

1 Disadvantaged Communities Criteria - 6/14/2022

2 STATE OF NEW YORK

3 DEPARTMENT OF ENVIRONMENTAL CONSERVATION

4 Public Hearing on the Draft Disadvantaged
5 Communities Criteria

6 PUBLIC COMMENT HEARING

7 DATE: June 14, 2022 at 6:10 p.m.

8 LOCATION: NYS DEC Region 2 Building

9 One Hunters Point Plaza

10 47-20 21st Street

11 Long Island City, New York

12 BEFORE: A.L.J. MICHAEL CARUSO

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Reported by Hannah Belair

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2 APPEARANCES:

3 ADRIANNA ESPINOZA, D.E.C. REPRESENTATIVE, EQUITY & JUSTICE

4 SPEAKERS:

EUNICE KO

5 NATALIE VENA

MEI POON

6 ELLEN OSUNA

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2 (The hearing commenced at 6:10 p.m.)

3 A.L.J. CARUSO: All right. Good

4 evening. My name's Michael Caruso. I'm an
5 administrative law judge with the New York State
6 Department of Environmental Conservation, and I will
7 be presiding over tonight's public comment hearing to
8 receive public input on the Draft Disadvantaged
9 Communities Criteria.

10 On behalf of the D.E.C. and NYSERDA,
11 I'd like to thank you for joining us at this hearing
12 and for participating in the important -- this
13 important process. The D.E.C. in partnership with
14 the New York State Energy Research and Development
15 Authority is holding eleven public hearings across
16 New York State to receive public input on the Draft
17 Disadvantaged Communities Criteria and advance the
18 finalization of the criteria to help guide the
19 implementation of the State's Climate Leadership and
20 Community Protection Act.

21 New York's Climate Justice Working
22 Group, which consists of representatives from
23 environmental justice groups from across the state
24 and New York State agency representatives, voted in
25 December to release the draft criteria for

1 Disadvantaged Communities Criteria - 6/14/2022
2 identifying disadvantaged communities for public
3 review.

4 The Draft Disadvantaged Communities
5 Criteria public comment period commenced in March
6 with a one-hundred and twenty day public comment
7 period that ends July 7th, 2022. The Draft
8 Disadvantaged Communities Criteria can be found at
9 this web address, climate.ny.gov. That's C.L. --
10 C.L.I.M.A.T.E. dot N.Y. dot G.O.V. The criteria are
11 based on geographic public health, environmental
12 hazard, and socioeconomic factors, and once approved
13 will be used to help meet the directors of the
14 Climate Act related to reducing pollution and
15 greenhouse gas emissions, as well as to inform
16 regulatory impact statements in the State's clean
17 energy and energy efficiency investments. Notice of
18 this hearing was published in the environmental
19 notice bulletin on May 4th, 2022, and assisting today
20 with a hearing are members of the D.E.C.'s Region Two
21 office.

22 In a moment, I will introduce Deputy
23 Commissioner for Equity and Justice, Adriana
24 Espinoza, who will give a brief overview of the work
25 to date in the draft criteria.

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2 The purpose of today's public comment
3 hearing is to allow members of the public to comment
4 on the Draft Disadvantaged Communities Criteria. And
5 this is not a question and answer session. Comments
6 will be accepted at this hearing tonight and at one
7 more in-person public comment hearing, and four more
8 virtual public comment hearing sessions. In a
9 moment, I'll give you the list of dates and times for
10 the remaining hearings. Written comments may be
11 submitted until July 7th, 2022. And comments
12 submitted by e-mail must be received by the
13 department by 5:00 p.m. on July 7th to be considered,
14 and comments submitted by mail must be postmarked by
15 July 7th, 2022. Equal weight is given to written and
16 oral comments.

