

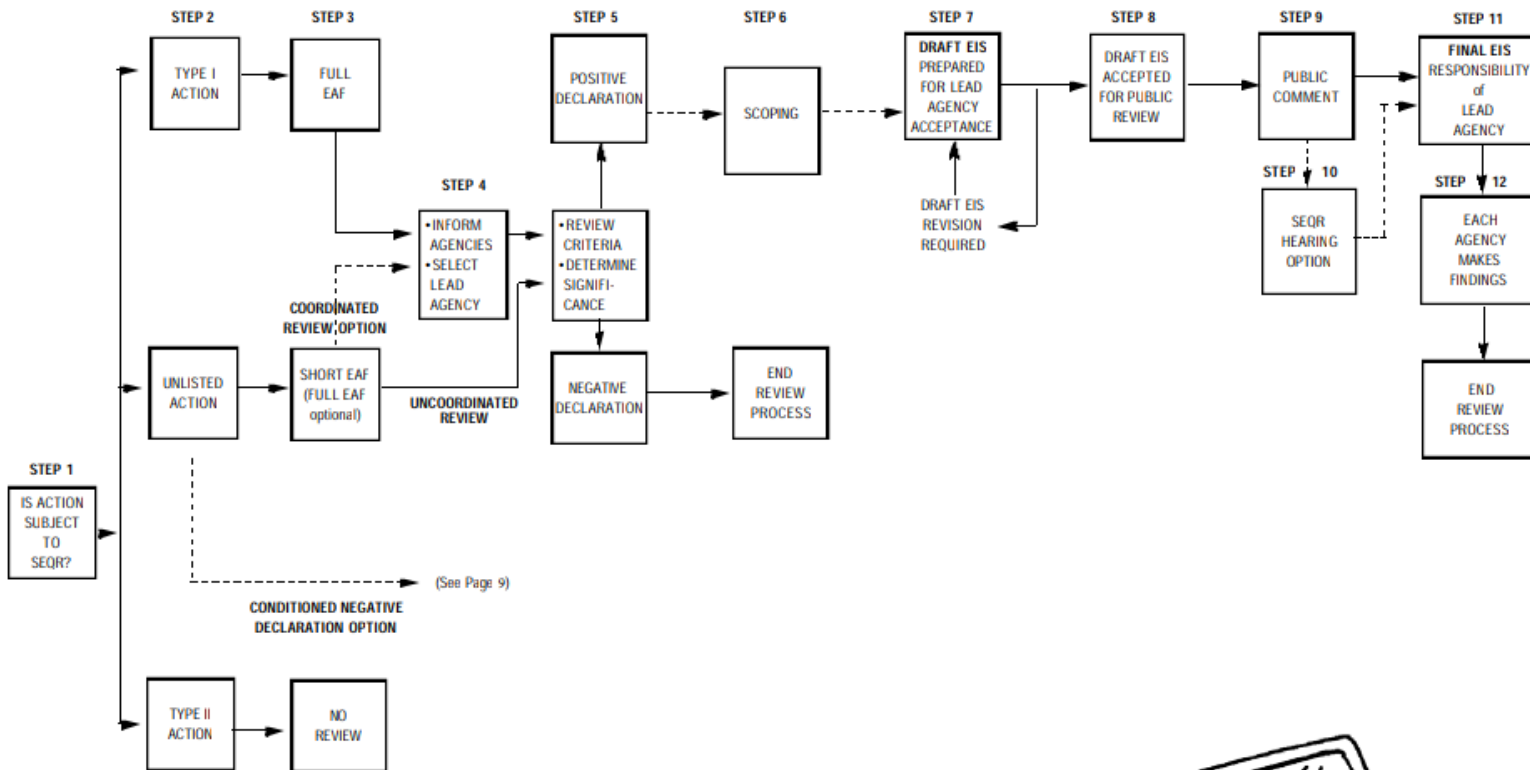
Harter Secrest & Emery LLP

ATTORNEYS AND COUNSELORS

SEQRA: A Shared Responsibility

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William C. Stone, Esq





The SEQR Process



Basics of SEQRA

The Three Guiding Considerations



Step -1: Consider SEQRA in EVERYTHING

- The State Environmental Quality Review Act applies to **all** discretionary actions
- Walk through the process steps
- Make a record

Three guiding considerations

1. Identify the relevant areas of environmental concern
 - The impacts that are reasonably expected to result from the proposed action
 - Agencies are not required to consider every conceivable impact
2. Take a “hard look”
 - More than a cursory examination
3. Make a “reasoned elaboration” of the basis for the determination
 - Put the determination of significance in writing and reference supporting documents
 - Again, make a record!



