



Important State Environmental Quality Review Act changes ahead from the New York State Dept. of Environmental Conservation

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The New York State Dept. of Environmental Conservation is in the process of updating the long and short environmental assessment forms that are used to implement the requirements of the State Environmental Quality Review Act. While that may not sound like a big deal, the reality is that, if revised as contemplated, project sponsors will have a much more difficult time getting certain projects approved, and project opponents will have new ammunition with which to oppose projects.

The State Environmental Quality Review Act requires state agencies and municipalities to evaluate potential environmental impacts associated with projects they undertake, fund or approve. To comply with that mandate, the New York State Dept. of Environmental Conservation developed model long and short environmental assessment forms for agencies to use, essentially as checklists, to assess whether a project may have a substantial impact on the environment. Short environmental assessment forms are generally used by agencies in connection with smaller projects, while long environmental assessment forms are typically used to review larger and potentially more significant projects. The short EAF was last revised in 1987, while the long environmental assessment form has not been substantially revised since 1978.

The New York State Dept. of Environmental Conservation's proposed revisions will require the evaluation of a number of new impacts including those relating to climate change, energy conservation, environmental justice, smart growth and pollution prevention. The changes emanate, in part, from the 2009 New York State Dept. of Environmental Conservation guidance document the Guide for Assessing Energy Use and Greenhouse Gas Emissions in an Environmental Impact Statement, as well as the enactment of two 2009 state laws, the Smart Growth Public Infrastructure Policy Act and the State Green Building Construction Act. With these new laws and guidance in mind, the New York State Dept. of Environmental Conservation's revised environmental assessment forms would require agencies and municipalities to now consider, in addition to the existing list of potential impacts, the extent to which a project will entail the use of energy-efficient designs and the amount and type of greenhouse gas emissions generated by the proposed project. The new environmental assessment form, for instance, would require consideration of the number of vehicle trips on a per hour and per year basis, the amount (in tons per year) of air pollutants that will be generated, the extent to which energy conservation measures are incorporated, and the proximity of the project to existing public transportation and infrastructure.

While the consideration of these topics will increase the time and effort required at the outset of State Environmental Quality Review Act review, some of the changes proposed by The New York State Dept. of Environmental Conservation, particularly those pertaining to the format of the environmental assessment forms, are likely to expedite the review process. For example, although

the majority of projects requiring review are small projects, many municipalities require the use of the long environmental assessment form because the short environmental assessment form does not elicit sufficient information. The proposed changes will add substantially to the information gained through the use of a short environmental assessment form and, thus, should reduce the need for municipalities to resort to the long environmental assessment form. The changes will also simplify the form and take advantage of available electronic information, including hyperlinks that will enable parties to quickly access required geographic information.

The comment period for the proposed changes has been extended to April 8.

Barry Cohen is a partner-in-charge of the Environmental Law Practice Group at Certilman Balin Adler & Hyman, LLP, Hauppauge, N.Y.

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