

The SEQR Process and How It Can be a Useful Tool for Land Use Boards

Westchester Municipal Planning Federation

PRESENTED BY

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Same people.
Same passion.
Fresh look.

Learning Objectives

1

Understanding the environmental review processes: SEQRA

2

Understanding the Planning Board's role in environmental review

3

Proposed Changes to SEQR



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State Environmental Quality Review

SEQR

SEQR

Purpose

- Environmental considerations balanced with *"social, economic and other considerations"*
- Requires decision makers to elaborate basis for rejecting an alternative with fewer environmental impacts
- Must be completed before Agency makes a decision or takes an action



SEQRA

Overview



New York State

- SEQRA effective 1976

SEQRA

Reference Materials

The SEQR Cookbook

A Step-by-Step Discussion of the Basic SEQR Process



State Environmental Quality Review Act
New York State Department of Environmental Conservation
Division of Environmental Permits

Revised January 2019

<http://www.dec.ny.gov/permits/357.html>

When you Receive an Application...



- Does SEQRA Apply to the Project?
 - Who are the Agencies involved
 - What Actions required
- What do you need to do?
 - What is the project – type of action

What Agencies Need To Approve

- Public body with jurisdiction to *fund, approve or directly undertake an "action"*
 - State agencies
 - Municipal agencies
 - Counties
 - Town/Village Boards
 - Planning Boards
 - Zoning Boards of Appeal
- Courts, State Legislature, Governor NOT subject to SEQRA

SEQRA

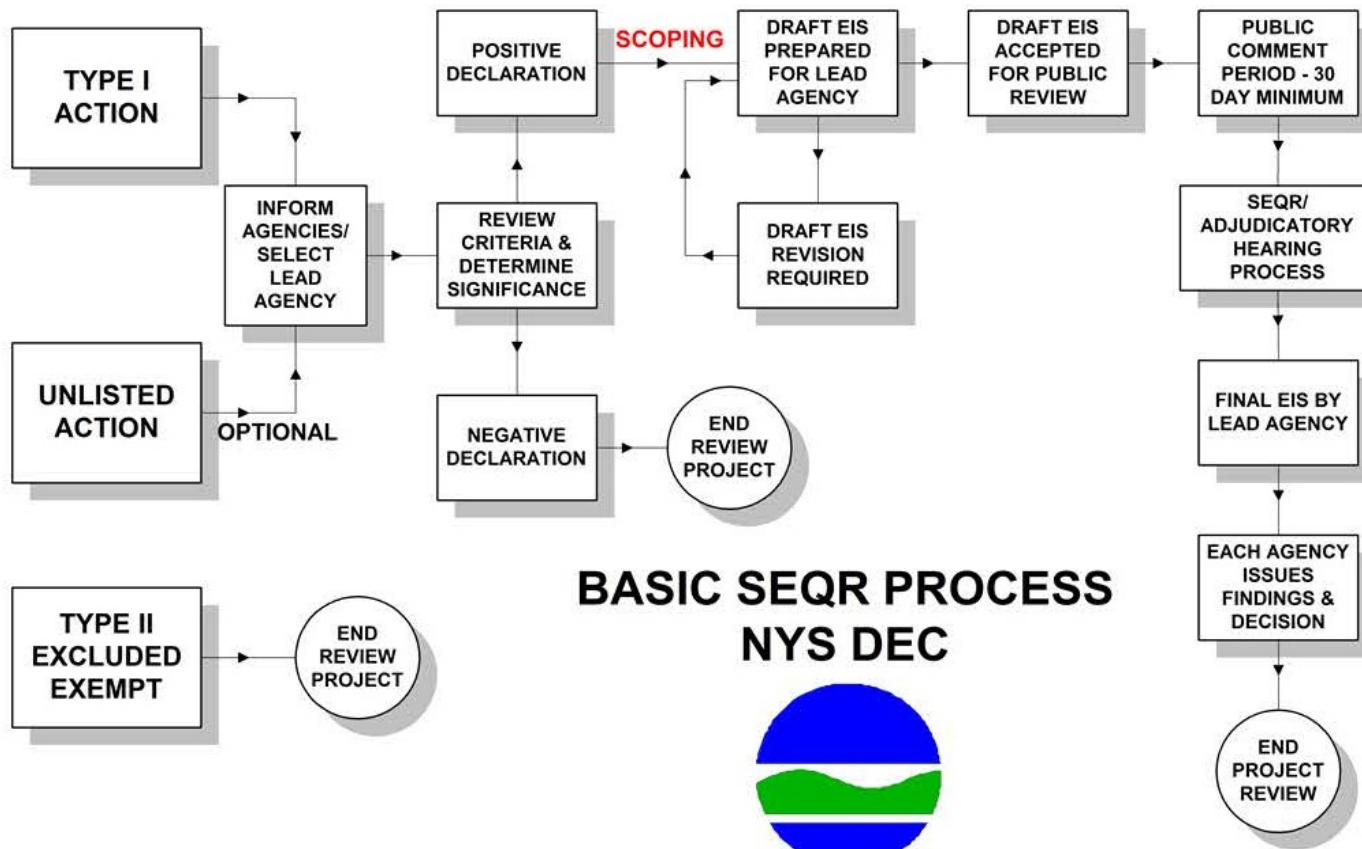
What Are Actions (Approvals)

- Undertaking, funding or approving projects
 - Acquisition or sale of government property
 - Land development application approvals
- Discretionary Actions
 - Not ministerial action



What Level of Review Required?

