

August 2018

State Environmental Quality Review (SEQR) for Large-Scale Solar Energy Systems

Guidance for New York State Municipalities

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List of Acronyms

| | | | |
|--------------------|---|----------------------|--|
| APA | Adirondack Park Agency | NYSDEC | New York State Department of Environmental Conservation |
| CEQRA | City Environmental Quality Review Act | NYSERDA | New York State Energy Research and Development Authority |
| CEQR | City Environmental Quality Review | PV | Photovoltaic |
| DEIS | Draft Environmental Impact Statement | SEAF | Short Environmental Assessment Form |
| DEP | Department of Environmental Protection (of New York City) | SEQRA | State Environmental Quality Review Act |
| EAF | Environmental Assessment Form | SEQR | State Environmental Quality Review |
| EIS | Environmental Impact Statement | SHPO | State Historic Preservation Office |
| FEAF | Full Environmental Assessment Form | USACE | U.S. Army Corps of Engineers |

1 Introduction

The purpose of this guidance document is to assist local governments completing the State Environmental Quality Review (SEQR) process for rooftop and ground-mount solar photovoltaic (PV) energy systems. This document is intended to be used in conjunction with the New York State Department of Environmental Conservation (NYSDEC) [SEQR Handbook](#), and has been reviewed by NYSDEC. References to specific sections of the SEQR Handbook are included as hyperlinks throughout this document. Users are encouraged to click on hyperlinked words to access relevant sections of the SEQR Handbook and other resources, such as the [SEQR Regulations](#).¹

To make this guidance document more relevant for solar energy projects supported by NYSERDA, it assumes that projects would be sited and designed in a manner that will avoid any significant environmental impacts. This by no means reduces the level of evaluation that is required to make a determination of significance. Rather, it assumes that the outcome of the rigorous process of review, coupled with good site selection on the part of the project developer and good guidance from the municipal board, will result in the avoidance of significant environmental impacts.

Users of this document are encouraged to first review Section 2, “SEQR Quick Reference Guide,” which summarizes the steps a municipal board completing the SEQR process for a solar energy project must complete. This section includes references to other sections of this document if readers require more information. Other sections of this document provide step-by-step instructions to fill out SEQR forms and answer questions that are specific to solar energy systems.

NYSERDA offers free technical assistance to municipalities completing the SEQR process for solar energy systems. To request assistance, email cleanenergyhelp@nyserda.ny.gov

2 SEQR Quick-Reference Guide

This quick-reference guide summarizes the SEQR process steps a Lead Agency must complete for a typical large-scale solar project. (This guidance document assumes a municipal board will serve as Lead Agency.) Most solar projects in NY-Sun’s Commercial and Industrial programs are 2 MW AC ground-mount systems. Ground-mount installations require approximately five acres of land per megawatt. As a result, these systems tend to be located in rural areas on flat to gently sloping farmland. Due to the limited area of impact associated with solar panel support structures, much of the land can be maintained as grassland between and beneath the panels.

Since solar developers prefer the most economical projects, they are incentivized to avoid significant impacts to wetlands, threatened and endangered species habitat, and archeological/historic sites. Solar installations do not require lighting and water and sewer services. They do not increase population and school-age children that can impact services provided by the community, county and State. Once constructed, the amount of traffic entering or leaving a solar installation is minimal. As a result, many of the environmental impacts are avoided by design or simply do not exist due to the nature of the installations. However, municipalities may still struggle with issues of land use compatibility, protection of agricultural lands and visual impacts.

¹ For example, the hyperlink “[6 NYCRR 617.7\(d\)](#)” in this document references Title 6, Chapter VI, Part 617, Section 7, Paragraph (d) of the New York Codes, Rules and Regulations.

2.1 Step-by-Step Instructions for Large-Scale Solar Projects

The following list describes the steps a municipal board serving as Lead Agency must complete for a large-scale solar project.

Step 1: Is the Project Subject to SEQR?

See *Section 4.1 for more information*

- There must be a discretionary action by a municipal board or council, such as a site plan review, to trigger the SEQR process ([Actions subject to SEQR](#))
- If subject to SEQR, determine if the solar project is a:
 - > Type I Action ([SEQR Handbook](#); [NYS regulation](#))
 - > Type II Action ([SEQR Handbook](#); [NYS regulation](#))
 - > Unlisted Action ([SEQR Handbook](#))
- The municipal board should undertake an initial review of the Applicant's site plan to look for obvious problems with environmental impacts and/or missing information.

Step 2: Prepare Environmental Assessment Form

See *Section 4.3.2 for more information*

- The Applicant prepares Part 1 of the Environmental Assessment Form (EAF) and provides it to the Lead Agency for review. Use the online version of the EAF linked to the NYSDEC database. I Workbooks, which provide instructions and examples for preparing the EAF, are on the [NYSDEC website](#).
- For Type I Actions, a Full EAF is required ([FEAF, Part1](#)). If more than one agency is involved, coordinated review for the establishment of the Lead Agency is required.
- For Unlisted Actions, a [Short EAF](#) may be used, but the municipal board may require the use of a Full EAF if it feels that it will provide more complete information to evaluate possible impacts. Coordinated review is not required but may be advisable to facilitate the environmental review process and to obtain permits or approvals quickly.

Step 3: Initiate Coordinated Review

See *Section 4.3.3 for more information*

- To initiate [coordinated review](#), the municipal board submits to all Involved Agencies Part 1 of the EAF, along with project plans and a coordination letter indicating the municipal board's intent to serve as Lead Agency.
- [Lead Agency](#) must be agreed upon within 30 days of transmitting this information.

Step 4: Identify and Evaluate Environmental Impacts

See *Section 4.4.1 for more information*

- The municipal board, serving as Lead Agency, prepares Parts 2 and 3 of the [EAF](#). The Lead Agency may request technical assistance from the applicant to complete Part 2, but completion of Parts 2 and 3 are the responsibility of the Lead Agency.
- Parts 2 and 3 of the Short EAF ([SEAF, Parts 2 & 3](#)).
- Parts 2 and 3 of the Full EAF ([FEAF, Part 2](#)) and ([FEAF, Part 3](#)).

Step 5: Discuss Project Changes to Reduce Impacts

See Section 4.4.1 for more information

- This step is only required if the evaluation in Step 4 reveals “at least one significant adverse environmental impact.” [617.4\(a\)\(1\)](#)
- The municipal board reviews significant environmental impacts with the Applicant to determine if project changes can be incorporated to minimize or eliminate the impacts.

Step 6: Determine Significance of Environmental Impacts

See Section 4.4.2 for more information

- The municipal board determines the significance of the remaining environmental impacts identified in Step 4 by applying the criteria in the [SEQR regulations](#) and guidance in the [SEQR Handbook](#).
- The municipal board makes a Determination of Significance, issuing a negative or positive declaration (Part 3 of the Short or Full EAF).

Step 7: File Negative Declaration

See Section 4.4.3 for more information

- Negative Declaration for an Unlisted Action - Filed with the Lead Agency
 - > Conditioned Negative Declaration (See [6 NYCRR 617.7\(d\)](#))
- [Negative Declaration](#) for a Type I Action

