

CHAPTER 200 TRIBAL ENVIRONMENTAL QUALITY REVIEW

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200.1. Purpose.

200.1-1. It is the purpose of this law to declare a Tribal policy with regard to construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration (other than routine maintenance or repair or changes necessary to conform to building or fire codes) on its lands in Sullivan County which will encourage productive and enjoyable harmony between the people and their environment; to promote efforts which will prevent or eliminate damage to the environment and enhance human and community resources; and to enrich the understanding of the ecological systems, natural, human and important community resources.

200.2. Adoption, Amendment, Applicability and Repeal.

200.2-1. This law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin by Oneida Business Committee Resolution # 12-21-05-D.

200.2-2. This law may be amended, or repealed, by the Oneida Business Committee or by the Oneida General Tribal Council.

200.2-3. The applicability of the provisions of this law shall be limited to the Sullivan County lands of the Tribe as identified in the Tribe's Land Claim Settlement Agreement with New York State.

200.2-4. Should a provision of this law or the application of this law be held as invalid, such invalidity shall not effect other provisions of this law.

200.2-5. Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

200.2-6. Should the Land Claim Settlement with the State of New York fail to culminate this law shall be automatically repealed.

200.2-7. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

200.3. Definitions.

200.3-1. Unless the context otherwise requires, the definitions in this section shall govern the construction of the following terms as used in this law:

(a) "Agency" means the Oneida Environmental Health and Safety Department.

(b) "Actions" is limited to construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration of the project site (other than routine maintenance or repair or changes necessary to conform to building or fire codes)

(c) "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character.

(d) "Environmental impact statement" means a detailed statement setting forth the matters specified in section 200.5. It includes any comments on a draft environmental statement which are received pursuant to section 200.5, and the agency's response to such comments, to the extent that such comments raise issues not adequately resolved in the draft environmental statement.

(e) "Draft environmental impact statement" means a preliminary statement prepared pursuant to section 200.5.

(f) ASullivan County lands@ means those lands located in Sullivan County identified in the Land Claim Settlement with the State of New York that shall be held in trust by the United States for the benefit of the Tribe for Class III gaming and related purposes.

(g) ATribe@ means the Oneida Tribe of Indians of Wisconsin.

200.4. Tribal Findings and Declaration.

200.4-1. The Tribe finds and declares that with regard to its lands in Sullivan County:

(a) The maintenance of a quality environment for the people that at all times is healthful and pleasing to the senses and intellect of people now and in the future is a matter of Tribal concern.

(b) Every citizen has a responsibility to contribute to the preservation and enhancement of the quality of the environment.

(c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people, including their enjoyment of the natural resources.

(d) Enhancement of human and community resources depends on a quality physical environment.

(e) The capacity of the environment is limited, and it is the intent of the Tribe that it take immediate steps to identify any critical thresholds for the health and safety of the people and take all coordinated actions necessary to prevent such thresholds from being reached.

(f) It is the intent of the Tribe that, to the fullest extent possible, the policies, statutes, regulations, and ordinances of the Tribe should be interpreted and administered on its Sullivan County lands in accordance with the policies set forth in this law. However, the provisions of this law do not change the jurisdiction between or among the Agency.

(g) It is the intent of the Tribe that the protection and enhancement of the environment, human and community resources shall be given appropriate weight with social and economic considerations in public policy. Social, economic, and environmental factors shall be considered together in reaching decisions on proposed activities of construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration of the Sullivan County lands (other than routine maintenance or repair or changes necessary to conform to building or fire codes).

(h) It is the intent of the Tribe that the Tribe and its agencies conduct their construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration activities (other than routine maintenance or repair or changes necessary to conform to building or fire codes) on its Sullivan County lands with an awareness that they are stewards of the air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.

(i) It is the intent of the Tribe that the Tribe and its agencies which regulate construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration activities (other than routine maintenance or repair or changes necessary to conform to building or

fire codes) of individuals, corporations, and public agencies on the Tribe's Sullivan County lands which are found to affect the quality of the environment shall regulate such activities so that due consideration is given to preventing environmental damage.

