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## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>1.1</td>
<td>NEPA/SEQR SCOPING - COOPERATING AND ADVISORY AGENCIES</td>
<td>1</td>
</tr>
<tr>
<td>1.2</td>
<td>PROJECT COORDINATION</td>
<td>2</td>
</tr>
<tr>
<td>1.3</td>
<td>LOCAL AGENCIES AND PUBLIC INVOLVEMENT</td>
<td>3</td>
</tr>
<tr>
<td>1.4</td>
<td>NEWS RELEASES</td>
<td>3</td>
</tr>
<tr>
<td>2.0</td>
<td>DOCUMENT DISTRIBUTION</td>
<td>3</td>
</tr>
<tr>
<td>2.1</td>
<td>DEIGN PHASE I - SCOPING LETTER</td>
<td>3</td>
</tr>
<tr>
<td>2.1.1</td>
<td>EIS Projects (NEPA Class I; SEQR non-Type II EIS)</td>
<td>3</td>
</tr>
<tr>
<td>2.2</td>
<td>DEIGN PHASE II, III – DISTRIBUTION OF DRAFT REPORTS, PUBLIC HEARINGS AND MEETINGS</td>
<td>4</td>
</tr>
<tr>
<td>2.2.1</td>
<td>EIS Projects (NEPA Class I; SEQR non-Type II EIS)</td>
<td>4</td>
</tr>
<tr>
<td>2.2.2</td>
<td>Environmental Assessment (NEPA Class III; SEQR non-Type II EA)</td>
<td>5</td>
</tr>
<tr>
<td>2.2.3</td>
<td>NEPA Class II Categorical Exclusion; SEQR Type II</td>
<td>5</td>
</tr>
<tr>
<td>2.2.4</td>
<td>Projects with Section 4(f) Involvement</td>
<td>5</td>
</tr>
<tr>
<td>3.0</td>
<td>EXAMPLE LETTERS AND NOTICES</td>
<td>6</td>
</tr>
<tr>
<td>4.0</td>
<td>DISTRIBUTION LISTS</td>
<td>6</td>
</tr>
</tbody>
</table>
1.0 **INTRODUCTION**

This appendix provides procedures and sample notices for distributing environmental documents to federal, state, and local agencies, in accordance with:

3. Procedural steps in Chapter 4 of the Project Development Manual (PDM).

Section 2 of this Appendix discusses steps in project development requiring formal document distribution, and how they differ for the environmental process categories - EIS, EA and Design Report, for both Federal aid and 100% State funded projects.

Chapter 4 of the PDM gives the sequence on when various notices and letters are to be issued.

Section 3 of this Appendix provides a link to NYSDOT webpage where example letters and notices electronic shells are available. The shells are only available electronically.

Section 4 of this Appendix provides a link to NYSDOT webpage where a list of Federal and State agencies with addresses and required number of copies to be sent to each agency is available. The list is only available electronically.

1.1 **NEPA/SEQR SCOPING - COOPERATING AND ADVISORY AGENCIES**

For NEPA Environmental Impact Statement (EIS) projects, a formal scoping process is undertaken jointly with resource agencies to determine the environmental and social issues to be addressed in the EIS. This NEPA scoping is also used to obtain agreement among the agencies, FHWA and NYSDOT as to the type and level of detail for environmental and technical studies for an EIS.

NEPA scoping represents a portion of project scoping discussed in Chapter 3 of the PDM. Chapter 2, Section 2.2.5 of the PDM, notes that involvement by the public, local governments and agencies is appropriate during project scoping. NEPA scoping is a formal process which documents consultation with the involved agencies. It is required for an EIS and may also be used with an EA project. Refer to Chapter 2 of the PI Manual for additional information.

This section refers to advisory agencies and cooperating agencies, as explained below:

- **Advisory/Interested agency** - This is a term used to broadly cover all agencies and groups from whom input on projects is sought. This may include any federal, state and local advisory agencies and organized stakeholder interest group.

- **Cooperating agency** - This is a term from the Council on Environmental Quality's NEPA Regulations, 40 CFR Parts 1500-1508, Section 1508.5. It is any Federal agency, other than a lead agency, which has jurisdiction by law or special expertise with respect to any environmental impact involved in a major Federal action significantly affecting the quality of
the human environment. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

- **Lead agency** – An agency responsible for compliance with environmental laws and regulations, preparation of the environmental document, and making environmental the determination.

- **Involved agency** – An agency that will have to make a discretionary decision with respect to an action such as funding, permitting or approving.

### 1.2 PROJECT COORDINATION

When distributing scoping letters or the reports to federal, state and local agencies, provide a file copy of the transmittal letter or memo and carbon copy to FHWA (for federal-aid projects), DQAB, and other appropriate main office units. Plan ahead so that project notifications are coordinated with:

- **Public Involvement Plan** - The project-specific PI Plan should identify which notifications are required, and make them as informative as possible. Supplement these documents with other communications such as newsletters, websites, etc. when appropriate. Refer to Chapters 2 and 3 of the PI Manual (Appendix 2 of this Manual) for guidance on Public Involvement Plans and PI during project development.

