

Section 461.2 is added to read as follows:

§ 461.2 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 shall not affect or impair the validity of the other provisions of this part or the application thereof to other persons or circumstances.

Subdivision (g) of Section 461.3 is amended to read as follows:

(g) Director means the Power Authority's [Director of the Environmental Division, and is the individual responsible for the preparation and review of environmental determinations to assure compliance with this Part] Vice President of Environmental Management or such other person succeeding to the powers and duties of such office under a different title and, in any case, the officer or employee validly exercising such powers and duties in an acting or permanent capacity.

Subdivision (t) of Section 461.3 is amended to read as follows:

Type II action means an action or class of actions that is not a Type I action and is listed in sections 461.7 and 461.17 of this Part. Notwithstanding the foregoing, no action having a significant impact on the environment, as determined pursuant to section 461.18 of this Part or defined as a "Type I Action" pursuant to regulations implementing SEQRA adopted by the New York State Department of Environmental Conservation shall constitute a Type II action hereunder.

Subdivisions (a) and (b) of Section 461.4 are amended to read as follows:

(a) If the [activity] action is a Type I or unlisted action, the director shall determine if other agencies [are involved] qualify as involved agencies.

(b) Where it is determined that other agencies are involved [and the activity is a Type I action], the director shall mail the EAF, with Part 1 thereof completed, and a copy of an application, if applicable, to the involved agencies, notifying them that, within 30 calendar days of the date the EAF was mailed to them, a lead agency must be designated by agreement among them. If no lead agency is agreed upon within the 30-day period, the Power Authority, pursuant to [6 NYCRR 617.6(e)] 6 NYCRR 617.6 (b)(5)(i), may request by certified mail or other form of receipted delivery the commissioner of the New York State Department of Environmental Conservation to designate a lead agency.

Paragraphs (5) and (8) of subdivision (b) of Section 461.6 are amended to read as follows:

(5) any nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to the Agriculture and Markets Law, article [25, section 303] 25-AA, sections 303 and 304) which exceeds 10 percent of any threshold established in this section;

(8) any action which exceeds the locally established thresholds or, if no such thresholds are established, any action which takes place wholly or partially within, or substantially contiguous to, any critical environmental area designated by a local agency pursuant to 6 NYCRR [617.4] 617.14.

Paragraph (9) of subdivision (d) of Section 461.9 is amended to read as follows:

(9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant, provided that in the case of an electric generating facility, the statement shall include a demonstration that the facility will satisfy electric generating capacity needs or other electric system needs in a manner reasonably consistent with the most recent state energy plan;

New paragraphs (10) and (11) are added to subdivision (d) of Section 461.9 as follows:

(10) a discussion of the effects of the proposed action on solid waste management where applicable and significant;

(11) a discussion of the effects of any proposed action on, and its consistency with, the comprehensive management plan of the special groundwater protection program, as implemented by the commissioner pursuant to article 55 of the Environmental Conservation Law;

Paragraphs (10), (11), (12), and (13) of subdivision (d) of Section 461.9 are renumbered as follows:

[(10)] (12)

[(11)] (13)

[(12)] (14)

[(13)] (15)

Subparagraphs (i) and (vii) of paragraph (2) of subdivision (a) of Section 461.11 are amended to read as follows:

(i) [with the Commissioner of Environmental Conservation at 50 Wolf Road, Albany, NY 12233] electronically at enb@gw.dec.state.ny.us and also with the Division of Environmental Permits, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1011;

(vii) at the Power Authority's headquarters office and at any local offices or projects in the area affected by the activity[.] ;

Subparagraph (viii) of paragraph (2) of subdivision (a) of Section 461.11 is added to read as follows:

(viii) by delivery to any person who has requested a copy.

Subparagraphs (ii), (iii), and (iv) of paragraph (2) of subdivision (b) of Section 461.11 are amended to read as follows:

(ii) [with the State Clearinghouse] with the Department of Environmental Conservation, Division of Environmental Permits, 625 Broadway, Albany, NY 12233-1750; and

(iii) [with the appropriate regional clearinghouse designated under the Federal Office of Management and Budget circular A-95; and] for actions in the coastal zone, with the Secretary of State.

[(iv)] for actions in the coastal zone, with the Secretary of State.]

Subdivision (a) of Section 461.17 is amended to read as follows:

(a) Reconditioning, rehabilitating or modernizing of existing facilities and structures, including essentially maintenance-type work with improvements to correct substandard features not involving large-scale new construction or expansion.

Subdivisions (ab) and (aj) of Section 461.17 are amended to read as follows:

(ab) Issuance or retirement of indebtedness.

(aj) Contracts for the purchase of power or supply arrangements that are financial in nature, including contracts for differences, which do not commit the Power Authority to the construction of a large-scale energy facility.

Subdivision (ap) of Section 461.17 is amended to read as follows:

(ap) Contracts or agreements contingent on the completion of the SEQRA process or the obtaining of a Certification of Environmental Compatibility and Public Need pursuant to the Public Service Law[, article VII or VIII, Certification of Environmental Compatibility and Public Need].

Paragraph (5) of subdivision (ar) of Section 461.17 is amended to read as follows:

(5) seawalls, bulkheads and other shore-protection facilities and structures, fences, guardrails and barriers;

Subdivision (as) of Section 461.17 is amended to read as follows:

(as) The replacement, restoration, rehabilitation, reconstruction, renovation, demolition and removal of small existing items of equipment, structures or facilities, where the structure or facility to be modified or replaced will have substantially the same purpose and capacity as that replaced. Structures and facilities include, but are not limited to, those itemized under subdivision (ar) of this section. The activities described above in this category shall be limited to those having an estimated cost of \$500,000 or less, or which will have an interior area of not more than 10,000 square feet and not involve a total land area of more than two acres. Actions within this class are categorically exempt, as noted in subdivision (ar), except where substantially less harmful equipment having similar performance is available or where substantial noise, air, water or other pollution or the release of substantial waste products is likely to result from the reconstruction or replacement projects.

Paragraphs (4) and (8) of subdivision (au) of Section 461.17 are amended to read as follows:

(4) forest management practice, including construction, maintenance and repair of facilities or structures and silvicultural activities in compliance with [the Forest Road Construction Handbook (1973) and the Timber Harvesting Guidelines for New York (1975), or practice approved by the Public Service Commission] applicable rules and guidelines;

(8) ground application of registered pesticides, on an individual tree basis for the [suppression of forest] control of pests on Power Authority lands;

Paragraphs (10) and (11) of subdivision (ax) of Section 461.17 are amended to read as follows:

(10) dissemination of public information and public information activities; [and]

(11) the making of investments by or on behalf of the Power Authority[.]; and

A new paragraph (12) of subdivision (ax) of Section 461.17 is added to read as follows:

(12) adoption of regulations, policies, procedures and legislative decisions in connection with any action on this list.