SEQRA IN PRACTICE

DUTCHESS COUNTY PLANNING FEDERATION
NOVEMBER 18, 2026



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AGENDA

- **Welcome & Introductions**
- **Overview**
- **SEQRA**
  - Goals & Purpose
  - EJ Siting Law
  - Application
- **2026 AMENDMENTS/REGULATIONS**
  - SEQRA Exemptions – Housing & Non-Housing
  - New SEQRA Deadlines
  - EJ Siting Law Regulations
  - SOL – 2d Dept
- **PRACTICAL IMPLICATIONS**
  - Pending Cases
  - Simulation
- **RECENT DECISIONS**

WHO'S IN THE ROOM TODAY



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OVERVIEW



THE DELEGATION OF LEGISLATIVE AUTHORITY



THE LAND USE LEGAL FRAMEWORK

The New York State land use enabling act delegates authority to LOCALITIES to:

- Adopt comprehensive plans
- Zone
- Approve subdivision and site plans
- Issue special use permits
- Award variances



THE LAND USE LEGAL FRAMEWORK . . .

Federal and New York State laws to PREEMPT or limit local land use authority regarding issues, such as:

- Utility siting
- Cellular facilities
- Religious uses
- Group homes

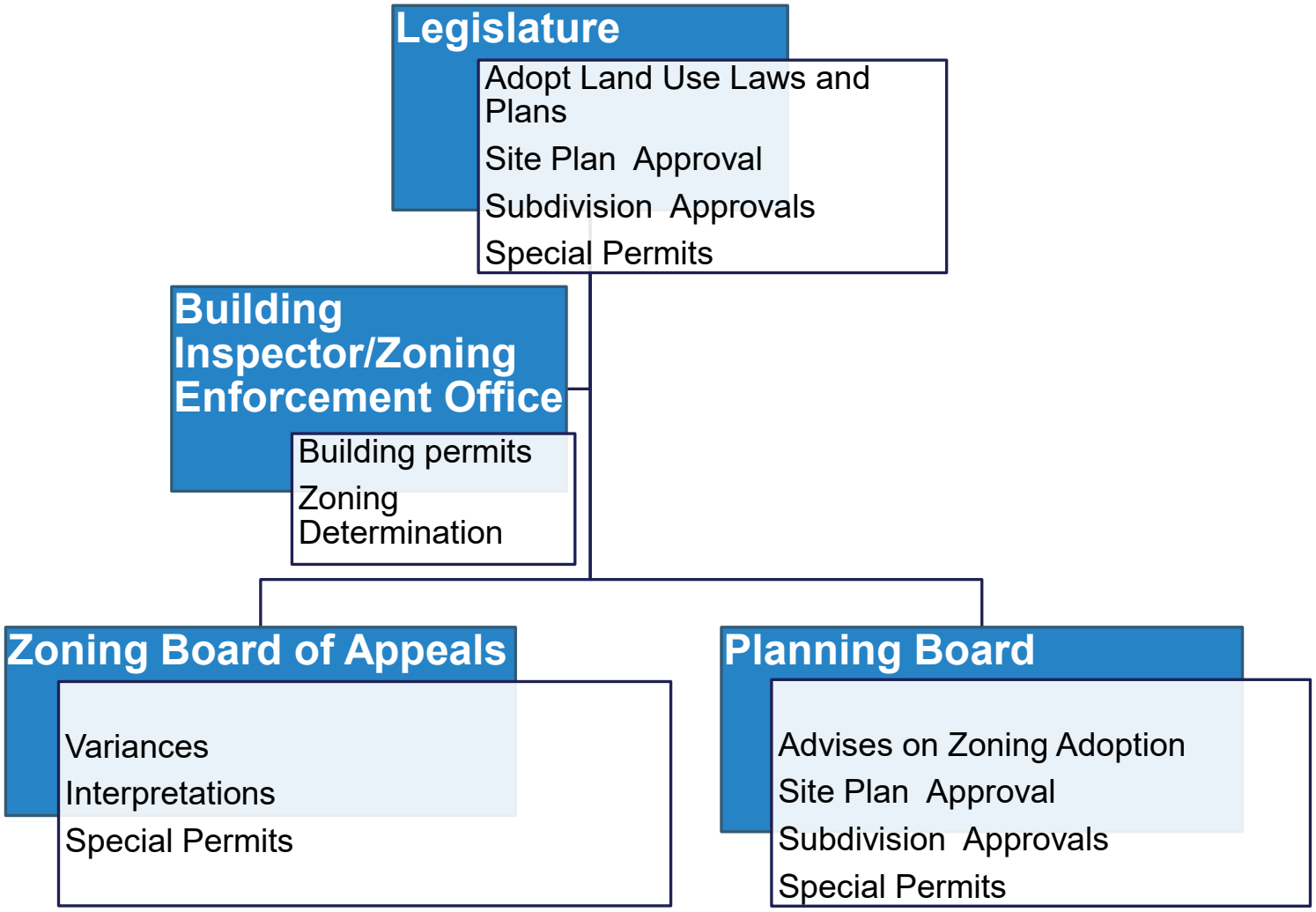








DELEGATION OF AUTHORITY



ROLE OF LOCAL GOVERNMENT & PLANNING

1,550+ local jurisdictions in NY

With land use authority

Source: NREL

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)



NEW YORK'S PRIMARY ENVIRONMENTAL PROTECTION LAW

State Environmental Quality Review Act

Article 8 of the NYS Environmental Conservation Law (1975)

"The quality of our environment is fundamental to our concern for the quality of life. It is hereby declared to be the policy of the State of New York to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution, in order to enhance the health, safety and welfare of the people of the state and their overall economic and social well being."



ECL §1-0101

NEW YORK'S PRIMARY ENVIRONMENTAL PROTECTION LAW

Regulations – 6 NYCCRR §617

Title 6, Part 617 of the Compilation of Codes, Rules, & Regulations of the State of New York



PURPOSE



INCORPORATE CONSIDERATION OF ENVIRONMENTAL FACTORS INTO THE APPLICATION REVIEW PROCESS AT EARLIEST POSSIBLE TIME



ENCOURAGE PRODUCTIVE HARMONY BETWEEN MAN AND HIS ENVIRONMENT



ENVIRONMENTAL FACTORS MUST BE BALANCED WITH SOCIAL AND ECONOMIC CONSIDERATIONS.

"ENVIRONMENTAL FACTORS"

Natural Environment

- Land, Air, Water
- Plants, Animals, Wildlife, Habitats

Human and Community Resources

- Objects of Historic or Aesthetic Significance
- Patterns of Population Concentration, Distribution or Growth
- Community Character
- Human Health

WHY?

1. Avoid or limit possible negative impacts on the environment from proposed actions

2. Require equal consideration to environmental protection, human and community resources and economic factors

3. Provide a way for agencies to look closely at the possible environmental impacts of a proposed action

4. Consider impacts to Disadvantaged communities

5. Create opportunity for public input



THE NYS ENVIRONMENTAL JUSTICE SITING LAW (EJSL)

- Also known as the Cumulative Impacts Law
- Passed in 2022 (2022, ch 840, § 2), and amended in 2023 (2023, ch 49, § 2)
- Took effect on December 30, 2024
- Requires agencies reviewing actions under SEQRA to evaluate whether an action may cause or increase a disproportionate pollution burden on a disadvantaged community, both in the determination of significance, and where relevant, in preparation of an EIS

