

# SEQRA Update

By David Everett and Robert A. Stout, Jr.

The New York State Department of Environmental Conservation (DEC) has proposed to amend the regulations implementing the State Environmental Quality Review Act (SEQRA, 6 NYCRR Part 617). DEC is using a generic environmental impact statement to evaluate the proposed changes and believes that no significant adverse environmental impacts from the proposed amendments have been identified. A draft scope was published on July 11, 2012, comments on which were accepted through August 10th. The draft scope includes “pre-draft” language for the proposed changes.

Proposed changes affect scoping and review of actions. For example, public scoping of environmental impact statements (EIS) would be required. It would also be clarified that issues raised after the completion of the final written scope cannot be the basis for the rejection of the draft EIS as inadequate. Certain numeric thresholds for Type I actions and projects that are more likely to require preparation of an EIS would be reduced, resulting in an expanded application of Type I actions related to large subdivisions.

Additional defined Type II actions (actions determined not to have a significant impact on the environment) would be added, including the installation of solar energy arrays, the creation of minor subdivisions and the disposition of land by auction. DEC believes that these and other proposed changes would encourage development in urban areas, as opposed to greenfields, encourage green infrastructure projects and the renovation and reuse of existing structures. This would result in a broader list of actions not subject to SEQRA review. The SEQRA regulatory changes would be facilitated by the new environmental assessment forms which have been adopted by DEC, but are not effective till April 1, 2013. The forms were adopted on January 25, 2012 and are available at [www.dec.ny.gov/permits70293](http://www.dec.ny.gov/permits70293). DEC has been working on detailed guidance for the forms, which are referred to as workbooks.

The intention is to have both the forms and workbooks integrated digitally to allow for a user friendly experience.

The draft “short EAF” workbook was recently released and is available on the DEC website. Public comments will be accepted on this workbook through

October 22, 2012. The “full EAF” workbook has not yet been released. Both the full and short forms follow the same basic structure as the existing forms but differ significantly in the degree of detail required for completion. The short EAF will elicit a greater degree of information about a proposed action in an effort to create a more useful form that discourages completion of the full EAF when it is neither warranted nor applicable to a certain action, but is historically used, given the inadequacies of the current short form.

The full EAF also requires a much greater degree of information. Practitioners eager await publication of the full EAF workbook, hoping for answers to lingering questions about the complexity and scope of the new form. ■

*David Everett is a partner at the law firm of Whiteman Osterman & Hanna, while Robert Stout is an associate with WOH. An in-depth discussion of the proposed SEQRA form changes will be part of the upcoming November 8th NYPF training in Hyde Park. See the separate article and registration form for this program elsewhere in “Planning News.”*

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