

Tompkins County
DEPARTMENT OF PLANNING AND SUSTAINABILITY

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TO: Planning, Development, and Environmental Quality Committee

FROM: Joan Jurkowich, Planning Administrator

DATE: November 20, 2017

RE: Changes to Proposed Updated SEQRA Policy and Tompkins County SEQRA Policy Energy Addendum

As requested, I met with Legislator Dooley Kiefer to review a number of proposed changes to the proposed updated SEQRA policy and related Tompkins County SEQRA Energy Policy Addendum. Many of these were editorial in nature and can be found on the track changes version (attached). This version also shows other changes mentioned during the November PDEQ meeting.

There were a few substantive changes proposed. These are summarized below, along with my recommendation and comments, if any.

Proposed Change: Page 1 - Legislative Policy Statement – include reference to Project Approval Request. Change shown on the attachment.

Recommendation: None.

Proposed Change: Pages 4 and 5 – D(1): Determining Action Type: Type II Actions – The original language is highlighted in yellow and the following proposed language is not shown. Legislator Kiefer proposed adding a sentence at the conclusion of the paragraph: “However, since the DEC Type II List is designed to apply statewide, the scale and size of the list included may not be appropriate for Tompkins County and the Responsible Agency may choose to review it as an Unlisted Action.”

Recommendation: Do not include this change. Decisions on whether or not to undertake an environmental review should not be made in an *ad hoc* manner. The state has established a list of Type II Actions. While individual agencies may prepare their own list of Type II Actions, the County has not done so. If the County were to adopt its own Type II List, the Responsible Agency would be bound to follow that list.

Proposed Change: Page 6 – F. Referral of Unlisted and Type I Actions to Department of Planning and Sustainability and Environmental Management Council – The original language is highlighted in yellow and the proposed language (in the text box below) is not shown. Legislator Kiefer proposed that the length of review should be longer than 7 days even for Unlisted Actions not requiring an EIS. Change not shown on the attachment.

Recommendation: ***This should be determined by the Committee.*** The proposal to shorten the time for review was intended to allow for a streamlined process for actions less likely to impact the environment and to recognize the fact that County staff who do not frequently prepare SEQRA documents often become aware of the need for these reviews just prior to submitting agenda items for their committees. While it clearly makes sense for projects that may have impacts to the environment to allow time for closer environmental review, projects that will likely not result in environmental impacts may be unnecessarily delayed if a 30 day requirement is in place. Specifically, the proposed seven day review period mirrors the deadline for submitting SEQRA documentation to Program Committees. There was some discussion at the last PDEQ meeting to ‘split the difference.’ I see little value in that, so I recommend either the seven day review period or change it back to 30 days. If the Committee wishes to continue to require a 30 day notification process, this paragraph should read:

F. Referral of Unlisted and Type I Actions to Department of Planning and Sustainability and Environmental Management Council

The Responsible Agency shall notify the Department of Planning and Sustainability, the Environmental Management Council (EMC), other appropriate Advisory Boards, and the County Legislator representing the district in which the project is located by submitting to them a copy of the Environmental Assessment Form, the initial determination of significance (Negative, Positive, or Conditioned Negative Declaration), a project description indicating the location of the Action, and the deadline for comments. This notification shall be submitted no less than thirty (30) calendar days prior to any formal consideration of the Action by the appropriate Program Committee(s) or, in the case of actions where the County Legislature is not the Lead Agency, prior to any final decision.

Actions (whether Unlisted or Type I) that could involve an unusual or substantial impact would require appropriately longer periods for review. In such cases, the EMC and other appropriate Advisory Boards may make a request to the Chair(s) of the appropriate Program Committee(s) or, in the case of actions where the County Legislature is not the Lead Agency, the head of the appropriate county agency for additional time to complete the review.

When, in the opinion of the County Administrator, circumstances require speedy action precluding the normal review process, the County Administrator, with the concurrence of the Chair of the County Legislature, is authorized to disregard the provisions of this "Referral of Unlisted and Type I Actions to Department of Planning and Sustainability and Environmental Management Council" section, and bring resolutions directly to the County Legislature by requesting the chair of an appropriate Program Committee to place on a County Legislature agenda a resolution authorizing the Action. Even if this section is bypassed to ensure speedy action, the County shall adhere to all SEQRA regulations.

Proposed Change: Page 8 – J. County Department and Agency Procedures – Departmental SEQRA policies should be subject to periodic review. Change shown on the attachment.

Recommendation: ***None.***

Proposed Change: Page 8 – K. Required Notices and Filings – The County Clerk should be responsible for keeping all EIS’s related to County Actions. Change shown on the attachment.

Recommendation: ***None.*** I spoke with the County Clerk and she is willing and able to serve as the EIS repository.

Proposed Change: Tompkins County SEQRA Policy Energy Addendum paragraph 3 (renewables) – Add transparent photovoltaic cells on windows to generate renewable energy. Change not shown on the attachment.

Recommendation: ***Do not include this change.*** The recommendations in the SEQRA Energy Addendum focus on highly proven and widely adopted technologies.

Proposed Change: Tompkins County SEQRA Policy Energy Addendum paragraph 4 (building envelope) – Don't suggest minimizing windows on stairwells, corridors, etc., since that would require more lighting. Change not shown on the attachment.

Recommendation: ***Do not include this change.*** Lighting in such areas should be controlled by motion sensors. When lighting is only needed for a few hours a day, any gains from daylighting are offset by heat losses through windows, particularly as LED lighting becomes more common.

Proposed Change: Tompkins County SEQRA Policy Energy Addendum paragraph 4 (building envelope) – Add passive building design as an alternative. Change not shown on the attachment.

Recommendation: ***Do not include this change,*** based on the advice of the consultant (Taitem Engineering) who helped prepare the Green Energy Incentives report. The success of passive building design has been mixed. In some cases, significant energy reductions have been achieved, in others, buildings have overheated during the day and suffered excessive heat loss at night. It is worth noting that some of the principles of passive building design have already been incorporated in the addendum, specifically in the sections on building envelopes, heating and cooling systems, and whole-building energy modeling.

Proposed Change: Tompkins County SEQRA Policy Energy Addendum paragraph 6 (heating and cooling systems) – Add that HVAC systems should be designed to allow efficient operation through a wide range of temperatures so indoor temperatures can be closer to outdoor temperatures. Change not shown on attachment.

Recommendation: ***Do not include this change.*** It is difficult to quantify the benefits and requires advanced computer modeling to demonstrate those benefits.