Navigating SEQR







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SESSION OVERVIEW

- What is SEQR and when does it Apply?
- Process and procedures
- SEQR Tools
- Legal considerations
- Proposed “Let Them Build” SEQRA Reforms
- Questions







WHAT IS SEQR?

Article 8 of the NY Environmental Conservation Law, implemented through 6 NYCRR Part 617

- Enacted in 1975, implementing regulations adopted on March 22, 1976
- Requires that all State and local agencies assess environmental effects of discretionary actions:
  - before funding or approving the action, unless the action falls within certain statutory or regulatory exemptions.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

PURPOSE

- Enhances the consideration of environmental factors in planning and decision-making;
- Evaluation and notification process - not a direct decision-making process;
- Requires all agencies to evaluate the environmental consequences of proposed actions and to consider alternatives; and
- Uses a multidisciplinary lens: land use, transportation, drainage, community character, historic resources, noise, visual impacts, and more.

WHAT SEQR IS AND IS NOT



SEQR is an additional review that enables state and local agencies to evaluate the environmental effects of their decisions.



SEQR is an environmental review process tied to discretionary agency action.



SEQR is NOT a permit, entitlement, or approval.

WHEN DOES SEQR APPLY?

- Any project or physical activity that is directly undertaken, funded by, or requires a discretionary permit/approval from an agency.
- Agency planning and policy decisions that commit the agency to a definite course of future action.
- adoption of plans, local laws, regulations, or procedures.
- any combinations of the above.



Common local board examples

- Special use permits
- Site plans
- Subdivisions
- Rezonings
- Use variances and some area variances
- Adoption of plans or local legislation
- Purchase of property
- Funding of projects, etc.

PROCESS AND PROCEDURES

- Begin review as soon as an agency receives an application to fund or approve an action, or as early as possible in agency planning.
- Do not wait until the board is ready to vote on the permit or local law.
- SEQR should be integrated with the underlying local review, not treated as an afterthought.



CLASSIFYING THE ACTION

Type II Action

- Exempt from SEQR review.
- Listed in the regulations.

Type I Action

- More likely to require an EIS.
- Full EAF and coordinated review.

Unlisted Action

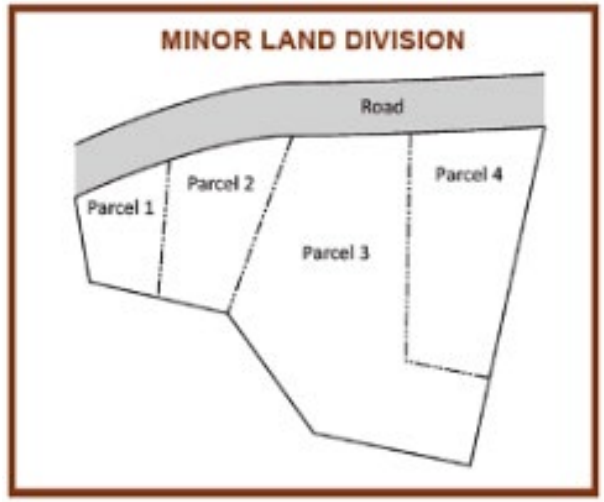
- Everything that is not Type I or Type II.
- Usually uses the Short EAF.



Type II Action



Type I Action



Unlisted Action

** Classification should happen early because it affects the form, review path, and notice obligations.*

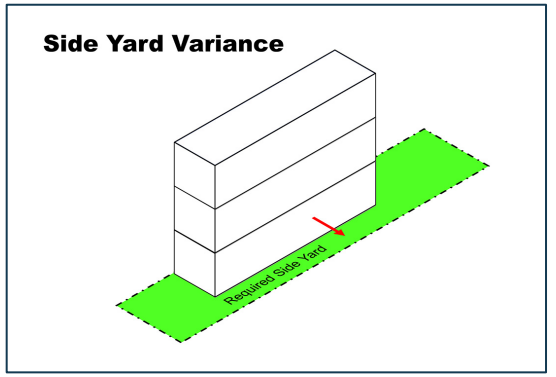
TYPE II ACTIONS – EXAMPLES

- Maintenance or repair involving no substantial change in an existing structure
- Construction of a single-family home
- Granting of an individual setback and lot line variance
- Adoption of a moratorium on land development or construction
- Installation of traffic control devices
- Environmental, planning, engineering or economic studies (not formally adopted)
- Always check the full Type II list in *6 NYCRR 617.5* before assuming an Action is Exempt.









