Zak of the IEPA, Illinois is more active than any other state in regulating noise. However, some states may have cities that regulate noise through local ordinances.
	INDIANA	
Air		• Requires BACT for all new projects emitting >25 tons per year VOM.
Siting		• Requires public utilities to obtain a *certificate of necessity* prior to constructing electric generating facilities. (The Indiana Utility Regulatory Commission considers Independent Power Producers to be public utilities.)
Water	**Water Rights & Resources** *(Indiana Code, 14-25)* http://www.ai.org/dnr/index.html http://www.ai.org/legislative/ic/code/title14/ar25/ch4.html	• Registration and annual reporting requirement for owners of significant water withdrawal facilities (> 1,000,000 gallons/day of surface water, groundwater, or combination). • Natural Resources Commission (NRC) has statutory authority to require, by rule, a permit for most water withdrawals from navigable waters, but authority has not yet been exercised. • NRC is required to develop and maintain inventories, gather and assess all information needed to properly define water resource availability. • NRC can establish, by rule, minimum stream flows. • Where groundwater is threatened, Department of Natural Resources (DNR) may designate a "restricted use area." Permit is then required for withdrawal of >100,000 gal/day beyond use at time of restricted use designation. In granting or refusing a permit, the DNR considers the concept of beneficial use.
	IOWA	

Energy Portfolio	**Electric Utility Restructuring Legislation** *(3/00)* http://www.eia.doe.gov/cneaf/electricity/chg_str/tab5rev.html#CT	• The DNR has proposed including a Renewable Portfolio Standard in restructuring legislation. The proposal would require renewable energy sources, such as wind, to be 4% in 2005 and increase to 10% by 2015. • Each peaker application is reviewed for acid rain potential and, in some cases, new sources must purchase credits from USEPA.
Water	**Water Allocation and Use; Flood Plain Control** *(Code of Iowa, 455B.261-290)* (1999) http://www.state.ia.us/dnr/organiza/epd/wtrsuply/alloca.htm http://www.legis.state.ia.us/cgi-bin/IACODE/Code1999SUPPLEMENT.pl	• Permit is required for any person who diverts, stores or withdraws >25,000 gal of water/day (surface or groundwater). Permits are generally issued for 10 years but, depending on geological conditions, can be for lesser period of time. • Permit program insures consistency in decisions on allocations. Allocations are based upon concept of "beneficial use," the key points of which are: 1. water resources are to be put to beneficial use to the fullest extent; 2. water and unreasonable uses are prevented; 3. water conservation is expected; 4. established average minimum instream flows are protected. • Administrative process resolves water use conflicts. • Provisions are in place for public involvement in issuing water allocation permits and in generally establishing water use policies.
	KENTUCKY	
Air		• State rules follow federal air requirements.
Noise	**Kentucky State Noise Control Act** *(Kentucky Revised Statutes: KRS 220.30-100 to 220.30-190)* http://162.114.4.13/KRS/224-30/CHAPTER.HTM	• Regulations address a model ordinance.
	MAINE	
Energy Portfolio	**Electric Utility Restructuring Legislation** (5/97) http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• Maine's restructuring legislation contains the nation's most aggressive renewables portfolio, requiring 30% of generation to be from renewable energy sources (including hydroelectric).
	MASSACHUSETTS	•
Energy Portfolio	**Electric Utility Restructuring Legislation** http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• Massachusetts restructuring legislation includes a renewable portfolio requirement and established a renewable energy fund, funded via a system benefits charge. Funds will also be used to create initiatives to increase the supply of and demand for renewable energy.
	MICHIGAN	
Air	**Emissions Limitations and Prohibitions – New Sources of VOC Emissions** *(R336.1702)* http://www.deq.state.mi.us/pub/aqd/rules/part7.pdf	• Requires BACT for all new sources of VOCs.

