PROCEDURES AND DOCUMENTATION

CHAPTER 1

City Environmental Quality Review, or "CEQR," is New York City's process for implementing the State Environmental Quality Review Act (SEQR), by which agencies of the City of New York review proposed discretionary actions to identify and disclose the potential effects those actions may have on the environment.

This chapter of the CEQR Technical Manual explains the CEQR process. Specifically, it addresses the types of projects subject to CEQR, the selection of the agency primarily responsible for the environmental review of the project, the participation of other agencies and the public in the review process, and the determinations and findings that are prerequisites for agency action. It also introduces the documentation used in CEQR, including the Environmental Assessment Statement (EAS) and the Environmental Impact Statement (EIS), and discusses CEQR's relationship with other common approval procedures, such as the Uniform Land Use Review Procedure (ULURP).

This chapter is not a definitive discussion of the legal issues that may be encountered in the CEQR process. The review of a specific project by an agency may, in many instances, require additional research and interpretation. In these cases, it may be useful to consult with legal counsel.

A. OVERVIEW OF LEGISLATIVE HISTORY

100. NEPA

The preparation of an interdisciplinary, comprehensive environmental impact assessment was first required when the Congress of the United States of America included it in Section 102(2)(C) of the National Environmental Policy Act of 1969, known as "NEPA." NEPA and its regulations require all federal agencies to evaluate the environmental consequences of proposed projects and to consider alternatives.

200. SEQR

In 1975, the New York State Legislature enacted SEQR, which requires all state and local government agencies to assess the environmental effects of discretionary actions before undertaking, funding, or approving the project, unless such actions fall within certain statutory or regulatory exemptions from the requirements for review.

The provisions of SEQR are found in Article 8 of the New York State Environmental Conservation Law (ECL §8-0101, *et seq.*). The Environmental Justice Siting Law (EJSL), an amendment to the New York State Environmental Conservation Law, was passed on April 27, 2022 (Chapter 840 of the Unconsolidated Laws of New York of 2022, as amended by Chapter 49 of the Unconsolidated Laws of New York of 2023), signed by the Governor on March 3, 2023, and went into effect on December 30, 2024. Pursuant to Section 8-0113 of the ECL, the consideration of whether the action may cause or increase a disproportionate pollution burden on a disadvantaged community (DAC) when making a determination of significance and when preparing an environmental impact statement is required. The New York State Department of Environmental Conservation (NYSDEC) has promulgated regulations that guide the process of review (SEQR). These regulations were

last amended on June 27, 2018, and have been in effect since January 1, 2019[1]. They are published as Part 617 of Title 6 of New York Codes, Rules and Regulations (6 NYCRR 617) and are included in this chapter. Specific provisions of the SEQR regulations are hyperlinked throughout this Manual. To implement the EJSL, NYSDEC published draft regulations on January 29, 2025, which provide guidance to evaluate potential impacts on disadvantaged communities (proposed amendments to 6 NYCRR 617).

300. CEQR

SEQR permits a local government to promulgate its own procedures provided they are no less protective of the environment, public participation, and judicial review than provided for by the state rules. See 6 NYCRR 617.14(b). The City of New York has exercised this prerogative by promulgating its own procedures, known as CEQR, in order to take into account the special circumstances of New York City's urban environment.

In 1973, before SEQR was enacted, New York City Mayoral Executive Order No. 87, entitled "Environmental Review of Major Projects," adapted NEPA to meet the needs of the City. After SEQR was enacted, New York City revised its procedures in Mayoral Executive Order No. 91 of 1977, which established CEQR.

In 1989, amendments to the New York City Charter, adopted by referendum, established the Office of Environmental Coordination (OEC) and authorized the City Planning Commission (CPC) to establish procedures for the conduct of environmental review by City agencies where such review is required by law. The Charter directs that such procedures include: (1) the selection of the City agency or agencies that are to be responsible for determining whether an Environmental Impact Statement is required (*i.e.*, the "lead" agency); (2) the participation by the City in reviews involving agencies other than City agencies; and (3) coordination of environmental review procedures with the Uniform Land Use Review Procedure. The OEC was established by Executive Order within the Office of the Mayor as the Mayor's Office of Environmental Coordination (MOEC).

On October 1, 1991, the CPC adopted rules that were superimposed on Executive Order 91, fundamentally reforming the City's process. The additional rules, titled Rules of Procedure, are published in the Rules of the City of New York (RCNY) in 62 RCNY Chapter 5; the provisions of Executive Order No. 91 are published as an Appendix to 62 RCNY Chapter 5 and in 43 RCNY Chapter 6. Both the additional rules and the Executive Order are included in the Appendix to this Manual and are hyperlinked throughout this chapter. Executive Order No. 91 and the Rules of Procedure are hereinafter collectively referred to as the "CEQR rules."

The rules contain criteria for selecting the agency responsible for the conduct of environmental review of a given action, set forth a public scoping procedure to be followed by the City lead agency responsible for a project's environmental review, and define in greater detail the responsibilities of MOEC. One of MOEC's responsibilities is to assist City lead agencies in fulfilling their environmental review responsibilities.

In addition, CEQR's requirements are further defined through decisions of the state courts. Judicial review of CEQR determinations is provided for in Article 78 of the New York State Civil Practice Law and Rules (CPLR). If an agency fails to comply with CEQR, a court may invalidate that decision pursuant to Article 78 of the CPLR. Decisions on Article 78 petitions have established a substantial body of judicial guidance on the scope and requirements of environmental review. For this reason, it is often helpful to consult with legal counsel when making decisions related to environmental reviews.

[1] The New York State Department of Environmental Conservation has proposed new guidance to incorporate a DAC analysis which has not yet been finalized.

B. CEQR PROCESS

In implementing SEQR, the CEQR process requires City agencies to assess, disclose, and mitigate to the greatest extent practicable the significant environmental consequences of their decisions to fund, directly undertake, or approve a project. The environmental assessment analyzes the project that is facilitated by the action or actions. An action is a discretionary agency decision (approval, funding, or undertaking) needed in order to complete a project.

Review under CEQR should commence as early as possible in the formulation or consideration of a proposal for a project. An agency may, however, conduct environmental, engineering, economic, feasibility and other studies, and preliminary planning and budgetary processes necessary to the formulation of a project, without first beginning the CEQR process. Such activities are considered Type II actions. See 6 NYCRR 617.5(c). Typically, review begins at the stage of early design of a project or, in the case of City projects, at the planning stage or upon receipt of an application for a permit or other discretionary approval. In the case of City projects, an environmental assessment is not required until the specifics of the project are formulated and proposed. However, an agency may commence its review earlier to help in its examination of project options. Environmental review must be completed before any activity commits the City to engage in, fund, or approve a project.

Based on an initial evaluation, an agency determines whether or not a project is subject to environmental review. If the project is subject to environmental review, an initial assessment considers a series of technical areas, such as air quality, traffic, and neighborhood character, to determine whether the project may have a significant adverse impact on the environment. There may be specific projects that require additional analyses of other technical areas. If the project under consideration has the potential for a significant adverse environmental impacts, then the lead agency conducts a detailed assessment to determine whether significant adverse environmental impacts would occur as a result of the project. If the agency identifies significant adverse impacts, the lead agency must consider alternatives which, consistent with social, economic, and other essential considerations, would avoid or minimize such impacts to the maximum extent practicable. A detailed outline of the CEQR process is shown in this chart.

CEQR includes certain requirements with regard to documentation of the study of effects on the environment. Under certain circumstances, CEQR also gives the public a role in the assessment of potential environmental impacts. The level of detail appropriate for such study, the type of documentation, and the extent of public involvement vary depending on the project and its context. The following describes the procedural steps through which an environmental review typically progresses.

100. APPLICABILITY OF CEQR

As early as possible in an agency's consideration of a discretionary action it proposes to approve, fund, or undertake, it should determine whether the project is subject to CEQR. Proposed projects that are subject to CEQR include those:

1. Directly undertaken by a City agency;
2. For which the agency provides financial assistance; or
3. For which the agency issues permits or approvals.

Such projects must involve the exercise of discretion by the agency and may include approvals of construction projects (such as building a bridge) or adoption of regulations (such as a decision to rezone an area, *etc.*). A project may be initiated by the City or proposed by private applicants for approval by a City agency.

Within this group of discretionary actions, some categories of actions are subject to environmental review, while others are not. As defined by SEQR, and as described below, actions are broadly divided into three categories: Type II actions, Type I actions, and Unlisted actions.

110. ACTIONS NOT SUBJECT TO ENVIRONMENTAL REVIEW

111. Type II Actions

NYSDEC includes in its SEQR regulations a list of actions, identified as Type II actions, that it has determined would not have a significant impact on the environment or that are otherwise precluded from environmental review. See 6 NYCRR 617.5. Similarly, the CEQR Rules of Procedure include a supplemental list of actions that are classified as Type II under CEQR and, therefore, are not subject to environmental review. See the following links for each agency's rules:

- 43 RCNY 6-16 (b)-(e) for the Mayor's Office rules,
- 62 RCNY 5-05(c)-(f) for the Department of City Planning rules,
- 2 RCNY Appendix E (b)-(f) for the Board of Standards and Appeals rules, and
- 28 RCNY 61-01(b)-(e) for the Department of Housing Preservation and Development rules.

If a project corresponds to one or more of the identified Type II actions, the preparation of an Environmental Assessment Statement (EAS) or an Environmental Impact Statement (EIS) is not required. In some such cases, an agency may conclude that a Type II determination for a project may warrant further explanation and, therefore, it is appropriate for the agency to document its consideration and determination of the Type II action in a memorandum for its files ("Type II Memorandum"). Such a Type II Memorandum would be appropriate where a project-specific determination has been made as to whether the project falls within a Type II category. In contrast, the use of such a memorandum would be unnecessary for actions that have been routinely classified by the lead agency as falling within a Type II category and require no individualized determination. If an agency documents its Type II determination in a Type II Memorandum, it should submit a copy of the memorandum to MOEC.

111.1. Common Type II Actions

Many governmental decisions and undertakings may be considered "routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment." See 6 NYCRR 617.5 (c)(26). Determination of whether a project fits within this Type II category often requires consideration of the agency's core mission, as stated in the City Charter, and the frequency or regularity with which the agency engages in similar projects. An example of routine or continuing agency administration and management includes adjustments the New York City Department of Sanitation (DSNY) makes to its collection routes. A Type II Memorandum may be appropriate to explain other agency actions that may not be readily apparent under this provision.

