



**Department of  
Environmental  
Conservation**

# 6 NYCRR Part 621

## Uniform Procedures

Revisions adopted August 31, 2023 – Effective December 26, 2023  
Statutory Authority: Environmental Conservation Law Article 70

### **Division of Environmental Permits**

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## 6 NYCRR 621.1

### Section 621.1. Applicability

This Part applies to applications for permits authorized by the Environmental Conservation Law (ECL) sections described below and pursuant to ECL 70-0107 supersedes any inconsistent Environmental Conservation Law (ECL) provisions or department regulations pertaining to the administration of these applications. The sections are as follows:

- (a) *Use and Protection of Water*, ECL article 15, title 5 (implemented by 6 NYCRR Part 608): including disturbance to the bed or banks of protected streams, construction or repair of certain dams and impoundment structures; placement, construction, reconstruction and expansion of docking facilities and associated breakwaters or other related structures; platforms; the placement of moorings; and excavation or placement of fill in navigable waters;
- (b) *Water Withdrawals*, ECL article 15, title 15 (implemented by 6 NYCRR Parts 601 and 602): including certain Long Island water wells;
- (c) *Wild, Scenic and Recreational Rivers System*, ECL article 15, title 27 (implemented by 6 NYCRR Part 666);
- (d) *Water Quality Certifications* (401 certifications), section 401 of the Clean Water Act, U.S. Public Law 95-217, and 33 USC 1341 (implemented by 6 NYCRR Part 608), for projects that require Federal approval;
- (e) *State Pollutant Discharge Elimination System (SPDES)*, ECL article 17 titles 7 and 8, (implemented by 6 NYCRR Part 750);
- (f) *Air Pollution Control*, ECL article 19, (implemented by 6 NYCRR Parts 201 and 231): including construction and operation of a new emission source or a modification to an existing emission source of air contamination, and construction of indirect sources of air contamination;
- (g) *Liquefied Natural Gas and Petroleum Gas (LNG/LPG)*, ECL article 23 title 17;
- (h) *Mined Land Reclamation Law (MLRL)*, ECL article 23 title 27, (implemented by 6 NYCRR Parts 420--425);
- (i) *Freshwater Wetlands*, ECL article 24, (implemented by 6 NYCRR Parts 662-663);
- (j) *Tidal Wetlands*, ECL article 25, (implemented by 6 NYCRR Part 661);
- (k) *Waste Transporter and Low-Level Radioactive Waste Transporter Permits*, ECL article 27 title 3, (implemented by 6 NYCRR Parts 364 and 381);
- (l) *Solid Waste Management*, ECL article 27 title 7, (implemented by 6 NYCRR Part 360);

- (m) *Industrial Hazardous Waste Management*, ECL article 27 title 9, (implemented by 6 NYCRR Part 373);
- (n) *Siting of Industrial Hazardous Waste Facilities*, ECL article 27 title 11, (implemented by 6 NYCRR Part 377);
- (o) *Coastal Erosion Hazard Areas*, ECL article 34, (implemented by 6 NYCRR Part 505);
- (p) *Prevention and Control of Environmental Pollution by Radioactive Materials*, ECL articles 1, 3, 17, 19, 27 and 29, (implemented by 6 NYCRR Part 380) ; and
- (q) *Incidental Take of Threatened or Endangered Species*, ECL article 11, (implemented by 6 NYCRR Part 182).

## 6 NYCRR 621.2

### Section 621.2. Definitions

(a) *Adjudicatory proceeding* means a proceeding conducted pursuant to ECL section 70-0119 and Article 3 of the State Administrative Procedure Act and Part 624 of this Title. The adjudicatory proceeding is presided over by an administrative law judge and may include public comment hearings, issues conferences, and evidentiary hearings held pursuant to Part 624 of this Title to determine the legal rights, duties or privileges of the named parties and potential parties on a record and after an opportunity for a hearing.

(b) *Administrative law judge* or *ALJ* means the commissioner's representative who conducts department proceedings under this Part and Part 624 of this Title. Typically, the ALJ is an employee of the department within the Office of Hearings and Mediation Services.

(c) *Administrative SPDES Permit Renewal* means the renewal of an existing State Pollutant Discharge Elimination System (SPDES) permit, for a new permit term, utilizing abbreviated application and review procedures that defer full technical review of permit provisions based on priority ranking described in section 750-1.19 of this Title.

(d) *Applicant* means a person, as defined in subdivision (z) of this section, filing appropriate applications and supporting materials for the purpose of obtaining a permit from the department. Eligible applicants are owners, lessees, and operators at a project site or facility.

(e) *Chief permit administrator* means an employee of the department located in the main office of the department and designated to act on the commissioner's behalf in carrying out this Part.

(f) *Commissioner* means the commissioner of environmental conservation, or any employee of the department designated to act on the commissioner's behalf in carrying out this Part.

(g) *Complete application* means an application for a permit which is in an approved form and is determined by the department to be complete for the purpose of commencing review of the application, but which may need to be supplemented during the course of review to enable the department to make the findings and determinations required by law.

(h) *Day or days* means calendar days, as defined in section 19 of the General Construction Law, unless otherwise specified in this Part.

(i) *Delegated permit* means a permit issued by the department for which a comparable permit may be required by Federal law. Delegated permits include those for which the department has been delegated the authority to make permit decisions on or for which the state's regulatory program has been approved by the United States Environmental Protection Agency pursuant to Federal law. For the purposes of this Part the term delegated applies to permits issued by the department for the following programs:

- (1) Resource Conservation and Recovery Act (RCRA) of 1976, 42 United States Code 6901 et seq., (see section 370.1(e) of this Title), for any hazardous waste management facilities (HWMF) or remedial action plans (RAP) under ECL article 27, title 9 except those limited to the disposal of

waste containing polychlorinated biphenyls (PCB) only;

(2) Clean Water Act (CWA) amendments, 33 United States Code 1251 et seq., 1987 (see section 750-1.25 of this Title) for State pollutant discharge elimination systems (SPDES) involving discharge to surface waters of the State, see Part 750 of this Title, under ECL article 17, title 8; and

(3) Clean Air Act (CAA) amendments, 42 United States Code 7401 et seq., (see section 200.9 of this Title) for any air pollution control source under ECL article 19 subject to any of the following Federal requirements:

(i) New Source Review Part 231 of this Title;

(ii) Title V Facility Permits; or

(iii) Title IV Facility Permits.

(j) *Department* means the New York State Department of Environmental Conservation, or a local agency to which the department has delegated permitting or review authority.

(k) *ECL* means Chapter 43 - B of the Consolidated Laws of the State of New York entitled Environmental Conservation Law.

(l) *Emergency* means a natural, accidental, or intentional human-caused event or circumstance which presents an immediate threat to life, health, property, general welfare or natural resources.

(m) *ENB* or *Environmental Notice Bulletin* means the department's electronic publication containing notices of complete applications, and other public notices required by applicable law or at the department's discretion published pursuant to section 3-0306 of the ECL, and available on the department's internet web site.

(n) *EPA* means the United States Environmental Protection Agency.

(o) *Facility* has the meaning given it in this Part's permit programs (listed in section 621.1). If there is no program-specific definition, facility means the location, including all structures and appurtenances, where a department-regulated activity occurs or is proposed to occur.

(p) *Joint Application* for permit means an application form used by applicants to apply for permits issued by the department, the New York State Office of General Services, the Adirondack Park Agency, the Lake George Park Commission, the United States Army Corps of Engineers, and any other state or Federal agency as agreed to by the department.

(q) *Legally Responsible Party* under Part 621 means a permittee legally accountable for undertaking a permitted action in accordance with the provisions and conditions of a permit, or an applicant legally accountable for the content of an application.

(r) *Local government* means a village, town, city, or county.

(s) *Mail* or *Mailing* means transmittal of documents by United States Postal Service, private courier

service, or electronic means. Where the use of certified mail is specified in the Part, it shall mean the use of certified mail by the United States Postal Service or receipted delivery by private courier service.

(t) *Major project* means an action requiring a permit under this Part except projects listed or designated as minor in section 621.4 of this Part.

(u) *Minor Project* means an action listed or designated as minor in section 621.4 of this Part , except for those projects processed as major pursuant to section 621.3(b)(3) of this Part. Minor projects are projects which by their nature and with respect to their location are not likely to have a significant impact on the environment.

(v) *Modification* means a change to a permit that is currently in force, including permit transfer.

(w) *Office of Hearings and Mediation Services* or *OHMS* means the office within the department principally responsible for conducting adjudicatory proceedings and providing mediation services.

(x) *Permit* means any certificate, license or other form of department approval, modification, renewal, or reissuance, including any permit condition or variance, that is issued in connection with any regulatory program listed in section 621.1 of this Part. The permit identifies the approved activity and contains standards and conditions of performance for the activity. Permit does not mean a registration identified in program regulations listed in 621.1 of this Part.

(y) *Permittee* means a person authorized to undertake an activity regulated under a department permit. Eligible permittees are owners, lessees, and operators at a project site or facility.

(z) *Person* means any corporation, limited liability corporation, limited liability partnership, firm, partnership, association, trust, estate, one or more individuals, any other legal entity or any unit of Federal, State or local government or any agency or subdivision thereof, including any State department, bureau, commission, board or other agency, public authority or public benefit corporation.

(aa) *Project* means any action or activity requiring one or more permits identified in section 621.1 of this Part.

(ab) *Public authority or public benefit* corporation means a corporation organized to construct or operate a public improvement wholly or partly within the state, the profits from which benefit this or other states, or the people thereof.

(ac) *Public comment hearing* means a hearing provided by section 621.8 of this Part that provides an opportunity for the public to make unsworn statements, based on facts or belief, for consideration by the department in its review of applications for permits.

(ad) *Regional permit administrator* means a department employee located in one of the department's nine regional offices and authorized to carry out this Part on the commissioner's behalf.

(ae) *Reissuance* means a reauthorization of previously approved activities that are not of a continuing nature for a new permit term pursuant to section 621.11 of this Part.

(af) *Renewal* means department authorization for a new permit term, recertification of a permit for

previously approved activities which will be continuing pursuant to a permit type listed in section 621.11(m) of this Part at the same site or facility without material change.

(ag) *SEQR* means the State Environmental Quality Review Act, article 8 of the Environmental Conservation Law and Parts 617 and 618 of this Title.

(ah) *Site* has the meaning given in the regulations for the permit programs listed in section 621.1 of this Part. Absent a specific program definition site means the land or water areas where a facility or activity is located or conducted, including adjacent land or water used in connection with the facility or activity.

(ai) *Sufficient application for renewal* means properly completed application forms, supplemental information and plans required by specific program regulations for renewing permits, and identification of any material changes in regulated operations or environmental conditions at the permitted facility or site.

(aj) *Title V facility permit* means a permit issued by the department pursuant to Subpart 201-6 of this Title, for a facility or a defined area source, group, or category of emission units at a facility.

(ak) *Transfer* means the department's conveyance of an existing permit or pending application from an existing permittee or applicant to a new permittee or applicant.

(al) *Variance* means relief from specific provisions of permit program implementing regulations and granted by means of a permit modification or new permit. Review of and final decisions on variance requests are subject to the procedures of this Part.



