

CITY ENVIRONMENTAL QUALITY REVIEW

Executive Order No. 91 of 1977 as amended

WHEREAS, the improvement of our urban environment is critically important to the overall welfare of the people of the City; and

WHEREAS, the development and growth of the City can and should be reconciled with the improvement of our urban environment; and

WHEREAS, it is the continuing policy of the City that environmental, social and economic factors be considered before governmental approval is given to proposed activities that may significantly affect our urban environment; and

WHEREAS, subdivision (3) of section 8-0113 of Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act, or "SEQRA") and the regulations promulgated thereunder (6 NYCRR 617) authorizes local governments to adopt rules, procedures, criteria and guidelines for incorporating environmental quality review procedures into existing planning and decision making processes; and

WHEREAS, the procedures formulated in this Executive Order are intended to be integrated into existing agency procedures, including the Uniform Land Use Review Procedure contained in section 197-c of Chapter 8 of the City Charter, in order to avoid delay and to encourage a one-stop review process; and

WHEREAS, section 8-0117 of SEQRA, as amended, provides that only actions or classes of actions identified by the State Department of Environmental Conservation as likely to require preparation of an environmental impact statement shall be subject to this Executive Order until November 1, 1978, after which date non-exempt actions will be fully subject to this Executive Order; and

WHEREAS, the implementation of SEQRA in the City by this Executive Order will accomplish the purposes for which Executive Order No. 87 of October 18, 1973 ("Environmental Review of Major Projects") was promulgated and will continue the policy established therein.

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, Executive Order No. 87 of October 18, 1973 is, in accordance with the provisions of sections 16 and 18 hereunder, hereby replaced by this Executive Order as follows:

§6-01. Applicability

No final decision to carry out or approve any action which may have a significant effect on the environment shall be made by any agency until there has been full compliance with the provisions of this chapter.

§6-02. Definitions

As used herein, the following terms shall have the indicated meanings unless noted otherwise:

- (a) **Action.** "Action" means any activity of an agency, other than an exempt action enumerated in §6-04 of this Executive Order, including but not limited to the following:
- (1) non-ministerial decisions on physical activities such as construction or other activities which change the use or appearance of any natural resource or structure;
 - (2) non-ministerial decisions on funding activities such as the proposing, approval or disapproval of contracts, grants,

Cross reference to CEQR Rules of Procedure

Supplemented by new statement of authority and purpose, Rules, §5-01.

Exec. Order 91 continued except as, otherwise provided, Rules §5-02(a). See new Rules of Construction, Rules §5-02(b).

Except as modified by Rules §5-02(a) and (d).

Additional definitions, Rules §5-02(c).

Subdiv. (a) modified by Rules §5-02(c) (2).

**Cross reference to CEQR
Rules of Procedure**

subsidies, loans, tax abatements or exemptions or other forms of direct or indirect financial assistance, other than expense budget funding activities;

- (3) planning activities such as site selection for other activities and the proposing, approval or disapproval of master or long range plans, zoning or other land use maps, ordinances or regulations, development plans or other plans designed to provide a program for future activities;
- (4) policy making activities such as the making, modification or establishment of rules, regulations, procedures, policies and guidelines;
- (5) non-ministerial decisions on licensing activities, such as the proposing, approval or disapproval of a lease, permit, license, certificate or other entitlement for use or permission to act.

~~(b) Agency. "Agency" means any agency, administration, department, board, commission, council, governing body or any governmental entity of the City of New York, unless otherwise specifically referred to as a state or federal agency.~~

Inapplicable. See Rules §5-02(a), §5-02(c) (3) (i).

(c) Applicant. "Applicant" means any person required to file an application pursuant to this Executive Order.

(d) Conditional negative declaration. "Conditional negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action and accepted by the applicant in writing, which announces that the lead agencies have determined that the action will not have a significant effect on the environment if the action is modified in accordance with conditions or alternatives designed to avoid adverse environmental impacts.

(e) DEC. "DEC" means the New York State Department of Environmental Conservation.

(f) Environment. "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth, and existing community or neighborhood character.