Another widely applicable Type II category concerns official acts of a ministerial nature involving no exercise of discretion. This category includes the New York City Department of Buildings' (DOB) issuance of building permits and the New York City Landmarks Preservation Commission's (LPC) issuance of certificates of appropriateness, where issuance is predicated solely on the applicant's compliance or non-compliance with the relevant local building or preservation code(s), 6 NYCRR 617.5(c)(25). Although the determination of whether the contemplated project complies with the applicable code may require considerable expertise, the decision to approve the project is nonetheless ministerial.

Two Type II categories, maintenance and repair involving no substantial changes in an existing structure or facility, 6 NYCRR 617.5(c)(1), and replacement, rehabilitation or reconstruction of a structure or facility in kind on the same site, 6 NYCRR 617.5(c)(2), may also apply to many governmental activities. Emergency projects that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property, or natural resources are Type II actions as well; however, all activities conducted after the emergency has subsided are subject to review under CEQR. See 6 NYCRR 617.5(c)(42). The characteristics of these and other Type II categories require careful consideration, and it is advisable for the agency to consult MOEC in making this determination.

111.2 Type II Actions that Facilitate Housing

Housing projects up to a certain size that meet defined criteria may also be Type II. The agency must determine that the project meets the Type II criteria and document its consideration and determination in a Type II memorandum.

The agency must document that the project meets all the prerequisites listed. See the following links for each agency's rules:

- 43 RCNY 6-16 (b)-(e) for the Mayor's Office rules,
- 62 RCNY 5-05(c)-(f) for the Department of City Planning rules,
- 2 RCNY Appendix E (b)-(f) for the Board of Standards and Appeals rules, and
- 28 RCNY 61-01(b)-(e) for the Department of Housing Preservation and Development rules. https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-89485

120. ACTIONS SUBJECT TO ENVIRONMENTAL REVIEW

121. Type I Actions

Type I actions are described in the SEQR regulations as "those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions." See 6 NYCRR 617.4(a). A Type I action "carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS." See 6 NYCRR 617.4(a)(1). Before undertaking a Type I action, an EAS using the Full EAS Form is prepared. Although it is possible to conclude on the basis of an EAS that a Type I action would have no significant impact on the environment, such a determination is less likely than it is for an Unlisted action. A list of Type I actions appears in the SEQR regulations. See 6 NYCRR 617.4. The City has a supplementary list, which appears at 43 RCNY 6-15 (see Appendix). Both lists should be consulted when determining action type.

122. Unlisted Actions

Unlisted actions are all actions that are not listed as either Type I or Type II. For any Unlisted action, an EAS must be prepared, and project proponents may elect to complete the Short EAS Form.

130. SEGMENTATION

One of the early steps in the CEQR process is to define the scope of the project that is the subject of the environmental review (see also Chapter 2, "Establishing the Analysis Framework"). Segmentation, "the division of the environmental review of an action such that various activities or stages are addressed . . . as though they were independent, unrelated activities, needing individual determinations of significance," 6 NYCRR 617.2(ah), generally is not permissible. An example that raises segmentation issues is the construction of a highway in phases or sections when, until joined together with other sections of the highway, the individual sections would serve no purpose. If these separate actions were reviewed individually, the combined effects of the total project might be inadequately addressed.

In certain limited circumstances, it may be permissible to segment a review; however, an agency must be careful to avoid improper segmentation. To permissibly segment a project, each of the segments should also have independent utility and not commit the agency to continuing with the remaining segments. See 6 NYCRR 617.3(g)(1). If the lead agency believes segmented review may be permissible, it must document in its environmental review: (i) the reasons segmentation is warranted under the circumstances; (ii) the reasons for proceeding in a segmented manner; and (iii) a determination that the segmented review is no less protective of the environment than would be an unsegmented review. The lead agency must also identify and fully discuss the other segments in the individual environmental reviews for each segment.

The determination whether to segment a project may require expert guidance, particularly for the purpose of understanding judicial decisions that address this issue. One reference for guidance on this issue is the SEQR Handbook published by NYSDEC, which offers the following eight criteria that are considered in determining whether individual agency actions should be reviewed together:

1. Purpose: Is there a common purpose or goal for each segment?
2. Time: Is there a common reason for each segment being completed at or about the same time?
3. Location: Is there a common geographic location involved?
4. Impacts: Do any of the activities being considered for segmentation share a common impact that may, if the activities are reviewed as one project, result in a potentially significant adverse impact, even if the impacts of single activities are not necessarily significant by themselves?
5. Ownership: Are the different segments under the same or common ownership or control?
6. Common Plan: Is a given segment a component of an identifiable overall plan? Will the initial phase direct the development of subsequent phases or will it preclude or limit the consideration of alternatives in subsequent phases?
7. Utility: Can any of the interrelated phases of various projects be considered functionally dependent on each other?
8. Inducement: Does the approval of one phase or segment commit the agency to approve other phases?

If the answer to one or more of these questions is yes, an agency should be concerned that segmentation is taking place.

As an example, the construction of a new highway interchange and additional widening of the highway may be interrelated to such an extent that the two actions must be examined together. In this example, it would be relevant to consider whether: (i) the highway is being widened for the sole purpose of accommodating the additional traffic entering the road via the new highway interchange; (ii) both actions are being completed at about the same time and in general proximity to each other; (iii) the additional traffic entering the highway via the new interchange greatly increases the congestion on that part of the highway just past the portion that has been widened; (iv) the same entity owns or operates the road areas where both actions are being conducted; (v) there is an overall plan to improve or increase the capacity of the highway system of which these two projects are each a component; and (vi) each of the actions would serve its purpose, even if the other one is never executed.

200. CEQR REQUIREMENTS

If an agency determines that its project is subject to CEQR, it then seeks to identify whether the project may involve the approval, participation, or interest of one or more other agencies. This usually occurs as early as possible in the formulation of the review process.

210. TYPES OF AGENCIES

LEAD AGENCY. The agency "principally responsible" for carrying out, funding, or approving an action and the conduct of the environmental review of the project.

INVOLVED AGENCIES. Agencies, other than the lead agency, that have jurisdiction to fund, approve, or undertake an action.

INTERESTED AGENCIES. Agencies without jurisdiction to fund, approve, or undertake an action, but that wish to, or are requested to, participate in the review process because of their specific expertise or concern about the proposed project.

211. Establishing a Lead Agency

The CEQR rules provide that where only one City agency is involved in a proposed project, that agency shall be the lead agency for environmental review under CEQR. See 62 RCNY 5-03(a). Where more than one agency is involved, a single lead agency is usually selected. Exceptions to this rule include legislative action, where the City Council and the Office of the Mayor act as co-lead agencies, and situations where a City and state agency may act as co-lead agencies. CEQR rules address lead agency selection in detail for a number of City processes, including the enactment of local laws, actions involving franchises, applications for special permits from the Board of Standards and Appeals, and specific actions that require CPC approval under the New York City Charter, among others.

Where the CEQR rules do not identify a specific agency as the lead for the project, they provide criteria by which the involved agencies may choose the most appropriate agency to act as lead. The CEQR rules also establish a procedure by which the lead agency may be changed by transferring lead agency status to an involved agency.

The CEQR rules should be consulted to determine which agency is the appropriate lead in a given instance.

211.1. State and Federal Coordination

When both state and City agencies are involved agencies, SEQR regulations allow for selection of an involved City agency as lead when the primary location of the project is local and/or the impacts are primarily of local significance. SEQR regulations also impose a 30-day time limit on lead agency selection when a state agency is involved. If disputes occur among City and state agencies, one of the involved agencies or the applicant (if there is one) may request that the Commissioner of NYSDEC select an agency. After allowing a brief period for involved agency comment on the request, the Commissioner is required to select a lead agency within 20 calendar days of the date the Commissioner received the request.

If federal agencies are involved, MOEC is often contacted so that the federal review under NEPA may be coordinated. For further discussion of the interplay between NEPA, SEQR, and CEQR, see Part C, Section 310 of this chapter.

211.2. CEQR Numbers

In order to identify and track the projects that undergo environmental review, a CEQR number is assigned to the project. This allows the various documents prepared in the course of the review to be maintained in an organized fashion. The protocol for assigning the CEQR number is:

- The first two digits identify the fiscal year in which the project was initiated.
- The next three alphabetic characters identify the lead agency.
- The next three numeric characters identify the sequence of the project for that lead agency in that fiscal year.
- The last alphabetic character identifies the geographic location of the project.

For example, a CEQR number of 25DME020X means that the project was initiated in fiscal year 2025; the lead agency is the Office of the Deputy Mayor for Housing, Economic Development, and Workforce; it is the twentieth project of the Office of the Deputy Mayor for Housing, Economic Development, and Workforce undergoing environmental review in fiscal year 2025; and the project is located in the Bronx (Bronx County).

Geographic and agency codes may be found here.

212. Lead Agency Responsibilities

Under the CEQR rules, only the lead agency is responsible for determining whether a project, considered in its entirety, requires environmental review. See 62 RCNY 5-05(a)(1). The lead agency is responsible for sending notice of its lead agency status and preparing and distributing the EAS to all other involved agencies.

If the lead agency determines, on the basis of the EAS, that the proposed project may have a significant adverse effect on the environment requiring the preparation of an EIS, the lead agency is also responsible for circulating and making publicly available the Positive Declaration, scoping documents, notices of public meetings or hearings, Draft Environmental Impact Statement (DEIS), Final Environmental Impact Statement (FEIS), and Notices of Completion (all of which are discussed below) to the applicant, the regional director of NYSDEC, the commissioner of NYSDEC, the appropriate community board(s), MOEC, and all other involved agencies. In addition, it is important that the lead agency make every effort to keep the other involved and interested agencies informed of the progress of the CEQR process for projects within their jurisdiction.

213. Coordinated Review

When an agency proposes to directly undertake, fund, or approve a Type I action, it must conduct a coordinated review if more than one agency is involved. See 6 NYCRR 617.6(b)(3). If, however, an Unlisted action is under review, the lead agency may choose to commence its review under either a "coordinated review" process or an "uncoordinated review" process. Uncoordinated review may save time because there is no delay in establishing a lead agency because each involved agency makes its own separate determination of significance and decision about the project. However, without coordination, the decisions of the various involved agencies may conflict, which may cause confusion and delay in approving a project. For example, at any time prior to an agency's final decision, that agency's negative declaration may be superseded by a positive declaration by any other involved agency. For either type of review, it is recommended that an agency strive to identify all involved agencies as early as possible. The SEQR regulations further detail the process for both coordinated and uncoordinated reviews.

