Department of State
Local Government

NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) BASICS

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NYS DEC SEQR Resources

- SEQRA Handbook
- EAF Workbooks
  - Disclaimer
- SEQR Cookbook



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Part 617 of Environmental Conservation Law

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



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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

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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

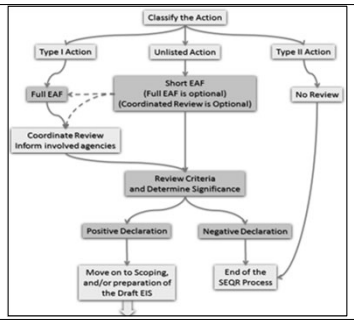
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How SEQRA works

- 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**

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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)



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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
- 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

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Type II Actions Added

- Type II Actions: SEQRA regulations predetermine certain land use activities will not have a significant adverse impact on the environment and no SEQR determination is required.
- Added to Type II List:

  Title 6 NYCRR Part 617.5

  - Three-family dwellings
  - Multi-family housing projects up to 10,000 square feet of gross floor area and related accessory structures and improvements, permitted by zoning
    - Must connect to existing public sewer and water systems at the time of habitation

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Environmental Justice Siting Law Implementation

Additional considerations incorporated in Determinations of Significance:

- Requires enhanced consideration of environmental justice in which agencies reviewing actions must evaluate whether the action might increase a disproportionate pollution burden on a "disadvantaged community"
  - Historic environmental burdens
  - Population Characteristics & Socioeconomic Factors
  - Public Health Vulnerabilities
  - High rates of housing instability and displacement risk



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EAF and EIS Updates

- Additional questions on Short/Full Environmental Assessment Form (EAF) and considerations in preparation of Environmental Impact Statement (EIS)
  - 500-year flood plain
  - Local comprehensive plan and other plan recommendations that address physical climate risks such as flooding, extreme heat and drought
  - Project location proximity to a disadvantaged community

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Updated NYS DEC Forms and Resources

- New Short EAF form: https://dec.ny.gov/sites/default/files/2025-01/part617appa.pdf
- New Full EAF form: https://dec.ny.gov/sites/default/files/2025-01/part617appb.pdf
- More info including disadvantaged communities' data and maps: https://dec.ny.gov/regulatory/regulations/proposed-emergency-recently-adopted-regulations/state-environmental-quality-review-act-regulatory-revisions

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SEQR Exemptions in 2026-27 NYS Budget

- Housing projects (outside of NYC) must be:
  - Connected to public water and wastewater facilities upon completion
  - On previously disturbed sites and adjacent to a previously disturbed site not used for industrial uses or for agriculture in the past 2 years or 3 of the last 5 years
  - Not in 100-year flood zone unless municipality has a local law/ordinance reflecting at least the Uniform Building Code standards for construction in a floodplain
- Up to 300 units in "urbanized areas" with zoning
- Up to 100 units in non-urbanized area with zoning
- Up to 20 units in non-urbanized areas without zoning

Environmental Conservation Law (ECL) § 8-0111 (5-a)

"Urbanized areas" = U.S. Census defined area with at least 5,000 people or 2,000 housing units

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SEQR Exemptions in 2026-27 NYS Budget

- Public parks and multi-use trails on previously disturbed sites, excluding large venues and stadiums
- Water and wastewater infrastructure projects that replace or rehabilitate existing systems in-kind, including lead service line replacement and sewer extensions to disadvantaged communities
- Green infrastructure
- NYC public school facilities meeting specific statutory criteria

** All other state, federal or local laws, regulations, permitting procedures etc. remain in effect including historic preservation, stormwater management, water/air quality ((ECL) § 8-0111[8])*

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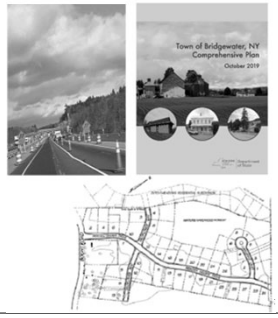
Other SEQR Changes in 2026-27 NYS Budget

