

## COMPLYING WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

<b>Objective:</b>	To establish procedures for processing County actions in compliance with the New York State Environmental Quality Review Act (SEQRA).	<b>Policy/Procedure Number:</b>	09-33
<b>Reference:</b> (All Applicable Federal, State and Local Laws)	New York State Environmental Quality Review Act (Environmental Conservation Law Article 8); New York State Department of Environmental Conservation, Chapter VI General Regulations, Part 617 State Environmental Quality Review (6 NYCRR, Part 617)	<b>Effective Date:</b>	April 7, 1987
<b>Legislative Policy Statement:</b>	Tompkins County recognizes the need to comply with the State Environmental Quality Review Act (SEQRA) to improve proposed projects and protect the environment. In order to do so effectively, it is important to initiate the SEQRA review as early as practical and reasonable in project development, and to integrate that review into the current County Project Approval Request (PAR) process when applicable.	<b>Responsible Department:</b>	Planning and Sustainability
		<b>Modified Date (s):</b>	February 2018
		<b>Resolution No.:</b>	
		<b>Next Scheduled Review:</b>	February 2023

**General Information:** New York's **State Environmental Quality Review Act (SEQRA)** requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. This means these agencies must assess the environmental significance of all actions they have discretion to approve, fund, or directly undertake. SEQRA requires the local government agencies to balance the environmental impacts with social and economic factors when deciding to approve or undertake an "Action."

**I. Definitions:** **Agency** – A state or local agency, including County departments, divisions, offices, programs, and agencies and the County Legislature.

**Applicant** - Any person or entity, other than a County agency, making an application or other request to an agency to provide funding or to grant an approval in connection with a proposed action.

**Approval** - A discretionary decision by an agency to issue a permit, certificate, license, lease, or other entitlement or to otherwise authorize or modify a proposed project or activity.

**Program Committee(s)** - The Standing and Special Committee(s) of the County Legislature as established by the Chair of the Legislature.

**Responsible Agency** - The County department or agency responsible for initiation and administration of the SEQRA process on a specific action for the County.

### *SEQRA-defined Terms*

**Action** - An "action" under SEQRA is defined as:

- 1) Projects or physical activities, such as construction or other activities, that may affect the environment by changing the use, appearance, or condition of any natural resource or structure, that are (i) directly undertaken by an agency; or (ii) involve funding by an agency; or (iii) require one or more new or modified approvals from an agency or agencies;
- 2) Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
- 3) Adoption of agency rules, regulations, and procedures, including local laws, codes, ordinances, executive orders, and resolutions, that may affect the environment; and

4) Any combinations of the above.

**Action, Type I** - An action or class of actions identified in SEQRA. SEQRA regulations include a list of these Actions that are considered likely to require preparation of environmental impact statements.

**Action, Type II** - An action or class of actions identified in SEQRA. SEQRA regulations include a list of these Actions, which have been determined not to have a significant effect on the environment and which do not require environmental impact statements.

**Action, Unlisted** - Means all actions not identified as a Type I or Type II action.

**Agency, Involved** - An agency that has jurisdiction by law to fund, approve, or directly undertake an action.

**Agency, Lead** - An involved agency principally responsible for undertaking, funding, or approving an action.

**Declarations of Significance** - There are three alternative Declarations of Significance for any Type I or Unlisted Action:

**Conditioned Negative Declaration (CND)** - A negative declaration issued by a lead agency for an Unlisted action involving an applicant, in which the action as initially proposed may result in one or more significant adverse environmental impacts; however, mitigation measures identified and required by the lead agency will modify the proposed action so that no significant environmental impacts will result.

**Negative Declaration** - A written determination by a lead agency that the implementation of the action as proposed will not result in any significant adverse environmental impacts.

**Positive Declaration** - A written statement prepared by the lead agency indicating that implementation of the action as proposed may have a significant adverse impact on the environment and that an environmental impact statement will be required.

**Direct Action** - An action planned and proposed for implementation by an agency. Direct actions include but are not limited to capital projects; promulgation of agency rules, regulations, laws, codes, ordinances or executive orders; and policy making that commit an agency to a course of action that may affect the environment.