220. DETERMINATION OF SIGNIFICANCE

221. Preparation of the Environmental Assessment Statement

The EAS is intended to assist lead agencies and private applicants in identifying the potential impacts a project may have on the environment and assessing whether such impacts may be significant and adverse. The EAS should contain all the information the agency deems necessary to support its conclusions regarding the potential for significant adverse impacts. In addition, it is often the case that a more thorough EAS leads to a targeted EIS that focuses only on those issues where the potential for a significant adverse impact exists. This, in the long-term, may save time in completing an appropriate environmental review.

The lead agency begins its assessment of whether the proposed project may have a significant impact on the environment by preparing an EAS, using either the Short or Full EAS Form, as appropriate. Instructions for completing the EAS appear in the form itself. If an action is Unlisted, an applicant should complete a Short EAS Form, unless the lead agency has directed that the applicant use the Full EAS Form. The lead agency, upon reviewing the EAS and in making its determination of significance, may require an applicant to provide further information to support the Short EAS Form. The Full EAS Form must be used for all Type I actions.

222. Criteria for Significance

SEQR regulations provide an illustrative list of criteria that are considered indicators of significant adverse impacts on the environment. This list, located at 6 NYCRR 617.7(c) and shown below, should be consulted when determining whether a proposed project may have a significant impact on the environment.

The City's rules also contain criteria for determining significance, which generally reflect the State's criteria but do not match the State's criteria word-for-word. SEQR regulations state that a project may have a significant effect on the environment if it may reasonably be expected to have any of the following consequences:

- 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;
- 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;
- The impairment of the environmental characteristics of a Critical Environmental Area designated pursuant to 6 NYCRR 617.14(g). For a discussion of Critical Environmental Areas, see Chapter 11, "Natural Resources."
- The creation of a material conflict with a community's current plans or goals as officially approved or adopted;
- The impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources, or of existing community or neighborhood character;
- A major change in the use of either the quantity or type of energy;
- The creation of a hazard to human health;
- 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;
- 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 project;
- The creation of a material demand for other projects which would result in one of the above consequences;
- Changes in two or more elements of the environment, no one of which has a significant effect on the environment, but when considered together result in a substantial adverse impact on the environment; or
- 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 above-stated criteria.

The guidance and methodologies in the technical analysis chapters of this Manual expand upon these criteria for purposes of determining whether a proposed project may have a significant impact on the environment in the context of New York City. The guidance in Section 400 of each technical analysis chapter should be used in conjunction with the SEQR criteria to help determine whether a proposed project may have a significant impact on each particular area of analysis.

In addition to using the above criteria to determine the potential significance of a project's impacts, the lead agency must consider the reasonably related short-term, long-term, direct, indirect, and cumulative impacts, including simultaneous or subsequent actions that 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.

For any determination, the significance of a likely effect of a proposed project (*i.e.*, whether it is material, substantial, large or important) should be assessed in connection with the following:

- The setting in which the project occurs;
- The probability that an adverse impact would occur;
- The duration of the impact;
- Its irreversibility;
- The geographic scope of the adverse impact;
- Its magnitude; and
- The number of people affected.

223. Making the Determination of Significance

An EAS is considered complete when, in the judgment of the lead agency, it contains sufficient information to make a determination of significance based on the contents of the EAS and supplemental analyses, if necessary. Once the EAS is complete, the lead agency coordinates with other involved agencies, if any, in making its determination of significance. However, if an agency is conducting an uncoordinated review for an Unlisted action, it is not required to coordinate with other involved agencies. See 6 NYCRR 617.6(b)(4)(i). But in this case, it should be noted that a positive declaration by an involved agency supersedes a negative declaration issued by the agency conducting an uncoordinated review.

Based on the EAS, the lead agency must make one of three possible determinations of significance:

NEGATIVE DECLARATION

If, for each technical area, the lead agency determines that either the screening or detailed analyses show that no significant adverse impact on the environment would occur, it issues a Negative Declaration. A Negative Declaration describes the project and the reasons for the determination that the project would not have a significant adverse effect on the environment. For many projects, the EAS clearly shows that no significant impact would occur in any technical area assessed because a project's characteristics fall below the initial thresholds for determining whether more detailed technical analyses are required, as presented throughout the technical analyses chapters of this Manual and in the Short and Full EAS Forms. For other projects, a determination of no significant adverse impact is made following a more detailed analysis for one or more technical areas. To support the finding that a potential for significant adverse impact does not exist, the application of screening criteria or technical analyses must have been undertaken to a level of detail adequate to support that conclusion.

If specific project components that are included in an action or specific modifications that are made to an action negate the potential for adverse environmental impacts, they should be identified in a Mitigation Tracking Form (described in detail in Section 261 below) submitted prior to or in conjunction with final CEQR determination.

Negative Declarations for Type I actions are required to be published, see Section 270, below. However, there is no such requirement for Negative Declarations for Unlisted actions (although the documents are publicly available upon request). The issuance of a Negative Declaration (for a Type I or Unlisted action) constitutes the completion of the CEQR process with respect to the proposed project.

CONDITIONAL NEGATIVE DECLARATION (CND)

If the lead agency determines that an Unlisted action proposed by a private applicant may have a significant impact on the environment, but that any such effect can be eliminated or avoided by incorporating mitigation or specific changes in the project, then the lead agency may issue a CND. Pursuant to SEQR regulations, CNDs are permitted only for Unlisted actions, and only where the applicant is private and not a governmental party. The lead agency must require an EIS instead of issuing a CND if it is requested to do so by the private applicant. When a CND is to be issued, the analyses must be appropriate to support the recommendation of mitigation and the assurance that such mitigation would be effective and would be implemented. Conditions that require implementation by an agency

other than the lead must be approved by the implementing agency in advance of issuing the CND. As a matter of practice, a letter of understanding between the lead agency and the implementing agency usually is obtained.

For example, a CND would be appropriate where a significant traffic impact is identified and the impact could be mitigated by such measures as retiming traffic lights or lane restriping, provided that this mitigation is fully documented and defined in both the EAS and the CND, and that the agency responsible for implementing the mitigation, in this case the New York City Department of Transportation (DOT), has agreed to evaluate the need for these mitigation measures at the time the project is operational.

It is also possible to issue a CND in instances where more information is needed to fully define the significant impact and precise mitigation, but where the potential impact is well understood, fully disclosed, and easily mitigated. Examples include projects requiring the excavation of soils near potential sites containing hazardous materials or archaeological resources where the full extent of the impact cannot be known without some site excavation, but the range of possibilities (from no impact to contaminated soils or the presence of an archaeological resource) are well known and the potential significant impact and appropriate mitigation measures may be presented to the decision-maker. Information on these specific examples is provided in Chapters 9, "Historic and Cultural Resources," and 12 "Hazardous Materials," respectively.

PUBLIC COMMENT ON A CND. SEQR regulations provide for a 30-day public comment period (after publishing notice of the CND in NYSDEC's Environmental Notice Bulletin) before the CND becomes final. Pursuant to SEQR regulations, a lead agency must rescind a CND and issue a Positive Declaration requiring the preparation of a DEIS if it receives substantive comments that identify potentially significant adverse environmental impacts that (i) were not previously identified and assessed; (ii) were inadequately assessed in the review; or (iii) could not be substantially mitigated by proposed mitigation measures.

POSITIVE DECLARATION

If the lead agency determines that the project may have one or more significant adverse impacts, and that a CND is inappropriate, the agency issues a Positive Declaration. This describes the project, provides the reasoning for the determination that the proposed project may have a significant adverse effect on the environment, and states that a DEIS will be prepared before the agency approves, undertakes, or funds the project. Pursuant to SEQR regulations, positive declarations (for either a Type I or an Unlisted action) become final upon issuance. The Positive Declaration may be contained in a separate document. If a separate document is prepared, the EAS should be expressly incorporated by reference. The publication requirements for issuing positive declarations are located in Section 270 below.

230. SCOPING

If a lead agency issues a Positive Declaration, CEQR rules require that the lead agency then conduct a public scoping process. See 62 RCNY 5-07. The purpose of the scoping process is to focus the EIS on potentially significant adverse impacts by ensuring that relevant issues are identified early and studied properly and to eliminate consideration of those impacts that are irrelevant or non-significant. In addition, it allows the public, agencies, and other interested parties the opportunity to help shape the EIS by raising relevant issues regarding the focus and appropriate methods of study. The scoping process begins by issuing a draft scope of work within 15 days after the issuance of a Positive Declaration. A public meeting to present and receive input on the draft scope of work must be conducted following appropriate notification as described in Subsection 232.1, below.

Based on information in the completed EAS, the scope of work is a document that identifies in detail all topics to be addressed in the EIS, including an outline for how potentially impacted analysis areas will be examined. The

scope of work describes the proposed project with sufficient detail about the proposal and its surroundings to allow the public and interested and involved agencies to understand the environmental issues. For each area of analysis, the scope of work identifies study areas, types of data to be gathered, and how these data will be analyzed (including the preferred method of analysis). The scope of work also identifies reasonable alternatives to be evaluated and, if appropriate, an initial identification of proposed mitigation measures. The scoping process is described in detail below.

231. Determining the Scope of Work

The list of technical areas for which this Manual provides methodologies serves as a checklist for the initial identification of the issues to be addressed in the EIS. It is possible that a project would not require analysis in all of the technical areas. Conversely, the unique character of a given proposed project may require analysis in an area not included in this Manual. The technical areas and issues typically considered in the scoping process include, but are not necessarily limited to, the following:

- Land Use, Zoning, and Public Policy;
- Socioeconomic Conditions;
- Community Facilities and Services;
- Open Space;
- Shadows;
- Historic and Cultural Resources;
- Urban Design and Visual Resources;
- Natural Resources;
- Hazardous Materials;
- Water and Sewer Infrastructure;
- Solid Waste and Sanitation Services;
- Energy;
- Transportation;
- Air Quality;
- Greenhouse Gas Emissions and Climate Change;
- Noise;
- Public Health;
- Neighborhood Character; and
- Construction; and
- Effects on Disadvantaged Communities

For each of these topics, the scope indicates whether study is appropriate and, if it is, establishes the study areas and analysis methodologies to be used.