(g) Environmental analysis. "Environmental analysis" means the lead agencies' evaluation of the short and long term, primary and secondary environmental effects of an action, with particular attention to the same areas of environmental impacts as would be contained in an EIS. It is the means by which the lead agencies determine whether an action under consideration may or will not have a significant effect on the environment.

(h) Environmental assessment form. "Environmental assessment form" means a written form completed by the lead agencies, designed to assist their evaluation of actions to determine whether an action under consideration may or will not have a significant effect on the environment.

Retitled Environmental Assessment Statement; see Rules §5-04(c) (3).

(i) Environmental impact statement (EIS). "Environmental impact statement (EIS)" means a written document prepared in accordance with §6-08, §6-10, §6-12 and §6-13 of this Executive Order. An EIS may either be in a draft or a final form.

**Cross reference to CEQR
Rules of Procedure**

- (j) **Environmental report.** "Environmental report" means a report to be submitted to the lead agencies by a non-agency applicant when the lead agencies prepare or cause to be prepared a draft EIS for an action involving such an applicant. An environmental report shall contain an analysis of the environmental factors specified in §6-10 of this Executive Order as they relate to the applicant's proposed action and such other information as may be necessary for compliance with this Executive Order, including the preparation of an EIS.
- ~~(k) **Lead agencies.** "Lead agencies" means the Department of Environmental Protection and the Department of City Planning of the City of New York, as designated by the Mayor pursuant to section 617.4 of Part 617 of Volume 6 of the New York Code of Rules and Regulations, for the purpose of implementing the provisions of Article 8 of the Environmental Conservation Law (SEQRA) in the City of New York, by order dated December 23, 1976.~~
- (l) **Ministerial action.** "Ministerial action" means an action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the action, although such law may require, in some degree, a construction of its language or intent.
- (m) **Negative declaration.** "Negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action will not have a significant effect on the environment.
- (n) **Notice of determination.** "Notice of determination" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action may have a significant effect on the environment, thus requiring the preparation of an EIS.
- (o) **NYCRR.** "NYCRR" means the New York Code of Rules and Regulations.
- (p) **Person.** "Person" means an agency, individual, corporation, governmental entity, partnership, association, trustee or other legal entity.
- ~~(q) **Project data statement.** "Project data statement" means a written submission to the lead agencies by an applicant on a form prescribed by the lead agencies, which provides an identification of and information relating to the environmental impact of a proposed action. The project data statement is designed to assist the lead agencies in their evaluation of an action to determine whether an action under consideration may or will not have significant effect on the environment.~~
- (r) **SEQRA.** "SEQRA" means the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law).
- (s) **Typically associated environmental effect.** "Typically associated environmental effect" means changes in one or more natural resources which usually occur because of impacts on other such resources as a result of natural interrelationships or cycles.
- (t) **ULURP.** "ULURP" means the Uniform Land Use Review Procedure (section 197-c of Chapter 8 of the New York City Charter).

***Inapplicable, Rules §5-02(a).
Superseded by Rules §5-02(b)
(1) and §5-02(c) (3) (vi); also see
Rules §5-03 for choice of lead
agency.***

See also Rules §5-02(c) (3) (iii).

See also Rules §5-02(c) (3) (vii).

***Inapplicable, Rules §5-02(a).
Superseded by Environmental
Assessment Statement, see
Rules §5-04(c) (3). See also
Rules §5-05(b) (1) and 5-08(a).***

§6-03. Actions Involving Federal or State Participation

- (a) If an action under consideration by any agency may involve a "major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969," then the following procedures shall apply:
- (1) in the case of an action for which there has been duly prepared both a draft EIS and final EIS, no agency shall have an obligation to prepare an EIS or to make findings pursuant to §6-12 of this Executive Order.
 - (2) in the case of an action for which there has been prepared a Negative Declaration or other written threshold determination that the action will not require a federal impact statement under the National Environmental Policy Act of 1969, the lead agencies shall determine whether or not the action may have a significant effect on the environment pursuant to this Executive Order, and the action shall be fully subject to the same.

