

Insights

NEW YORK STATE BUDGET LAW NARROWS SEQRA

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On [May 26, 2026](#), Governor Kathy Hochul signed a law, included in the State budget bill, to amend the [State Environmental Quality Review Act](#) (“SEQRA”). The law is effective immediately, without any implementing regulations. As amended, SEQRA now contains new exemptions and new deadlines intended to speed the process.

HOUSING DEVELOPMENT EXEMPTION

A principal goal of the [SEQRA amendments](#) is to accelerate the construction of new housing. It does so by creating a new SEQRA exemption for many small and medium-size development projects. The exemption applies if the responsible agency determines that the land use action (such as a zoning change or site plan approval) is “[for the purposes of](#)” constructing a housing development project that meets the following criteria:

- **Previously disturbed site with utility connections.** To be exempt from SEQRA, the project must be located at a “[previously disturbed site](#)” and must be connected to existing community or public water and sewerage systems at the commencement of habitation.
- **Dwelling unit thresholds.** In New York City, the project must not exceed 250 dwelling units or, in zoning districts meeting specified criteria, not exceed 500 dwelling units. Outside of New York City, if the project is to be constructed in an area subject to zoning, the project must not exceed 300 dwelling units in an “[urban area](#)” or 100 dwelling units in a non-urban area, but if the project is to be constructed in an area not subject to zoning, the project must not exceed 20 dwelling units.
- **Commercial use thresholds.** To take advantage of the exemption, the non-residential use component of the project must not exceed certain thresholds. In New York City, the project must not contain more than 50,000 square feet of commercial, retail, community facility, or other non-industrial non-residential uses. Outside of New York City, the project must not contain more than 20 percent commercial, retail, community facility, or other non-industrial non-residential uses by gross floor area.

- **No industrial zoning.** In New York City, the project must not be in an area zoned exclusively for industrial use.
- **Low density residential exclusion.** The project must not include construction of only one single-family residence on a parcel of one-half an acre or more (in New York City) or one or more acres (outside of New York City).
- **Hazardous material requirements.** For a project in New York City, the project must comply with the City's requirements for hazardous materials remediation to the extent applicable, and the applicant must certify that it:
 - a. has followed and will follow all applicable laws, rules, and regulations regarding hazardous waste; and
 - b. will report contamination at, on, or under the parcel as required by applicable laws, rules, and regulations.

In certain circumstances, the applicant must also certify that a Phase I Environmental Site Assessment has been prepared for the parcel and the applicant has followed or will follow its applicable recommendations.

Outside of New York City, to be eligible for the exemption, a permit or authorization (other than a land use action, zoning text amendment, zoning map amendment or variance) must contain the applicant's certification that a Phase I Environmental Site Assessment has been prepared and its applicable recommendations have been or will be followed. The applicant for such a permit or authorization must also certify that it:

- a. has followed and will follow all applicable laws, rules, and regulations regarding hazardous waste, including, to the extent applicable, complying with local municipal requirements regarding hazardous materials remediation; and
- b. will report contamination at, on, or under the parcel as required by applicable laws, rules, and regulations.

The hazardous materials requirements do not apply to an action initiated by an agency or if the applicant was previously granted certain exemptions.

NON-HOUSING EXEMPTIONS

In addition to the exemption for many housing development projects, described above, the amendments include the following new exemptions:

- **Park projects.** Construction of public parks at a previously disturbed site is now exempt from SEQRA, provided the project does not include performance centers, athletic stadiums, other venues for mass gatherings, or buildings or structures that do not serve public park, recreation, or open space purposes.
- **Trails.** Construction of multi-use bicycle and pedestrian trails at a previously disturbed site is now exempt from SEQRA.
- **NYC public schools.** Construction of public-school facilities in New York City is now exempt from SEQRA, provided the facilities will be connected at the commencement of use to existing community or public water and sewerage systems. School projects must also satisfy the hazardous material requirements described above for New York City housing developments.
- **Water and wastewater infrastructure.** Certain water and wastewater infrastructure projects are now exempt from SEQRA, including:
 - a. in-kind replacement, rehabilitation, or reconstruction of municipal water or wastewater infrastructure on the same site (including lead service line replacement);
 - b. replacement, rehabilitation, upgrade, or reconstruction of small community water systems (including lead service line replacement); and
 - c. certain projects providing sewer service to a disadvantaged community.
- **Green infrastructure.** Retrofitting an existing structure and its appurtenant areas to incorporate green infrastructure is now exempt from SEQRA.

NEW DEADLINES

The statutory amendments also impose new deadlines intended to accelerate the SEQRA process. The agency responsible for considering a permit or authorization must determine whether one of the new exemptions summarized above applies within 120 days of receipt of the application, with specified exceptions. If SEQRA applies to a proposed action, a determination as to whether an environmental impact statement (“EIS”) is required must now be made within one year of the establishment of the SEQRA lead agency. For actions involving applications for a permit or authorization, the lead agency must prepare the EIS within the 2-year period after it is determined that an EIS is required, with specified exceptions.

STATUTE OF LIMITATIONS

The statute now contains a provision specifying the accrual date of the statute of limitations. It provides that the “time to commence a proceeding to review an agency determination under ... [SEQRA] shall begin to accrue when the agency determination to approve or disapprove the action

becomes final and binding upon the petitioner or the person whom the petitioner represents in law or in fact.”

RELATED CAPABILITIES

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