- Project details
 - Size
 - Location
 - Magnitude
 - Disturbance
- Official “Type” of Action
 - Type I
 - Type II
 - Unlisted

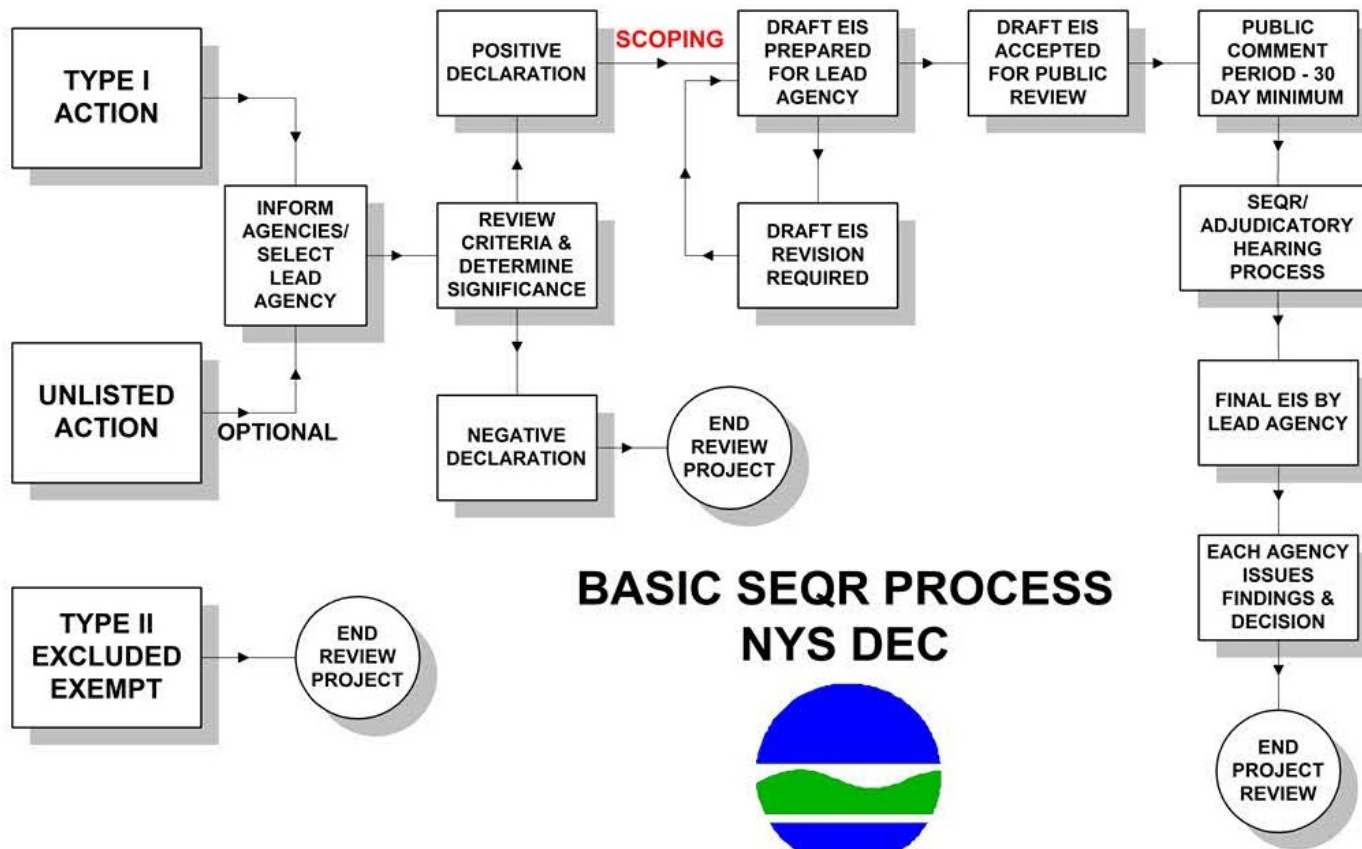


BASIC SEQR PROCESS NYS DEC



Classify the Action

- ✓ Type I – Have the potential for significant impact
- ✓ Type II – Considered to have no potential for significant impact
- ✓ Unlisted – Most actions fall into this category



BASIC SEQR PROCESS NYS DEC



Type II Action

- Determined to *NOT* have significant environmental impact
- Type II classification concludes SEQRA
 - Uses with nominal environmental effects
 - Ministerial actions
- Examples
 - Non-residential development less than 4,000 sf
 - Parking garage less than 85 spaces
 - Individual setbacks and lot line variances



SEQRA/CEQR

Type I Action

- Presumption - likely need EIS
- Examples
 - 200 new residential units in municipality with population less than 150,000
 - Activities *exceeding* 100,000 square feet (non-residential) in municipalities with population less than 150,000



Requirements for Type 1

Type I:

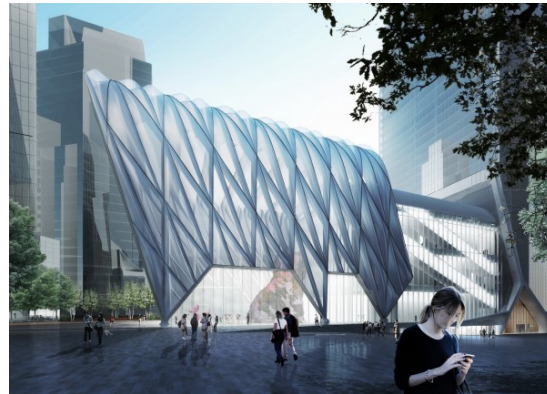
- Requires preparation of Full Environmental Assessment Form (EAF).
- Lead Agency must be established.
- Type I actions tend to have impacts, but this does not mandate the preparation of an Environmental Impact Statement (EIS).
- Required Notices and Filings.