~~(b) If an action under consideration by any agency may involve any state action which may have a significant effect on the environment under SEQRA, pursuant to which a state agency is required to comply with the procedures specified in 6 NYCRR 617, then the determination as to whether the state agency or the lead agencies shall be responsible for the environmental review shall be made on the basis of the following criteria:~~

- ~~(1) the agency to first act on the proposed action;~~
- ~~(2) a determination of which agency has the greatest responsibility for supervising or approving the action as a whole;~~
- ~~(3) a determination of which agency has more general governmental powers as compared to single or limited powers or purposes;~~
- ~~(4) a determination of which agency has the greatest capability for providing the most thorough environmental assessment of the action;~~
- ~~(5) a determination of whether the anticipated impacts of the action being considered are primarily of statewide, regional or local concern, e.g., if such impacts are primarily of local concern, the lead agencies shall conduct the environmental review.~~

~~If this determination cannot be made within 30 days of the filing of an application, the Commissioner of DEC shall be requested, in writing, to make such determination.~~

§6-04. Exempt Actions

The following actions shall not be subject to the provisions of this Executive Order:

- (a) projects or activities classified as Type I pursuant to §6-15 of this Executive Order directly undertaken or funded by an agency prior to June 1, 1977 except that if such action is sought to be modified after June 1, 1977 which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;
- (1) such actions include, but are not limited to, those actions defined in §6-02 "Action" (1), (2), (3) and (4) of this Executive Order;

Cross reference to CEQR Rules of Procedure

See also Rules §5-04(e).

Inapplicable, Rules §5-02(a). Entire subdivision (b) superseded by Rules §5-03(j) and §5-04(d).

See also Rules §5-02(d).

**Cross reference to CEQR
Rules of Procedure**

- (2) an action shall be deemed to be undertaken at the point that:
 - (i) the agency is irreversibly bound or committed to the ultimate completion of a specifically designed activity or project; or
 - (ii) in the case of construction activities, a contract for substantial construction has been entered into or if a continuous program of on-site construction or modification has been engaged in; or
 - (iii) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant subsidy, loan or other form of financial assistance; or
 - (iv) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.
- (b) projects or activities classified as Type I pursuant to §6-15 of this Executive Order approved by an agency prior to September 1, 1977 except that if such action is sought to be modified after September 1, 1977, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;
 - (1) such actions include, but are not limited to, those actions defined in §6-02 "Action" (2) and (5) of this Executive Order;
 - (2) an action shall be deemed to be approved at the point that:
 - (i) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant, subsidy, loan or other form of financial assistance; or
 - (ii) the agency gives final approval for the issuance to an applicant of a discretionary lease, permit, license, certificate or other entitlement for use or permission to act; or
 - (iii) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.
- (c) projects or activities not otherwise classified as Type I pursuant to §6-15 of this Executive Order directly undertaken, funded or approved by an agency prior to November 1, 1978 except that if such action is sought to be modified after November 1, 1978, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;
 - (1) such actions include, but are not limited to, those actions defined in §6-02 "Action" of this Executive Order;
 - (2) an action shall be deemed to be undertaken as provided in subsections (a)(2) and (b)(2) of this section, as applicable.
- (d) enforcement or criminal proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings;
- (e) ministerial actions, which shall appear on a list compiled, certified and made available for public inspection by the lead agencies, except as provided in §6-15(a), Type I, of this Executive Order, relating to critical areas and historic resources;
- (f) maintenance or repair involving no substantial changes in existing structures or facilities;
- (g) actions subject to the provisions requiring a certificate of environmental compatibility and public need in Articles 7 and 8 of the Public Service Law;

See Rules §5-02(d).

- (h) actions which are immediately necessary on a limited emergency basis for the protection or preservation of life, health, property or natural resources; and
- (i) actions of the Legislature of the State of New York or of any court.

