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MANUAL 500-2

SECTION 02.4

STATE ENVIRONMENTAL QUALITY REVIEW ACT

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BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS

## **1. Purpose**

This standard operating procedure is used to assist the New York State Thruway Authority (Authority) with the State Environmental Quality Review Act (SEQRA) process and identify whether the Authority's actions will impact the environment in a manner that would require mitigation or whether the action would require further evaluation as required by an Environmental Impact Statement (EIS). 6 NYCRR Part 617 is the State SEQRA process on which this procedure is based and must be referred to in proceeding through individual SEQRA processing. This procedure will outline the SEQRA process for those Authority projects not associated with the Contracts program. These projects would be Authority real property transactions, including Authority permits (i.e., use and occupancy permit and work permit) as well as sales, leases and granting of easements of Authority lands. 6 NYCRR Part 617 can be referenced at <http://www.dec.state.ny.us/website/regs/part617.html>.

In addition, the Authority's real property transactions may require other permits. This procedure provides a process for conducting SEQRA reviews and a checklist to assist the Authority in identifying all necessary permits for land transactions.

## **2. Applicable Law and/or Guidance**

New York State Environmental Conservation Law §§8-0101 to 8-0117

6 NYCRR Part 617 (State Environmental Quality Review Act Regulations)

New York State Finance Law §139-j, §139-k

19 NYCRR Part 1204 (Administrative and Enforcement of the New York State Uniform Fire Prevention and Building Code).

Executive Instruction entitled Inappropriate Lobbying Influence In Authority/Corporation Procurements

Thruway Real Property Management Policy (25-6-02)

### **3. Introduction**

The Authority is responsible for the financing, construction, reconstruction, improvement, development, maintenance and operation of the highway system known as the Thruway. All projects, programs, and activities that the Authority undertakes are subject to SEQRA review. The definition of such actions is provided in Section 7 of this procedure. As such, the Authority must determine the environmental significance of its actions related to real property transactions. Additional technical SEQRA information can also be found at the New York State Department of Environmental Conservation's (NYSDEC's) SEQRA website located at <http://www.dec.state.ny.us/website/dcs/seqr/index.html>.

### **4. Procedure**

#### **4.1. General Procedure**

This general procedure is to ensure that the Authority will identify all known and potential environmental impacts associated with a real property transaction. In addition, this procedure assists the Authority in identifying other permits which may be needed for proposed land transactions.

#### **4.2. Reviewing Environmental Considerations Beyond SEQRA Review**

4.2.1. The applicant is responsible for identifying, applying for and receiving any other local, State or federally required permits for any proposed use and/or work associated with the real property transaction. The Authority can use ENVIRONMENTAL PERMITS POTENTIALLY APPLICABLE TO PROJECTS ON AUTHORITY LAND<sup>+</sup> as guidance to determine which permits may be required by the applicant. This form is for internal use only and will not be distributed externally or used to advise the applicant of any potential permitting requirements. The applicant retains the responsibility for identifying required permits and for obtaining them. The applicant must supply the Authority with copies of required permits prior to start of any work on property under the jurisdiction of the Authority.

+ Exhibit 1

- 4.2.2. If federal approval or funding is required, a review under the National Environmental Policy Act (NEPA) is also required.

### **4.3. The General SEQRA Process**

- 4.3.1. SEQRA requires environmental review at an early stage of the land transaction process. SEQRA requires a “lead agency” to properly define – or scope – the action under consideration before attempting to determine the environmental significance of the action. This requirement seeks to avoid segmenting the environmental review. Usually, all phases of a project must be considered at one time. For example, if a developer wants to purchase an Authority parcel initially for access rights into a property knowing that there are current development plans for the internal property not owned by the Authority, the scope of the entire development project must be evaluated before the property sale is approved. An example of non-permissive segmentation would be demolition of a toll barrier without evaluation of replacement sites needed to complete toll barrier relocation.

The Authority many times will be the lead agency for projects solely on lands under the jurisdiction of the Authority. However, in other cases, with Authority concurrence, a decision for a municipality or another State agency to assume SEQRA project lead may be to the Authority’s benefit. Any finding of the municipality or State agency must be consistent with Authority rules, regulations, and policies. It should be noted that if an outside agency is lead on a project and their coordinated environmental assessment determines no significance (i.e., Negative Determination), no further SEQRA review is required. Upon issuance by the lead agency of a NegDec, if there are further Authority concerns, the only recourse that the Authority, as an involved or interested agency, would have is to deny a required Authority permit or agreement for project implementation.