200.5. Preparation of Environmental Impact Statement.

200.5-1. The Tribe and its agencies shall use all practicable means to realize the policies and goals set forth in this law, and shall act and choose alternatives which, consistent with the purposes for which the land is to be held in trust, social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse environmental effects, including effects revealed in the environmental impact statement process.

200.5-2. The Agency shall prepare, or cause to be prepared by contract or otherwise an environmental impact statement on any action they propose or approve which may have a significant effect on the environment. Such a statement shall include a detailed statement setting forth the following:

- (a) a description of the proposed action and its environmental setting;
- (b) the environmental impact of the proposed action including short-term and long-term effects;
- (c) any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (d) alternatives to the proposed action;
- (e) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;
- (f) mitigation measures proposed to minimize the environmental impact;
- (g) the growth-inducing aspects of the proposed action, where applicable and significant;
- (h) effects of the proposed action on the use and conservation of energy resources, where applicable and significant;
- (i) effects of proposed action on solid waste management where applicable and significant; and
- (j) effects of any proposed action on, and its consistency with, the comprehensive management plan of the special groundwater protection area program, as implemented by the New York commissioner pursuant to article fifty-five of New York's Environmental Conservation Law; and
- (j) such other information consistent with the purposes of this law as may be prescribed in guidelines issued by the Tribe pursuant to section 200.6.

200.5-3. The environmental impact statement shall also include copies or a summary of the substantive comments received by the Agency and the Agency's response to such comments. The purpose of an environmental impact statement is to provide detailed information about the effect which a proposed action is likely to have on the environment, to list ways in which any adverse effects of such an action might be minimized, and to suggest alternatives to such an action so as to form the basis for a decision whether or not to undertake or approve such action. Such statement should be clearly written in a concise manner capable of being read and understood by the public, should deal with the specific significant environmental impacts which can be reasonably anticipated and should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.

200.5-4. The Agency may require an applicant to submit an environmental report to assist the Agency in carrying out its responsibilities, including the initial determination and, (where the applicant does not prepare the environmental impact statement), the preparation of an

environmental impact statement under this law. The Agency may request such other information from an applicant necessary for the review of environmental impacts. Notwithstanding any use of outside resources or work, agencies or the Tribe shall make its own independent judgment of the scope, contents and adequacy of an environmental impact statement.

200.5-5. As early as possible in the formulation of a proposal for an action, the responsible the Agency shall make an initial determination whether an environmental impact statement need be prepared for the action.

200.5-6. With respect to actions involving the issuance to an applicant of a permit or other entitlement, the Agency shall notify the applicant in writing of its initial determination specifying therein the basis for such determination. Notice of the initial determination along with appropriate supporting findings on Agency actions shall be kept on file in the main office of the Agency for public inspection.

200.5-7. If the Agency determines that such statement is required, the Agency or the applicant at its option shall prepare or cause to be prepared a draft environmental impact statement. If the applicant does not exercise the option to prepare such statement, the Agency shall prepare it, cause it to be prepared, or terminate its review of the proposed action. Such statement shall describe the proposed action and reasonable alternatives to the action, and briefly discuss, on the basis of information then available, the remaining items required to be submitted. The purpose of a draft environmental statement is to relate environmental considerations to the inception of the planning process, to inform the public and other public agencies as early as possible about proposed actions that may significantly affect the quality of the environment, and to solicit comments which will assist the Agency in the decision making process in determining the environmental consequences of the proposed action. The draft statement should resemble in form and content the environmental impact statement to be prepared after comments have been received; however, the length and detail of the draft environmental statement will necessarily reflect the preliminary nature of the proposal and the early stage at which it is prepared.

200.5-8. For any action for which the Agency determines that such statement is not required and which would take place in a special groundwater protection area, as defined in section 200.5-14(a) law, the Agency shall show how such action would or would not be consistent with the comprehensive management plan of the special groundwater protection program, as implemented by the State commissioner pursuant to article fifty-five of New York law.