Lead Agency Responsibilities vs. Involved Agency Responsibilities



Coordinated vs. Uncoordinated Review

Coordinated Review

- One environmental review by all involved agencies
- Requires a lead agency
- Required for:
 - All Type I actions
 - All actions requiring an Environmental Impact Statement
 - All Unlisted Actions subject to a Conditioned Negative Declaration

Uncoordinated Review

- Separate reviews by each involved agency
- Allowed for:
 - Unlisted actions subject to a Negative Declaration
- But, if one agency issues a positive declaration, all agencies are bound by it and must transition to a coordinated review

Lead Agency vs. Interested Agency (vs. Involved Agency)

- Lead agency: an involved agency principally responsible for undertaking, funding or approving an action, and therefore responsible for determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required. (6 NYCRR § 617.2(w)*)
- Involved agencies: an agency that has jurisdiction by law to fund, approve or directly undertake an action. The lead agency is also an involved agency. (6 NYCRR § 617.2(u))
- Interested agency: an agency that lacks the jurisdiction to fund, approve or directly undertake an action but wishes to participate in the review because of its specific expertise or concern about the proposed action. (6 NYCRR § 617.2(v))

*Citations reflect regulatory amendments effective June 12, 2026



Designating a Lead Agency

- The lead agency must be designated before a determination of significance
- Who should be the lead agency? Consider the criteria the NYSDEC Commissioner uses to designate a lead agency in the event of a dispute:
 - Are the anticipated impacts of the action primarily of statewide, regional, or local significance?
 - Which agency has the broadest governmental powers for investigation of the impacts?
 - Which agency has the greatest capability for providing the most thorough environmental assessment?

(6 NYCRR § 617.6)



Designating a Lead Agency: Lead Agency Disputes

- **Town of Patterson vs. Town of Kent**
 - Both towns had similar considerations, but the majority of the project was in Patterson giving it greater control over the proposed project
- **NY Division of Lottery vs. City of Saratoga Springs vs. NYSDEC**
 - State law granted the Division of Lottery significant control over the proposed action
- **Town Board of Town of Dover vs. NYSDEC**
 - The anticipated air and water impacts of a fossil-fuel electric generator were broader than the local impacts, so NYSDEC had greater capability for review
- **Town of Rosendale Planning Board vs. NYSDEC**
 - The property for a proposed resort complex had known bat hibernacula, abandoned mines, and other threatened and endangered species habitats, so NYSDEC expertise was critical to the environmental review
- **Town of Forestburgh vs. NYSDEC**
 - While NYSDEC identified resources of statewide interest that would be impacted by a proposed resort, the construction impacts were local and the Town had greater control due to a rezoning request



Designating a Lead Agency: Lead Agency Responsibilities

- Considering the interests and concerns of the involved agencies
- Reviewing and Completing the Environmental Assessment Forms
- Coordinating public review and comment on the draft scope and draft environmental impact statement, which can include a SEQR hearing
- Submitting all required notices and filings
- Determining the significance of the proposed action
- Determining the scope of the Environmental Impact Statement
- Determining whether the draft Environmental Impact Statement is adequate
- Preparing (or causing to be prepared) the draft and final Environmental Impact Statements
- Preparing SEQR findings



Designating a Lead Agency: Involved Agency Responsibilities

- Helping the lead agency understand the involved agency's jurisdiction
- Providing the lead agency with comments and concerns regarding the proposed action and its potential environmental impacts, and reasonable alternatives, to assist with
 - The determination of environmental significance
 - The draft scope
 - The draft environmental impact statement
- Preparing SEQR findings



When and Where to Get Help



When and Where to Get Help

- Consider:
 - Is an Environmental Impact Statement required?
 - Does review of the action require specialized knowledge?
 - Does another agency have greater resources or understanding for a specific impact?