**Environment** - The physical conditions that will be affected by a proposed action, including land; air; water; minerals; flora; fauna; noise; resources of agricultural, archeological, historic or aesthetic significance; existing patterns of population concentration, distribution or growth; existing community or neighborhood character; and human health.

**Environmental Assessment Form (EAF)** - A form used by an agency to assist it in determining the environmental significance or non-significance of actions. A properly completed EAF must contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the environment.

**Environmental Impact Statement (EIS)** – A written “draft” or “final” document prepared in accordance with SEQRA. An EIS provides a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives and mitigation. An EIS facilitates the weighing of social, economic and environmental factors early in the planning and decision-making process. A draft EIS is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment.

**Findings Statement** - A written statement prepared by each involved agency after a final EIS has been filed, that considers the relevant environmental impacts presented in the EIS, weighs and balances them with social, economic and other essential considerations, provides a rationale for the agency's decision and certifies that the SEQRA requirements have been met.

**Involved Agency** – See *Agency, Involved*

**Lead Agency** – See *Agency, Lead*

**Project Sponsor** - Any applicant or agency primarily responsible for undertaking an action.

**Type I Action** – See *Action, Type I*

**Type II Action** – See *Action, Type II*

**Unlisted Action** – See *Action, Unlisted*

**II. Policy:** Unless otherwise stated herein, the procedures and definitions established by the New York State Environmental Quality Review Act of 1975, as amended, and the State-wide regulations and guidelines adopted by the New York State Department of Environmental Conservation (6 NYCRR, Part 617) and amendments thereto shall be used by every department and agency of Tompkins County, including the County Legislature, in the review of direct actions by the County and projects proposed by an applicant. It is intended that these County procedures shall be compatible with and no less restrictive than the State regulations and procedures.

**III. Procedure:** The following procedures shall be followed prior to the County government, its departments, and agencies taking any Action subject to SEQRA:

**A. Determining the Responsible Agency**

- 1) For Direct Actions proposed by the County government, its departments, and agencies, the County department or agency most directly involved in supervising the project or program associated with the Action shall be the Responsible Agency.
- 2) For Actions proposed by an Applicant, the County department or agency most directly involved in reviewing the project or program associated with the Action shall be the Responsible Agency.

**B. Determining the Lead Agency**

- 1) The designated Lead Agency under SEQRA is that department, agency, or the County Legislature, that actually undertakes, funds, or approves an Action.
- 2) In the case where there are two or more County government entities that are associated with an Action, they shall come to a mutual agreement to designate one as the Responsible Agency, subject to confirmation by the appropriate Program Committee(s). In the case of a disagreement between two or more entities, the County Administrator shall select a Responsible Agency and make that recommendation to the appropriate Program Committee(s). If the Program Committee(s) do not jointly accept the recommendation, the matter shall be referred to the County Legislature for a final decision.
- 3) For Actions of the County Industrial Development Agency (IDA) that require County Legislature approval, the IDA should follow the IDA's own adopted procedures. When the only involved agencies for the Action are the IDA and the County Legislature, the IDA shall be the Lead Agency.

### **C. Coordinated Reviews**

Where there is more than one Involved Agency, whether they be County agencies or outside of county government, if the County is the Lead Agency it shall conduct a coordinated review for all Type I and Unlisted Actions, as defined by the SEQRA, in order to obtain input from the other Involved Agencies.

### **D. Determining Action Type**

The Responsible Agency shall conduct an initial screening to determine if a proposed decision is an Action that is subject to SEQRA. If it is not, then no additional SEQRA review needs to occur.

If the decision is considered an Action under SEQRA, the Responsible Agency must determine if it is a Type I, Type II, or Unlisted Action. Until such time as the County Legislature adopts its own listing of Type I or Type II Actions, the Type I and Type II listings shown in Part 617.4 and Part 617.5, respectively, of the New York State Department of Environmental Conservation regulations shall apply.

The Responsible Agency shall utilize the County's numerical listing of [Type I](#) and [Type II](#) Actions that appear as an electronic link to this policy. These listings parallel the wording in Part 617.4 and Part 617.5, but are assigned numbers to more easily identify the action type. It is incumbent upon the Responsible Agency to check the New York State Department of Environmental Conservation's website to ensure that the following Action Types have not changed:

#### **1. Type II Actions**

If the proposed Action is classified as a Type II Action, it may be implemented without further review.