- **New exemption determination must be made by agency reviewing/permitting the action within 120 days of application receipt**
- SEQR determinations on EAF must be made within 1-year of establishing Lead Agency (ECL § 8-0109[4])
- Final EIS must be completed within 2 years of determination that an EIS is required (ECL § 8-0109[5])
  - 30-day extension if agency and applicant agree; more than 30 days in certain scenarios
  - An applicant can bring an Article 78 proceeding if lead agency fails to make a determination with the required time limits
- Statute of limitations for appealing SEQR findings begins on date of application approval or disapproval (ECL § 8-0111[7])

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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



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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

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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

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AGENCIES

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Possible SEQRA agencies

Involved	Interested
• Planning board • ZBA • Town board, city council, village board of trustees • County health department • Industrial development agency & local development corporation • State agency	• State or local agencies acting in advisory roles o County planning board or regional agency GML § 239-m review o Environmental management or conservation advisory councils

Not classified as SEQRA agencies:
- Federal departments or agencies
- Private entities

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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

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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

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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

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REVIEW PROCESS

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Environmental Assessment Form

Short EAF	Full "Long" EAF
• Unlisted Actions at lead agency's discretion	• Unlisted Actions at lead agency's discretion
• 4 pages in length o Previously 2	• Mandatory for Type I Actions
	• 25 pages in length o Previously 21

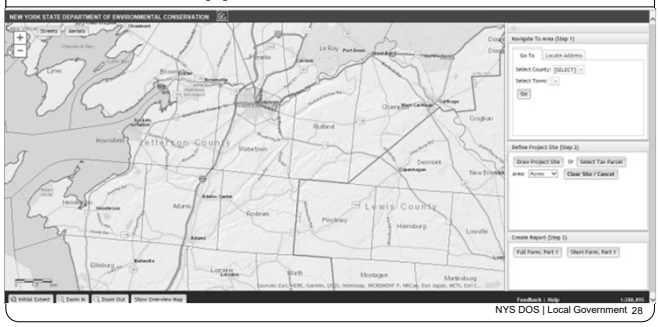
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Both full and short forms

- **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)

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SEQR EAF Mapper https://gisservices.dec.ny.gov/eafmapper/



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"Complete application"

- Local submission requirements are satisfied, 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

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Procedural compliance

- SEQR is often triggered by local review requirements, but it does not substitute for local regulations
  - Local review and SEQR are separate and distinct processes
- Procedural vs substantive compliance
- Public hearing after negative declaration or after DEIS if positive declaration
  - Subdivision applications

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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



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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

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Environmental Notice Bulletin (ENB)

- Official online publication: https://dec.ny.gov/news/environmental-notice-bulletin
  - Type I: neg and pos decs
  - Unlisted: CND; pos dec
  - Notice of completion of EIS
- Published weekly: 6 PM Wednesday submission deadline for publishing following Wednesday
- Submit ENB online, or by email or mail:
  - https://dec.ny.gov/enb/seqra-form
  - Email: enb@dec.ny.gov
  - Mail: ENB, NYS DEC, 625 Broadway, 4th Floor, Albany, NY 12233

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DETERMINING SIGNIFICANCE

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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"



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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

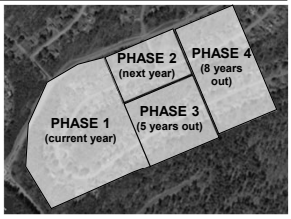


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Avoid segmentation

"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



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Evaluate impacts in context

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

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Context: magnitude, duration & likelihood





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Will action have a potentially significant adverse environmental impact?

