

Preparing an Environmental Impact Statement (EIS)

The draft EIS is a primary source of environmental information related to a proposed action. The EIS also serves as a means for public review and comment on the potential impacts of the action. After a draft EIS is submitted by the sponsor, the lead agency must determine that it is complete and adequate for public review. Once the draft EIS is deemed complete, a mini-mum of 30 days is required for public review and comment. A final EIS should be prepared within 45 days of any hearings or 60 days after filing the draft EIS. The final EIS must include: the draft EIS and any revisions/supplements; a summary of sub-stantive comments received; and the lead agency's responses to the comments. Draft and Final EIS's must be published on a publicly available website.

Holding public hearings under SEQR is optional. Hearings are part of the review process for draft EIS's and cannot be held before the draft EIS and related documents are available for public review. SEQR hearings should be combined with hearings mandated by laws governing the particular action being proposed. If a SEQR hearing is held, the hearing record or summary becomes part of the final EIS.

SEQR findings are written by the lead agency and each of the involved agencies at the time they make their final decisions. Findings should directly relate the agency's decision to specific issues in the EIS, including the support for any conditions an agency may impose. Findings statements must be filed with all involved agencies and the project sponsor. A copy must be kept in the agencies' public files.

How does SEQR affect your agency?

If an agency is making a discretionary decision on a proposed action, it must carry out its responsibilities under SEQR. An agency may get assistance from but can not delegate its role to another agency or entity. For example, a town board cannot allow another board or agency that has no discretionary decision making role regarding the proposed action to act in its behalf.

Even though an involved agency may have little concern about a proposed action, it cannot make a final decision until either a Negative Declaration has been made or the EIS process has been completed. If a project is allowed to start without the benefit of a proper SEQR review, agencies are vulnerable to legal challenges. New York's court system has consistently ruled in favor of strong compliance with the provisions of SEQR.

Need more info?

Visit DEC's Website at www.dec.ny.gov. Select SEQR in the subject index. There you will find: details about SEQR and how it works; explanations of terms; a flowchart of the SEQR process; SEQR forms that can be downloaded and information about regulations and laws. The *Environmental Notice Bulletin* lists all SEQR notices filed with DEC. It is free on DEC's website at www.dec.ny.gov/enb/enb.html.

Contact the Division of Environmental Permits at the central and regional offices with specific questions or for written materials about SEQR procedures and requirements.

DEC Division of Environmental Permits

(ask for the Regional Permit Administrator)

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Region 2 (all of New York City)

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Region 3 (Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester counties)
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Region 4 (Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady, Schoharie counties)
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New York State



DEC

LOCAL OFFICIAL'S GUIDE TO SEQR

(State Environmental Quality Review Act)



New York State
Department of Environmental Conservation
Division of Environmental Permits

The Local Role in SEQR



New York's Environmental Quality Review (SEQR) Act requires every state and local agency in New York to give equal consideration to environmental protection, human and community resources and economic factors when considering proposed actions such as: adopting land use plans, sub-dividing land, building a housing development or roadway, filling wetlands or issuing a variance.

The SEQR process does not result in a permit. Instead, it provides a comprehensive assessment of proposed actions in order to avoid or reduce significant adverse environmental impacts while meeting the social and economic needs of a community. SEQR also provides opportunities for communication between local and state agencies, citizens and project sponsors.

All local agencies, boards, authorities, districts, commissions and governing bodies must comply with SEQR as must all state agencies, public benefit corporations, commissions and authorities. Before any agency makes a decision to approve, undertake or fund a private or public project, it must complete the SEQR assessment.

SEQR applies ... whenever an agency is making a discretionary decision on an action that may affect the environment. Actions have been categorized as Type I, Type II or Unlisted.

Type I actions require careful examination since they are more likely to have a significant impact. If more than one agency is involved in the review of a Type I action, a coordinated review is required and a lead agency must be established. A full Environmental Assessment Form (EAF) must be completed. Type I actions include:

- non-residential projects physically altering 10 or more acres of land;
- zoning changes affecting 25 or more acres of land;
- adopting land use plans (e.g., comprehensive plan).

For a full list of Type I actions see SEQR regulations, 6NYCRR Part 617.4.

Unlisted actions are those actions not included in any statewide or individual agency lists of Type I or Type II actions. Unlisted actions require a SEQR review since they range from minor zoning variances to complex construction activities that fall just below the threshold for Type I actions. At minimum, a short EAF must be completed. If more than one agency is involved in the review, a coordinated review is optional.

Not all actions require SEQR review ...

Type II actions are actions that DEC has determined will not have a significant adverse impact on the environment. Therefore, no further SEQR review is required. Type II actions include:

- constructing, expanding or granting area variances for a single 1,2 or 3 family dwelling;

- constructing or expanding a primary, non-residential structure with less than 4,000 sq. ft. of gross floor area;
- non-discretionary approvals, like building permits;
- interpreting existing codes, rules or regulations;
- minor maintenance and repair activities;
- construction of garages, fences, home swimming pools;
- routine permit/license renewals;
- granting a request for a single setback, lot line variance and adjustments;
- agricultural practices including farm building construction.

For a full list of Type II actions see SEQR regulations, 6NYCRR Part 617.5.

Important steps in the SEQR process...

Determining Significance - The agency conducting the SEQR review must determine if a proposed action may or will not have significant adverse impacts on the environment. Impacts must be evaluated for both severity and importance. During this evaluation, the agency must consider all components or phases of the proposed action (the "whole action").

Determinations of significance must be based on information provided by the project sponsor in an EAF, other supporting documents and comments from any involved agencies and the public.

Determinations can be:

- A Negative Declaration (Neg Dec) when an agency determines that a proposed action will not result in significant adverse environmental impacts.

An agency's Neg Dec must show, in writing, the reasons why the identified environmental impacts will not be significant. Therefore, an Environmental Impact Statement (EIS) is not required. A Conditioned Negative Declaration (CND) is a type of Neg Dec that can be issued for certain Unlisted actions. A CND allows an agency to impose specific conditions, outside of its routine jurisdiction, to minimize identified impacts. For example, a Planning Board could impose a condition requiring an additional turning lane to improve traffic flow. A CND is subject to a 30-day public comment period.

- A Positive Declaration (Pos Dec) when the lead agency determines that there may be one or more significant adverse environmental impacts from a proposed action. An EIS must be prepared.

Scoping - A useful process to identify the topics that should be covered by the EIS, including significant adverse environmental impacts of a proposed project and alternatives that could avoid or minimize these impacts. As a result, the draft EIS is concise, accurate and focused on the significant issues. Scoping is optional for Supplemental EIS's.

An agency must involve community members. The scoping process starts when the project sponsor files a draft scope with the lead agency. The lead agency circulates the draft scope and solicits public involvement. An agency can also decide to hold a public scoping meeting. A final written scope of issues must be completed within 60 calendar days of receiving the draft scope. Draft and Final scopes must be published on a publicly available website.