**Cross reference to CEQR
Rules of Procedure**

**§6-05. Determination of Significant Effect;
Applications**

- ~~(a) Each agency shall ascertain whether an application need be filed pursuant to this section, employing lists of actions, classified as either exempt, Type I or Type II pursuant to §6-04 and §6-15 of this Executive Order, respectively, which lists shall be certified by the lead agencies.~~
- (b) The applicant initiating the proposed action, other than an exempt or Type II action pursuant to §6-04 and §6-15 of this Executive Order, shall file an application with the lead agencies, which application shall include a Project Data Statement and such other documents and additional information as the lead agencies may require to conduct an environmental analysis to determine whether the action may or will not have a significant effect on the environment. Where possible existing City applications shall be modified to incorporate this procedure and a one-stop review process developed;
 - (1) within 20 calendar days of receipt of the application, or of a determination pursuant to §6-03(b) of this Executive Order, if applicable, the lead agencies shall notify the applicant, in writing, whether the application is complete or whether additional information is required;
 - (2) when all required information has been received, the lead agencies shall notify the applicant, in writing, that the application is complete.
- (c) Each application shall include an identification of those agencies, including federal and state agencies, which to the best knowledge of the applicant, have jurisdiction by law over the action or any portion thereof.
- (d) Where appropriate, the application documents may include a concise statement or reasons why, in the judgment of the applicant, the proposed action is one which will not require the preparation of an EIS pursuant to this Executive Order.
- (e) Initiating applicants shall consider the environmental impacts of proposed actions and alternatives at the earliest possible point in their planning processes, and shall develop wherever possible, measures to mitigate or avoid adverse environmental impacts. A statement discussing such considerations, alternatives and mitigating measures shall be included in the application documents.
- (f) Nothing in this section shall be deemed to prohibit an applicant from submitting a preliminary application in the early stages of a project or activity for review and comment by the lead agencies.

Inapplicable, Rules §5-02(a). Superseded by Rules §5-05(a). See also Rules §5-02(b) (2) and §5-02(d).

Introductory paragraph inapplicable, Rules §5-02(a). Paragraph (b) superseded by Rules §5-08.

Determination pursuant to §5-03(b) deemed to refer to lead agency selection pursuant to Rules §5-03. See Rules §5-02(b) (3).

§6-06. Determination of Significant Effect; Criteria

Cross reference to CEQR Rules of Procedure

- (a) An action may have a significant effect on the environment if it can reasonably be expected to lead to one of the following consequences:
- (1) a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding;
 - (2) the removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species;
 - (3) the encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action;
 - (4) the creation of a material conflict with a community's existing plans or goals as officially approved or adopted;
 - (5) the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character;
 - (6) a major change in the use of either the quantity or type of energy;
 - (7) the creation of a hazard to human health or safety;
 - (8) a substantial change in the use or intensity of use of land or other natural resources or in their capacity to support existing uses, except where such a change has been included, referred to, or implicit in a broad "programmatic" EIS prepared pursuant to §6-13 of this Executive Order;
 - (9) the creation of a material demand for other actions which would result in one of the above consequences;
 - (10) changes in two or more elements of the environment, no one of which is substantial, but when taken together result in a material change in the environment.
- (b) For the purpose of determining whether an action will cause one of the foregoing consequences, the action shall be deemed to include other contemporaneous or subsequent actions which are included in any long-range comprehensive integrated plan of which the action under consideration is a part, which are likely to be undertaken as a result thereof, or which are dependent thereon. The significance of a likely consequence (i.e. whether it is material, substantial, large, important, etc.) should be assessed in connection with its setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope and its magnitude (i.e. degree of change or its absolute size). §6-15 of this Executive Order refers to lists of actions which are likely to have a significant effect on the environment and contains lists of actions found not to have a significant effect on the environment.