Yes	No
• Positive Declaration • EIS required	• Negative Declaration • EIS not required • Process concludes

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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

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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; 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

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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 unless final approval has already been issued

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ENVIRONMENTAL IMPACT STATEMENT (EIS)

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Environmental Impact Statement — Part 617.2(n)

Disclosure document:

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

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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

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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

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Preparation of draft EIS (DEIS) — Parts 617.9 & 617.13

- Initial statement circulated for review and 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

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Final EIS (FEIS) content

Part 617.9 (b)(8)

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

Post Draft on publicly available website

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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 in ENB: https://dec.ny.gov/enb/seqra-form

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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 and final decision may be made concurrently
- SEQR Findings Form: https://extapps.dec.ny.gov/docs/permits_ej_operations_pdf/findings.pdf

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Division of Local Government Services
(518) 473-3355
localgov@dos.ny.gov
https://dos.ny.gov/training-assistance

Publications:
https://dos.ny.gov/publications



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NYS Department of Environmental Conservation
Division of Environmental Permits
(518) 402-9167
deppermitting@dec.ny.gov
https://dec.ny.gov/regulatory/permits-licenses/seqr

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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 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

	NO	YES	N/A
5. Is the proposed action,			
a. A permitted use under the zoning regulations?	☐	☐	☐
b. Consistent with the adopted comprehensive plan?	☐	☐	☐

	NO	YES
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	☐	☐

	NO	YES
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		
If Yes, identify: _____	☐	☐

	NO	YES
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	☐	☐
b. Are public transportation services available at or near the site of the proposed action?	☐	☐
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	☐	☐

	NO	YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	☐	☐

	NO	YES
10. Will the proposed action connect to an existing public/private water supply?		
If No, describe method for providing potable water: _____ _____	☐	☐

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment: _____ _____	☐	☐

	NO	YES
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	☐	☐
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	☐	☐

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☐	☐
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	☐	☐
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____		

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional

☐ Wetland ☐ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☐	☐
16. Is the project site located in the 100-year or 500-year flood plain?	☐	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources?If Yes,	☐	☐
a. Will storm water discharges flow to adjacent properties?	☐	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☐	☐
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	☐	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	☐	☐
20.Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	☐	☐
	NO	YES
21. Is the project located within, or within ½-mile of, a disadvantaged community?	☐	☐
If No, could impacts from the project affect a disadvantaged community?	☐	☐
If Yes to either question in 21, answer the following question:		
a. Identify the potential pollution impacts of the project, either direct or indirect, that may occur within the disadvantaged community (e.g., wastewater discharges, air emissions, noise, odors, solid or hazardous waste generation or management):		

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name:_____ Date:_____

Signature:_____ Title:_____

Agency Use Only [If applicable]

Project:	
Date:	

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	**Moderate to large impact may occur**
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☐	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing: a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐
12. Is the potentially affected disadvantaged community identified as having comparatively higher burdens or vulnerabilities by the Disadvantaged Community Assessment Tool (https://on.ny.gov/DACAT)?	☐	☐
13. Will the proposed action cause or increase a pollution burden within a disadvantaged community?	☐	☐

Agency Use Only [If applicable]

Project:

Date:

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur," or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

participate as may be needed, in any public hearing. Interested agencies are strongly encouraged to make known their views on the action, particularly with respect to their areas of expertise and jurisdiction.

f. No SEQR determination of significance, EIS or findings statement is required for actions which are Type II.

g. Actions commonly consist of a set of activities or steps. The entire set of activities or steps must be considered the action, whether the agency decision-making relates to the action as a whole or to only a part of it.

1. Considering only a part or segment of an action is contrary to the intent of SEQR. If a lead agency believes that circumstances warrant a segmented review, it must clearly state in its determination of significance, and any subsequent EIS, the supporting reasons and must demonstrate that such review is clearly no less protective of the environment. Related actions should be identified and discussed to the fullest extent possible.