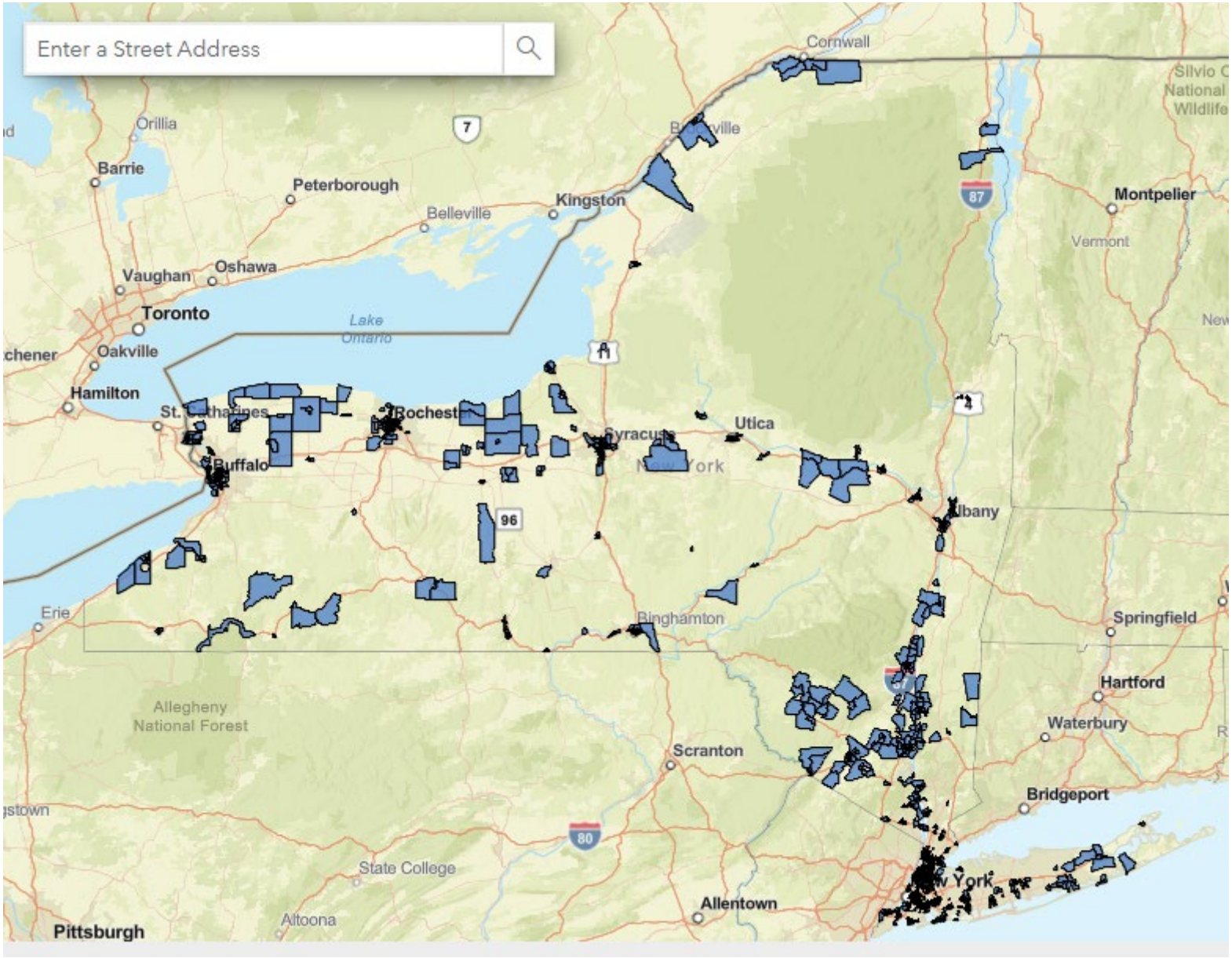


DISADVANTAGED COMMUNITIES

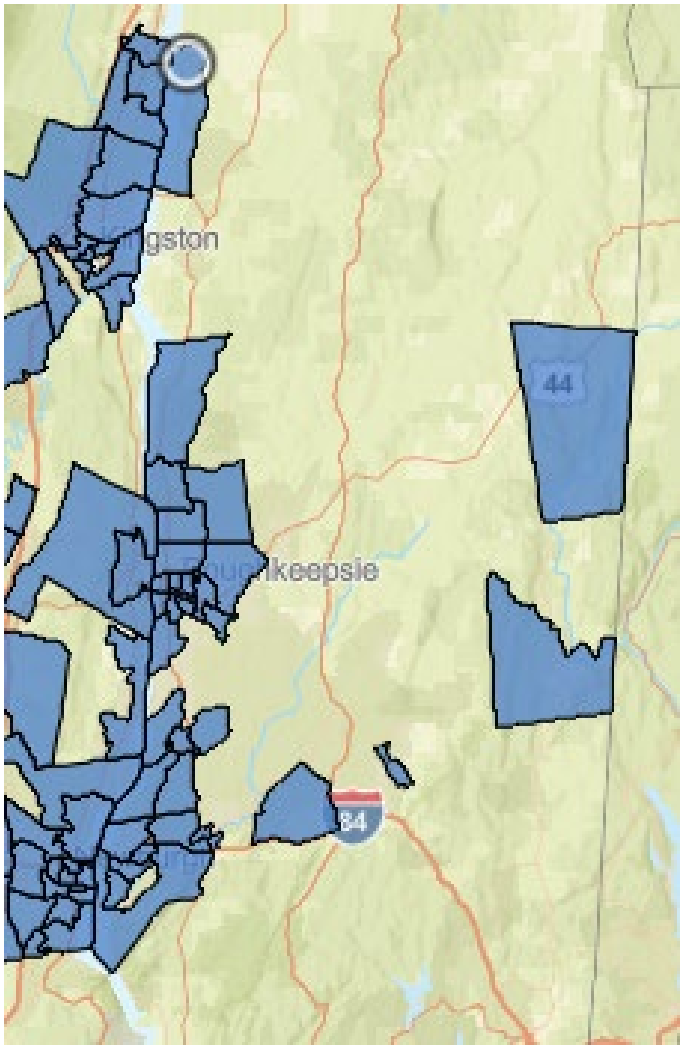
- Disadvantaged Communities- Communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socio economic criteria, or comprise high concentrations of low- and moderate- income households
- The Climate Leadership and Community Protection Act (CLCPA) required the Climate Justice Working Group (CJWG) to establish criteria to identity disadvantaged communities statewide
- The CJWG identified and considered 150 indicators while development the drat communities criteria, and ultimately continued with 45 indicators



DISADVANTAGED COMMUNITY MAP



DISADVANTAGED COMMUNITIES IN DUTCHESS COUNTY



DISADVANTAGED COMMUNITY ASSESSMENT TOOL

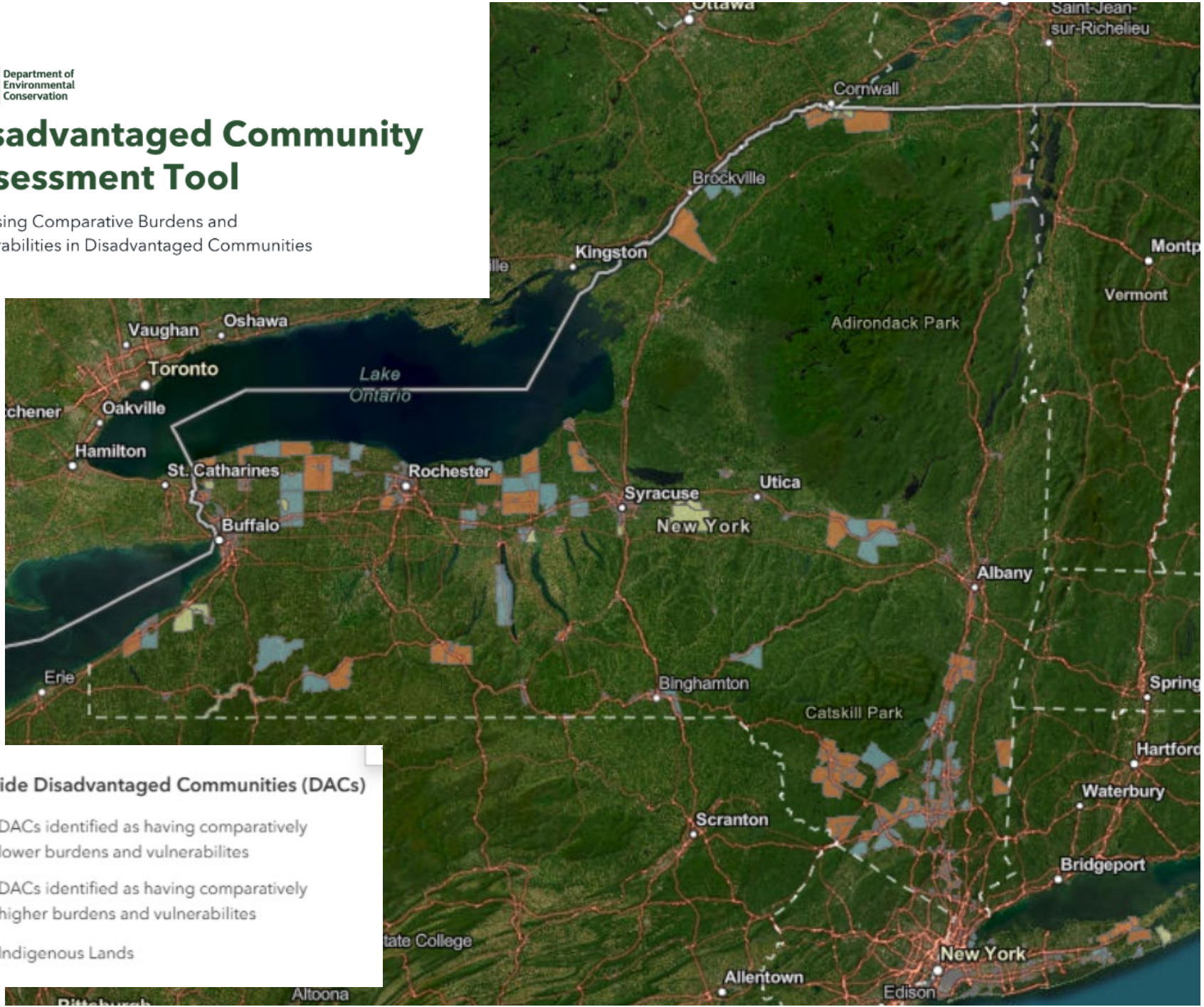
The Disadvantaged Community Assessment Tool, https://on.ny.gov/DACAT, is a screening tool created by DEC to help lead agencies assess disproportionality and consider whether a potentially affected disadvantaged community has an increased likelihood of experiencing a moderate to large impact based on existing burdens or vulnerabilities as compared to relevant non-DACs

