



Summary of SEQRA Changes in 2026-2027 Enacted State Budget, TED Part R

As part of the 2026-2027 Enacted State Budget, TED Part S, amends the State Environmental Quality Review Act, or SEQRA, by adding new definitions, creating deadlines for certain agency determinations, establishing a new category of SEQRA-exempt “qualified actions,” and clarifying that these exemptions do not override other applicable federal, state, or local laws, including local zoning and land use authority.

The law applies to pending proceedings on and after its effective date, except for actions where a determination requiring an environmental impact statement was made before the effective date.

Adds new definitions to ECL § 8-0105

- Adds a definition of “previously disturbed site,” meaning a parcel that:
 - Has been substantially altered at least two years before the permit or authorization application;
 - Was altered by an occupied, formerly occupied, or demolished building, or by another improvement or use;
 - In smaller municipalities outside Census-defined urban areas, abuts, adjoins, or is opposite another parcel that has also been occupied, formerly occupied, improved, or used for at least two years;
 - Is generally not located in a FEMA 100-year floodplain or special flood hazard area, unless the municipality has adopted elevation requirements for new construction;
 - Is not currently used for agricultural purposes and has not been used for agricultural purposes during the immediately preceding two years or during three of the last five years; and
 - Is not located in a designated coastal erosion hazard area.

- Adds a definition of “small community water system,” meaning a public water system that serves at least five service connections used by year-round residents, or regularly serves at least 25 year-round residents, and serves fewer than 3,300 people.

- Adds a definition of “public school facilities,” meaning certain educational facilities in New York City under the jurisdiction of the New York City Department of Education.

Creates deadline for initial EIS determination (amends ECL § 8-0109[4])

The responsible agency must make an initial determination regarding whether an environmental impact statement is required:

- As early as possible in the formulation of the proposed action; and
- No later than one year after the establishment of a lead agency.

Creates deadline for EIS completion and release (amends ECL § 8-0109[5])

An agency must prepare and make the EIS available within two years after determining that a draft EIS is required.

- The agency may extend the deadline in writing after consulting with the applicant.
- The decision to extend the deadline remains within the agency's discretion.
- Any extension may provide only the additional time necessary to complete the draft EIS.

In determining whether additional time is necessary, the agency may consider:

- Changes made by the applicant to the project design after scoping that result in new significant environmental impacts;
- Additional actions that could not reasonably have been anticipated during scoping;
- The applicant's failure to timely provide necessary information despite the agency's good-faith efforts; or
- Delays caused by circumstances beyond the control of the agency or the applicant.

Creates new SEQRA exemptions for "qualified actions" (amends ECL § 8-0111)

One of the most significant changes in TED Part S is the creation of five new categories of "qualified actions" that are exempt from SEQRA review. In determining whether an application is exempt, the responsible agency must consider the project as a whole and determine that every aspect of the action either:

- Meets the criteria for one of the new exemptions; or
- Is otherwise exempt from SEQRA.

The five new qualified actions are:

1. Certain housing projects in municipalities outside New York City

Qualifying housing construction must:

- Be connected to existing community or public water and sewer systems at the commencement of habitation;
- Be located on a previously disturbed site;
- Contain no more than 20 percent commercial, retail, community facility, or other non-industrial non-residential uses by gross floor area;
- Not exceed 100 dwelling units;
- Not exceed 20 dwelling units if located in a city, town, or village without zoning;
- Not exceed 300 dwelling units if located within a Census-defined urban area; and
- Not consist only of the construction of one single-family residence on a parcel of one acre or more.

2. Certain public park and trail projects on a previously disturbed site

Qualifying projects include:

- Public parks, provided the project does not include performance centers, athletic stadiums, mass-gathering venues, or other buildings or structures that do not serve public park, recreation, or open-space purposes; and
- Multi-use bicycle and pedestrian trails.

3. Certain New York City public school facilities

The bill exempts certain New York City public school facility projects that meet the statutory criteria.

4. Certain water and wastewater infrastructure projects

Qualifying projects include projects that:

- Replace, rehabilitate, or reconstruct municipal water or wastewater infrastructure in-kind and on the same site, including lead service line replacement;
- Replace, rehabilitate, upgrade, or reconstruct an existing small community water system, including lead service line replacement; or
- Provide sewer service to a disadvantaged community served by one or more inadequate sewage treatment systems, where DEC has determined that the project does not require a permit or approval under specified provisions of the Environmental Conservation Law.

5. Green infrastructure retrofits

The bill exempts certain green infrastructure retrofit projects.

Adds hazardous-materials certification requirements for certain exempt projects

For certain housing and public school facility projects, Part S requires compliance with hazardous-materials-related safeguards. Depending on the type of action, the applicant may be required to certify that:

- It complied and will continue to comply with all applicable laws, rules, and regulations regarding hazardous waste;
- A Phase I Environmental Site Assessment has been conducted in accordance with federal all-appropriate-inquiries regulations;
- The applicant has followed or will follow all applicable recommendations of the Phase I Environmental Site Assessment; and
- The applicant will report contamination at, on, or under the parcel as required by law.

These requirements do not apply to qualified actions initiated by an agency or where the applicant was previously granted an exemption for the same parcel under the relevant provisions.

Creates deadline for determining whether an action qualifies for exemption

For actions involving applications for permits or authorizations, the responsible agency must determine whether the action qualifies for one of the new SEQRA exemptions within 120 days of receiving the application.

- The agency may extend the deadline in writing after consulting with the applicant.
- The extension generally may not exceed 30 days.
- An extension beyond 30 days is permitted only where:

- The applicant changes the application after submission in a way that relates to exemption eligibility;
- The applicant fails to timely provide necessary information despite the agency's good-faith efforts; or
- Circumstances beyond the control of the agency or applicant cause delay.

If the agency fails to make a determination within the required time limits, the applicant may bring an Article 78 proceeding seeking appropriate relief, including a court order directing the agency to make a determination by a specified deadline.

Adds statute of limitations provision (amends ECL § 8-0111 by adding new subdivision 7)

- The time to commence a proceeding to review an agency determination under SEQRA, or under SEQRA's implementing rules or regulations, begins when the agency determination approving or disapproving the action becomes final and binding on the petitioner or the person the petitioner represents.

Adds construction clause preserving other laws and local authority (amends ECL § 8-0111 by adding new subdivision 8)

- The bill provides that nothing in the law supersedes, limits, modifies, or affects requirements or procedures under federal, state, or local laws governing historic preservation or historic properties.
- The bill also provides that it does not affect other applicable laws, rules, regulations, standards, criteria, or permitting procedures relating to matters such as: Disadvantaged communities; Stormwater management; Water quality; Air quality; Soil erosion and drainage; Freshwater wetlands; Tidal wetlands; Critical environmental areas; Threatened or endangered species; or Other applicable statutory or regulatory standards, criteria, and permitting procedures.
- The bill further preserves the authority and discretion of cities, towns, and villages under applicable state or local law relating to zoning and land use, including things like site plan review; discretionary zoning or land use approvals; traffic studies; contamination testing; and determinations regarding wastewater and drinking water capacity.