

# EFFECTS ON DISADVANTAGED COMMUNITIES

## CHAPTER 23

Environmental Justice is the fair and meaningful treatment of all people, regardless of race, income, national origin, or color with respect to the development, implementation, and enforcement of environmental laws, regulations and policies and activities and with respect to the distribution of environmental benefits and burdens. This chapter incorporates this principle by considering how projects may affect communities already experiencing environmental or social burdens.

The goal of CEQR with regards to a disadvantaged communities assessment is to evaluate whether an action may cause or increase a disproportionate pollution burden on a disadvantaged community. As with each technical area assessed under CEQR, it is important for an applicant to work closely with the lead agency throughout the environmental review process.

### 100. DEFINITIONS

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#### 110. DISADVANTAGED COMMUNITY

Under the 2019 New York State (NYS) Climate Leadership and Community Protection Act (Climate Act), disadvantaged communities (DACs) are defined as “communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households.” See New York State Environmental Conservation Law (ECL) [§75-0101](#).

The Climate Act created the Climate Justice Working Group (CJWG) to establish the criteria for identifying DACs, pursuant to ECL [§75-0111](#). The CWJG used 45 indicators to classify 35% of census tracts across the State as DACs. The indicators included environmental burdens and climate change risk, as well as population characteristics and health vulnerabilities. A map displaying census tracts identified as DACs, and their underlying indicators, is available on New York’s “Climate Act” website [here](#).

#### 120. POLLUTION BURDEN

Pollution is defined, in NYS Environmental Conservation Law, as “the presence in the environment of conditions and or contaminants in quantities of characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas of the state as shall be affected thereby.” See ECL [§1-0303](#).

The framework of Environmental Justice recognizes that different geographic areas experience different levels of existing and underlying social and environmental burdens. Per the New York State Department of Environmental Conservation (DEC)’s [interim guidance](#) on the Environmental Justice Siting Law (EJ Siting Law or EJSL), “a disproportionate pollution burden is a pollution burden within an affected disadvantaged community that is, or would be, significantly greater than that same burden in comparable non-disadvantaged communities, as a result of the proposed action.”

## 200. LEGISLATIVE HISTORY

DEC is proposing to amend the State Environmental Quality Review Act (SEQRA) regulations that are codified at 6 NYCRR Part 617 to implement SEQRA-related provisions of the Environmental Justice Siting Law (EJSL) (Chapter 840 of the Unconsolidated Laws of New York of 2022, as amended by Chapter 49 of the Unconsolidated Laws of New York of 2023).

### 210. ENVIRONMENTAL JUSTICE SITING LAW (EJ SITING LAW OR EJSL)

The EJ Siting Law, sometimes referred to as the Cumulative Impacts Law, is an environmental justice law that requires the consideration of impacts and existing burdens in disadvantaged communities in certain environmental decision-making. The EJ Siting Law amends Article 8 of the ECL: State Environmental Quality Review Act (SEQRA).

The EJ Siting Law requires lead agencies under SEQRA to consider whether an action may cause or increase a disproportionate pollution burden on a DAC as part of the determination of significance for a proposed project and include an evaluation of whether the proposed action causes or increases any disproportionate pollution burden in a DAC when preparing an environmental impact statement.

### 220. AMENDMENTS TO “SEQRA” (ENVIRONMENTAL CONSERVATION LAW, ARTICLE 8)

Provisions of the EJ Siting Law related to ECL Article 8, Environmental Quality Review (SEQRA) took effect December 30, 2024. The definitions of “pollution” and “disadvantaged communities” were added to the list of defined terms in ECL [§8-0105](#). ECL [§8-0109](#) and ECL [§8-0113](#) now require the consideration of whether the action may cause or increase a disproportionate pollution burden on a disadvantaged community when making a determination of significance and when preparing an environmental impact statement.

### 230. PROPOSED AMENDMENTS TO 6 NYCRR PART 617

DEC is proposing to amend the State Environmental Quality Review Act (SEQRA) regulations that are codified at 6 NYCRR Part 617. This is to implement SEQRA-related provisions of the EJSL (Chapter 840 of the Unconsolidated Laws of New York of 2022, as amended by Chapter 49 of the Unconsolidated Laws of New York of 2023). The legislation requires agencies reviewing SEQRA actions to evaluate whether an action may cause or increase a disproportionate pollution burden on a disadvantaged community (DAC) as part of the SEQRA process, both in the determination of significance and, where relevant, in preparation of an environmental impact statement. The proposed amendments include changes to both the text of the SEQRA regulations and to the environmental assessment forms (EAFs) to include additional questions focused on DACs. The proposed amendments support lead agencies in fulfilling their requirement to identify the potential impact of an action on DACs when making a significance determination and, where required, in preparing an environmental impact statement.

## 300. ASSESSMENT METHODS

Lead agencies and applicants will assess the potential for their projects and actions to cause or increase a disproportionate pollution burden on a DAC. Resources for conducting this assessment can be found in the list of Rulemaking Documents and Supporting Documents available on DEC’s website [here](#). These resources were issued by DEC on January 29, 2025, as part of their Proposed Amendments to 6 NYCRR 617. At the time of writing, this rulemaking has not been finalized. Please consult with DEC resources directly for the most complete and up to date guidance.

### 310. MAPPING RESOURCES TO IDENTIFY DISADVANTAGED COMMUNITIES

The Disadvantaged Community Assessment Tool (DACAT), [available here](#), was developed by DEC as an initial screening tool to identify DAC census tracts and help lead agencies understand existing burdens and vulnerabilities as part of their assessment of disproportionality.

### 320. STUDY AREA DEFINITION

The appropriate study area for the DAC assessment is generally within ½ mile of the project area and includes any component of the project located within, or within ½-mile of, a disadvantaged community. Corresponding EAF questions related to the study area include:

If located within, or within ½ mile of, a disadvantaged community: “Is the project located within, or within ½-mile of, a disadvantaged community? Yes/No”

If located greater than ½ mile from a disadvantaged community: “Could impacts from the project affect a disadvantaged community? Yes/No”

### 330. DEC RULEMAKING DOCUMENTS AND SUPPORTING DOCUMENTS

The following documents are all available on [DEC's webpage](#) for the Proposed Amendment to 6 NYCRR Part 617.

#### 331. Part 617 Express Terms

In this [PDF document](#) for the Part 617 Express Terms, text to be added to the regulations is underlined and text to be deleted is [bracketed].

#### 332. Part 617 Model Environmental Assessment Forms

In the updated forms linked below, note the pertinent additional questions regarding proximity to a DAC, potential pollution impacts that may occur within a DAC, and pollution burden.

##### ***Draft Short Environmental Assessment Form (Parts 1, 2, and 3) - Part 617 Appendix A***

- Repeal and Replace Format (no underlined or bracketed text) - [Link](#)
- Tracked changes format - [Link](#)

##### ***Draft Full Environmental Assessment Form (Parts 1, 2, and 3) - Part 617 Appendix B***

- Repeal and Replace Format (no underlined or bracketed text) - [Link](#)
- Tracked changes format - [Link](#)

#### 333. Regulatory Impact Statement (RIS) Appendix C – Draft SEQRA EAF Workbook Guidance

This [PDF document](#) contains draft updates to the SEQRA workbooks, which guide users through each section of the Short and Full environmental assessment forms (EAFs). The draft workbook guidance provides information, explanations, and examples for the additional new questions in the EAFs.

#### 334. Environmental Justice Siting Law Interim FAQs

DEC published additional interim guidance when the amendments to SEQRA took effect, in the form of FAQs, available [here](#).