

SEQRA UPDATE

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Internet

- 2005 amendment to SEQRA requires every EIS to be posted on
- a publicly-accessible Internet Web site
- Effective February 2, 2012: “any proposed resolution, law, rule, regulation, policy... that is scheduled to be the subject of discussion by a public body during an open meeting shall be made available upon request therefore, to the extent practicable as determined by the agency... prior to or at the meeting.” Public Officers Law §103(e).
- “If the agency... maintains a regularly and routinely updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable as determined by the agency... prior to the meeting.” Public Officers Law §103(e).

Environmental Justice

DEC Commissioner Policy 29 on Environmental Justice and Permitting (CP-29)

- Guidance for incorporating environmental justice concerns into the NYSDEC permitting and SEQRA review
- “Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”
- SEQRA requirements if a mapped environmental justice area:
 - Full EAF
 - Coordinated review
 - EIS evaluates environmental justice impacts



Greenhouse Gas

- NYSDEC, Guide for Assessing Energy Use and Greenhouse Gas Emissions in Environmental Impact Statements (2009)
- “Policy does not create any new requirements under SEQRA”
- Only directly applicable to NYSDEC as lead or involved agency
- GHG Guide requires assessment of energy use and GHG emissions in an EIS by concentrating on:
 - “establishing the boundaries for the assessment;
 - quantifying indirect and direct carbon dioxide (CO₂) emissions from the project;
 - quantifying emissions from waste generation;
 - quantifying methane emissions from landfills; and
 - providing a menu of possible mitigation options”

Revised EAF Forms

- Revised Environmental Assessment Forms proposed in 2010
- Effective date postponed from October 1 until April 1, 2013
- Preparing Electronic Versions and Workbooks
- Available at <http://www.dec.ny.gov/permits/70293.html>
 - More detailed questionnaires
 - Visual EAF Addendum is gone



Short EAF

437-29
Appendix B
Short Environmental Assessment Form

Instructions for Completion

Part 1: Project Information - The applicant or project sponsor is responsible for the completion of Part 1. A detailed description of the application or project, including an overview of the project, the location, the project description, and any other information that is relevant to the assessment, should be provided to the applicant. Additional details or information should be provided to the applicant as requested. The applicant should also provide any additional information that is relevant to the assessment.

Part 2: Project and System Information

Name of project or system: _____
 Project location (include latitude and longitude): _____
 Project description (include project goals and objectives): _____
 Name of applicant or sponsor: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Date of project start: _____
 Date of project completion: _____
 Is this project a new project or an expansion of an existing project? New Expansion
 If this is an expansion project, please provide a description of the expansion: _____
 Is the project a residential project? Yes No
 If the project is a residential project, please provide the following information: _____
 Is the project a commercial project? Yes No
 If the project is a commercial project, please provide the following information: _____
 Is the project a public project? Yes No
 If the project is a public project, please provide the following information: _____
 Is the project a utility project? Yes No
 If the project is a utility project, please provide the following information: _____
 Is the project a transportation project? Yes No
 If the project is a transportation project, please provide the following information: _____
 Is the project a waste management project? Yes No
 If the project is a waste management project, please provide the following information: _____
 Is the project a water supply project? Yes No
 If the project is a water supply project, please provide the following information: _____
 Is the project a water treatment project? Yes No
 If the project is a water treatment project, please provide the following information: _____
 Is the project a water distribution project? Yes No
 If the project is a water distribution project, please provide the following information: _____
 Is the project a water conservation project? Yes No
 If the project is a water conservation project, please provide the following information: _____
 Is the project a water reuse project? Yes No
 If the project is a water reuse project, please provide the following information: _____
 Is the project a water recycling project? Yes No
 If the project is a water recycling project, please provide the following information: _____
 Is the project a water treatment and reuse project? Yes No
 If the project is a water treatment and reuse project, please provide the following information: _____
 Is the project a water reuse and recycling project? Yes No
 If the project is a water reuse and recycling project, please provide the following information: _____
 Is the project a water reuse and recycling and treatment project? Yes No
 If the project is a water reuse and recycling and treatment project, please provide the following information: _____

