



**Division of Local
Government Services**

New York State Environmental Quality Review Act (SEQRA) Basics

A Division of New York Department of State

Part 617 of Environmental Conservation Law:

Incorporate
consideration of
environmental
factors into an
agency's decision-
making process at
earliest possible time



Resources or characteristics affected by action

- Resources of agricultural, archeological, historic or aesthetic significance
- Existing patterns of population concentration distribution or growth
- Existing community or neighborhood character
- Human health
- Adaptation to climate change, flooding and sea level rise



- Land
- Air
- Water
- Minerals
- Flora
- Fauna
- Noise
- Viewshed
- Dark Skies

What are “actions?”

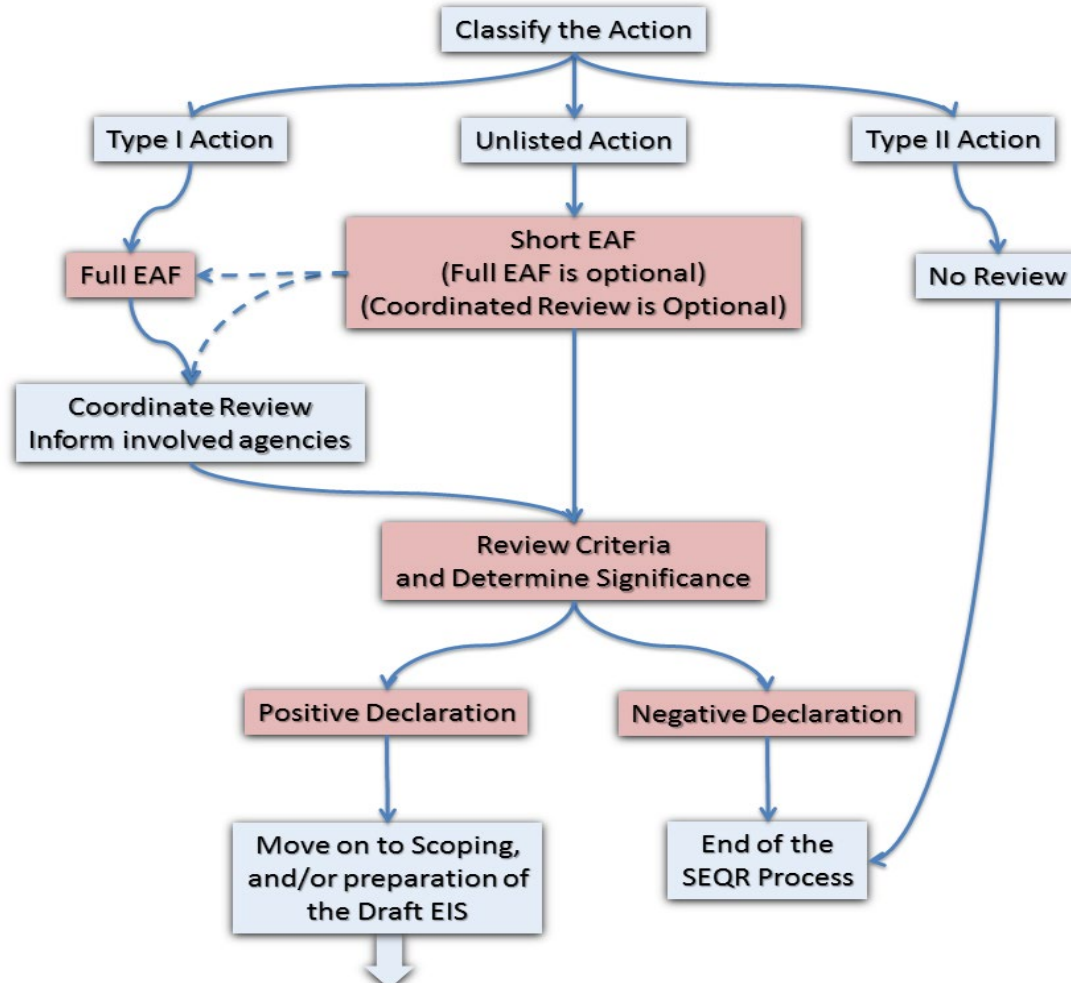
All are subject to SEQRA consideration:

- Undertaking, funding or approving projects or physical activities (discretionary actions)
- Planning & policy making activities
- Adopting rules, regulations & procedures
- Any combination above

