

PART 17

IMPLEMENTATION OF STATE ENVIRONMENTAL QUALITY REVIEW ACT

SECTION 1701. PURPOSE AND AUTHORITY. Pursuant to the New York State Environmental Quality Review Act, being Article 8 of the Environmental Conservation Law (the "SEQR Act"), and the statewide regulations adopted thereunder by the New York State Department of Environmental Conservation, being 6 NYCRR Part 617 (the "SEQR Regulations"), Schoharie County Industrial Development Agency (the "Agency") must examine any action proposed to be carried out, funded or approved by the Agency pursuant to Article 18-A of the General Municipal Law (the "Act") or otherwise to determine the potential environmental significance of such proposed action. Pursuant to the SEQR Act and the SEQR Regulations, if a proposed action may have a significant effect on the environment, the Agency may not issue a decision on such action until a final environmental impact statement ("EIS") and finding statement have been prepared with respect to such action, with certain limited exceptions. The purpose of this Part is to implement the SEQR Act and the SEQR Regulations and establish criteria for determining whether actions under consideration by the Agency may have a significant effect on the environment.

SECTION 1702. DEFINITIONS. The definitions contained in Section 8-0105 of the SEQR Act and 6 NYCRR 617.2 apply to this Part.

SECTION 1703. GENERAL RULE. The Agency will not carry out, fund, approve or issue a final decision on any action until there has been full compliance with the SEQR Act, the SEQR Regulations and this Part.

SECTION 1704. LISTS OF ACTIONS. (A) Type I. In addition to the Type I Actions listed in 6 NYCRR 617.12, the following actions are likely to require preparation of environmental impact statements (EISs) because they are likely to have a significant effect on the environment:

(1) The actions identified as Type I actions in 6 NYCRR 617.12.

(B) Type II. The following actions do not have a significant effect on the environment and do not require preparation of an EIS:

(1) Contracting, including the contracting for or acceptance of professional and technical assistance or advice, or any funding or planning activities not in respect to Type I actions listed in 6 NYCRR 617.12 or in subsection (A) of this section.

(2) The adoption, amendment or repeal of the rules and regulations of the Agency.

(3) Routine or continuing administration and management of projects, not including new programs or major recording of priorities.

(4) Refinancing of existing debt and changes in existing financing documents and other documents not involving new capital construction.

(5) The actions identified as Type II actions in 6 NYCRR 617.13.

(C) Review. Pursuant to 6 NYCRR 617.4(i), any person may request the Commissioner of Environmental Conservation to review any action appearing on the Type II list in subdivision (b) of this section to determine whether it meets the criteria for Type II actions in 6 NYCRR 617.13.

SECTION 1705. INFORMATION REQUIRED OF APPLICANTS. (A) Applications. Each application shall include as a part of such application such reasonable information, including a completed environmental assessment form found under 6 NYCRR 617.20, as is deemed necessary by the Agency to assist the Agency in:

- (1) determining whether an action is exempt or excluded;
- (2) determining whether an action may have a significant effect on the environment;
- (3) determining whether other agencies, including Federal agencies, have jurisdiction over the action or any portion of it; or
- (4) preparation of an EIS, if required, and if prepared by the Agency.

(B) Form of Environmental Assessment Form. To assist the Agency in gathering the information deemed necessary by the Agency to assist the Agency in complying with the SEQR Act, the Agency shall utilize the forms as prescribed in 6 NYCRR 617.20.. The Agency EAF shall be supplied to each applicant and shall be required as part of any application to the Agency.

(C) Failure to Supply Information. No application or submission pursuant to the Act, or any other statute or regulation, shall be considered complete by the Agency until such information is submitted. However, the Agency can undertake initial actions such as scheduling and holding of public hearing and notification to taxing jurisdictions.

SECTION 1706. THRESHOLD DETERMINATION. As early as possible in its formulation of any action that the Agency proposes to undertake, or upon receipt of any application, notice or filing which involves an action, the Agency will determine whether the action:

- (A) is subject to the SEQR Act pursuant to the SEQR Act and the SEQR Regulations;
- (B) is an exempt or Type II action, in which case it shall have no further obligation under the SEQR Act or the SEQR Regulations;
- (C) is an excluded action; provided that, if the action is excluded because it was undertaken or approved prior to September 1, 1976, the Agency will determine whether the Commissioner of Environmental Conservation will require that an EIS be prepared pursuant to Section 8-0111(5)(a)(i);
- (D) involves a Federal agency, in which case it shall act pursuant to Section 8-0111(1) or (2) of the SEQR Act and 6 NYCRR 617.16; or
- (E) involves one or more other agencies, in which case it shall act pursuant to Section 8-0111(6) of the SEQR Act and 6 NYCRR 617.6

SECTION 1707. NEGATIVE DECLARATIONS. (A) Preparation. If the Agency determines that an action is a Type I action or unlisted action subject to SEQR and will not have a significant effect upon the environment, it shall prepare and file a notice of determination that an EIS will not be prepared (“negative declaration”) and maintain written analysis and findings supporting such determination in accordance with 6 NYCRR 617.10(a) in the file referred to in subsection (B) of this section.

