



Adirondack Park Agency

Proposed Emergency Project Regulations

Frequently Asked Questions

Q: Why is the APA proposing Emergency Project Regulations?

A: Since 2011 natural disasters and weather events, such as Tropical Storm Irene, have resulted in significant damage to Adirondack communities. The APA has proposed regulations to clearly define projects that would qualify as emergency projects and are exempt by statute from the Agency's normal regulatory review. The regulations are intended to put in place a straight-forward process that will allow a rapid, coordinated response by landowners, municipalities and other State agencies to these events. In addition, the proposed regulations are intended to establish a streamlined after-the-fact certification procedure that would result in clear documentation that the actions undertaken will not require additional permits or variances.

Q: Does work done during an emergency require advance approval?

A: No. Consistent with the APA Act, these proposed regulations would not require prior approval for anyone undertaking emergency land use or development which is immediately necessary for the protection of life or property. Landowner and emergency personnel should always undertake necessary action to address threats to life or property during a declared emergency. The proposed regulations define what emergencies and emergency projects are so that the APA's role is clear and predictable for landowners and local government officials.

Q: Is there a time limit on the APA's response to after-the-fact approval?

A: Yes. The APA must respond within two days once the Agency has sufficient information required to make a determination that an emergency exists or existed and the work was clearly a response necessitated by that emergency. This time period is similar to time periods used by DEC to act on projects under its review.

Q: What does the APA review? Are there exceptions?

A: The normal APA review includes shoreline stabilization activities, wetland activities and most development proposals. However the APA Act exempts "...any emergency land use or development which is immediately necessary for the protection of life or property as defined by the agency in its rules and regulations..." Landowners and

municipalities have authority to respond to immediate threats arising during an emergency as established in the APA Act and defined in the proposed rule.

Q: If advance notice is not required, what is the benefit of the proposed rule?

A: Any landowner or agency that has undertaken an activity to address a declared emergency may need after-the-fact approval in order to obtain funding reimbursement from FEMA. Also, landowners may benefit from documentation that demonstrates that the emergency actions were undertaken in full compliance with APA regulations. Emergency Certifications would be clear proof that landowners did not violate Agency shoreline or other land use regulations. This type of documentation is helpful when landowners want to sell property or refute any allegations of violations.

Q: Are other state agencies involved in the review of emergency projects?

A: Yes. The New York State Department of Environmental Conservation, for example, would review a shoreline stabilization proposal or a dam drawdown proposed by a municipality or another state agency.

Q: What is an Emergency Recovery Authorization?

A: The Emergency Recovery Authorization covers additional work necessary once the emergency is over to recover from the aftermath of the declared emergency or to correct work done immediately during the emergency.

Q: How does the review of Recovery Authorizations differ from immediate emergency projects?

A: A Recovery Authorization is required before additional work may commence but will be provided on an expedited basis. The APA will work with landowners, municipalities and state agencies to coordinate efforts for additional recovery from declared emergencies after the immediate threat to life or property has been addressed. The goal is to ensure that recovery work meets the long-term protection and stabilization of valuable resources. The Recovery Authorization will also assist in obtaining reimbursement funding for restoration work within the time frames imposed by the funding source.

Q: Are there time limits on the APA's review of projects covered by the Emergency Recovery Authorization?

A: Yes. The APA must respond within five business days of the receipt of sufficient information needed to analyze the project and its impacts on sensitive natural resources. This time period expedites the normal review process but still allows time for planning and approval of long-term solutions. This five business day review period will still enable landowners and municipalities to qualify for funding given the short cycle associated with emergency reimbursement programs.

Q: How will the APA implement the new rule?

A: The APA will conduct public hearings to solicit comment and modify its proposal accordingly, if warranted. Agency staff will then bring the final proposed rule to the Agency Board for deliberation at a monthly Board meeting which are open to the general public. If the proposed regulations are enacted, the Agency will prepare informational flyers detailing the regulations and process to apply. These informational flyers will be provided to all Park municipalities as well as made available via the Agency's website - apa.ny.gov. Agency staff will also provide ongoing professional advice to landowners and municipalities regarding appropriate measures to address emergency events and will consult in advance of an anticipated emergency with local government officials, provide guidance and assistance in the development of an appropriate recovery plan.