On non-Authority lead projects where a Positive Declaration has been made, the Authority, as the landowner and an involved agency, must supplement a municipal EIS findings statement by preparing its own findings statement that would provide a separate involved agency finding and any additional requirements pursuant to the Authority’s approval processes.

4.3.2. SEQRA and environmental permitting requirements are complex and based on statutes, regulations, State agency guidance documents and court decisions. The Legal Department has an important role within this procedure and should be contacted if there are any questions, or if assistance or guidance is required during the SEQRA review.

#### **4.4. Determining the Type of Action**

4.4.1. The SEQRA regulations identify three types of SEQRA actions:

- Type I actions are those which have the greatest actual or potential for a significant environmental impact. They are listed in SEQRA TYPE I ACTIONS (6 NYCRR §617.4)<sup>1</sup>.
- Type II actions are those activities which do not have a significant environmental impact. These activities have already been reviewed by regulation and, if listed in SEQRA TYPE II ACTIONS (6 NYCRR §617.5)<sup>2</sup>, do not require further environmental SEQRA review.
- Unlisted actions are those which are not Type I or II.
- If the action does not require further environmental review (e.g., Type II action), then the Division Director (DD) or designated project/permit coordinator need not complete Part 2 or Part 3 of the SEAF or FEAF. The DD or designated project/permit coordinator will complete DOCUMENTATION OF PROJECTS THAT DO NOT REQUIRE FURTHER SEQRA REVIEW<sup>3</sup>, to document that no further review is necessary, and put this form in the Transaction Record.

4.4.2. The applicant will submit an application form and provide all appropriate information to the Authority to initiate the land transaction process.

1 Exhibit 2

2 Exhibit 3

3 Exhibit 4

- 4.4.3. The DD or designated project/permit coordinator will review the THRUWAY REAL PROPERTY INQUIRY form (TA-N5114) and determine, with the advice of the Division Environmental Specialist (DES), whether a Short Environmental Assessment Form (SEAF) or Full Environmental Assessment Form (FEAF) is required, and will forward the appropriate form to the applicant with the application package. If there are questions relative to what forms to use, in consultation with Office of Transportation Planning and Environmental Services (OTPES), the DES should appropriately advise the DD or designated project/permit coordinator.
- 4.4.3.1. At a minimum, a SEAF must be prepared by the applicant. Part 1 is completed by the applicant and Part 2 is completed by the lead agency. A SEAF can be used for environmental assessment of an unlisted action and can fully satisfy the lead agency's requirements under SEQRA. However, agencies are free to prepare (or cause to prepare) a FEAF and/or expanded environmental assessment report where circumstances warrant obtaining additional information.
- 4.4.3.2. The preparation of a FEAF is mandatory for all Type I actions. The FEAF consists of three major parts. Part 1 is completed by the applicant. Part 2 contains questions that establish the magnitude of the proposed project's environmental impacts. Part 3 is to be completed if one or more potentially significant environmental impacts have been identified in Part 2. Part 2 and Part 3, if applicable, are completed by the lead agency. The Authority is free to prepare (or cause the applicant to prepare) an expanded environmental assessment report when circumstances warrant obtaining additional information.
- 4.4.4. The applicant will complete Part 1 of the SEAF or FEAF with appropriate documentation and return the form with the completed application package that provides enough background information to make a SEQRA determination to the DD or designated project/permit coordinator.

- 4.4.5. Upon submittal of the complete application package, including the SEAF or FEAF, the DD or designated project/permit coordinator, in consultation with the DES, will review the application and determine if the application should be progressed based on known and/or potential environmental impacts associated with the project. If there are questions relative to progressing the project under SEQRA, in consultation with OTPES, the DES should appropriately advise the DD or designated project/permit coordinator.
- 4.4.6. If the application is progressed, the DD or designated project/permit coordinator will review the SEAF or FEAF and determine whether the action requires further environmental review under SEQRA.
- 4.4.7. If the action is subject to further SEQRA review, the DD or designated project/permit coordinator, in consultation with the DES and/or OTPES, will determine whether the action is a SEQRA Type I action or unlisted action in accordance with 6 NYCRR §617.4.
- 4.4.8. For Type I and unlisted actions inconsistent with use of a SEAF or if the applicant has not submitted a FEAF, the DD or designated project/permit coordinator will provide the applicant with a FEAF and instruct the applicant to prepare Part 1 of the document. Review cannot continue until applicant returns the FEAF.