#### **2. Unlisted Actions**

If the proposed Action is classified as an Unlisted Action, the Project Sponsor shall prepare Part I of an appropriate [Environmental Assessment Form](#) (EAF) and submit it to the Responsible Agency. In many cases the Project Sponsor and Responsible Agency may be the same department or agency of County government. The Responsible Agency shall complete the EAF to assess the environmental impacts and determine which other units of government may have potential concern or review authority. If the EAF indicates that there may be one or more significant impacts (as defined by SEQRA part 617.11 regulations), the Responsible Agency shall submit the EAF to the appropriate Program Committee(s) and cause to be prepared a draft Environmental Impact Statement (EIS).

#### **3. Type I Actions**

If the proposed Action is classified as a Type I Action, the Project Sponsor shall prepare Part I of a full [Environmental Assessment Form](#) (EAF) and submit it to the Responsible Agency. In many cases the Project Sponsor and Responsible Agency may be the same department or agency of County government. The Responsible Agency shall complete the EAF and submit it to the appropriate Program Committee(s). If the EAF indicates that there may be one or more significant impacts (as defined by SEQRA part 617.11 regulations), the Responsible Agency shall cause to be prepared a draft Environmental Impact Statement (EIS).

### **E. Environmental Assessment Forms**

All necessary [Environmental Assessment Form](#) (EAFs) must be prepared for all Type I and Unlisted Actions as described in part 617.6 of the SEQRA regulations. In completing EAFs, County departments and agencies should adhere to the following guidelines:

- Lead Agency - When the Legislature is the Lead Agency, use "Tompkins County Legislature." When the Responsible Agency is the Lead Agency, use the name of the department or agency.
- Responsible Officer in Lead Agency - When the Legislature is the Lead Agency, use the name of Chair of the Legislature. When the Responsible Agency is the Lead Agency, use the name of department/agency head. (*Note: this guideline also applies when identifying the Responsible Officer for preparing Findings Statements.*)
- Preparer - Use the name of staff person who completes the EAF for the Responsible Agency.
- Applicant/Sponsor Name (and Signature) - When a County entity is the Project Sponsor, use the name of the department or agency that is the Project Sponsor with department head signature. When there is an applicant for County funding or approval that completes all or part of an EAF, use the applicant's name with an appropriate signature.

Non-County applicants proposing new construction of facilities, structures, or buildings that will use electricity or require heating and/or cooling shall document that they have considered each of the energy elements enumerated in the Tompkins County SEQRA Policy Energy Addendum. County departments shall comply with the requirements of the County's Green Building Policy (Administrative Policy 09-47).

**F. Referral of Unlisted and Type I Actions to Department of Planning and Sustainability and Environmental Management Council**

For any *Type I Action* or any *Unlisted Action requiring an EIS*, the Responsible Agency shall notify the Department of Planning and Sustainability, the Environmental Management Council (EMC), other appropriate Advisory Boards, and the County Legislator representing the district in which the project is located by submitting to them a copy of the Environmental Assessment Form, the initial determination of significance (Negative, Positive, or Conditioned Negative Declaration), a project description indicating the location of the Action, and the deadline for comments. In the case where the County Legislature is the Lead Agency, this notification shall be submitted no less than thirty (30) calendar days prior to any formal consideration of the Action by the appropriate Program Committee(s). If another County entity is the Lead Agency, this notification shall be submitted no less than thirty (30) calendar days prior to any final decision.

For any *Unlisted Action not requiring an EIS*, the Responsible Agency shall notify the Department of Planning and Sustainability, the Environmental Management Council (EMC), other appropriate Advisory Boards, and the County Legislator representing the district in which the project is located by submitting to them a copy of the Environmental Assessment Form, the initial determination of significance (Negative, Positive, or Conditioned Negative Declaration), a project description indicating the location of the Action, and the deadline for comments. In the case where the County Legislature is the Lead Agency, this notification shall be submitted no less than seven (7) calendar days prior to any formal consideration of the Action by the appropriate Program Committee(s). If another County entity is the Lead Agency, this notification shall be submitted no less than fifteen (15) calendar days prior to any final decision.