17 And now I'll give you the list of
18 remaining hearings that are scheduled. First there's
19 -- next will be Central New York Mohawk Valley, that
20 is via Webex on Wednesday, June 15th, 2022 at six
21 p.m. After that it's North Country and Capital
22 Region, that is via Webex, and that's on Tuesday,
23 June 21st, 2022 at twelve p.m. Western New York
24 Number One is in-person and it's at the Push Buffalo
25 School Seventy-seven, 429 Plymouth Avenue, Buffalo,

1 Disadvantaged Communities Criteria - 6/14/2022
2 New York 14213, and that's on Thursday, June 23rd,
3 2022 at six p.m.

4 Hudson Valley virtual is Webex -- via
5 Webex, and that's on Wednesday, June 29th, 2022 at
6 twelve p.m. And the last one will be on -- for
7 Western New York, it'll be the second one for Western
8 New York, and that's via Webex and that'll be on
9 Thursday, June 30th, 2022 at 12:00 p.m. Details for
10 how to attend these hearings can be found at
11 theclimate.ny.gov web address I gave you before, but
12 I'll repeat it again. It's climate dot N.Y. dot
13 G.O.V. The e-mail address for submission of written
14 comments is capital D, capital A, capital C comments
15 at D.E.C. dot N.Y. dot G.O.V. The mailing address
16 is draft D.A.C. comments, N.Y.S.D.E.C., attention,
17 Office of Environmental Justice, 625 Broadway, 14th
18 floor Albany, New York 12233. And I believe we have
19 handouts up front that have the information for
20 submitting the -- the -- the written comments via e-
21 mail or by mail.

22 And now I'd like to introduce Adriana
23 Espinoza from the D.E.C. to give a brief
24 presentation.

25 MS. ESPINOZA: Thank you. Good

1 Disadvantaged Communities Criteria - 6/14/2022
2 evening, everyone. My name is Adriana Espinoza. I'm
3 Deputy Commissioner for Equity and Justice here at
4 D.E.C. And thank you for joining us for this public
5 hearing on the Draft Disadvantaged Communities
6 Criteria. I wanted to do a quick overview of the
7 criteria. There's also fact sheets and multiple
8 languages up at the front if you'd like some more
9 information.

10 The Climate Act is the nation's most
11 ambitious climate change related legislation. The
12 goal of the Climate Act is to reduce New York State's
13 greenhouse gas emissions from all human activities a
14 hundred percent by -- by -- or a hundred percent over
15 nineteen ninety levels by 2050, with an incremental
16 target of at least forty percent reduction in
17 greenhouse gases by 2030. Importantly, at least
18 eighty-five percent of those reductions must come
19 from preventing the release of greenhouse gas
20 emissions. Implementing the Climate Act will create
21 opportunities to build a better future. And to
22 ensure that this work also advances climate justice,
23 the Climate Act mandates that at least between
24 thirty-five to forty percent of the benefits of New
25 York State spending on clean energy and energy

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2 efficiency must accrue in disadvantaged communities.

3 State agencies are also required to
4 prioritize greenhouse gas emission and co-pollutant
5 reductions in disadvantaged communities. For D.E.C.,
6 this includes drafting regulations to meet greenhouse
7 gas emission limits required by the Climate Act.
8 Identification and prioritization of disadvantaged
9 communities in accounting for the benefits of cutting
10 pollution and improving resilience is what makes our
11 Climate Act a transformative law.

12 To identify disadvantaged communities
13 in New York, the Climate Justice Working Group was
14 guided by the language of the Climate Act in
15 identifying disproportionately burdened communities.
16 They voted to include forty-five indicators using
17 data on environmental hazards, climate change risk,
18 public health, geography, and socioeconomic factors
19 like race, income, education levels, unemployment
20 rates, and housing conditions. Additionally, the
21 draft disadvantaged communities designations are
22 reflective of the climate justice working group,
23 their lived experiences and the lived experiences of
24 residents in these historically overburdened and
25 underfunded communities.

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2 Each census tract is scored based on
3 their relative burden, risk, vulnerability or
4 sensitivity, specifically, the percentile rates of
5 the forty-five indicators for each census tract are
6 combined to produce a value that measures a census --
7 a census tracts, relative level of environmental
8 burdens and climate change risks, as well as
9 population characteristics and health vulnerabilities
10 relative to other tracks. The working group also
11 voted to include low income households with -- with
12 incomes at sixty percent of state median income as
13 disadvantaged communities for purposes of benefits
14 and investments pursuant to the Climate Act.

15 Based on these criteria, you'll see
16 that New York City makes up about sixty percent of
17 households with -- with geographic disadvantaged
18 communities. This includes forty-eight percent of
19 households in geographic disadvantaged communities
20 and additional twelve percent of low income
21 households at the -- that meet the sixty percent
22 state median income mark. Thank you.