#### **4.5. Determining Other Agency Involvement and Review**

- 4.5.1. The DD or designated project/permit coordinator, in consultation with the DES and/or OTPES, will determine whether the action includes other “involved” and/or “interested” agencies that will need to review the SEQRA documentation for the land transaction.
- 4.5.2. If the application is for a Type I action and there are other involved agencies, the DD or designated project/permit coordinator, in consultation with the DES and advice from OTPES, will initiate lead agency coordination with the other involved agencies pursuant to 6 NYCRR §617.6. The Legal Department should be contacted to assist if needed.

- 4.5.3. If the application is for an unlisted action and there are other involved agencies, the DD or designated project/permit coordinator, in consultation with the Authority's Bureau of Real Property Management (BRPM) and OTPES, will decide whether to pursue a coordinated or uncoordinated review with the other involved agencies, after determining whether a coordinated SEQRA review would better protect the interest of the Authority. In a coordinated review, one agency is chosen to be the lead agency. In an uncoordinated review, each agency would act independently and make its own findings. The Legal Department should be contacted to assist if needed.
- 4.5.4. When the Authority is not the lead agency, a permit, lease, sale or easement may not be issued until a Type II determination, a negative declaration or a Final Environmental Impact Statement (FEIS) has been received and reviewed by the Authority and the ultimate decision has been made for the transaction. In the case of a FEIS, the Authority must also issue a Findings Statement.

#### **4.6. Determining Environmental Significance**

- 4.6.1. If the Authority is the designated lead agency under SEQRA, the DD or designated project/permit coordinator, in consultation with the DES and/or OTPES, will "draft" Part 2 of the SEAF or FEAF and, if necessary, a visual EAF addendum.
- 4.6.2. The DD or designated project/permit coordinator will make a draft recommendation regarding the environmental significance of the proposed action. Part 2 of the SEAF or FEAF and DETERMINING ENVIRONMENTAL SIGNIFICANCE UNDER SEQRA (6 NYCRR §617.7)<sup>+</sup> shall be used to determine the environmental significance. As needed, OTPES and/or the Legal Department should be contacted to assist.
- 4.6.3. The DD or designated project/permit coordinator will forward the SEQRA documents and recommendations to the Director of the Bureau of Environmental Services in OTPES. The DD or designated project/permit coordinator will notify the DES and OTPES that the SEQRA documents and recommendation have been forwarded to Headquarters.

+ Exhibit 5

- 4.6.4. OTPES will review the application, the SEAF or FEAF and any recommendations from DD or designated project manager/permit coordinator and develop a final recommendation of environmental significance to the Chief Engineer (CE). For land transactions defined in this SOP, the Authority Board will review, make SEQRA determinations, and once a SEQRA determination is made, delegate as appropriate the final sign-off of the determination.
- 4.6.5. When the Authority issues a positive declaration (i.e., there is the potential for a significant environmental impact), a permit, lease, sale or easement may not be issued until there is further environmental study and review. Upon the CE determination of a positive declaration, notification will be made to OTPES and to the DD or designated project manager/permit coordinator for public notice, scoping and further environmental review through the development of an EIS. In consultation with DD or designated project manager/permit coordinator, OTPES will contact the Legal Department as necessary for further SEQRA process advice.

In the case where the project has a statewide implication, the CE shall notify both OTPES and the Statewide project manager/permit coordinator for scoping and further environmental review through the development of an EIS.

- 4.6.5.1. The DD or designated project manager/permit coordinator will notify the applicant of the positive declaration and the applicant will be required to obtain all necessary information needed to develop a Draft Environmental Impact Statement (DEIS).
- 4.6.5.2. The DD or designated project manager/permit coordinator will coordinate review with the Legal Department who has review and legal oversight responsibility for the SEQRA process following the submittal of the DEIS.
- 4.6.5.3. The DD or designated project manager/permit coordinator, as lead agency, will ensure that copies of the DEIS are forwarded to other involved or interested agencies.

4.6.6. If the Authority issues a negative declaration (i.e., there will be no significant environmental impact), the CE or designee will notify OTPES and the DD or designated project/permit coordinator.