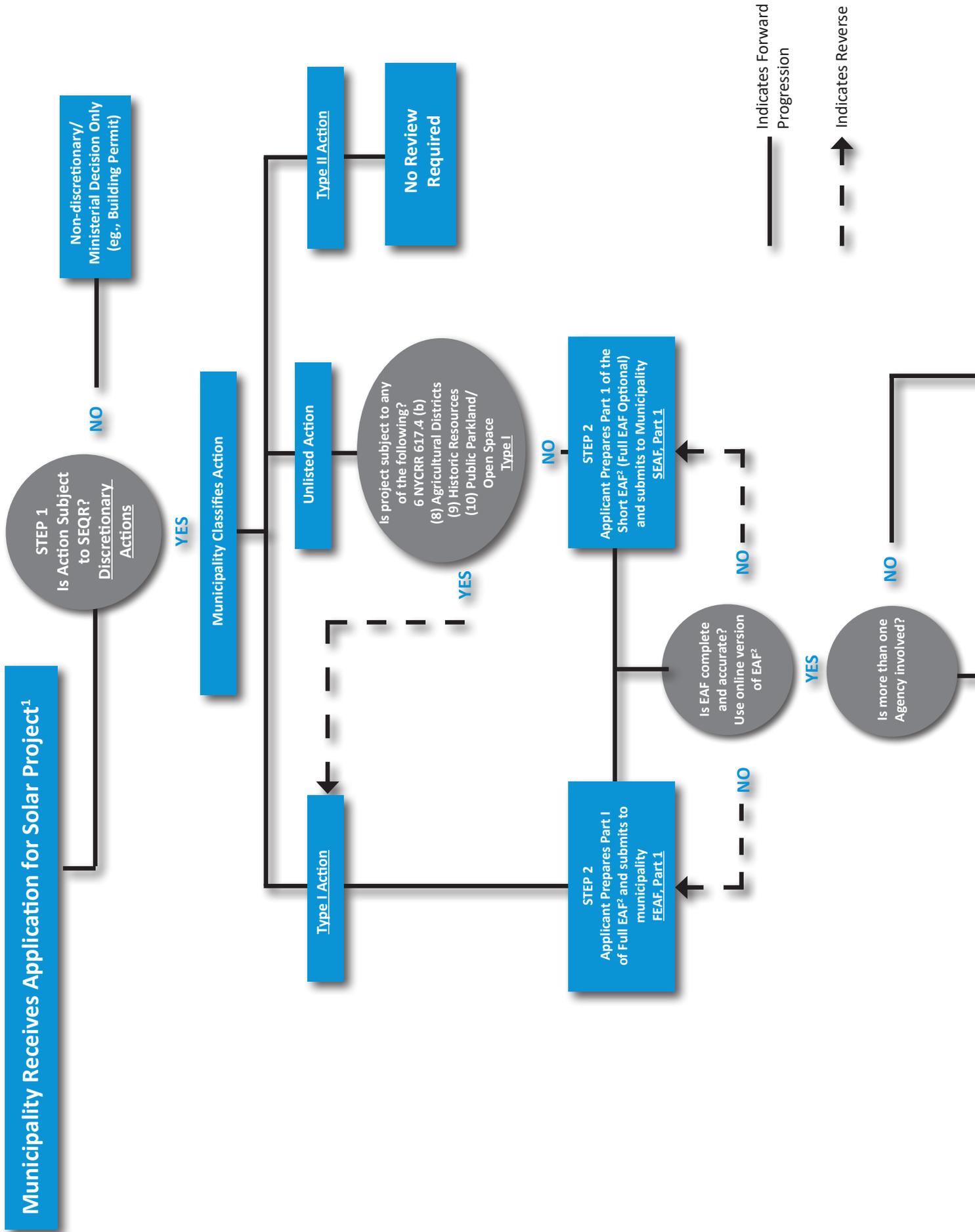
Step 8: Positive Declaration

See Section 4.4.3 for more information

- Issuing a [Positive Declaration](#) requires the preparation of an Environmental Impact Statement (EIS).
- Information on preparing an EIS is provided in the [SEQR Handbook](#).

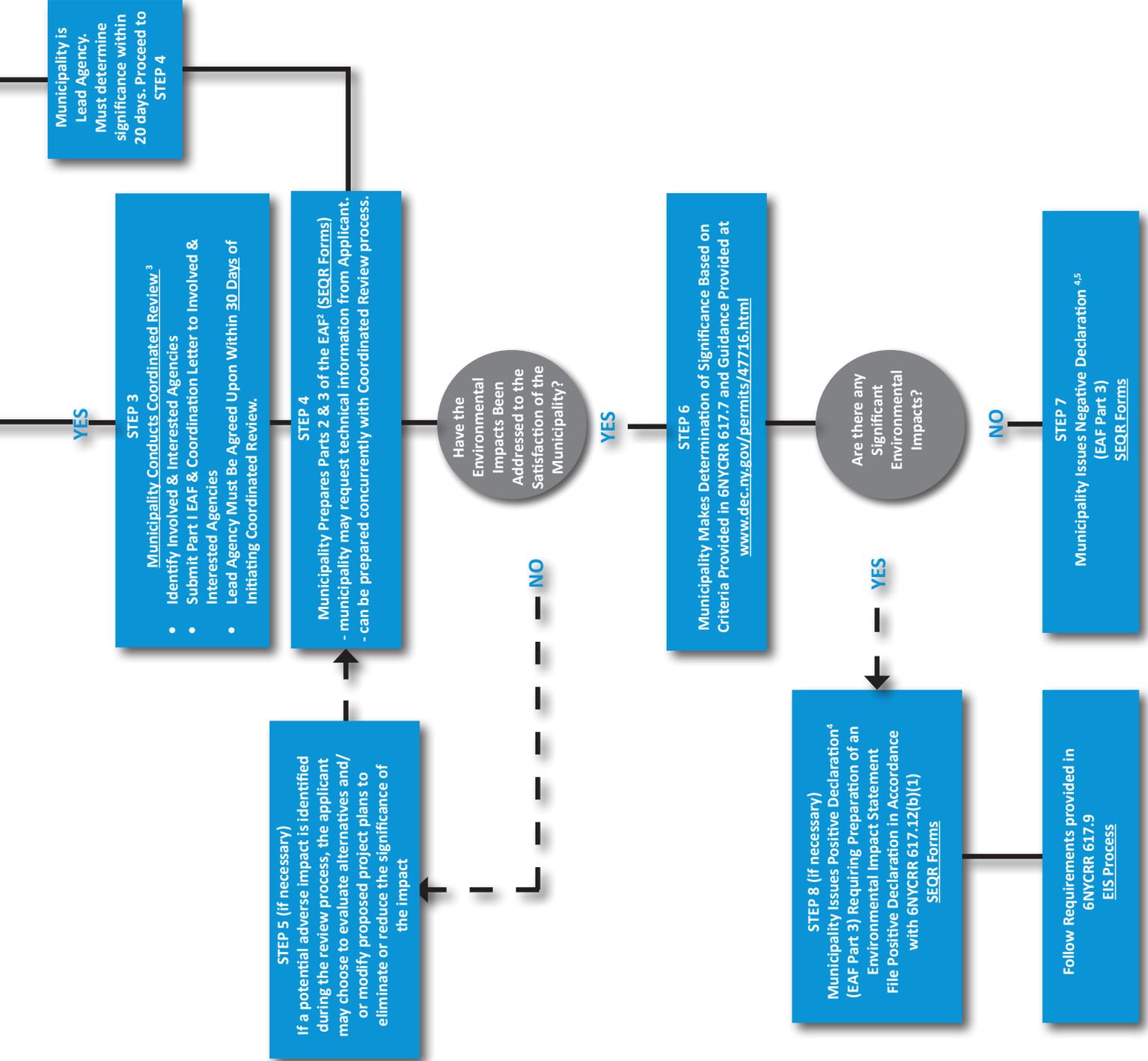
2.2 SEQR Flowchart for Large-Scale Solar Projects

State Environmental Quality Review Act (SEQR) Process Flow Chart For Solar Projects



SEQR Flow Chart Footnotes

- 1.) This process assumes that the municipality within which the project occurs will serve as Lead Agency.
- 2.) Environmental assessment forms and the EAF workbooks that provide guidance on preparing the forms can be found at <http://www.dec.ny.gov/permits/6191.html>.
- 3.) Coordinated review is required for all Type I Actions involving more than one involved agency (6 NYCRR 617.6 (b) (2) (i)). Although the SEQR regulations provide an option for Uncoordinated Review of Unlisted Actions, it is recommended that Coordinated Review be conducted for both Type I and Unlisted Actions involving more than one involved Agency to complete SEQR in a timely manner. Uncoordinated review requires each agency to conduct their own SEQR process that can result in unnecessary delays.
- 4.) Memorialized by resolution during a meeting of the involved municipal board taking action on the project. Typically, the Board will prepare a resolution that declares Lead Agency and makes the Determination of Significance (Positive or Negative Declaration). This can all be done at the same meeting.
- 5.) Municipality Files Negative Declaration for a Type I Action with:
 - Chief Executive Officer of the Political Subdivision in Which the Action is Located
 - Lead Agency
 - All Involved Agencies
 - Any Person Requesting a Copy
 - The Applicant
 - Published in the Environmental Notice Bulletin
 For Unlisted Actions, Negative Declaration is filed with the Lead Agency and Must be Made Available to the Public Upon Request



3 Background on the SEQR Regulations

3.1 Background

SEQR applies whenever a State or local government agency (including districts and special boards and authorities) must approve or fund a privately or publicly sponsored action. It also applies whenever an agency directly undertakes an action. For large-scale solar installations, the relevant agency is likely to be the local planning board or zoning board of appeals where a site plan application, or special use permit, is involved. The relevant agency may be the local legislative body if the project needs rezoning or that body has reserved for itself the authority to review particular applications.

SEQR requires all State and local government agencies to consider the environmental impacts and social and economic factors of specified actions. The State and local agencies must consider the environmental significance of any action they have discretion to approve, fund or directly undertake. SEQR regulations provide a systematic process to identify and consider environmental factors early in the planning of an action, allowing the opportunity to modify projects to avoid adverse impacts.

The SEQR process begins as soon as an agency or local government receives an application for an action or funding. The relevant municipal board must first determine if an action is a Type I, Type II or Unlisted Action. Type I and Unlisted Actions require further review under SEQR; Type II Actions require no further action under SEQR.

3.2 Types of SEQR Actions

Type I Actions are defined in SEQR regulations as those likely to have “at least one significant adverse environmental impact.” [Type I Actions](#) are listed in the statewide [SEQR regulations](#), or can be listed in an Involved Agency’s SEQR procedures. The Type I list contains numeric thresholds; any actions that equal or exceed one or more of the thresholds results in a Type I designation. A Type I Action always requires the completion of a Full EAF and coordinated review if more than one agency is involved, but a Type I designation does not mean that an Environmental Impact Statement must be prepared.

Type II Actions are those with no significant adverse environmental impact, or ones that have been statutorily exempted from SEQR review. [Type II Actions](#) do not require preparation of an EAF, a negative or positive declaration, or an EIS. Any action or class of actions listed as Type II in the [SEQR regulations](#) requires no further processing under SEQR.