## 6 NYCRR 621.3

### Section 621.3. General requirements for applications

Following are general requirements for applications for permits covered by this Part. Additional requirements are provided in section 621.4 of this Part. Copies of forms, regulations and guidelines referred to in this Part are available from the department's regional permit administrators at the locations listed in section 621.19 of this Part and on the department's website.

(a) General requirements for complete application. To be determined complete for the purpose of commencing department review, the application must meet the requirements in section 621.4 of this Part and the following requirements:

- (1) The application must include the following items:
  - (i) properly completed department application form(s);
  - (ii) a map with the location of the project clearly identified;
  - (iii) for projects involving construction, plans or drawings with sufficient detail to show:
    - (a) the existing and proposed conditions, including the locations of all existing and proposed structures, including any new or modified utilities;
    - (b) the limits of all site disturbance and grading;
    - (c) locations of property lines;
    - (d) the date and name of the preparer;
    - (e) locations of temporary work areas and equipment access;
    - (f) locations and types of measures that will be used to control pollution (e.g., erosion control); and
    - (g) all information that may be required on plans or drawings in specific program implementing regulations.
  - (iv) for projects involving operation of a facility regulated under this Part, all operational manuals, plans, and engineering documents necessary to describe the full scope of regulated activities and the environmental controls necessary to meet the relevant pollution control limits, including any information that may be required in specific program implementing regulations;
  - (v) Engineers certifying documents must be licensed in New York State.
  - (vi) Landowner permission for DEC staff to access the project or facility site for purposes described in subdivision 621.6(b) of this Part.

(vii) Any additional supporting documentation or supplemental information required by the specific program implementing regulations or this Part.

(2) The department may require information from the applicant to determine who may be a legally responsible party for compliance with the permit, the ECL, other applicable laws administered by the department, for remediation of environmental degradation, and to determine the appropriate financial security which may be required. Any false written statements knowingly made are punishable pursuant to Penal Law, section 210.45.

(3) The department may require the applicant to submit and implement a public participation plan that would include the applicant conducting public participation meetings before an application is determined or deemed to be complete. This is in addition to any public notice or hearing that may otherwise be required under this Part. The public participation plan is intended to both enhance community awareness of the project and increase community engagement and involvement in the review process. It may include various means of communication with the public through different media, and local outreach actions, including distributing project information in the community, and conducting public project information meetings in appropriate languages.

(4) When a project requires multiple department permits, all applications must be submitted simultaneously or the applicant must demonstrate to the department's satisfaction that there is good cause not to do so.

(5) When an applicant seeks a variance from permit standards or prohibitions that are specified in a program's regulations, the application must include a specific request, supporting information and justification for the variance as required by the program's regulations.

(6) When a project requires permits or approvals from another state agency or a local government, the application must list those permits or approvals and give the status of each application and its review under SEQR.

(7) If a project is subject to article 8 of the ECL (SEQR), the department must satisfy the requirements of Part 617 of this Title. A complete application must include a completed environmental assessment form and,

(i) when a lead agency has been established pursuant to article 8 of the ECL, either

(a) a negative declaration, or conditioned negative declaration that has been filed pursuant to article 8 of the ECL; or

(b) a draft environmental impact statement (DEIS) that has been accepted by the lead agency for public review;

(ii) where the department is the lead agency, or is the only involved agency, and has required a DEIS, a determination by the department that the DEIS is acceptable for public review; or

(iii) for projects where uncoordinated review occurs, a negative declaration is issued by the department.

(8) When an action requires a determination by the Office of Parks, Recreation and Historic Preservation pursuant to section 14.09 of the Parks, Recreation and Historic Preservation Law (New York State Historic Preservation Act of 1980), the application is not complete until the Office of Parks, Recreation and Historic Preservation has made a determination whether:

(i) any historic, architectural, archeological, or cultural resources present in the project impact area are significant (listed on or eligible for listing on the State or National Register of Historic Places); and

(ii) the project may have any impacts on such significant resources.

(9) If a project is a Type I or Unlisted action pursuant to SEQR and is in a coastal area designated according to article 42 of the Executive Law and 19 NYCRR Part 600, the application is not complete until sufficient information has been provided to enable the department to complete a coastal assessment form as prescribed by the Secretary of State.

(10) A project located within the Adirondack Park requiring a department permit may also require permits from the Adirondack Park Agency, or the New York State Department of Health, or both. In such a case, the application for a department permit is not complete until the applicant has submitted complete applications to all agencies for all required permits, and SEQR requirements of all other agencies are fulfilled, or until the applicant demonstrates good cause not to do so.

(11) The Climate Leadership and Community Protection Act (CLCPA) requires the department to consider whether its permitting decisions subject to this Part are inconsistent with, or will interfere with, the attainment of the statewide greenhouse gas (GHG) emission limits established in Article 75 of the ECL and reflected in Part 496 of this Title. Therefore, where applicable, the applicant must provide information to explain whether the project will be inconsistent with, or will interfere with, the attainment of statewide GHG emission limits. An application is incomplete until such information is provided to the department.

(12) The Community Risk and Resiliency Act (CRRA) requires that applicants for major permits subject to this Part, where applicable, demonstrate that future physical climate risk has been considered. An application is incomplete until the required demonstration is provided to the department.

(13) The Environmental Justice Act of 2019 and CLCPA require the department to consider environmental justice concerns in permitting decisions subject to this Part and provide enhanced public participation opportunities. Therefore, where applicable, an application is incomplete until the following information is provided to the department:

(i) an enhanced public participation plan and written certification of its completion; and

(ii) additional information deemed necessary by the department to evaluate greenhouse gas and co-pollutant impacts on the identified disadvantaged communities pursuant to Section 7(3) of CLCPA.

(14) For further information concerning completeness, see section 621.6 of this Part; and for further completeness criteria for specific permits covered by this Part, see section 621.4 of this Part.

(15) An application is incomplete until the applicant, and the property owner if different than the applicant, consents to provide the department access for inspection of the project site or facility. Such inspections may be necessary for review-related reasons, including to confirm environmental conditions, assess potential effects, and determine whether the project satisfies permitting standards.

(b) Minor Projects.

(1) The department has identified certain activities as minor, as listed in section 621.4 of this Part. Minor projects usually have an insignificant environmental impact. However, it is necessary to regulate such activities due to the potential for abuse of natural resources, the necessity for monitoring related activities, and the possible cumulative effect of minor actions which individually are environmentally insignificant.

(2) Minor projects are not normally subject to the public notice requirements of section 621.7 of this Part and may be processed faster than major projects as explained in section 621.10 of this Part.

(3) If the department determines that a minor project requires public notice, may have a significant impact on the environment under SEQR or requires a public comment hearing, the project will thereafter be processed as a major project for purposes of this Part.

(4) When a project involves simultaneous permit application for both major and minor activities, all are processed as major for purposes of this Part.

(5) When a project involves simultaneous permit applications for multiple activities, all of which are minor, all are processed as minor for purposes of this Part unless it is determined that the project may have a significant impact under SEQR, requires public notice, or a public comment hearing pursuant to paragraph (3) of this subdivision.

(c) Where a project involves permits both subject and not subject to this Part, the department reserves the right to process all such applications pursuant to this Part.

(d) Joint proceedings. In some instances, government agencies other than the department may have concurrent jurisdiction over an application for a permit under this Part. The commissioner may enter into agreements with such agencies for joint processing of the application, including provision for joint notices and hearings. The department may require the applicant to provide a copy of the permit application directly to another government agency to facilitate joint processing.

(e) The department may suspend review of an application when an enforcement proceeding or action is formally commenced against the applicant for one or more alleged violations of a provision of the ECL, regulation or permit, or any environmental law administered by the department. The alleged violation(s) must be related to the activity for which the permit is sought or to other provisions of law administered by the department and have occurred at the facility or site that is the subject of the application or at a site owned or controlled by the applicant within New York State.

(1) The applicant must be informed of the suspension in writing and provided with a copy of the complaint.

(2) The application may be suspended until the enforcement action has been resolved through an order on consent, Commissioner's or judicial order and any necessary compliance obligations are fulfilled to the department's satisfaction.

(3) No such suspension releases the department from the requirement to make a final decision on title V facility permit applications within 18 months of the date that the application was complete pursuant to title V of the CAA (see section 200.9 of this Title) and this Part.

(f) Where the department determines an application is submitted for a project already completed without the required permits, the department may summarily dismiss the application without further review or procedures under this Part and, at its option, refer the matter for enforcement proceedings, which may be undertaken at the discretion of the department.

(g) Time frames and due dates in this Part are calculated in accordance with the General Construction Law, article 2, section 20. Unless indicated otherwise in this Part, days are calculated as calendar days.

## 6 NYCRR 621.4

### Section 621.4. Requirements for specific permit applications

This section identifies the minimum information needed to determine that an application is complete and, where required, for making a tentative determination. Supplemental information may be requested before and after the application has been determined to be complete. Designations of major or minor permit actions for each permit type are included in this section. Implementing regulations have been promulgated by the department for most activities; in some cases, interpretive guidelines have also been issued. Regulations cited in the subdivisions below should be consulted for supplemental requirements when preparing a permit application.

(a) Use and Protection of Waters, Permits under Part 608 of this Title, article 15, title 5 of the ECL.

(1) Disturbance of the bed or banks of a protected stream.

(i) A complete application must include a properly completed joint application form ; plan and profile and cross section drawings of the project and a location map.

(ii) Minor stream bed or bank disturbance actions include repair, replacement, rehabilitation or reconstruction of a structure or facility, in-kind, on the same site; and disturbances of less than 500 lineal feet along any 1,000 feet (304.8 meters) of watercourse.

(2) Construction, reconstruction, repair, removal or breach of a dam.

(i) A complete application must include a properly completed joint application and supplemental forms and information specified in Part 608 of this Title.

(ii) Ordinary maintenance, as defined in section 608.1(v) of this Title, is exempt from permitting requirements.

(iii) Minor dam projects include the following: (a) reconstruction or repairs of existing dams inventoried by the department and (b) reconstruction, repair, removal or breach of dams with hazard classification of A, as defined in Part 673 of this Title.

(3) Construction, reconstruction and expansion of piers, wharfs, platforms, breakwaters, docking facilities and the placement of moorings.

(i) A complete application must include a properly completed joint application form and supplemental forms, and plan, profile and cross-section drawings of the project, and a location map. For docking or mooring facilities, the application must include a plan drawn to scale depicting structures, and delineating the facility perimeters including a reference point to a permanent structure or significant natural feature.

(ii) Minor dock and mooring projects include:

(a) construction or installation of docks, piers, wharfs, or other structures used solely as a

landing place, providing dockage for 20 or fewer boats and encompassing within a facility perimeter an area of 16,000 square feet or less;

(b) the in-kind replacement of a structure on open supports; and

(c) establishing a mooring facility for 40 or fewer boats.

(4) Excavation or placement of fill in navigable waters.

(i) A complete application must include a properly completed joint application form, and plan, profile and cross-section drawings of the project, and a location map and must identify the method and location of excavated material placement.

(ii) Minor excavation or placement of fill projects include the following: maintenance dredging occurring at least once every 10 years; excavation or placement of fill of 5,000 square feet or less; any shoreline stabilization structure of less than 500 linear feet for each parcel of land; repair, replacement, rehabilitation or reconstruction of existing structures, in-kind, on the same site.

(b) Water Withdrawals and Long Island Wells (permits under Parts 601 and 602 of this Title, article 15 title 15 of the ECL).