	MINNESOTA	
Siting	**Power Plant Siting Act** *(MN Admin Code 116C.51-69.)* http://www.revisor.leg.state.mn.us/stats/116C/	• Power Plant Siting Act applies to facilities greater than 50 MW. • The siting authority is the State Environmental Quality Board whose purpose is to locate facilities compatible with environmental preservation and efficient use of resources. The Board is to choose locations that minimize adverse human and environmental impact while insuring continuing electric power system reliability and that electric energy needs are met. • The Board develops an inventory of study areas to guide the site selection process. The inventory is developed in a public planning process where all interested persons can participate in developing the criteria and standards to be used by the Board. • A utility (public or private) must apply to the Board for designation of a specific site for a specific size and type of facility. The application shall contain at least two proposed sites. The Board has 12-18 months to issue a decision. When the board designates a site, it issues a *certificate of site compatibility* to the utility with any appropriate conditions. No large electric power generating plant can be constructed except on a site designated by the Board. • In designating a site, the Board considers: ➢ effects on land, water and air resources; ➢ effects of water and air discharges and electric fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including base line studies, predictive modeling, and monitoring of the water and air mass at proposed and operating sites and routes; ➢ new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment; ➢ sites proposed for future development and expansion and their relationship to the land, water, air and human resources of the state; ➢ effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects; ➢ potential for beneficial uses of waste energy from proposed large electric power generating plants; ➢ direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired; ➢ adverse direct and indirect environmental effects which cannot be avoided; ➢ alternatives to the applicant's proposed site ➢ irreversible and irretrievable commitments of resources should the proposed site or route be approved; and ➢ where appropriate, consideration of problems raised by other state and federal agencies and local entities. • The Board must hold a public hearing in the county where the proposed facility is to be located.

Water	**Water Supply Management** *(MN Statutes: Ch. 103G)* http://www.revisor.leg.state.mn.us/stats/103G http://www.dnr.state.mn.us/waters/programs/water_mgt_section/appropriations/permits.html http://www.dnr.state.mn.us/waters/programs/water_mgt_section/appropriations/progdesc.html	• Permit is required for all users withdrawing (surface and groundwater) more than 10,000 gallons per day or 1 million gallons per year. (Exceptions include: domestic uses serving less than 25 person, certain agricultural drainage systems, test pumping of a groundwater source, and reuse of water already authorized by permit, e.g., water purchased from a municipal water system.) • Permits are granted for no longer than 5 years. • Policy is to manage water resources to ensure an adequate supply to meet long-range seasonal requirements for domestic, agricultural, fish and wildlife, recreational, power navigation, and quality control purposes. • Water Appropriation Permit Program exists to balance competing management objectives that include both development and protection of MN's water resources. • Permitted users are required to submit annual reports of water use. Reported information is used to evaluate impacts and to aid in resolving conflicts.
Noise	**Noise Pollution Control** *(MN Rules Chapter 7030)* http://www.revisor.leg.state.mn.us/arule/7030/ http://www.pca.state.mn.us/programs/pubs/noise.pdf	• The Minnesota Pollution Control Agency (MPCA) is empowered to enforce the state of Minnesota noise rules.
	MISSOURI	
Air		• State air rules follow federal requirements. • Major source threshold is 100 tons per year.
Water	**Geology, Water Resources and Geodetic Survey** *(Missouri Revised Statutes, Chapter 256)* http://www.dnr.state.mo.us/dgls/wrp/waterusestatutes.htm http://www.moga.state.mo.us/statutes/c200-299/2560400.htm	• Major water users must register with Department of Natural Resources (DNR). A major water user is defined as an entity that is capable of withdrawing or diverting 100,000 gal or more per day from any water source. • Failure to register may result in DNR request that Attorney General file action to stop all withdrawal or diversion. Purpose of registration program is to insure the development of information required for the analysis of certain future water resource management needs.
	NEVADA	
Energy Portfolio	**Electric Utility Restructuring, AB 366** *(6/99)* http://www.eia.doe.gov/cneaf/electricity/chg_str/tab5rev.html#CT	• AB 366 provides that the PUC establish portfolio standards for renewable energy. The standard will phase-in a requirement (beginning with 0.2 % by January 2001 and adding 0.2 % of a percent biannually) that 1% of energy consumed be from renewable energy resources.
	NEW JERSEY	
Water	**Water Supply Management Act** *(NJAC 7:19-1)*	• Water resources management is required for >100,000 gallons per day.