23 A.L.J. CARUSO: Thank you, Deputy
24 Commissioner. As I indicated in the notice of this
25 hearing, we are going to limit speakers to two

1 Disadvantaged Communities Criteria - 6/14/2022
2 minutes to make their comments. Please be respectful
3 of that time limit. If you have not completed your
4 remarks after two minutes, I will ask you to conclude
5 your remarks. When you make your statement, please
6 speak loudly, slowly and clearly, and all comments
7 this evening are being recorded by a court
8 stenographer. If we cannot hear you, there's a risk
9 that your statement will not be recorded accurately.
10 So I've asked the stenographer to -- if she cannot
11 hear you, or you are speaking too quickly, to signal
12 me or interrupt, and you'll be asked to slow down or
13 speak up. It's very important we get everything that
14 you want to say on the record tonight.

15 When I call your name, please come to
16 the podium. When you begin speaking, please state
17 your name, and if you're speaking on behalf of
18 someone or some group of people, identify who it is
19 that you are representing. Let me apologize in
20 advance, if I mispronounce your name, and if I do
21 mispronounce your name, please correct me. Please
22 spell your last name for the court reporter and be
23 sure to speak clearly and directly into the
24 microphone so the court reporter is able to
25 accurately transcribe your statement. Lastly, we are

1 Disadvantaged Communities Criteria - 6/14/2022
2 placing microphone covers on the microphone for each
3 speaker. When you're finished speaking, we ask you
4 to please remove your cover and dispose it in the
5 waist back -- basket that's -- the next that's next
6 to the podium.

7 So we'll start with our first speaker
8 and our -- our first speaker tonight is Eunice Ko.

9 MS. KO: Good afternoon. My name is
10 Eunice Ko, and I am here from the New York City
11 Mayor's Office of Climate and Environmental Justice.
12 Thank you for the opportunity to comment today on the
13 Draft Disadvantaged Communities Criteria. With
14 clear, strong established criteria, we hope this
15 leads to distributive equity, the allocation of clean
16 energy investments and co-polluting greenhouse gas
17 reductions in our most underinvested overburdened
18 communities. Based on the draft criteria, New York
19 City likely comprises fifty-nine percent of the
20 disadvantaged communities census tracts in New York
21 State. We are excited about the opportunity to
22 create local jobs and reduce health disparities.
23 We're calling on the state to help us do this by
24 ensuring geographic equity with respect to the
25 distribution of their investments. More than half of

1 Disadvantaged Communities Criteria - 6/14/2022
2 the D.S.A.s, D.A.C.s in the state are in New York
3 City and the corresponding investment should reflect
4 that. We encourage state to evaluate areas with high
5 concentrations of D.A.C.s and develop an approach to
6 considering these areas when evaluating investments
7 and benefits to programs and policies.

8 We also ask the criteria be reviewed
9 to ensure that the communities that are most in need
10 are prioritized and targeted for investment with
11 transparent and current data guiding the decisions.

12 The Climate Leadership and Community
13 Protection Act empowers the State to prioritize the
14 safety and health of disadvantaged communities,
15 control potential regressive impacts of future
16 climate change mitigation and adaptation policies on
17 these communities, and prioritize allocation of
18 public investments in these areas.

19 Therefore, we recommend that the
20 D.E.C. investment goal also apply investments in
21 resiliency, not just investments in pollution,
22 reduction, energy efficiency, and clean energy. We
23 encourage the state to look at sustainability and
24 clean energy investments, but also to direct -- direct
25 and use the criteria to facilitate increased

1 Disadvantaged Communities Criteria - 6/14/2022
2 resiliency and adaptation investments in communities
3 made most vulnerable to climate change so that we are
4 preparing, protecting, and adapting our communities
5 and neighborhoods.

6 Thank you for the opportunity to
7 comment. The city looks forward to providing
8 comprehensive feedback on behalf of all agencies by
9 July.