231.1. Targeted Scope of Work

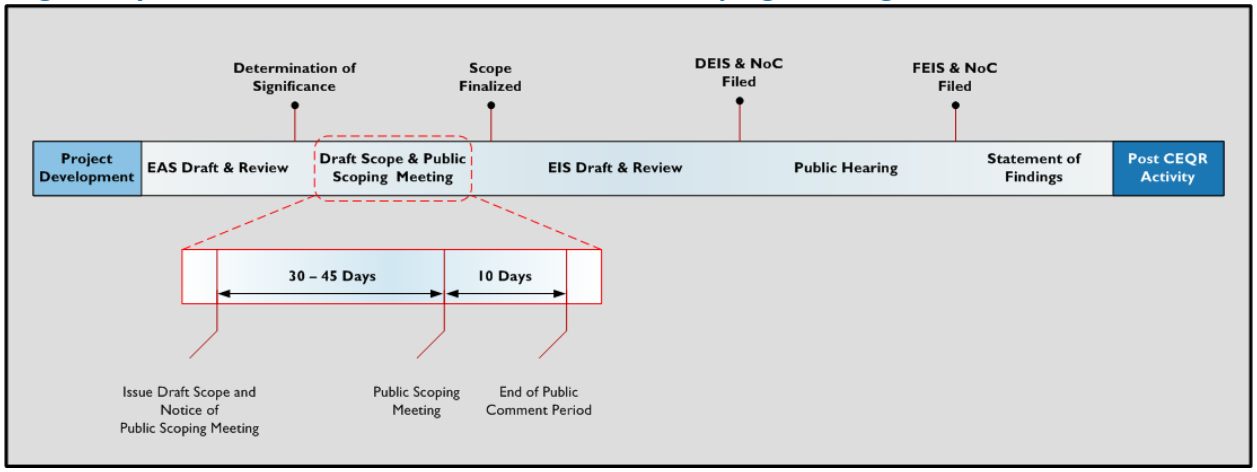
In the course of preparing the draft scope of work and considering public comment thereon, the lead agency may determine that there is a potential for a significant adverse impact in particular technical areas, but not in others. For those areas where the potential for significant adverse impact exists, the level of detail required for the technical analysis in the EIS may vary. Therefore, as deemed appropriate based on the assessment provided in the EAS, the lead agency is encouraged to target the scope of work by excluding those issues that were found in the EAS to be unlikely to have potential significant adverse impacts. The rationale for excluding those issues or technical analysis areas should be documented in the scope of work.

By appropriately reducing the scope of the EIS and providing a focused assessment of the issues of concern, the lead agency avoids conducting unnecessary analyses and provides decision-makers and the public with a more useful environmental review. For example, if an EAS reveals that a project has the potential to cause only a significant adverse shadow impact, then only shadow impacts need to be assessed in an EIS. Conversely, if there is potential for significant adverse impacts in all analysis areas except infrastructure and natural resources, then neither infrastructure nor natural resources should be further assessed in an EIS that addresses the remaining technical areas of concern.

232. Public Review of the Draft Scope of Work

Pursuant to the CEQR rules, after the draft scope of work is issued, a public scoping meeting must be held to provide opportunity for input on the draft scope of work. All involved and interested City agencies, MOEC, the appropriate borough board, community boards that would be affected by the project, any private applicant, any interested civic or neighborhood groups, and members of the general public may attend the scoping meeting and provide comments. Comments received during the public scoping meeting and other comments received during the comment period are considered by the lead agency in the preparation of a final scope of work. The comment period may be extended beyond the required ten (10) days in specific circumstances in order to allow more time for comments. The regulatory timeframes for the public scoping meeting and public comment period on the draft scope of work are explained in Figure 1-1.

Figure 1-1
Regulatory Minimum Timeframes for CEQR Public Scoping Meeting



232.1. Notice of the Public Scoping Meeting

Not less than thirty (30) nor more than forty-five (45) days prior to holding the public scoping meeting described above, the lead agency must publish a notice of the meeting in the *City Record* and notify other involved and interested agencies of the meeting.

This notice must:

- Indicate that a DEIS will be prepared;
- Identify the date, time, and place of the scoping meeting;
- State that members of the public may inspect copies of the EAS and draft scope of work from the lead agency or MOEC (or online);
- Request public comment and indicate that written comments will be accepted by the lead agency through the tenth calendar day following the meeting; and
- Indicate that guidelines for public participation will be available at the scoping meeting.

232.2. Public Comments on the Scope of Work

Because the scoping process allows the public, agencies, and other interested parties the opportunity to help shape the EIS by raising relevant issues regarding the focus and methods of appropriate study, the lead agency should, at a minimum, request public comment on the following general issues:

- Issues and analysis topics to be included in the scope of work;
- Methodologies for analysis (such as the size of a study area, the type of data to be gathered, or the type of analysis to be conducted);
- Alternatives to the proposed project; and
- Special conditions or concerns that the lead agency should consider.

The public comment period on the draft scope of work continues, at a minimum, through the tenth calendar day following the scoping meeting.

233. Final Scope of Work

The lead agency must consider the public comments before issuing a final scope of work that incorporates, as appropriate, the comments received and responses to them. All revisions should be indicated in the final scope of work by ~~striking out~~ the text deleted from the draft scope of work and underlining new text.

When a lead agency receives substantial new information after issuance of the final scope, it may amend the final scope to reflect such information. The lead agency should notify all those who received copies of the final scope, including MOEC, involved, and interested agencies, of any such change and provide copies of the amended final scope.

The final scope of work is considered complete when the lead agency has determined that the description of the proposed project and relevant methodologies are adequate and comments from the public and other agencies have been appropriately addressed.

240. PREPARATION OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

241. Purpose of the DEIS

The next step in the CEQR process is the preparation of the DEIS. The DEIS is a ”draft,” in recognition that it is subject to modification in the FEIS, but must be a comprehensive document sufficient to afford the public opportunity to meaningfully comment on the potential for significant adverse impacts. The purpose of the DEIS is to disclose and discuss potential significant adverse environmental impacts so that a decision-maker may understand them and their context. It is analytic, but it is not a repository for all knowledge about a given technical area. The DEIS fully describes the project and its background; purpose; public need and benefits, including social and economic considerations; approvals required; and the role of the EIS in the approval process.

The EIS describes the potential significant adverse environmental impacts identified in the scoping process at a level of detail sufficient to enable the lead agency and other involved agencies to make informed decisions about those impacts for a proposed project, and, if necessary, how to avoid or mitigate those impacts to the maximum extent practicable. The lead agency should take care to explain the identified impacts in sufficient detail, considering the nature and magnitude of the proposed project and the significance of the potential impacts.

242. Contents of a DEIS

CEQR rules prescribe the following minimum contents of an EIS:

- A description of the proposed project and its environmental setting;
- A statement of the environmental impacts of the proposed project, including short-term and long-term effects and any typical associated environmental effects;
- An identification of any adverse environmental effects that cannot be avoided should the proposal be implemented;
- A discussion of the social and economic impacts of the proposed project;
- A discussion of alternatives to the proposed project and the comparable impacts and effects of such alternatives;
- An identification of any irreversible and irretrievable commitments of resources that would be involved in the proposed project should it be implemented;
- A description of mitigation measures proposed to minimize significant adverse environmental impacts;
- A description of the growth-inducing aspects of the proposed project, where applicable and significant;
- A discussion of the effects of the proposed project on the use and conservation of energy resources, where applicable and significant; and
- A list of underlying studies, reports, or other information obtained and considered in preparing the statement.

See 43 RCNY 6-09.

242.1. Reasonably Foreseeable Catastrophic Impacts

Depending on the nature of the project, and as may be required by SEQR, an EIS may need to contain certain information regarding reasonably foreseeable catastrophic impacts. If information about reasonably foreseeable catastrophic impacts is unavailable or uncertain, and such information is essential to an agency's CEQR/SEQR findings, the EIS should:

- Identify the nature and relevance of unavailable or uncertain information;
- Provide a summary of existing credible scientific evidence, if available; and
- Assess the likelihood of occurrence, even if the probability of occurrence is low, and the consequences of the potential impact, using theoretical approaches or research methods generally accepted in the scientific community.

A catastrophic impact analysis is likely to be necessary in the review of projects such as the siting of a hazardous waste treatment facility or liquid natural gas facility and would not be necessary in the review of projects such as the siting of shopping malls, residential subdivisions, or office facilities. See 6 NYCRR 617.9(b)(6).

243. Format of the DEIS

243.1. Cover Page

The DEIS must have a cover page that sets forth the following information:

- The assigned CEQR number;
- A statement that it is a Draft EIS;
- The name or title of the project;

- The location and street address, if applicable, of the project;
- The name and address of the agency that required its preparation, and the name, telephone number, and e-mail address of a person at the agency who can provide further information;
- The names of individuals or organizations that prepared any portion of the DEIS;
- The date (day, month, year) of its acceptance as complete by the lead agency; and
- For a DEIS longer than 10 pages, a table of contents following the cover page.

243.2. Executive Summary

Following the cover page, the DEIS must include a concise summary that fully and accurately summarizes the DEIS. See 6 NYCRR 617.9(b)(4). In general, the executive summary should include:

- A brief project description;
- A list of actions;
- A summary of the significant adverse impacts, if any;
- A summary of the mitigation measures, if any, to reduce or eliminate any significant adverse impacts;
- A summary of the unmitigated adverse impacts, if any;
- A short discussion of alternatives;
- The analysis areas examined in the DEIS; and
- A brief summary of the analysis areas eliminated in the EAS for further study and the reason(s) why.

In order to ensure a clear and concise summary, the lead agency is strongly encouraged to limit the length of an executive summary to a maximum of thirty (30) pages.

243.3. Project Description

This section provides the reader and the decision-maker information to understand the project in its full context. Sufficient information should be provided to allow assessment of the project's impacts in later sections of the DEIS. Typically, a project description includes text, graphics, and tables and defines the project, its plan and form, its size, and its purpose and benefits.

243.4. Technical Analyses

The lead agency should analyze only those technical areas that were identified for analysis in the final scope of work. For those technical areas requiring further analysis, each technical chapter of the DEIS assesses the following:

- The existing conditions;
- The future conditions without the proposed project (referred to as the No-Action condition); and
- The future conditions if the project is implemented (referred to as the With-Action condition).

Comparison of the future No-Action and the future With-Action conditions allows the project's incremental impacts to be identified. When applicable and significant, CEQR requires analysis and disclosure of both the short-term, long-term, and cumulative impacts of a project.

Chapters 4 through 23 of this Manual provide guidance and methodologies for performing these technical analyses.

243.5. Mitigation

CEQR requires that any significant adverse impacts identified in the DEIS be minimized or avoided to the greatest extent practicable. Mitigation measures must be identified in the DEIS. A range of mitigation measures may be presented and assessed in the DEIS for public review and discussion, without the lead agency selecting one for implementation. Where no mitigation is available or practicable, the DEIS must disclose the potential for unmitigable significant adverse impacts.

243.6. Alternatives

SEQR regulations require that "a description and evaluation of the range of reasonable alternatives to the action" be included in a DEIS at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The regulations specify that such alternatives include "the range of reasonable alternatives to the action which are feasible, considering the objectives and capabilities of the project sponsor." See 6 NYCRR 617.9(b)(5)(v). If the environmental analysis and consideration of alternatives identify a feasible alternative that eliminates or minimizes adverse impacts, the lead agency may consider adopting the alternative.