4.6.6.1. The DD or designated project/permit coordinator, in consultation with OTPES, as lead agency, will develop and issue appropriate public notices as well as send a copy of the negative declaration to other involved agencies and interested agencies, applicant and the Legal Department.

4.6.7. It is important to note that at any time prior to its decision, the Authority may have its negative declaration superseded by a positive declaration by any other involved agency. If this happens, no permits, leases, sales or easements can be granted until the involved agency requirements are satisfied.

4.6.8. The Authority, as lead agency, may issue a conditioned negative declaration as part of its determination of environmental significance for an unlisted action only. The applicant must have completed a FEAF, coordinated review must have been completed, and the lead agency must find that all identified significant environmental impacts can be mitigated by conditions imposed upon the applicant. A 30 day public comment period must also be provided. This eliminates the need to prepare an EIS. The CE or designee must confer with the Legal Department to ensure that all SEQRA requirements have been met.

4.6.9. Original documents will be maintained in the Transaction Record.

## **5. Complying With §139-j and §139-k of the State Finance Law (Lobbying Law)**

Any contact (inquiry, etc.) made regarding a real property transaction following the THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR) form (TA-N5116) approval for negotiated sales and subsequent to the first notice of a competitive process for disposal of such real property (solicitation, RFP, etc.) is subject to the Lobbying Law and must be recorded. See the Executive Instruction entitled INAPPROPRIATE LOBBYING INFLUENCE IN AUTHORITY/CORPORATION PROCUREMENTS.

## **6. Responsibilities**

The DD or designated project/permit coordinator will coordinate a review of the application, including SEQRA documents, review the SEQRA SEAF/FEAF and determine the SEQRA action type. For Type II actions, the DD or designated project/permit coordinator will complete Exhibit 5 and ensure the form is retained in the file. The DD or designated project/permit coordinator will determine whether there are other involved and/or interested agencies, complete Part 2 and/or Part 3 (if applicable) of the SEAF/FEAF and provide a recommendation as to potential environmental impacts to Headquarters (OTPES – Bureau of Environmental Services).

The DES will work with the DD or designated project/permit coordinator on the initial SEQRA review.

The DPC will review the THRUWAY REAL PROPERTY INQUIRY FORM to determine whether the applicant should file a SEAF or FEAF and provide the applicant with the appropriate form.

OTPES will receive SEQRA documents and Division recommendations and work with the respective Division and other Agency personnel to coordinate the SEQRA review at Headquarters level and provide appropriate determination of significance recommendations to the CE.

OTPES, in consultation with the DD or designated project/permit coordinator, the DES and other Agency personnel, will oversee the SEQRA process when a positive declaration has been issued and an environmental impact statement and review are required.

The Legal Department will assist with any SEQRA procedural questions and assist with the SEQRA process as needed.

## 7. Definitions

**Actions** include:

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:
  - (i) are directly undertaken by an agency;
  - (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 combination of the above.

**Coordinated Review** is a process that establishes a lead agency when more than one agency is involved in the review to ensure the satisfactory completion of the SEQRA process. A coordinated review is required for Type I actions and is optional for unlisted actions.

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

**Interested Agency** is any agency that lacks the jurisdiction to fund, approve or directly undertake an action, but wishes to participate in the review process because of its specific expertise or concern about a proposed action.