SEQRA/CEQR

Unlisted Action

UNLISTED

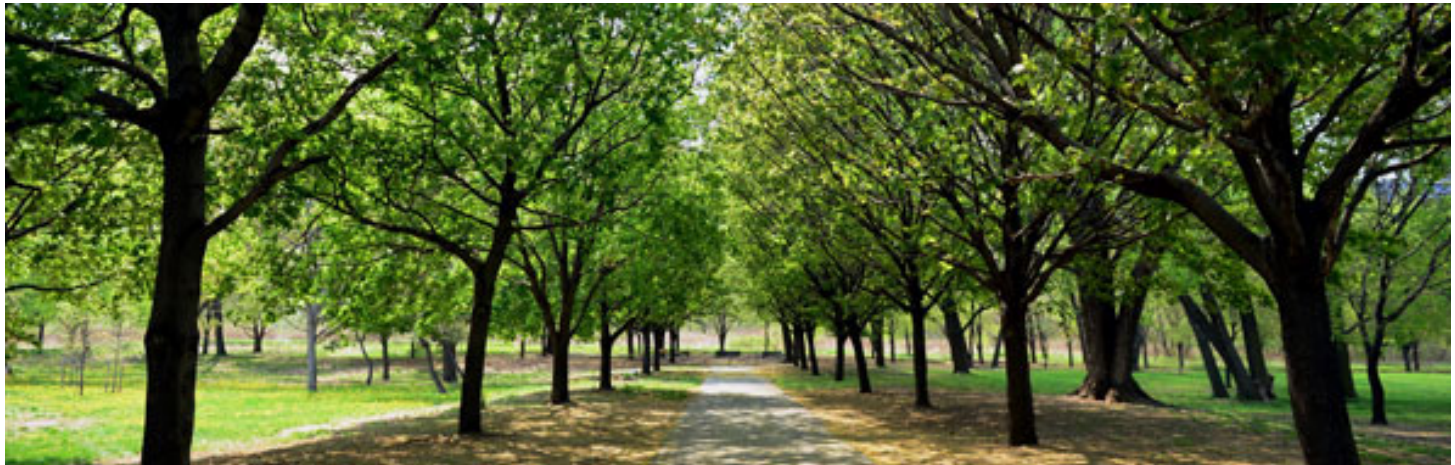
- Not on Type I or Type II lists
- Examples
 - Other activities not listed specifically
 - New commercial activity of *less than* 100,000 square feet
 - *Less than* 250 residential units in populations less than 150,000



Requirements for Unlisted

Unlisted Action:

- Short Form EAF or Full EAF can be used.



SEQRA

Start with a Form

- Environmental Assessment Form (EAF) – SEQRA
- Environmental Assessment Statement (EAS) - CEQR
- EAF and EAS Short or Long Forms
 - Short Forms – 2 pages
 - Long Form – 21 pages

EAF/EAS



City Environmental Quality Review ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) FULL FORM

Please fill out and submit to the appropriate agency (see instructions)

EAS FULL FORM PAGE 1

Part I: GENERAL INFORMATION

PROJECT NAME

1. Reference Numbers

CEQR REFERENCE NUMBER (to be assigned by lead agency)

ULURP REFERENCE NUMBER (if applicable)

BSA REFERENCE NUMBER (if applicable)

OTHER REFERENCE NUMBER(S) (if applicable)
(e.g., legislative intro, CAPA)

2a. Lead Agency Information

NAME OF LEAD AGENCY

NAME OF LEAD AGENCY CONTACT PERSON

2b. Applicant Information

NAME OF APPLICANT

NAME OF APPLICANT'S REPRESENTATIVE OR CONTACT PERSON

ADDRESS

CITY

TELEPHONE

STATE

EMAIL

ADDRESS

CITY

TELEPHONE

STATE

EMAIL

ZIP

3. Action Classification and Type

SEQRA Classification

☐ UNLISTED

☐ TYPE I: Specify Category (see 6 NYCRR 617.4 and NYC Executive Order 91 of 1977, as amended):

Action Type (refer to Chapter 2, "Establishing the Analysis Framework" for guidance)

☐ LOCALIZED ACTION, SITE SPECIFIC

☐ LOCALIZED ACTION, SMALL AREA

☐ GENERIC ACTION

4. Project Description

Project Location

BOROUGH

TAX BLOCK(S) AND LOT(S)

DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

EXISTING ZONING DISTRICT, INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY

5. Required Actions or Approvals (check all that apply)

City Planning Commission: ☐ YES ☐ NO

☐ CITY MAP AMENDMENT

☐ ZONING MAP AMENDMENT

☐ ZONING TEXT AMENDMENT

☐ SITE SELECTION—PUBLIC FACILITY

☐ HOUSING PLAN & PROJECT

☐ SPECIAL PERMIT (if appropriate, specify type: ☐ modification; ☐ renewal; ☐ other); EXPIRATION DATE:

SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION

Board of Standards and Appeals: ☐ YES ☐ NO

☐ VARIANCE (use)

☐ VARIANCE (bulk)

☐ SPECIAL PERMIT (if appropriate, specify type: ☐ modification; ☐ renewal; ☐ other); EXPIRATION DATE:

SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION

Department of Environmental Protection: ☐ YES ☐ NO

Other City Approvals Subject to CEQR (check all that apply)

☐ LEGISLATION

☐ RULEMAKING

☐ CONSTRUCTION OF PUBLIC FACILITIES

☐ FUNDING OF CONSTRUCTION, specify:

☐ POLICY OR PLAN, specify:

☐ FUNDING OF PROGRAMS, specify:

M PAGE 2

Impacts Covered

- ✓ Land
- ✓ Geological Features
- ✓ Surface Water
- ✓ Groundwater
- ✓ Flooding
- ✓ Air
- ✓ Plants and Animals
- ✓ Agricultural Resources
- ✓ Aesthetic Resources
- ✓ Historic and Archeological Resources
- ✓ Open Space and Recreation
- ✓ Critical Environmental Areas
- ✓ Transportation
- ✓ Energy
- ✓ Light, Noise, and Odor
- ✓ Human Health
- ✓ Community Plans
- ✓ Community Character

Requirements for Each Type of Action

Full EAF

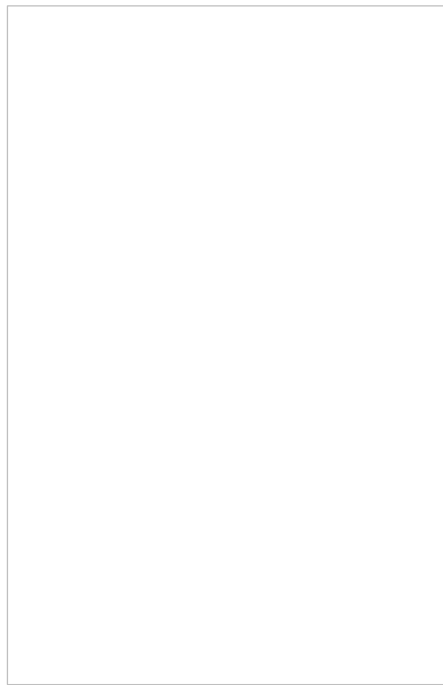
- Applicant completes Part 1 – Must be completed as best as possible.
- Lead Agency reviews and asks questions concerning information contained in Part 1.
- Lead Agency completes Part 2 – Gain as much information as possible about the project.
- Lead Agency directs completion of Part 3 - Includes back-up information, documentation, reports, studies, etc., to provide further detail for evaluation of potential environmental impacts.

EAF/EAS Reviewed by Lead Agency

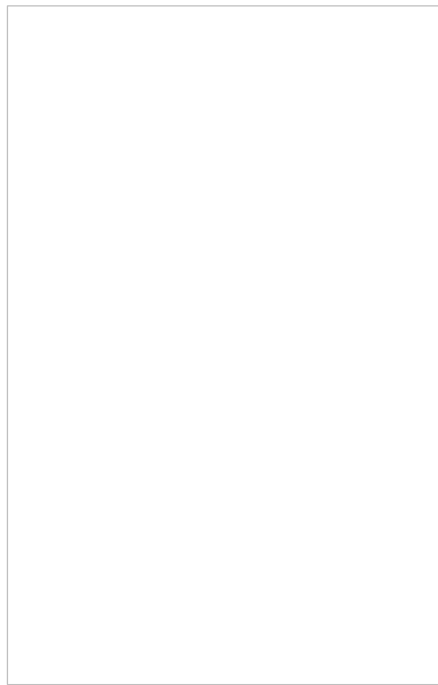
- Agency principally responsible for undertaking, funding or approving an action
- Responsible for “Determination of Significance”
- Determines if EIS required

Measuring Impacts "SEQR World"