***Minimum Required Notification Requirements***

Type I Action	Unlisted Action requiring an EIS	Unlisted Action not requiring an EIS AND the Lead Agency is the County Legislature	Unlisted Action not requiring an EIS AND the Lead Agency is not the County Legislature
Thirty (30) day notification	Thirty (30) day notification	Seven (7) day notification	Fifteen (15) day notification

Actions (whether Unlisted or Type I) that could involve an unusual or substantial impact would require appropriately longer periods for review. In such cases, the EMC and other appropriate

Advisory Boards may make a request to the Chair(s) of the appropriate Program Committee(s) or, in the case of actions where the County Legislature is not the Lead Agency, the head of the appropriate county agency for additional time to complete the review.

When, in the opinion of the County Administrator, circumstances require speedy action precluding the normal review process, the County Administrator, with the concurrence of the Chair of the County Legislature, is authorized to disregard the provisions of this "Referral of Unlisted and Type I Actions to Department of Planning and Sustainability and Environmental Management Council" section, and bring resolutions directly to the County Legislature by requesting the chair of an appropriate Program Committee to place on a County Legislature agenda a resolution authorizing the Action. Even if this section is bypassed to ensure speedy action, the County shall adhere to all SEQRA regulations.

## **G. Declarations of Significance**

### *1. No Significant Impact*

If, after reviewing comments from the referrals required in paragraph F, it is foreseen that no significant impact (as defined by SEQRA Part 617.11 regulations) is anticipated, the Responsible Agency shall submit to the appropriate Program Committee(s) the Environmental Assessment Form; the Negative (or Conditioned Negative) Declaration; the negative declaration resolution, if required; and any recommendations received from the Department of Planning and Sustainability, the EMC, and other appropriate Advisory Boards.

If formal County Legislature approval is required, the appropriate Program Committee(s) shall submit the proposed Action, along with a recommendation as to environmental significance (Negative or Conditioned Negative Declaration), for action by the County Legislature.

If formal County Legislature approval is not required, the Lead Agency shall prepare the Environmental Assessment Form and the Negative (or Conditioned Negative) Declaration, and referral to the County Legislature is not required.

### *2. Significant Impact*

If, after reviewing comments from the referrals required in *Section F*, it is foreseen that significant impacts (as defined by SEQRA Part 617.11 regulations) may result from the Action, the Responsible Agency shall submit to the appropriate Program Committee(s) the Environmental Assessment Form; the Positive Declaration; the positive declaration resolution, if required; and any recommendations received from the Department of Planning and Sustainability, the EMC, and other appropriate Advisory Boards.

If formal County Legislature approval is required, the appropriate Program Committee(s) shall submit the proposed Action, along with a recommendation as to environmental significance (Positive Declaration), for action by the County Legislature.

If formal County Legislature approval is not required, the Lead Agency shall prepare the Environmental Assessment Form and the Positive Declaration, and referral to the County Legislature is not required.

## **H. Environmental Impact Statements (EIS)**

If a Positive Declaration has been made by the Lead Agency, a draft EIS shall be prepared following all SEQRA Part 617 procedures. The Responsible Agency shall cause to be prepared an EIS (by either preparing the document itself or supervising others in its preparation). The Responsible Agency shall then refer the EIS, along with their recommendations, to the

Department of Planning and Sustainability, the EMC, and other appropriate Advisory Boards for comment in the same manner as described in *Section F*.

The EIS may be revised based on comments received and shall then, along with a draft Findings Statement (prepared by the Responsible Agency), and comments received from the Department of Planning and Sustainability, the EMC, and other appropriate Advisory Boards, be referred to the County Legislature (or other Lead Agency). The County Legislature (or other Lead Agency) may hold a Public Hearing on the EIS. After preparing and issuing a final Findings Statement, the County Legislature (or other Lead Agency) may approve, disapprove, or amend the Action.

Any Responsible Agency preparing, or causing to be prepared, an EIS, is encouraged to make use of the Department of Planning and Sustainability's expertise in SEQRA procedures and analysis.