Unlisted Actions are those that do not appear on the Type I nor Type II lists. In many instances, this requires interpretation of the regulation because not all projects fit neatly into the classifications provided in the regulations, but may still meet the intent. This interpretation is at the discretion of the Lead Agency and Involved Agencies. However, because these interpretations can be legally challenged, municipalities should review the SEQR Handbook guidance ([Type I Actions](#) and [Type II Actions](#)) and seek legal counsel as necessary.

Unlisted Actions represent the largest category of actions to be reviewed under SEQR. Although these actions are less likely to have a significant adverse environmental impact than Type I actions, this does not imply that an Unlisted Action will never have such an impact.

Review of an Unlisted Action may proceed using a Short EAF (see Section 5.0 for tips on preparing the EAF). A reviewing agency may require at its discretion that a Full EAF be completed and coordinated review procedures be followed. [Examples](#) include:

- There are potential adverse impacts that could be more thoroughly investigated by using a Full EAF and coordinating review; or
- An agency has special concerns regarding a sensitive resource within its jurisdiction; or
- An agency is uncertain about the concerns of other Involved Agencies and decides to coordinate review; or
- The action falls just below the applicable Type I threshold; or
- Anytime the agency judges that the Type I procedures would be more helpful.

3.3 NYSDEC Amendments to the SEQR Regulations Effective January 1, 2019

Under current SEQR regulations, the majority of commercial, ground-mount solar projects are considered Unlisted or Type I Actions. NYSDEC has adopted [amendments to SEQR to be effective January 1, 2019](#) that impact the review procedures of solar projects. The Department adopted a new **Type II category**, to be codified at 6 NYCRR § 617.5 (c) (14) & (15), to read as follows:

617.5(14)

Installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on the following sites:

- (i) closed landfills;
- (ii) brownfield sites that have received a Brownfield Cleanup Program certificate of completion (“COC”) pursuant to ECL § 27-1419 and 6 NYCRR § 375-3.9 or Environmental Restoration Project sites that have received a COC pursuant to 6 NYCRR § 375-4.9, where the COC under either program for a particular site has an allowable use of commercial or industrial, provided that the change of use requirements in 6 NYCRR § 375-1.11(d) are complied with;
- (iii) sites that have received an inactive hazardous waste disposal site full liability release or a COC pursuant to 6 NYCRR § 375-2.9, where the Department has determined an allowable use for a particular site is commercial or industrial, provided that the change of use requirements in 6 NYCRR § 375-1.11(d) are complied with;
- (iv) currently disturbed areas at publicly-owned wastewater treatment facilities;
- (v) currently disturbed areas at sites zoned for industrial use; and
- (vi) parking lots or parking garages;

617.5(15)

Installation of solar energy arrays on an existing structure provided the structure is not:

- (i) listed on the National or State Register of Historic Places;
- (ii) located within a district listed in the National or State Register of Historic Places;
- (iii) been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law; or
- (iv) within a district that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law.

Projects that meet the criteria will require no further SEQR review.

4 SEQR Process Overview

This section provides additional information on how to direct solar projects through the SEQR process. The [SEQR regulations](#) and the [SEQR Handbook](#) provide detailed guidance on the entire SEQR process and should be referenced for any specific questions regarding applicability, process and legal concerns.

4.1 Defining the SEQR Action

Upon receiving an application for a solar project, the relevant municipal board must determine whether SEQR applies to the project (will there be discretionary decision-making on the part of the municipal board) and, if so, the “type” of SEQR action that will be undertaken. This part of the process is Step 1 in the Quick-Reference Guide.

4.1.1 Is There a SEQR Action?

The first step in the SEQR process is to determine whether the solar project is subject to SEQR. For SEQR to apply, there must be an action on the part of a State, county or local governmental agency to approve, permit, fund, or directly undertake a project. Relative to the approval of solar projects, it must be determined if the project requires a discretionary action ([SEQR Actions](#)) on the part of the local board having jurisdiction. For most commercial ground-mount facilities, the action would be a site plan review by the local planning board. The process could also involve a special use permit or even a zoning change, which is less likely. For rooftop installations and residential projects, which are common non-discretionary actions, a building permit may be the only approval required. Non-discretionary actions are not subject to SEQR, but all discretionary actions are subject to SEQR. There may be a circumstance where the project requires only a building permit and, therefore, no requirement for SEQR review by local government, but requires a permit from the State (for example, a wetland permit). Under these circumstances, the State agency would have to address SEQR, but the local municipal board would not.

4.1.2 Classifying the SEQR Action

As identified in Section 3.2, there are three types of SEQR actions: Type I, Type II and Unlisted. Classifying actions by type focuses largely on the size of the project and to some extent the proximity to sensitive environmental or social-cultural resources. Thresholds are defined for Type I and Type II actions. Actions not falling under one of these categories are referred to as Unlisted.

Thresholds that would classify a solar project as a Type I action include:

- The physical alteration of 10 acres or the expansion of any existing solar facility by 5 acres or more.
- An Unlisted Action that includes a nonagricultural use occurring wholly or partially within an Agricultural District (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section. (For example, the threshold for physical alteration of 10 acres would be reduced to 2.5 acres in an Agricultural District, so any solar installation within an Agricultural District requiring more than 2.5 acres of land would be elevated to a Type I action.)
- An Unlisted Action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places. See the definition of [“substantially contiguous.”](#)
- An Unlisted Action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR part 62, 1994 (see section 617.17 of this Part). See the definition of [“substantially contiguous.”](#)

See a full list of Type I actions at [617.4](#).

It is anticipated that most commercial ground-mount solar projects will be classified as Unlisted or Type I Actions. Rooftop projects that involve discretionary decision-making (more than a building permit) are likely to be Unlisted Actions, unless an historic structure is involved. However, the following Type II action might apply:

- Construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities ([6 NYCRR 617.5\(c\)\(7\)](#)).

Small residential projects may meet the thresholds for the following Type II action:

- Construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density ([6 NYCRR 617.5\(c\)\(10\)](#)).

The complete list of Type II actions is found at [6 NYCRR 617.5](#). While not required, it is a recommended practice that the Lead Agency add a note to the project file indicating that the project was considered under SEQR and met all the requirements for a Type II action.

4.2 SEQR Roles & Responsibilities

4.2.1 Lead Agency

This guidance document assumes that the municipal board exercising a discretionary approval for a large-scale solar project will serve as Lead Agency. The Lead Agency has the greatest control over the environmental review process and the greatest responsibility for ensuring SEQR procedures are thoroughly and appropriately followed. More information on Lead Agency responsibilities is available in Chapter 3 of the [SEQR Handbook](#). Decisions based on limited or incomplete information can lead to legal challenges, especially for controversial projects, based on claims of an arbitrary and capricious decision. The potential for a “bad” decision on the part of the Lead Agency can be minimized by following accepted industry standards for investigations, requiring the preparation of the EAF using NYSDEC’s on-line version (that is linked to important environmental data bases that auto-fill portions of the form (see Section 5 for more information on preparing EAFs)), and seeking the review or advice of resource agencies, such as NYSDEC and other State, regional and local agencies, some of which may be involved in the project.

The Lead Agency is also responsible for the following:

- Classifying the project (Type I, Type II, or Unlisted Action).
- Selecting the appropriate EAF for evaluation of the impacts.
- Conducting [Coordinated Review](#) with Involved and Interested Agencies, if applicable.
- Preparation of Parts 2 and 3 of the EAF. (The applicant may provide technical assistance to the Lead Agency, but completion of Parts 2 and 3 are the responsibility of the Lead Agency.)
- Issuance of a [Determination of Significance](#) (a Positive or Negative Declaration).
- Filing notices.
- If a Positive Declaration is issued, follow requirements in [6 NYCRR 617.9](#) regarding the preparation of an Environmental Impact Statement.

4.2.2 Involved Agency

An [Involved Agency](#) is any agency directly undertaking the project, or one that is responsible for approval, permitting or funding. In the case of solar projects subject to SEQR, the municipal board would likely have the greatest review authority over the project. Other Involved Agencies could include NYSERDA, given its role providing financial incentives, and other State and county agencies that would need to approve, permit or fund the project. If coordinated review is required, the municipal board would likely initiate the coordinated review process with the Involved Agencies to confirm its role as the Lead Agency. It is the responsibility of the Involved Agencies to review Part 1 of the EAF and provide their guidance on potential impacts. See Section 4.3.1 for a list of common Involved Agencies.

If the SEQR process proceeds under Uncoordinated Review, each Involved Agency must conduct their own environmental review (preparation of an EAF) and make a Determination of Significance. No Involved Agency may undertake an action (approval, funding, permitting) without completing SEQR. If any Involved Agency issues a Positive Declaration, a coordinated review will be required.

4.2.3 Interested Agency

An [Interested Agency](#) is any agency that may have an interest in a project or its environmental review process outcome, but is not directly undertaking, approving, permitting or funding the project. Interested Agencies do not have a required role in the coordinated review process and cannot be a Lead Agency. Interested Agencies will often provide

information pertinent to the resource with which they are concerned and serve as a valuable resource in the Lead Agency's process of determining the significance of impacts.

