

# SEQRA Changes 2019



# SEQRA Updates

- First major update to SEQRA in 20 years
- Encourages smart growth and sustainable development
- Supports NY's clean energy goals



# Amendment Process

- Involved an extensive stakeholder outreach designed to address concerns of a myriad of stakeholders
- Full public scoping process and draft EIS
- 11 stakeholder meetings with business community, environmental groups and local governments over two years



# SEQRA Changes

- Adds definitions to Part 617
- Revises some Type I actions
- Adds to Type II actions
- Revises Scoping provisions
- Revises preparation of EIS
- Requires electronic filing of EISs



# Summary of Changes

- Can be found at :
- [www.dec.ny.gov/permits/83389.html](http://www.dec.ny.gov/permits/83389.html)
- Click on the link that says:  
“Summary of Changes to 6NYCRR Part 617 (SEQR)”



# New/Amended Definitions Include:

- Green Infrastructure
- Critical Environmental Area
- Environmental Assessment Form
- Environmental Notice Bulletin
- Positive Declaration
- Scoping
- Type II Action



# Why?

- Terms used as part of the revisions being proposed; thus need to define them.



# Green Infrastructure

- “Includes practices that manage storm water through infiltration, evapo-transpiration and reuse including *only the following*: the use of permeable pavement; bio-retention; green roofs and green walls; tree pits and urban forestry; storm water planters; rain gardens; vegetated swales; downspout disconnection; or storm water harvesting and reuse; stormwater management practices, green roofs and walls, rain gardens and urban forestry programs”
- Most Green infrastructure actions are now Type II actions meaning these activities are not subject to SEQRA review







## Permeable Pavement

NYS Department of Environmental Conservation





Bioretention swale, SEATTLE  
Seattle Public Utilities

## Bioretention Swale

NYS Department of Environmental Conservation





Tree Pit





Stormwater Planters

NYS Department of Environmental Conservation





Stormwater Harvesting

NYS Department of Environmental Conservation



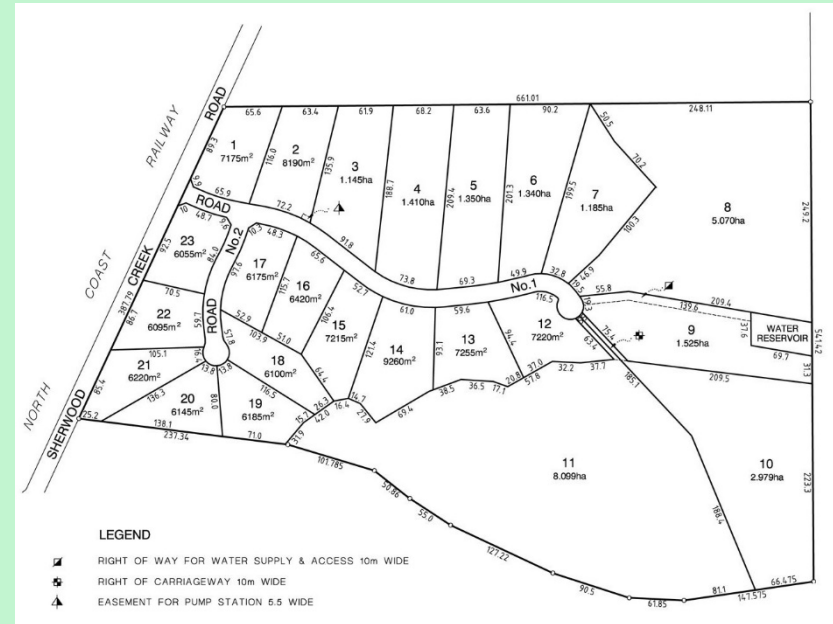
# Revised Type I List:

## Now Based on # of Residential Units Constructed

- Municipality of <150,000- 200 units (not 250) connected to existing public water and sewer
- Municipality of 150,000-<1,000,000- 500 units (not 1000) connected to existing public water and sewer
- Municipality of >1,000,000- 1000 units (not 2500) units connected to existing public water and sewer



# Small Subdivisions





Medium Subdivision

NYS Department of Environmental Conservation







Large Subdivision

NYS Department of Environmental Conservation



# Revised Type I List:

Now Based on Number of Parking Spaces  
Created

- Municipality of <150,000 - 500+ vehicle spaces
- Municipality of 150,000+ - 1000 vehicle spaces





Small Parking Lot



## Large Parking Lots



# Revised Type I List

- “Any Unlisted Action (unless the action is designed for the preservation of the facility or site) that exceeds 25% of any threshold of 617.4 and which occurs 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”





Syracuse Savings Bank Building  
On the National Register of Historic Places



Historic Home





Cooperstown Historic District

NYS Department of Environmental Conservation



# ***Eligible*** Places also Included

- This also includes places that have 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.