Reference to §6-15(b), Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

§6-07. Determination of Significant Effect; Notification

- (a) The lead agencies shall determine within 15 calendar days following notification of completion of the application pursuant to §6-05(a) of this Executive Order whether the proposed action may have a significant effect on the environment;
- (1) in making their determination, the lead agencies shall employ the Environmental Assessment Form, apply the criteria contained in §6-06 and consider the lists of actions contained in §6-15 of this Executive Order;
 - (2) the lead agencies may consult with, and shall receive the cooperation of any other agency before making their determination pursuant to this subdivision (a).
- (b) The lead agencies shall provide written notification to the applicant immediately upon determination of whether the action may or will not have a significant effect on the environment. Such determination shall be in one of the following forms:
- (1) Negative Declaration. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §6-04 and §6-15 of this Executive Order, respectively, and that the action will not have a significant effect on the environment, they shall issue a Negative Declaration which shall contain the following information:
 - (i) an action identifying number;
 - (ii) a brief description of the action;
 - (iii) the proposed location of the action;
 - (iv) a statement that the lead agencies have determined that the action will not have a significant effect on the environment;
 - (v) a statement setting forth the reasons supporting the lead agencies' determination.
 - (2) Conditional Negative Declaration. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §6-04 and §6-15 of this Executive Order, respectively, and that the action will not have a significant effect on the environment if the applicant modifies its proposed action in accordance with conditions or alternatives designed to avoid adverse environmental impacts, they shall issue a Conditional Negative Declaration which shall contain the following information (in addition to the information required for a Negative Declaration pursuant to paragraph (1) of this subdivision):
 - (i) a list of the conditions, modifications or alternatives to the proposed action which supports the determination;
 - (ii) the signature of the applicant or its authorized representative, accepting the conditions, modifications or alternatives to the proposed action;
 - (iii) a statement that if such conditions, modifications or alternatives are not fully incorporated into the proposed action, such Conditional Negative Declaration shall become null and void. In such event, a Notice of Determination shall be immediately issued pursuant to paragraph (3) of this subdivision.

Cross reference to CEQR Rules of Procedure

Error. Reference to §6-05(a) should be to §6-05(b).

Reference to §6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

Reference to §6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

Reference to §6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

(3) **Notice of Determination.** If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §6-04 and §6-15 of this Executive Order, respectively, and that the action may have a significant effect on the environment, they shall issue a Notice of Determination which shall contain the following information:

- (i) an action identifying number;
- (ii) a brief description of the action;
- (iii) the proposed location of the action;
- (iv) a brief description of the possible significant effects on the environment of the action;
- (v) a request that the applicant prepare or cause to be prepared, at its option, a draft EIS in accordance with §6-08 and §6-12 of this Executive Order.

(c) The lead agencies shall make available for public inspection the Negative Declaration, Conditional Negative Declaration or the Notice of Determination, as the case may be, and circulate copies of the same to the applicant, the regional director of DEC, the commissioner of DEC, the appropriate Community Planning Board(s), the City Clerk, and all other agencies, including federal and state agencies, which may be involved in the proposed action.

§6-08. Draft Environmental Impact Statements; Responsibility for Preparation

(a) **Non-agency applicants:**

- (1) after receipt of a Notice of Determination pursuant to §6-07(c) (3) of this Executive Order, a non-agency applicant shall notify the lead agencies in writing as to whether it will exercise its option to prepare or cause to be prepared a draft EIS, and as to whom it has designated to prepare the draft EIS, provided that no person so designated shall have an investment or employment interest in the ultimate realization of the proposed action;
- (2) the lead agencies may prepare or cause to be prepared a draft EIS for an action involving a non-agency applicant. In such event, the applicant shall provide, upon request, an environmental report to assist the lead agencies in preparing or causing to be prepared the draft EIS and such other information as may be necessary. All agencies shall fully cooperate with the lead agencies in all matters relating to the preparation of the draft EIS.
- (3) if the non-agency applicant does not exercise its option to prepare or cause to be prepared a draft EIS, and the lead agencies do not prepare or cause to be prepared such draft EIS, then the proposed action and review thereof shall terminate.

(b) **Agency applicants:**

- (1) when an action which may have significant effect on the environment is initiated by an agency, the initiating agency shall be directly responsible for the preparation of a draft EIS. However, preparation of the draft EIS may be coordinated through the lead agencies.

Cross reference to CEQR Rules of Procedure

Reference to §6-15(b), Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See Rules §5-02(b) (2).

See additional circulation provisions, Rules §5-06(b) and §5-06(c). City Clerk function transferred to OEC, Rules §5-02(b) (4).

Rules add formal scoping, Rules §5-07. Interested and involved agencies assist with DEIS on request. See Rules §5-05(b) (2).