Where to Get Help

■ Internal Resources

- Planning Department
- Municipal Planner
- Code Enforcement Officer
- Municipal Attorney

■ Outside Professionals

- Consultants with specialized knowledge
- General engineering assistance
- Outside legal assistance



Fee Shifting

- 6 NYCRR § 617.13 Fees and costs
 - The lead agency may charge a fee to the applicant to recover the actual costs of preparing or reviewing the draft or final EIS
 - There are limits to the fees charged, and the applicant can appeal fees it feels are unreasonable
- Local law providing for application fees
- Developer agreement between municipality and project applicant

Online Resources

- NYS Dept. of Environmental Conservation
 - SEQR Handbook
 - SEQR Cookbook
 - EAF Workbooks and EAF Mapper
 - Disadvantaged Communities Tool
- NYS Dept. of State
 - Local government guidance and publications



Environmental Assessment Form Mapper and Disadvantaged Community Assessment Tool

- Environmental Assessment Form Mapper
 - Available from <https://dec.ny.gov/regulatory/permits-licenses/seqr>
- Disadvantaged Community Assessment Tool
 - <https://storymaps.arcgis.com/stories/7f0ffdde675e4e3788632c1b4cce6c0a>



EAF Mapper



- Reviewing documents and [providing comments](#) (step 9)
- [Public hearings](#) (step 10)

EAF Part 1 for Applicants/Project Sponsors

Agencies must use these forms to comply with the amended SEQR regulations -- **previous versions will no longer be accepted.**

Complete Part 1 of the Environmental Assessment Form; please see more about [Classifying the Action](#) (step 1) to determine which version below is correct for the proposed project.

- [Short EAF Part 1 \(PDF\)](#)

For Unlisted actions, except large-scale projects that fall just below Type I thresholds.

- [Full EAF Part 1 \(PDF\)](#)

For all Type I actions; may need the help of a consultant, depending on the size and nature of the proposed project.

The [EAF Mapper](#) can also generate a partially completed EAF for applicants/project sponsors -- once a project location is defined, this GIS application will auto-populate several questions on Part 1.

If you have questions about using the mapper or completing the forms, please view the [EAF Workbooks](#), which provides guidance for applicants, project sponsors, and reviewing agencies.

EAF Part 2 and 3 For Lead Agencies

Part 2 & 3 of the EAF must be completed by the lead agency to document the environmental impact assessment and SEQR determination for a proposed action. For help, please see more about the [SEQR process](#) and review the [EAF Workbooks](#).

- [Short EAF Part 2 & 3 \(PDF\)](#)
- [Full EAF Part 2 \(PDF\)](#) & [Full EAF Part 3 \(PDF\)](#)

Public Notices and other SEQR forms:

- [Notice of Completion: Draft EIS/Final EIS \(PDF\)](#)
- [Notice of Completion: Draft EIS & Public Hearing \(PDF\)](#)

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EAF Mapper



An official website of New York State. [Here's how you know](#)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