SEQR regulations also require that the range of reasonable alternatives include the "No-Action" alternative, which evaluates the adverse or beneficial site changes that are likely to occur in the foreseeable future in the absence of the proposed project. More guidance on alternatives that reduce or eliminate impacts in the various technical areas is found in Section 600 of each technical analysis chapter, and a general discussion of alternatives is provided in Chapter 24, "Alternatives."

243.7. Review and Completion of the Preliminary DEIS

As a matter of practice, a Preliminary Draft Environmental Impact Statement (PDEIS) may be prepared by the applicant and submitted to the lead agency. The PDEIS need not be submitted as a whole to the lead agency, and chapters may be submitted individually. The PDEIS or individual chapters are reviewed by the lead agency for adequacy, accuracy, and completeness with respect to the scope of work. If necessary, the lead agency comments on issues that were not adequately addressed in the PDEIS, and the applicant revises the document accordingly. It is also common for a lead agency, in its discretion, to distribute a PDEIS for any project (public or private) to all involved and interested agencies for comment prior to issuance of the DEIS. This is often an iterative process, where the review and revision continues until the lead agency determines that the PDEIS is complete and ready for public circulation and comment as a DEIS.

244. Notice of Completion for the DEIS

The lead agency finds the DEIS to be complete and issues a Notice of Completion when the DEIS includes:

- A project description that provides sufficient information for a reader to understand the context for technical analyses that follow;
- Project objectives and actions required to implement the project that are clearly explained;
- An assessment of each technical area at a level of detail adequate to disclose potential impacts;
- Options for mitigation that are explained and assessed. For the DEIS, a range of mitigations may be presented for public review and discussion without the lead agency having selected one for implementation. If there is potential for an unmitigated impact, this should be disclosed here; and

- The No-Action alternative and alternatives that meet project objectives, have the potential to reduce impacts, and have been assessed at a level of detail so that they can be appropriately compared to the proposed project.

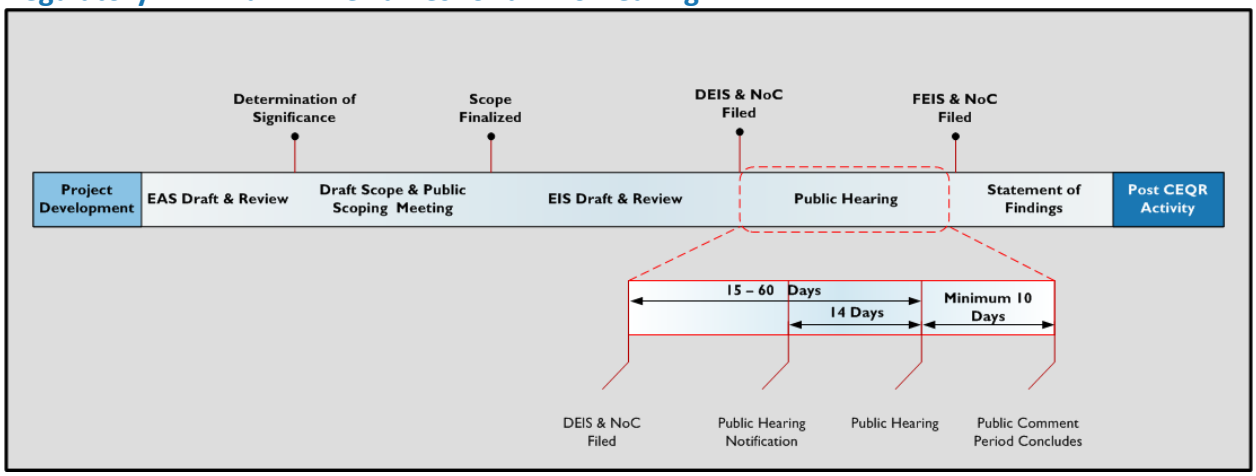
When the lead agency deems the DEIS to be complete, it prepares a Notice of Completion in accordance with 43 RCNY 6-10(a). This Notice describes the project, its potential impacts and effects, and specifies the period of public review and comment. The publication requirements for issuing this notice are in Section 270, below.

245. PUBLIC REVIEW AND COMMENT PERIOD FOR THE DEIS

Publication of the DEIS and issuance of the Notice of Completion signal the start of the public review period. During this time the public may review and comment on the DEIS, either in writing and/or at a public hearing(s) that is convened for the purpose of receiving such comments. The comment period must extend for a minimum of thirty (30) calendar days from the publication of the DEIS and issuance of the Notice of Completion. All substantive comments received during the public comment period (either through the public hearing(s) and/or written comment) become part of the CEQR record and are summarized and responded to in the FEIS, as appropriate.

In certain circumstance, there may be projects that are particularly unusual or where the potential for environmental impacts is unclear when a DEIS is prepared. In these instances, public review and comment could present additional information that may affect the lead agency's determination of whether there is a potential for impacts or whether the impacts are adverse or significant. In this situation, the lead agency may find, following public comment and review, that no potential for significant adverse impacts exists, even though a DEIS was prepared and a public hearing was held. If this occurs, the lead agency may issue a Negative Declaration. Consequently, no FEIS need be prepared. The regulatory timeframes for the DEIS hearing and public comment period on the draft scope of work are explained in Figure 1-2 below.

Figure 1-2
Regulatory Minimum Timeframes for a DEIS Hearing



245.1. Public Hearing

The lead agency must hold a CEQR public hearing no less than fifteen (15) calendar days and no more than sixty (60) calendar days after the completion and filing of the DEIS, except when a different hearing date is required as appropriate under another law or regulation. For example, for projects simultaneously subject to the City's Uniform Land Use Review Procedure (ULURP), 43 RCNY 6-10(c)(4) provides that the public hearing on the ULURP application conducted by the appropriate community or borough board and/or the CPC shall satisfy the hearing requirement under CEQR for the DEIS. This chart explains the relationship between CEQR and ULURP. If more than one hearing is conducted by

the aforementioned bodies, whichever hearing occurs last constitutes the CEQR hearing and may occur more than sixty (60) days after the issuance of the Notice of Completion.

NOTICE REQUIREMENTS FOR THE PUBLIC HEARING

The lead agency must publish all required notices for the hearing at least fourteen (14) calendar days before the scheduled hearing. The Notice of Public Hearing may be contained in the Notice of Completion, or the lead agency may publish it as a separate document. In either case, the lead agency must publish a notice of the public hearing in the *City Record* and in a general circulation newspaper. For proposed projects with a large geographic impact, it may be necessary to publish the meeting notice in more than one newspaper. If published as a separate document from the Notice of Completion, the Notice of Public Hearing should also be distributed to the same parties who received the Notice of Completion of the DEIS (see Section 270, below).

ACCESS TO PUBLIC HEARINGS AND MEETINGS

The lead agency should hold public meetings and hearings that are accessible to all anticipated or potential participants at a location that is accessible by public transit or transportation. The lead agency should also carefully evaluate the timing and scheduling of the meeting to ensure that the meeting is not scheduled on or near a major public holiday or other events that could compromise public participation. Meeting participants are encouraged to provide their contact information (for distribution of future CEQR information for the project); however, they are not required to do so as a precondition of attending the meeting. Additionally, Section 170 of Part C of this Chapter offers guidance to help ensure that people with limited-English proficiency ("LEP") can meaningfully participate in public hearings and meetings.

FORMAT OF PUBLIC HEARINGS AND MEETINGS

The public scoping meeting should be chaired by the lead agency; all other interested and involved agencies, the applicant, and MOEC may send representatives to participate. If requested by the lead agency, MOEC may chair the public scoping meeting. See 62 RCNY 5-04(b).

Beyond the above requirements, there is no required format mandated for public meetings or hearings. Therefore, a broad variety of meeting formats may be acceptable to the lead agency. For example, meetings or hearings may feature discussions, questions or formal public speaking. Public meetings may be held in-person, remotely, or include both remote and in-person participation options (or be "hybrid").

CEQR does not impose mandatory time limits for either the public hearing or the individual speakers. However, to ensure participation by all attendees desiring to speak, the lead agency should conduct the meeting in an efficient fashion. This may result in the lead agency restricting the individual speakers to a specified time limit. If a large number of attendees are anticipated, the lead agency may wish to consider scheduling additional meetings to promote greater participation or hold concurrent input opportunities.

245.2. Written Public Comments

The public is invited to send written comments to the lead agency and has a minimum of thirty (30) calendar days from the issuance of the Notice of Completion of the DEIS to do so. Written comments must be accepted from the date of publication of the Notice of Completion for the DEIS until at least ten (10) calendar days after the public hearing, but the comment period may be no less than thirty (30) days. See 6 NYCRR 617.9(a)(4)(iii). If a project is simultaneously subject to ULURP, the CPC hearing and the CEQR DEIS hearing are often run concurrently, as seen in this chart. In addition to DEIS comments received at the CPC hearing, the lead agency considers, as appropriate, the substantive DEIS comments received during the ULURP hearings that precede the CPC/DEIS hearing, including the Community Board and/or Borough Board and the Borough President hearings.

245.3. Formal Public Record

It is important that the lead agency maintains an accurate and complete public record throughout the CEQR process. The formal record includes any copies, transcripts, and summaries of formal comments made by members of the public, interested agencies, and other governmental entities. The record may be used by the public in an administrative or judicial review of CEQR findings and may also be used by a lead agency to validate its findings or evidence the satisfaction of CEQR's public participation requirements.

The record may be maintained by a lead agency using a variety of methods, including recordings or transcriptions of public meetings and files (either electronic or hard copy) of written comments.

250. PREPARATION OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)

251. Preparation of the FEIS

After the close of the public comment period for the DEIS, the lead agency prepares, or facilitates the preparation of, an FEIS. This document includes all of the contents of the DEIS as well as copies or a summary of the comments received at the hearing or in writing during the public comment period and the lead agency's responses to substantive comments. Any revisions to the DEIS made in response to comments are set forth in the FEIS. Generally new analyses are not appropriate following the issuance of the DEIS, unless new information is discovered or comments raise an issue deemed by the lead agency to be relevant to the project and the analyses. Revisions to the DEIS are indicated by ~~striking out~~ deleted text and <u>underlining</u> new text in the FEIS. The cover page of the FEIS must indicate that it is the Final EIS and include all other information required for the DEIS.