See also Rules §5-05(b) (3) for requirements of lead consultation on mitigations.

- (2) all agencies, whether or not they may be involved in the proposed action, shall fully cooperate with the lead agencies and the applicant agency in all matters relating to the coordination of the preparation of the draft EIS.
- (c) Notwithstanding the provisions contained in subdivisions (a) and (b) of this section, when a draft EIS is prepared, the lead agencies shall make their own independent judgment of the scope, contents and adequacy of such draft EIS.

Cross reference to CEQR Rules of Procedure

See Rules §5-05(b)(3) for requirements of lead consultation on mitigations.

§6-09. Environmental Impact Statements; Content

- (a) Environmental impact statements should be clearly written in a brief and concise manner capable of being read and understood by the public. Within the framework presented in subdivision (d) of this section, such statements should deal only with the specific significant environmental impacts which can be reasonably anticipated. They should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.
- (b) All draft and final EIS's shall be preceded by a cover sheet stating:
 - (1) whether it is a draft or a final;
 - (2) the name or other descriptive title of the action;
 - (3) the location of the action;
 - (4) the name and address of the lead agencies and the name and telephone number of a person at the lead agencies to be contacted for further information;
 - (5) identification of individuals or organizations which prepared any portion of the statement; and
 - (6) the date of its completion.
- (c) If a draft or final EIS exceeds ten pages in length, it shall have a table of contents following the cover sheet.
- (d) The body of all draft and final EIS's shall at least contain the following:
 - (1) a description of the proposed action and its environmental setting;
 - (2) a statement of the environmental impacts of the proposed action, including its short-term and long-term effects, and typical associated environmental effects;
 - (3) an identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented;
 - (4) a discussion of the social and economic impacts of the proposed action;
 - (5) a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives;
 - (6) an identification of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

Lead to be guided by technical standards and methodologies developed by OEC, Rules §5-04(c).

- (7) a description of mitigation measures proposed to minimize adverse environmental impacts;
 - (8) a description of any growth-inducing aspects of the proposed action, where applicable and significant;
 - (9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant;
 - (10) a list of underlying studies, reports or other information obtained and considered in preparing the statement; and
 - (11) (for the final EIS only) copies or a summary of the substantive comments received in response to the draft EIS and the applicant's response to such comments.
- (e) An EIS may incorporate by reference all or portions of other documents which contain information relevant to the statement. The referenced documents shall be made available to the public in the same places where copies of the statement are made available. When a statement uses incorporation by reference, the referenced document shall be briefly described and its date of preparation provided.

§6-10. Draft Environmental Impact Statements; Procedures

- (a) Notice of Completion. Upon the satisfactory completion of a draft EIS, the lead agencies shall immediately prepare, file and make available for public inspection a Notice of Completion as provided in paragraphs (1), (2) and (3) of this subdivision. Where a proposed action is simultaneously subject to the Uniform Land Use Review Procedure ("ULURP"), the City Planning Commission shall not certify an application pursuant to ULURP until a Notice of Completion has been filed as provided in paragraph (3) of this subdivision.
- (1) Contents of Notice of Completion. All Notices of Completion shall contain the following:
- (i) an action identifying number;
 - (ii) a brief description of the action;
 - (iii) the location of the action and its potential impacts and effects; and
 - (iv) a statement that comments on the draft EIS are requested and will be received and considered by the lead agencies at their offices. The Notice shall specify the public review and comment period on the draft EIS, which shall be for not less than 30 calendar days from the date of filing and circulation of the notice, or not less than 10 calendar days following the close of a public hearing on the draft EIS, whichever last occurs.
- (2) Circulating Notice of Completion. All Notices of Completion shall be circulated to the following:
- (i) all other agencies, including federal and state agencies, involved in the proposed action;
 - (ii) all persons who have requested it;
 - (iii) the editor of the State Bulletin;
 - (iv) the State clearinghouse;

(v) the appropriate regional clearinghouse designated under the Federal Office of Management and Budget Circular A-95.

