

What is scoping?

Scoping is a process that develops a written document ("scope") which outlines the topics and analyses of potential environmental impacts of an action that will be addressed in a draft environmental impact statement (DEIS, or draft EIS). The process for scoping is set out in 6 NYCRR 617.8.

What is the purpose of scoping?

The purpose of scoping is to narrow issues and ensure that the draft EIS will be a concise, accurate and complete document that is adequate for public review. The scoping process is intended to:

- ensure public participation in the EIS development process;
- allow open discussion of issues of public concern; and
- permit inclusion of relevant, substantive public issues in the final written scope.

The scoping process can also allow the lead agency and other involved agencies to reach agreement on relevant issues in order to minimize the inclusion of unnecessary issues.

Finally, scoping should help the sponsor avoid the submission of an obviously deficient draft EIS.

What are the objectives of scoping?

The scoping process has several objectives:

- Identify the significant environmental conditions and resources which may be affected by the project;
- Focus on the relevant environmental impacts to those environmental conditions and resources, thus providing the preparers with the specific issues to be addressed in the EIS;
- Eliminate irrelevant impacts or issues, and eliminate or de-emphasize non-significant impacts;
- Describe the extent and quality of information needed;
- List available sources of information;
- Specify study methods or models to be used to generate new information, including criteria or assumptions underlying any models, and define nature and presentation of the data to be generated by those studies and models;
- Define reasonable alternatives for avoiding specific impacts which must be included in the EIS, either as individual scenarios or a range of alternatives; and
- Specify possible measures for mitigating potential impacts which must be discussed in the EIS, to the extent that they can be identified at the time of scoping.

What are the advantages of conducting formal scoping?

Formal scoping is recommended because it provides several benefits, most importantly the "scope" itself. A scope is a written product in which the lead agency and project sponsor eliminate non-significant issues and focus the draft EIS on the most significant potential adverse environmental impacts.

A written scope of issues developed through a public scoping process benefits the lead agency and the sponsor by providing explicit guidance as to what criteria will be used to determine whether a submitted draft EIS is adequate. The written scope provides a means of ensuring that significant topics have not been missed and that the level of analysis in the EIS satisfies standards established during the scoping process.

Formal scoping can also give the lead agency and involved agencies greater control over the ultimate EIS product and ensure that the lead and involved agencies' environmental concerns are adequately addressed. Formal scoping can help reduce criticisms that an EIS is inadequate and reduce future challenges to EIS adequacy by involving the public in developing the specifications for the content of the EIS. An important component of those specifications can be agreements on specific methods, techniques, conditions or timing for new studies, which lets public comment on the DEIS focus on study results and implications for decisions.

Finally, when a scope enables the EIS to focus on just the significant adverse environmental impacts, there can be cost and time savings for all parties, including the public, because a smaller, more targeted document will need to be prepared and reviewed.

What is the lead agency's role in the scoping process?

The lead agency directs the scoping process and is responsible for developing the final written scope. Initially, the lead agency must promptly provide a copy of the draft scope to all involved agencies. It must also make the draft scope available to any interested agencies and to members of the public who have expressed interest in writing.

The lead agency must then provide some opportunity for public participation in review of the draft scope. Some methods for this public input include circulating the draft scope, holding meetings, requesting written comments, or some other means of collecting public input.

Finally, the lead agency must prepare and distribute the final written scope. To prepare the final scope, the lead agency must compile all comments from its own review, from involved or interested agencies, and from the public, and use those comments plus the draft scope to develop the final written scope. It must distribute that final scope to the project sponsor, to all involved agencies, and to interested agencies and members of the public who commented in writing on the draft scope.

Who else participates in scoping?

The project sponsor, involved agencies and the public also have roles in a formal scoping process.

The project sponsor starts the formal scoping process by submitting a draft scope to the lead agency, either at the lead agency's request or on its own initiative. The sponsor should also participate if the lead agency conducts a public meeting on the draft scope.

Involved agencies should provide the lead agency with timely written comments identifying their relevant jurisdictions and any concerns, issues or questions which they feel should be addressed in the EIS. If an involved agency needs specific studies, models, or analyses included in the EIS, they should also identify those during review of the draft scope. They may also participate if public scoping meetings are held.

The public must have an opportunity to comment on a draft scope, in writing or by some other means provided by the lead agency. Public comments on a draft scope must be received by the lead agency prior to its issuance of the final scope to ensure that they will be considered in developing that final scope.

What can the public contribute to the scoping process?

In many situations, individuals living adjacent to a project site or individuals familiar with it can identify site characteristics or potential adverse impacts not readily apparent to the project sponsor or lead agency. For example, long-time local residents may be familiar with seasonal patterns of intermittent drainage systems, or past uses of the site.

Why must the public be involved in scoping?

The regulations require public involvement in scoping to reduce the likelihood that unaddressed issues will arise during public review of the draft EIS. Early public review and input can ultimately shorten the SEQR review process by surfacing potentially contentious issues early on, allowing the lead agency and project sponsor to address them in a timely manner.

Even if the lead agency later determines that some issues raised by the public do not constitute "potentially significant impacts" and does not include them in the final scope for the EIS, the record will show that they were raised as well as explain why they are not being considered further. Additionally, early public involvement can limit rumors and inaccurate stories regarding the proposed project which can be generated when project information is unknown or only partially available.

How can a lead agency effectively include the public in scoping?

There are two key aspects to effective public participation in scoping: timely, sufficient and accurate notice about the project and scoping to interested and potentially affected parties; and effective means for the public to provide timely comments to the lead agency. For the public to productively participate in scoping, they should receive sufficient notice to understand the proposed project, the scoping process, and the overall SEQR EIS and application review processes.

The second element of effective public participation is getting public comment to the lead agency. The lead agency may choose to accept only written comments on the draft scope; may call for a public scoping meeting; or may combine the two. Even when a meeting is held, requiring interested parties to provide their comments in writing helps create a clearer record for the lead agency to use in developing the final scope.

In all cases, the lead agency should make sure that commentors understand the specific purpose of the current round of comments, that is, to develop the scope for the draft EIS. The lead agency may want to explicitly state that scoping comments are not the appropriate forum to argue the merits of the project proposal. Similarly, while scoping comments are an appropriate forum to raise potential issues or suggest specific studies, protocols, and alternatives, scoping comments are also not an appropriate forum to advocate for or against any specific decision.

Must the final scope be approved by the involved agencies?

No. The lead agency is solely responsible for preparing and issuing the final scope. It may, at its discretion, solicit comments from involved agencies on all or portions of a proposed final scope. This may be particularly appropriate where an involved agency's technical requirements are the basis for incorporating particular study methods or models.