Interested Agencies may have a permit or related approval to issue for the project, but it is non-discretionary. Examples of this might include a NYS Department of Transportation Highway Work Permit, or county planning board review under Section 239-m of the general municipal code. Another common Interested Agency is the NYS Office of Parks, Recreation and Historic Preservation (also referred to as the State Historic Preservation Office, or SHPO). This office reviews projects for their impacts on cultural resources and issues their determination, which is not binding on the Lead Agency. Although the SEQR process does not apply to federal agencies, they can be Interested Agencies if the project involves federal permits. The U.S. Army Corps of Engineers is a well-known Interested Agency due to its jurisdiction over wetlands and Waters of the United States. See Section 6 for more information on agency coordination and Section 4.3.1 for a list of common Interested Agencies.

4.2.4 The Public

The SEQR regulations do not require public input, but the SEQR process provides an opportunity for public input when a Positive Declaration is issued. Local laws determine the level of public input. SEQR documentation (EAF, Positive or Negative Declaration) must at least be filed with the Lead Agency and be available for public review upon request. The [public](#) will have a limited role in the SEQR process for most solar projects. If the SEQR review for a project results in a Negative Declaration, there is no specific step in the SEQR process that provides an opportunity for public review and feedback on the environmental impacts of the project, other than the Determination of Significance being filed with the Lead Agency and made publicly available upon request. However, all projects that require site plan review typically require a public hearing. The public can then review the environmental impacts and other documentation and provide comments. Since a municipal board usually serves as Lead Agency, this process may help to shape the Determination of Significance.

4.2.5 Applicant

The Applicant's role in the SEQR process for a solar project is extensive. It is the Applicant's responsibility to provide complete and accurate information on project impacts. This may require numerous studies and coordination with agencies and other experts. The Applicant must prepare Part 1 of the EAF and provide it to the Lead Agency for its review. In cases where the Lead Agency does not possess the necessary expertise to complete Parts 2 and 3 of the EAF, it may request technical assistance from the Applicant, or contract with a third-party consultant to assist in this review. However, the Lead Agency is ultimately responsible for its own analysis and all decisions made.

The Applicant should also remain flexible and creative in the site design process to avoid significant environmental impacts. This may require upfront work such as a wetland delineation, habitat assessment, and cultural resources survey. A pre-application meeting with municipal officials is recommended to identify any concerns of the municipality early-on in the process. Applicants can then remove from their plans any problems that would lead to one or more significant environmental impacts and a Positive Declaration, which would require the completion of the EIS.

4.3 Establishing Lead Agency

For all Type I actions involving more than one Involved Agency and Unlisted Actions where coordination with the Involved Agencies is desired, Lead Agency must be established through the Coordinated Review process (Step 3 of the SEQR process). When there is only one Involved Agency or when the Uncoordinated Review option is chosen for Unlisted Actions, there is no coordination process. This section discusses these processes in more detail.

4.3.1 Identify Involved and Interested Agencies

Regardless of whether Coordinated or Uncoordinated Review is required or chosen, it is good practice to identify all the Involved Agencies along with their roles in the permitting, funding, or approval process for the project. Preparation

of Part 1 of the EAF and the associated research is helpful in identifying what additional permits and approvals might be needed. It is the Applicant's responsibility to assist the municipal board in identifying the involved and Interested Agencies. A typical list of involved and Interested Agencies includes the following:

- NYSDEC – permits for wetlands, streams and threatened and endangered species.
- NYS Department of Transportation – work on State roads and right of way.
- NYS Department of Agriculture and Markets – impacts to farmland within an Agricultural District.
- NYS Department of State – work within the Coastal Zone.
- NYS Office of Parks, Recreation and Historic Preservation (State Historic Preservation Office): consultation for historic and archeological resources.
- U.S. Army Corps of Engineers: permits for wetlands and waters of the U.S. (Note: federal agencies not subject to SEQR but may serve as an Interested Agency)
- U.S. Fish and Wildlife Service: consultation for threatened and endangered species.
- County Planning & Farmland Protection Board: Section 239-m referral and Agricultural District impacts.
- New York City Department of Environmental Protection: work within the NYC Watershed.
- NYSERDA: funding via NY-Sun financial incentives.

4.3.2 Prepare the Environmental Assessment Form (EAF)

Step 2 of the SEQR process is likely to be combined with Step 1 in the form of a site plan application. Preparation of Part 1 of the EAF is typically required as part of the site plan review application requirements. If the municipal board has not already, it would be very helpful for future applications to provide guidance on the contents for a site plan application and any special considerations for SEQR. For example, some communities require the preparation of a Full EAF regardless of the classification of the project (Type I or Unlisted).

The Applicant will prepare Part 1 of the EAF. Unless directed otherwise, the Applicant will use the Short EAF for Unlisted Actions and a Full EAF for Type I Actions. Information on how to prepare the EAF is provided in Section 5. Communication between the Applicant and the municipal board should begin early on so the Applicant is clear on what is required for the application. The municipal board should provide an initial determination on the type of SEQR action (Type I, Type II or Unlisted) so the applicant can submit the correct EAF.

4.3.3 Coordinated Review

Step 3 of the SEQR process is to designate the Lead Agency. If the municipal board is the only Involved Agency, there is no required coordination. Unlisted Actions with multiple agencies can be progressed under Uncoordinated Review, whereby each agency is responsible for completing SEQR on their own (described further in Section 4.4.3), or can proceed under Coordinated Review. A project will likely proceed in a more efficient manner by using Coordinated Review for projects with multiple Involved Agencies. For Type I Actions, Coordinated Review is required.

The municipal board reviewing the project would initiate Coordinated Review by submitting Part 1 of the EAF along with a project location map, project plans, and a letter indicating the municipal board's intent to serve as Lead Agency to all Involved Agencies, requesting concurrence. It is common practice to include the Interested Agencies in this submittal. The Interested Agencies may provide comments but they cannot participate in the establishment of Lead Agency. The process can take up to 30 days to complete. By regulation, a Lead Agency must be agreed upon [within 30 days](#) of the Involved Agencies receiving the request. The process can be expedited if desired and agreed to by the Involved Agencies. Some suggestions include:

- Include a statement at the end of the Lead Agency request letter that states the undersigned Involved Agency has no objection to the municipal board serving as Lead Agency and provide a signature line.
- Contact the Involved Agencies and obtain a response by email.

If an Involved Agency does not respond to the request within 30 days, it can be assumed that the Agency has no objections. To keep a clear record of the SEQR process and the decisions being made, it is important for the municipal board to memorialize the Lead Agency designation by resolution.

Challenges to Lead Agency are rare. If a challenge occurs, many times the Involved Agencies can resolve the dispute by direct communication. If after 30 days there is no agreement on Lead Agency, then the disputing parties can request that the NYSDEC Commissioner designate Lead Agency in accordance with [6 NYCRR 617.6\(b\)\(5\)](#).

4.3.4 Uncoordinated Review

For an Unlisted Action, the municipal board may proceed with the SEQR process on its own via Uncoordinated Review. Each Involved Agency must complete their own SEQR process. The benefit of this approach includes less effort on the part of the municipal board and the potential to bypass the 30-day period to establish Lead Agency. This approach may be desirable when timing is a critical factor for local approvals and funding deadlines. Conversely, this approach could lead to a longer approval process for the project due to the need for each agency to complete SEQR on their own. For projects with several Involved Agencies, this approach is not recommended.

4.4 Determine Significance

The Lead Agency is responsible for evaluating the impacts of a project and must complete its own analysis by preparing Parts 2 and 3 of the EAF. The Lead Agency may request technical assistance from the Applicant or contract with a third-party consultant, but the Lead Agency is ultimately responsible for its own analysis and decisions. If the Applicant has the expertise, either directly or through a consultant, they may want to consider preparing Parts 2 and 3 immediately following the preparation of Part 1 to provide technical assistance to the Lead Agency concerning the size of impacts. It is not necessary to wait until Lead Agency has been established. The municipal board will have the responsibility of reviewing the Applicant's documentation and ensuring that a thorough evaluation has been performed. Based on the results of Parts 2 and 3, the municipal board must determine if any of the impacts are significant, which will lead to the issuance of either a Positive Declaration (EIS required) or a Negative Declaration (SEQR process ends).

4.4.1 Prepare Parts 2 and 3 of the EAF

Step 4 of the SEQR process involves the evaluation of the impacts of the project on the environment through the preparation of Parts 2 and 3 of the EAF. Details on how to prepare these forms are provided in Section 5. Impact evaluation can be highly subjective and biased. It is the municipality's duty to protect the health, safety and welfare of the community, and as such it should carefully review the results of this process. NYSDEC's [EAF Workbook](#) provides useful information to determine if an impact is small or moderate to large. Part 2 of the EAF provides subcategories of questions and thresholds that are indicative of moderate to large impacts. Additionally, links to the EAF Workbook are provided to help answer specific questions. The municipal board should not ignore common sense and general concerns that are important to the community. Checking moderate to large indicates that there is the potential for a significant impact that needs to be resolved through additional study and discussion in Part 3.