252. Mitigation

Measures that minimize identified significant adverse impacts to the maximum extent practicable must be identified in the FEIS. If a range of possible mitigation measures for a given significant impact was presented in the DEIS, selected mitigation and its method of implementation must be disclosed in the FEIS. Certain mitigation measures that require implementation by, or approval from, City agencies (such as changes to traffic signal timing, which would be implemented by DOT) should be agreed to in writing by the implementing agency before such mitigation is included in the FEIS. In addition, in the absence of a commitment to mitigation or when no feasible mitigation measures can be identified, a reasoned elaboration as to why mitigation is not practicable must be put forth, and the potential for unmitigated or unmitigable significant adverse impacts must be disclosed.

Mitigation measures that are adopted and project components that negate the potential for adverse environmental impacts should be identified in a Mitigation Tracking Form, described in detail in Section 261 below. This form should be filled out by the applicant and submitted to the lead agency prior to or in conjunction with the issuance of a Notice of Completion for the FEIS.

253. Notice of Completion for the FEIS

The lead agency considers the FEIS complete when:

- A summary of all substantive CEQR-related comments on the DEIS, including a list of the commenters and responses to those comments, is incorporated, usually as a separate chapter;
- The text, figures, and tables of the FEIS reflect changes made in response to the public review. It is useful to provide a foreword to the document summarizing the changes made as a result of public review; and
- Mitigation issues are included and resolved to the extent possible. If a range of mitigations was presented in the DEIS, the lead agency must disclose the selected mitigation and describe its

method of implementation in the FEIS. The potential for unmitigated or unmitigable significant adverse impacts must be disclosed.

Once the lead agency certifies that the FEIS is complete, it issues a Notice of Completion describing the FEIS, the project, and how to obtain copies of the FEIS. The agency then files this notice and a copy of the FEIS in accordance with Section 270, below.

260. STATEMENT OF FINDINGS

Pursuant to SEQR regulations, the lead and any involved agency must allow at least ten (10) calendar days after the publication of the Notice of Completion for the FEIS to consider the findings in the FEIS before making a decision regarding its action. To demonstrate that the responsible City decision-maker has taken a hard look at the impacts, alternatives, and mitigation measures, the lead and each involved agency must adopt a formal set of written findings, often termed a "Statement of Findings," setting forth its decision regarding the action it will take, drawing its conclusions about the significant adverse environmental impacts of the proposed project and how to avoid or mitigate them, and weighing and balancing the environmental consequences of the project to be undertaken with social, economic, and other pertinent policy considerations. Depending upon the agency and its own protocols, the Statement of Findings may be included in another document (*e.g.*, for ULURP actions approved by the CPC, the CPC Report and Resolution typically includes the Statement of Findings). Similarly, the New York City Board of Standards and Appeals (BSA) and the City Council may include their findings statements in other documents as well. However, regardless of the form of the findings document, all of the statements described below must be included. These CEQR findings must be adopted by the responsible decision-maker(s) of the lead or involved agency before, or concurrently with, making its final decisions to fund, approve, or undertake its discretionary action.

Each lead or involved agency is responsible for adoption of its own Statement of Findings that explicitly sets forth the following statements:

- The agency has considered the relevant environmental impacts, facts and conclusions disclosed in the FEIS;
- A certification that all CEQR/SEQR requirements have been met;
- A certification that, consistent with social, economic, and other essential considerations of state and City policy, from among the reasonable alternatives, the proposed project is one that minimizes or avoids significant adverse environmental effects to the maximum extent practicable, including the effects disclosed in the relevant EIS while still substantially meeting the purpose and benefit of the project;
- A certification that, consistent with social, economic, and other essential considerations, to the maximum extent practicable, significant adverse impacts disclosed in the FEIS would be minimized or avoided by incorporating as conditions to the decision those mitigation measures that are identified as practicable; and
- A rationale for the agency's decision.

Once the lead agency and each involved agency adopt their findings, the CEQR process is concluded, and the agencies may then take their actions. Such CEQR findings must be filed with all involved agencies, MOEC, and the applicant, if any, at the time the findings are adopted.

261. Tracking Mitigation

MOEC is responsible for working with the appropriate City agencies to develop and implement a tracking system to ensure that mitigation measures are implemented in a timely manner and to evaluate and report on the effectiveness of mitigation measures. See 62 RCNY 5-04(c)(9).

270. AGENCY NOTICE AND PUBLICATION REQUIREMENTS

The state regulations require the lead agency to provide public notice by publication in NYSDEC's *Environmental Notice Bulletin* for the following:

- Conditional Negative Declaration;
- Negative Declaration for a Type I action;
- Positive Declaration for both Unlisted and Type I actions;
- Notice of Completion for a DEIS; and
- Notice of Completion for a FEIS.

It should be noted that a Negative Declaration for an Unlisted action need only be filed with the lead agency and MOEC.

To publish in the *Environmental Notice Bulletin*, NYSDEC has provided a SEQR Notice Publication Form on its web-site. The completed form may be sent via email or post to the following:

ENVIRONMENTAL NOTICE BULLETIN
NYS Department of Environmental Conservation
625 Broadway, 4th Floor
Albany, NY 12233-1750
Email: enb@gw.dec.state.ny.us
Questions: (518) 402-9167
https://dec.ny.gov/news/environmental-notice-bulletin

In addition, at least quarterly MOEC publishes a list of notices in the *City Record* that includes lead agency letters, determinations of significance, draft and final scopes, draft and final environmental impact statements, and technical memoranda.

In 2005, SEQR was amended to require that every Environmental Impact Statement—DEIS and FEIS—be posted on a publicly accessible website. See Chapter 641 of the NYS Laws of 2005.

Positive declarations, notices of completion, the DEIS, and the FEIS should be submitted electronically and filed with, or distributed to, the following:

- Mayor's Office of Environmental Coordination (MOEC);
- The New York State Department of Environmental Conservation

  Division of Regulatory Services
  625 Broadway, 4th Floor
  Albany, NY 12233-1750;

- Region II Office of the New York State Department of Environmental Conservation

  1 Hunter's Point Plaza
  47-40 21st Street
  Long Island City, Queens, NY 11101-5407;

- Borough President(s), as applicable;
- Applicant, if any;
- All involved and interested agencies;

- All persons who have requested a copy;
- Affected community boards and borough boards; and
- In the case of projects in the Coastal Zone:

  New York State Secretary of State
  162 Washington Avenue
  Albany, NY 12231.

271. Public Access to Documents

All complete CEQR documents must also be sent to MOEC, which acts as the official repository for environmental review documents and maintains a database of such documents that are publicly available at its offices pursuant to 62 RCNY 5-04(c)(5). MOEC requests that all documents be sent in an electronic format. These documents and notices, including EASs, accompanying positive or negative declarations, and EISs and accompanying notices of completion must be maintained in files that are readily accessible to the public and must be made available upon request. Copies of CEQR documents are often placed in a local library for public reference during a public comment period.

280. REGULATORY TIMEFRAMES

In order to facilitate a thorough and complete environmental review that includes adequate opportunity for public participation, SEQR and CEQR prescribe timeframes for certain activities. The rules also provide for sufficient flexibility to adjust such timeframes to ensure a full assessment. See 6 NYCRR 617.3(i). Time frames prescribed by CEQR may also be extended where City procedures (such as ULURP) specify certain timeframes. See 43 RCNY 6-10. When a time limit is specified as a minimum time period that must expire before the succeeding step in the CEQR process may be taken, for example where notice to the public must be given before an action may be taken, the lead agency must follow the prescribed procedure and may extend (but not shorten) the timeframe. A summary of specified regulatory timeframes follows:

ESTABLISHMENT OF LEAD AGENCY

CEQR rules do not specify a time period for establishment of lead agency. SEQR rules provide a maximum of thirty (30) calendar days from the agency's notification of involved agencies of its intent to be lead, except if the lead agency is contested. See 6 NYCRR 617.6(b)(3)(i).

DETERMINATION OF SIGNIFICANCE

The determination of significance is made within fifteen (15) calendar days from the lead agency's determination that the application (through an EAS) is complete. See 43 RCNY 6-07(a).

SCOPE

- The draft scope of work is published within fifteen (15) days following publication of a Positive Declaration. See 62 RCNY 5-07(a);
- The lead agency publishes a notice indicating a DEIS will be prepared, that a public scoping meeting will be held, and requesting public comment not less than thirty (30) nor more than forty-five (45) calendar days prior to holding the public scoping meeting;
- The lead agency circulates the draft scope and EAS not less than thirty (30) calendar days nor more than forty-five (45) calendar days prior to the public scoping meeting;
- Written comments on the scope are received for ten (10) calendar days after the scoping meeting;

- Within thirty (30) calendar days after the public scoping meeting, the lead agency issues a final scope. The regulatory timeframes for the public scoping meeting and public comment period on the draft scope of work are explained in Figure 1-1; and
- If there is no private applicant, the time frames may be extended. See 62 RCNY 5-07(f).

PREPARATION OF DEIS, INCLUDING DETERMINATION OF COMPLETENESS AND ACCURACY, AND FILING NOTICE OF COMPLETION

The City's rules do not specify timeframes for the preparation and review of the DEIS.

PUBLIC COMMENT AND HEARING

- The public comment period, which starts with the issuance of the Notice of Completion for the DEIS, is required to be at least thirty (30) calendar days;
- The hearing on the DEIS is held no less than fifteen (15) calendar days and no more than sixty (60) calendar days after the issuance of the Notice of Completion for the DEIS, with the exception of special circumstances such as ULURP, when the DEIS hearing may be held more than sixty (60) calendar days after the completion of the DEIS; and
- Written comments must be accepted and considered by the lead agency for no less than thirty (30) calendar days after the issuance of the Notice of Completion or for at least ten (10) calendar days following the public hearing, whichever is later. See 6 NYCRR 617.9(a)(4)(iii). The regulatory timeframes for the DEIS hearing and the public comment period on the DEIS are explained in Figure 1-2.

PREPARATION OF FEIS, INCLUDING DETERMINATION OF COMPLETENESS AND ACCURACY, AND FILING NOTICE OF COMPLETION

The Notice of Completion must be filed within thirty (30) calendar days after the close of the public hearing. See 43 RCNY 6-11(a).

CONSIDERATION OF COMPLETED FEIS BEFORE MAKING FINDINGS AND TAKING ACTION

A minimum of ten (10) calendar days from the filing of Notice of Completion of the FEIS must elapse before the Statement of Findings may be issued. See 6 NYCRR 617.11(a).

WRITTEN FINDINGS

The City rules do not specify a maximum period. Generally, for projects involving an applicant, the lead agency makes its findings within the maximum of thirty (30) calendar days from the Notice of Completion provided in the SEQR rules. See 6 NYCRR 617.11(b).