(1) A complete application must include a properly completed joint application form and supplemental forms and all required exhibits listed in Part 601 and Part 602 of this Title.

(2) Minor water withdrawal projects include:

(i) with respect to a public water supply, the extension of a water district or other service area;

(ii) replacement of a well with an equivalent well in the same aquifer having a capacity not more than 120 percent of the original capacity;

(iii) changes in ownership of a water withdrawal system, including acquisitions of private systems by a town or county water district;

(iv) enlargement of existing facilities involving an increase of not more than 45 gallons per minute for groundwater sources and not more than 150 gallons per minute for surface sources, or 10 percent of the original capacity, whichever is greater;

(v) temporary dewatering systems withdrawing less than two million gallons per day; and

(vi) mineral washing operations that recirculate at least 75% of wash water from a constructed onsite pond system or quarry sump and do not utilize make up water withdrawn from a well source or naturally-occurring surface water.

(3) Minor Long Island well projects include:

(i) a well that is used solely for cooling purposes where all water pumped will be recharged

within 50 vertical feet of the taking point, and no SPDES permit is required;

(ii) temporary dewatering systems withdrawing less than two million gallons per day;

(iii) permanent dewatering systems, providing all water pumped is completely recharged within 50 vertical feet of the taking point and no SPDES permit is required;

(iv) a well with a permanently installed pump, to be used for fire protection purposes only; and

(v) replacement of a well with an equivalent well in the same aquifer having a capacity not more than 110 percent of the original capacity.

(c) Wild, scenic, and recreational rivers, (except river areas on private land in the Adirondack Park which are subject to 9 NYCRR Part 577), permits under 6 NYCRR Part 666 of this Title, article 15 title 27 of the ECL.

(1) A complete application must include a properly completed joint application for permit and supplemental forms, a map at a scale of 1" = 2,000' (1 cm = 240 m) or larger showing the project location and the boundary of the river area, and upon notification by the department, any other supplemental information that the department determines is necessary to review the application.

(2) Minor rivers system projects include the following: subdivisions of ten or fewer lots; construction of single-family dwellings in subdivisions approved pursuant to Part 666 of this Title or on lots that otherwise conform to the restrictions of Part 666 of this Title; construction of accessory structures or signs; and any regulated activities not specifically prohibited in Part 666 of this Title that are located at least 500 feet from wild rivers, 300 feet from scenic rivers, or 200 feet from recreational rivers.

(d) Water quality certifications in accordance with section 401 of the Clean Water Act, (see section 608.9(c) of this Title) and Part 608 of this Title.

(1) A complete application for a Water Quality Certification must include either:

(i) a written request for the Water Quality Certification; or

(ii) a properly completed joint application for permit form.

(2) The department may also request a properly completed application and supporting documentation for any required Federal permits or licenses.

(3) If permits are required from the department for the activity the application must include properly completed applications.

(4) All 401 certification projects are minor, except for the following, which are major:

(i) those projects that involve approval for construction and operation of facilities by the Federal Energy Regulatory Commission or the Nuclear Regulatory Commission;



(ii) those projects that are deemed major by the department in accordance with subdivision 621.3(b)(3) of this Part; and

(iii) those projects that require other permits subject to this Part that are major, in accordance with subdivision 621.3(b)(4) of this Part.

(e) State Pollutant Discharge Elimination System (SPDES), permits under Part 750 of this Title, article 17 titles 7 and 8 of the ECL.

(1) A complete application must include properly completed application forms, a location map or plan at a scale of 1" = 2,000' (1 cm = 240 m) or larger showing the point of discharge into the receiving waters, and any other supplemental information that the department determines is necessary to review the application.

(2) Minor SPDES projects include:

(i) discharges of less than 10,000 gallons per day of sewage effluent, without the admixture of industrial wastes or other wastes, to groundwaters; and

(ii) ballast discharges.

(f) Air pollution control, permits under Parts 201, and 231 of this Title, article 19 of the ECL.

(1) A complete application must include information specified in Part 201 of this Title, and other applicable air pollution control regulations.

(2) The types of projects described in subparagraphs (i) – (viii) of this paragraph that follow, are major, all others are minor:

(i) projects subject to the Title V facility permit requirements under Part 201 of this Title including: initial permitting of subject facilities, permit renewals, and significant permit modifications;

(ii) projects involving any state facility permits for the construction and initial operation of new emission units comprised solely of new emission sources at Title V permitted facilities that are defined as significant permit modifications pursuant to Section 201-6.6(d) of this Title;

(iii) projects subject to major new source review permitting under Part 231 of this Title (New Source Review for New and Modified Facilities);

(iv) projects requiring emission reduction credits;

(v) projects requiring the use of a federally enforceable emission cap;

(vi) projects involving the emission sources subject to National Emission Standards for Hazardous Air Pollutants under 40 CFR 61, except for emission sources subject to 40 CFR part 61 Subpart M - National Emission Standards for Hazardous Air Pollutants for Asbestos, section 61.145, Standards for Demolition and Renovation (see Table 3 in Part 200 of this Title);

(vii) projects involving the construction of new facilities with emission sources subject to National Emission Standards for Hazardous Air Pollutants under 40 CFR Part 63 (See Table 4 in Part 200 of this Title); and

(viii) projects subject to title IV requirements under the CAA (see section 200 of this Title).

(g) Liquefied natural gas and petroleum gas facilities (LNG/LPG), permits under article 23 title 17 of the ECL.

(1) There are no minor LNG/LPG projects.

(h) Mined land reclamation, permits under Parts 420-425 of this Title, and article 23 title 27 of the ECL.

(1) A complete application must include a:

(i) complete mining permit application;

(ii) complete organizational report;

(iii) mined land-use plan;

(iv) a statement by the applicant that mining is not prohibited at that location; and

(v) such additional information as the department may require.

(2) Minor mining projects include:

(i) Projects which meet all of the criteria in (a)-(g) below:

(a) total acreage affected by mining for entire mining site is less than five acres regardless of length of mining period;

(b) total depth of mine from floor to top of mine face is less than 20 feet;

(c) any on-site processing of mining products consists of only those activities that are exempt from air contamination source permits pursuant to section 201-3.2(c)(28) and (29) of this Title;

(d) there is no mining within 100 feet of any surface waters;

(e) there is no mining of consolidated minerals;

(f) there is no mining within 500 feet of any dwelling; and

(g) there is no mining below the water table at the mine site;

(ii) no more than once every five years, lateral expansion of a life-of-the-mine boundary beyond

the limits approved in the permit by up to five acres or 10 percent, whichever is less, where the expanded area would remain more than 100 feet from any surface waters and more than 500 feet from any dwelling; and

(iii) no more than once every five years, vertical expansion of an existing mine that remains above the seasonally high-water table.

(i) Freshwater wetlands, permits under Part 663 of this Title, and article 24 of the ECL.

(1) A complete application must include a properly completed joint application for permit form, plans and profile sketches of the proposed project, and a map at a scale of 1" = 2,000' (1 cm = 240 m) or larger showing the project's location and, if determined necessary, a wetland delineation approved by the department.

(2) Minor freshwater wetlands projects include:

(i) repair, replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site;

(ii) restoring, reconstructing, or modifying existing functional structures or facilities, excluding drainage ditches, that involves a temporary disturbance of less than 0.25 acres (approximately 10,890 square feet) of ground surface;

(iii) removing or breaching a nuisance beaver dam, in conjunction with a nuisance beaver permit issued pursuant to article 11 of the ECL, in order to restore water levels in a wetland;

(iv) constructing a residential driveway, residential structure or residential accessory structure in the adjacent area of a wetland;

(v) filling for dikes or berms, excavations or other activities associated with a wetland or riparian restoration project authorized, designed, or undertaken by the USDA Natural Resources Conservation Service, USDI Fish and Wildlife Service, US Army Corps of Engineers or the department;

(vi) filling for dikes or berms, excavations and other activities associated with an approved wetland mitigation project required by the US Army Corps of Engineers, the USDA Natural Resources Conservation Service, or the department;

(vii) cutting but not elimination or destruction of vegetation;

(viii) dredging at least once every ten years to maintain present navigational channels;

(ix) drilling a water well to serve an individual residence;

(x) drilling test wells for sampling and scientific studies but not for mineral exploration;

(xi) installing a dock, pier, wharf or other structure built on floats or open-work supports and having a top surface area of approximately 400 square feet or less;

- (xii) installing utilities from an existing utility distribution facility to a structure;
- (xiii) routine beach replenishment, regrading and cleaning;
- (xiv) intensive, organized and repetitive use of all-terrain vehicles, air and motorboats, and snowmobiles;
- (xv) clear cutting timber or other vegetation in the adjacent area;
- (xvi) application of a pesticide in an adjacent area ;
- (xvii) application of a pesticide to the grounds of a private residence by the owner;
- (xviii) installation of fencing;
- (xix) constructing, in an adjacent area, farm ponds that do not require a permit pursuant to Part 608 of this Title;
- (xx) restoring, reconstructing, or modifying existing functional structures or facilities, excluding drainage ditches that involve a permanent wetland fill of less than 0.25 acres (approximately 10,890 square feet);
- (xxi) constructing a non-residential structure in the adjacent area of a wetland.

(j) Tidal wetlands, permits under Part 661 of this Title and article 25 of the ECL.

(1) A complete application must include a completed joint application permit and application materials identified in section 661.12 of this Title.

(2) Minor tidal wetland projects include any activity given a designation of GCp--Generally Compatible Use--Permit Required in Part 661 of this Title.

(k) Waste transporter and low-level radioactive waste (LLRW) transporter, permits under Parts 364 and 381 of this title, and article 27 title 3 of the ECL.

(1) A complete application for industrial and low-level radioactive waste collection must include details of specific waste characteristics and other supplemental information which the department notifies the applicant is necessary to review the application.

(2) All transportation projects are minor.

(l) Solid waste management facilities (SWMF), permits under Part 360 of this Title, and article 27 title 7 of the ECL.

(1) A complete application for a solid waste management facility permit must include properly completed application forms, a map at a scale of 1" = 2,000' (1 cm = 240 m) or larger showing the project location, plans, reports and other supporting information required by Part 360 of this Title. If

the facility is to be constructed in stages, the initial application must contain the conceptual design for the entire facility and detailed construction plans for the initial stage.

(2) Minor solid waste management facility projects include:

(i) yard trimming composting facilities receiving less than 100,000 cubic yards annually;

(ii) transfer facilities receiving less than 50 tons of solid waste per day, provided a maximum of 250 tons or 1000 yards of waste, excluding recyclables, is located at the facility at any given time;

(iii) a composting or organics processing facility subject to the provisions of Subpart 361-3 of this Title located at a landfill, provided the addition of the composting or organics processing facility results in no change in the approved design capacity at the facility;

(iv) construction of subsequent stages of a solid waste management facility, when:

(a) the facility was previously approved to be constructed in stages; and

(b) the environmental impacts associated with the entire facility including the specific proposed stage, were previously addressed in accordance with SEQR.

(v) Research Development and Demonstration Projects regulated under section 360.18 of this Title.

(vi) Construction and operation of an anaerobic digester, within currently disturbed areas at an operating publicly owned landfill, provided the digester has a feedstock capacity of less than 150 wet tons per day, and only produces Class A digestate (as defined in 6 NYCRR Section 361-3.7) that can be beneficially used or biogas to generate electricity or to make vehicle fuel, or both.