10 A.L.J. CARUSO: Thank you. Our -- our
11 next speaker is Natalie Vena.

12 MS. VENA: Hi. Thanks so much. It's
13 like a hairnet. Okay. Can you hear me?

14 A.L.J. CARUSO: Yes.

15 MS. VENA: Okay. My name is Natalie
16 Bump Vena, V-E-N-A. I am an Assistant Professor at
17 Queens College and I also live in Queens. Our
18 borough has had no representation on the Climate
19 Justice Working Group, and as a result, the draft map
20 in Queens is often unjust and inaccurate. The map
21 splits cohesive Queens neighborhoods designating only
22 portions disadvantaged. In South Ozone Park, a
23 sewage backup flooded nine blocks in a working class
24 community of color in 2019. Three census tracts
25 converge on these blocks and the draft map codifies

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2 only one as disadvantaged. Of the excluded tracks,
3 one borders, two highways that are major sources of
4 air pollution, the Belt Parkway, and the Van Wyck
5 Expressway. At least one data set on which the
6 state's model relies appears inaccurate.

7 During hurricane Ida, an Indo-
8 Trinidadian mother and her son drowned in their
9 basement apartment on 183rd Street in Hollis. In the
10 same storm, a Tibetan family of three, including a
11 two-year-old boy, drowned in another basement
12 apartment on 64th Street in Woodside.

13 And yet the cen -- census tracks for
14 both of these blocks scored in the zero percentile
15 for inland flooding risk areas, according to the
16 state's model. Neither is considered disadvantaged.

17 Finally, the forty-five variables are
18 insufficient in mismeasurements of community
19 disadvantaged, including airport impact. Although
20 located next to J.F.K., most census tracks in
21 Brookfield, Laurelton, Rosedale and Springfield
22 Gardens are not classified as disadvantaged. Barbara
23 Brown, Chair of the Eastern Queens Alliance, says
24 that all tracks near the airport should be included
25 because of the constant air and noise pollution from

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2 low-flying planes that regularly shake area homes.
3 Community members must contend with eighteen-wheel
4 diesel fuel trucks that support next day deliveries
5 and off airport warehouses. Residents of these
6 tracks are predominantly black and score between the
7 ninety-third and on-hundredth percentiles for low
8 birth weight in the state. Please add a Queen's
9 representative to the Climate Justice Working Group.
10 Thank you.

11 A.L.J. CARUSO: Thank you. Our next
12 speaker is Mei Poon.

13 MS. POON: Thank you. Hi, good
14 afternoon. Can you hear me?

15 A.L.J. CARUSO: Yes, please. Please
16 proceed.

17 MS. POON: My name is Mei Poon. I'm
18 speaking on behalf of Con Edison and Arlington
19 (phonetic spelling). We have served New York Metro
20 Region for almost two-hundred years providing
21 electricity, gas, and steam to five million
22 customers. We are committed to investing in building
23 and operating the most reliable, resilient, and
24 innovative energy infrastructure. Advancing
25 electrification of heating and transportation, we

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2 aggressively are transitioning away from fossil fuel
3 to a net zero economy while gathered by principles of
4 affordability, equity and envir -- environmental
5 justice. We support the achievement of the
6 C.L.C.P.A. goals, and our clean energy commitment is
7 our pledge to lead on delivering the clean energy
8 future.

9 The clean energy commitment
10 incorporates consideration of disadvantaged
11 communities, for -- for example, we have planned our
12 infrastructure upgrades to ensure an equitable, clean
13 energy transition, such as the reliable clean city
14 projects that will improve air quality in
15 disadvantaged communities that are suffering from
16 peaker plants pollution.

17 We've been increasing reliability with
18 an undergrounding pilot program that includes
19 disadvantaged community criteria when identifying
20 overhead lines to underground. We're also increasing
21 availability of energy efficiency and electrification
22 programs in disadvantaged communities, and we are
23 offering build discounts to our most vulnerable
24 customers because serving disadvantaged communities
25 is the most important aspect of achieving Con

1 Disadvantaged Communities Criteria - 6/14/2022
2 Edison's clean energy commitment. We strongly
3 support climate justice working groups finalizing the
4 destination of disadvantaged community criteria so
5 that we can apply them to our clean energy plans. We
6 will continue to review our clean energy commitment
7 informed by the final scoping plan and the
8 disadvantaged community criteria to help the state
9 achieve its goals. We've also formed an
10 environmental justice working group internally to
11 accelerate the company's efforts in enabling an
12 equitable clean energy transition. Thank you.