The Tool is based on data from the Climate Justice Working Group (CJWG) DAC map and uses statistically meaningful thresholds to compare the existing burdens in a DAC with existing burdens in the following non-DAC scenarios: statewide rural, statewide urban, regional rural, and regional urban

Department of Environmental Conservation

Disadvantaged Community Assessment Tool

Assessing Comparative Burdens and Vulnerabilities in Disadvantaged Communities

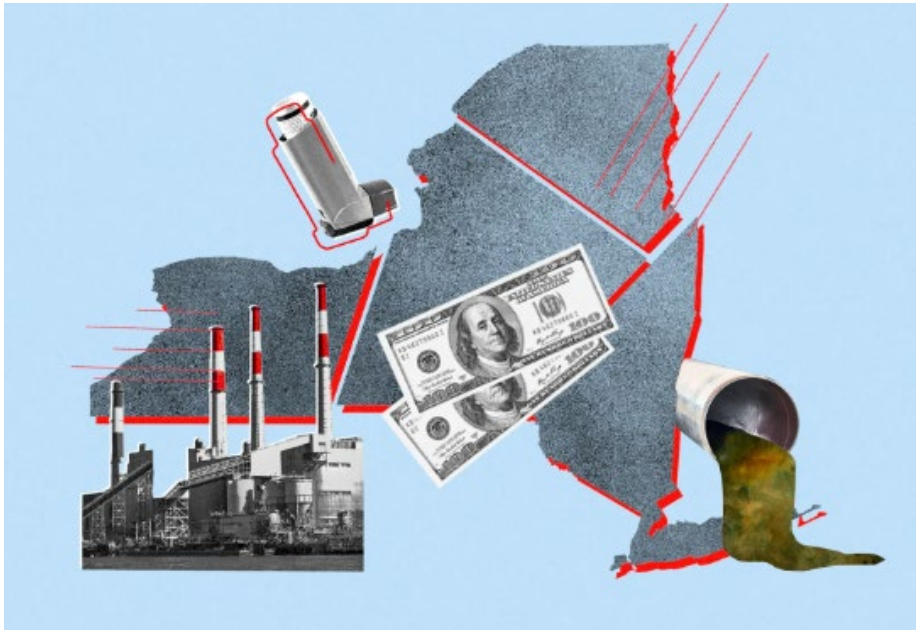


STATEWIDE DISADVANTAGED COMMUNITIES IN DUTCHESS COUNTY (DACAT)



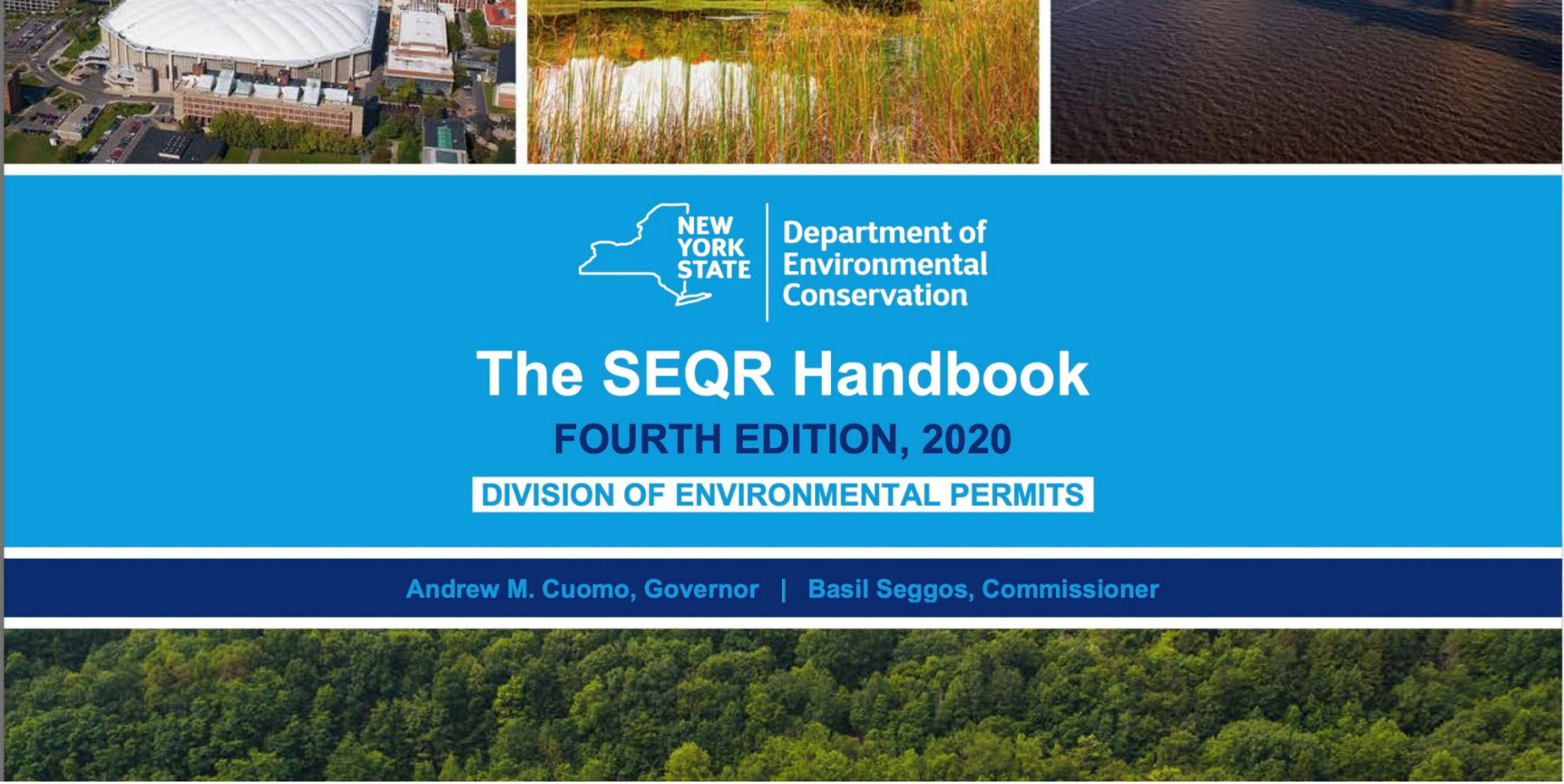
UPDATED SEQRA REGULATIONS TO IMPLEMENT THE EJSL

- Adopted May 13, 2026 and became effective on June 12, 2026
- Regulations enhance consideration of environmental justice in SEQR as required by the EJSL
- Amendments to the short and full EAFs address climate impacts
- New SEQRA workbook guidance on Disadvantaged Communities, Climate Change and Air
- Regulations apply to all projects that did not receive a negative declaration or did not have an accepted draft EIS on or before June 12



STEPPING THROUGH THE SEQRA PROCESS





HTTPS://EXTAPPS.DEC.NY.GOV/DOCS/PERMITS_EJ_OPERATIONS_PDF/SEQRHANDBOOK.PDF

ACTIONS

"No Agency Involved In an Action May Undertake, Fund or Approve the Action Until It Has Complied With the Provisions of SEQR. A Project Sponsor May Not Commence Any Physical Alteration Related to an Action Until the Provisions of SEQRA Have Been Complied With."
6 NYCRR 617.3(a)

Directly undertaken by an agency

Involves funding by an agency

Requires one or more new or modified discretionary approvals by an agency

ACTIONS UNDER SEQRA

Physical projects	• Constructing a shopping center or residential development • Building a road or dredging a stream
Adoption or Administration of Rules, Regulations, or Procedures	• Local zoning • Public health regulations • Wetland protections
Decision on Plans Or Policies	• Land use plans • Formation of Special Districts • Use of public lands

PROCEDURAL → Strict compliance required

SUBSTANTIVE →

(i) identify potential significant adverse environmental impacts

(ii) toke a "**hard look**"

(iii) make a reasoned elaboration

CLASSIFY ACTION: TYPE I, II, UNLISTED OR QUALIFIED

Type I	• Listed 6 NYCRR § 617.4 • Local Code or Agency
Type II	• Listed 6 NYCRR § 617.5
UNLISTED	• Everything else (not exempted) • Not a Type I or Type II
QUALIFIED	• BYPASS SEQRA/EXEMPT

TYPE II ACTION

6 NYCRR § 617.5

June 12, 2026:

(11) Residential

i. Multi-family housing on approved lot with necessary utility connections;

ii. Multi-family for 4 or more dwelling including utility infrastructure if:

< 10,000 sf gross floor area

approved lot

existing public water and sewer

permitted use and subject to site plan review

iii. Accessory structures including sidewalks, parking areas, playgrounds and landscaping

TYPE II ACTION

You're Done!