(vii) Inclusion of solid waste facility registration or registrations into an existing solid waste facility permit at the same facility, or conversion of a solid waste registration or registrations to a solid waste facility permit, where there is no proposed increase in acceptance rate or other changes to the current operation, but such action is required by the Part 360 series of this title.

(viii) Inclusion of a facility or component in an existing permit that would otherwise qualify as a registered collection event where the collected material is stored in a secured building, is on-site for no more than three (3) days, events occur no more than 24 days per year and each event runs no more than two (2) consecutive days.

(m) Hazardous waste management facilities (HWMF), permits under Part 373 of this Title, and article 27 title 9 of the ECL.

(1) A complete application for construction or operation or construction and operation of a hazardous waste management facility must include:

(i) properly completed application forms;

(ii) plans, reports and supporting information required by Part 373 of this title;

(iii) other supplemental information which the department notifies the applicant is necessary to review the application; and

(iv) expanded public participation documentation, in compliance with Subpart 373-1 of this Title, for new hazardous waste management units or major modifications of existing permits.

(2) There are no minor hazardous waste management facility projects.

(n) Siting of industrial hazardous waste facilities, permits under Part 377 of this Title, and article 27 title 11 of the ECL.

(1) A Part 377 application accompanies a hazardous waste management facility application (Part 373 application) and in order to be complete must include plans, report, draft environmental impact statement and supporting information required by Part 377 of this Title, as well as any supplemental information which the department notifies the applicant is necessary to review the application.

(2) There are no minor projects under Part 377 of this Title.

(o) Coastal erosion management, permits under Part 505 of this Title, and article 34 of the ECL.

(1) A complete application must include a properly completed joint application for permit form, be accompanied by plans, supporting documentation required by Part 505 of this Title and any other supplemental information which the department notifies the applicant is necessary to review the application.

(2) At the request of an applicant, the department shall coordinate and consolidate its application review procedures with any other such procedures required by any other Federal, state or local agency into a single, comprehensive review and hearing procedure to the extent practicable to comply with ECL Section 34-0107(6).

(3) The following are minor projects: excavation, grading, mining, filling or dredging of less than 5,000 square feet; construction or modification of docks, piers, or wharves not on fill; construction or modification of erosion protection structures not exceeding 200 linear feet; repair of existing functional erosion protection structures; and vertical modification of an existing functional erosion protection structure with no change in ground coverage.

(p) Radiation control, permits under 6 NYCRR Part 380 and articles 1, 3, 17, 19, and 27 of the ECL.

(1) A complete application for a Part 380 permit must include information specified in section 380-3.2 of this Title.

(2) The following types of projects are minor:

(i) the discharge of licensed radioactive material to the environment in effluents to the air or water at concentrations less than the effluent concentration values listed in Table II of section 380-11.7 of this Title;

(ii) the discharge of licensed radioactive material to the environment in effluents to the air or water at concentrations greater than the effluent concentration values listed in Table II of section 380-11.7 of this Title and for which the potential total effective dose equivalent to any individual member of the public does not exceed 10 millirem per year; and

(iii) the use of licensed radioactive material in the environment to conduct an environmental study for which the potential total effective dose equivalent to an individual member of the public does not exceed 10 millirem per year.

(q) Incidental take of threatened or endangered species, permits under 6 NYCRR Part 182 (ECL article 11)

(1) A complete application for an incidental take permit must include a properly completed application for the permit and any supplemental forms. In addition to the general requirements for permit applications, an applicant must provide to the department's appropriate regional permit administrator the information specified for permit application requirements in section 182.11 of this Title.

(2) There are no minor incidental take projects.

(r) Where not otherwise identified in program regulations as minor projects, applications for modification of permits that are treated as new may be processed as minor projects under this Part where all the following apply:

(1) the proposed modification involves an expansion or increase of any regulated area, volume, rate, or capacity that does not exceed 10% of the existing permitted area, volume, rate, or capacity;

(2) the proposed modification, by itself, does not exceed any applicable minor project threshold contained in section 621.4 of this Part; and

(3) if the existing permit was not previously reviewed as a major project under this Part, the proposed modification, when combined with the permitted area, volume, or capacity, does not exceed any minor project threshold.

## 6 NYCRR 621.5

### Section 621.5. Optional preapplication conferences

If a proposed project may require more than one department permit, or the preparation of an environmental impact statement the prospective applicant is encouraged to request a preapplication conference with appropriate department staff as a means of clarifying application content and procedures. This request should be made to the regional permit administrator at the appropriate location listed in section 621.19 of this Part. It should be made at the earliest possible stage of the applicant's project planning. The applicant must submit project plans and other relevant information to the department before the conference. At the conference, the proposed project will be informally discussed, permit requirements identified, and the applicant will be provided with guidance in the mechanics of the application and review process based on information provided by the applicant.



## 6 NYCRR 621.6

### Section 621.6. Department action on applications

- (a) Applications must be submitted to the regional permit administrator listed in section 621.19 of this Part for a determination of completeness and initiation of review. For permit applications reviewed by the department's central office, applications must be submitted to the chief permit administrator for a determination of completeness and initiation of review.
- (b) In reviewing an application for a permit, department staff ordinarily inspects the project site or facility and surrounding area to verify existing conditions, determine the accuracy of materials submitted in the application, assess impacts of a project on the environment in the immediate and surrounding area, and determine whether the project satisfies applicable permitting standards. During an inspection, among other things, measurements may be made, physical characteristics of the site may be analyzed, including but not limited to soils and vegetation, and photographs may be taken. Ordinarily, site visits will occur between 7 a.m. and 7 p.m. Monday through Friday. Unusual circumstances including (but not limited to) emergencies or disasters may require site inspections outside of these hours. Failure of an applicant, or the property owner if different than the applicant, to allow access to the site or facility can be grounds for, and may result in, the department deeming the application incomplete or permit denial.
- (c) The department must mail notice of its determination of completeness or incompleteness to the applicant for:
- (1) delegated permits: on or before 60 days after receipt of the application, except for minor modifications to Title V facility permits as described in Part 201 of this Title which shall follow the timeframe under paragraph (2) of this subdivision;
  - (2) all other permits: on or before 15 days after receipt of the application; and
  - (3) projects requiring both delegated and nondelegated permits: on or before 60 days after receipt of the application.
- (d) If the application is determined to be incomplete, the notice must include a description of the deficiencies and a listing of all identified areas of incompleteness. Nothing in this section precludes the department from requesting additional information in accordance with Section 621.14(b) of this Part.
- (e) Applications will remain incomplete until all requested items are received by the department. A partial submission of requested material does not change the incomplete status. Department staff must notify the applicant of the continued incomplete status of its application within the timeframes specified in subdivision (c) of this section.
- (f) Failure of the applicant to respond in writing to the department's notice may result in the application being deemed withdrawn without prejudice pursuant to the procedures in paragraphs (1) and (2) of this subdivision.
- (1) If an applicant fails to respond to a notice of incomplete application within one year, the department may mail a follow-up notice of incomplete application requesting the necessary items

for a complete application or an explanation for the delay. The notice must state that the department will deem the application withdrawn for failure by the applicant to respond within 15 days of mailing or by a later date specified in the notice.

(2) If the department sends notification pursuant to paragraph (1) of this subdivision and the applicant fails to respond to the follow-up notice of incomplete application within 15 days of mailing or by the date specified in the notice, the department will deem the application withdrawn.

(g) When an application for a major project is determined to be complete, a Notice of Complete Application must be prepared. Notice requirements for content and publication are in section 621.7 of this Part.

(h) If the department fails to mail notice of its determination of completeness or incompleteness to the applicant within the time limit specified in subdivision (c) of this section, the application will be deemed complete. Nothing in this section waives any applicable statutory requirements of article 8 of the ECL (SEQR), article 14 of Parks, Recreation and Historic Preservation Law (New York State Historic Preservation Act of 1980) or precludes the department from requesting additional information in accordance with section 621.14(b) of this Part.

(i) If an application is resubmitted or the applicant submits a response to a notice of incomplete application, a new completeness review period of 15 days (60 days for delegated permits and those projects requiring both delegated and nondelegated permits) shall commence from the date of receipt by the department.

6 NYCRR 621.7

Section 621.7. Public notice and comment

- (a) Upon determining that an application is complete and is for a major project, the department must:
- (1) provide notice to the chief executive officer of the municipality in which the proposed project is to be located, and to any person who has previously expressed in writing an interest in receiving such notification; and
  - (2) publish a notice of complete application in the Environmental Notice Bulletin no more than 10 days after the date of notice to the applicant.
- (b) The notice must contain the following information:
- (1) The applicant's name.
  - (2) A brief description of the proposed project and its location.
  - (3) A list of all department permits for the project for which application has been made, and identification numbers for those applications.
  - (4) Department contact information including telephone number, e-mail address and contact person.
  - (5) The status of environmental reviews conducted under SEQR, including identification of the following: name of the lead agency, the classification of the action as listed in Part 617 or 618 of this Title, whether coordinated review occurred, and the determination of significance if the action was classified as Type I or Unlisted.
  - (6) The deadline for submission of written comments on the application, including any request for a public comment hearing or an adjudicatory proceeding pursuant to Part 624 of this Title. The minimum timeframes for review and comment are as follows:
    - (i) applications supported by a SEQR negative declaration, or where SEQR is preempted by Federal statute, not less than 15 days after the date of publication unless otherwise specified in this paragraph;
    - (ii) applications supported by a SEQR draft environmental impact statement, not less than 30 days after the date of publication;
    - (iii) Mined land reclamation, solid waste management facility, and non-delegated air pollution control permit applications, not less than 30 days after the date of publication;
    - (iv) Delegated SPDES and delegated air pollution control permits, not less than 30 days after the date of publication;
    - (v) Hazardous waste management facility permit applications and remedial action plan

applications, not less than 45 days after the date of publication; or

(vi) Where notices must be published in multiple publications, and the publication dates fail to coincide such that the deadline dates for submission of written comments to the department differ, the final deadline for comments must be the latest of the published deadline dates.

(7) For delegated permits, the availability of either the draft permit or notice of intent to deny as set forth below:

(i) If a draft permit has been prepared it must contain the following information:

(a) for SPDES, information required to be in permits as provided in Part 750 of this Title;

(b) for HWMF, information required under section 373-1.4(d) of this Title or for RAPs set forth in section 373-1.11(d)(2) of this Title; and

(c) for air pollution control, information required under New Source Non-Attainment Review or Prevention of Significant Deterioration Review pursuant to Parts 231 and 201 of this Title for projects subject to title V facility permit requirements.

(ii) If the determination is to deny the permit, the department must issue a notice of intent to deny.

(iii) If, after issuing a notice of intent to deny a permit, the department determines, based on additional information or further consideration, that the permit may be issued, the department may with the applicant's consent:

(a) withdraw the notice of intent to deny;

(b) issue a draft permit; and

(c) provide public notice of the intent to issue a permit in accordance with this Part.