Streets Aerials

Welcome to the EAF Mapping Tool

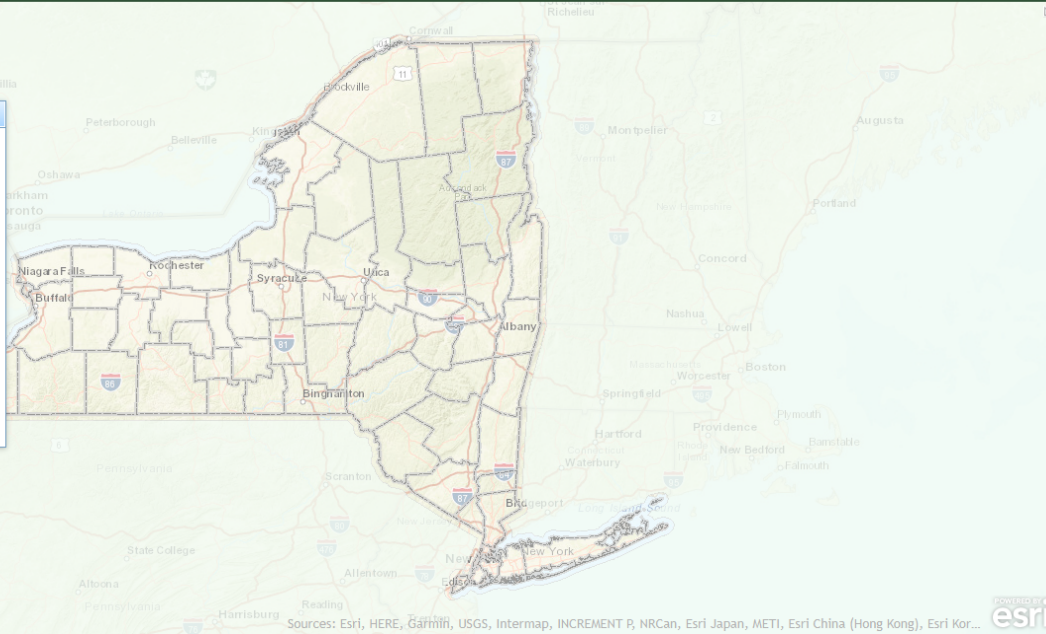
Please turn off all popup blockers

Supported Browsers:

- Firefox
- Edge
- Google Chrome

For best results when viewing the downloaded report, and to preserve editing and saving capabilities, please use Adobe Acrobat Standard, Adobe Acrobat Professional, or Adobe Reader (version 11 or greater).

Last Updated: April 2026



Navigate To Area (Step 1)

Go To

Select County:

Select Town:

Define Project Site (Step 2)

Or

Area:

Create Report (Step 3)

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Kor...



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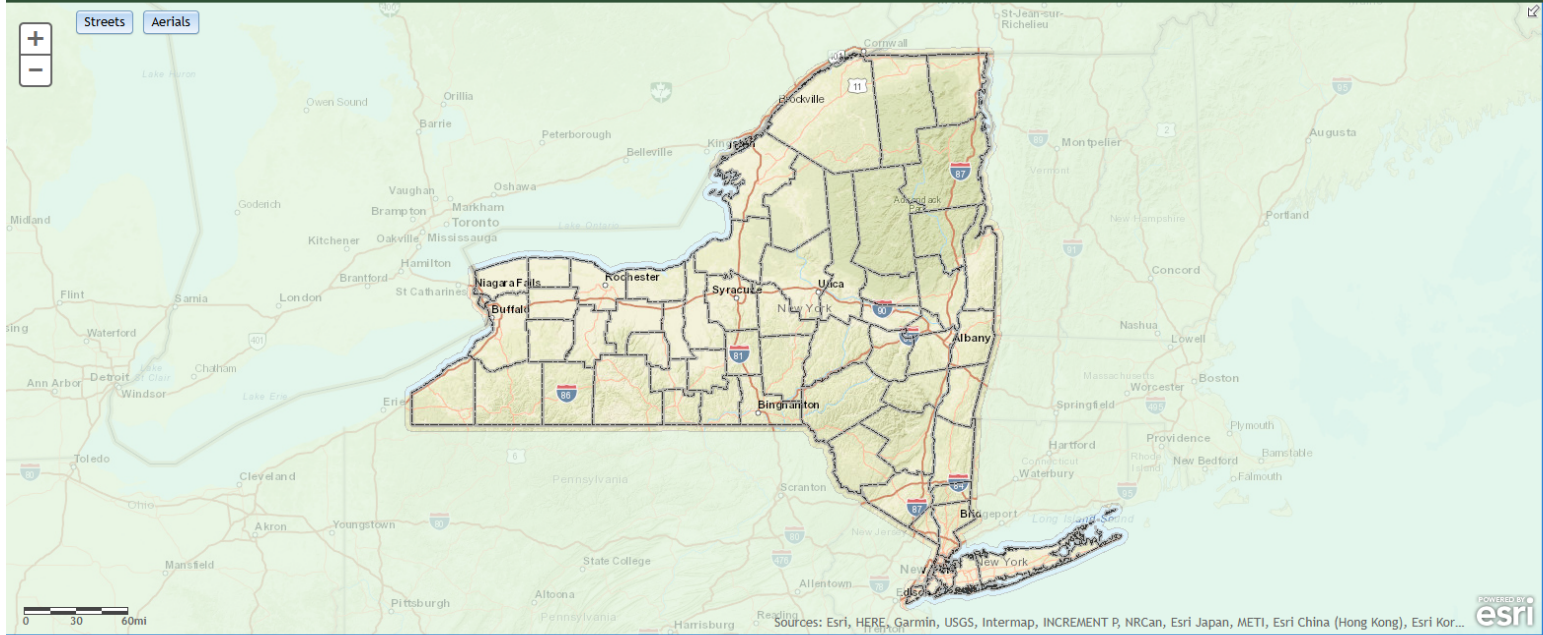
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[Agencies](#) [App Directory](#) [Counties](#) [Events](#) [Programs](#) [Services](#)