**Mitigation** is a way or method to avoid or minimize adverse environmental impacts.

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

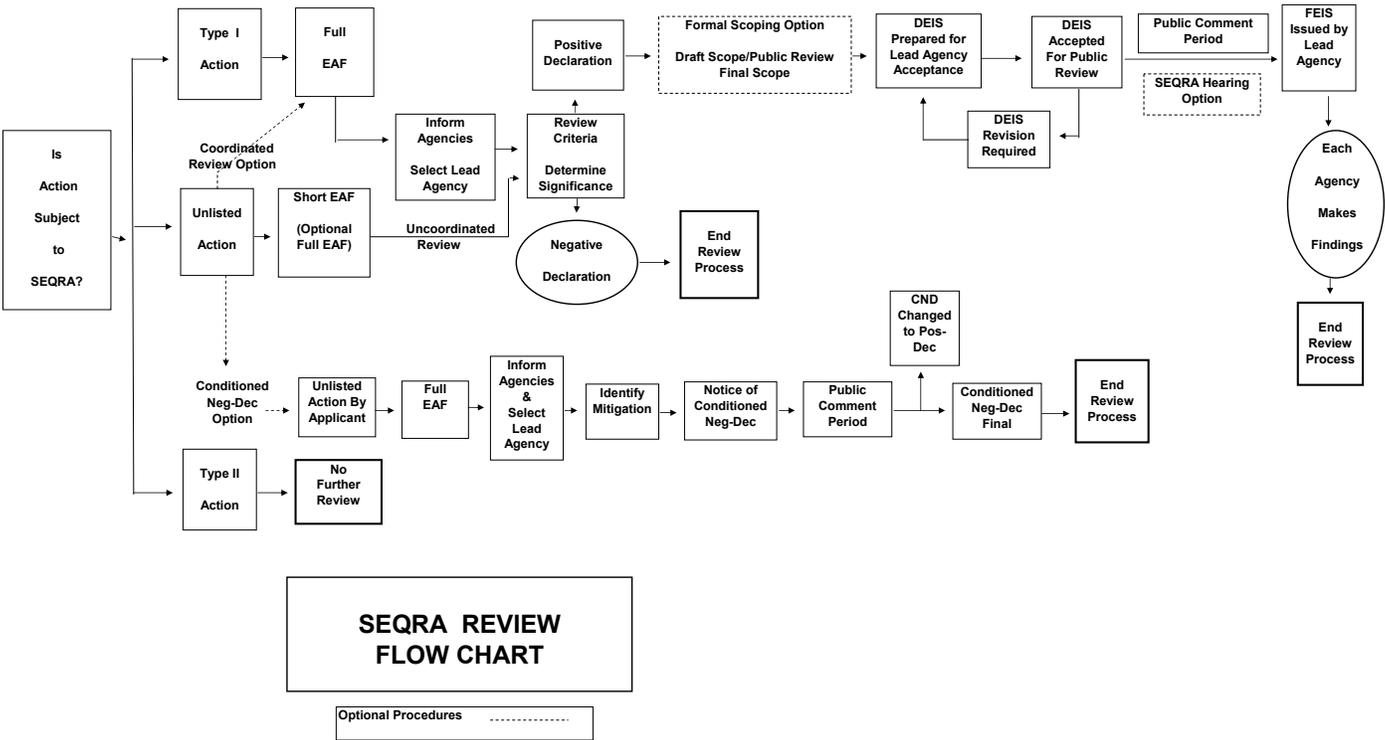
**Positive Declaration** is a written statement prepared by the lead agency indicating that implementation of the action as proposed may have a significant adverse impact on the environment and that an environmental impact statement will be required.

**Segmentation** is the division of the environmental review of an action such that various activities or stages are addressed under SEQRA as though they were independent, unrelated activities, needing individual determinations of significance.

**State Agency** is any State department, agency, board, public benefit corporation, public authority or commission.

**Uncoordinated Review** is a process in which more than one agency is involved in the SEQRA review process and there is no lead agency. Each agency proceeds as if it was the only one involved and each agency makes its own determination of significance. An uncoordinated review may be done for unlisted actions.

8. SEQRA Flowchart



FOR INTERNAL USE ONLY – NOT FOR DISTRIBUTION

EXHIBIT 1

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**ENVIRONMENTAL PERMITS POTENTIALLY APPLICABLE TO PROJECTS ON  
AUTHORITY LAND**

Permit Description	Permit Required?	
<p>Note: For land transactions including permits, sales, leases and granting of easements on Authority lands, prior to land transaction approvals, the applicant must ensure that all appropriate regulatory permits and approvals are obtained prior to project implementation.</p> <p><b>Freshwater or Tidal Wetlands Permit</b>—needed to develop or otherwise disturb wetlands subject to regulation by any federal, State, or local agency. Applications should be made to all agencies with jurisdiction over a particular wetland area.</p> <ul style="list-style-type: none"> <li>○ <b>NYSDEC</b></li> <li>○ <b>Adirondack Park Agency</b></li> <li>○ <b>U.S. Army Corps of Engineers</b> (Section 10, Section 404 Nationwide or Individual Permits)</li> </ul>		
	Yes	No
<p><b>Protecton of Waters Permit</b> (Although State agencies such as the Thruway Authority are exempt from Article 15 permitting, State agencies are required to satisfy ALL technical requirements necessary to obtain a permit. Therefore, any of the following work must be reviewed by the Division Environmental Specialist and/or OTPES prior to project implementation).</p> <ul style="list-style-type: none"> <li>○ <b>Disturbance of the Bed or Banks of a Protected Stream or Other Watercourse</b> – required for disturbing the bed or banks of a stream with a classification and standard of C(T) or higher (disturbance may be either temporary or permanent in nature).</li> </ul>	Yes	No
	Yes	No