Noise	**Noise Control Rules** *(NJAC 7:29)* http://www.state.nj.us/dep/enforcement/pcp/olem-noise.htm	• The NJ Department of Environmental Protection (NJDEP) has developed a Model Noise Ordinance that can be adopted by local municipalities. • NJDEP does not have a noise control program and does not investigate noise complaints. Noise control is handled locally.
Energy Portfolio	**Electric Utility Restructuring** http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• The restructuring legislation in NJ requires spending $230 million for home weatherization, renewable energy and other programs, and increases spending on new energy conservation programs. Also, electric generation companies must disclose a set of environmental characteristics, including power plant fuels and emissions.
	NEW YORK	
Siting	**Siting and Approval** *(Article X of Public Service Law)* http://www.dps.state.ny.us/articlex.htm	• The NY Public Service Commission (NY State Board on Electric Generation Siting and the Environment) is in charge of siting and approval of all new power plants. • Article X of the Public Service Law sets forth a unified and expedited review process for applications for power plants > 80 MW. • Proceedings are open to the public • Siting Board may preempt local zoning. • Siting may take up to 18 months. • Siting Board must determine: **1.** either: (a) construction of the facility is reasonably consistent with the most recent **State Energy Plan**, or (b) the electricity generated by the facility will be sold into the competitive market; **2.** the nature of the probable environmental impacts (including an evaluation of cumulative air quality impacts); **3.** the facility minimizes adverse environmental impacts, given environmental and other pertinent considerations; **4.** the facility is compatible with public health and safety; **5.** the facility will not discharge or emit any pollutants in violation of existing requirements and standards; **6.** the facility will control the disposal of solid and hazardous wastes; **7.** the facility is designed to operate in compliance with state and local legal provisions, other than those local legal provisions that the Siting Board finds unreasonably restrictive; and **8.** the construction and operation of the facility is in the public interest.
	Intervenor Fund for Siting Review *(Article X, Section 164)*	▪ Power plant applicants are required to pay $1,000 per MW of capacity up to $300,000 to establish an Intervenor Fund. ▪ Funds are used to defray expenses associated with the siting review.
	Proposed Amendment to Article X *(New York State Bill A09039)*	▪ The bill would authorize the Commissioner of Environmental Conservation to issue environmental permits necessary to the siting of an electric generation facility if the Siting Board is unable to do so and would make some technical changes to the siting law. ▪ The bill would also require the Energy Planning Board to do a reliability study of the state's transmission and distribution systems.

Water	**New York State Energy Plan 1994** *(New York State Energy Office)*	• The Final 1994 State Energy Plan calls for significant reductions in State energy taxes and endorses greater competition in utility purchases of electricity in order to lower electric rates in the state. The plan reaffirms the state's long-term energy, economic and environmental goals and its commitment to energy efficiency, but places increased emphasis on the use of energy policy as a means to promote sustained economic development. The plan assesses New York's current energy supplies, infrastructure and policies, and forecasts energy needs and supplies through the year 2012. Based on those findings, the plan sets policy goals and objectives and recommends 180 specific actions. The plan was prepared by the staffs of the State Energy Office and the State Departments of Environmental Conservation and Public Service in response to 1992 legislation that formalized Governor Mario Cuomo's model for integrated energy planning. The State Energy Planning Board, which approved the plan on October 31,1994 is made up of the commissioners of those three agencies. State energy law requires that any state action related to energy be reasonably consistent with the plan's findings and recommendations.
	Water Supply Permits *(Chapter 6, New York Codes, Rules and Regulations. Part 601: 6 NYCRR 601)*	• Required for suppliers of potable water with 5 or more service connections. • Applicants must demonstrate: 1. Plans are justified by public necessity. 2. Plans take proper consideration of other sources of supply which are or may become available. 3. Plans provide for proper and safe construction of all work connected therewith. 4. Plans provide for proper sanitary control of the watershed and proper protection of the supply. 5. Plans provide for an adequate water supply. 6. Plans are just and equitable to the other municipal corporations and civil divisions of the state affected thereby and to the inhabitants thereof, particular consideration being given to the present and future necessities for sources of water supply. 7. Plans make fair and equitable provisions for the determination and payment of any and all damages to persons and property, both direct and indirect, which result from the acquisition of said lands or the execution of said plans. 8. Plans, in accordance with local water resources needs and conditions, include a description of an adequate near term and long range water conservation program. • Entities holding Water Supply Permits must report average and peak usage to the NY Department of Environmental Conservation annually. If customer demand grows (i.e., new peaker plant begins withdrawing from the water supply), supplier must re-demonstrate the above to the state if the demand exceeds amount authorized in the Water Supply Permit.
	Water Well Program *(Environmental Conservation Law 15-1525)*	• Pre-notification must be filled with the state prior to drilling specifying desired yield. • No restrictions are specified on the amount of water withdrawal. However, under NY Civil Law, property owners have water rights. If a well causes drawdowns that impact an off-site property owner's water use, then they can sue.