(8) For delegated permits, the notice of complete application will serve as a fact sheet for projects or facilities on a list agreed to by the department and the U.S. Environmental Protection Agency (EPA) or for projects that the department finds are the subject of significant public interest or raise substantive and significant issues. For delegated SPDES permits, the notice of complete application must include notice of availability of a fact sheet developed in accordance with section 750-1.9 of this Title. The notice of complete application must include the information required under:

(i) section 750-1.7 of this Title for SPDES permits (through the notice or by reference to the draft permit and fact sheet);

(ii) Part 373 of this Title for HWMF permits or RAP permits;

(iii) for air pollution control permits subject to Subpart 231-2 of this Title, the notice must state that information regarding the demonstration of the Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) or both are available from the department and

may be reviewed upon request; and

(iv) for SPDES permit applications or renewals within an area designated pursuant to any Federal or state statute as a sole source aquifer, the project description must include the names and addresses of all public water purveyors with a service area or portion thereof located within a three-mile radius of the applicant's facility.

(9) For title V facility permits, the notice of complete application must state that the EPA has the authority to bar issuance of the subject permit (see Part 201 of this Title).

(c) For all major projects, a notice of complete application must be published in a newspaper in the area in which the project is proposed to be located.

(d) Public announcement broadcast over local radio stations is required for complete applications on all HWMF permits or RAPs.

(e) The department may provide or require the applicant to provide other reasonable public notice of complete application. Such notice may include, but is not limited to, the distribution or posting of information about the proposed project in the area in which the proposed project is to be located, conduct of public information meetings, translation of notices for non-English speaking communities and the establishment of document repositories in the area in which the proposed project is to be located, and must contain the information specified in section 621.7(b)(1) through (9) of this Part.

(f) Notice of complete application required under this section must also be provided to:

(1) all agencies which have jurisdiction to fund, approve or are directly undertaking the project;

(2) agencies the department must consult before its determination of completeness, including those responsible for historic preservation and coastal zone management;

(3) the United States Environmental Protection Agency and other persons and agencies as required for federally delegated permits;

(4) any affected states and Indian governments for new projects, major permit modifications and permit renewals subject to air Title V facility permit requirements;

(5) for sources subject to air New Source Review permit requirements pursuant to Part 231 of this Title:

(i) affected states and Indian governments;

(ii) the Federal land manager of Federal class 1 areas whose air may be affected by the proposed source; and

(iii) the county chief executive, any local air pollution control agency and any comprehensive regional land use planning agency where the proposed source would be located;

(6) for Mined Land Reclamation permits, on lands not previously permitted pursuant to article 23, title 27 of the ECL, the department must send a notice by certified mail return receipt requested to the chief administrative officer of the political subdivision in which the proposed mine is to be located. This notice must:

- (i) be accompanied by copies of all documents comprising the complete application;
- (ii) state whether the application is for a major or minor project pursuant to section 621.4(h) of this Part; and
- (iii) allow 30 days for the chief administrative officer to provide comments on the application in regard to:
  - (a) appropriate setbacks from property boundaries or public thoroughfare rights-of-way;
  - (b) fabricated or natural barriers designed to restrict access if needed, and, if affirmative the type, length, height, and location thereof;
  - (c) the control of dust;
  - (d) hours of operation; and
  - (e) whether mining is prohibited at that location.

## 6 NYCRR 621.8

### Section 621.8. Determination to conduct a public comment hearing or adjudicatory proceeding

(a) After a permit application for a major project is complete (see provisions of sections 621.3, 621.4 and 621.6 of this Part), and notice in accordance with section 621.7 of this Part has been provided, the department must evaluate the application and any comments received to determine whether a public comment hearing will be held, whether the department will refer the matter to OHMS for adjudicatory proceedings pursuant to Part 624 of this Title, or that neither is necessary. This must be done within 60 days of the date the application is complete. The department must notify, by mail, the applicant and persons who have filed comments on the application of the department's determination to hold a public comment hearing or refer the matter to OHMS for adjudicatory proceedings. A hearing may either be a public comment hearing pursuant to this Part or an adjudicatory proceeding pursuant to Part 624 of this Title. The Uniform Procedures time frames are suspended as of the date the department notifies the applicant of its decision to hold either a public comment hearing pursuant to this Part or an adjudicatory proceeding pursuant to Part 624 of this Title. In the case of a decision to hold an adjudicatory proceeding, the time frames of Part 624 of this Title apply. Where timeframes under this Part are suspended for a public comment hearing held pursuant to this Part, the uniform procedures time frames to determine if the department will refer the matter to OHMS for adjudicatory proceedings and for final decision shall resume upon staff's receipt of the complete public hearing record.

(b) The determination to refer a matter to OHMS for adjudicatory proceedings pursuant to Part 624 of this Title shall be based on whether the department's review of the application materials or comments identifies substantive and significant issues relating to any findings or determinations the department is required to make pursuant to the Environmental Conservation Law. This includes the reasonable likelihood that the permit application will be denied or can be granted only if significant changes are made to the project because the project, as proposed, fails to meet statutory or regulatory criteria or standards. In addition, where any comments received from members of the public or other interested parties raise substantive and significant issues relating to the application, and resolution of any such issue may result in denial of the permit application, or the imposition of significant conditions thereon, the department must refer the matter to OHMS for an adjudicatory proceeding on the application.

(c) When there is no referral to OHMS for an adjudicatory proceeding, the department has the discretion to hold a public comment hearing based on the following:

- (1) if a significant degree of public interest exists, as determined by the department;
- (2) to fulfill the requirements of Section 617.9(a)(4) of this Title; or
- (3) for HWMF permits or RAPs, if notification of opposition to a draft permit or RAP, and a request for a hearing is received during the public comment period.

(d) Mere expressions of general opposition to a project are insufficient grounds for referring a project to OHMS for an adjudicatory proceeding on a permit application. In order to raise substantive and significant issues, written comments expressing objection or opposition to an application must explain the basis of that opposition and identify the specific grounds which could lead the department to deny or impose significant conditions on the permit.

(e) The department normally does not require public hearings in connection with applications for minor projects, as identified in sections 621.3 and 621.4 of this Part. If a public hearing is required for a minor project, the application shall be treated as a major project for purposes of this Part.

(f) If a public comment hearing on an application is required to be held, it must commence on or before 90 days after the date the application is complete.

(g) Public comment hearings pursuant to this Part may be conducted by electronic means or in-person events at the discretion of the department.

(h) When public notice under this section also includes modification to a permit for any of the reasons set forth in 621.13(a)(1)-(6) of this Part, the permittee may submit a written statement to the Regional Permit Administrator or Chief Permit Administrator, as directed by the notice, commenting on proposed modifications or giving reasons why the permit should not be modified. The permittee must submit the statement by the deadline for receipt of comments.



## 6 NYCRR 621.9

### Section 621.9. Settlement conferences

(a) Under certain circumstances, a settlement conference may offer a more effective and efficient way to resolve disputes over applications than an adjudicatory proceeding. A settlement conference is an opportunity for frank and open discussion between parties in the presence of an administrative law judge that may result in the resolution of outstanding issues. The purpose of the conference is to allow both parties to participate in good faith in the process of narrowing and resolving areas of disputes. The further option of an adjudicatory proceeding may still be exercised should resolution not be achieved.

(b) The regional permit administrator may offer an applicant the option to participate in a settlement conference, or the applicant may request a settlement conference, if the application meets the following conditions:

- (1) no draft environmental impact statement has been required to be prepared;
- (2) public notice has been published (unless the application is for a minor project);
- (3) no substantive public comments have been received or public concerns identified;
- (4) there remain unresolved departmental concerns with the proposed project that could result in either permit denial or substantial modification; and
- (5) the applicant has agreed to a suspension of the time period for a decision pursuant to section 621.14(a) of this Part.

(c) A settlement conference shall be conducted by an administrative law judge assigned by the commissioner.

(d) The parties to the conference shall be the applicant and appropriate department staff, and their representatives.

(e) Each party shall be afforded an opportunity to present summary written documents and oral statements in support of its positions.

(f) The administrative law judge shall have the power to:

- (1) set the time and place of the conference;
- (2) help the parties define unresolved issues and their respective positions on them;
- (3) offer opinions on the relative merits of each party's position and alternative ways to resolve disputed positions;
- (4) try to facilitate the settling of issues in dispute; and

(5) close the conference if no reasonable progress towards resolution is being made.

(g) The administrative law judge shall:

(1) prepare a report which will identify the issues raised, identify the scope and nature of any settlement, and recommend further action on outstanding issues including the need for hearing; and

(2) send the report to the regional permit administrator and the applicant within 30 days of the close of the conference.

(h) On the date the department mails a notice to the applicant granting the settlement conference time frames specified in this Part are suspended. Upon receipt of the administrative law judge's report by the regional permit administrator such time periods will resume at the same point they were suspended.

(i) If an adjudicatory proceeding is ultimately held on an application that used the settlement conference procedure, an administrative law judge other than the one who conducted the settlement conference shall preside. The presiding administrative law judge at the adjudicatory proceeding shall not confer on the merits of the application with the administrative law judge who conducted the settlement conference. No part of the settlement conference report shall be introduced into the hearing record without the consent of the department staff and the applicant.

## 6 NYCRR 621.10

### Section 621.10. Final decisions on applications

(a) The department or its agent shall mail to the applicant and its representative, if applicable, a decision in the form of a permit, a permit with conditions or a statement that the permit applied for has been denied, with an explanation for the denial. This must be done within the following time periods:

(1) for a minor project for which no public comment hearing has been held, on or before 45 days after the date the application was complete;

(2) for a major project for which no public comment hearing has been held, on or before 90 days after the date the application was complete;

(3) for any application for which a public comment hearing has been held, on or before 60 days after the receipt by the department of the complete hearing record;

(4) for any application for which an adjudicatory proceeding has been held, the decision will be issued pursuant to section 624.13 of this Title;

(5) for a project which a lead agency has determined may have a significant impact on the environment under SEQRA, the time periods specified in this Part shall be suspended not less than 35 days prior to the date on which a final decision is required pursuant to this Part, pending receipt from the lead agency of either a final environmental impact statement, or a negative declaration. Upon receipt of these materials the time periods shall resume.

(6) Notwithstanding the time periods established in paragraphs (2) and (3) of this subdivision, for applications for Title V facility permits, the department may not issue a final decision unless the EPA has been provided 45 days to review any responsiveness summary, and the proposed permit issued by the department in accordance with subdivision (e) of this section. The public may petition the EPA to object to the issuance of the proposed permit and the EPA may bar issuance of the proposed permit (see Part 201 of this Title).

(7) If a decision is required to meet time frame(s) specified in a Federal statute or regulation, the department may issue its decision consistent with the time frames set forth in Federal statute or regulation, notwithstanding the time periods established in paragraphs (2) and (3) of this subdivision, or other review procedures identified in this Part.

(b) If the department or its agent fails to mail a decision within the time periods specified above, the applicant may make notice of that failure, by means of certified mail, return receipt requested, addressed to Chief Permit Administrator, New York State Department of Environmental Conservation, Division of Environmental Permits, 625 Broadway, Albany, NY 12233-1750. If authority to issue and deny permits has been delegated by the commissioner to another agency, notice must also be made to the chief executive of such agency. Such notice must contain the applicant's name, location of the proposed project, the office in which the application was filed, the identification numbers assigned to the application in any notice from the department and a statement that a decision is sought according to this subdivision or ECL 70-0109(3)(b). Any notice failing to provide this information, including a notice that

is incorrectly addressed, will not invoke this provision.