Part 3 of the EAF is the opportunity to strengthen the record by discussing the impact in greater detail, providing additional studies and perhaps making design changes/incorporating best management practices to minimize or eliminate the impact (**Step 5** of the SEQR process). Common documentation provided in Part 3 includes the following:

- Wetland Delineation Report
- Threatened and Endangered Species Habitat Assessment
- Cultural Resources Survey
- Visual Impact Assessment
- Farmland Protection Strategy

Depending on the municipal board's experience reviewing technical reports, coordination with Involved and Interested Agencies may be critical to reaching a conclusion on the magnitude of the impact. Many municipalities require the Applicant to provide documentation from various agencies providing their opinion on impacts or the presence/absence of important resources. This might include:

- Jurisdictional determination from the U.S. Army Corps of Engineers to address the presence/absence of wetlands and other Waters of the United States
- Correspondence from NYSDEC concurring with the results of a habitat assessment.
- Opinion from SHPO on historic and archeological impacts.

Such information and guidance from the Involved and Interested Agencies provides closure on certain issues or may raise new concerns that in either case will inform the Lead Agency's decision.

4.4.2 Review Significance Criteria

Step 6 of the SEQR process involves a review of the SEQR significance criteria to evaluate whether the project warrants additional review through the preparation of an EIS. The SEQR regulations require that the Lead Agency issue a Positive Declaration if it is determined the project may have one or more significant adverse environmental impacts. The [SEQR Handbook](#) provides guidance to determine significance. Creating a legally defensible determination of significance requires consideration of the following factors described in the [SEQR Handbook](#):

- the entire action (see [Segmentation](#));
- the environmental assessment form (EAF);
- any other information provided by the Applicant, including the underlying application;
- the criteria for determining significance found in [617.7\(c\)](#); and
- any input from Involved and Interested Agencies, organizations or the public.

The criteria identified in 617.7(c) should be used by the municipal board to determine whether the project must proceed to an EIS. An indication of the need for an EIS is the need for mitigation. Mitigation is an additional level of protection that typically must be developed through the continued local approval process. Mitigation assumes that an impact is significant and must be reduced through special measures. A Negative Declaration cannot incorporate mitigation because issuance of a Negative Declaration means a project has no significant impacts. As a result, there are no conditions placed on the project to address environmental concerns. These issues should have all been addressed through design and best management practices. However, the SEQR regulations ([617.7\(d\)](#)) do allow the Lead Agency to issue a Conditioned Negative Declaration, which stipulates that no significant adverse environmental impact will occur if the Applicant fulfills certain conditions placed on the solar project. Mitigation should not be confused with the actions taken by a project sponsor to modify project plans as part of the review process, thereby avoiding or eliminating a potential adverse impact.

4.4.3 Notification Requirements

Steps 7 and 8 of the SEQR process involve the filing of the Determination of Significance. The [SEQR Handbook](#) provides requirements for a Negative Declaration. The signature portion of EAF Part 3 serves as the Negative or Positive Declaration. The municipal board should adopt its Negative or Positive Declaration by resolution, at which time the documents must be filed as follows (more information on notices and filings is in the [SEQR Handbook](#)):

- Negative Declaration for an Unlisted Action - Filed with the Lead Agency
- Conditioned Negative Declaration for an Unlisted Action – Lead Agency must publish a notice in the Environmental Notice Bulletin and provide at least a 30-day public review period starting from the publication date.
- Negative Declaration for a Type I Action or a Positive Declaration - the Lead Agency must retain a copy in its own files and provide notice to, and file a copy of the declaration with:
 - > The chief executive officer of the political subdivision in which the action will be principally located;
 - > The Applicant, when there is one;

- > All Involved Agencies;
- > Individuals or groups who have requested a copy; and
- > The Lead Agency must also file the notice of the declaration for publication in the Environmental Notice Bulletin (ENB).

5 Preparing The Environmental Assessment Form (EAF)

Once the municipal board has determined if an action is Type I or Unlisted under SEQRA, the appropriate form must be completed. These forms are located on the [NYSDEC website](#). From this page, the user can navigate to both the EAF Mapper Application and the EAF Workbook.

The EAF Mapper application generates partially completed EAF forms by utilizing GIS to complete certain geographic questions. The use of the EAF Workbook, although not required, is an excellent guide to completing all three parts of either the Short or Full EAF.

Part 1 of the FEAF provides details that help the municipal board understand the location, size, type, and characteristics of the proposed project. Part 1 can be completed by the Applicant using information prepared as part of a submission for approval along with maps, plats, or other studies. The Workbook provides background information, links to data and maps that will help the Applicant locate information needed to answer the questions.

Part 2 of the FEAF is used by the municipal board to identify potential impacts that may result from the project. The municipal board may ask the Applicant for clarification of information provided in Part 1, or for additional information.

Part 3 is used by the municipal board to determine if the potential adverse impacts identified in Part 2 are significant or not, and whether a draft environmental impact statement (DEIS) will be prepared. If the municipal board determines that a DEIS shall be required, Part 3 is also used to identify the scope (topics to be considered in more detail) for that evaluation. Part 3 is also used to help the municipal board identify whether the Applicant has addressed the potential adverse impacts as part of the project design. The municipal board is responsible to ensure it has the appropriate information to evaluate and determine the significance of the action.

The guidance related to Parts 2 and 3 of the FEAF is not found in regulation, but it provides invaluable information as to whether an impact is considered large or significant (and the difference between the two). It also provides certain thresholds and examples of how to identify if an impact is small, moderate or large. Using the criteria outlined in the guidance assists the municipal board in making its determination of significance utilizing a methodical, defensible approach.

5.1 USING THE ONLINE TOOLS

Links to all SEQRA forms, including the FEAF and SEAF, can be found on the [NYSDEC website](#). These forms are supported by the following browsers: Firefox, Internet Explorer 9 & above, Google Chrome and Safari. In addition, computers must have Acrobat Reader to fill out and save the forms. If necessary, forms can be printed out and completed manually.

How to use EAF Mapper and Create the Project Review Area

The recommended sequence to complete Part 1 of either a FEAF or SEAF is as follows:

- A. Go to the [NYSDEC webpage](#).
- B. Scroll to [NYSDEC EAF Mapper](#) to utilize the EAF Mapper Application. Although not required, it is recommended that you enter the forms through the Mapper Application. This saves time by prefilling several Part 1 questions on both the SEAF and the FEAF.

- a. Navigate to the specific project location utilizing any of the following:
 - Use the drop-down menus to enter the county and town where the project is located and zoom in to the particular site;
 - Use the 'Locate Address' tab to enter a specific address;
 - Use the 'Go To' Place tab to enter a place name.
- b. Define the specific project site boundary. Zoom in to the general area where the project is located. You may locate your project in two ways:
 - If tax parcel information is available for the project location, it will appear when you zoom in far enough on the map. Click on the "Select Tax Parcel" button and click on the desired tax parcel on the map to select it.
 - If tax parcels are not available, or if the project location is larger than a single parcel, use the "Draw Polygon" button to draw a boundary around the project site. In both cases (tax parcel or polygon), the project site will be shaded to show the extent and boundaries selected.
- c. After locating the project site and its boundaries, a report can be generated by clicking the FEAF or SEAF button in the bottom-right corner of the EAF Mapper.

Clicking the button for the Short EAF or Full EAF prompts EAF Mapper to return a fill-in, savable PDF with many location-based questions in Part 1 already populated.

- d. Always save the prefilled form to your network before completing the remaining questions in Part 1.²

C. Continue responding to Part 1 questions using the EAF Workbook as a guide.

How to use the NYSDEC Environmental Resource Mapper

Additional responses to questions in the EAF can be found using the NYSDEC Environmental Resource Mapper ([NYSDEC Environmental Mapper](#)). This tool identifies freshwater wetlands, federal wetlands, water features, State-listed endangered or threatened plants and animals, and significant natural communities on or near a project site.

For help using this tool, click on the question mark icon found on the upper right-hand corner of the page for step-by-step instructions.



- A. Navigate to the project site or area by address, municipality, county or zip code.
- B. Using the layers and legend tab on the left choose the resources to be mapped. Note: clicking "All Layers" will provide the most complete data for a site or area.
- C. The map of the site or area will be generated.
- D. The layers and legend tab also includes links to other wetland layers, information on permits and contacts for more information, if needed.

Other Useful Resources

The EAF Workbook contains many links and sources of additional information that can be helpful to complete each part of the EAF. Each question in the EAF includes a hyperlink to the EAF Workbook that provides more detail on the information that is requested in a specific question. This information is presented in narrative descriptions, examples and additional links.

² The pre-filled answers cannot be changed. Applicants should add supplemental information if they believe a "yes" response to an EAF mapper result is incorrect. If the EAF mapper provides a "no" answer, both Applicants and municipalities can be confident that the environmental feature in question is not present or adjacent to the site.

Useful links found on the [NYSDEC SEQR homepage](#) include:

- [6 NYCRR Part 617, State Environmental Quality Review \(SEQR\)](#): The section of New York Codes, Rules and Regulations on SEQR.
- [Introduction to SEQR](#): This is NYSDEC’s introductory page on SEQR.
- [Stepping Through the SEQR Process: A step-by-step guide to the SEQR process](#)
- [SEQR Publications](#): Publications pertaining to SEQR
- [“EIS on the Web” Requirement](#): A resource to access Environmental Impact Statements.
- [Critical Environmental Areas](#): Provides a list of such areas in each county.
- [DEC Commissioner Decisions on Lead Agency Disputes](#): Overview with the Commissioner’s decisions on Lead Agency disputes.
- [State Environmental Quality Review Act - Adopted Amendments 2018](#): The NYSDEC website for adopted amendments to streamline the SEQR process.