	Water Withdrawal Registration *(6 NYCRR, Chapter X, Subchapter A, Article 1)*	• Applies to withdrawals from Great Lakes: • Great Lakes (6 NYCRR 675): ▪ withdrawals >100,000 gpd averaged over 30-day period *- OR -* ▪ lake water loss > 2,000,000 gpd averaged over 30-day period • No restrictions are specified on the amount of water withdrawal, just that withdrawals must be registered. Registration fee is $100 / year.
	Long Island Water Withdrawal Restrictions	• Water withdrawals from wells are restricted by quantity on Long Island since over pumpage of groundwater on Long Island can cause infiltration of saltwater into the aquifer.
	Electric Utility Restructuring	• Funds to support energy conservation and renewable energy are made available to energy suppliers from the New York State Energy Research and Development Authority. Funds were created through the New York Public Service Commission order establishing a system benefits charge on electricity sales.
Siting	**OHIO**	
	OH Admin. Code 4906: **Ohio Power Siting Board** http://onlinedocs.andersonpublishing.com/oac/	• The Ohio Power Siting Board within the Public Utilities Commission is the approval authority for all major utilities > 50 MWe. • Meetings of the Board where action is taken or deliberations conducted are open to the public. • Applicants for new facilities must consider at least 1 alternate site. • Applications are required to address: ➢ Justification of Need: ▪ Description of generation and associated facility alternatives ▪ Type, number of units, and estimated net demonstrated capability, heat rate, annual capacity factor, and hours of annual generation ▪ Land area requirement ▪ Fuel quantity and quality ▪ Types of pollutant emissions ▪ Water requirement, source of water, treatment, quantity of any discharge and names of receiving streams ➢ Siting issues: ▪ Location ▪ major features ▪ the topographic, geologic, and hydrologic suitability for each alternate site ➢ Water: ▪ natural and man-affected water budgets ▪ existing maps of aquifers which may be directly affected ➢ Emissions control & safety equipment ➢ Local ambient air quality of proposed sites ➢ Locations of major and anticipated sources of air pollution ➢ Plans for future additions and the maximum generating capacity anticipated for the site. ➢ Financial data ➢ Environmental data