(c) If the department or its agent fails to mail the decision to the applicant within five working days of the receipt of such notice, the application will be deemed approved and the permit deemed granted, subject to the standard terms or conditions applicable to such a permit. Subdivisions (b) and (c) of this section do not apply to:

(1) delegated HWMF permits or RAPs; and

(2) title V facility permits, unless the department has satisfied all requirements established under this Part and Part 201 of this Title regarding notice and opportunity for review of draft permits by EPA, affected states and the public; or

(3) other federally enforceable air permits unless the department has satisfied all requirements for review of draft permits by the public.

(d) Notwithstanding the time periods for decisions specified above, the department or its agent will not be required to issue a decision on an application, nor will a permit be deemed issued, until the applicant has provided satisfactory proof of any public notice required, posted any bonds required, and paid all fees or costs assessed by the department.

(e) For delegated permits, the department will issue a responsiveness summary to relevant comments relating to such permits that were received during the public comment period or during any public comment hearing conducted pursuant to this Part. The provisions of this paragraph are not applicable to permits for which a final environmental impact statement otherwise satisfying the requirements of this subdivision has been prepared pursuant to section 617.9 of this Title. The responsiveness summary must:

(1) identify of any conditions in the final permit that are different from the conditions in the draft permit, and the reasons for the changes; and

(2) for Title V facility permits, be issued within 60 days of the date the application is complete except when a hearing is required. The responsiveness summary must also reference the procedures contained in Part 201 of this Title that the public must follow if they elect to petition the EPA to object to the issuance of the proposed permit.

(f) An application for a permit may be denied for failure to meet any of the standards or criteria applicable under any statute or regulation pursuant to which the permit is sought, including applicable findings required by article 8 of the ECL and its implementing regulations at Part 617 of this Title, or for any of the reasons set forth in section 621.13(a)(1)-(6) of this Part.

(g) When a project requires multiple DEC permits, the department will issue final decisions on all applications concurrently unless there is good cause not to do so.

(h) If the permit applied for has been denied or is issued with significant conditions attached, then the decision notification must provide the applicant an opportunity for an adjudicatory proceeding to be held unless an adjudicatory proceeding pursuant to Part 624 of this Title has already been held on the application. If the permit application has not been the subject of an adjudicatory proceeding, the

applicant may request an adjudicatory proceeding by writing to either the regional permit administrator or the chief permit administrator, as instructed in the decision notification, within 30 days of the date of the mailing of either the notice of denial or the permit with conditions. The permittee must also submit a copy of the written request for adjudicatory proceeding to the chief administrative law judge, addressed to Chief Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 625 Broadway, Albany, New York 12233-1550. The adjudicatory proceeding will commence within 60 days of the chief administrative law judge's receipt of the applicant's request.

(i) Maximum permit terms. In issuing permits pursuant to this Part, the department may specify a permit term up to the maximum provided in this subdivision. At its discretion, the department may specify a term shorter than the maximum. The maximum permit terms for each permit type subject to this Part are as follows:

- (1) Use and protection of waters: 10 years;
- (2) Water withdrawals and Long Island wells: 10 years;
- (3) Wild, scenic and recreational rivers system: 5 years;
- (4) Water quality certifications: 10 years or concurrent with Federal license or approval, whichever term is longer;
- (5) State pollutant discharge elimination system:
  - (i) 5 years for delegated permits, and
  - (ii) 10 years for non-delegated permits;
- (6) Air pollution control:
  - (i) 5 years for Title IV and Title V facility permits; and
  - (ii) an indefinite term for State facility permits, except for new or modified State facility permits, which shall receive a permit term not to exceed 10 years as provided for in section 201-5.3(a) of this Title;
- (7) Liquefied natural gas and petroleum gas: 5 years;
- (8) Mined land reclamation: 5 years;
- (9) Freshwater wetlands: 10 years;
- (10) Tidal wetlands: 10 years;
- (11) Waste transporter and low-level radioactive waste transporter: 1 year;
- (12) Solid waste management facilities: 10 years;

(13) Industrial hazardous waste management:

(i) 5 years for land disposal and incinerators; or

(ii) 10 years for all other hazardous waste facilities.

(14) Siting of industrial waste management facilities: none;

(15) Coastal erosion management: 10 years;

(16) Radiation control: 5 years; and

(17) Incidental take of threatened or endangered species: The permit term of an incidental take permit issued pursuant to this Part will run concurrently with the duration of an implementation agreement approved by the department pursuant to section 182.11(e) of this Title.

## 6 NYCRR 621.11

### Section 621.11. Applications for permit renewals, reissuances, and modifications, including transferring or relinquishing permits

(a) Unless instructed otherwise, applications to renew or modify permits, except SPDES permit renewals, must be submitted to the regional permit administrator of the region in which the facility is located (see section 621.19 of this Part). Applications must provide information supporting the action sought, and, if for a modification, must include a statement of necessity or reasons for modification.

(1) Applications for renewal must be submitted no less than 180 days prior to permit expiration for the following permit types: HWMF, RAPs, Air State Facility permits, title V facility permits, and title IV facility permits, SWMF permits, Water Withdrawal permits, Long Island Well permits, Radiation Control permits, and Mined Land Reclamation permits.

(2) Except for SPDES permit renewals, applications for renewal of permit types not listed above in paragraph (1) of subdivision (a) of this section and are listed in subdivision (m) of this section must be submitted no less than 30 days prior to the expiration.

(3) The foregoing deadlines apply unless otherwise stated as a condition of the permit.

(b) SPDES Renewals. Applications for all SPDES permit renewals must be submitted on forms prescribed by the department and sent to the Chief Permit Administrator, Division of Environmental Permits, 625 Broadway, Albany, NY 12233-1750.

(1) SPDES permits renewed pursuant to the administrative renewal procedures contained in Subpart 750-1 of this Title are subject to the public notice, comment, and hearing procedures of this Part.

(2) Applications for renewal must be submitted no less than 180 days prior to permit expiration.

(3) Renewal of a SPDES permit will be treated as a new application where the facility that would be or is the source of the permitted discharge has not operated during the term of the permit. If the renewal is of a delegated SPDES permit, it will be subject to a full technical review.

(c) Transfers. Applications for the transfer of permits in effect, or pending permit applications, to a different permittee or applicant, or to change the name of the permittee or applicant, must be submitted on a form prescribed by the department and must be done in consideration of the following:

(1) Applications should be submitted at least 30 days prior to transfer, unless a different time period is required by specific program statute or regulation.

(2) Transfer of permits is not allowed for water withdrawal permits or waste transporter permits including LLRW transporter permits. These activities require the submission of a new application by the proposed new permittee.

(3) The applicant for permit transfer proposes no significant change in the design or operation of the previously approved project that was permitted.

(4) The new permittee must satisfy required financial obligations and insurance coverage.

(5) A new permittee may be subject to a record of compliance review before a decision on permit transfer is rendered.

(6) Any noncompliance by the existing permittee, associated with the permits proposed to be transferred, must be resolved to the department's satisfaction.

(d) Relinquishments. A permittee may relinquish a permit by sending a written notification to the regional permit administrator of the Region in which the facility is located (See section 621.19 of this Part). The notification must:

(1) identify the permit to be relinquished by its permit number;

(2) state why the permit is being relinquished;

(3) describe how the provisions and conditions of the permit have been satisfied; and

(4) provide an explanation of any remaining actions required at the site or facility prior to terminating the remaining term of the permit.

(e) In reviewing a request to relinquish a permit, the department must confirm whether permit provisions and conditions have been satisfied, including post operational requirements. The department will provide written verification of its concurrence with permit relinquishment or provide reasons why the permit must remain in effect.

(f) The department must notify the applicant and its representative, if applicable, by mail of the department's decision on renewals, modifications, reissuances (pursuant to subdivision (n) of this section), transfers, or relinquishment of permit requests on or before 15 days after receipt of the application except as provided in subdivisions (h), (i), and (j) of this section.

(1) The department's failure to find a timely renewal application insufficient within 15 days of the department's receipt of the application for renewal or 60 days for delegated permits, will result in the application being deemed sufficient under section 401 of the State Administrative Procedure Act.

(2) Where an application for permit renewal is timely filed, but determined insufficient, and the applicant subsequently provides required information prior to permit expiration, the application will be considered both timely and sufficient.

(3) When the department proposes modifications to the provisions of a permit, including permit conditions, in conjunction with an application for permit renewal, the department must notify the applicant of the proposed changes to the permit either through a draft permit on which the applicant will be provided the opportunity to review and comment, or by notification pursuant to section 621.13(c) of this Part.

(4) An application for renewal, modification, transfer or permit relinquishment may be denied for



failure to meet any of the standards or criteria applicable under any statute or regulation pursuant to which the renewal or modification is sought, and applicable findings required by article 8 of the ECL or for any of the reasons set forth in section 621.13(a)(1)-(6) of this Part.

(g) If the decision is to deny the permit or requested action under transfer or relinquishment or to issue a permit with substantive conditions, the applicant may request an adjudicatory proceeding by writing the regional permit administrator or the chief permit administrator, as instructed in the decision notification, within 30 days of mailing of the decision to deny or date the permit with substantive conditions is issued. The applicant must also submit a copy of a written request for an adjudicatory proceeding to the chief administrative law judge. The adjudicatory proceeding will commence within 60 days of the chief administrative law judge's receipt of the applicant's request.

(h) The department may determine that an application for renewal or modification will be treated as a new application for a permit in the following circumstances:

(1) the application involves a material change in existing permit conditions or in the scope of the permitted actions (non-material changes include, for example, administrative changes such as transfer of ownership or changes in legally responsible parties, correction of typographical errors, updates to facility or permittee contacts, and routine updates to operational plans);

(2) there is newly discovered material information or there has been a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;

(3) a hearing or opportunity for public comment is required by law or the department determines that an opportunity for public comment or hearing is necessary;

(4) the renewal application is not timely or sufficient;

(5) any of the grounds listed in section 621.13(a)(1)-(6) of this Part apply; or

(6) where any regulations or law pertaining to permits subject to this Part specify that permit renewals or modifications shall be treated as new applications.

In such circumstances, on or before 15 days after receipt of an application, the department must mail the applicant notice of its determination. In addition, the department must mail the applicant notice of its determination of whether the application is complete within the time frames specified in section 621.6(c) of this Part.

(i) Applications for the renewal or modification of delegated permits and permits containing Federally enforceable emission caps will be treated as new applications under this Part and are major. Minor modifications of title V facility and Air State Facility permits as set forth in Subparts 201-5 and 201-6 of this Title will be treated as new minor projects under this Part. This paragraph does not apply to:

(1) minor modifications for HWMF permits as set forth in section 373-1.7 of this Title;

(2) administrative amendments of Title V facility permits as set forth in Part 201 of this Title; or

(3) minor modifications of SPDES permits as set forth in 40 CFR 122.63, July 1, 1987 (see section 621.16 of this Part).

(j) If the department or its agent fails to mail the applicant the notice of its decision as required in subdivision (f) or (h) of this section, the applicant is entitled to make notice of that failure and receive a decision within five working days pursuant to section 621.10(b) and (c) of this Part.

(k) Notwithstanding any other provision of this section, section 621.3(d) and (e) of this Part shall apply.