- **Federal vs. New York State Requirements** - Consider both Federal and State regulations in the distribution of scoping letters and environmental documents. Although Federal-aid and 100% state funded projects are separate classifications, recognize that federal requirements (Corps of Engineers, Section 106, Section 404 Permits, Coast Guard Permits, etc.) may have to be met on 100% state funded projects.

- **County Planning Board** - For all construction and reconstruction projects on state and county roads, send a copy of the draft design approval document to the County Planning Board in Design Phase II for review. This is a requirement of Paragraph (h), Subdivision 3, Section 239-c of the General Municipal Law of New York State. The transmittal letter to the County Planning Board should state that “the document is being sent in compliance with Section 239-c of the General Municipal Law and the Department is soliciting the Planning Board’s comments on the enclosed plans.”

- **Technical Reports** - These procedures do not cover submissions of Cultural Resource Surveys, Case Reports or other documents which are coordinated with the Environmental Analysis Bureau in the Section 106 process with the State Historic Preservation Officer (SHPO), FHWA or Advisory Council on Historic Preservation. Also, Wetland Delineation Reports, Noise or Air Quality Reports, etc. should be submitted in accordance with the NYSDOT Environmental Procedures Manual (EPM) and Appendix 7 of this manual. These documents may be included as Technical Appendices to the EIS or EA.
1.3 LOCAL AGENCIES AND PUBLIC INVOLVEMENT

Notices and document distribution required under NEPA and SEQR are one element of public outreach during project development. Official notices required by these regulations do not, by themselves, constitute a public involvement program. However they should be part of the outreach to inform and solicit feedback from agencies, specific stakeholder groups and the general public.

Each Region should maintain its own list of local advisory agencies - organizations, agencies, groups and other individuals with jurisdiction, special interest or expertise. For Region 8 and 10 projects that warrant distribution of environmental documents to New York City, the addresses of NY City agencies should be obtained from the Region 11 Regional Landscape Architecture/Environmental Services Unit Manager. (This also applies to scoping letters and any notices, etc. to be sent to NY City).

Chapter 2 of the PDM, and the Public Involvement Manual (PDM Appendix 2) list typical agencies and stakeholder groups. Use the Public Involvement Plan (and its updates) as a tool to help determine who to contact on specific projects, based upon project scope, possible impacts, jurisdictions and the expressed or assumed interest of individuals, municipalities or organizations.

1.4 NEWS RELEASES

Although not required by NEPA or SEQR, news releases are a good way of maintaining ongoing communications with both the media and the public throughout the design process. They also are an effective way to announce an upcoming public meeting or hearing. Refer to Chapter A1 of the PI Manual (PIM, Appendix 2 of this manual) for further information on news releases and media contacts.

2.0 DOCUMENT DISTRIBUTION

Section 4.0 of this appendix references the electronic lists of federal and state advisory agencies. The "Remarks" column in the lists of federal and state agencies provides guidance on when to send DEISs, etc. to some of the agencies. Where there is no special guidance in the Remarks column, use discretion in deciding whether or not to contact the agency based upon the project scope, possible impacts and area of expertise of the agency. If there is uncertainty whether or not to send the DEIS, etc., it is recommended that the DEIS, etc. be sent to the agency.

2.1 DEIGN PHASE I - SCOPING LETTER

2.1.1 EIS Projects (NEPA Class I; SEQR non-Type II EIS)

The purpose of the scoping letter is to provide early coordination with appropriate agencies in the NEPA scoping process to identify the significant issues to be addressed in the EIS. An example scoping letter for most agencies is provided as Example Letter 3-1 in Section 3.0 of this appendix.

The "SCOPING LETTER" column of the electronic state and federal advisory agency lists (Section
4.0 of this appendix) includes the state and federal agencies to be sent requests for input. The "Scoping Letter" should also be sent to appropriate local agencies. Examples are listed in Chapter 2 of the PDM and Chapter 2 of the PI Manual (PDM Appendix 2).

For federal and state agencies which have jurisdiction by law, (including but not limited to the Corps of Engineers when an individual Section 404 Permit is required or the NYS Department of Environmental Conservation when a Freshwater of Tidal Wetland Permit is required) the scoping letter should include a request that such agencies be cooperating agencies. Agencies with special interest or expertise may also be requested to be cooperating agencies at this time.

An example of a scoping letter for cooperating agencies is Example Letter 3-2 in Section 3.0 of this appendix. During development of the EIS cooperating agencies should:

1. be invited to participate in scoping meetings and attend meetings and field reviews relevant to their area of expertise;
2. be consulted on relevant technical studies; and
3. be requested to review the relevant sections of the DR/DEIS in Design Phase I.