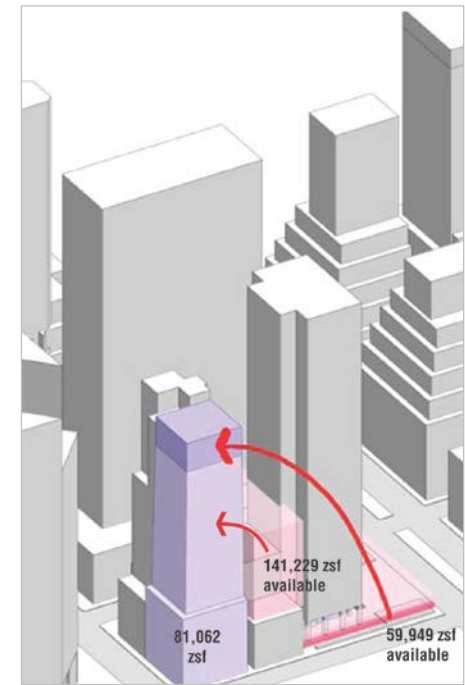
Compare future with and without action



EXISTING



FUTURE NO ACTION/NO BUILD



FUTURE WITH ACTION/BUILD

Types of Effects/Impacts

DIRECT

physical environment

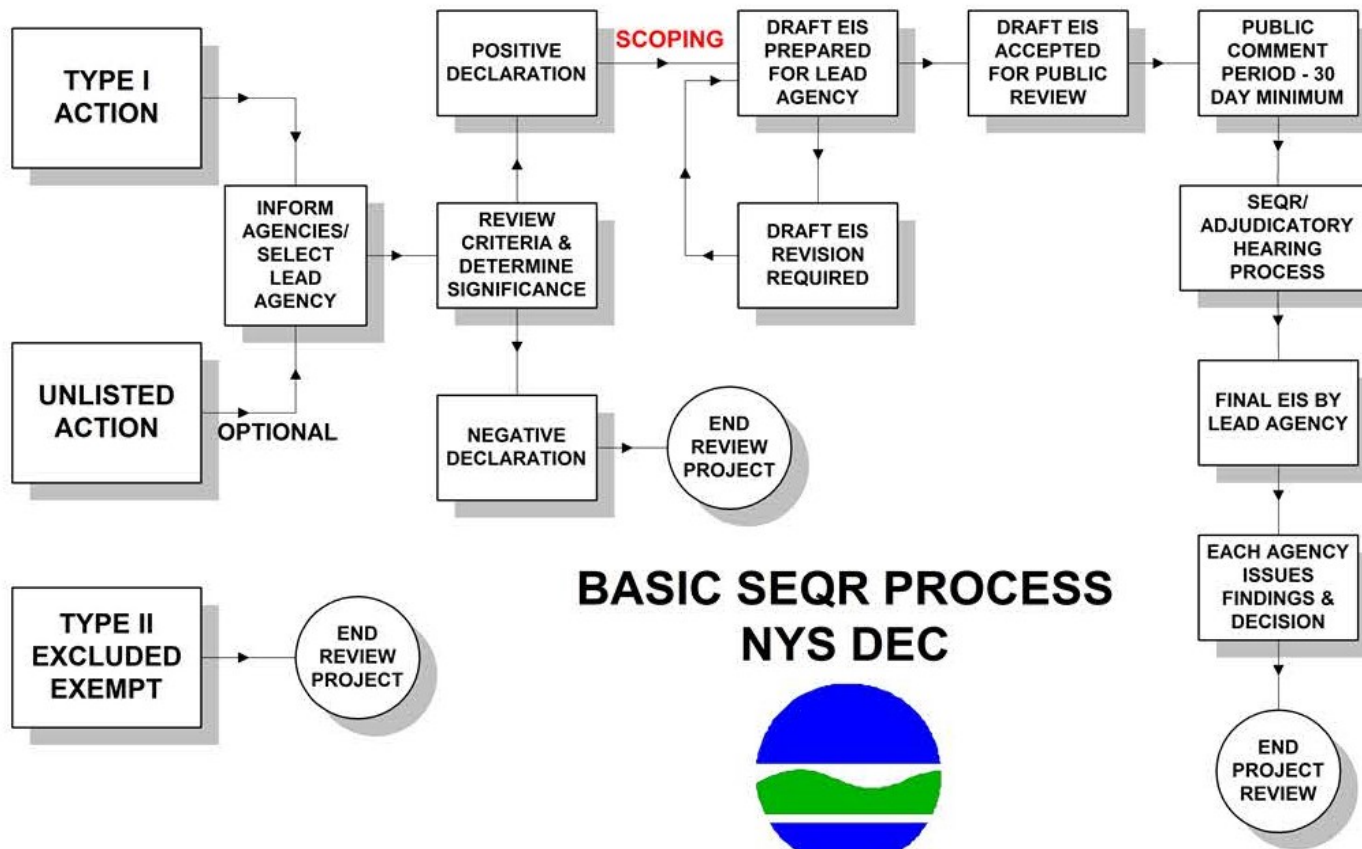
INDIRECT

e.g., secondary development

CUMULATIVE IMPACTS

effects in context of effects of other past, present and reasonably anticipated actions