		➢ Social and ecological data: ▪ Noise ▪ Health & Safety ▪ Impact of water use ▪ Economics, land use, and community development ▪ Cultural impact ▪ Agricultural district impact • After the Board certifies applications for new facilities, public hearings are held in the local vicinity of the proposed facility. • The Board collects application fees.
Air	**NOx – Reasonably Available Control Technology** *(OAC 3745-14)* http://onlinedocs.andersonpublishing.com/oac/	• According to IEPA, certain minor sources must use BAT (Best Available Technology), OAC 3745-14-3. • Major sources are required to use BACT per federal regulations: 15 ppm NOx for natural gas turbines, 42 ppm NOx for oil burning. • For NOx sources >100 tpy, Reasonably Available Control Technology (RACT) is required in certain counties. RACT for combustion turbines is 75 PPMVD for those firing gaseous fuels and 110 PPMVD for those firing distillate oil or diesel fuel.
Water	**Application for Permit for major increase in withdrawal of waters of the State** *(Ohio Revised Code 1501.30 & 33)* **Registration of facilities capable of withdrawing >100,00 gal/day; Groundwater Stress Areas** *(Ohio Revised Code 1521.16)* **Determination of reasonable use of water** *(Ohio Revised Code 1521.17)* http://onlinedocs.andersonpublishing.com/revisedcode/ http://www.dnr.state.oh.us/odnr/water/waterinv/waterinv.html	• Permits are required for those making a new or increased consumptive use of water than an average of 2 millions gallons per day over a 30-day period. • Registration is required for any facility or combination of facilities with the capacity to withdraw more than 100,000 gallons of water (surface or ground) daily. Annual reporting is required of those who must register. The purpose of registration and reporting is to gather data to assist in resolving future water use conflicts. • Chief of DNR Division of water has authority to designate "ground water stress areas" and to require water withdrawal registration in these areas for users of water less than the normal 100,000 gallon threshold. • Chief also has responsibility to maintain water Resources Inventory that must include information to assist in determining the reasonableness of water use. • While "reasonable use" is used by courts to determine water conflicts, legislature has set forth nine specific factors (applicable to both surface and groundwater) which define reasonableness. • "Consumptive use" is defined as a use of water resources other than a diversion that results in a loss of that water to the basin from which it is withdrawn and includes, but is not limited to, evaporation, evapotranspiration, and incorporation of water into a product or agricultural crop.
Energy Portfoli	**Electric Utility Restructuring** http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• Restructuring legislation includes a provision for a $110 million revolving load fund for residential and small commercial energy efficiency and renewable energy projects. Also, electricity marketers must disclose environmental information to consumers.
	OREGON	
Noise	**Noise Control Classification of Violations** *(Oregon Admin. Rules 340-012-0052)* http://arcweb.sos.state.or.us/rules/OARS_300/OAR_340/340_012.html	• Regulations address a model ordinance.

	PENNSYLVANIA	
Air	**Stationary Sources of NOx & VOCs** *(Pennsylvania Code Ch. 129.91)* http://pacode.com/secure/data/025/chapter129/chap129toc.html	• PA charges emissions fees: $42/ton (1999). • PA requires RACT (Reasonably Available Control Technology) for all major sources of VOC, NOx.
Energy Portfolio	**Electric Utility Restructuring** *(9/00)* http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• A $21 million Green Energy Fund was created by the Public Utilities Commission (PUC) to be used for investment in green energy projects such as wind, solar, and biomass. The fund, which currently has $5 million, is expected to grow to more than $20 million over the next six years. The fund was created as part of a negotiated settlement between the PUC and PPL in the utility's restructuring case two years ago. Businesses and nonprofit organizations that wish to invest in green energy within PPL's territory may apply for the funds.
	TEXAS	
Water	**Use of Reclaimed Water**, *(Texas Admin Code Title 30 Part 1 Chapter 210)* (1997) http://www.tnrcc.state.tx.us/oprd/rules/index.html	• Establishes general requirements, quality criteria, design, and operational requirements for the beneficial use of reclaimed water that may be substituted for potable water and/or raw water. • Due to limited supply and high demand, reclaimed water can be much less expensive than using municipal drinking water or treating groundwater. The rule is intended to conserve surface and ground water and to help ensure an adequate supply of water resources for present and future needs. • Use of reclaimed water is voluntary. • Locating reuse facilities near the municipal wastewater treatment plant helps to minimize infrastructure costs in constructing a distribution line. • Reclaimed water is provided to the user on a demand-only basis. • Approved uses include cooling tower make up water under §210.32 (2)(F).
	Water Use Permits *(Texas Water Code, §11.121)* http://www.capitol.state.tx.us/statutes/wa/wa001100toc.html	• Texas industries must obtain water rights to use surface water or protected groundwater. Such authorization may be with or without a term, on an annual or seasonal basis, or on a temporary or emergency basis.
Siting	**Siting**	• Does not have a siting commission for power plant projects. • Texas requires *certificates of convenience and necessity* for power plant projects initiated by utilities, but not for projects initiated by independent power producers.
Energy Portfolio	**Electric Utility Restructuring** *(9/00)* http://www.eia.doe.gov/cneaf/electricity/chg_str/pbp.html	• Texas' renewables portfolio standard requires that the State's utilities install or contract to buy power from 2,000 MW of renewable generating capacity by January 1, 2009.