(B) Environmental File. In order to afford the opportunity for public notice and response, the Agency will keep a separate file, updated monthly, containing a brief description of determinations made pursuant to this section, and will incorporate reference to the negative declaration in any other notices required by law in connection with the action.

SECTION 1708. POSITIVE DECLARATIONS. (A) Preparation. If the Agency determines that a Type I or unlisted action is subject to SEQR and may have a significant effect on the environment, it shall prepare and file in the file concerning the action a notice of determination that an EIS will be prepared (“positive declaration”) and maintain written analyses and findings supporting such determination in accordance with 6 NYCRR 617.10(b) in the file referred to in section 1707(B) of this part.

(B) Environmental File. In order to provide an opportunity for public notice and response, the Agency will file positive declarations monthly in the file referred to in section 1707(B) of this part, and will incorporate reference to the positive declaration in any other notices required by law in connection with the action.

SECTION 1709. FORM AND CONTENTS OF DRAFT AND FINAL ENVIRONMENTAL IMPACT STATEMENTS. Environmental impact statements shall conform to the requirements of 6 NYCRR 617.14 as to form and content.

SECTION 1710. NOTICE OF COMPLETION OF DRAFT ENVIRONMENTAL IMPACT STATEMENT. (A) Preparation. Upon completion of a draft EIS, or upon acceptance of a draft EIS from an applicant pursuant to 6 NYCRR 617.8, the Agency shall prepare and file a notice of completion in accordance with 6 NYCRR 617.10(c).

(B) Environmental File. In order to provide an opportunity for public response, the Agency shall, in addition to the filing required by 6 NYCRR 617.10(e), file its notices of completion and draft EISs in the file referred to in section 1708(B) of this part and will incorporate reference to them in notices required by law in connection with the action.

SECTION 1711. PUBLIC HEARING. (A) SEQR Hearings. Upon completion of the draft EIS, or upon acceptance of a draft EIS from an applicant pursuant to 6 NYCRR 617.8, the Agency shall determine whether to conduct a public hearing thereon, based upon:

- (1) the degree of interest shown by other persons in the action;
- (2) the extent to which a public hearing can aid its decision-making process by providing a forum for, or an efficient method for the collection of, public comment; and
- (3) the criteria set forth in 6 NYCRR 617.8(d).

(B) Notice of Hearing. Unless a different time period is provided by statute or regulation for the holding of a public hearing:

- (1) the notice of hearing shall be published at least 14 calendar days in advance thereof, in a newspaper of general circulation in the area of potential impacts and effects of the action; and
- (2) the hearing shall commence not less than 15 nor more than 60 calendar days after the filing of the draft EIS.

(C) If the public hearing is one for which the Agency otherwise has authority to conduct, the public hearing shall be conducted according to the procedures governing such hearing. If the public hearing is not otherwise authorized, it may be conducted in the manner provided in Part 15 of these rules and regulations, or in such other manner as the Agency shall direct.

SECTION 1712. FINAL ENVIRONMENTAL IMPACT STATEMENT. (A) Time for Preparation. The final EIS shall be prepared and filed within 45 calendar days after the close of any hearing, or within 60 calendar days after the filing of the draft EIS, whichever occurs last, unless the last date for preparation and filing of the final EIS is extended by the Agency pursuant to 6 NYCRR 617.8(e)(2).

(B) Notice of Completion. The notice of completion shall conform to 6 NYCRR 617.10(g) in form and content.

(C) Notice of Withdrawal; Negative Declaration. If the action has been withdrawn, or if, on the basis of the draft EIS or hearing, the Agency determines that the action will not have a significant effect on the environment, it will not prepare a final EIS but will prepare and file a notice of withdrawal or a negative declaration, as the case may be, in accordance with 6 NYCRR 617.8(e)(1).

(D) Manner of Filing. The filing of a notice of completion of a final EIS and the filing of the final EIS itself shall take place in the same manner as a draft EIS in accordance with 6 NYCRR 617.10(g) and (h). Final EISs and notices of completion shall also be filed in the file referred to in section 1707(B) of this part.

(E) Required Findings. Subsequent to the preparation and filing of a final EIS, the Agency shall allow agencies and the public a reasonable time period, not less than 10 calendar days, in which to consider the final EIS. A decision on an action involving an applicant shall be made after the period described in the preceding sentence, but in any event within 30 calendar days following the filing of a final federal or SEQRA EIS, unless such time period for decision shall be extended by the Agency for good cause.

(F) Final Decision. No final decision whether to commence, engage in, fund or approve an action shall be made until the specific written findings and statement required by 6 NYCRR 617.9(c) or (d) are prepared and filed in accordance with 6 NYCRR 617.10 and in the file referred to in section 1707(B) of this part.

SECTION 1713. APPLICABILITY OF REGULATIONS OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. The provisions of 6 NYCRR Part 617 shall govern any matters not specifically addressed in this Part.