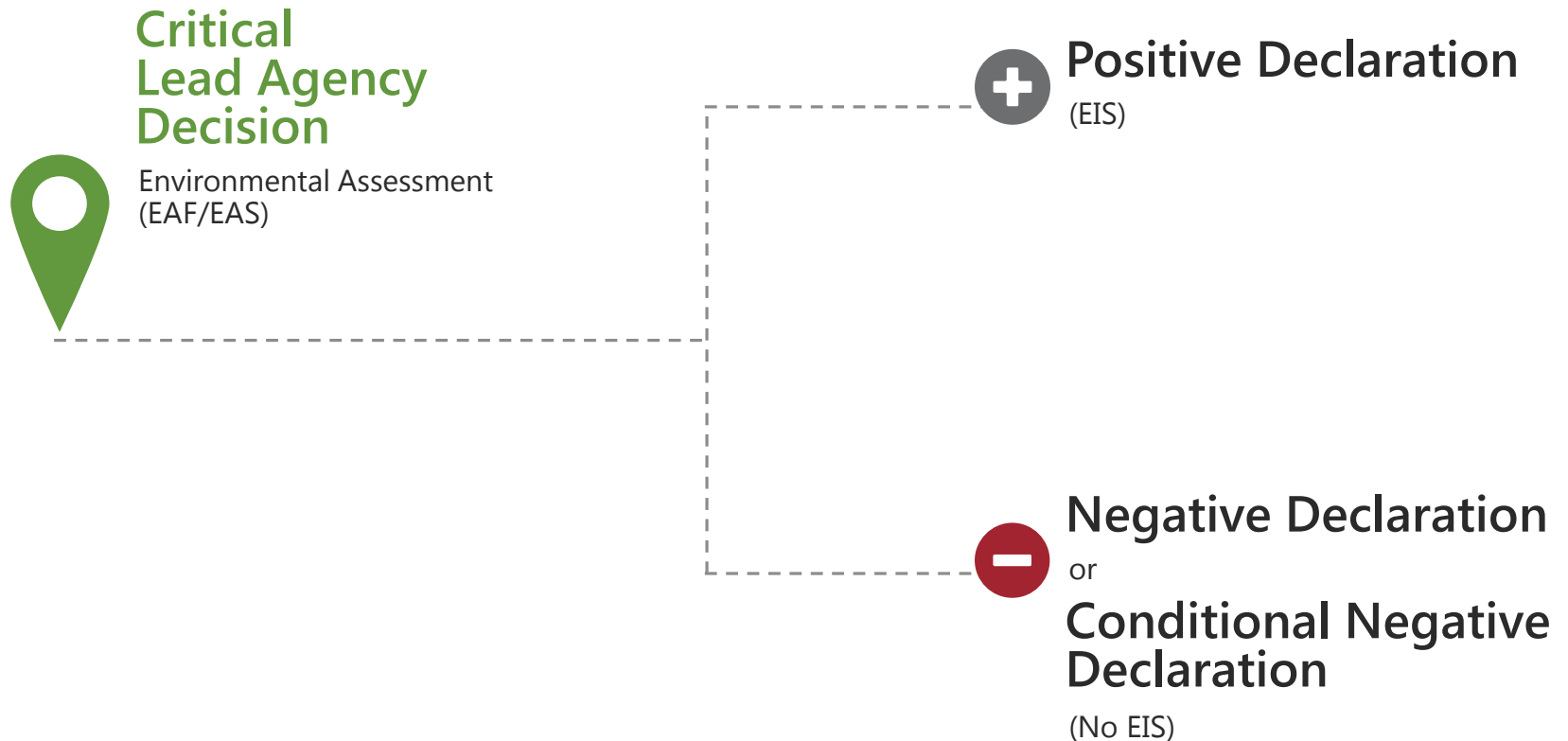
BASIC SEQR PROCESS NYS DEC



Coordinated Review

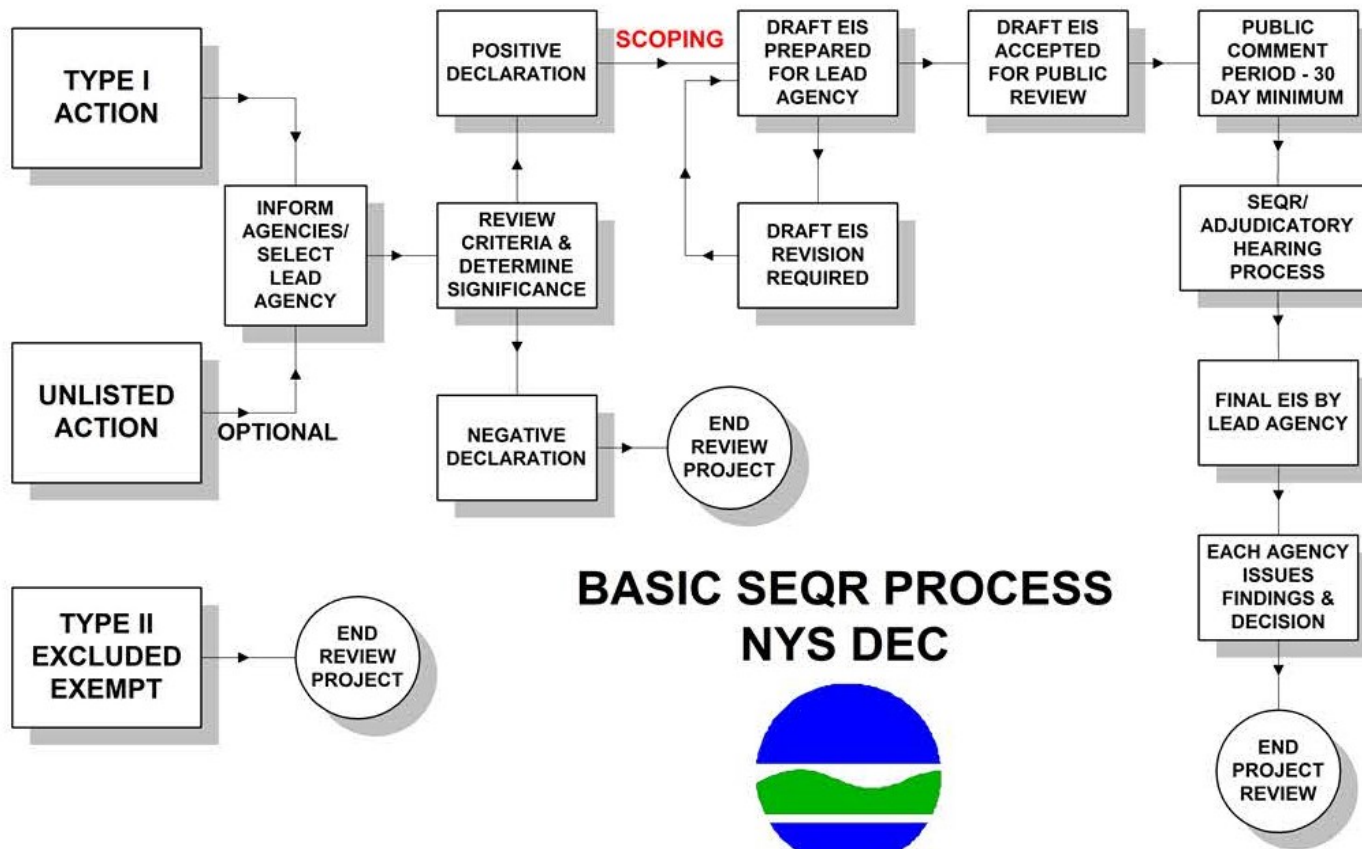
- Process in which all involved agencies cooperate in one integrated environmental review.
- Required for all Type I actions, for all actions that require an EIS, and for all Unlisted actions subject to a Conditioned Negative Declaration
- It is an option for all other Unlisted actions.