300. FEES

Pursuant to the Rules of the City of New York, the City lead agency charges a fee to a private applicant to recover the costs incurred in reviewing the EAS, DEIS, and FEIS of a project for which the applicant seeks approvals from the agency. The fee is payable upon filing Parts I and II of the EAS with the lead agency (or an agency that could be the lead). The CEQR fees are computed in accordance with 62 RCNY 3-01 and found here.

400. SPECIALIZED ENVIRONMENTAL IMPACT STATEMENTS

There are two variations on the general pattern of EISs: the Generic EIS (GEIS) and the Supplemental EIS (SEIS). Each of these EISs is subject to the same procedures as other EISs, including a Positive Declaration, scoping, a DEIS and Notice of Completion, public review period, an FEIS and Notice of Completion, and written findings.

410. GENERIC EIS (GEIS)

GEISs are used for broad projects with diffuse but potentially significant environmental effects. These include the following types of projects:

- a number of separate actions in the same geographic area that, if considered separately would pose insignificant effects, but taken together have a significant impact;
- a sequence of projects contemplated by a single agency or individual;
- separate projects that have generic or common impacts; or
- a program or plan having wide application or restricting the range of future alternative policies or projects. See 6 NYCRR 617.10(a).

The GEIS is useful when the details of a specific impact cannot be accurately identified, as no site-specific project has been proposed, but a broad set of further projects is likely to result from the agency's action. The GEIS follows the same format as the EIS for a more specific project, but its content is necessarily broader. Subsequent discretionary actions under the program studied in the GEIS require further review under CEQR if such actions were not addressed or were not adequately addressed in the GEIS and may have one or more significant adverse environmental impacts. It is recommended that this determination be documented in a technical memorandum, as set forth in Section 420, below. If supplemental review is required, it is possible to use the GEIS as the foundation for the subsequent environmental review. Since the GEIS would have established the analysis framework, the subsequent supplemental environmental review need only target the specific narrow impacts associated with the subsequent action.

Comprehensive planning programs, new development programs, promulgation of new regulations, and revisions to such broadly applicable actions may be candidates for a GEIS.

420. SUPPLEMENTAL EIS (SEIS)

The SEIS is a flexible tool in the CEQR process. It is used to supplement or amend a previously prepared and circulated EIS. It provides decision-makers, interested and involved agencies, and the public with information about impacts not previously studied. The SEIS is used when:

- Changes are proposed for the project that may result in a significant adverse environmental effect not anticipated in the original EIS;
- Newly discovered information arises about significant adverse effects that were not previously analyzed; or
- A change in circumstances related to the project has occurred.

In considering the need to prepare an SEIS, in the case of newly discovered information, the agency should weigh the importance and relevance of the information and the current state of information in the EIS. See 6 NYCRR 617.9(a)(7). The scope of the SEIS is targeted to specifically address only those issues that meet these requirements.

The need for an SEIS may become apparent after the acceptance of the DEIS and up to the time that agency findings are filed, following the completion of the FEIS. SEISs may also be prepared after findings have been made if changes are proposed for the project that requires additional discretionary approval. In this case, the assessment as to whether an SEIS is needed should also consider whether an aspect of the original EIS has grown stale, *i.e.*, whether the passage of time since the original environmental review was conducted has resulted in a change of circumstances, such as the existing traffic conditions or neighborhood character, that may now result in the project, as modified, causing significant adverse environmental impacts that were not sufficiently disclosed in the original EIS.

If the assessment indicates that the project may result in a new, previously undisclosed significant impact, an SEIS is appropriate and the agency would then prepare an SEIS. If the assessment indicates that it is unlikely that there will be new previously undisclosed potential significant adverse impacts, the preparation of an SEIS is not required.

The preparation of an SEIS is subject to the full procedures that govern the preparation of an EIS, including the scoping process and required public hearings. In addition, supplemental findings statements may be necessary.

In the event that the lead agency determines that it is appropriate to consider whether an SEIS is necessary, it is recommended that the lead agency document this assessment in a technical memorandum. The technical memorandum should be prepared by the lead agency for its files and should bear the same CEQR number as that of the original EIS. A technical memorandum examines whether changes in the project, newly discovered information, or changes in circumstances have the potential to result in any new, previously undisclosed impacts. In the event the technical memorandum assessment indicates that the preparation of an SEIS is or may be warranted, the lead agency should prepare an EAS or, if appropriate, may proceed to the issuance of a Positive Declaration. In the event the technical memorandum assessment indicates that the preparation of an SEIS is not warranted, no further documentation or analysis is needed.

C. CEQR'S RELATIONSHIP WITH OTHER PROCEDURES

100. CITY PROCEDURES

The CEQR review of a project may require coordination with other City procedures. Some of these are briefly described below:

110. UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

Applications for City projects that must also be reviewed pursuant to ULURP are filed with the New York City Department of City Planning (DCP). For private applicants, DCP serves as the CEQR lead agency for projects subject to ULURP; DCP also serves as lead for some other City projects in ULURP (see 43 RCNY 6-04 for the exceptions). ULURP procedures are detailed in Sections 197-c and 197-d of the New York City Charter and should be consulted for the purpose of coordinating CEQR with ULURP. The timetable for ULURP begins once an application is certified as complete. A completed ULURP application must include one of the following: a Type II Determination, a Negative Declaration, a Conditional Negative Declaration, or a DEIS and Notice of Completion for the DEIS. This chart shows the relationship between CEQR and ULURP.

120. FAIR SHARE CRITERIA

The CPC adopted criteria, pursuant to the New York City Charter, to guide the siting of City facilities to advance the fair distribution of the burdens and benefits associated with such facilities among the communities of the City. The CPC considers these criteria, referred to as the *"Criteria for the Location of City Facilities"* (*Fair Share Criteria*), in acting on site selection and acquisition proposals subject to ULURP and in the review of City office sites pursuant to Section 195 of the Charter. The CEQR analyses may be coordinated with that assessment.

Sponsoring agencies also observe the *Fair Share Criteria* in projects that do not proceed through ULURP, such as City contracts, facility reductions, and closings. Although the *Fair Share Criteria* and CEQR criteria overlap to some extent, and both processes include procedures for the participation of the public, the *Fair Share Criteria* raise different issues and require a different perspective. For example, siting a facility in an area where similar facilities are located may avoid a neighborhood character impact for CEQR purposes but raise issues as to fair distribution under the *Fair Share Criteria*. Where a project requires both an environmental assessment and a "Fair Share" analysis, an applicant or lead agency may find it helpful or efficient, with respect to the required analyses and procedural steps,

to incorporate the "Fair Share" analysis into the CEQR analysis. However, this approach is not a requirement of either CEQR or the *Fair Share Criteria*.

130. BOARD OF STANDARDS AND APPEALS

Certain special use permits, variance, and appeals applications are decided by the New York City Board of Standards and Appeals (BSA). When these applications are initially made to the BSA, CEQR applies to such projects and the normal CEQR process is required prior to BSA action.

140. WATERFRONT REVITALIZATION PROGRAM

The New York City Waterfront Revitalization Program (WRP) is the City's principal coastal zone management tool. Originally adopted in 1982 and revised in 1999, the WRP establishes the City's policies for development and use of the waterfront and provides the framework for evaluating the consistency of all discretionary actions in the coastal zone with those policies. When a proposed project is located within the coastal zone and requires a local, state, or federal discretionary action, a determination of the project's consistency with the policies and intent of the WRP must be made before the project may move forward. The New York City Coastal Zone Boundary Maps may be found here. For further information regarding a WRP assessment under CEQR, please see Chapter 4, "Land Use, Zoning, and Public Policy."

Local discretionary actions, including those subject to land use (ULURP), environmental review (CEQR), and BSA review procedures, are subject to a consistency analysis with the WRP policies. WRP review of local projects is coordinated with existing regulatory processes and in most instances occurs concurrently. For local projects requiring approval by the CPC, the Commission, acting as the City Coastal Commission, makes the consistency determination. For local projects that do not require approval by the CPC but do require approval by another City agency, the head of that agency makes the final consistency determination. For federal and state projects within the City's coastal zone, such as dredging permits, DCP, acting on behalf of the City Coastal Commission, forwards its comments to the state agency making the consistency determination. Guidance for determining a project's consistency with the WRP may be found in Chapter 4, "Land Use, Zoning, and Public Policy."

150. JAMAICA BAY WATERSHED PROTECTION PLAN (JBWPP)

Local Law 71 of 2005 mandates that the City assess the "technical, legal, environmental and economical feasibility" of a diverse set of protection approaches for Jamaica Bay to develop a comprehensive approach toward maintaining and restoring the ecosystems within the bay. In October 2007, the New York City Department of Environmental Protection (DEP) issued the Jamaica Bay Watershed Protection Plan (JBWPP). In 2014, DEP released an update to the plan (available here: JBWPP). The JBWPP is intended to provide an evaluation of the current and future threats to the bay and ensure that environmental remediation and protection efforts are coordinated in a focused and cost-effective manner. Under the JBWPP, MOEC should ensure that projects subject to CEQR address any potential impacts to Jamaica Bay and identify stormwater management measures that could be implemented as part of an environmental assessment. Consequently, all projects within the Jamaica Bay watershed that undergo CEQR review must complete the Jamaica Bay Watershed Form.

160. EMINENT DOMAIN (CONDEMNATION)

When New York City condemns private property for a public purpose, the decision by a City agency to act by eminent domain is an action subject to CEQR. The environmental review required by CEQR is typically conducted in conjunction with the ULURP approval for the property's acquisition. It should also be noted that the New York State Eminent Domain Procedure Law, adopted one year after SEQR, overlaps with CEQR in requiring that environmental effects be identified. The CEQR public hearing may serve as the hearing required under the Eminent Domain Procedure Law, Section 204(B).

170. LANGUAGE ACCESS

In July 2008, Mayor Michael R. Bloomberg issued Executive Order 120, mandating that all City agencies that provide direct public services ensure meaningful access to their services by taking reasonable steps to develop and implement agency-specific language assistance plans. For agencies with language access plans that do not address public participation in the environmental review process, this section offers guidance to help ensure that people with limited-English proficiency ("LEP") can meaningfully participate. Conversely, this guidance is not applicable to agencies with language access plans that address public participation in the environmental review process. Given that the need for language services varies by project and community, a lead agency must determine on a case-by-case basis whether language services should be provided and, if so, the types of services that are appropriate.

Lead agencies should assess the need for language services by considering the following factors:

- Whether a proposed project is located in a Community District with a high percentage of LEP persons (see Community Health Assessment and Community Health Improvement Plan (2019-2021) for more information);
- Whether a project would affect the community generally or a limited number of people and properties; and
- The level of interest demonstrated by LEP persons, community groups, and the foreign language press.