TYPE I ACTION

6 NYCRR § 617.4

- Construction of new residential units:
  - 10 units if municipality no zoning/subdivision regulations;
  - 50 units if no existing public water and sewer;
  - Pop. < 150,000, 200 units to be connected to existing water & sewer;
  - Pop. > 150,000 500 units to be connected to existing water & sewer;
  - Pop > 1 million, 1,000 units to be connected to existing water & sewer
- Non-residential activities that includes:
  - Physical alteration of 10 acres;
  - Use ground or surface water in excess of 2 Million gallons/day;
  - Parking construction > 500 vehicles if pop. < 150,000
  - Construction of facility > 100,000 sf if pop. < 150,000

LIST NOT EXHAUSTIVE – AGENCIES MAY ADOPT THEIR OWN LISTS

PROCEDURES FOR SEQRA REVIEW

DETERMINE LEAD AGENCY

Any agency with approval authority over one or more aspects of the project.

UNLISTED	TYPE 1
Short EAF	Full EAF
Coordinated Review NOT required	Coordinated Review Required

PROCEDURES FOR SEQRA REVIEW

DETERMINE LEAD AGENCY

Any agency with approval authority over one or more aspects of the project.

UNLISTED	TYPE 1
Short EAF	Full EAF
Coordinated Review NOT required	Coordinated Review Required

DETERMINE SIGNIFICANCE

ENVIRONMENTAL ASSESSMENT FORMS OVERVIEW

Short EAF	Long EAF
Part 1 (Applicant): 21 high-level, mostly multiple-choice or short-answer questions	Part 1 (Applicant): Detailed narrative and precise quantitative data across 7 extensive sub-sections (site geology, water resources, traffic, energy, zoning, air quality, climate risks and impacts to disadvantaged communities)
Part 2 (Lead Agency): 13 simple screening questions to evaluate potential impacts (no to small impact, or moderate to large impact)	Part 2 (Lead Agency): 20 detailed impact categories with sub-questions rating impact magnitude (Small vs. Moderate-to-Large)
Part 3 (Lead Agency): Narrative explaining the impact determination (Positive or Negative Declaration).	Part 3 (Lead Agency): Comprehensive explanation of importance/mitigation for any moderate-to-large impacts identified.

PURPOSE OF ENVIRONMENTAL ASSESSMENT FORMS

Short EAF	Long EAF
Designed specifically for Unlisted Actions with lower potential for environmental impact	Mandatory for all Type I Actions can also be used for larger or complex Unlisted Actions when a lead agency needs deeper evaluation
Serves as a streamlined, quick screening tool	Examines extensive site characteristics, regional impacts, and multi-resource studies.
Relies heavily on general knowledge and easily accessible spatial databases (e.g., NYSDEC EAF Mapper)	Demands rigorous quantitative metrics (e.g., exact square footage, water consumption in gallons/day, peak vehicle trips)
Focuses on immediate, localized impacts	Evaluates site-specific, regional, and cumulative environmental impacts
Rarely requires specialized technical studies (e.g., traffic studies, wetland delineations) unless prompted by specific site constraints	Frequently supported by specialized technical reports (traffic, engineering, acoustic, archaeological, or ecological studies)

UPDATES TO THE ENVIRONMENTAL ASSESSMENT FORMS-PART 1

Short Form

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:
☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional
☐ Wetland ☐ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☐	☐
16. Is the project site located in the 100-year or 500-year flood plain?	☐	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	☐	☐
a. Will storm water discharges flow to adjacent properties?	☐	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☐
If Yes, briefly describe: _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____	☐	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	☐	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	☐	☐
21. Is the project located within, or within ½-mile of, a disadvantaged community?	☐	☐
If No, could impacts from the project affect a disadvantaged community?	☐	☐
If Yes to either question in 21, answer the following question:		
a. Identify the potential pollution impacts of the project, either direct or indirect, that may occur within the disadvantaged community (e.g., wastewater discharges, air emissions, noise, odors, solid or hazardous waste generation or management):		

Long Form

E.4. Disadvantaged Communities Designated Pursuant to ECL Article 75

a. Is the project located within, or within ½-mile of, a disadvantaged community? ☐Yes ☐No

If No, could impacts (see examples below in E.4.b) from the project affect a disadvantaged community? ☐Yes ☐No

If Yes to either question in E.4.a, answer the remaining questions in this section.

b. Will there be direct or indirect impacts that may affect a disadvantaged community, such as those listed below? ☐Yes ☐No

i. new noise sources or expansions/modification of existing noise sources;
- noise from operational sources
- noise from construction activities

ii. emissions of air pollutants, including mobile emissions;
iii. wastewater discharges;
iv. generation of odors;
v. light pollution;
vi. new or modified radiation sources;
vii. new or modified sources of solid waste generation, management, or disposal.

If Yes, describe the impacts: _____

c. Do any of the state agency approvals identified in question B.g include any of the following DEC permits?

State Pollutant Discharge Elimination System (SPDES)	☐ Yes	☐ No
Solid Waste Management Facility	☐ Yes	☐ No
Hazardous Waste Management Facility	☐ Yes	☐ No
Air Pollution Control (Title V or Air State Facility)	☐ Yes	☐ No
Water Withdrawal over 20 MGD for Cooling Water	☐ Yes	☐ No
Waste Transporter	☐ Yes	☐ No

E.5 Future Physical Climate Risks

Will the proposed action be vulnerable to the following future physical climate risks under current or projected future conditions:

a. Is the proposed action vulnerable to damage from a projected 100-year flood?	☐ Yes	☐ No
b. Is the proposed action vulnerable to damage from a projected 500-year flood?	☐ Yes	☐ No
c. Is the proposed action in an area potentially affected by sea level rise?	☐ Yes	☐ No
d. Will the proposed action increase the vulnerability of human or ecological communities to the following:		
i. drought?	☐ Yes	☐ No
ii. temperature extremes (hot or cold)?	☐ Yes	☐ No
iii. extreme storms, including high winds?	☐ Yes	☐ No
iv. landslides?	☐ Yes	☐ No
v. coastal erosion?	☐ Yes	☐ No
vi. stormwater flooding?	☐ Yes	☐ No
vii. other climate or weather hazards?	☐ Yes	☐ No. If Yes, describe: _____

UPDATES TO THE SHORT ENVIRONMENTAL ASSESSMENT FORM- PART 2

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☐	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing: a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐
12. Is the potentially affected disadvantaged community identified as having comparatively higher burdens or vulnerabilities by the Disadvantaged Community Assessment Tool (https://on.ny.gov/DACAT)?	☐	☐
13. Will the proposed action cause or increase a pollution burden within a disadvantaged community?	☐	☐

UPDATES TO THE LONG ENVIRONMENTAL ASSESSMENT FORM- PART 2

19. Impact on Disadvantaged Communities

The proposed project may impact a disadvantaged community. (See Part 1. E.4)
If "Yes", answer questions a - g. If "No", proceed to Part 3.

a. Is the potentially affected disadvantaged community identified as having comparatively higher burdens or vulnerabilities by the Disadvantaged Community Assessment Tool?

b. The proposed action may create new air emissions or increase existing air emissions within a disadvantaged community.

c. The proposed action may create new wastewater treatment or discharges, or expand existing wastewater treatment or discharges, within a disadvantaged community.

d. The proposed action creates or expands a solid or hazardous waste management facility, or involves the generation of solid or hazardous waste, within or near a disadvantaged community.

e. The proposed action may increase traffic within a disadvantaged community.

f. The proposed action affects or involves one or more of the following facility types:
i. landfill;
ii. other industrial, manufacturing, or mining land uses;
iii. major oil or chemical bulk storage facility;
iv. municipal waste combustor;
v. power generation facility;
vi. risk management plan site;
vii. remediation site; or
viii. scrap metal processor.

g. Other impacts: _____

20. Future Physical Climate Risks

The proposed project may be vulnerable to future physical climate risks or increase the vulnerability of human or ecological communities to future physical climate risks. NO YES
(See Part 1. E.5)
If "Yes", answer questions a - e. If "No", proceed to Part 3.

