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### INTRODUCING FEDERAL NATIONAL ENVIRONMENTAL POLICY ACT PRACTITIONERS TO THE CITY OF NEW YORK'S CITY ENVIRONMENTAL QUALITY REVIEW

This fact sheet is designed to familiarize Federal [National Environmental Policy Act](#) (NEPA) practitioners with the City of New York's [City Environmental Quality Review](#) (CEQR) procedures. When a proposed NEPA action also requires compliance with CEQR, it is critical that these practitioners familiarize themselves with CEQR and understand how CEQR compares to and contrasts with NEPA. For example, if a proposed project requiring a Federal action will be built or implemented within New York City's five boroughs, requiring City permits or approvals involving streets or affecting City assets such as parks or waterfront or infrastructure, then early consultation will facilitate approvals in a timely way.

Both statutes are designed to facilitate informed decision-making and environmental review. CEQR is the means by which the City of New York implements the New York [State Environmental Quality Review Act \(SEQRA\)](#). SEQRA/CEQR requires that agencies study the environmental consequences of their actions, including permitting. It also requires them to take all feasible measures to avoid, minimize, and mitigate damage to the environment. This fact sheet compares CEQR and the resulting [CEQR procedures](#) with CEQ's regulations for implementing the procedural provisions of NEPA, [40 CFR Parts 1500-1508](#).

This fact sheet only provides basic information and is intended to serve as a springboard for discussion with the Mayor's Office of Sustainability (Mayor's Office) staff when proposed projects trigger both Federal and city environmental review requirements. Project proponents are strongly encouraged to contact the Mayor's Office in the early stages of project planning so that Federal and city environmental review processes, if applicable, can be appropriately aligned. Project proponents are also strongly encouraged to review the City's [CEQR Technical Manual](#), the City's detailed guidance for conducting environmental reviews under CEQR, available at the [Mayor's Office website](#).

It is important to note that SEQRA/CEQR expressly provides for an Environmental Impact Statement (EIS) prepared in compliance with NEPA, in certain circumstances, to be used in lieu of an EIS prepared under CEQR. The NEPA EIS must meet both the Federal and city content and analysis requirements and be sufficient for an agency to make findings under CEQR. A finding under NEPA of no significant impact, however, will not satisfy CEQR requirements; city agencies may consider the finding of no significant impact but remain responsible for compliance with CEQR. [6 NYCRR 617.15](#). NEPA and SEQRA/CEQR encourage coordination and avoidance of duplicative procedures.

### Introduction

In 1977, the City of New York adopted CEQR to ensure that environmental, social and economic factors be considered before governmental approval is given to proposed activities that may significantly affect the urban environment. As authorized by New York's [SEQRA](#), New York City formulated a separate process, CEQR, by which city agencies may disclose and review the



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potential environmental effects of discretionary actions which impact the urban environment in particular.

A New York State [SEQRA](#) review is required when proposed actions meet any or all of the following conditions: (1) project requires discretionary approvals or permits from a state agency(s); (2) project requests state agency funding; and/or (3) project is carried out in whole or in part by a state agency(s). If a proposed action meets these requirements, the agency determines what, if any, other agencies, are also involved in the project's approval or funding or are interested in the project. The lead agency determines whether a project requires an environmental review, and, if so, it coordinates among the other agencies, ensures that SEQRA requirements are met, and publishes documents pertaining to the SEQRA review process.

CEQR adapts the SEQRA review process to the urban setting and a CEQR review is required when a proposed discretionary action will be approved, funded or undertaken by a city agency and will take place within the boundaries of New York City. CEQR adapts and refines the state rules to take into account the special circumstances of New York City. Some of the primary practical differences between CEQR and SEQRA are that CEQR provides guidance on selection of a lead agency, adds public scoping requirements, uses City-created forms for assessments, and promotes the use of the City's detailed CEQR Technical Manual in conducting environmental reviews. The [CEQR Technical Manual](#) identifies the areas of potential environmental impact to be assessed, nineteen (19) technical areas total, provides methodologies for assessing impacts in each assessment area, and establishes thresholds for determining when to perform detailed assessments and whether potential impacts may be significant. In addition, the CEQR Technical Manual explains the CEQR process in detail and discusses CEQR's relationship with other common approval procedures and permits.

If an action requires a CEQR review, the lead agency determines whether it is a Type I action, which requires an Environmental Assessment Statement (EAS) and is more likely to have significant adverse impacts and require a full EIS; a Type II action, which is categorically exempt from review; or an Unlisted action, anything other than a Type I or Type II action which requires an EAS but is less likely than a Type I action to require an EIS. The vast majority of actions that come under review are Unlisted Actions. CEQR has added actions to SEQRA's list of Type I and Type II actions. Compare [6 NYCRR 617.4](#) with [43 RCNY 6.15\(a\)](#); and [6 NYCRR 617.5](#) with [Chapter 5 of Title 62 of the Rules of the City of New York](#).