TYPE I ACTIONS

Type I - Actions that are *more likely* to have a significant adverse impact on the environment than Unlisted actions and may require the preparation of an EIS.

- List of Type I Actions in regulations (*6 NYCRR 617.4*).
- Full EAF and coordinated review are required.
- Examples:
  - Adoption of a Comprehensive Plan.
  - Adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district.
  - 50 units not to be connected to existing community or public water and sewerage systems; and
  - a nonresidential project or action that involves the physical alteration of 10 acres.

UNLISTED ACTIONS

Unlisted – An action that does not meet or exceed the thresholds contained in SEQR.

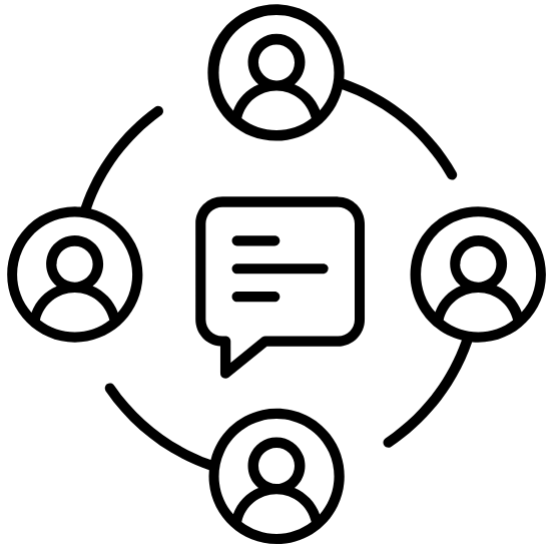
- Short Environmental Assessment Form is required.
- Coordinated review is not required but may still be advisable.
- Most Actions are Unlisted.





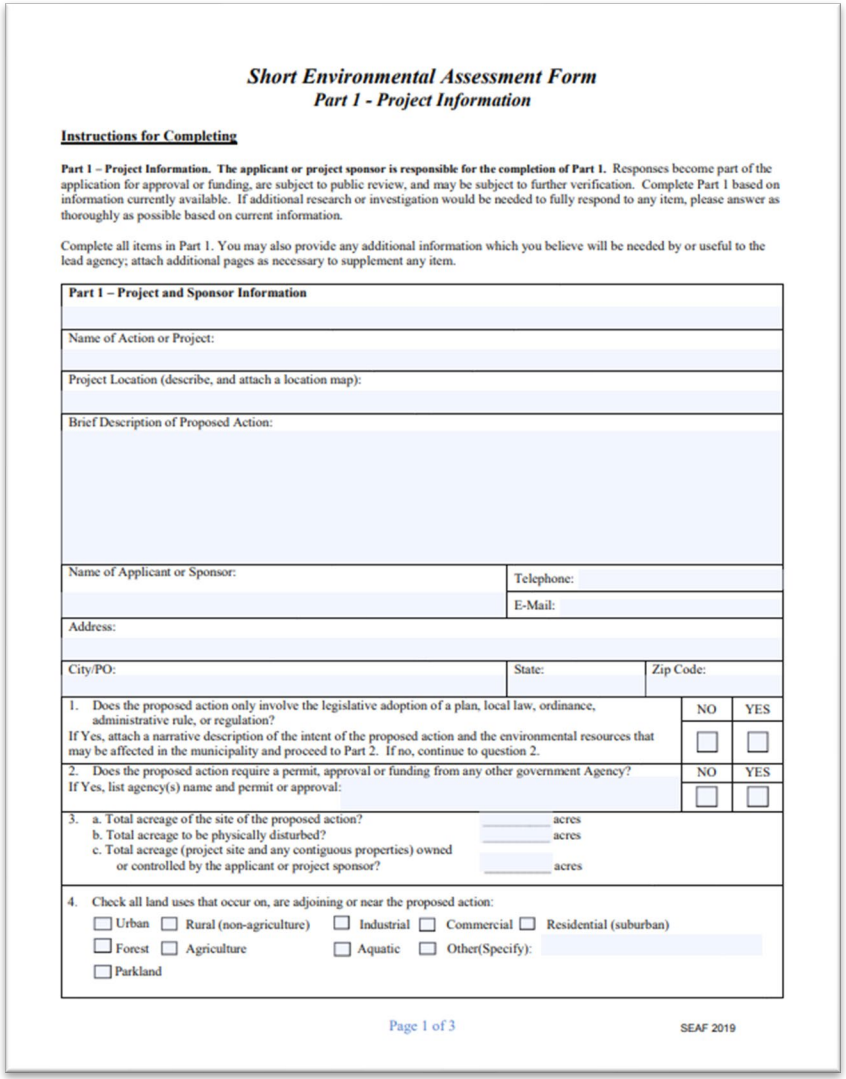
INITIAL REVIEW AND ESTABLISHING LEAD AGENCY