**ENVIRONMENTAL PERMITS POTENTIALLY APPLICABLE TO PROJECTS ON  
AUTHORITY LAND**

<b>Permit Description</b>	<b>Permit Required?</b>	
<b>Wild, Scenic , and Recreational Rivers Act Permit</b> —These permits are required when developing land near a wild, scenic, or recreational waterway. Applications must be made to the NYSDEC any federal, State, or local agency with jurisdiction over the particular waterway segment under consideration.	Yes	No
<b>Coastal Erosion Hazard Area Permits</b> – required for construction, modification, restoration and activities in an area designated as a coastal erosion hazard area.	Yes	No
<b>Air Pollution Control Permits</b> —may be required before constructing a new source of air pollution or modifying an existing source of air pollution. Based on the level of emissions and types of pollutants, additional review, permits and requirements from NYSDEC and EPA may be required.	Yes	No
<b>Bulk Petroleum Storage Registration</b> —required if applicant intends to store petroleum products (whether below ground or above ground) or dispense petroleum products in the operation of the developed site or will be removing existing registered tanks.	Yes	No
<b>Chemical Bulk Storage Registration</b> – required when hazardous substances listed in the Chemical Bulk storage regulations will be stored in tanks. A spill prevention report plan is also required.	Yes	No
<b>Hazardous Waste Generator Identification Number</b> —required from EPA if applicant will generate, store or treat hazardous waste during construction or operation.	Yes	No
<b>Mined Land Reclamation Permit</b> —required if the applicant will remove more than 1,000 tons of minerals from the ground in any 12 month period.	Yes	No
<b>Solid Waste Management Facility Permit</b> —required if applicant intends to store or process solid waste on the developed site.	Yes	No

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**ENVIRONMENTAL PERMITS POTENTIALLY APPLICABLE TO PROJECTS ON  
AUTHORITY LAND**

<b>Permit Description</b>	<b>Permit Required?</b>	
	Yes	No
<b>State Pollution Discharge Elimination System (SPDES) Permit</b> —required of any business that discharges any wastewater and/or other chemicals to the ground or surface water. Applicable during operation of the developed site as well as during construction of the site.	Yes	No
<b>State Pollution Discharge Elimination System (SPDES) Stormwater Permit</b> – required for construction that will affect more than one acre of land and required for operation of certain types of facilities with the potential to impact stormwater. A stormwater pollution prevention plan is also required.	Yes	No
<b>Construction Permits</b> —must be obtained from Authority and/or other applicable agencies charged with ensuring that proposed construction is in accordance with all applicable building, fire and sanitary code requirements.	Yes	No
<b>U. S. Army Corps of Engineers (USACOE) Permits</b> – required for a variety of activities affecting navigable waters including wetlands, dams, dikes, structures, dredging. Permits are filed through a joint NYSDEC/USCOE application.	Yes	No
<b>Other Permits and/or approvals Required (i.e. Cultural Resources, etc.):</b>	Yes	No

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

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EXHIBIT 2  
SEQRA TYPE I ACTIONS (6 NYCRR §617.4)  
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- (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 less than 150,000, 250 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 but less than 1,000,000, 1,000 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 greater than 1,000,000, 2,500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

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- (6) 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) parking for 1,000 vehicles;
  - (iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area; or
  - (v) in a city, town or village having a population of more than 150,000 persons, 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 non-agricultural 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) 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, or that has been proposed by the New York State Board For Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulations [CFR] Parts 60 and 63, 1994 [see Section 617.17 of this Part]);

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- (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, 1994 (see 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 SEQRA.

