

COMMENTS OF THE LONG ISLAND BUILDERS INSTITUTE REGARDING PROPOSED AMENDMENTS TO
6 NYCRR PART 617 RELATING TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

The Long Island Builders Institute, the largest residential home building trade association, wishes to make the following comments on the draft regulations:

1. The remediation and development of brownfield sites is one of the highest public policy initiatives of the State of New York. All SEQRA requirements with regard to both the clean-up of the site and the re-development of the site should be reviewed to ensure that all aspects of the regulations make it as easy as possible to accomplish both goals. LIBI has seen many communities which have rejected clean up proposals for contaminated sites because they did not want the re-development to occur, which only allows for a contaminated site to continue being of distress to the larger community. All such remediation and development proposals should have specific designations in the regulations to ensure both timely decision making but also incentives to make the projects happen, probably through the elimination of full scale SEQRA review. There must be expedited provisions for projects which both remediate contaminated sites and provide re-development of such sites.
2. No material should be allowed into the record for SEQRA review after the record has been closed and/or submittal dates have passed and the regulations should specifically prohibit such material requirements.
3. Both sections 617.8 and 617.9 should be revised to ensure that all scoping and impact statements should only on relevant, potentially significant, adverse impacts. In addition, the initial list of deficiencies should be limited to only a discussion of these issues and additional unrelated deficiencies not originally identified should not be permitted.
4. It is essential for there to be real time periods both identified in the regulations and real identified penalties for the inability of the municipality to comply with the time periods identified. A time period which is written on a piece of paper, even a piece of paper as important as regulations of the State of New York, and then are completely disregarded by the parties with no formal penalty is no time period at all and makes the regulations pie in the sky for everyone. If the State of New York believes that time periods are important, then it should be meaningful, not just a sentence to be set aside by anyone and everyone.
5. Applicants must have some recourse to the courts at appropriate times and we would suggest that scoping determinations be made a "final determination" and thus appealable to the appropriate court.
6. We would highly recommend that when a public hearing on the DEIS is held, it should be "mandatory" and not "whenever practicable" for such hearings to be held with the zoning considerations involved. In addition, there should be no hearing required or allowed for evaluation and determination of a Final Environmental Impact Statement.
7. "Sustainable development" issues should be further clarified to ensure clear and concise determinations by municipalities. Additional types of sustainable developments, including the addition of solar carports on institutional/municipal and industrial land, the use of anaerobic digester criterion to include industrial and

commercial wastewater treatment facilities and landfills and the retrofitting of existing structures to be Type II actions must be allowed.

8. It is essential that SEQRA review be made as “objective” as possible rather than the “subjective” analysis which often clouds the review process by local agencies, municipalities and their consultants. All of the language in the regulations must be reviewed to ensure that specific guidelines and standards are incorporated rather than generic terms which are subject to various interpretations by different entities in different places.

Far too often in our state, the State Environmental Quality Review Act process is used as a weapon or barrier to complicate or to ensure that a development project which meets the public policy needs of the State of New York is not implemented. SEQRA review must be clear, concise and provide a meaningful analysis of the issues involved, not a subjective, lengthy and unsubstantiated review of non-important issues. LIBI is hopeful that the current review of the regulations can lead to this perspective.