- Prepare Environmental Assessment Form (EAF) Part 1
  - Short Form (Unlisted Action) versus Full Form (Type 1 Action)
- Establishing Lead Agency
  - The lead agency is typically the involved agency principally responsible for undertaking or approving an action.
  - The Lead Agency must be determined before determination of significance.
- Coordinated versus uncoordinated review
  - Must conduct coordinated review for Type 1 Actions.
  - 30 days for involved agencies to object or agree after receiving the lead agency request.



EAF PROCESS

- Part 1: applicant describes the action, site, and approvals.
  - Agency reviews and asks questions to evaluate potential project impacts.
- Part 2: lead agency identifies potentially relevant areas of environmental concern.
  - Gain as much information as possible about the project.
  - *Practical tip: Part 2 is one of the lead agency's best tools for organizing its analysis and record.*
- Part 3: lead agency evaluates importance, context, and supporting information for those impacts identified in Part 2.
- Lead Agency should ask for the information they reasonably need before determining significance.



Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Name of Action or Project:

Project Location (describe, and attach a location map):

Brief Description of Proposed Action:

Name of Applicant or Sponsor: | Telephone: | E-Mail:

Address:

City/PO: | State: | Zip Code:

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.	☐	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:	☐	☐

3. a. Total acreage of the site of the proposed action? _____ acres
   b. Total acreage to be physically disturbed? _____ acres
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres

4. Check all land uses that occur on, are adjoining or near the proposed action:
   ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban)
   ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify): _____
   ☐ Parkland

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DETERMINING SIGNIFICANCE

- The board must consider the whole action, including context, magnitude, and cumulative implications where relevant.
- The key question is whether the action may result in one or more significant adverse environmental impacts.

Criteria for determining significance (Examples):

- A substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels.
- Removal or destruction of large quantities of vegetation or fauna.
- Substantial increase in potential for erosion, flooding or drainage problems.
- Inconsistency with an adopted Comprehensive Plan.
- Growth Inducement.
- The creation of a hazard to human health.

SEQR Determination:

- Negative Declaration
- Positive Declaration

NEGATIVE DECLARATION

- A written determination that the action will not result in a significant adverse environmental impact.
- A statement that formally ends the SEQR process.
- A determination that the proposed action will not have a potential significant impact on the environment.
- Must reflect a hard look and a reasoned elaboration in the file and, ideally, in the agency's formally adopted resolution.
- For Unlisted actions, non-coordinated review: each agency makes their own decision.
- For Type I actions, it must be sent to involved agencies, the applicant, and published in the ENB.

POSITIVE DECLARATION

- Issued when the action may result in one or more significant adverse environmental impacts.
- Must identify the potentially significant adverse environmental impacts that require further study in EIS.
- Must be adopted by formal resolution and promptly filed, circulated, and published as required.
- Must be distributed to all Involved Agencies, and the applicant (and published in ENB).
- Get professional and legal assistance.

EIS BASICS

- Site specific vs. Generic EIS – *which is appropriate?*
- Scoping is required for all EISs and helps define the issues, studies, and level of detail.
- A Draft EIS is circulated for public review and, where held, public hearing comment.
- A Final EIS responds to substantive comments and refines the analysis.
- A Findings Statement is required before the final decision on the action.