**Cross reference to CEQR
Rules of Procedure**

(3) Filing Notice of Completion. All Notices of Completion shall be filed with and made available for public inspection by the following:

- (i) the Commissioner of DEC;
- (ii) the regional director of DEC;
- (iii) the agency applicant, where applicable;
- (iv) the appropriate Community Planning Board(s);
- (v) the City Clerk;
- (vi) the lead agencies.

(b) Filing and availability of draft EIS. All draft EIS's shall be filed with and made available for public inspection by the same persons and agencies with whom Notices of Completion must be filed pursuant to paragraph (a)(3) of this section.

City clerk function transferred to OEC. Rules §5-02(b) (4).

(c) Public hearings on draft EIS.

- (1) Upon completion of a draft EIS, the lead agencies shall conduct a public hearing on the draft EIS.
- (2) The hearing shall commence no less than 15 calendar days or more than 60 calendar days after the filing of a draft EIS pursuant to subdivision (b) of this section, except where a different hearing date is required as appropriate under another law or regulation.
- (3) Notice of the public hearing may be contained in the Notice of Completion or, if not so contained, shall be given in the same manner in which the Notice of Completion is circulated and filed pursuant to subdivision (a) of this section. In either case, the notice of hearing shall also be published at least 10 calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impact and effect of the proposed action.
- (4) Where a proposed action is simultaneously subject to ULURP, a public hearing conducted by the appropriate community or borough board and/or the City Planning Commission pursuant to ULURP shall satisfy the hearing requirement of this section. Where more than one hearing is conducted by the aforementioned bodies, whichever hearing last occurs shall be deemed the hearing for purposes of this Executive Order.

**§6-11. Final Environmental Impact Statements;
Procedures**

- (a) Except as provided in paragraph (1) of this subdivision, the lead agencies shall prepare or cause to be prepared a final EIS within 30 calendar days after the close of a public hearing.
 - (1) If the proposed action has been withdrawn or if, on the basis of the draft EIS and the hearing, the lead agencies have determined that the action will not have a significant effect on the environment, no final EIS shall be prepared. In such cases, the lead agencies shall prepare, file and circulate a Negative Declaration as prescribed in §6-07 of this Executive Order.

Interested and involved agencies assist with FEIS on request, Rules §5-05(b) (2).

- (2) The final EIS shall reflect a revision and updating of the matters contained in the draft EIS in the light of further review by the lead agencies, comments received and the record of the public hearing.
- (b) immediately upon the completion of a final EIS, the lead agencies shall prepare, file, circulate and make available for public inspection a Notice of Completion of a final EIS in the manner specified in §6-11(a) of this Executive Order, provided, however, that the Notice shall not contain the statement described in subparagraph (a)(1)(iv) of such section.
- (c) Immediately upon completion of a final EIS, copies shall be filed and made available for public inspection in the same manner as the draft EIS pursuant to §6-11(b) of this Executive Order.

§6-12. Agency Decision Making

- (a) No final decision to carry out or approve an action which may have a significant effect on the environment shall be made until after the filing and consideration of a final EIS.
 - ~~(1) Except as provided in paragraph (2) of this subdivision where a final decision whether or not to carry out or approve an action is required by law to be made by any agency, such decision shall be made within 30 calendar days of the filing of a final EIS.~~
 - ~~(2) Where a proposed action is simultaneously subject to ULURP, the final decision whether or not to carry out or approve the action shall be made by the Board of Estimate within 60 calendar days of the filing of the final EIS.~~
- (b) When an agency decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written decision:
 - (1) consistent with social, economic and other essential considerations of state and city policy, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects to the maximum extent possible, including the effects disclosed in the relevant environmental impact statement;
 - (2) consistent with social, economic and other essential consideration of state and city policy, all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.
- (c) For public information purposes, a copy of the Decision shall be filed in the same manner as the draft EIS pursuant to §6-11(b) of this Executive Order.

Inapplicable, Rules §5-02(a).