Regardless of whether the action is a Type I or Unlisted action, the first step for an environmental review under CEQR is to conduct and complete an EAS. An EAS identifies for a multitude of analysis areas, whether a discretionary action has the potential for significant adverse environmental impacts. If the assessment concludes that the action will not have any significant adverse environmental impacts, the lead agency issues a Negative Declaration and CEQR is complete. If assessment concludes that the action may have a significant adverse environmental impact, further and more detailed analysis is required in the form of an EIS. Where significant adverse impacts are identified, mitigation to reduce or eliminate the impacts to the fullest extent practicable is developed and evaluated. In the Draft EIS, options for mitigation must be recommended and assessed and presented for public review. In the Final EIS,



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mitigation and its method of implementation must be described. Certain mitigation measures that require implementation by, or approval from, city agencies should be agreed to in writing by the implementing agency before such mitigation is included in the Final EIS. In addition, in the absence of a commitment to mitigation or when no feasible mitigation measure can be identified, then a reasoned elaboration as to why mitigation is not practicable should be put forth. Finally, the potential for unmitigated or immitigable significant adverse impacts must be disclosed.

### Key Points of Comparison

The table below compares NEPA terms and procedural requirements to SEQRA/CEQR terms and procedural requirements set forth in the New York Codes, Rules and Regulations (NYCRR), Title 6, Part 617 and [Rules of the City of New York \(RCNY\), Title 43, Chapter 6 and Title 62, Chapter 5](#). More information is available in the [CEQR Technical Manual](#), which summarizes CEQR procedures and provides guidance on substantive areas of analysis.

| NEPA                                                                                                      | CEQR                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Categorical Exclusion (CE), <a href="#">40 CFR 1508.4</a> , <a href="#">40 CFR 1507.3</a>                 | <a href="#">Type II</a> , <a href="#">6 NYCRR § 617.2(aj)</a> , <a href="#">6 NYCRR § 617.5</a>                                                             |
| Environmental Assessment, <a href="#">40 CFR 1508.9</a> , <a href="#">40 CFR 1501.3</a>                   | Environmental Assessment Statement (EAS), <a href="#">6 NYCRR § 617.2(m)</a> , <a href="#">6 NYCRR § 617.6(b)(3)</a>                                        |
| Notice of Intent (NOI), <a href="#">40 CFR 1508.22</a>                                                    | Positive Declaration, <a href="#">6 NYCRR § 617.12(a)(2)(ii)</a>                                                                                            |
| Draft Environmental Impact Statement (DEIS), <a href="#">40 CFR 1502</a> , <a href="#">40 CFR 1508.11</a> | Draft Environmental Impact Statement, <a href="#">6 NYCRR § 617.2(n)</a> Before a DEIS can be issued, CEQR defines a required scoping and noticing process. |
| Final Environmental Impact Statement (FEIS), <a href="#">40 CFR 1502</a> , <a href="#">40 CFR 1508.11</a> | Final Environmental Impact Statement, <a href="#">6 NYCRR § 617.2(n)</a>                                                                                    |
| Finding of No Significant Impact (FONSI), <a href="#">40 CFR 1508.13</a>                                  | Negative Declaration, <a href="#">6 NYCRR § 617.2(y)</a>                                                                                                    |
| Record of Decision, <a href="#">40 CFR 1505.2</a>                                                         | Findings Statement, <a href="#">6 NYCRR § 617.2(p)</a> ; <a href="#">6 NYCRR § 617.11</a>                                                                   |

The bullets below provide a general comparison of processes:

- If a lead agency determines that a proposed action is discretionary and therefore requires a CEQR review, the applicant (which may be the lead agency or separate) files an EAS which is typically comprised of the [EAS Form](#) and [Supplemental Analysis](#). [6 NYCRR § 617.2\(m\)](#); [6 NYCRR § 617.6\(ba\)\(3\)](#). Type I actions mandate completion of an EAS Full Form, while Unlisted actions typically only require an EAS Short Form. [6 NYCRR § 617.6\(ba\)\(3\)](#). To complete the EAS process, an applicant fills out a Short EAS Form (for Unlisted actions only) or a Full EAS Form (for Unlisted actions when requested and Type I actions). The applicant is responsible for completing the EAS Form, providing



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Supplemental Analysis (if needed), and providing any additional material requested by the lead agency.