EAF Mapper



Navigate To Area (Step 1)

Go To Locate Address

Address:
309 w morris st, bath, ny 14810

Define Project Site (Step 2)

Or

Area:

Create Report (Step 3)



EAF Mapper



An official website of New York State. [Here's how you know](#)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Streets Aerials

309 W Morris St, Bath, NY 14810

Navigation: +, -

Scale: 0, 0.1, 0.2mi

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Kor...

Feedback | Help 1:18,056

Navigate To Area (Step 1)

Go To

Address:

Define Project Site (Step 2)

Or

Area:

Create Report (Step 3)



EAF Mapper



An official website of New York State. [Here's how you know](#)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



Navigate To Area (Step 1)

Go To

Address:

Define Project Site (Step 2)

Or

Area: 28.491 Acres

Create Report (Step 3)

[Feedback](#) | [Help](#)

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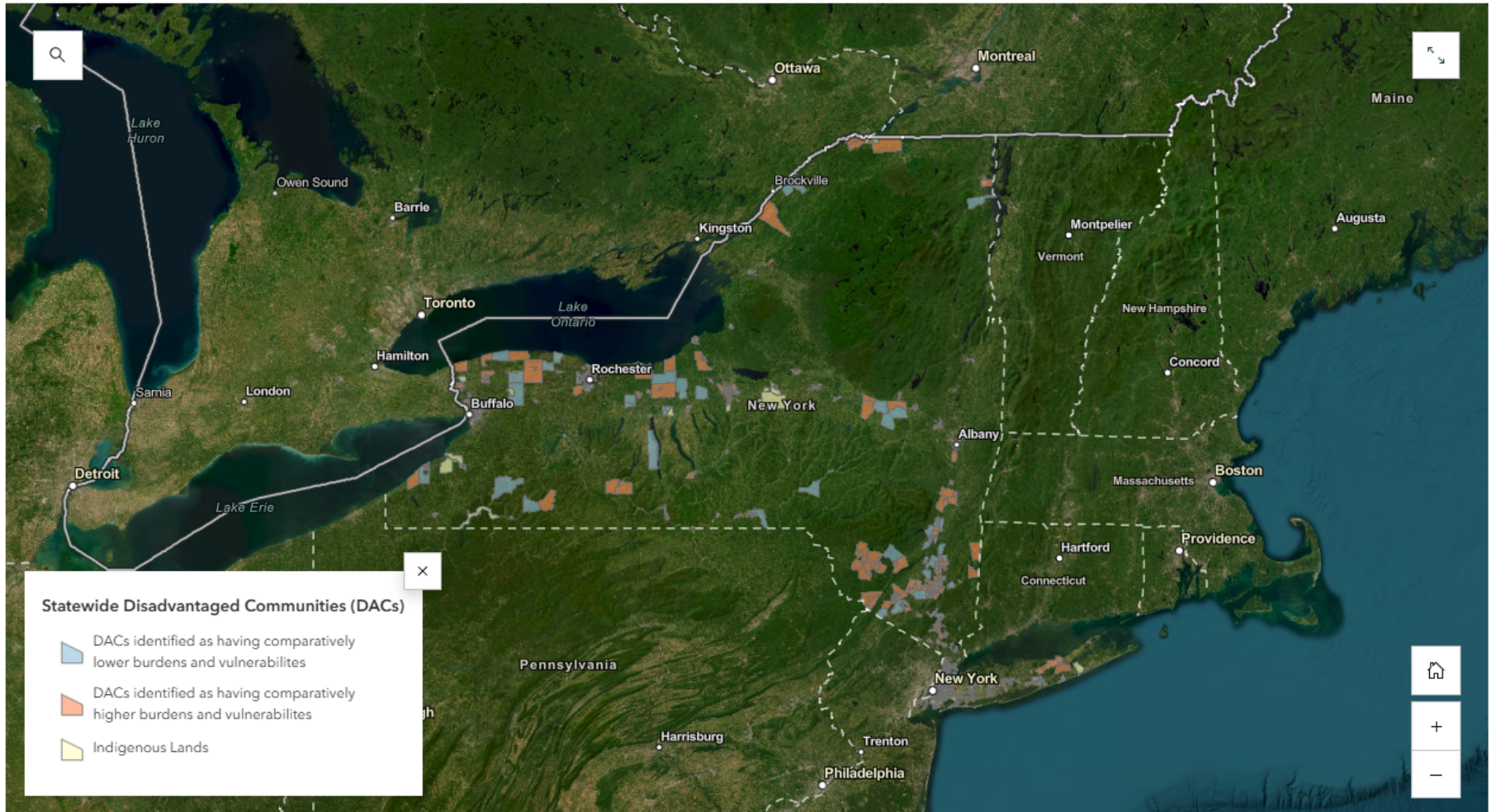
EAF Mapper