Determination of Significance



Negative Declaration

- Formally ends the SEQR process.
- A determination that the proposed action will not have a potential significant impact on the environment.
- Must be prepared in writing, identifying and evaluating the relevant areas of impact, and kept on file.
- For Type I actions, the Negative Declaration must be distributed to all Involved Agencies, and the applicant (and published in ENB).



BASIC SEQR PROCESS NYS DEC



EIS Process – Positive Declaration

EIS Steps and Timeline



Scoping



Draft EIS (DEIS)



Public and agency commenting/hearing



Final EIS (FEIS)



SEQRA Findings



Scoping

- Develop issues for Draft EIS
- Narrow issues
- Eliminate non-significant issues
- Methodologies
- Public process
- Public Hearing not required for SEQRA



Draft EIS

- Describe the project and actions
- Discuss existing conditions
- Evaluate significant adverse impacts
- Identify mitigation measures
- Discuss reasonable alternatives
- *Analytical, not encyclopedic*



Draft EIS

Mitigation Measures

- Discussion of measures to mitigate significant impacts
- Reasonable/practicable
- Cost considered
- No final detailed plans



1

2

3

4

5



Draft EIS

Alternatives

- Reasonableness of alternative
 - Accomplish goals and objectives
- No Build/No Action Alternative
- Lesser Density, Modified Zoning, Public Suggested

1

2

3

4

5



Public Hearing

- Concurrently with land use hearing
- Specific notice and timing provisions
- Public comment period must continue at least 10 days after hearing closes





Final EIS

- Draft EIS
- Any changes to proposal
- New information
- Responses to all substantive comments

1

2

3

4

5



Findings

- Basis for agency decision
- “Hard Look” standard - DISCLOSURE
 - Identify areas of environmental concern
 - Hard look at impacts
 - Unmitigated impacts
- Ends SEQRA process

1

2

3

4

5

What is the Land Use Board's Role

SEQR Study Areas

Land Use, Zoning, & Public Policy	Fiscal & Tax Impacts	Socio- economic Conditions	Community Facilities & Services	Open Space
Shadows	Historic & Cultural Resources	Urban Design & Visual Resources	Natural Resources	Financial Feasibility
Building Code Compliance	Hazardous Materials		Water & Sewer Infrastruc- ture	Solid Waste & Sanitation Services
Energy	Transporta- tion	Air Quality	Seismic Impacts	Greenhouse Gas Emissions
Noise	Design Review/ Aesthetics	Public Health	Neighbor- hood Character	Construc- tion

Transportation

CONCERN

- Traffic
- Parking
- Transit (rail/bus)
- Pedestrians

ANALYSIS

- Intersection
- Public Transportation
- Crosswalks

MITIGATION

- Location and size of traffic related elements



Community Facilities and Fiscal Impacts

CONCERN

Public schools, libraries, child care centers, health care facilities, police and fire

ANALYSIS

Tax revenues versus costs for services

Service capacities

MITIGATION

Increase services



Open Space and Recreation

CONCERN

Publicly Accessible Open Space

ANALYSIS

New population over-taxes
existing open space

New population's recreational needs

MITIGATION

Addition of recreation space



Urban Design and Visual Resources

CONCERN

- **Urban Design**

Affect built environment's arrangement, appearance, or functionality - negatively affect a pedestrian's experience of the area