	Relevant Part I Question(s)	No, or small impact may occur	M t imp
a. The proposed action is vulnerable to damage from a projected 100-year flood.	E2j, E5a	☐	
b. The proposed action is vulnerable to damage from a projected 500-year flood.	E2k, E5b	☐	
c. The proposed action is in an area potentially affected by sea level rise.	E5c	☐	
d. The proposed action may increase the vulnerability of human or ecological communities to the following:	E5d		
i. drought		☐	☐
ii. temperature extremes (hot or cold)		☐	☐
iii. extreme storms, including high winds		☐	☐
iv. landslides		☐	☐
v. coastal erosion		☐	☐
vi. stormwater flooding		☐	☐
vii. other climate or weather hazards? If yes, describe: _____		☐	☐
e. Other impacts: _____		☐	☐

DETERMINING SIGNIFICANCE

(a) The lead agency must determine the significance of **any Type 1 Action** or **Unlisted action in writing** in accordance with this section.

(1) To require an EIS for a proposed action, the lead agency **must determine** that the action **may include** the potential **for at least one** significant adverse environmental impact

(2) To determine that an EIS will not be required for an action, the lead agency **must determine** that that there will be **no adverse environmental impacts** or that the identified adverse environmental impacts **will not be significant.**

6 NYCCR § 617.7

PROCEDURES FOR SEQRA REVIEW

DETERMINE LEAD AGENCY

Any agency with approval authority over one or more aspects of the project.

UNLISTED	TYPE 1
Short EAF	Full EAF
Coordinated Review NOT required	Coordinated Review Required

DETERMINE SIGNIFICANCE

No Adverse Environmental Impact

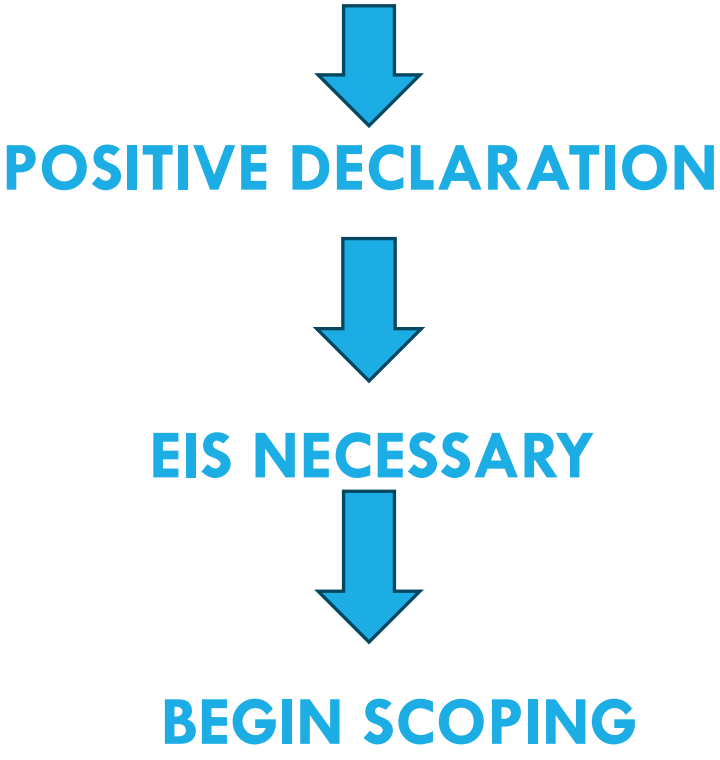
ISSUE NEGATIVE DECLARATION - REVIEW ENDS

Notice not required

Must publish notice in the ENB

Notice incorporated into any other subsequent notice required by law

DETERMINATION OF SIGNIFICANCE "MAY" INCLUDE POTENTIAL FOR AT LEAST 1 SIGNIFICANT ADVERSE IMPACT 6 NYCCR §617.7



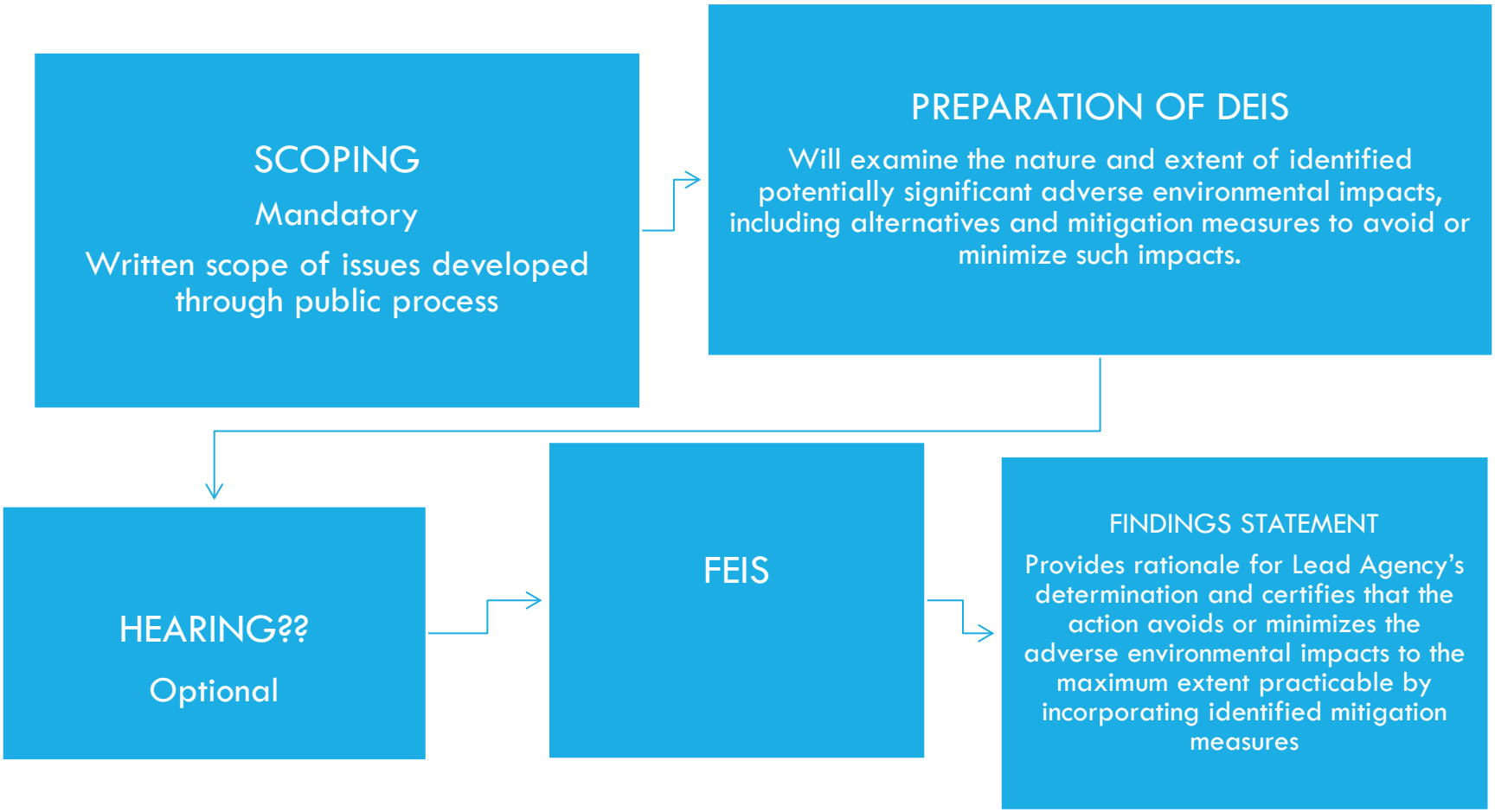
EXCEPTION

CONDITIONED NEGATIVE DECLARATION

UNLISTED ACTIONS ONLY!

Impact can be eliminated or adequately mitigated by conditions imposed by lead agency without the need for additional environmental studies

POSITIVE DECLARATION: TYPE 1 ACTIONS OR UNLISTED ACTIONS WITHOUT MITIGATING CIRCUMSTANCES NEXT STEPS



2026 AMENDMENTS/REGULATIONS



QUALIFIED ACTIONS EXEMPT FROM SEQRA

HOUSING & NON-HOUSING

QUALIFIED ACTIONS EXEMPT FROM SEQRA

HOUSING EXEMPTIONS for municipalities with pop. < 1 million

Housing & Mixed-Use Development Exempt if:

- Located on **"previously disturbed site."**
- Connected to public water & sewer
- Contains no more than 20% non-residential uses by floor area; and
- Allowed **size will vary** based on zoning and whether project located in an urbanized area.