# This Means:

- Historic resources are **only** elevated to a Type I action if they **exceed 25% of any threshold established by SEQRA**
  - Under the old Type I list any Unlisted action, regardless of size, that occurred within or substantially contiguous to a historic resource was automatically elevated to a Type I action.
  - Results: Minor actions get elevated to Type I
  - This fixes the problem
  - New short EAF is more rigorous, so substance of issue doesn't escape attention



# New Additions to Type II List

- Retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure
- As noted earlier, most Green Infrastructure creation are now Type II Actions





Retrofitting for Green Roof

NYS Department of Environmental Conservation



# New Additions to Type II List:

- **Conveyance of land** associated with the construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections.
- Why?
- Hindered affordable housing construction projects for 1, 2 and 3 family homes



Affordable 1, 2 and 3 family homes



NYS Department of Environmental Conservation



# New Additions to Type II List:

- Sale and conveyance of real property by public auction pursuant to article 11 of the Real Property Tax Law
  - SEQRA review on Foreclosure is time consuming and meaningless- don't know how property will ultimately be used





**LANDBANK**

**Foreclosed Properties for  
Sale this February 2018**

**Price Starts at P50,000!**  
Vacant Lot, Farm Lot & Residential Lot



Foreclosure by Auction

NYS Department of Environmental Conservation



# New Additions to Type II List:

- County Land Use Referrals (239-m and 239-n of the GML)
  - Clarifies the status quo
  - Subdivision, site plan, variance, zoning, comprehensive plan review by county planning not subject to SEQRA