- **Visual Resources**

Blocking important view corridors

- **Community Character**

How do the new buildings fit into the neighborhood

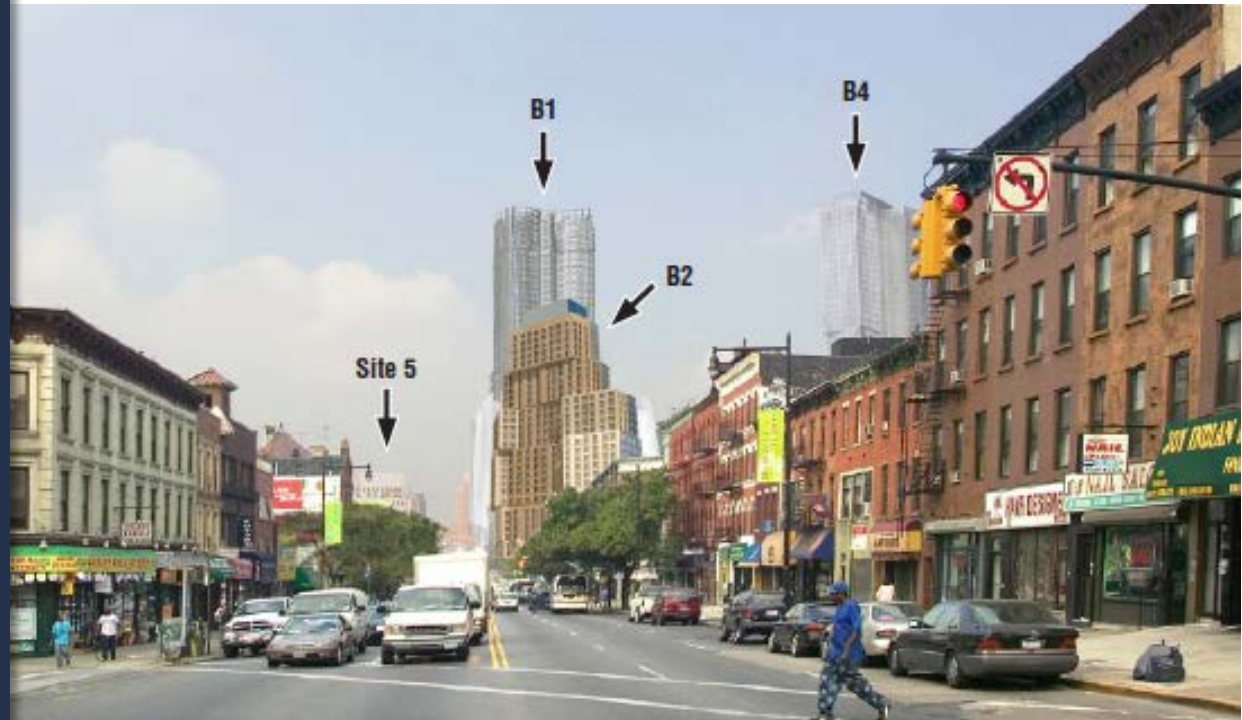
ANALYSIS/MITIGATION

Architectural renderings of buildings and pedestrian experience

Visual Resources Impact

TZ Vista, Nyack

Atlantic Yards, NYC



Historic Resources

CONCERN

Is the new building compatible with adjacent historic structures or with a landmark district in general?

TRIGGER

Building is landmarked or within historic district

PROCESS

Obtain Historic Board approval

ANALYSIS/MITIGATION

Coordinate with architect regarding design

Historic Resources

Example: Kane House
Ossining, NY



Greenhouse Gas

CONCERN

Mobile and stationary sources

TRIGGER

- Traffic
- Parking garage
- Building fuel
- Nearby industrial uses

IMPACTS

Health

ANALYSIS/MITIGATION

- Energy Saving Measures
- Greenhouse Gas Reduction Measures
- Building Code Compliance



2018 SEQR Changes

2018 Changes

- Type I Actions
- Type II Actions
- Scoping
- EIS Preparation & EIS Content
- Document Filing

Type I Actions

- Lowered the numeric thresholds for number of residential units that would trigger a Type I classification.
- Specified the threshold for parking based on the size of a community.
- Updates to thresholds related to actions involving historic resources.

Type II Actions

- Adds new categories of actions exempt from environmental review:
 - Retrofitting an existing structure for energy efficiency or green infrastructure
 - Installation of telecommunications cables
 - Installation of up to 25 acres of solar energy arrays on closed landfills or environmental remediation sites
 - Reuse of a residential or commercial structure
 - acquisition and dedication of 25 acres or less of land for parkland

Scoping

- Lead agency can no longer waive the requirement for an EAF.
- Scoping required for all EIS's, except for supplements to EIS's which remains optional.

EIS Preparation/Content

- Changes to this section clarify the definition of when a DEIS is adequate for public review
 - (1) meets the requirements of the written final scope
 - (2) provides the public and involved agencies with the necessary information to evaluate project impacts, alternatives, and mitigation measures.
- A new clause added to evaluate measures to avoid or reduce an actions impact on climate change and associated impacts of flooding and sea level rise.

Document Filing

- Requires draft and final scopes be noticed in the Environmental Notice Bulletin (ENB)
- Reflects existing statutory requirement that EIS's be published on a publicly available website

Where is the best place to find information on SEQR?

- 6 NYCRR Part 617 State Environmental Quality Review
- DEC website
<http://www.dec.ny.gov/permits/357.html>

Power of Environmental Review

No Environmental Impact Study? No Border Wall, Lawsuit Says

By FERNANDA SANTOS APRIL 13, 2017

PHOENIX — An environmental group and an Arizona congressman have sued to block the construction of President Trump's wall along the southern border, threatening to derail one of his marquee projects well before it gets off the ground.

The Center for Biological Diversity and Representative Raúl M. Grijalva, the ranking Democrat on the House Committee on Natural Resources, claimed in a federal lawsuit filed Wednesday in Tucson that the Trump administration had failed to study the wall's environmental impact before gearing up for its construction.

Thank you

Questions