- CEQR's EAS and NEPA's EA are both used to determine if an EIS is needed, but they are not identical. The EAS Forms require the applicant to provide specific information about environmental conditions and topics. [CEQR EAS Forms](#). NEPA, however, grants the applicant and lead agency discretion in the format by which they provide the necessary information.
- Much like an EA, a lead agency uses the EAS and the criteria detailed by CEQR to determine the significance of the proposal. [43 RCNY § 6-06\(a\)\(1-10\)](#). Within 15 days of notifying the applicant that the EAS was adequately completed and has been received, the lead agency must issue a Determination of Significance. [43 RCNY § 6-07\(a\)](#). This Determination of Significance can take one of three forms: Negative Declaration, Conditional Negative Declaration, or Positive Declaration.
  - Issuance of a Negative Declaration, akin to a FONSI (see below), ends the CEQR process.
  - A Conditional Negative Declaration, akin to a mitigated FONSI (see below), is appropriate if the agency determines that an Unlisted action proposed by a private applicant may have a significant impact on the environment but that any impacts may be eliminated or avoided through mitigation. [6 NYCRR § 617.7\(d\)](#). After publishing a notice of the Conditional Negative Declaration, the agency must accept public comments for 30 days. *Id.* If no public comments identify significant environmental impacts not already considered in the EAS and determination of significance review, the Conditional Negative Declaration becomes final and the CEQR process is complete. If, however, public comments detail substantive concerns, the lead agency can rescind the Conditional Negative Declaration and proceed with a Positive Declaration.
  - A Positive Declaration, akin to an NOI, describes the project, justifies the agency's determination that the project will have a significant environmental impact, and begins the scoping and EIS process. [6 NYCRR § 617.12\(a\)\(2\)\(ii\)](#). Within 15 days of issuing its determination, the lead agency and applicant must complete a draft scope of work. [62 RCNY § 5-07\(a\)](#).
- CEQR's use of Negative Declarations is comparable to NEPA's issuance of a FONSI. Both rulings state that a proposed project will not have significant environmental impacts. The public review process for Negative Declarations and for FONSI, however, differs. If a Negative Declaration is issued for a Type I action, the lead agency must publish its determination and justification for its findings. [6 NYCRR § 617.2\(y\)](#). If issued for an Unlisted action, the lead agency is not required to publish its determination. Additionally, there is no situation in which a lead agency is required to accept public comment for a Negative Declaration.
- Similar to the relationship between Negative Declarations and FONSI, Conditional Negative Declarations can be compared to mitigated FONSI. A Conditional Negative Declaration may be issued under CEQR if the lead agency determines that the adverse impacts of an Unlisted action proposed by a private applicant may be avoided through mitigation. [6 NYCRR § 617.7\(d\)](#). All Conditional Negative Declarations require a 30-



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day public review period, at the end of which the Conditional Negative Declaration is either made final or the lead agency determines that an EIS must be prepared. One critical difference is that Conditional Negative Declarations apply only to private applicants. Under NEPA, mitigated FONSIs may be issued for any action which the lead agency determines to have a significant impact on the environment that can be avoided by taking certain mitigation measures and thus does not require an EIS. See Council of Environmental Quality, “[Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact](#)” (January 2011).

- During the EIS process, CEQR requires that the agency must host a public scoping meeting, for which it must provide 30-45 days of notice. [62 RCNY § 5-07\(b\)](#). Public comments must also be accepted for at least 10 days following the meeting. Within 30 days of the public scoping meeting, the lead agency must issue a final scope which meets the requirements of the draft scope and also details what, if any, environmental topics raised in the draft scope do not need to be addressed. [62 RCNY § 5-07\(e\)](#), [6 NYCRR § 617.8\(f\)\(1-7\)](#). These time constraints may be extended if the project does not involve private applicants. [62 RCNY § 5-07\(f\)](#).
- An EIS prepared for either CEQR or for NEPA must also undergo a public review process. CEQR mandates a minimum 30-day public comment period. [43 RCNY § 6-10\(c\)](#). NEPA, however, requires a longer public review period of at least 45 days for a draft EIS. [40 CFR 1506.10\(c\)](#).
- CEQR requires issuance of a FEIS and a Notice of Completion. [43 RCNY § 6-11\(a\)](#). Ten days after issuing the FEIS and Notice of Completion, the lead agency and any other involved agencies may issue their Statement of Findings and publish their written findings. [6 NYCRR § 617.11\(a-b\)](#). In the case of an action involving an applicant, the lead agency’s filing of a written findings statement and decision on whether or not to fund or approve an action must be made within 30 calendar days after the filing of the final EIS. After the Statement of Findings, the CEQR process is complete.
- Proposed projects in New York City may be required to adhere to both NEPA and CEQR/SEQRA regulations. When an applicant must file an EIS under NEPA, the local lead agency is not required to prepare a separate EIS provided that the federal EIS meets the requirements of CEQR/SEQRA. [6 NYCRR § 617.15\(a\)](#). While a lead city agency may determine that the federal EIS is sufficient, the local agency may issue a determination that does not agree with the federal agency’s ruling. [6 NYCRR § 617.15\(b-c\)](#).