(l) Pursuant to section 401(2) of the State Administrative Procedure Act, when a timely and sufficient application for renewal of a permit for an activity of a continuing nature per subdivisions (a), (b), and (m) of this section is submitted, the existing permit does not expire until the department has made a final decision on the renewal application and if the renewal application is denied, the permit is in effect until the last day for seeking review of the denial or any later date set by a court order.

(m) Activities of a continuing nature are those undertaken pursuant to the following permits:

- (1) HWMF;
- (2) RAPs;
- (3) Air pollution control (Air State facility, Title V facility and Title IV facility);
- (4) SWMF;
- (5) Water Withdrawal and Long Island Wells;
- (6) Radiation Control;
- (7) Mined Land Reclamation;
- (8) SPDES;
- (9) Waste Transporter; and
- (10) LNG/LPG.

(n) Reissuances. Activities undertaken pursuant to permit types not listed in subdivision (m) of this section are not subject to the provisions of subdivision (l) of this section. However, expired permits for such activities may be reissued for a new permit term where the criteria in paragraphs (1) through (6) of this subdivision are met:

- (1) there is no change in the activities to be undertaken from those that were previously permitted;
- (2) there has been no material change in environmental conditions;
- (3) the request for reissuance of the permit is made within two years of the date the previous permit expired;

(4) if applicable, all fees and sureties are paid;

(5) there are no outstanding violations of the ECL, or other environmental laws administered by the department at the facility or site that is the subject of the previous permit; and

(6) the time period from the effective date of the initially issued permit to the expiration date of the reissued permit must not exceed 10 years.

If these conditions are not met, the former permittee must apply for a new permit.

## 6 NYCRR 621.12

### Section 621.12. Emergency authorizations

For projects carried out in response to an emergency, the following procedures shall apply:

- (a) All procedural requirements of this Part related to application processing are waived, except as provided in this section.
- (b) Before any emergency action or project can start, the department must be notified, as specified in subdivision (d) of this section and must determine whether to deny or grant approval pursuant to subdivision (e) of this section.
- (c) If a state agency or local government or a public benefit corporation must take immediate action to address an emergency and notifying the department is not possible, the agency, local government or public benefit corporation may start work and then notify the department within 24 hours after starting work. The department must respond pursuant to subdivision (f) of this section.
- (d) Notification to the department under subdivision (b) or (c) of this section, must be mailed (which includes electronic means) to the regional permit administrator as listed in section 621.19 of this Part. The notification must include the following information:
  - (1) a description of the emergency action, including the time needed to carry it out;
  - (2) a location map and plan drawing of the emergency action;
  - (3) the reasons why the situation is an emergency, as defined in this Part, based on the immediate protection of life, health, general welfare, property, or natural resources;
  - (4) all steps that will be taken to minimize environmental impacts; and
  - (5) any additional information the department requests to support a finding of emergency.
- (e) Before issuing an emergency authorization, the department must do the following:
  - (1) make a finding of emergency stating that the action is an emergency as defined in section 621.2(l) of this Part, why immediate action is needed and the consequences to life, health, general welfare, property or natural resources if the action is not immediately taken; and
  - (2) determine from the available information that the proposed action will cause the least change, modification or adverse impact to life, health, property, or natural resources. The department may attach conditions to emergency authorizations and enforce them to assure compliance with the authorization and other regulatory standards that would normally apply to such actions absent an emergency.
- (f) The department must issue a decision granting or denying the emergency authorization within two business days of receipt of the information in subdivision (d) of this section. Authorization must be in

the form of a letter or permit and must be mailed (which includes electronic means) to the applicant.

(1) The emergency authorization must contain the department's finding of emergency as required under (e)(1) of this section.

(2) A denial of emergency authorization must explain why the department has determined the activity does not constitute an emergency, or why the proposed action would fail to cause the least change, modification, or adverse impact to life, health, property or natural resources.

(g) An emergency authorization may be issued for a term not to exceed 30 days. The applicant may request an extension of the emergency authorization. The extension request must explain why the situation continues to be an emergency as defined in this Part; what action has been completed, and what work remains to be done and how long it will take to complete. The department may renew the emergency authorization for one term for no more than 30 days. A denial of an extension must explain why the department believes that the authorized action is no longer immediately necessary to protect life, health, property, or natural resources.

(h) All activity allowed under an emergency authorization must stop on or before 60 days after the date of the department's initial authorization. If the permittee has submitted applications for all department permits required for the activity and the department has determined that the applications are complete, the permittee may continue working under the emergency authorization until the department has issued or denied the permits.

(i) The department may issue an order summarily suspending:

(1) an action begun before the grant of an emergency authorization, if the department finds that no emergency exists;

(2) an emergency authorization, if the department finds that an action is no longer immediately necessary to protect life, health, property, or natural resources; or

(3) an emergency authorization, if the permit applied for as described in subdivision (h) of this section is denied.

Such action must cease immediately upon receipt of the order by the responsible party.

(j) A person who violates any provision of this section or any term or condition of an emergency authorization may be ordered by the department to perform any work the department determines is necessary to restore damage done by the violation. If the person fails to undertake the work ordered, or fails to perform it to the department's satisfaction, the department or its agent may enter upon the lands or waters where the action occurred and perform work necessary to mitigate or eliminate environmental damage caused by the action. If the department undertakes or causes to be undertaken remedial action, the full cost for the work will be charged to and be the responsibility of the person who violated the provisions of this section.

## 6 NYCRR 621.13

### Section 621.13. Permit modifications, suspensions, or revocations by the department

(a) Permits may be modified, suspended, or revoked at any time by the department on the basis of any ground set forth in paragraphs (1) through (6) of this subdivision:

(1) materially false or inaccurate statements in the permit application or supporting papers;

(2) failure by the permittee to comply with any terms or conditions of the permit;

(3) exceeding the scope of the project as described in the permit application;

(4) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;

(5) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the department related to the permitted activity; or

(6) for SPDES permits, in addition to paragraphs (1) through (5) of this subdivision, any of the reasons listed in section 750-1.18 (b)(1) through (7) of this Title.

(b) The department may consider requests from any person other than the permittee for modification, suspension or revocation of permits based on reasons given in paragraphs (a)(1) through (6) of this section. Requests must be in writing, contain facts or reasons supporting the request and be sent to the regional permit administrator as listed in section 621.19 of this Part. The department must decide whether the request is justified and the action to be taken in response to the request. A brief response giving the reason(s) for the department's decision must be sent to the party making the request. Rejection of requests, pursuant to this subdivision, for modification, suspension or revocation of a permit are not subject to public notice, public comment, or adjudicatory proceedings.

(c) The department must send a notice of intent to modify, suspend or revoke a permit to the permittee by certified mail return receipt requested or personal service. The notice must state the alleged facts or conduct which appear to warrant the intended action and must state the effective date, contingent upon administrative appeals, of the modification, suspension, or revocation.

(d) Within 15 days of mailing a notice of intent, the permittee may submit a written statement to the regional permit administrator or chief permit administrator, as directed in the notice of intent, giving reasons why the permit should not be modified, suspended or revoked, or requesting an adjudicatory proceeding, or both. Failure by the permittee to timely submit a statement will result in the department's action becoming effective on the date specified in the notice of intent. The permittee must also submit a copy of a written request for an adjudicatory proceeding to the chief administrative law judge.

(e) Where the department proposes to modify, suspend, or revoke a permit and the permittee requests an adjudicatory proceeding on the proposed modification or change in permit status, the existing permit conditions or permit status will remain in effect until a decision is issued by the commissioner pursuant

to subdivision (h) of this section. At such time, the permit conditions or permit status supported by the commissioner's decision will take effect.

(f) For delegated permits, a modification which would result in less stringent regulatory standards in the permit or is initiated following a SPDES Environmental Benefits Permit Strategy full technical review will be treated as a new application for a permit pursuant to this Part. For purposes of this subdivision the date of transmittal of the notice and modified draft permit will be considered the completeness date.

(g) Within 15 days of receipt of the permittee's statement pursuant to subdivision (d) of this section, the department will either:

(1) rescind or confirm the notice of intent based on a review of the information provided by the permittee, if a statement without a request for an adjudicatory proceeding is submitted; or

(2) notify the permittee of a date and place for an adjudicatory proceeding, if a statement with a request for an adjudicatory proceeding has been submitted, to be commenced not later than 60 days from the Chief Administrative Law Judge's receipt of the notification, except for a SPDES permit, the adjudicatory proceeding must not commence earlier than 30 days from notification.

(h) In the event an adjudicatory proceeding is held the existing permit remains in effect until the adjudicatory proceeding concludes and the department issues a final decision. The commissioner must, within 30 days of receipt of the complete record, pursuant to paragraph 624.8(a)(5) of this Title, issue a decision which:

(1) continues the existing permit in effect as issued;

(2) modifies the permit, or suspends it for a stated period of time or upon stated conditions; or

(3) revokes the permit; including, where ordered by the commissioner, removal or modification of all or any portion of a project, whether completed or not.

(i) Revocation or suspension of waste transporter permits that were issued pursuant to Part 364 of this Title requires the department to publish a public notice of the revocation or suspension in the Environmental Notice Bulletin and a newspaper or newspapers having a general circulation in the area or areas served by the permittee. The notice must include a statement that the permittee is no longer permitted to handle such waste. The notice must be published once each week for two consecutive weeks. The first notice must be published within 15 days following the revocation or suspension.

(j) Nothing in this Part shall preclude or affect the commissioner's authority to issue summary abatement orders under section 71-0301 of the Environmental Conservation Law, or to take emergency actions summarily suspending a permit under section 401(3) of the State Administrative Procedure Act.

## Section 621.14

### Section 621.14. Special provisions

- (a) Any period specified in this Part may be extended for good cause, by mutual written consent of the applicant and the department. The EPA must be notified in those cases where a proposed extension will exceed the time periods established in Federal regulation. This provision does not supersede the requirement that the public can request judicial review in State court if a title V permit is not issued within 18 months of the date that an application is complete.
- (b) At any time during the review of an application for a new permit, modification, or renewal, the department may request in writing any additional information which is reasonably necessary to make any findings or determinations required by law. Such a request must be explicit and must indicate the reasonable date by which the department is to receive the information. Failure to provide such information by the date specified in the request may be grounds for permit denial.
- (c) The department may issue general permits to allow work to eliminate damage caused by natural disasters or extraordinary weather not unique to a particular locality, including repair or replacement in location and in kind of facilities which existed prior to the damage. Processing of such permits need not follow the full procedural requirements of this Part.
- (d) General permits may also be issued by the department for projects that are determined not to have a significant impact on the environment under SEQR, and that have been subjected to the full procedural requirements of this Part for major projects. General permits under the SPDES program and the air pollution control program in accordance with Part 201 of this Title may be issued for regulated activities for which the department determines that all the requirements of this subdivision have been met.
- (e) The department may require as a condition to a permit, and prior to commencement of work, that the permittee post a bond or other financial assurance acceptable to the department of specified amount with the department. This is to ensure faithful compliance with the terms of the permit and is used for the indemnification of the State for any costs which might result from failure to so comply. The bond or other financial assurance shall remain in effect until the work is completed to the satisfaction of the department.
- (f) Where this Part requires exchange of written materials within specified time periods, postmark dates shall satisfy the requirements, when not otherwise specifically provided.
- (g) Pursuant to Article 3 of the State Technology Law, the Electronic Records and Signatures Act, documents required under this Part may be transmitted and received by electronic means. For purposes of this Part, the receipt date of an electronic record shall be the date received on any business day from midnight to 4:45 p.m., or the next business day if received any other time. Where written materials are specified in this Part, an electronic record may be considered the equivalent of a written record.
- (h) The department may issue a research, development, and demonstration permit, where program regulations provide for such consideration, for any facility which proposes to utilize an innovative and experimental technology or process for which permit standards have not been promulgated. This permit must include terms and conditions to assure protection of human health and the environment. Research,



development, and demonstration permits are subject to the following provisions:

(1) Variances from permit application and issuance requirements of this Part may be granted by the department, except there may be no variance from any provisions requiring public participation.