How SEQRA works

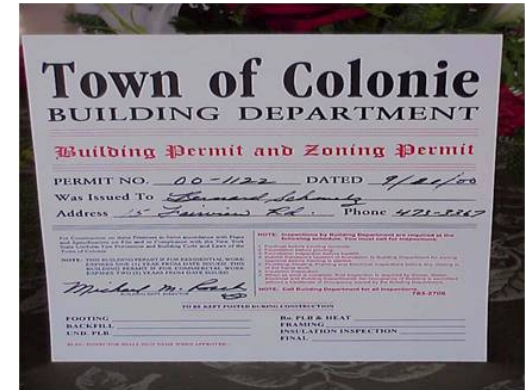
- Agency proposes action or receives application
- Action classified*
- Lead agency established
- Significance of action determined*
- Environmental Impact Statement (EIS), if needed
- Findings and agency decision*

***SEQRA process can conclude at any of these points**



Type II Actions

- Pre-determined not to have significant adverse impact on environment
- Classification concludes SEQRA
 - Normal agency processes resume
 - No preparation of an Environmental Assessment Form (EAF)



Type II Action List Examples

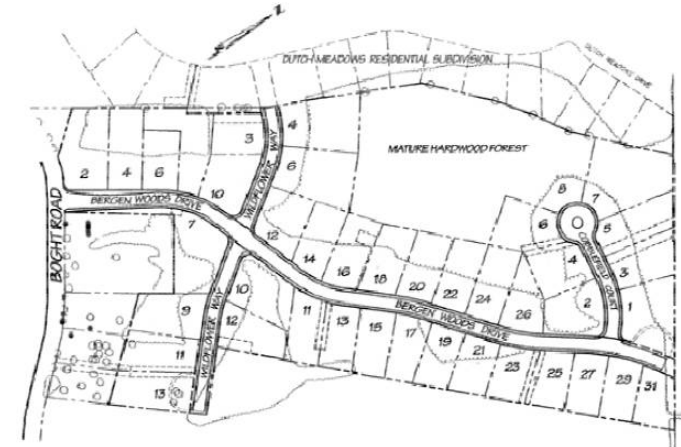
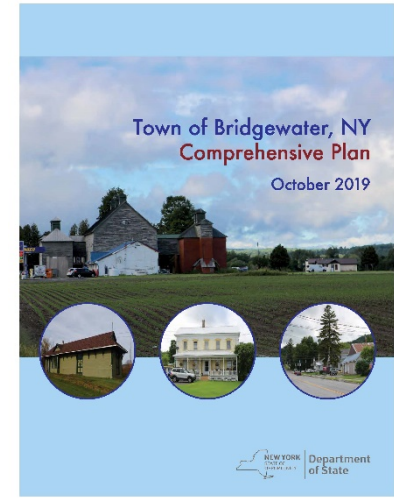
- Area variances for one, two, or three family residences
- Lot/boundary line adjustments
- Construction of commercial structure < 4,000 SF gross floor area and consistent with zoning
- Upgrading buildings to meet state energy code
- Green infrastructure
- Installation of telecommunications cables in ROWs with trenchless burial or use of existing poles
- Conveyances of land in connection with 1-3 family residence

Type II Action List Examples, continued

- Solar (on rooftops, landfills, brownfield and Superfund sites, wastewater treatment facilities, parking lots/garages and industrial areas)
- Reuse of a commercial or residential structure
- Official ministerial acts involving no discretion
- GML §§ 239-m or 239-n planning recommendations
- Acquisition/dedication of parkland or conservation easement
- Conveyance of property by public auction
- Organic digesters at operating municipal landfills

Type I Actions

- Carry presumption of significant adverse impact on environment
- More likely to be issued positive declaration & require preparation of EIS
- Requires that SEQRA continue until its conclusion



Type I Action Examples

- Adoption of a Land Use Plan
- Zoning laws or ordinances affecting 25 or more acres
- Nonresidential projects physically altering 10 or more acres of land
- 200 units or more to be connected to a public water or sewer system in municipality of less than 150,000 persons
- Parking for 500 vehicles in a municipality with less than 150,000 in population
- Any unlisted action that exceeds 25% of any threshold on the Type I list occurring within or substantially contiguous to a historic structure or district

Unlisted Actions

- Not found on either Type I or Type II list, examples:
 - Land subdivisions for residential units
 - Physical disturbances of <10 acres (commercial)
 - Use variance needing no other approvals
- Governing board may supplement Type I or Type II lists with otherwise Unlisted actions
 - No agency bound by action on another's Type II list
- Requires SEQRA continue to conclusion

Agencies

Possible SEQRA agencies

Involved	Interested
<ul style="list-style-type: none">• Planning board• ZBA• Town board, city council, village board of trustees• County health department• School board• Industrial development agency & local development corporation• State agency	<ul style="list-style-type: none">• State or local agencies acting in advisory roles<ul style="list-style-type: none">– County planning board or regional agency GML §239-m review– Environmental management or conservation advisory councils

Not classified as SEQRA agencies:

- Federal departments or agencies
- Private entities

Establishing lead agency

- Agency to propose action, or first receive application must contact all involved agencies
 - Distribute EAF Part 1 & application
 - Inform that lead agency must be established
- Lead agency must be established within 30 days
- Once established, lead agency must make determination of significance within 20 days
 - GML §239-m review need not be concluded prior
(full statement: EAF Part 1 & all materials submitted)

Determination of Significance, then Local Review

SEQR must conclude before statutory decisions

Negative Declaration (or Conditioned Negative Declaration)

Or

Positive Declaration and Environmental Impact Statement

Before

Law changes, subdivision, site plan, special use permit decisions

“Complete application”

- Local submission requirements are satisfied for Type I or Unlisted action, and:
 - Negative declaration (or CND) has been issued; or
 - Positive declaration
 - Draft EIS has been accepted as satisfactory
 - [6 NYCRR Part 617.3\(c\)](#)
- Once complete, hearing must be held within 62 days
 - Subdivision

Subdivision

- SEQR process directly incorporated into preliminary & final plat approvals
 - Town Law §276
 - Village Law §7-728
 - General City Law §32
- Timing for decisions differs depending on if
 - Planning board acts or does not act as lead agency
 - EIS required or not



Negative declaration

Part 617.7 (a)(2)

- Analysis of **adverse environmental impacts** concludes:
 - No likely impacts identified; or
 - None identified are significant; or
 - Identified significant impacts are mitigated
- Written determination must include reason behind conclusions
- Incorporate into any subsequent legal notices

Conditioned negative declaration

- Criteria for CND determination
 - Only for Unlisted actions
 - Full EAF required
 - Coordinated review required
- May issue if imposed conditions will mitigate or avoid significant impacts
- Publish notice in [NYS DEC Environmental Notice Bulletin](#) (ENB); provide at least 30 days for public comment
- Must be rescinded and reissued as positive declaration if substantive comments identify that mitigation may not be accomplished

Positive declaration

Part 617.7 (a)(1)

- Intended for lead agency to apply low threshold
- Action has potential to cause or result in at least one significant adverse environmental impact
- Environmental Impact Statement (EIS) required
- If no coordination, one agency's positive declaration supersedes another's negative declaration

Determining Significance

Environmental Assessment Form

Short EAF

- Unlisted Actions at lead agency's discretion
- 4 pages in length

Full “Long” EAF

- Unlisted Actions at lead agency's discretion
- Mandatory for Type I Actions
- 25 pages in length

Both full and short forms

- Part 1: Project information
(Project sponsor completes)
- Part 2: Impacts and their magnitude
(Lead Agency completes)
- Part 3: Evaluation of moderate to large impacts
identified in Part 2
(Lead Agency completes; Statement of Significance)

SEQR EAF Mapper

<https://gisservices.dec.ny.gov/eafmapper/>

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Initial Extent Zoom In Zoom Out Show Overview Map

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri C... esri

Feedback | Help 1:288,895

Navigate To Area (Step 1)

Go To

Select County: [SELECT]

Select Town: []

Define Project Site (Step 2)

Or

Area: [Acres]

Create Report (Step 3)

Procedural compliance

- Public hearing after negative declaration or after DEIS if positive declaration
- Integration with other reviews where appropriate once application is complete
 - Draft EIS public hearing 617.3 (c)
- SEQR is often triggered by local review requirements but it does not substitute for local regulations. Local review and SEQR are separate processes.

Uncoordinated review

Part 617.6 (b)(4)

Unlisted actions only

- No lead agency
- Each agency acts independently and issues individual determinations of significance
- If any one agency issues a positive declaration, then:
 - All involved agencies must coordinate
 - Negative declarations issued by other agencies are superseded
 - Exception: other agency already made final decision

Coordinated review

Part 617.6 (b)(3)

One integrated environmental review

- Lead agency administratively responsible for conducting review process until its completion
- Other involved agencies may assist lead by providing information and comments
- Lead Agency responsibility cannot be delegated

Criteria for determining significance **Part 617.7(c)**

- Adverse changes to the environment
- Reduction of wildlife habitat
- Hazard to human health
- Substantial change in use of land
- Conflict with adopted community plans or goals
- Impairment of “community character”