200.5-9. The draft statement shall be filed with the Agency and shall be circulated to federal, state, regional and local agencies having an interest in the proposed action and to interested members of the public for comment, as may be prescribed by the Tribe pursuant to section 200.6.

200.5-10. After the filing of a draft environmental impact statement the Agency shall determine whether or not to conduct a public hearing on the environmental impact of the proposed action. If the Agency determines to hold such a hearing, it shall commence the hearing within sixty days of the filing and unless the proposed action is withdrawn from consideration shall prepare the environmental impact statement within forty-five days after the close of the hearing, except as otherwise provided. The need for such a hearing shall be determined in accordance with procedures adopted by the Tribe pursuant to section 200.6. If no hearing is held, the Agency shall prepare and make available the environmental impact statement within sixty days after the filing of the draft, except as otherwise provided.

200.5-11. Notwithstanding the specified time periods established by this law, the Agency shall vary the times so established herein for preparation, review and public hearings to coordinate the environmental review process with other procedures relating to review and approval of an action. An application for a permit or authorization for an action upon which a draft environmental

impact statement is determined to be required shall not be complete until such draft statement has been filed and accepted by the Agency as satisfactory with respect to scope, content and adequacy for purposes of paragraph four of this section.

Commencing upon such acceptance, the environmental impact statement process shall run concurrently with other procedures relating to the review and approval of the action so long as reasonable time is provided for preparation, review and public hearings with respect to the draft environmental impact statement.

200.5-12. To the extent as may be prescribed by the Tribe pursuant to section 200.6, the environmental impact statement prepared together with the comments of public and federal agencies and members of the public, shall be filed with the Agency and made available to the public prior to acting on the proposal which is the subject of the environmental impact statement.

200.5-13. When the Agency decides to carry out or approve an action on the Sullivan County lands which has been the subject of an environmental impact statement, it shall make an explicit finding that the requirements of this section have been met and that consistent with the purposes for which the land is to be held in trust, social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided.

200.5-14. An environmental impact statement shall be prepared for any action found to have a significant impact on the special groundwater protection area.

(a) The Aspecial groundwater protection area@ shall mean recharge watershed area within a designated sole source area contained within counties having a population of one million or more which is particularly important for the maintenance of large volumes of high quality groundwater for long periods of time.

(b) Such statement shall meet the requirements of the most detailed environmental impact statement required by this section or by any such rule or regulation promulgated pursuant to this section.

200.6. Rules and Regulations.

200.6-1. As consistent with this law, the Tribe shall adopt rules and regulations consistent with 6 NYCRR Part 617 implementing the provisions of this law as applicable.

200.6-2. The rules and regulations adopted by the Tribe specifically shall include:

(a) Definition of terms used in this law;

(b) Criteria for determining whether or not a proposed action may have a significant effect on the environment, taking into account social and economic factors to be considered in determining the significance of an environmental effect;

(c) Identification on the basis of such criteria of:

(1) Actions or classes of actions that are likely to require preparation of environmental impact statements;

(2) Actions or classes of actions which have been determined not to have a significant effect on the environment and which do not require environmental impact statements under this law. In adopting the rules and regulations, the Agency shall make a finding that each action or class of actions identified does not have a significant effect on the environment;

(d) Typical associated environmental effects, and methods for assessing such effects, of actions determined to be likely to require preparation of environmental impact statements;

(e) Provision for the filing and circulation of draft environmental impact statements pursuant to section 200.5-5, and environmental impact statements pursuant to section 200.5-12;

(f) Scope, content, filing and availability of findings required to be made pursuant to section 200.5-13;

(g) Form and content of and level of detail required for an environmental impact statement; and

(h) Procedures for obtaining comments on draft environmental impact statements, holding hearings, providing public notice of Agency decisions with respect to preparation of a draft environmental statement; and for such other matters as may be needed to assure effective participation by the public and efficient and expeditious administration of the law.

(i) A model assessment form to be used during the initial review to assist the Agency in its responsibilities under this law.

200.6-3. The Tribe shall, in accordance with Tribal law, adopt and publish such additional procedures as may be necessary for the implementation by them of this law.

End.

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