EIS PROCESS

Draft EIS

- Cover sheet
- project description
- purpose and need
- existing conditions, impacts and mitigation
- Alternatives
- Cumulative and growth Inducing impacts
- Future Actions (GEIS only)

Final EIS

- changes to the proposed action
- responses to comments
- updated mitigation and analysis

Findings Statement

- Consider the relevant environmental impacts
- Weigh and balance environmental impacts with social, economic and other considerations.
- state rationale for the decision
- certify impacts are avoided or minimized to the maximum extent practicable

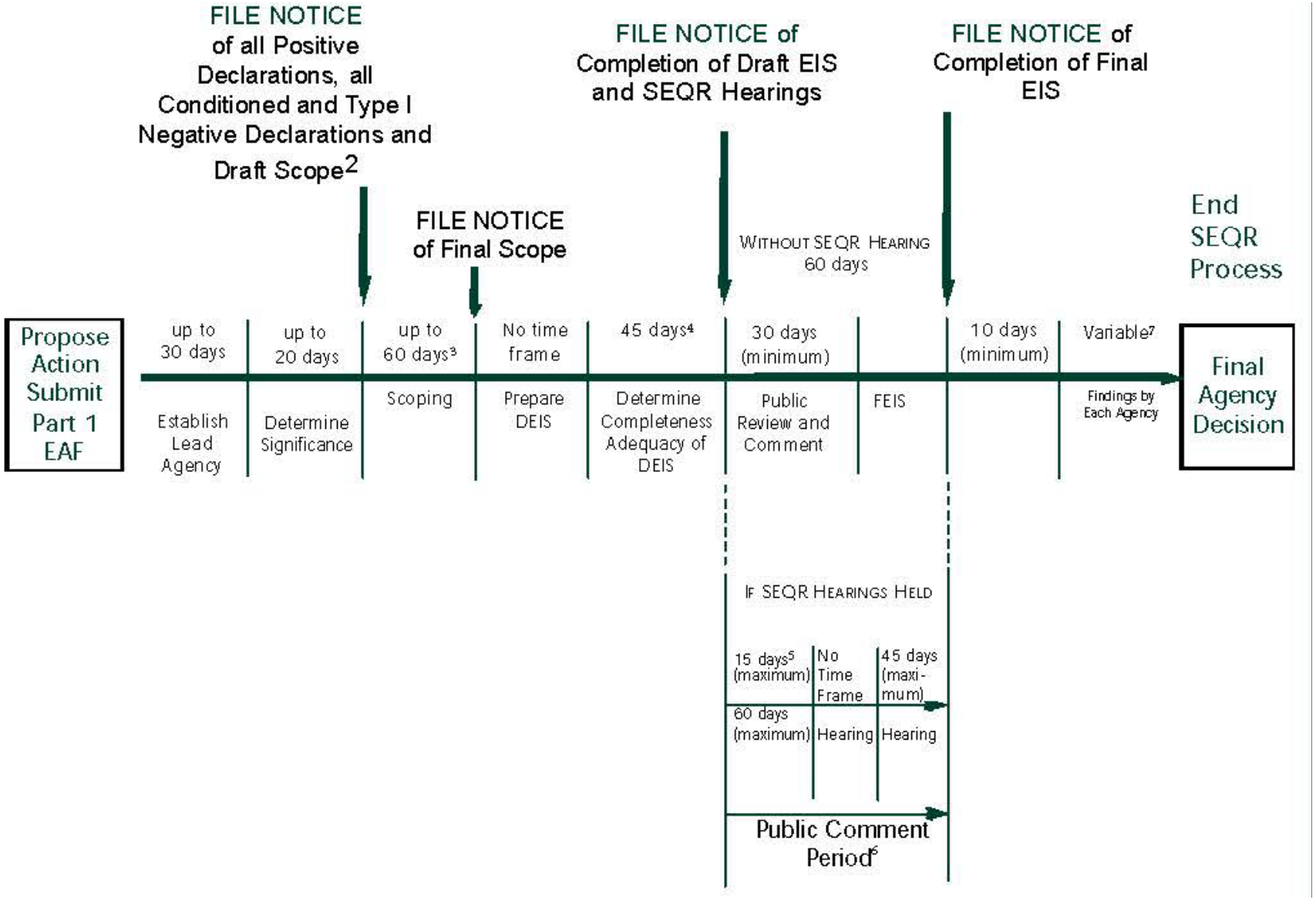
When does the Public Participate?