Page 1 of 4

1. Will the proposed project or system be located in a sensitive area? Yes No

2. Will the proposed project or system be located in a flood plain? Yes No

3. Will the proposed project or system be located in a wetland? Yes No

4. Will the proposed project or system be located in a riparian area? Yes No

5. Will the proposed project or system be located in a historic or archaeological site? Yes No

6. Will the proposed project or system be located in a prime farmland? Yes No

7. Will the proposed project or system be located in a wetland of international or national significance? Yes No

8. Will the proposed project or system be located in a wetland of state significance? Yes No

9. Will the proposed project or system be located in a wetland of local significance? Yes No

10. Will the proposed project or system be located in a wetland of unknown significance? Yes No

11. Will the proposed project or system be located in a wetland of unknown significance? Yes No

12. Will the proposed project or system be located in a wetland of unknown significance? Yes No

13. Will the proposed project or system be located in a wetland of unknown significance? Yes No

14. Will the proposed project or system be located in a wetland of unknown significance? Yes No

15. Will the proposed project or system be located in a wetland of unknown significance? Yes No

16. Will the proposed project or system be located in a wetland of unknown significance? Yes No

17. Will the proposed project or system be located in a wetland of unknown significance? Yes No

18. Will the proposed project or system be located in a wetland of unknown significance? Yes No

19. Will the proposed project or system be located in a wetland of unknown significance? Yes No

20. Will the proposed project or system be located in a wetland of unknown significance? Yes No

Page 2 of 4

21. Will the proposed project or system be located in a wetland of unknown significance? Yes No

22. Will the proposed project or system be located in a wetland of unknown significance? Yes No

23. Will the proposed project or system be located in a wetland of unknown significance? Yes No

24. Will the proposed project or system be located in a wetland of unknown significance? Yes No

25. Will the proposed project or system be located in a wetland of unknown significance? Yes No

26. Will the proposed project or system be located in a wetland of unknown significance? Yes No

27. Will the proposed project or system be located in a wetland of unknown significance? Yes No

28. Will the proposed project or system be located in a wetland of unknown significance? Yes No

29. Will the proposed project or system be located in a wetland of unknown significance? Yes No

30. Will the proposed project or system be located in a wetland of unknown significance? Yes No

Part 3: Environmental Assessment - The Lead Agency is responsible for the completion of Part 3. The project sponsor should provide the following information to the Lead Agency: a detailed description of the project, the location, the project description, and any other information that is relevant to the assessment. The project sponsor should also provide any additional information that is relevant to the assessment.

31. Will the proposed project or system be located in a wetland of unknown significance? Yes No

32. Will the proposed project or system be located in a wetland of unknown significance? Yes No

33. Will the proposed project or system be located in a wetland of unknown significance? Yes No

34. Will the proposed project or system be located in a wetland of unknown significance? Yes No

35. Will the proposed project or system be located in a wetland of unknown significance? Yes No

36. Will the proposed project or system be located in a wetland of unknown significance? Yes No

37. Will the proposed project or system be located in a wetland of unknown significance? Yes No

38. Will the proposed project or system be located in a wetland of unknown significance? Yes No

39. Will the proposed project or system be located in a wetland of unknown significance? Yes No

40. Will the proposed project or system be located in a wetland of unknown significance? Yes No

Page 3 of 4

41. Will the proposed project or system be located in a wetland of unknown significance? Yes No

42. Will the proposed project or system be located in a wetland of unknown significance? Yes No

43. Will the proposed project or system be located in a wetland of unknown significance? Yes No

44. Will the proposed project or system be located in a wetland of unknown significance? Yes No

45. Will the proposed project or system be located in a wetland of unknown significance? Yes No

46. Will the proposed project or system be located in a wetland of unknown significance? Yes No

47. Will the proposed project or system be located in a wetland of unknown significance? Yes No

48. Will the proposed project or system be located in a wetland of unknown significance? Yes No

49. Will the proposed project or system be located in a wetland of unknown significance? Yes No

50. Will the proposed project or system be located in a wetland of unknown significance? Yes No

Part 4: Impact Assessment - The Lead Agency is responsible for the completion of Part 4. The project sponsor should provide the following information to the Lead Agency: a detailed description of the project, the location, the project description, and any other information that is relevant to the assessment. The project sponsor should also provide any additional information that is relevant to the assessment.