gisservices.dec.ny.gov says

PLEASE NOTE, generating the report may take several minutes.
Depending on your browser, you may see a window prior to the
display of the report. Click the Ok button to begin running the report.

OK

Disadvantaged Communities Assessment Tool



Earthstar Geographics | Esri | TomTom | Garmin | FAO | NOAA | USGS | EPA | NPS | USFWS

50 mi | Powered by Esri



SEQRA Updates

Recent Statutory and Regulatory Changes



Impacts on Disadvantaged Communities: Regulatory Changes

- 6 NYCRR § 617.7(c) criteria for determining significance
 - “an action that may cause or increase a disproportionate pollution burden on a disadvantaged community.”
- 6 NYCRR § 617.9(b) environmental impact statement content
 - “impacts of any proposed action on a disadvantaged community, including whether the action may cause or increase a disproportionate pollution burden on a disadvantaged community.”

Impacts on Disadvantaged Communities: EAF Changes

- Short Environmental Assessment Form
 - Is the project located within a disadvantaged community?
 - Identify the pollution impacts that may occur within the disadvantaged community
 - Is the potentially affected disadvantaged community identified as having comparatively higher burdens or vulnerabilities?
 - Will the proposed action cause or increase a pollution burden within a disadvantaged community?
- Full Environmental Assessment Form, in addition to questions in the Short EAF
 - Will there be direct or indirect impacts that may affect a disadvantaged community such as those specified (includes new noise source, light pollution)?
 - Do any of the state agency approvals include specific DEC permits?
 - Impact on disadvantaged communities series of questions



Consideration of Climate Change

- Full Environmental Assessment Form
 - Is the proposed action in a municipality with an adopted comprehensive or individual plan that addresses climate change?
 - Will any emission sources require an Air Facility Registration, Air State Facility Permit, Title IV Permit, or Title V Permit? Asks for specific tons/year for specified pollutants
 - Will the proposed action generate or emit annual direct or indirect greenhouse gas emissions?
 - Future physical climate risks
 - The proposed development may result in development within a 100-year or a 500-year floodplain
 - Impacts on air and climate series of questions
 - Impacts on future physical climate risks series of questions



Residential Construction

Statutory Changes

- Amends ECL § 8-0111 to include additional exemptions, including construction of housing in cities, towns, and villages with populations of fewer than one million that meet certain criteria

Regulatory Changes

- Type II list updated to include construction of multi-family housing with not more than 10,000 square feet of gross floor area, on an approved lot, to be connected to public water and sewerage systems, and permitted under the applicable zoning laws
- Expands the Type II categories available for housing-related actions under 6 NYCRR § 617.5(11)



Additional Updates

Statutory:

- Timing Updates
 - Within one year of establishing a lead agency, the lead agency shall determine whether an EIS is needed
 - Within two years of determining a draft EIS is needed, the lead agency shall make the EIS available
 - The time to commence a proceeding to review an agency determination under SEQR will begin accruing when the agency determination to approve or disapprove the action becomes final and binding
- Additional exemptions:
 - Certain actions at previously disturbed sites
 - Certain water and wastewater infrastructure projects
 - Retrofitting to incorporate green infrastructure

Regulatory

- Definitions for disadvantaged communities and pollution
- Housekeeping changes



Questions?



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