EMS 611 Environmental Impact Analysis and Assessment

Graduate Center for Planning and the Environment/School of Architecture
Spring 2009

Credits: 3.00 **Location:** **Pratt Brooklyn Campus** **Monday 6:00pm - 7:50pm**
Higgins Hall North 206

Type of Course: Lecture **Enrollment Capacity: 15**

Instructors: **Katie Kendall, Esq.**
Robert R. Kulikowski, Ph.D.

Course Description:

Environmental impact assessment is an important component of the development and planning process. In this context, the course examines the critical components of the environmental, ecological, geological, economic, social, and health-related areas that must be considered as part of the environmental review process. The tools and techniques for conducting assessments will be presented and discussed from the perspectives of governmental agencies, developers and consultants, and the advocacy community.

Goals:

Well-crafted environmental impact assessments and statements have the potential to influence agency decisions, alter projects, and improve the environmental quality of communities. However, the process of environmental review, although codified in statutes and regulations, remains controversial. Environmental impact statements are frequently the vehicles through which a broad range of projects and project impacts are contested.

This course is designed to help you to understand the process of crafting an impact assessment and how assessments can shape program and project design. Although the environmental assessment process is required by federal, state and city governments (as well as by many countries throughout the world) this course focuses on the practice of environmental impact analysis at the local level.

Objectives:

The objective of this course is to expose the students to the world of environmental review and how to prepare and analyze the various documents required by city, state, and federal regulations. You will understand the principles and procedures of environmental analysis so you can strategically plan the best approach for an environmental review and/or to participate as a knowledgeable citizen in your community with regard to development projects and environmental issues. You will understand the various components of the review process and how best to execute them, placing the environmental review in the context of current broader policies and other governmental processes.

Course Requirements:
- Regular attendance (particularly since the class is small and meets only once a week).
- Active participation in all classes (Class participation is essential. You will be expected to offer your opinions about the realism of major assumptions and draw on your personal experience to offer insight).
- Attendance and brief synopsis of events at a public hearing (TBD).
- Completion of two projects and/or exams.

Methods of Assessment:
The grades in this course are set to meet the standards generally expected of graduate level work. An "A" is reserved for students who perform exceptionally well. A "B" will reflect adequate graduate level work. Any grade below a "B" will indicate that you are performing at less than an adequate graduate level.

The course is designed to prepare you for professional work in a public agency, private firm, or non-profit organization. Therefore, your assignments must reflect professional standards of analysis, presentation, writing and timeliness. Clear and concise writing are essential, as are correct spelling and grammar. These will be considered along with content.

Prior request and written approval is required for submission of assignments after the due date. An incomplete for the course will be granted only in highly unusual situations and, again, only with a prior written request and approval. Office hours are by appointment.

The final grade for the course will consist of:

Class participation and preparation (which may include quizzes, which will not contribute to more than 5% of this component):	50%
Project/Exam #1	20%
Project/Exam #2	30%

Weekly Schedule and Readings:
Classes are scheduled to meet every Monday from 6:00 to 7:50 p.m. from January 26th through May 11th, with the exception of March 16.

All class materials will be posted or available through links on-line. To the maximum extent practicable, no hard copies will be distributed. Reading assignments will consist of various types of documents and will be provided at least one week prior to the class in which the material is scheduled to be covered.

The major reference for the course is the *New York City Environmental Quality Review Technical Manual (CEQR Technical Manual) and Appendices*, which will be used extensively throughout the semester.