51. Will the proposed project or system be located in a wetland of unknown significance? Yes No

52. Will the proposed project or system be located in a wetland of unknown significance? Yes No

53. Will the proposed project or system be located in a wetland of unknown significance? Yes No

54. Will the proposed project or system be located in a wetland of unknown significance? Yes No

55. Will the proposed project or system be located in a wetland of unknown significance? Yes No

56. Will the proposed project or system be located in a wetland of unknown significance? Yes No

57. Will the proposed project or system be located in a wetland of unknown significance? Yes No

58. Will the proposed project or system be located in a wetland of unknown significance? Yes No

59. Will the proposed project or system be located in a wetland of unknown significance? Yes No

60. Will the proposed project or system be located in a wetland of unknown significance? Yes No

Page 4 of 4



Long EAF

*Full Environmental Assessment Form
Part 1 - Project and Setting*

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. 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; indicate whether missing information does not exist, or is not reasonably available to the sponsor, and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Sponsor Information

Name of Action or Project:		
Project Location (describe, and attach a general location map):		
Brief Description of Proposed Action (include purpose or need):		
Name of Applicant/Sponsor:		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Project Contact (if not same as sponsor, give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

Proposed Changes

NYSDEC has proposed changes to SEQRA Regulations:
Details at <http://www.dec.ny.gov/permits/83389.html>

- New or revised definitions
- Scoping mandatory
- Electronic filing of EISs
- Adequacy of resubmitted draft EIS based solely on list of deficiencies
- SEQRA fees
 - Cover review as well as preparation of EIS
 - Sponsor can review invoices



Proposed Changes

Type I actions – reduce certain thresholds, including residential development and historic resources

Add new Type II actions for:

- green development practices
- solar energy
- land transfer or auction
- county planning referrals,
- “lot line adjustments and area variances not involving a change in allowable density”
- “minor subdivisions” < 10 acres or <5 lots
- certain development in municipal centers
- brownfield site clean-up agreements
- cellular antennas or repeaters on existing non-historic structure



Stop-the-Barge v. Cahill

1 N.Y.3d 218, 771 N.Y.S.2d 40 (2003)

Article 78 proceeding challenging conditioned negative declaration on power generator on floating barge

- “CND was a final agency action for purposes of judicial review of petitioners' SEQRA claim”
- So case brought one year later was untimely even though case brought within two months of permit issuance
- Therefore determination of significance generally triggers statute of limitations even if permit or approval comes later

But in *Eadie v. Town Board of the Town of North Greenbush*, 7 N.Y.3d 306, 821 N.Y.S.2d 142 (2006), no final action until zoning amendment enacted





Save the Pine Bush v. Common Council

13 N.Y.3d 297, 890 N.Y.S.2d 405 (2009)

- Individuals who used the Pine Bush for recreation, and to study and enjoy the unique habitat and wildlife found there, had standing to bring SEQRA challenge
- So do not need to be a neighbor to have standing
- Adopted U.S. Supreme Court rule that while “a generalized ‘interest’ in the environment could not confer standing to challenge environmental injury, but that injury to a particular plaintiff's ‘[a]esthetic and environmental well-being’ would be enough



Bronx Committee for Toxic Free Schools v. NYC School Construction Authority

___N.Y2d ___, ___N.YS.2d ___(Oct. 23, 2012)

- School being constructed on a brownfield
- FEIS was incomplete without a detailed long term maintenance and monitoring plan that was later set forth in a Site Management Plan
- SEQRA review was deficient without a Supplemental EIS that reviewed the Site Management Plan
- “SEQRA is designed to assure that the main environmental concerns, and the measures taken to mitigate them, are described in a publicly filed document identified as an EIS, as to which the public has a statutorily-required period for review and comment. “



Common Problems

Conclusory Negative Declaration or Findings

Ask applicant to submit

Unaddressed Issues

Unsubstantiated information

Failure to include involved agencies

Segmentation

Cumulative Impacts



Thank You!

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