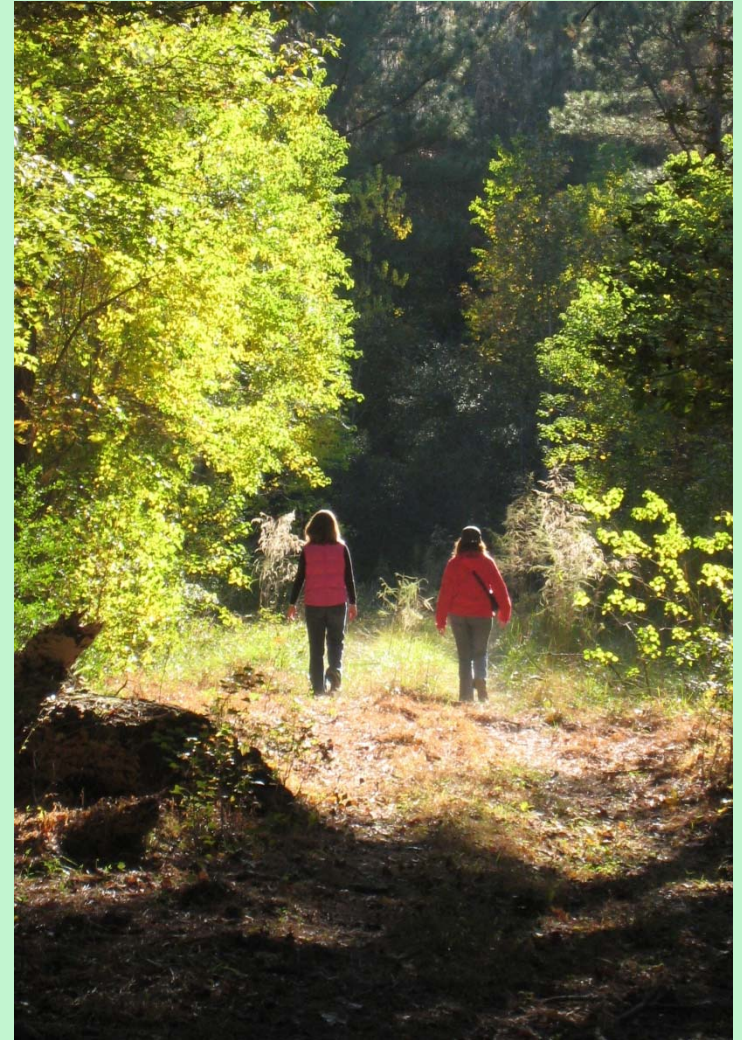
# New Additions to Type II List

- Acquisition and/or dedication of 25 acres or less for parkland
- Replacement, rehabilitation or reconstruction of a structure or facility on the same site including **upgrading buildings to meet energy codes** unless such action meets or exceeds any of the thresholds in section 617.4
- Retrofit of an existing structure and its appurtenant areas to **incorporate green infrastructure**





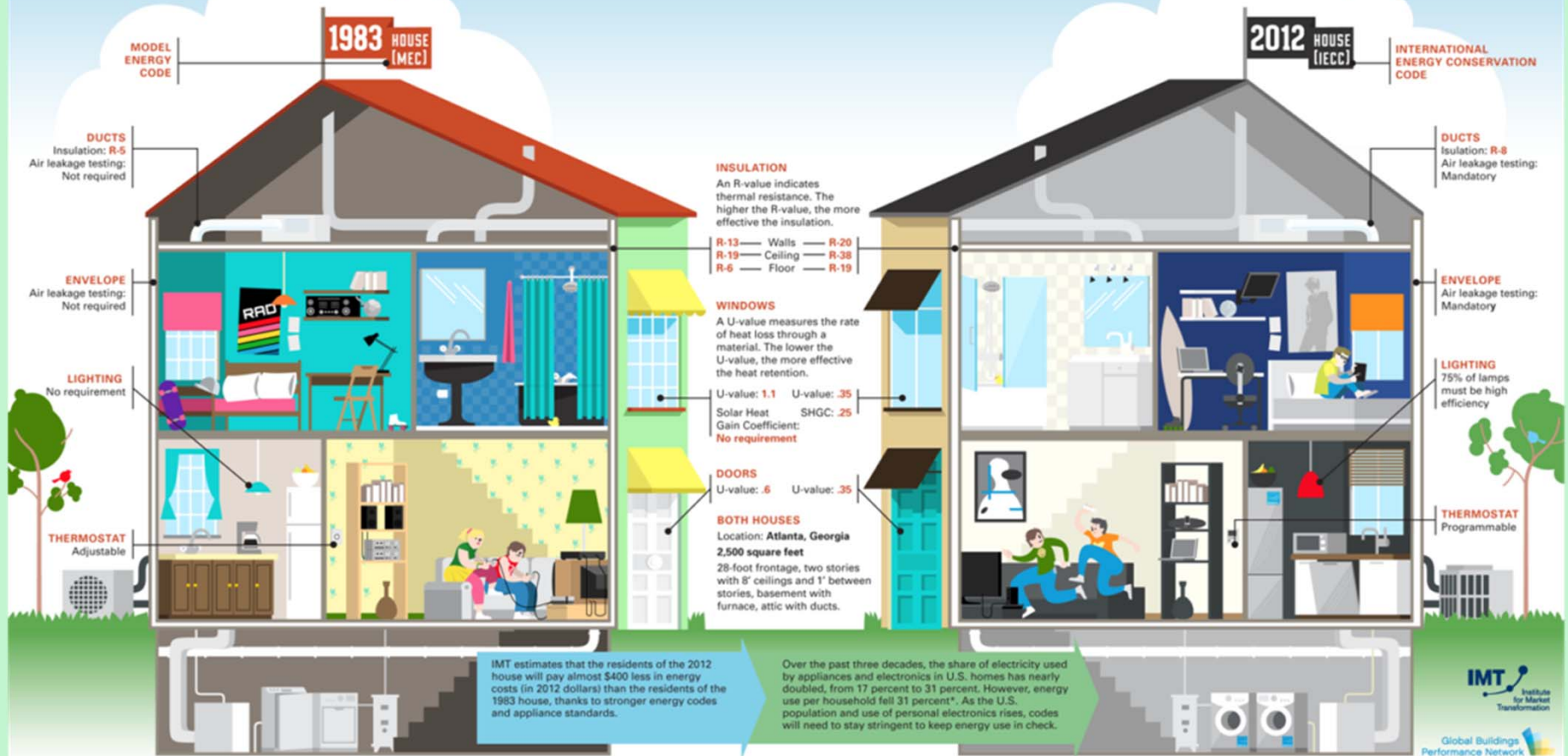
Parkland Acquisition of Less Than 25 Acres



# HOW ENERGY CODES MAKE HOMES MORE EFFICIENT

Household energy use is lower than it was in the '80s, even as we buy up PlayStations and iPhones. Why? Thank stronger energy codes.