Siting	**WISCONSIN**	
	State Energy Policy *(Wisconsin Statute: 1.12)* http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=111571&infobase=stats.nfo&jump=ch.%20196 **Power Plant Siting** *(WI Admin Code Ch. PSC 111, 112)* **Environmental Analysis** *(WI Admin Code Ch. PSC 4)* http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=95483&infobase=codex.nfo&jump=top	• Wisconsin's State Energy Policy includes policy on: ➢ considering the maximum conservation of energy resources as an important factor when making any major decision that would significantly affect energy usage ➢ reducing the ratio of energy consumption to economic activity in the state ➢ renewable energy resources ➢ protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources. • Ch. PSC 111, 112 require the Public Service Commission (PSC) to develop a Strategic Energy Assessment (SEA) for power plants. The SEA involves an assessment of electric demand and supply, and information from electricity suppliers on economic, pollutant, and energy conservation data. • Ch. PSC 111,112 require *Certificates of Public Convenience and Necessity* for electric generating facilities. According to the Illinois Commerce Commission, this requirement applies to facilities > 100 MW. Applications for certificates include: ➢ at least 2 sites: preferred & alternate ➢ number of units, type, size, fuel ➢ hours of operation ➢ generating capacity ➢ pollutant emissions ➢ need for facility in terms of demand ➢ alternative sources of electric supply including energy conservation & efficiency ➢ Natural resources affected ➢ Ecological resources affected ➢ Community information • According to IEPA, siting is required for facilities >12,000 kW. • Ch. PSC 4 establishes procedures to provide the PSC with adequate information on the short- and long-term environmental effects of its actions as required by the WI Environmental Protection Act, ch. 274, section 1, laws of 1971 and s. 1.11 of the Wisconsin Statutes. PSC 4 requires the PSC to prepare an Environmental Assessment (EA) to assist the PSC in determining environmental impact of proposed facilities. Combustion turbines are included as types of projects requiring an EA. The PSC can approve or deny siting based on the EA or Environmental Impact Statement (EIS). The EA is made available to the public, and hearings are held.

Water	**Water Resources** *(Wisconsin Statues, Chapter 28, Subchapter II)* **Water Quality and Quantity; General Regulations** *(Wisconsin Statues, Chapter 28, Subchapter III)* http://www.legis.state.wi.us/rsb/Statutes.html DNR Rules, Chapter NR 142	• Wisconsin law provides for: 1. development of statewide water quantity resources plan 2. registration and annual reporting (with fees) of major withdrawals (>100,000 gal/day in 30-day period) 3. permit approval process (with administrative hearing process) for construction, development and operation of wells where capacity and rate of withdrawal of groundwater from all wells on one property is in excess of 100,000 gal/day. Approval is withheld or restricted if withdrawal will adversely effect or reduce availability of public water supply or doesn't meet grounds for approval which are: ➢ No adverse effect on public water rights in navigable waters ➢ no conflict with any applicable plan for future uses of waters of state or water quantity resources plan ➢ Reasonable conservation practices have been incorporated ➢ no significant adverse impact on environment and ecosystem of the Great Lakes basin or the upper Mississippi River basin ➢ plan for withdrawal consistent with the protection of public health, safety and welfare and not detrimental to public interest ➢ no significant detrimental effect on the quantity and quality of the waters of the state (even more factors apply if the proposed withdrawal will result in an "interbasin diversion") 4. permit approval process for diversion of water from any lake or stream >2,000,000 gal/day in any 30-day period. If DNR receives application for a withdrawal from the Great lakes basin that will result in a new water loss averaging 5,000,000 gal/day in any 30-day period, DNR notifies governors of other Great Lakes States, requesting their input. • Regulations define "water loss" and "consumptive use." • Rules incorporate methods for citizens to initiate DNR investigations of alleged violations.

Note: *This list is not meant to be all-inclusive.*