Note: single-family development on large parcels NOT eligible

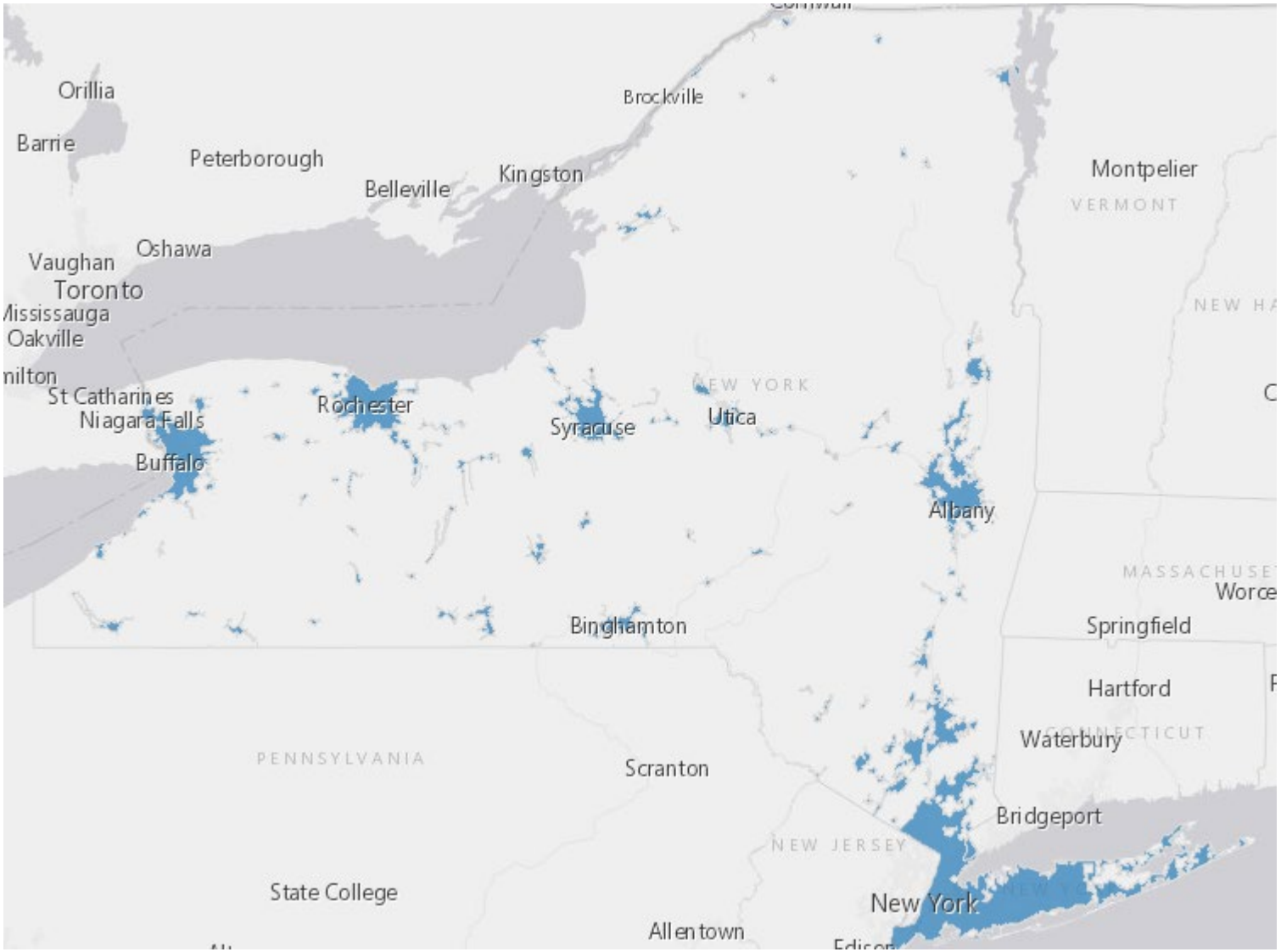
QUALIFIED ACTIONS EXEMPT FROM SEQRA

"SIZE LIMITS" – pop. < 1 million

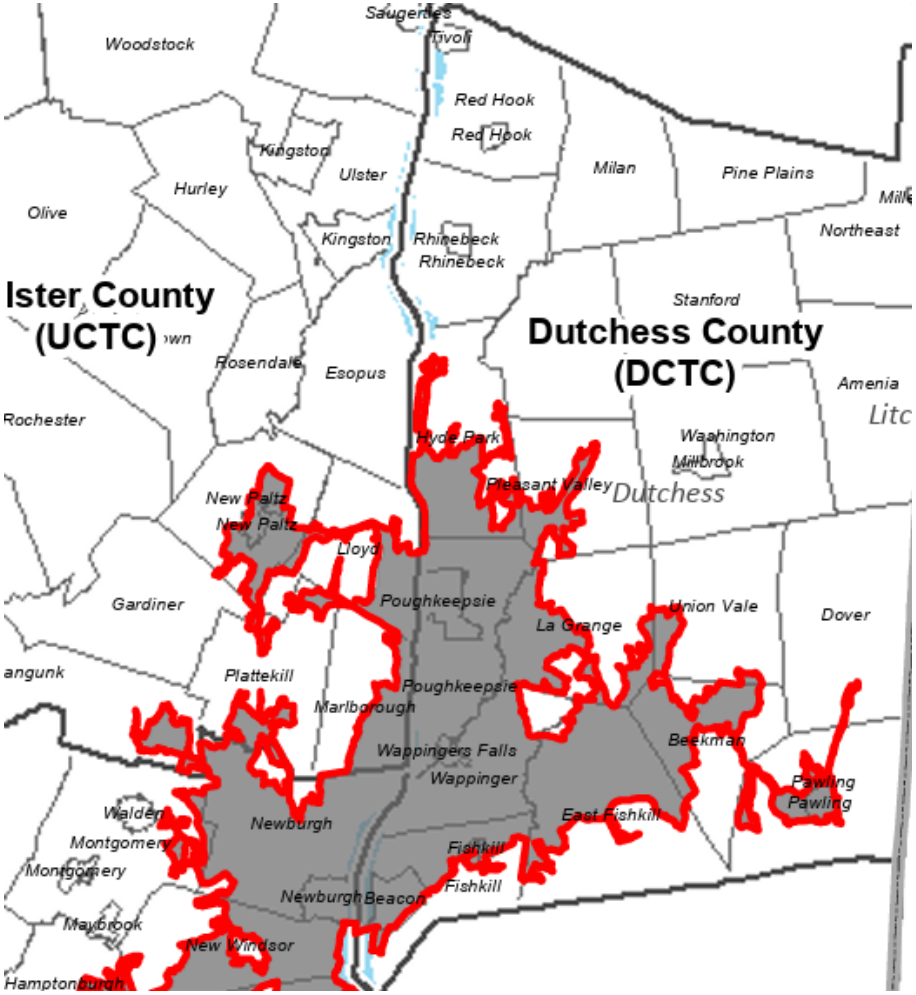
- Up to 20 housing in units in communities without zoning
- Up to 300 units in cities, towns, villages defined as "urban"
- Up to 100 units for all other communities

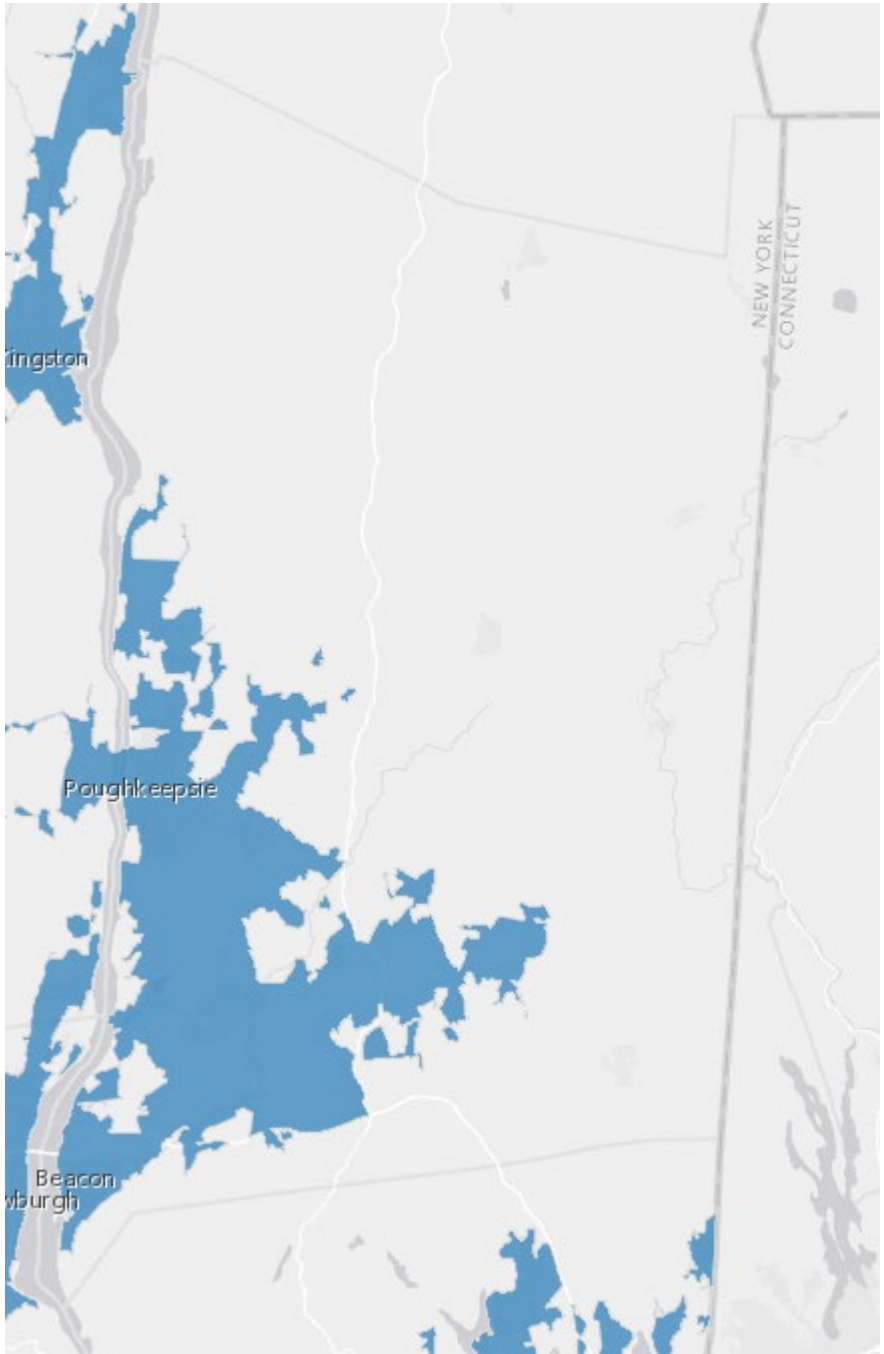
ECL § 8-0111.5-a(b)(ii)