13 A.L.J. CARUSO: Thank you. I
14 apologize for the large beep. I don't think we
15 learned how to figure it out, how to silence that
16 beep.

17 Our next speaker is Ellen Osuna.

18 MS. OSUNA: Okay. Hello. My name is
19 Ellen Osuna. I speak both as myself and also as a
20 member of New Yorkers for Wire Technology. Thank you
21 for holding these hearings on criteria for
22 disadvantaged communities. The rationale is that
23 disadvantaged communities are often overlooked in
24 climate policy initiatives and many other things. I
25 wish to speak of a category of disadvantaged

1 Disadvantaged Communities Criteria - 6/14/2022
2 community who are overlooked even as the plight of
3 the environmentally, economically, and historically
4 burdened gains more respect and attention. Pages
5 five and six of the technical documentation rightly
6 speaks of cumulative impacts that encompass all
7 stressors. There's emphasis on areas burdened by
8 accumulative environmental pollution and other
9 hazards that can lead to negative public health
10 effects. I wish to speak of a category of
11 environmental and biological pollution that is often
12 overlooked, even as finally, awareness grows of
13 pollution from fossil fuels and chemicals. And as
14 awareness grows that those who manufactured and
15 claimed safety of those fossil fuels and chemicals
16 knew all along of the harms.

17 Another thing rapidly growing in
18 recent years are wireless communication facilities,
19 aptly acronym, W.T.F.s, the boxes and antennas
20 staring at us from street poles, rooftops, sometimes
21 directly above or outside upstairs windows, and smart
22 meters, Wi-Fi routers, et cetera.

23 With this insatiable wireless buildout
24 comes corresponding increase in people suffering from
25 electro sensitivity, which is recognized as a

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2 disability by the Americans with Disabilities Act.
3 Many who are electrically sensitive were not always
4 such. Sustained proximity to cumulative levels of
5 pulse modulation and the ceaseless onslaught of non-
6 ionizing radiation. Although if it is non-ionizing,
7 it's nothing to worry about, say the wireless
8 industry and captured regulators. Where else has the
9 environmental justice movement heard similar gas
10 lighting, no pun intended, to dismiss real pollution
11 and debilitating injuries? Please include the
12 electro sensitive in your consideration of
13 disadvantaged communities. And please include the
14 increasing invisible to the eye, but measurable by
15 meters, radio frequency microwave radiation and the
16 factor of pulse modulation in your consideration of
17 pollutants. Thank you.

18 A.L.J. CARUSO: Thank you. That's the
19 -- that's the last registered speaker I have. If
20 anybody else wants to speak, we'll open the floor. If
21 you want -- and if you want to, if you just quickly
22 fill out a -- a speaker card, that'd be great. If no
23 one at this moment wants to -- to put -- put a
24 comment on the record, we will adjourn for five
25 minutes and come back on the record to see if anybody

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2 else has -- has shown up. And -- because we did have
3 twelve people that registered previously on --
4 online. So maybe somebody might show up in the next
5 five or ten minutes.

6 So we're going to -- we're going to
7 take a brief recess then, and we'll come back on the
8 record at let's -- let's say six thirty-five. Thank
9 you.

10 A.L.J. CARUSO: Hello. All right, can
11 you return -- return to your seats? I just want to
12 go back on the record and -- and at least state for
13 the record that we, you know, if anybody else wants
14 to speak, they -- they -- they can, we'll -- we'll
15 take your comment now.

16 Hearing none, then we are going to
17 adjourn this -- this hearing at seven forty-five. So
18 we are adjourned. Thank you everybody for coming
19 out. Appreciate you -- your coming here.

20 (The hearing concluded at 6:47 p.m.)

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2 STATE OF NEW YORK

3 I, HANNAH BELAIR, do hereby certify that the foregoing was
4 reported by me, in the cause, at the time and place, as
5 stated in the caption hereto, at Page 1 hereof; that the
6 foregoing typewritten transcription consisting of pages 1
7 through 20, is a true record of all proceedings had at the
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 5th day of July, 2022.

11

12 HANNAH BELAIR, Reporter

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