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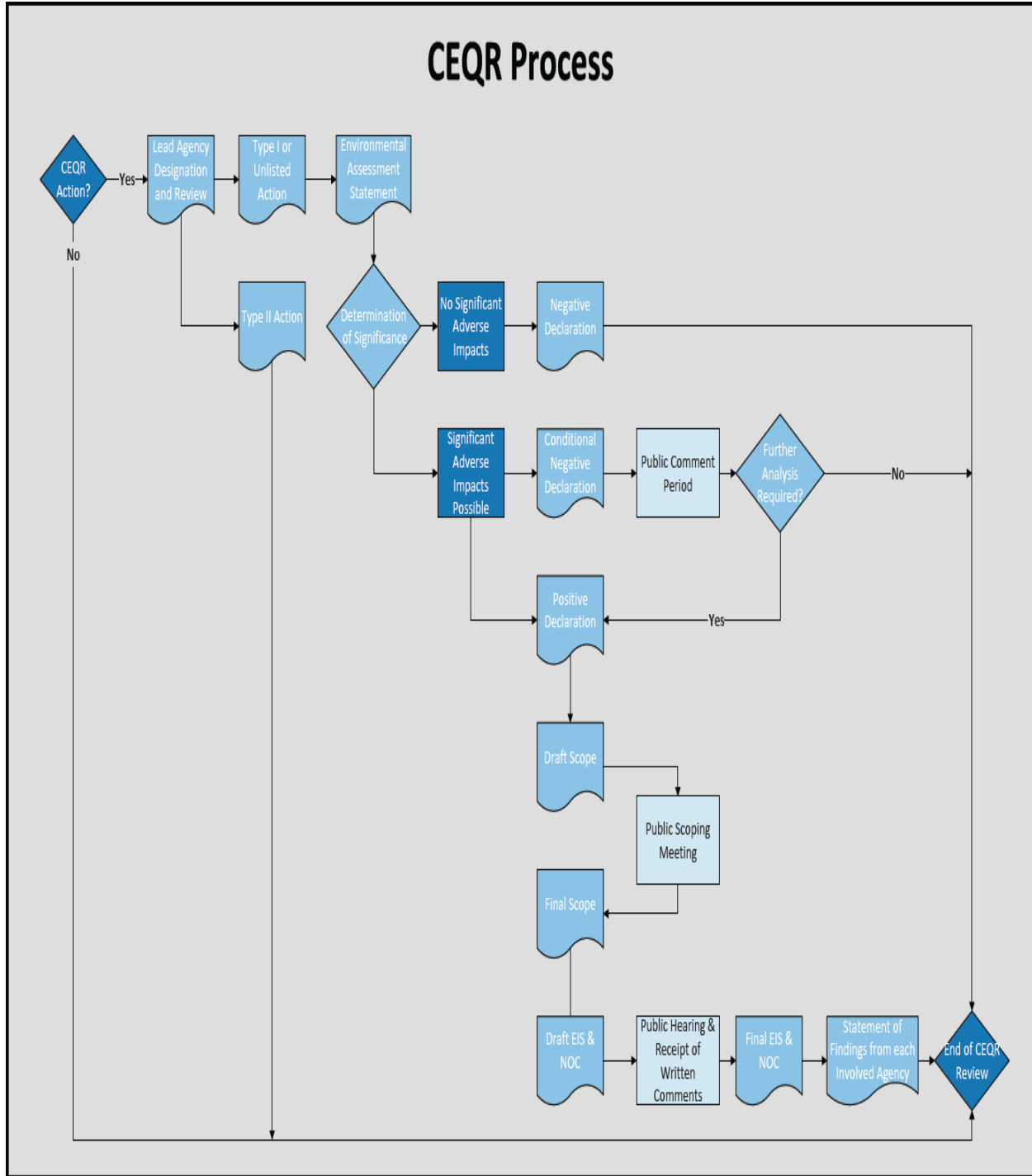
### Contact Information and Resources

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Telephone: (212) 676-3290  
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- General email: <http://www.nyc.gov/html/mail/html/mailoec.html>
- CEQR website: <http://www.nyc.gov/html/oec/html/ceqr/ceqr.shtml>
- CEQR technical manual:  
[http://www.nyc.gov/html/oec/html/ceqr/technical\\_manual\\_2014.shtml](http://www.nyc.gov/html/oec/html/ceqr/technical_manual_2014.shtml)



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Figure 1: CEQR Process<sup>1</sup>



<sup>1</sup> <http://www.nyc.gov/html/oec/html/ceqr/basics.shtml>