URBAN AREAS IN NEW YORK STATE



MAP OF URBAN AREAS IN DUTCHESS COUNTY BASED ON FEDERAL CENSUS DATA





QUALIFIED ACTIONS

NON - HOUSING EXEMPTIONS

On "previously disturbed site."

- Construction of Public Parks ECL §8-0111.5-a(b)(iii)
- Construction of Multi-Use Trails ECL §8-0111.5-a(b)(iv)
- Certain Water and Wastewater Infrastructure ECL §8-0111.5-a(b)(iv)
- Green Infrastructure Retrofits ECL §8-0111.5-a(b)(vii)

QUALIFIED ACTIONS

PREVIOUSLY DISTURBED SITE:

- Has been substantially altered at least two years before the permit or authorization application;
- Was altered by an occupied, formerly occupied, or demolished building, or by another improvement or use;
- In municipalities outside NYC and not located in urban areas, abuts, adjoins, or is opposite another parcel that has also been occupied, formerly occupied, improved, or used for at least two years;
- Is generally not located in a FEMA 100-year floodplain or special flood hazard area, unless the municipality has adopted elevation requirements for new construction;
- Is not currently used for agricultural purposes and has not been used for agricultural purposes during the immediately preceding two years or during three of the last five years; **and**
- Is not located in a designated coastal erosion hazard area.

ECL §8-0105

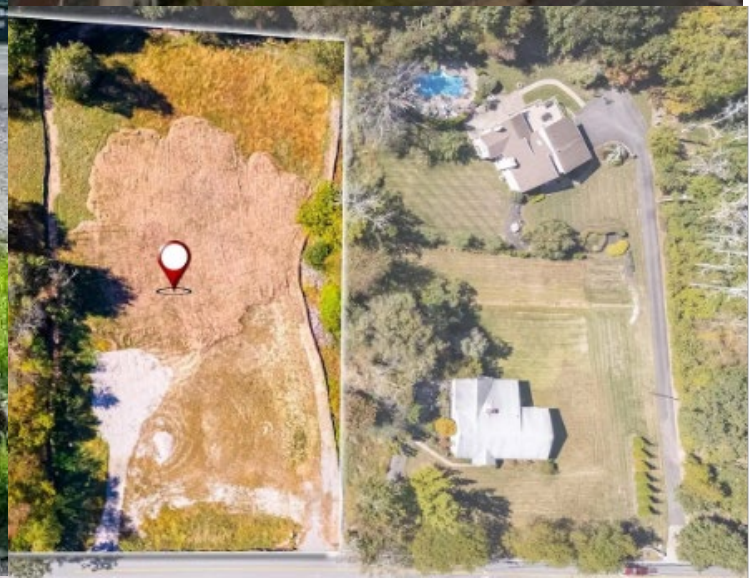
EXAMPLES OF PREVIOUSLY DISTURBED SITES











QUALIFIED ACTIONS EXEMPT FROM SEQRA

- NO EAF
- NO LEAD AGENCY DETERMINATION
- NO DECLARATION OF SIGNIFICANCE
- NO DRAFT OR FINAL EIS

ECL §8-0105

NEW YORK SEQRA: PROCEDURAL TIMELINE

PART 1: APPLICATION THROUGH DETERMINATION OF SIGNIFICANCE

1 APPLICATION SUBMITTED

NEW STATUTORY CLOCK

120 days from receipt of permit/authorization application for responsible agency to determine whether action qualifies as a statutory qualified-action exemption.

Written extensions are limited; generally up to 30 additional days, with exceptions.

2 CIRCULATE COMPLETED PART I EAF + APPLICATION MATERIALS
(for coordinated review)

3 ESTABLISH LEAD AGENCY

Within **30 calendar** days after circulation of completed Part I EAF and application materials.

4 DETERMINATION OF SIGNIFICANCE

Within **20 calendar days** after establishment of lead agency OR receipt of all information reasonably needed, whichever is later.

No later than 1 year after establishment of lead agency; no extensions.

NEGATIVE DECLARATION
SEQRA review concludes; agency may proceed to decision.

POSITIVE DECLARATION
EIS required; proceed to Part 2.

PART 2: POSITIVE DECLARATION THROUGH FINAL AGENCY DECISION

1 FINAL WRITTEN SCOPE

Lead agency issues within **60** calendar days after receipt of draft scope.

2 APPLICANT PREPARES DRAFT EIS (DEIS)

No fixed Part 617 preparation deadline.

3 LEAD AGENCY REVIEW

45 calendar days to determine whether DEIS is adequate EAF public review; **30** days to review a resubmitted DEIS.

4 PUBLIC REVIEW + COMMENT

At least **30** calendar days from first filing and circulation of Notice of Completion of DEIS.

If a public hearing is held:

- *Notice at least 14 days before hearing;*
- *Hearing 15–60 days after DEIS notice; and*
- *Comments at least 30 days from first filing or 10 days after hearing, whichever is later.*

5 FINAL EIS (FEIS)

Within **45** calendar days after close of hearing OR **60** calendar days after DEIS filing, whichever is later; limited extensions under Part 617.

For covered permit/authorization applications, EIS must be prepared and made available within **2 years** after the date a draft EIS is determined to be required; written, limited extensions permitted.

6 REVIEW + FINDINGS

At least 10 calendar days for agencies/public to consider FEIS before findings.

For actions involving an applicant, file written findings within 30 days after FEIS filing.

7 FINAL AGENCY DECISION

Agency may approve, approve with conditions, or deny, consistent with SEQRA findings.

Deadlines are not all sequential: the 120-day qualified-action determination runs from application receipt; the 1-year significance limit runs from lead-agency establishment; the 2-year EIS limit runs from the determination that a draft EIS is required. Statutory and regulatory applicability varies by action; consult current ECL Article 8 and 6 NYCRR Part 617.

STATUTE OF LIMITATIONS

Shall begin to accrue when the agency determination to approve or disapprove the action becomes final and binding upon the Petitioner or the Person who the petitioner represents in law or fact.

ECL §8-0111(7)

REGULATORY CHANGES TO KEEP IN MIND

- Applicants must remember to use updated EAFs
- Identify whether a proposed action is located in or may affect a disadvantaged community.
- Lead agencies must evaluate whether the action may cause or increase a disproportionate pollution burden.
- Lead agencies must expressly consider DAC impacts when rendering a significance determination
- All impacts to DACs, including disproportionate pollution burdens must be addressed in the EIS



HYPOTHETICAL PRACTICE

HYPOTHETICAL: VILLAGE OF BUGTUSSLE – PROPOSED 150-UNIT HOUSING DEVELOPMENT

The Village Board of the Village of Bugtussle receives an application from US Developer, LLC seeking a zoning map amendment to permit a new, 150-unit townhouse development and a small convenience store on approximately 20.4 acres.

The Village has a population 10,000 residents, is located within a U.S. Census Bureau-designated urban area, and has an existing zoning code.

The proposed development consists of three parcels:

Parcel 1: Includes a vacant office building, associated paved parking lots, and an area of previously undeveloped meadow and locally regulated wetland area. The office building and parking improvements have existed for more than two years.