5.2 Part 1 of the EAF

Part 1 of the FEAF provides details that help the municipal board understand the location, size, type and characteristics of the proposed project. Part 1 can be completed by the Applicant using information prepared as part of a submission for approval along with maps, plats, or other studies.

Questions in Part 1 of the FEAF are organized into the following major headings:

- A. Project and Sponsor Information
- B. Government Approvals
- C. Planning and Zoning
- D. Project Details
- E. Site and Setting of Proposed Action
- F. Additional Information
- G. Verification

Each question includes a hyperlink to the EAF Workbook, which provides more detail on the information that is requested by a specific question. For example, a question in Section D, “Project Details” ([Question D.1.h](#)) is pasted below. The Workbook provides further explanation of the term “impoundment,” how to identify the source of an impoundment, and pertinent links to potential permits.

| | |
|---|--|
| h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| If Yes, | |
| i. Purpose of the impoundment: _____ | |
| ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____ | |
| iii. If other than water, identify the type of impounded/contained liquids and their source. _____ | |
| iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres | |
| v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length | |
| vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____ | |

Another example is taken from Section E, "Site and Setting of Proposed Action Designated Public Resources on or Near Project Site" ([Question E.3](#)). This section of Part 1 was generated through the EAF Mapper link using a random location in Saratoga County, New York, and a series of auto-filled responses. The affirmative response to E.3.f alerts the Applicant as well as the municipal board that additional information is needed to identify the nature and extent of potential archeological resources. Guidance in the EAF workbook provides a link to the [NYS Cultural Resources Information System \(CRIS\)](#), an on-line tool maintained by the New York State Historic Preservation Office (SHPO).

| E.3. Designated Public Resources On or Near Project Site | |
|--|---|
| a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? If Yes, provide county plus district name/number: _____ | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Are agricultural lands consisting of highly productive soils present? i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? If Yes: i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____ | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? If Yes: i. CEA name: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____ | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? If Yes: i. Nature of historical/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| g. Have additional archaeological or historic site(s) or resources been identified on the project site? If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? _____ | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

The Applicant should work through each question using the EAF Workbook to complete Part 1 of the FEAF. The Applicant should submit this form along with a site map and any other information or studies (Section F. Additional Information) that will help the municipal board understand and evaluate the project.

5.3 Parts 2 and 3 of the EAF

Part 2, "Identification of Potential Impact," and Part 3, "Evaluation of Impacts and Determination of Significance," are the responsibility of the Lead Agency. Part 2 helps the Municipal board inventory the potential resources that could be affected by the proposed action. The DEC website offers [guidance to complete Part 2](#), as well as the [Part 2 form](#). Again, this section refers to Part 2 of the FEAF. Following general instructions, there are a series of topical questions followed by sub-questions. Links on the first page of Part 2 provide helpful information to evaluate scale, context and impact.

When trying to identify an impact and its relative size, it is often easier to evaluate the sub-questions first. Each major question includes a hyperlink to the appropriate section of the EAF Workbook, and back to relevant questions in Part 1, as well as examples and thresholds that can be used in the evaluation. The municipal board will use this information to determine if there will be no impact or a small impact, or a moderate-to-large impact.

If "No or small impact may occur" was checked for all 18 questions in Part 2, the municipal board only needs to check the appropriate box on Part 3 and sign it. The DEC website offers [guidance to complete Part 3](#), as well as the [Part 3 form](#). If any question was checked "Moderate to large impact may occur," the Lead Agency must include a discussion for each question identified as such to determine how significant the moderate to large impact may or may not be. According to the EAF Workbook, this discussion should evaluate the importance of the impact, take into account any design element or project changes and provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact. Based on the evaluation, the municipal board must check the appropriate box indicating a positive or negative declaration and sign the form.

Check the appropriate box to indicate a Negative Declaration, Conditioned Negative Declaration, or Positive Declaration.

| | |
|--|--|
| Upon review of the information recorded on this EAF, as noted, plus this additional support information | |
| _____ | |
| _____ | |
| and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the _____ as lead agency that: | |
| <input type="checkbox"/> | A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued. |
| <input type="checkbox"/> | B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency: _____ _____ |
| There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d). | |
| <input type="checkbox"/> | C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued. |
| Name of Action: _____ | |
| Name of Lead Agency: _____ | |
| Name of Responsible Officer in Lead Agency: _____ | |
| Title of Responsible Officer: _____ | |
| Signature of Responsible Officer in Lead Agency: _____ | Date: _____ |
| Signature of Preparer (if different from Responsible Officer) _____ | Date: _____ |

6 Agency Coordination

This section explores some of the more common environmental issues that may arise during the SEQR process for solar projects and the agencies associated with them. As discussed in Section 4.3.3, agency coordination is a key component of the SEQR process. Coordination helps the municipal board identify important environmental and social-cultural resources that may be affected by the project. These agencies can provide closure on certain environmental issues and will help support the record of decision, resulting in a more legally defensible outcome.

Many of the resources discussed in this section are applicable to ground-mount installations only. However, cultural resources can be impacted by all types of solar installations (e.g. rooftop installations on historic structures).

6.1 Wetlands and Streams

In New York State, wetlands are primarily regulated by three agencies: U.S. Army Corps of Engineers (USACE), NYSDEC, and the Adirondack Park Agency (APA). This section will focus on USACE and NYSDEC, which also regulate streams. A separate section is devoted to APA involvement.

Wetlands are one of the most commonly encountered regulated environmental resources in New York State. Wetland regulations significantly limit what can be done within wetland boundaries or buffers. Wetlands should be avoided to the greatest extent practicable. Streams are regulated by USACE as Waters of the United States. The State regulates streams in accordance with [Article 15](#) of the Environmental Conservation Law, administered by NYSDEC.

For the purposes of complying with SEQR, the potential presence of wetlands and streams can initially be identified through mapping. NYSDEC's [Environmental Resources Mapper](#) identifies wetlands regulated under the [State Freshwater Wetlands program](#) and all mapped streams and their water quality classification. If a State-regulated wetland or stream occurs on a project site, it is likely that NYSDEC will be an Involved Agency.

The Environmental Resources Mapper also provides mapping from the U.S. Fish and Wildlife Service National Wetland Inventory. This tool helps identify the potential presence of wetlands on a given site. All Waters of the U.S. are regulated by USACE. The definition of waters of the U.S. includes most wetlands and streams. However, the determination of federal jurisdiction has become much more complicated over the years. It is important to note that there is no recognized regulatory federal wetland or stream mapping in the U.S. For a site to be properly identified, consult the 1987 Corps of Engineers Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Manual: Northcentral and Northeast Region, Version 2.0 (January 2012). The municipal board should expect the Applicant to provide a wetland delineation map for the site with surveyed boundaries. It is the Lead Agency's responsibility to understand the magnitude of impact as part of its determination of significance. If federal wetlands or other Waters of the U.S. are present, it is good practice to include USACE as an Interested Agency.

6.2 Threatened and Endangered Species

Certain rare species of plants and animals are protected as threatened and endangered species under both State and federal regulations. Federally listed species are protected under the federal Endangered Species Act of 1973 (ESA; 16 U.S.C. § 1531 et seq.). The agencies responsible for implementing the ESA are the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Solar projects in New York are likely to require coordination with only the U.S. Fish and Wildlife Service. An initial screening for threatened and endangered species is available through its [Information for Planning and Consultation](#). The Applicant can use this website to input specific information on site location and receive a listing of species that may occur in the area. The website is not intended to identify whether a species is present. If species are identified, it becomes necessary to perform a habitat assessment to first determine if the site is suitable for the species and, if so, further investigation may be necessary to determine presence/absence.

State-listed species are regulated by NYSDEC under [6 NYCRR Part 182](#). The potential presence of threatened and endangered species is addressed in Part 1 of the EAF. Preparing the EAF using the interactive form will result in a link to the protected species database and will automatically populate the question on the EAF. In addition, an initial screening for protected species can be conducted by viewing the [Environmental Resources Mapper](#). If the mapper indicates the potential presence for protected species, the next step is to contact the NYS Natural Heritage Program for additional information.

6.3 Cultural Resources

For the purposes of SEQR, the term “cultural resources” refers to historic and archeological resources. This includes specific sites that are listed on the State and National Register of Historic Places. These resources are protected under Section 106 of the National Historic Preservation Act of 1966 ([36 CFR Part 800](#)) and the NYS Historic Preservation Act of 1980 (Article 14 of the Parks, Recreation and Historic Preservation Law), implemented through the [14.09 State Regulations](#). Section 106 requires federal agencies to consult with the State Historic Preservation Office (SHPO) for all federal actions. For solar installations, this would most commonly occur when a wetland or stream impact permit is required from USACE. The 14.09 regulations require the same for State agency actions. Local governments are not directly subject to these consultation requirements at either the federal or State level. Indirectly, projects requiring State or federal approvals cannot move forward without consultation and the SEQR process itself requires a sufficient evaluation of the impact on cultural resources. As a result, coordination with SHPO during the SEQR process is highly encouraged and commonly practiced. Additionally, Unlisted Actions that occur within historic sites are elevated to Type I Actions.