Where a SEQR EIS is to be prepared for a 100% state-funded project, the Region should send out "scoping letters" similar to those used on NEPA EIS Projects as a means of obtaining early advisory agency input on the alternatives and impacts to be addressed in the SEQR EIS. The "scoping letter" should state that the project is 100% state-funded.

### 2.2 DEIGN PHASE II, III – DISTRIBUTION OF DRAFT REPORTS, PUBLIC HEARINGS AND MEETINGS

#### 2.2.1 EIS Projects (NEPA Class I; SEQR non-Type II EIS)

The "NEPA DEIS" column of the electronic federal and state advisory agency lists (referenced in Section 4.0 of this appendix) include the federal and state agencies that should be considered for distribution of the Design Report/DEIS. The DR/DEIS should also be sent to appropriate local agencies. A copy of an example Design Phase II distribution letter, Example Letter 3-3, is included in Section 3.0 of this appendix.

Separate technical appendices shall be distributed to FHWA, EPA Region II and DOI as noted in Section 4.0 of this appendix. In addition they should be sent to cooperating agencies and to other agencies that have expertise in the subject area of the respective technical appendices. The technical appendices should be available with all copies of the DR/DEIS available at libraries, etc. Refer to Appendix 7 of this manual for a list of the separate and attached technical appendices.

FHWA Regulations, 23 CFR 771 require a public involvement/public hearing program for the Federal-aid highway projects. A public hearing, or opportunity for one, must be offered for any Federal-aid project which requires significant amount of right-of-way, substantially changes the layout or functions of connecting roadways, or the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect or for which FHWA determines that a public hearing is in the public's best interest. 23 USC 128 requires certification that a public hearing was held, or opportunity offered. See Section 3.0 of
Appendix 3
NEPA and SEQR Official Notices

this appendix for sample letters/notices.

For a SEQR Design Report/DEIS, use the "SEQR DEIS" column in the state and federal agencies lists (referenced in Section 4.0 of this appendix) for agencies to consider for distribution. The DR/DEIS should also be sent to appropriate local agencies. The distribution letter should state that the project is 100% state-funded.

NYSDOT's SEQR Regulations, 17 NYCRR Part 15 require public comment opportunity of at least 30 days for a DEIS, and if a public hearing is planned, proper notification. In addition, New York State Eminent Domain Procedure Law (EDPL), Article 2, requires a public hearing and notification to adjacent property owners for any property acquisition that is more than de minimus in nature. However, if a NEPA/SEQR public hearing is offered or held, the requirements under EDPL are fulfilled provided the property owners are notified. It is always preferable to conduct a NEPA public hearing rather than a separate EDPL public hearing where property acquisition is required. See Section 3.0 of this appendix for sample letters/notices.

2.2.2 Environmental Assessment (NEPA Class III; SEQR non-Type II EA)

The "NEPA or SEQR EA" column in the federal and state agency lists (referenced in Section 4.0 of this appendix) provides the agencies which should be considered for distribution of the Design Report/Environmental Assessment in Design Phase II. The DR/EA should also be sent to appropriate local agencies.

2.2.3 NEPA Class II Categorical Exclusion; SEQR Type II

Normally there is no formal Design Phase II distribution of Categorical Exclusion or SEQR Type II projects. If there is a need for a Design Phase II distribution of a Design Report on these projects the "EA" distribution column in the federal and state agency lists (referenced in Section 4.0 of this appendix) should generally be followed. In this case the DR should also be sent to appropriate local agencies.

2.2.4 Projects with Section 4(f) Involvement

The FHWA NY Division Office will have reviewed the Section 4(f) evaluation in Design Phase I and their comments will have been resolved and incorporated in the Draft Section 4(f) Evaluation. Section 4(f) Evaluation distribution procedures are given in Section 4.0 of this Appendix.

Note: When a Programmatic Section 4(f) applies there is no separate distribution of the Section 4(f) document. 4(f) distribution is the same as that for the other Design Report Environmental Document. The Programmatic Section 4(f), which must have prior FHWA NY Division Office concurrence, should be discussed in Chapter ____ of the Design Report/EA or Design Report/DEIS. The Section 4(f) is a separate document for a DR/categorical exclusion project. The report distribution in Design Phase II and IV should be the same as the distribution for a categorical exclusion, EA or EIS without any Section 4(f) involvement.
3.0  **EXAMPLE LETTERS AND NOTICES**

Example letters and notices are provided in a downloadable format on the NYSDOT’s internet site ([www.dot.state.ny.us](http://www.dot.state.ny.us)) or Intradot. They may be found by clicking on the “Site Index,” then “Project Development Manual.”

These examples should be used as shells to develop project specific letters and notices.

4.0  **DISTRIBUTION LISTS**

Since the addresses in the distribution lists for federal and state advisory agencies change frequently, a hard copy is not provided in this manual. The latest version may be found at the NYSDOT internet site ([www.dot.state.ny.us](http://www.dot.state.ny.us)) or Intradot by clicking on the “Site Index,” then “Project Development Manual.”