The CEQR Technical Manual is the City of New York's guidance document to assist City agencies, project sponsors and the public in conducting environmental review of projects in the City. The Manual and Appendices summarizes CEQR procedures and provides guidance on all

the substantive areas of analysis customarily undertaken during environmental review. The Manual and Appendices are available at: http://www.nyc.gov/html/oec/html/ceqr/ceqrpub.shtml

Week 1: January 26

- Introductions
- Structure of the course
- Environmental review in the context of planning
    - Practitioner perspectives (government, developer/consultant, advocate)

Week 2: February 2

- History of Environmental Review
- Environmental review components

Required Reading:

- CEQR Technical Manual: Chapter1, pages 1-1 through 1-16

- NEPA at 19, by Dinah Bear. Available online at: http://gc.energy.gov/NEPA/nepa_documents/TOOLS/GUIDANCE/Volume1/4-8-nepa19-bear.pdf

- Article 8 of the State Environmental Conservation Law (ECL 8-0101 et seq. Available online at: http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS

- CEQR Technical Manual Appendices – Procedures and Documentation Appendix 1: SEQRA 6 NYCRR Part 617

- CEQR Technical Manual Appendices – Procedures and Documentation Appendix 2: Rules of Procedure for CEQR Chapter 5 of Title 62 RCNY

- CEQR Technical Manual Appendices – Procedures and Documentation Appendix 3: CEQR Executive Order 91

Week 3: February 9

- Environmental review – Case Law
    - Establishing precedents
    - "Hard look" and "Reasoned elaboration"
    - Lead Agency deference
    - Procedural vs. Substantive violations
    - Segmentation

Required Reading:

- *Marsh v. Oregon Natural Resources Council,* 490 U.S. 360 (1989), *available at* http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=490&invol=360

- *Kleppe v. Sierra Club*, 427 U.S. 390 (1976), *available at* http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=427&invol=390.

- Michael B. Gerrard, "Judicial Review Under SEQRA: A Statistical Study," 65 ALB. L. REV. 365 (2001), *available at* http://www.albanylawreview.org/archives/65/2/JudicialReviewUnderSEQRA-AStatisticalStudy.pdf.

Week 4: February16

- Environmental review procedures
- Types of projects
  - Urban vs. rural (setting of the project)
  - Large facilities vs. rezoning vs. affordable housing

Week 5: February 23

- Relationship of environmental review to other policies and procedures
  - ULURP
  - Article X – PSC (siting of power plants) [Historic perspective]
  - E-Designations
  - Examples from other jurisdictions

Week 6: March 2

SNOW DAY

Week 7: March 9

- **Mid-Term Exam**

Week 8: March 16 – Spring Break

- No class

Week 9: March 23

- Technical analyses I
  - Land use
  - Zoning

Week 10: March 30

- Technical analyses II
  - Open space
  - Shadows
  - Historic resources
  - Urban design and neighborhood character
  - Socioeconomic
  - Community facilities
  - Waterfront revitalization

Week 11: April 6

- Technical analyses III
  - Hazardous materials
  - Infrastructure
  - Solid waste
  - Energy
  - Traffic
  - Transit and pedestrians
  - Air quality
  - Noise

Required Reading:

- CEQR Technical Manual: Page 3A-1
- CEQR Technical Manual: Chapter 3F, "Historic Resources
- http://www.nypap.org/documents/Petition0001.pdf (pages 2-29 of the PDF file. Please pay attention specifically to the most relevant portion beginning on p. 18 through 27)
- http://www.nypap.org/documents/2003-3-18EnvironmentalAssessmentStatement0001.pdf (pages 40 - 57)

Week 12: April 13

- Technical analyses V
  - Alternatives
  - Mitigation

Week 13: April 20

- Catch-Up Week

Week 14: April 27

- Keeping environmental review current
    - Changing science and technical knowledge (e.g. air quality models, traffic models)
    - New initiatives based on recent science
        - Climate change – effects on projects and how a project could impact, or contribute to, the problem of climate change
    - Sustainability Initiatives
- Environmental review and the public participation process
    - Strategies for influencing projects
    - Improving public participation

Week 15: May 4

- Environmental review in other jurisdictions and in an international context
    - Compare and contrast CEQR, SEQRA, NEPA, other states (CA, MA, and WA)
    - European Union, Canada
- Environmental Review overview
    - Common drawbacks
    - Praises for the theory and the practice

Week 16: May 11

- **Mock Scoping Hearing**