Initial review of potential impacts on cultural resources can be completed by accessing SHPO’s Cultural Resource Information System ([CRIS](#)), where a mapping program will zoom in to the subject site, and existing Register and Register Eligible sites are identified, along with a site sensitivity map for archeological resources.

6.4 Agricultural Resources

Ground-mount solar installations are commonly sited on agricultural land. In New York State, agricultural land in certain areas of the State are protected under the Agriculture and Markets Law, specifically [Article 25AA](#) of the Agricultural Districts Law. Part 1 of the EAF requires a calculation of the impact to productive agricultural soils regardless of whether the project is located in a State-certified Agricultural District. Applicants may wish to consult the Department of Agriculture and Markets document [Guidelines for Agricultural Mitigation for Solar Energy Projects](#).

The NYSERDA factsheet [Understanding Solar Installations in Agricultural Districts](#) provides guidance on frequently asked questions. The NYS Department of Agriculture and Markets may be an Interested Agency in the SEQR process and may become an Involved Agency depending on the nature of the impact. If a project is located in an Agricultural District, the following regulations/review processes may apply:

- Penalty for conversion of land to non-agricultural uses (excludes on-farm equipment where the solar installation does not exceed 110% of the farm’s energy use).
- Notice of Intent – This would apply to solar installations that are primarily intended for off-farm use and are specific to governmental actions.
- Farmland Protection Plans – Local farmland protection plans may provide specific recommendations for conserving agricultural lands.

6.5 Coastal Zone

Certain activities within the State’s Coastal Zone are regulated under the NYS Coastal Management Program ([CZM](#)), administered by the NYS Department of State (NYSDOS). Part 1 of the EAF will determine whether a project is located within the State Coastal Zone and if a Local Waterfront Revitalization Plan exists. State agencies are required to provide certification that their actions do not significantly impact State coastal policies as provided in [19 NYCRR Part 600](#). Federal agencies are required to comply with State policies and must coordinate with NYSDOS for federal coastal consistency review in accordance with U.S. Department of Commerce regulations (15 CFR 930.57). Relative to solar projects within the coastal zone, NYSDOS is an Interested Agency if their only involvement is consistency review. Those municipalities with approval Local Waterfront Revitalization Plans ([LWRP](#)) are directly responsible for reviewing the consistency of the project with State policies.

6.6 New York City Watershed

Certain solar projects within New York City are subject to the City Environmental Quality Review Act (CEQR). This guidance document does not provide details on this process, but additional information can be found at [CEQR](#). Most solar installations in New York City are rooftop installations that typically require only building permits.

Actions within the NYC Watershed are regulated by the NYC Department of Environmental Protection (DEP) and may be subject to NYC DEP permitting. The SEQR process still applies within the NYC watershed, outside the City limits. However, within the watershed, DEP would become an Involved Agency. The DEP funds and implements a Long-Term Watershed Protection Program to preserve the quality of New York City's water supply. A map of the NYC Watershed is provided at [Watershed Map](#).

6.7 Adirondack Park

The Adirondack Park Agency (APA) administers the Adirondack Park Agency Act (Executive Law, Article 27), the Freshwater Wetlands Act (Environmental Conservation Law, article 24) within the Adirondack Park and, for private lands within the Adirondack Park, the Wild Scenic and Recreational Rivers System Act (Environmental Conservation Law, article 15, title 27) ([APA Act](#)). In general, municipalities approving solar projects within the Park may not be subject to SEQR but would be subject to the APA regulations that guide land use. See guidance provided in the SEQR Handbook ([Type II Actions](#)).

7 Solar Developer Guidance

7.1 Design Considerations

Like any development project, the design and location of a solar project has a direct effect on the size and significance of potential impacts. The Lead Agency is responsible to determine the significance of any impacts in the SEQR process. A pre-application meeting with municipal officials is recommended to identify any concerns of the municipal board early on in the process. This may also allow the municipal board an opportunity to declare its intent to serve as Lead Agency, and to determine the need for a Short EAF or Full EAF in the case of an Unlisted Action.

Important design considerations for siting a solar array include:

- Slope (avoidance of steep slopes)
- Aspect (the direction the panels face)
- Land area (sufficient area is required for large arrays)
- Proximity to electrical interconnection points
- Lack of other environmental constraints (e.g., avoid siting in wetlands, critical environmental areas, etc.)

Simply avoiding the Type I thresholds (See section 3.2) does not guarantee a project will not have significant impacts. During project siting and design, the following questions should be addressed to identify other impacts that must be considered:

- What are the limits of disturbance?
- Is the project located in or near a federal or State wetland?
- Are there threatened and/or endangered species in or near the project site?
- Are there cultural resources on or adjacent to the site such as historic districts and structures and archeologically sensitive areas?
- Is the project located in a coastal zone?
- Is it adjacent or within public parkland or public open space?
- Is the project in a Critical Environmental Area?
- Is the site in an agricultural district certified by NYS Agriculture and Markets?

If the site contains one or more of these resources, an Applicant may want to consider design modifications to avoid any impacts.

A developer should also determine the following as they may result in additional Involved Agencies under SEQR.

- Is the project located in New York City?
- Is the project located in the New York City watershed?
- Is the project located in the Adirondack Park?

If a project is located within New York City, it is subject to the CEQR (City Environmental Quality Review). CEQR is New York City's process for implementing SEQR, and by law can be no less stringent than its State counterpart. CEQR is governed by SEQRA, NYC's Executive Order No. 91 ([43 RCNY, Chapter 6](#)), and the CEQR Rules of Procedure. Some of the primary practical differences between CEQR and SEQRA are that CEQR provides guidance on selection of a Lead Agency, adds scoping requirements, and promotes the use of the City's CEQR Technical Manual in conducting environmental reviews ([62 RCNY, Chapter 5](#)).

Projects located in the New York City watershed may require a permit from the Department of Environmental Protection. The most likely trigger for a permit related to solar projects on this list is "a land clearing or land grading project, involving two or more acres, located at least in part within the limiting distance of 100 feet of a watercourse or wetland, or within the limiting distance of 300 feet of a reservoir, reservoir stem or controlled lake or on a slope exceeding 15 percent." The complete list of activities governed by these regulations can be found at [NYC Watershed Regulations](#).

A solar project located on private land in the Adirondack Park may require a permit if it is a new land use or development within a critical environmental area or designated river area, or if the project will involve wetlands or will be greater than 40 feet in height. If energy derived from a solar power project will be sold for use off the project site, a permit for a major public utility use or commercial use may also be required ([Wind & Solar Power, APA](#)).

7.2 Useful Resources

There are several resources available to developers and municipalities to assist them in collecting data to conduct an environmental review of a site and complete the SEQR process. The **Quick Reference Guide** (Section 2) and **Preparing the EAF** (Section 5) of this guidance document includes a series of links to the SEQR forms and regulations and numerous online tools.

Some of the key links are described below:

EAF Workbook: The DEC has prepared the Workbooks to assist Applicants, project sponsors and reviewing agencies with the completion of the EAF. The Workbook contains background information, links to data and maps, and answers to questions a reviewing agency may have. They should be considered source books to assist and guide Applicants and reviewers involved in a SEQR review.

DEC SEQR Webpage: A general page providing information about the SEQR regulations, SEQR enforcement, SEQR forms and workbooks.

SEQR Handbook: The SEQR Handbook is the standard reference book for state, county and local government officials; environmental consultants; attorneys; permit Applicants; and the public at large.

NYSDEC EAF Mapper: The NYSDEC's mapper tool auto-populates a series of answers in both the SEAF and FEAF, based on the project location.

NYSDEC Environmental Resource Mapper: An additional mapping resource based on NYSDEC databases. This map provides information on natural features such as wetlands, natural communities, rare plants and animals, and other water resources.

CRIS: The Cultural Resource Information System website allows users to screen a site for the location of historic structures or districts and archeological sensitivity using the SEARCH tab. CRIS should be used to submit project information for review for projects in archaeologically sensitive areas. Consult the New York State Historic Preservation Office for more information.

7.3 Process Guidance

Although not required, it is recommended that the Applicant schedule a pre-application meeting with the relevant municipal board to identify early on the known concerns related to the site and other guidance the municipal board may offer, such as which EAF form to complete. Upon receiving a solar project application, a municipal board will follow the steps in the SEQR Flow Chart for Solar Projects (Appendix A). This flowchart is a useful guide for Applicants to understand regulatory timeframes under SEQR and the responsibilities of both the municipal board and the Applicant.

8 Frequently Asked Questions (FAQ)

Additional guidance and other SEQR topics are found in NYSDEC's [SEQR Handbook](#).

1. How does the SEQR process get started?

SEQR is triggered when an Applicant or developer submits a project application or plan to a municipal board. That agency is responsible for determining if a project is a Type I, Type II or Unlisted Action and following the appropriate procedures to complete the SEQR process.

2. Who enforces SEQR?

SEQR is self-enforcing; each government agency is responsible to comply with SEQR regulations. The Department of Environmental Conservation is charged with issuing regulations regarding the SEQR process, but DEC has no authority to review the implementation of SEQR by other agencies.