- Public participation typically occurs during scoping, DEIS review, and any hearing held on the DEIS.
- The public also receives notice through ENB publication for certain determinations and EIS milestones.
- After final action, the record is what the court will review if the determination is challenged.






SEQR TIMEFRAMES



SEQR TIMEFRAMES

- Timeframes are "directory," not mandatory - Timeframes may be extended upon mutual agreement
- For a significance determination, the lead agency generally must act within 20 calendar days after establishment as lead agency *or* after receiving the information it reasonably needs, whichever is later.
- No default approval if timeframes are exceeded (except timeframe for Lead Agency's issuance of Final Scope)
- Lead Agency should strive to comply with timeframes – especially minimums

PUBLICATION OF NOTICES

TYPES OF DOCUMENTS:

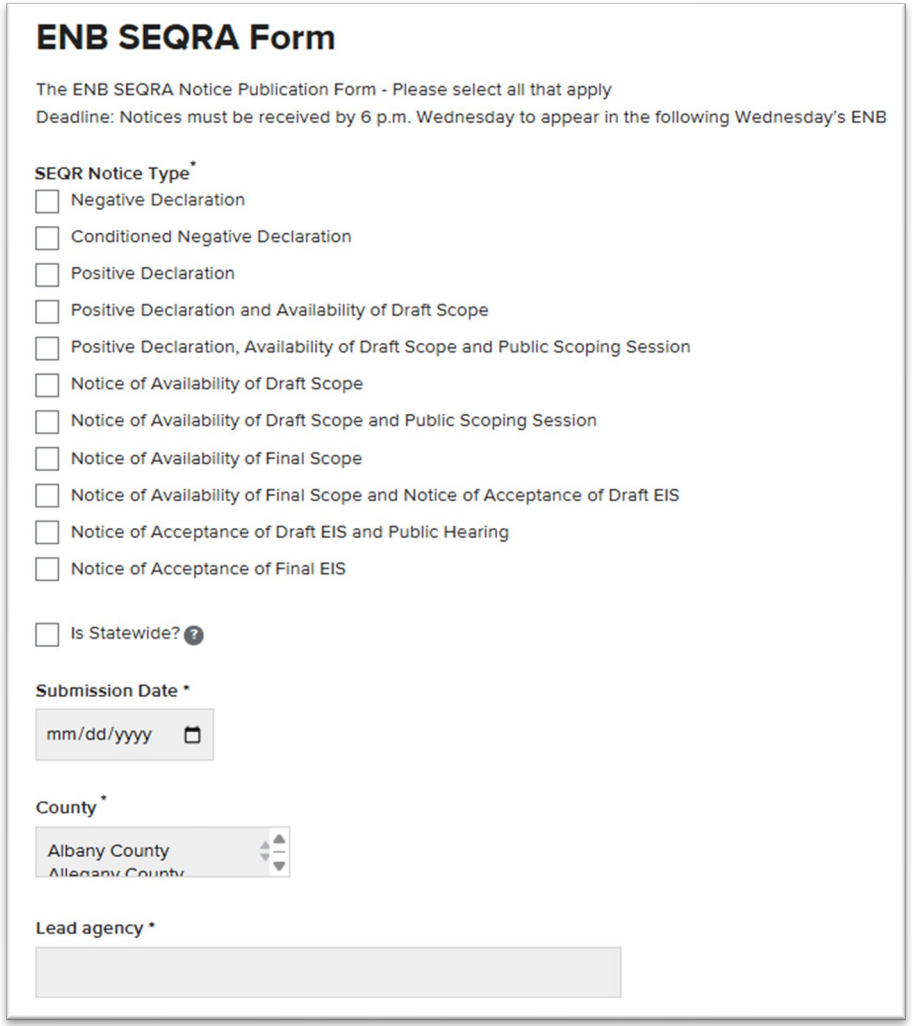
- Type I Negative Declaration
- Conditioned Negative Declaration
- Positive Declaration
- Notice of Completion of EIS (and Notice of Public Hearing)
- EIS
- Findings Statement

WHERE FILED:

- Chief Executive Officer of the political subdivision in which the action is located
- Lead Agency
- All Involved Agencies
- Any person that requested a copy
- Applicant
- Environmental Notice Bulletin