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EXHIBIT 3  
SEQRA TYPE II ACTIONS (6 NYCRR §617.5)  
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The following actions are not subject to review under SEQRA:

- (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 or fire codes, unless such action meets or exceeds any of the thresholds in Section 617.4 of this Part;
- (3) 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;
- (4) repaving of existing highways not involving the addition of new travel lanes;
- (5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (6) maintenance of existing landscaping or natural growth;
- (7) 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;
- (8) 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;
- (9) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) of this subdivision and the installation, maintenance and/or upgrade of a drinking water well and a septic system;
- (10) 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;

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- (11) 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;
- (12) granting of individual setback and lot line variances;
- (13) granting of an area variance(s) for a single-family, two-family or three-family residence;
- (14) public or private best forest management (silvicultural) 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;
- (15) minor temporary uses of land having negligible or no permanent impact on the environment;
- (16) installation of traffic control devices on existing streets, roads and highways;
- (17) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (18) 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;
- (19) 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);
- (20) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;

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- (21) 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;
- (22) collective bargaining activities;
- (23) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (24) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (25) 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;
- (26) 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;
- (27) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (28) 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;
- (29) 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;
- (30) adoption of a moratorium on land development or construction;
- (31) interpreting an existing code, rule or regulation;

SEQRA TYPE II ACTIONS (6 NYCRR §617.5)

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- (32) designation of local landmarks or their inclusion within historic districts;
- (33) 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 are fully subject to the review procedures of this Part;
- (34) actions undertaken, funded or approved prior to the effective dates set forth in SEQRA (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;
- (35) actions requiring a certificate of environmental compatibility and public need under article VII, VIII or X of the Public Service Law and the consideration of, granting or denial of any such certificate;
- (36) 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
- (37) 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.

STATE ENVIRONMENTAL QUALITY  
REVIEW ACT

September 2006

500-2-02.4

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EXHIBIT 4  
DOCUMENTATION OF PROJECTS THAT DO NOT REQUIRE FURTHER SEQRA REVIEW

This form must be completed if the real property transaction under review does not require further SEQRA review pursuant to 6 NYCRR §617.5.

It has been determined that this action is exempt from SEQRA review because:

\_\_\_\_\_ The proposed action is a SEQRA Type II action that will not require further environmental review. List appropriate number from Exhibit 4 in which the proposed action falls under and provide any additional explanation if needed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Print Name of Reviewing Engineer: \_\_\_\_\_

Signature of Reviewing Engineer: \_\_\_\_\_ Date: \_\_\_\_\_

EXHIBIT 5  
DETERMINING ENVIRONMENTAL SIGNIFICANCE UNDER SEQRA (6 NYCRR §617.7)  
Page 1 of 3

**Determining significance**

**(a) The lead agency must determine the significance of any Type I or unlisted action in writing.**

- (1) To require an EIS for a proposed action, the lead agency must determine that the action may include the potential for at least one significant adverse environmental impact.
- (2) To determine that an EIS will not be required for an action, the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.

**(b) For all Type I and unlisted actions, the lead agency making a determination of significance must:**

- (1) consider the action as defined in 6 NYCRR §617.2(b) and 6 NYCRR §617.3(g);
- (2) review the SEAF or FEAF, the criteria contained in subdivision (c) of this attachment and any other supporting information to identify the relevant areas of environmental concern;
- (3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and
- (4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation.

**(c) Criteria for determining significance:**

- (1) To determine whether a proposed Type I or unlisted action may have a significant adverse impact on the environment, the impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in this subdivision. The following list is illustrative, not exhaustive. These criteria are considered indicators of significant adverse impacts on the environment:

DETERMINING ENVIRONMENTAL SIGNIFICANCE UNDER SEQRA (6 NYCRR §617.7)

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- (i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;
- (iii) the impairment of the environmental characteristics of a critical environmental area as designated pursuant to 6 NYCRR §617.14(g);
- (iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;
- (v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;
- (vi) a major change in the use of either the quantity or type of energy;
- (vii) the creation of a hazard to human health;
- (viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;
- (ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;
- (x) the creation of a material demand for other actions that would result in one of the above consequences;

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- (xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or
  - (xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.
- (2) For the purpose of determining whether an action may cause one of the consequences listed in paragraph (1) of this subdivision, the lead agency must consider reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions which are:
- (i) included in any long-range plan of which the action under consideration is a part;
  - (ii) likely to be undertaken as a result thereof; or
  - (iii) dependent thereon.
- (3) The significance of a likely consequence (i.e., whether it is material, substantial, large or important) should be assessed in connection with:
- (i) its setting (e.g., urban or rural);
  - (ii) its probability of occurrence;
  - (iii) its duration;
  - (iv) its irreversibility;
  - (v) its geographic scope;
  - (vi) its magnitude; and
  - (vii) the number of people affected.