Building energy codes set minimum legal standards for the energy efficiency of new homes. That's good for the environment because it lowers carbon emissions, and also good for Americans' bank accounts. Houses built to stronger codes are up to 44% more efficient and can save a family hundreds of dollars a year on energy costs. The two hypothetical properties depicted below—a 1983 house and a 2012 house—show the evolution of an average home and a side-by-side comparison of how energy codes make a surprising difference in home energy efficiency.



# New Additions to Type II List

- Installation of **telecommunication cables** in existing highway or utility rights-of-way using trenchless burial or aerial placement on existing poles





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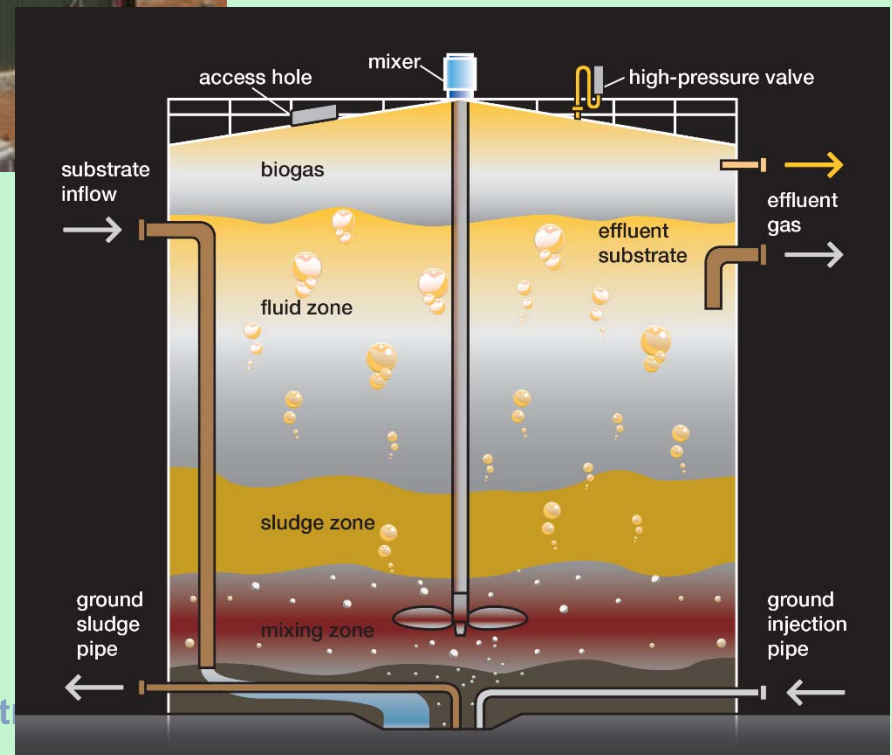
# New Additions to Type II list

- Construction and operation of anaerobic digesters within currently disturbed areas at an operating municipal solid waste landfill provided the digester has feedstock capacity of less than 150 wet tons per day and only produces Class A digestate that can be beneficially used or biogas to generate electricity or to make vehicle fuel or both.





Anaerobic Digesters



# New Additions to Type II List

- Installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on the following sites:
  - Closed sanitary landfills
  - Brownfield sites in the Brownfield Cleanup Program with a certificate of completion
  - Environmental Restoration Project sites with a certification of completion
  - Inactive Hazardous waste disposal sites with a full liability release or a Certificate of Cleanup
  - All the above sites must allow commercial or industrial uses on the site
  - Publicly owned wastewater treatment facilities
  - Sites zone for industrial use
  - Parking lots or parking garages





Solar Arrays on Landfill and Wastewater Treatment Plant



# New Additions to Type II List

- Installation of solar energy arrays on ***existing*** structures provided the structure is NOT
  - On the National or State Register of Historic Places
  - Within a National or State Register of Historic Places district
  - Been determined as eligible for listing on the National or State Register by the OPRHP Commissioner





Solar Systems on Non-Historic Buildings



# New Additions to Type II List

- Why?
  - Reduces energy costs and generation of greenhouse gases
  - Seen as the same as an HVAC system already on most roofs of commercial and industrial buildings



# New Additions to Type II List

- Reuse of a residential or commercial structure or a mixed commercial residential structure
  - Where the use is permitted under the applicable zoning law and the action does not meet or exceed any thresholds set in section 617.4



Reuse of  
Commercial  
Structure



# New Additions to Type II List

- “**Lot line adjustments**” added to list which *already included* granting of individual setback and lot line variances.