2. If it is determined that an EIS is necessary for an action consisting of a set of activities or steps, only one draft and one final EIS need be prepared on the action provided that the statement addresses each part of the action at a level of detail sufficient for an adequate analysis of the significant adverse environmental impacts. Except for a supplement to a generic environmental impact statement (see section 617.10(d) of this Part), a supplement to a draft or final EIS will only be required in the circumstances prescribed in section 617.9(a)(7) of this Part.

h. Agencies must carry out the terms and requirements of this Part with minimum procedural and administrative delay, must avoid unnecessary duplication of reporting and review requirements by providing, where feasible, for combined or consolidated proceedings, and must expedite all SEQR proceedings in the interest of prompt review.

i. Time periods in this Part may be extended by mutual agreement between a project sponsor and the lead agency, with notice to all other involved agencies by the lead agency.

617.4. Type I actions.

a. The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

1. This Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and requires the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in section 617.7(c) of this Part.

2. Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action identified as Type II in section 617.5 of this Part.

b. The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

1. the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations;

2. the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;

3. the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;

4. the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a State or local agency;

5. construction of new residential units that meet or exceed the following thresholds:

i. 10 units in municipalities that have not adopted zoning or subdivision regulations;

ii. 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

iii. in a city, town or village having a population of 150,000 persons or less, 200 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

iv. in a city, town or village having a population of greater than 150,000 persons but less than 1,000,000 persons, 500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works; or

v. in a city or town having a population of 1,000,000 or more persons, 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

6. [construction] activities, other than [the] construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:

i. a project or action that involves the physical alteration of 10 acres;

ii. a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;

iii. construction of parking for 500 vehicles in a city, town or village having a population of 150,000 persons or less;

iv. construction of parking for 1,000 vehicles in a city, town or village having a population of more than [then] 150,000 persons;

v. in a city, town or village having a population of 150,000 persons or less, construction of a facility with more than 100,000 square feet of gross floor area;

vi. in a city, town or village having a population of more than 150,000 persons, construction of a facility with more than 240,000 square feet of gross floor area;

7. any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;

8. any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section;

9. any Unlisted action (unless the action is designed for the preservation of the facility or site), that exceeds 25 percent of any threshold established in this section, occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places (volume 36 of the Code of Federal Regulations, parts 60 and 63, which is incorporated by reference pursuant to section 617.17 of this Part), or that is listed on the State Register of Historic Places or that has been determined by the Commissioner of the [offie] Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law;

10. any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR part 62 (which is incorporated by reference pursuant to section 617.17 of this Part); or

11. any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part.

617.5. Type II actions.

a. Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part, except as otherwise provided in this section. These actions have been determined not to have a significant impact on the environment or are otherwise precluded

from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.

b. Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. The fact that an action is identified as a Type II action in an agency's procedures does not mean that it must be treated as a Type II action by any other involved agency not identifying it as a Type II action in its procedures. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:

1. in no case, have a significant adverse impact on the environment based on the criteria contained in section 617.7(c) of this Part; and

2. not be a Type I action as defined in section 617.4 of this Part.

c. The following actions are not subject to review under this Part:

1. maintenance or repair involving no substantial changes in an existing structure or facility;

2. replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;

3. retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure;

4. agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;

5. repaving of existing highways not involving the addition of new travel lanes;

6. street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;

7. installation of telecommunication cables in existing highway or utility rights of way utilizing trenchless burial or aerial placement on existing poles;

8. maintenance of existing landscaping or natural growth;

9. construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;

10. routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;

11. residential construction projects involving:

i. construction or expansion of a single-family[,] or a two-family or multifamily dwelling consisting of a three-family [or a three-family]residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance, or upgrade of a drinking water well or a septic system or both, and conveyances of land in connection therewith;

ii. construction of a building with four or more dwelling units including provision of necessary utility connections as provided in paragraph (13) of this subdivision and conveyances of land in connection therewith, under the following conditions:

a. the gross floor area of the building does not exceed 10,000 square feet;

b. the building is constructed on an approved lot;

c. the building will be connected (at the commencement of habitation) to existing public water and sewerage systems; and

d. the use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and subject to site plan review; or

iii. construction or rehabilitation of accessory structures in connection with subparagraph (ii) of this paragraph, including sidewalks, parking areas, playgrounds, and landscaping;

12. construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;

13. extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;

14. installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on the following sites:

i. closed landfills;

ii. brownfield sites that have received a Brownfield Cleanup Program certificate of completion (COC) pursuant to ECL section 27-1419 and section 375-3.9 of this Title or environmental restoration project sites that have received a COC pursuant to section 375-4.9 of this Title, where the COC under either program for a particular site has an allowable use of commercial or industrial, provided that the change of use requirements in section 375-1.11(d) of this Title are complied with;

iii. sites that have received an inactive hazardous waste disposal site full liability release or a COC pursuant to section 375-2.9 of this Title, where the department has determined

an allowable use for a particular site is commercial or industrial, provided that the change of use requirements in section 375-1.11(d) of this Title are complied with;

iv. currently disturbed areas at[publicly-owned] publicly owned wastewater treatment facilities;

v. currently disturbed areas at sites zoned for industrial use; and

vi. parking lots or parking garages;

15. installation of solar energy arrays on an existing structure provided the structure is not:

i. listed on the National or State Register of Historic Places;

ii. located within a district listed in the National or State Register of Historic Places;

iii. been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law; or

iv. within a district that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law;

16. granting of individual setback and lot line variances and adjustments;

17. granting of an area variance for a single-family, two-family or three-family residence;

18. reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part;

19. the recommendations of a county or regional planning board or agency pursuant to General Municipal Law sections 239-m or 239-n;

20. public or private best forest management (silviculture) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;

21. minor temporary uses of land having negligible or no permanent impact on the environment;

22. installation of traffic control devices on existing streets, roads and highways;

23. mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;

24. information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;

25. official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);

26. routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;

27. conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;

28. collective bargaining activities;

29. investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;

30. inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;

31. purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;

32. license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;

33. adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;

34. engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;

35. civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;

36. adoption of a moratorium on land development or construction;

37. interpretation of an existing code, rule or regulation;

38. designation of local landmarks or their inclusion within historic districts;

39. an agency's acquisition and dedication of 25 acres or less of land for parkland, or dedication of land for parkland that was previously acquired, or acquisition of a conservation easement;

40. sale and conveyance of real property by public auction pursuant to article 11 of the Real Property Tax Law;

41. construction and operation of an anaerobic digester, within currently disturbed areas at an operating [publicly-owned] publicly owned landfill, provided the digester has a feedstock capacity of less than 150 wet tons per day, and only produces class A digestate (as defined in section 361-3.7 of this Title) that can be beneficially used or biogas to generate electricity or to make vehicle fuel, or both;

42. emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;

43. actions undertaken, funded or approved prior to the effective dates set forth in SEQR (see chapters 228 of the Laws of 1976, 253 of the Laws of 1977 and 460 of the Laws of 1978), except in the case of an action where it is still practicable either to modify the action in such a way as to mitigate potentially adverse environmental impacts, or to choose a feasible or less environmentally damaging alternative, the commissioner may, at the request of any person, or on his own motion, require the preparation of an environmental impact statement; or, in the case of an action where the responsible agency proposed a modification of the action and the modification may result in a significant adverse impact on the environment, an environmental impact statement must be prepared with respect to such modification;

44. actions requiring a certificate of environmental compatibility and public need under articles VII and[, VIII,X or]10 of the Public Service Law or requiring a major renewable energy facility or a major electric transmission facility siting permit under article VIII of the Public Service Law[and the consideration of, granting or denial of any such certificate];

45. actions subject to the class A or class B regional project jurisdiction of the Adirondack Park Agency or a local government pursuant to sections 807, 808 and 809 of the Executive Law, except class B regional projects subject to review by local government pursuant to section 807 of the Executive Law located within the Lake George Park as defined by subdivision one of section 43-0103 of the Environmental Conservation Law; and

46. actions of the Legislature and the Governor of the State of New York or of any court, but not actions of local legislative bodies except those local legislative decisions such as rezoning where the local legislative body determines the action will not be entertained.