(2) Such permits may be issued for a period not to exceed one year and may not be renewed more than three times, with each renewal period not to exceed one year. Experimental permits may be revoked when it is determined by the department to be necessary to protect human health and the environment.

(3) These permit applications are subject to all other procedural requirements of this Part.

(i) Applications treated as new pursuant to this Part shall be subject to the review procedures of this Part, including determinations of completeness, determinations whether to conduct a hearing, and any other provisions applicable to new applications. Applications treated as new will be considered major, unless specifically listed or described as minor under this Part.

## 6 NYCRR 621.15

### Section 621.15. Conceptual review

(a) A project sponsor may request the regional permit administrator to conduct a conceptual review of the substantive consistency of the project or any component thereof with current State environmental policy and standards at the time of submission of an application (which need not be complete) if:

(1) the project will involve a major land use (e.g., housing subdivision, planned unit development, new community, regional shopping center, manufacturing plant, office center, public or private institution such as schools, hospitals, civic centers, etc.);

(2) the expense of preparing detailed plans, specifications, and applications, without conceptual review, will constitute an undue burden on the project sponsor, considering the risks involved and the alternatives available; or

(3) in determining whether to grant conceptual review, the department shall give special consideration to cases involving projects which are likely to require multiple permits from the department, which will take place in phases over a period of time, or which involve factual determinations of a difficult issue or issues.

(b) A request for conceptual review must contain the following:

(1) a map of the county, showing the location of the proposed project, and a map or maps at a scale of 1" = 2,000' or larger showing the general layout of the proposed project and giving general depiction of existing site topography, water bodies and courses, roads, and character of vegetation;

(2) a statement generally describing the proposed project, including proposed plans for buildings, water and energy supplies, sewage disposal, drainage, solid waste disposal, roads and parking, and any planned alteration of water bodies, watercourses, site vegetation and site topography if known;

(3) a general statement of the applicant's timetable and financial plans for the carrying out of the proposed project;

(4) a general statement of any governmental financial aid, facilities, or other assistance which the potential applicant expects to be provided for the proposed project;

(5) an identification of all governmental agencies with jurisdiction over the project, and the extent of that jurisdiction if known; and

(6) where applicable, the public necessity to be met by the project.

(c) Within 30 days after receipt of a request for conceptual review, the department shall notify the applicant in writing whether the information furnished is sufficient for the purpose of commencing conceptual review. If additional information must be submitted, its sufficiency will be evaluated within a new 30-day period after it is received by the department.

(d) If the department decides that a conceptual review will be conducted, upon receipt of any required draft environmental impact statement, the department will publish a notice of commencement of conceptual review in the next available issue of the Environmental Notice Bulletin and by such other means as it deems appropriate. This notice must contain the items enumerated in section 621.7(b) of this Part.

(e) The department may require additional necessary information to be submitted at any time during the course of the conceptual review.

(f) Not more than 30 days after publication of the notice of commencement of conceptual review, the department will decide whether to hold a public comment hearing in accordance with section 621.8 of this Part, and will notify the applicant, in writing, of that decision.

(g) If an adjudicatory proceeding is held, it shall be governed by Part 624 of this Title.

(h) The department shall issue a post-conceptual review decision:

(1) in cases where no public comment hearing has been held, within 120 days after the notice of commencement of conceptual review has been published; or

(2) in cases where a public comment hearing has been held, within 60 days of the closing of the hearing record.

(i) The post-conceptual review decision shall contain the following:

(1) the department's decision whether, on the record compiled, the proposed project or the component or issue reviewed would be consistent with the environmental policy of the State as expressed in the Environmental Conservation Law. This shall take into account both the specific standards to be applied under the department's various relevant permit requirements, and the requirements of SEQR;

(2) a list of all department permits which appear to be required for the project, and a statement of the sequence in which the potential applicant should submit applications to the department for such permits; and

(3) a list of standards and conditions to avoid or mitigate adverse environmental impact, which the department intends to apply to the proposed project.

(j) The post-conceptual review decision is not a permit. It is intended to provide potential applicants with a binding decision from the department as to the general acceptability of a proposed project or any component or issue specified, the standards which will be applied to it and desirable design standards. Conceptual review does not relieve an applicant of the requirement of obtaining all permits otherwise necessary, prior to commencing a proposed project.

(k) Applications for such permits will be processed as expeditiously as possible. In cases where a generic environmental impact statement has been prepared on the overall project as part of conceptual review, any supplemental environmental impact statement that may be required shall deal only with site-specific issues identified by the department as not adequately addressed in the original environmental

impact statement. In cases where a public comment hearing has been conducted as part of conceptual review, a further hearing shall be required only:

- (1) if the department's post-conceptual review decision specified that a hearing would be held on a specific issue;
- (2) if a significant change requiring a hearing is proposed in the project which was originally reviewed;
- (3) if relevant significant new information becomes available;
- (4) if applicable law or regulations have changed; or
- (5) if it becomes apparent that the applicant may be unable to meet the conditions specified in the department's post-conceptual review decision or the requirements for a permit pursuant to section 621.3 or 621.4 of this Part.

(l) The post-conceptual review decision shall remain binding on the department and in effect as long as the proposed project continues to conform to the descriptions contained in the request for a conceptual review subject to the limitations in this Part concerning modifications.

(m) If, following post-conceptual review decision, the applicant proposes that the project be amended or modified, it shall immediately notify the department. The department shall decide whether the proposed changes are significant. If the modification to the project is not significant, an amendment to the post-conceptual review decision may be issued. If the proposed changes are significant, the review process and, if necessary, the hearing process may be reopened to review those modifications.

6 NYCRR 621.16

Section 621.16. Referenced material

Some of the regulatory programs listed in section 621.1 of this Title have incorporated laws, regulations, technical and other documents by reference. In each of these cases, documents incorporated by reference have been filed with the Department of State as required by the New York State Constitution and the State Administrative Procedure Act. Documents published by the Federal government are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 and for inspection and copying at the Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1750. Documents incorporated by reference can also be found on the department’s website or page corresponding to the particular program’s page on the website. As an aid to identifying documents that have been incorporated by reference, the table below shows the location of lists of incorporated by reference materials for some of the programs listed in section 621.1:

Program	Cross-reference to Incorporation by Reference Page
Hazardous Waste Management	6 NYCRR 370.1(e)
Federal Water Pollution Control Act (Clean Water Act)	6 NYCRR 750-1.25
Solid Waste Management Facilities	6 NYCRR 360.3
Federal Water Pollution Control Act, section 401 (Water Quality Certifications)	6 NYCRR 608.9(c)
Air Pollution Control	6 NYCRR 200.9
	See Part 200 of this Title for references to those Federal air pollution control regulations promulgated under title 40 of the Code of Federal Regulations that have been delegated by the EPA to the department to implement.

6 NYCRR 621.17

Section 621.17. Severability

If any provision of this Part or its application to any person or circumstance is determined to be contrary to law by a court of competent jurisdiction, such determination does not affect or impair the validity of the other provisions of this Part or the application to other persons and circumstances.

6 NYCRR 621.18

Section 621.18. Effective date

This Part applies to applications received by the department on or after the effective date of this regulation.

6 NYCRR 621.19

Section 621.19. Chief permit administrator and Regional permit administrators

(a) Chief permit administrator:

Chief Permit Administrator  
 NYS Department of Environmental Conservation  
 Division of Environmental Permits  
 625 Broadway  
 Albany, NY 12233-1750  
 Telephone (518) 402-9167, FAX: (518) 402-9168  
 e-mail: deppermitting@dec.ny.gov

(b) Regional permit administrators:

<i>Region</i>	<i>Counties</i>	<i>Regional Permit Administrator Addresses</i>
1	Nassau and Suffolk	NYS Department of Environmental Conservation, Division of Environmental Permits, 50 Circle Road, SUNY at Stony Brook, Stony Brook, NY 11790-3409, Telephone (631) 444-0365, FAX: (631) 444-0360, e-mail: dep.r1@dec.ny.gov
2	Bronx, Kings, New York, Queens, and Richmond (New York City)	NYS Department of Environmental Conservation, One Hunters Point Plaza, 47-40 21st Street, Long Island City, NY 11101-5407, Telephone (718) 482-4997, FAX (718) 482-4975, e-mail: dep.r2@dec.ny.gov
3	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester	NYS Department of Environmental Conservation, Division of Environmental Permits, 21 South Putt Corners Road, New Paltz, NY 12561-1620, Telephone (845) 256-3054, FAX: (845) 255-4659, e-mail: dep.r3@dec.ny.gov
4	Albany, Columbia, Delaware, Greene, Montgomery, Otsego, Rensselaer, Schenectady, and Schoharie	NYS Department of Environmental Conservation, Division of Environmental Permits, 1130 North Wescott Road, Schenectady, NY 12306-2014, Telephone (518) 357-2069, FAX: (518) 357-2460, e-mail: dep.r4@dec.ny.gov



5	Clinton, Essex, Franklin, Fulton, Hamilton, Saratoga, Warren, and Washington	NYS Department of Environmental Conservation, Division of Environmental Permits, 1115 NYS Route 86, P.O. Box 296, Ray Brook, NY 12977-0296, Telephone (518) 897-1234, FAX: (518) 897-1394, e-mail: dep.r5@dec.ny.gov
6	Herkimer, Jefferson, Lewis, Oneida, and St. Lawrence	NYS Department of Environmental Conservation, Division of Environmental Permits, Dulles State Office Building, 317 Washington Street, Watertown, NY 13601-3787, Telephone (315) 785-2245, FAX: (315) 785-2242, e-mail: dep.r6@dec.ny.gov
7	Broome, Cayuga, Chenango, Cortland, Madison, Onondaga, Oswego, Tioga, and Tompkins	NYS Department of Environmental Conservation, Division of Environmental Permits, 5786 Widewaters Parkway, Syracuse, NY 13214-1867, Telephone (315) 426-7438, FAX: (315) 426-7425, e-mail: dep.r7@dec.ny.gov
8	Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, and Yates	NYS Department of Environmental Conservation, Division of Environmental Permits, 6274 East Avon-Lima Road, Avon, NY 14414-9519, Telephone (585) 226-5400, FAX: (585) 226-2830, e-mail: dep.r8@dec.ny.gov
9	Allegany, Cattaraugus, Chautauqua, Erie, Niagara, and Wyoming	NYS Department of Environmental Conservation, Division of Environmental Permits, 700 Delaware Avenue, Buffalo, NY 14209, Telephone (716) 851-7165, FAX: (716) 851-7168, e-mail: dep.r9@dec.ny.gov

(c) Website: The department's website address may change based on applicable technology or management of state information technology systems. As of the effective date of this Part, the department's website address is:

<https://www.dec.ny.gov>