If, based on an assessment of these factors, the lead agency determines that language services are warranted, the lead agency should take reasonable steps to facilitate participation by LEP persons. To determine the appropriate language services to provide, lead agencies should balance the need for language services with the cost of providing each of the services described below.

171. Translation of Project Information

In order to participate meaningfully in the CEQR process, LEP persons must have access to basic information about a proposed project. If project information is posted online, then providing automatic translation through the lead agency's website generally will be sufficient. For projects that warrant additional language services, a brief description of the project should be professionally translated and made available online. Steps should be taken to ensure that the translate function and/or links to translated materials can be easily located by LEP persons.

172. Translation of Notices of Public Hearings and Meetings

Notices of public hearings and meetings should include a description of any language services that will be available to LEP persons at the hearings or meetings. Providing automatic translation through an agency's website may be an effective means to ensure that LEP persons have access to notices of public hearings and meetings posted online. If a lead agency determines that enhanced services are warranted, notices should be professionally translated, distributed through the offices of interested Community Boards and elected officials, and posted on the lead agency's website. Again, steps should be taken to ensure that the translate function and/or links to translated notices can be easily located by LEP persons. Lead agencies may take additional steps that are deemed appropriate, such as publishing notices through the foreign language press.

173. Interpretation Services at Public Hearings and Meetings

At all public hearings and meetings, lead agencies should accommodate LEP persons wishing to testify through their own interpreters or though interpreters provided by civic groups and should allow additional time for these testimonies. Since the accuracy of interpretations provided by volunteers will vary, lead agencies should retain professional interpreters for public hearings and meetings where testimony is anticipated from a large number of LEP persons. In such instances, foreign language signage should direct people wishing to testify to the speaker sign in table and instructions for giving testimony should be available in the appropriate language(s). Any professionally translated information about the project should also be available at the sign in table. If warranted, lead agencies should work with their language access coordinators to find volunteers from the City's language bank who can attend the meeting

and help answer questions from LEP persons wishing to testify. For further information or assistance lead agencies should contact the Mayor's Office of Immigrant Affairs.

Because CEQR public meetings and hearings provide an opportunity for members of the public to give comments to the lead agency, it is generally not necessary to have speaker testimonies interpreted to LEP persons in the audience. However, if an interpreter has been retained for the meeting, the lead agency should consider having its introductory remarks about the hearing and CEQR process interpreted to the audience. Lead agencies should accommodate civic organizations that wish to provide simultaneous interpretation via headsets to audience members to the extent practicable as determined by the lead agency.

174. Written Comments

If comments are received in a foreign language, lead agencies should work with their language access coordinators to have the comments translated by a volunteer from the City's language bank.

200. COORDINATION WITH STATE PROCEDURES

The CEQR review of a project may require coordination with state procedures if state funding or state agencies are involved. Some of these procedures are described briefly below.

210. CEQR-SEQR COORDINATION

All state agencies taking actions in New York City must follow SEQR but often employ the technical methodologies set forth in Chapters 4 through 22 of this Manual because of their applicability to the New York City setting. In addition, state agencies may be involved agencies in a project undergoing the CEQR process. Similarly, City agencies may be involved agencies in a project undergoing the SEQR process. The City lead or involved agency may be required to coordinate with such state agencies and should be aware of procedures and requirements imposed by state law, some of which are described below. If a City agency becomes the lead agency, CEQR procedures would apply to the environmental review. Conversely, if a state agency becomes the lead agency, SEQR procedures would apply. In either situation, each involved agency (City or state) is responsible for ensuring its compliance with all applicable requirements.

220. PARKS, RECREATION AND HISTORIC PRESERVATION LAW – ARTICLE 14 REVIEW AND CONSULTATION

When a project involves an approval or funding by a state agency, Article 14 of the Parks, Recreation and Historic Preservation Law requires the state agency's preservation officer to consult in advance with the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation, through the State Historic Preservation Office (SHPO), if it appears that any aspect of the project may cause any change, beneficial or adverse, in the quality of any historic, archaeological, or cultural property that is listed on the State or National Register of Historic Places, or is determined to be eligible for listing on the State Register by the Commissioner. While this duty to consult does not make SHPO an involved agency, the state lead or involved agency may not take its action, or complete its environmental review, without first consulting with SHPO.

230. PARKLAND ALIENATION

Government-owned parkland and open space (that has been dedicated as such) is invested with a "public trust" that protects it from being converted to non-parkland uses without state legislative authorization. Thus, when a project eliminates dedicated City-owned parkland or open space or involves certain changes in use of dedicated City-owned parkland or open space, the City must have the authorization of the New York State Legislature and Governor to alienate the parkland or open space. For example, if land from a City-owned park was to be converted into a school or supermarket, this action would have to be authorized by the State Legislature and Governor. This authorization takes the form of a parkland alienation bill. In general, before it will pass such a bill, the State Legislature requires that the City Council pass what is known as a "home rule resolution," requesting state authorization

of the change of use. Moreover, if state funding in the form of a grant has been invested in the park or open space, then the grant program will impose additional requirements that govern the alienation process.

240. ENVIRONMENTAL JUSTICE: SEQRA AND NYSDEC PERMITTING

For all projects, the Environmental Justice Siting Law (EJSL) requires lead agencies under SEQRA to consider and evaluate whether an action may cause, contribute to, or increase a disproportionate pollution burden on a disadvantaged community (DAC) as part of the determination of significance and, where required, in preparation of an environmental impact statement. Lead agencies should reference the Environmental Justice Siting Law and Chapter 23 of the CEQR Technical Manual ("Effects on Disadvantaged Communities") which provides the legislative history, assessment methods, and resources for lead agencies undertaking this assessment.

For projects that require a DEC permit, City lead agencies should reference the EJSL to determine if the project requires preparation of an existing burden report. The EJSL, as defined above, requires DEC to incorporate environmental justice into the consideration of certain prescribed Uniform Procedures Act (UPA) permits. When a project requires a permit from NYSDEC, the City lead agency should be aware of the guidance provided in NYS Environmental Conservation Law § 70-0118 "Disproportionate impacts on disadvantaged communities" and NYSDEC's Commissioner Policy 29 (CP 29). NYSDEC's Environmental justice is defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice efforts focus on improving the environment in communities, specifically minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities.

If the impacts of a project may be felt in an "environmental justice community," CP 29 calls for providing enhanced public participation opportunities for the members of that community, often in addition to the public participation requirements of CEQR and SEQR. When NYSDEC is involved as the regulator issuing a permit in a project, it looks to the permit applicant, often the City lead agency, to satisfy the requirements of CP 29. NYSDEC provides information and guidance on environmental justice on its website, http://www.dec.ny.gov/public/333.html.

300. COORDINATION WITH FEDERAL PROCEDURES

The CEQR review of a project may require coordination with federal procedures if federal funding or federal agencies are involved. Some of these procedures are briefly described below.

310. NEPA-SEQR-CEQR COORDINATION

SEQR regulations provide that as soon as an agency proposes a project or receives an application for a permit or for funding, it must determine whether the project is subject to SEQR and determine whether it involves a federal agency. Federal agencies undertaking projects in New York City must comply with NEPA. When an EIS has been prepared under NEPA, a state or local agency has no obligation to prepare an additional EIS under SEQR or CEQR, provided that the federal EIS is sufficient for an agency to make its SEQR or CEQR findings. SEQR regulations provide for coordination of environmental assessment provisions in New York with those required under NEPA for federal agencies. See 6 NYCRR 617.15.

Agencies should note that City and federal decisions regarding the extent of environmental review obligations for the same project are independent of each other. In other words, a federal decision not to undertake environmental review or to prepare an EIS does not automatically support or require a similar decision by the City, and instead, SEQR and CEQR should govern the decision as to whether an environmental review is conducted for a particular City agency action.

NEPA's regulations, found at 40 CFR Part 1506, provide for a process to coordinate the federal and state and/or City procedures to achieve savings of time and money and to avoid duplicative procedures. Federal agencies must cooperate with City agencies "to the fullest extent possible to reduce duplication between NEPA and state and local

requirements," by such means as (1) joint planning processes, (2) joint environmental research and studies, (3) joint public hearings, and (4) joint environmental assessments.

Typically, the City agency enters into a written Memorandum of Understanding with the relevant federal agency to establish the terms of the collaboration. Joint studies, however, cannot oblige each agency to make the same decision. Each must meet its separate CEQR, NEPA, or other statutory obligations.

320. NATIONAL HISTORIC PRESERVATION ACT – SECTION 106 REVIEW AND CONSULTATION

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects that their federal permits or federally funded activities and programs have on significant historic properties and to give the Advisory Council on Historic Preservation a reasonable opportunity to comment. "Significant historic properties" are those properties that are included in, or eligible for listing in, the National Register of Historic Places. The federal agency coordinates with the SHPO and any other appropriate consulting parties—such as the local government, the applicant for a permit, and the interested public. The federal agency, in consultation with all other consulting parties, assesses the potential adverse impacts of the federal action on the historic property. The consultation process usually results in a Memorandum of Agreement among the federal agency and the consulting parties, which outlines agreed-upon measures that the federal agency will take to avoid, minimize, or mitigate the adverse effects of its project. This process may run concurrently with any environmental review conducted pursuant to NEPA, SEQR, or CEQR.

330. PARKLAND CONVERSION

When a project involves the termination of outdoor recreation use of City-owned parkland that has received federal funds for acquisition or improvement under either the Land and Water Conservation Fund or the Urban Park Recreation and Recovery Program, the project requires the approval of the U.S. National Park Service (USNPS) of the U.S. Department of the Interior (USDOI). The conversion process is governed by rules and regulations of the USNPS and requires the substitution of lands of at least equal fair market value that offer reasonably equivalent recreation opportunities as the parkland to be converted. The conversion process is in addition to the parkland alienation authorization required by state law.

340. HUD COMMUNITY DEVELOPMENT BLOCK GRANT AND THE RESPONSIBLE ENTITY

When funding for a project is provided through a Community Development Block Grant (CDBG) from the U. S. Department of Housing and Urban Development (USHUD), a City or state agency may be responsible for performing all of USHUD's NEPA obligations pursuant to 24 CFR Part 58. As the "responsible entity," the City or state agency would certify compliance with NEPA and be subject to the jurisdiction of the federal courts. As an example, the Lower Manhattan Development Corporation (LMDC) is funded through the CDBG program and acts as the responsible entity for USHUD for all projects receiving those funds.

350. ENVIRONMENTAL JUSTICE

As of the date of publication, the federal landscape regarding environmental justice is rapidly changing. Applicants should coordinate on environmental justice regulations with the lead agency at the time of review.