# Scoping

- Scoping **is required** for all Environmental Impact Statements
  - Should result in EISs that are focused on relevant, significant and adverse impacts
  - Issues deemed not relevant and the reasons why should be briefly described
  - Issues requested by lead agency following completion of the final scope and not included by project sponsor in the DEIS **cannot be the basis for rejection of the DEIS as inadequate**





# Scoping

- Lead agency must make sure Scope is complete! Can't continuously reject DEIS if subject/item not included in scope
  - Stops endless back and forth between lead agency and applicant regarding adequacy of DEIS



# Positive Declaration and EIS

- Must state how and when scoping will be conducted
- Electronic or printed form of the EIS must be sent to local library and to the DEC in Albany
- The Draft and Final scopes must be published in the Environmental Notice Bulletin



# Draft EIS

- The determination of adequacy of a resubmitted draft EIS must be based solely on the written list of deficiencies provided by the lead agency following the previous review
- Clear statement that prevents back and forth of numerous drafts between lead agency and project sponsor



# Reasoning?

- Chief complaint by applicants is lead agency continuously rejecting EIS as not “complete” when all areas during scoping have been addressed
- This change will prevent lead agency from rejecting a “complete” EIS per the scope.



# Adequacy of the DEIS

- “A draft EIS is adequate with ***respect to scope and content*** for the purpose of commencing public review if it **meets the requirements of the final written scope** and provides the public and involved agencies with the **necessary information** to evaluate project impacts, alternatives and mitigation measures”



# Electronic Publication of the EIS

- The lead agency shall publish on a publicly available website the draft and final scope and draft and final EIS
- Website posting may only be removed one full year after all necessary federal, state and local permits have been issued or after the action is funded or undertaken
- Printed filing and public notices shall list the address of the website at which such are posted



# SEQRA Resources on the DEC Website

- General SEQRA Information  
<http://www.dec.ny.gov/permits/357.html>
- Stepping Through SEQRA- Sequential Information on SEQRA  
<http://www.dec.ny.gov/permits/6189.html>
- SEQRA Handbook (Updated)  
<http://www.dec.ny.gov/permits/6188.html>
- SEQRA Forms - <http://www.dec.ny.gov/permits/6191.html>
- Other SEQRA Publications  
<http://www.dec.ny.gov/permits/26860.html>
- Draft Model Short and Full Environmental Assessment Forms-  
proposed- <http://www.dec.ny.gov/permits/70393>



## Upcoming SEQRA Class

- Through SUNY/Oneonta continuing education
- On-line course on SEQRA
- Summer/Fall 2019
- Can be completed at home
- Optional half day field study in Oneonta area with instructor
- E-mail me if interested to be added to notification list : [tenleystravels@yahoo.com](mailto:tenleystravels@yahoo.com)





# For More Information

- NYS Department of Environmental Conservation,  
Division of Environmental Permits

625 Broadway, Albany, NY  
12233

518-402-9167

[http://www.dec.ny.gov/permtis/  
357.html](http://www.dec.ny.gov/permtis/357.html)

- NYS Department of State  
Division of Local Gov't

One Commerce Plaza  
99 Washington Ave  
Suite 1015

Albany, NY 12231

518-473-3355

518-474-6740 (Legal)

[http://www.dos.state.ny.us/  
lgss/index.htm](http://www.dos.state.ny.us/lgss/index.htm)



# For More Information

- **NYS DEC, Region 7 Offices**

615 Erie Blvd. W

Syracuse, NY 13204

315-426-7403 Public Outreach & Education

315-426- 7438 Environmental Permits

<http://www.dec.ny.gov/about/615.html>

[reg7info@gw.dec.state.ny.us](mailto:reg7info@gw.dec.state.ny.us)