ENVIRONMENTAL NOTICE BULLETIN

- Weekly, online publication of SEQR notices by the NYS DEC
- ENB Notices Must be Filed For:
  - Type I Negative Declaration
  - Conditioned Negative Declaration (Unlisted Actions Only)
  - Positive Declaration
  - Notice of Completion of EIS (DEIS, DEIS Public Hearing, and FEIS): http://www.dec.ny.gov/enb/enb.html



ENB SEQRA Form

The ENB SEQRA Notice Publication Form - Please select all that apply
Deadline: Notices must be received by 6 p.m. Wednesday to appear in the following Wednesday's ENB

SEQR Notice Type*

- ☐ Negative Declaration
- ☐ Conditioned Negative Declaration
- ☐ Positive Declaration
- ☐ Positive Declaration and Availability of Draft Scope
- ☐ Positive Declaration, Availability of Draft Scope and Public Scoping Session
- ☐ Notice of Availability of Draft Scope
- ☐ Notice of Availability of Draft Scope and Public Scoping Session
- ☐ Notice of Availability of Final Scope
- ☐ Notice of Availability of Final Scope and Notice of Acceptance of Draft EIS
- ☐ Notice of Acceptance of Draft EIS and Public Hearing
- ☐ Notice of Acceptance of Final EIS

☐ Is Statewide?

Submission Date *

mm/dd/yyyy

County *

Albany County
Allegany County

Lead agency *

MAINTAINING A DEFENSIBLE SEQR RECORD



Procedural Compliance

Use the right form.

Classify correctly.

Establish lead agency correctly.

Adopt written determinations and file notices.



Substantive Compliance

Identify relevant areas of concern.

Take a hard look.

Provide a reasoned elaboration supported by the record.

COMMON GROUNDS FOR SEQR CHALLENGES

- Lead Agency failed to take a “hard look”
- Improper Segmentation
- Supplemental Environmental Impact Statement (SEIS) should have been prepared
- Weak or incomplete written rationale in the record

"HARD LOOK" STANDARD



The Lead Agency is required to take a "hard look" at the relevant environmental impacts.

Thoroughly analyze the identified relevant areas of environmental concern



After its "hard look," the Lead Agency must make a "reasoned elaboration" of its decision

Detailed written explanation of how it came to its conclusion, including references to the information relied upon from the record

SEGMENTATION

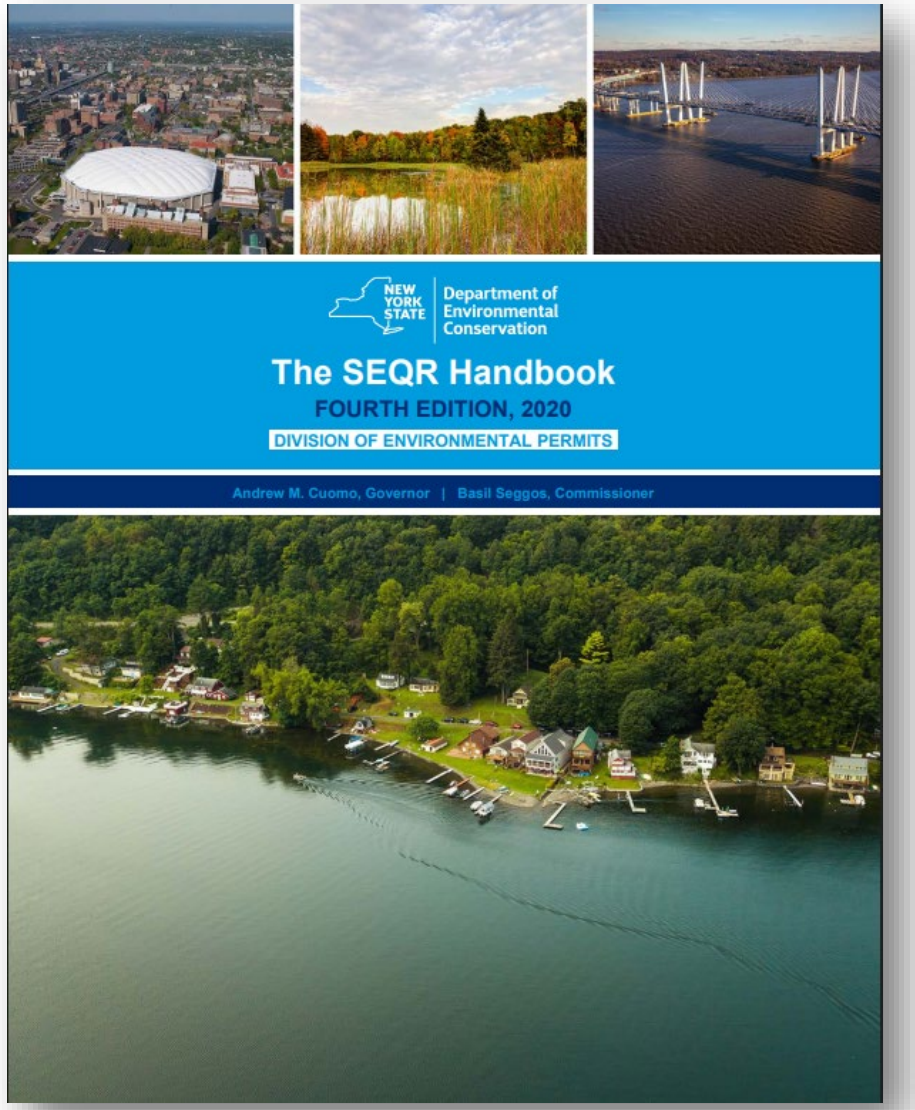
- Segmentation means dividing environmental review so related activities are treated as though they were independent and unrelated.
- Segmentation is contrary to the intent of SEQR, but not illegal per se
- Review may be segmented *if*:
  - Information on future project phase is too speculative.
  - Future phase may not occur.
  - Future phase is functionally independent of current phase.
- If segmentation is justified, the board must explain why and show the segmented review is no less protective of the environment.