Substantive compliance

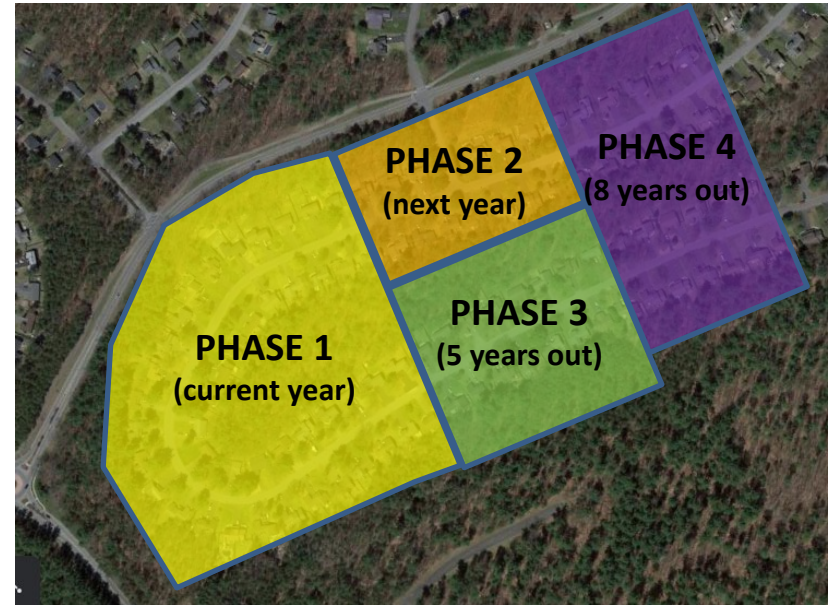
- Consider and evaluate all potential impacts
- Take a “hard look”
 - *H.O.M.E.S. v NYS UDC* (1979)
- Record written reasons why impact(s):
 - May be significant; or
 - Will not be significant



Avoid segmentation

“Whole action”: all components, phases, or aspects of proposal

- Rezoning for specific project
- Phased projects
- Commercial or industrial parks
- Some subdivisions
- Sale of property
- Road and highway projects



Evaluate impacts in context

Magnitude	Duration	Likelihood
Moderate (localized) Large (severe)	Short-term Medium-term Long-term Irreversible	Unlikely to occur Possibly will occur Probably will occur

Context: magnitude, duration & likelihood



Will action have a potentially significant adverse environmental impact?

Yes

- Positive Declaration
- EIS required

No

- Negative Declaration
- EIS not required
- Process concludes

Environmental Impact Statement (EIS)

Environmental Impact Statement

Part 617.2(n)

Disclosure document:

- Allows agencies, project sponsors & public systematically consider significant adverse environmental impacts, alternatives & mitigation
- Weighs social, economic & environmental factors early in planning & decision-making process

Scoping the Draft EIS

Part 617.8

- Focus on significant issues
 - Identify what information is needed
 - Eliminate non-significant issues
- Identify alternatives
- Identify mitigation measures
- Opportunity for other agency and public input
- Draft and Final Scope must be posted on website and noticed in the NYS DEC Environmental Notice Bulletin (ENB)

Scoping the Draft EIS

Part 617.8

- Focus on significant issues
 - Identify what information is needed
 - Eliminate non-significant issues
- Identify alternatives
- Identify mitigation measures
- Opportunity for other agency and public input – including late-filed comments (may be included in appendix to DEIS)
- Draft and Final Scope must be noticed in the NYS DEC Environmental Notice Bulletin (ENB)

Post Draft
on publicly
available
website

Generic EIS

Part 617.10

- Broader & more general than site/project specific EIS
- Should discuss logic & rationale for choices/options
- May include assessment of specific impacts
- May be conceptually based in some cases
- May identify important natural resources, existing & projected cultural features, patterns & character
- May discuss constraints & consequences of hypothetical scenarios that could occur

Preparation of draft EIS (DEIS) Parts 617.9 & 617.13

- Initial statement circulated for review & comment
- Prepared by project sponsor or delegated to lead agency
- However, lead agency must determine adequacy of DEIS for public review within 45 days; 30 days for re-submission
- Lead agency may charge applicant fees to recover actual costs for either DEIS/FEIS preparation or review, **but not both**

Post Draft
on publicly
available
website

Final EIS (FEIS) content

Part 617.9 (b)(8)

- Revised Draft EIS
- Supplements, if applicable
- All comments received
- Lead agency's responses to substantive comments

Post Draft
on publicly
available
website

Timing for Preparation of FEIS

- Lead agency responsible for completion within:
 - 45 days after public hearing, **or**;
 - 60 days after DEIS notice of completion if no public hearing
- Notice of completion begins 10+ day period for involved agencies and public to consider FEIS
 - Lead agency may issue written findings afterwards
- Notice of Completion of Draft/Final EIS:
https://www.dec.ny.gov/docs/permits_ej_operations_pdf/compeis.pdf

Decision-making and findings

- Findings must:
 - Consider information in FEIS
 - Balance environmental factors
 - Provide rationale for decisions
 - Certify rules have been followed
 - Certify chosen alternative mitigates adverse environmental impacts to extent possible
- Findings & final decision may be made concurrently
- SEQR Findings Form:

https://www.dec.ny.gov/docs/permits_ej_operations_pdf/findings.pdf

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www.dec.ny.gov/permits/357.html