If an agency makes an improper decision or fails to undertake a proper review, citizens or groups who can demonstrate harm from such a failure may take legal action against the agency under Article 78 of the New York State Civil Practice Law and Rules. Project approvals may be rescinded by a court and a new SEQR review process may be required. New York State's court system has consistently ruled in favor of strong compliance with SEQR provisions ([SEQR, Enforcement](#)).

3. What are Type I, Type II and Unlisted Actions?

A Type I action is an action or class of actions that is more likely to have a significant adverse environmental impact than other actions or classes of actions. Type I actions are listed in the statewide SEQR regulations (617.4), or listed in any Involved Agency's SEQR procedures. The Type I list in [617.4](#) contains numeric thresholds; therefore, any actions that will equal or exceed one or more of the thresholds in this list would be classified as Type I. A Type I Action always requires the completion of a Full EAF.

Type II actions represent actions or classes of actions which have been found categorically to not have significant adverse impacts on the environment, or actions that have been statutorily exempted from SEQR review. Type II actions require no further action or documentation under SEQR. Type II actions are listed under Part [617.5](#) and require no further processing under SEQR.

Unlisted Actions are actions that are neither Type I or Type II. They generally do not require the completion of a FEAF nor coordinated review. However, to avoid having each Involved Agency prepare its own SEQR review separately, NYSERDA will require coordinated review procedures for both Type I and Unlisted Actions.

4. Is a large-scale ground-mount solar energy system a Type I, Type II or Unlisted Action?

What about a large-scale rooftop solar energy system?

The existing SEQR regulations do not specifically classify solar installations on the Type I or Type II lists. The appropriate municipal board must apply the criteria found in the Type I list to determine if a solar installation is a Type I or Unlisted Action. Large-scale ground-mount PV systems do not meet the criteria of a Type II action under Part [617.5](#). Typical thresholds on the Type I list ([617.4](#)) that might impact the determination include:

- Physical alteration of more than 10 acres
- Unlisted Actions occurring wholly, partially in or substantially contiguous to any historic building or site
- Unlisted Actions that are non-agricultural uses occurring in a state-certified Agricultural District

Thresholds of interest related to rooftop systems on the Type I list that might impact the determination would generally be limited to an Unlisted Action occurring wholly, partially in or substantially contiguous to any historic building or site.

The NYSDEC had adopted amendments to the SEQR regulations including changes to the Type II list that affect solar projects. Please see FAQ 15 below.

5. What are the most common environmental impacts of large-scale ground-mount PV systems?

Environmental impacts will depend on the specific circumstances of each project, including location, size and natural features. Common Type I ([617.4](#)) thresholds related to ground-mount installations that Lead Agencies may review include those listed in the previous answer. A Type I Action does not necessarily mean an EIS will be required. While a Type I Action is more likely to have a significant adverse environmental impact, every Type I Action does not require an EIS.

6. What is the difference between a “short” Environmental Assessment Form and a “full” one? When is the “full” form required?

A Short Environmental Assessment Form (SEAF) is used when evaluating Unlisted Actions. As the name implies, it is a shorter form with fewer questions than the Full EAF. A Full Environmental Assessment Form is used to evaluate Type I Actions, as it requires more in-depth responses. A reviewing municipal board can request that a FEAF be completed for an Unlisted Action, but a Type I Action always requires a FEAF.

7. What is an “Environmental Impact Statement”?

An Environmental Impact Statement (EIS) is a document used by municipalities, project sponsors and the public that systematically considers significant adverse environmental impacts, alternatives, and mitigation measures for a proposed project. The EIS is typically prepared by the Applicant (solar developer), although it can be prepared by the Lead Agency.

The decision to prepare an EIS is the result of the issuance of a positive declaration by the Lead Agency. Both Type I and Unlisted Actions can result in a positive declaration and preparation of an EIS depending on the unique circumstance of a project. Please note that while a Type I Action is more likely to have an adverse impact on the environment, it does not mean that every Type I action requires an EIS.

8. I am a municipal official. What are my SEQR responsibilities if a developer wants to build a solar project in my jurisdiction?

As the municipal official where the project will occur, you are responsible to determine if an Action is a Type I, Type II or Unlisted Action, and to initiate Lead Agency coordination procedures as required under Part [617.6](#). Once the appropriate municipal board is designated as Lead Agency, it is responsible for making a determination of significance and issuing a positive or negative declaration by completing Part 2 and Part 3 of the EAF. A final determination on a project cannot be made on a project until SEQR is complete. For instance, site plan approval on a project cannot be granted before SEQR has been completed. Please refer to [Local Official’s Guide to SEQR](#) for more information on the role of local boards in the SEQR process.

9. I am a solar developer. What am I required to do for the SEQR process?

As an Applicant, you are required to provide a completed Part 1 of the SEAF or FEAF along with any accompanying maps and project information that the reviewing municipal board requests. Once the Lead Agency is established, it must complete Parts 2 and 3 of the SEAF or FEAF. The Lead Agency may request that the Applicant provide relevant information it may need to make a determination of significance and issue a positive or negative declaration under SEQR. If a positive declaration is issued, the Lead Agency will require the preparation of the Environmental Impact Statement.

10. I am solar developer. What if the town where my project is located will not serve as Lead Agency?

Although it is preferred that the agency principally responsible for approving, permitting, or funding an action assume the role of Lead Agency, any Involved Agency can serve as Lead Agency. As a funding agency, NYSERDA is an Involved Agency under SEQR and may serve as Lead Agency.

11. I am a solar developer in New York City. Do I have to complete both the City Environmental Quality Review (CEQR) and the State Environmental Quality Review (SEQR)?

Like SEQR, CEQR reviews are triggered when an agency has a discretionary approval of an action or project. CEQR is New York City's process for implementing SEQR, and by law can be no less stringent than its State counterpart. CEQR adapts and refines the State rules to take into account the special circumstances of New York City. CEQR is governed by SEQRA, NYC's Executive Order No. 91 ([43 RCNY, Chapter 6](#)), and the CEQR Rules of Procedure. Some of the primary practical differences between CEQR and SEQRA are that CEQR provides guidance on the selection of a Lead Agency, adds scoping requirements, and promotes the use of the City's CEQR Technical Manual in conducting environmental reviews ([62 RCNY, Chapter 5](#)).

Therefore, for projects physically located in New York City, an Applicant must follow the CEQR process. For more information, please consult the [CEQR FAQs](#).

12. Is NYSDEC changing the SEQR regulations for solar projects? What are the changes?

Information on the adopted SEQR amendments are located on the NYSDEC website at State Environmental Quality Review Act- Adopted Amendments 2018. These new amendments will take effect January 1, 2019.

627.5(15)

Installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on the following sites;

- closed landfills,
- brownfield sites that have received a Brownfield Cleanup Program certificate of completion (COC) pursuant to ECL 27-1419 and 6 NYCRR 375-3.9 or Environmental Restoration Project sites that have received a COC pursuant to 6 NYCRR 375-4.9, where the COC under either program for a particular site has an allowable use of commercial or industrial, provided that the change of use requirements in 6 NYCRR 375-1.11 are complied with.
- sites that have received an inactive hazardous waste disposal site full liability release or a COC pursuant to 6 NYCRR 375-2.9, where the Department has determined an allowable use for a particular site is commercial or industrial, provided that the change of use requirements in 6 NYCRR 375-1.11 are complied with,
- currently disturbed areas at publicly-owned wastewater treatment facilities
- currently disturbed areas at sites zoned for industrial use
- parking lots or parking garages

617.5(16)

Installation of solar energy arrays on an existing structure provided the structure is not:

- listed on the National or State Register of Historic Places;
- located within a district listed in the National or State Register of Historic Places;
- been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law; or
- within a district that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law.

13. I read this guidance document but still have questions. How can I get help?

Additional information regarding the SEQR process can be found on the [NYSDEC website](#). This webpage includes links to forms, handbooks and the regulations. Some of the most pertinent include:

- [Introduction to SEQR](#)
- [The SEQR Handbook](#)
- [The EAF Workbooks](#)
- [SEQR Publications](#)

In addition, NYSERDA offers free technical assistance to municipalities completing the SEQR process for solar energy installations. To request assistance, contact cleanenergyhelp@nyserda.ny.gov

NY-Sun, a dynamic public-private partnership, will drive growth in the solar industry and make solar technology more affordable for all New Yorkers. NY-Sun brings together and expands existing programs administered by the New York State Energy Research and Development Authority (NYSERDA), Long Island Power Authority (LIPA), PSEG Long Island, and the New York Power Authority (NYPA), to ensure a coordinated, well-supported solar energy expansion plan and a transition to a sustainable, self-sufficient solar industry.

NYSERDA, a public benefit corporation, offers objective information and analysis, innovative programs, technical expertise, and support to help New Yorkers increase energy efficiency, save money, use renewable energy, and reduce reliance on fossil fuels. NYSERDA professionals work to protect the environment and create clean-energy jobs. NYSERDA has been developing partnerships to advance innovative energy solutions in New York State since 1975.

To learn more about NYSERDA's programs and funding opportunities, visit nyserda.ny.gov or follow us on Twitter, Facebook, YouTube, or Instagram.