WHEN IS A SUPPLEMENTAL EIS REQUIRED?

- A lead agency may require a SEIS if significant adverse impacts were not addressed or were inadequately addressed in the EIS.
- Typical triggers: project changes, newly discovered information, or changed circumstances related to the project.
- The decision is discretionary, but the board should explain its reasoning in the record.

SEQR TOOLS AND RESOURCES

- DEC has prepared companion workbooks and web-based forms and GIS mapping tool: https://gisservices.dec.ny.gov/eafmapper/
- DEC Environmental Resource Mapper: https://gisservices.dec.ny.gov/gis/erm/
- SEQR Regs: https://extapps.dec.ny.gov/docs/permits_ej_operations_pdf/part617seqr.pdf
- The SEQR Handbook: https://extapps.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf



SEQR RESOURCES

- NYS Department of Environmental Conservation website

  https://dec.ny.gov/regulatory/permits-licenses/seqr

  - EAF Forms
  - Public Notices and Other SEQR Forms
  - Guidance Documents:
    - Climate Change Guidance - https://dec.ny.gov/regulatory/guidance-and-policy-documents/climate-change-guidance-documents
    - DEP-00-1: Assessing and Mitigating Noise Impacts
    - DEP-00-2: Assessing and Mitigating Visual and Aesthetic Impacts

PROPOSED “LET THEM BUILD” REFORMS (2026)

- Streamlined Housing Approvals: Exempts low-impact residential projects (up to 100 units) from lengthy reviews if built on previously disturbed land, connected to existing water and sewer, outside of floodplain.
- Expanded "Type II" Actions: Automatically clears affordable housing and green utility projects that have no significant environmental impact.
- Strict Timelines: Establishes a two-year deadline to complete EISs, preventing indefinite project delays.
- Infrastructure Priority: Fast-tracks permits for modernizing the state's electric grid and renewable energy infrastructure.
- Digital Modernization: Implements new technology to simplify the application process and improve agency accountability.



CURRENT STATUS: "LET THEM BUILD" REFORMS (2026)

- Active Budget Negotiations: Currently a central item in the delayed FY 2027 State Budget talks (originally due April 1).
- Legislative Status:
  - Governor: Pushing for full inclusion in the final budget package.
  - State Senate: Evaluating modified versions of the SEQRA exemptions.
  - State Assembly: Considering reforms via standalone legislation (Bill A6283A) rather than the budget.
- Regulatory Preparation: The DEC is already drafting framework for new Generic Environmental Impact Statements to ensure rapid implementation if passed.
- Final Outlook: A definitive vote or inclusion in the enacted budget is expected in the coming weeks.



QUESTIONS?