#### **I. County Legislature Resolutions**

Each Program Committee, in preparing resolutions for County Legislature meeting agendas, shall indicate on the resolution whether the Action stated in the resolution is considered an Action under SEQRA and, if so, whether it requires no further review under SEQRA (Type II), is an Unlisted Action, or is a Type I Action, and shall provide supporting information as appropriate. If it is not considered an Action under SEQRA or is a Type II action, no further SEQRA review shall be necessary and the SEQRA process may be deemed complete.

If it is an Unlisted action requiring County Legislature approval, there shall be a separate resolution indicating that the Environmental Assessment Form was reviewed by the Program Committee(s) and stating the determination of the Committee(s) as to the environmental significance of the action (Negative, Positive, or Conditioned Negative Declaration). The Environmental Assessment Form and supporting information shall be submitted to the County Legislature. The County Legislature may confirm or amend the determination.

If the resolution is a Type I Action, the Program Committee(s) shall submit to the County Legislature an Environmental Assessment Form and, if required, an EIS prepared, reviewed and completed in accordance with the requirements of SEQRA Part 617, and shall make a recommendation as to their determination of significance of the action (Negative, Positive, or Conditioned Negative Declaration). If an EIS is prepared, the County Legislature may hold a Public Hearing and, after public comment, shall prepare and issue a Findings Statement. The County Legislature may then consider the Action by resolution, including a Findings Statement.

#### **J. County Department and Agency Procedures**

Individual County departments and agencies may adopt written policies to guide their compliance with the requirements of SEQRA when they are the Lead Agency. Such written policies shall be submitted to the appropriate Program Committee for approval and reviewed periodically thereafter. Departments must still adhere to all SEQRA regulations.

#### **K. Required Notices and Filings**

Each Responsible Agency shall maintain readily accessible files of all SEQRA documents and notices for all Unlisted and Type I Actions and shall make the files available to the public on request. All EIS's prepared for County initiated, funded, or approved projects shall be maintained in a manner that facilitates retrieval. It shall be the responsibility of the Responsible Agency to send copies of EIS's to the County Clerk where a compilation of all EIS's shall be kept.

The Responsible Agency is also required to maintain files of all Determinations of Significance (Negative, Positive, or Conditioned Negative Declarations) and Findings Statements and, as appropriate, file copies with the Clerk of the County Legislature.

In addition, the Responsible Agency is required to complete all of the filing and distribution requirements outlined in the SEQRA Part 617.12 (b) and (c). These include sending copies of all Type I Negative Declarations, Conditioned Negative Declarations, Positive Declarations, Notice of Completion of an EIS, EIS, Notice of Hearing and Findings to: (1) the chief executive officer of the political subdivision in which the Action will be principally located, (2) the Lead Agency, (3) all Involved Agencies, (4) any person who requests a copy, and (5) if the Action involves an applicant, with the applicant.

Type I Negative Declarations, Conditioned Negative Declarations, Positive Declarations, and Notices of Completion of an EIS are required to be published in the NYS "Environmental Notice Bulletin."

Copies of all EIS's must be sent to the Department of Environmental Conservation, Division of Regulatory Services, in Albany, NY.

#### **L. Implementation of Mitigation Measures**

It is the responsibility of the Responsible Agency to implement or cause to be implemented the mitigation measures that are imposed through the SEQRA review process.

#### **M. Forms**

Unless otherwise authorized by the County Legislature, each department or agency shall use the New York State Department of Environmental Conservation (DEC)-recommended forms. It is understood that the DEC forms may need to be significantly altered when the Responsible Agency is able to coordinate the SEQRA/NEPA review process, as described in *Section N* below. In those cases, all care shall be taken by the Responsible Agency (with County Attorney review, if necessary) that the requirements of SEQRA are met, with whatever forms are used.

#### **N. SEQRA's Relationship with NEPA**

The National Environmental Policy Act (NEPA) is the federal mechanism for conducting environmental review of federally funded, approved, or directly undertaken actions. When possible, the Responsible Agency should work to coordinate the SEQRA/NEPA review process by seeking early consultations with federal agencies for purposes of coordinating reviews, preparing environmental assessments and EISs, conducting public hearings, and preparing and publicizing public notices. In many cases, environmental assessments and impact statements can be modified to include all of the elements required by both the SEQRA and NEPA regulations.