Parcel 2: Partially occupied by an office building, associated paved parking lots, and an area of previously undeveloped forest. The office building and parking improvements have existed for more than 15 years.

Parcel 3: Includes a single-family residence.

The proposed development would extend beyond the footprints of the existing buildings and paved parking areas and would involve construction in portions of the meadow and forest.

The applicant seeks to consolidate the three parcels into a single PUD district. The project will require site plan approval and several area variances.

HYPOTHETICAL: ADDITIONAL PROJECT DETAILS

- The convenience store 15% of the project's total gross floor area.
- The project is located in a disadvantaged community.
- The project is not currently connected to existing public water and sewer, but the applicant's plans include future connections to public water and sewer before habitation.
- None of the parcels are located in a FEMA-designated 100-year floodplain or special flood hazard area, or a designated coastal erosion hazard area.
- None of the parcels are currently used for agricultural purposes or have been used for agricultural purposes within the preceding two years or three of the last five years.

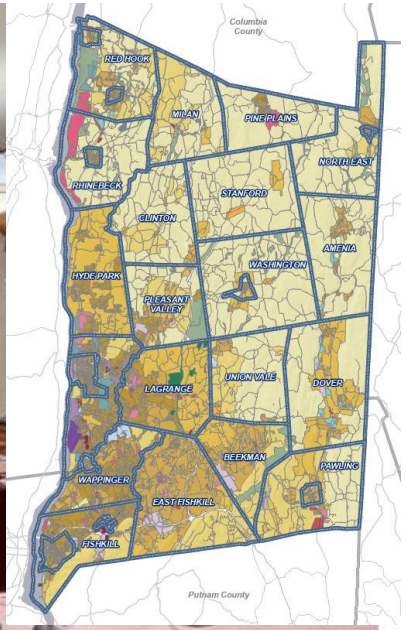
DOES THE PROPOSED DEVELOPMENT QUALIFY AS A STATUTORY QUALIFIED ACTION EXEMPT FROM SEQRA UNDER ECL § 8-0111(5-A)(B)(II)?

Questions to guide your discussion:

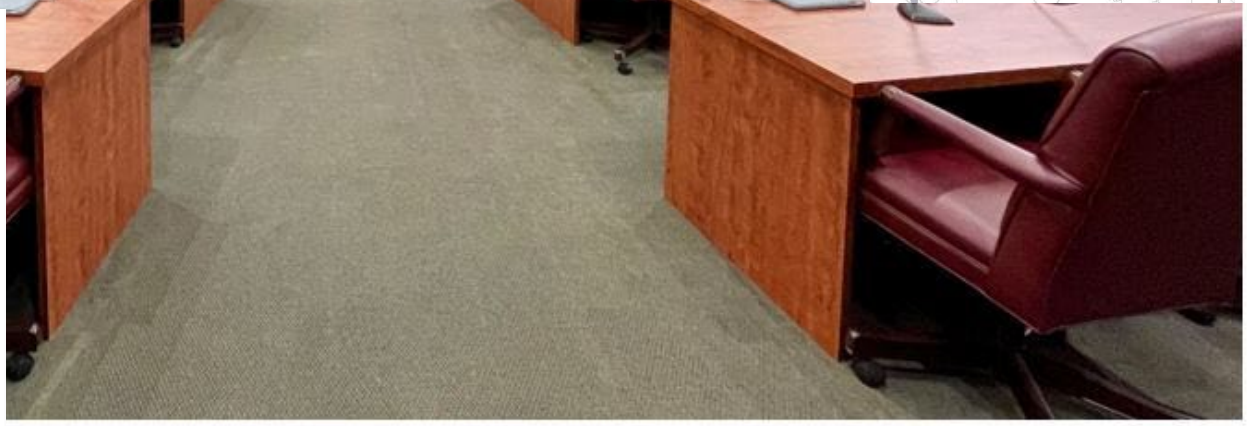
- Which eligibility criteria are satisfied?
- Is there any additional information the Board should request?
- Does the entire development site qualify as a previously disturbed site? What additional information is needed?
- Do the zoning map amendment and area variances prevent the project from qualifying?
- Does it matter that the project is located in a DAC?
- What additional environmental or land-use requirements remain applicable even if the project qualifies?

PRACTICAL IMPLICATIONS







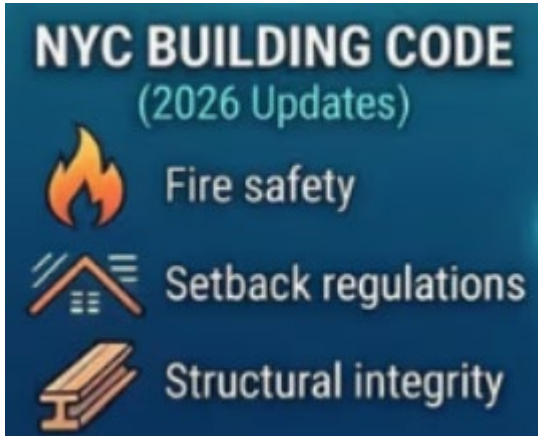


THE IMPORTANCE OF LOCAL LAND USE REVIEW

- A project that is exempt is not required to go through the State environmental review process
- **However,** the project is still required to go through all local permitting reviews
- Projects must comply with:
  - All state or local laws concerning historic properties,
  - Stormwater management requirements,
  - Laws related to water quality, air quality, soil erosion and drainage, freshwater wetlands, tidal wetlands, critical environmental areas, or threatened or endangered species







PREPARING FOR QUALIFIED ACTIONS

- Review local zoning and local review processes for potential improvements
- Improve your site plan review and other land use review processes
- Identify review processes that are only required for Unlisted and Type 1 Actions (i.e. Waterfront Consistency Reviews)
- Consider areas in your community that need protection
- Assess what impacts are usually addressed by SEQRA in your community, can these impacts be addressed by existing code provisions
- Add additional environmental provisions to your local codes (i.e. wetlands, steep slopes, erosion control protections, floodplain regulations)
- Create clear and thorough records and resolutions about projects

COMMUNITY CONCERNS

- The definition of previously disturbed site is confusing and very broad
- Does not limit development to disturbed portion of a site
- The non-residential uses permitted in connection with exempt housing developments is very broad
- There is no review required to ensure that water and sewer facilities have capacity for these projects
- The size of exempt projects is a massive leap from previously designated Type II actions
- Many areas designated as urban may not be ready for 300 unit developments
- Less opportunity for public participation





RECENT DECISIONS



REAL WORLD EXAMPLES

RESOLUTIONS FOR QUALIFYING EXEMPTIONS





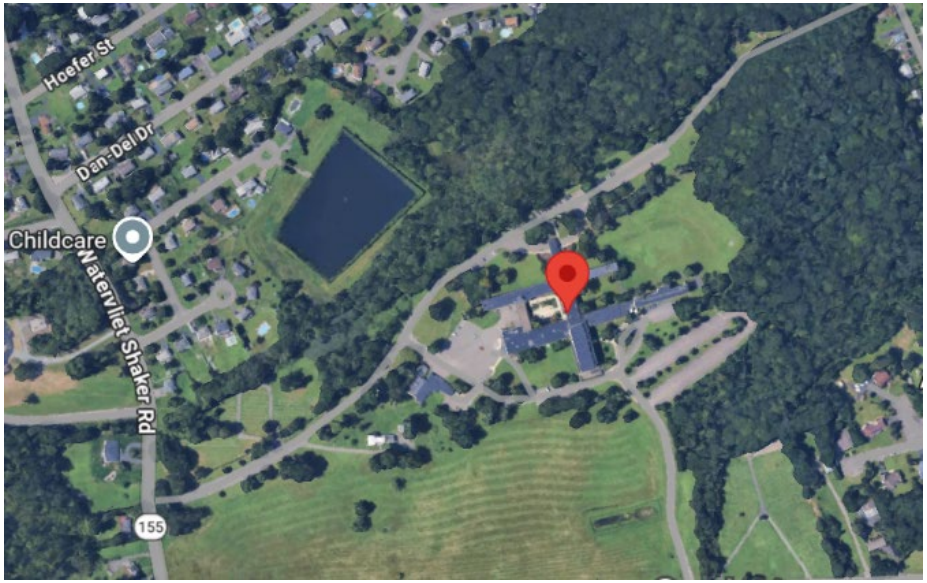
- Beacon-Hopewell Rail Trail
- Ulster & Delaware Corridor Rail Trail
- 76 North Broadway, Village of Irvington
- Lennar/Campus Drive redevelopment at 1 & 3 Campus Drive and 8 Carey Court in the Village of Pleasantville

ECL §8-0111(8)

PROJECT UNDER REVIEW FOR EXEMPTION

385 WATERVLIET SHAKER RD., TOWN OF COLONIE, NY







THANK YOU DUTCHESS COUNTY PLANNING FEDERATION

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