§6-13. Programmatic Environmental Impact Statements

- (a) Whenever possible, agencies shall identify programs or categories of actions, particularly projects or plans which are wide in scope or implemented over a long time frame, which would most appropriately serve as the subject of a single EIS. Broad program statements, master or area wide statements, or statements for comprehensive plans are often appropriate to assess the environmental effects of the following:

**Cross reference to CEQR
Rules of Procedure**

- (1) a number of separate actions in a given geographic area;
 - (2) a chain of contemplated actions;
 - (3) separate actions having generic or common impacts;
 - (4) programs or plans having wide application or restricting the range of future alternative policies or projects.
- (b) No further EIS's need be prepared for actions which are included in a programmatic EIS prepared pursuant to subdivision (a) of this section. However:
- (1) a programmatic EIS shall be amended or supplemented to reflect impacts which are not addressed or adequately analyzed in the EIS as originally prepared; and
 - (2) actions which significantly modify a plan or program which has been the subject of an EIS shall require a supplementary EIS;
 - (3) programmatic EIS's requiring amendment and actions requiring supplementary EIS's pursuant to this subsection shall be processed in full compliance with the requirements of this Executive Order.

~~§6-14. Rules and Regulations~~

~~The lead agencies shall promulgate such rules, regulations, guidelines, forms and additional procedures as may be necessary to implement this Executive Order.~~

Inapplicable, Rules §5-02(a).

§6-15. Lists of Actions

- (a) **TYPE I.** Type I actions enumerated in §617.12 of 6 NYCRR 617 are likely to, but will not necessarily, require the preparation of an EIS because they will in almost every instance significantly affect the environment. However, ministerial actions never require the preparation of an EIS except where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of §617.12. In addition, for the purpose of defining paragraph (2) of said subdivision and section, the following thresholds shall apply:

See Rules §5-02(d).

- (1) relating to public institutions:
 - (i) new correction or detention centers with an inmate capacity of at least 200 inmates;
 - (ii) new sanitation facilities, including:
 - (A) incinerators of at least 250 tons/day capacity;
 - (B) garages with a capacity of more than 50 vehicles;
 - (C) marine transfer stations;
 - (iii) new hospital or health related facilities containing at least 100,000 sq. ft. of floor area;
 - (iv) new schools with seating capacity of at least 1,500 seats;

**Cross reference to CEQR
Rules of Procedure**

- (v) any new community or public facility not otherwise specified herein, containing at least 100,000 sq. ft. of floor area, or the expansion of an existing facility by more than 50 percent of size or capacity, where the total size of the expanded facility exceeds 100,000 sq. ft. of floor area.
- (2) relating to major office centers: any new office structure which has a minimum of 200,000 sq. ft. of floor area and exceeds permitted floor area under existing zoning by more than 20 percent, or the expansion of an existing facility by more than 50 percent of floor area, where the total size of the expanded facility exceeds 240,000 sq. ft. of floor area.

(b) TYPE II.

See Rules §5-02(d).

- (1) Type II actions will never require the preparation of an EIS because they are determined not to have a significant effect on the environment, except where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of §617.12 of 6 NYCRR 617.
- ~~(2) Pursuant to SEQRA, as amended, a list of Type II actions shall be promulgated prior to July 1, 1978, to become effective on September 1, 1978.~~

Inapplicable. Replaced by State Type II list 6 NYCRR Part 617.13. See Rules §5-02(a) and §5-02(b) (2).

§6-16. Related Orders; Repeal

- (a) Executive Order No. 87 of October 18, 1973 shall remain in effect prior to the effective dates of this Executive Order pursuant to Article 8 of the Environmental Conservation Law.
- (b) In the event of the repeal of Article 8 of the Environmental Conservation Law, Executive Order No. 87 of October 18, 1973 shall replace this Executive Order.

§6-17. Evaluation of Effectiveness

The lead agencies shall conduct a public hearing, not later than June 1, 1979, for the purpose of evaluating the effectiveness of this Executive Order in implementing the State Environmental Quality Review Act, and its impact on the City's physical and economic development process.

§6-18. Effective Date

This Executive Order shall take effect immediately.

See new transition Rules §5-08 and §5-11. New Rules effective Oct. 1, 1991.

ABRAHAM D. BEAME
Mayor, City of New York