

ADIRONDACK PARK AGENCY

August 12, 2008

SUMMARY OF PROPOSED RULE TEXT

2008 Rulemaking

The following summarizes the Adirondack Park Agency's Fifth proposed rulemaking pursuant to its FGEIS, January 2001. The Summary is organized by subject area.

SUBJECT: "Involving Wetlands"

SECTIONS: 9 NYCRR 570.3, 573.3 and 4, and 578.3

STATUTORY AUTHORITY: Executive Law Article 27

Section 578.3(n) is proposed to be amended to delete "subdivision" under subsection one and to add a new section (3) which addresses when a subdivision or portion of a subdivision will require a wetland permit. This amendment completely revises Agency jurisdiction over subdivisions involving wetlands so as to include those lots, the creation of which may in fact adversely impact wetlands, but also to create criteria for a non-jurisdictional opportunity based on subdivision design. 570.3(x) is proposed to be amended to define "involving wetlands" under the APA Act as identical to "regulated activity" under the Agency regulations implementing the Freshwater Wetlands Act. Section 573.3 is amended to clarify that proposed wetland parcels being retained will be treated the same as those being sold, and to remove what would be conflicts with the new jurisdictional rules. Section 573.4 is amended to clarify how these rules affect the gift exemption provided by Executive Law Section 811(1)(c). Related to these amendments, the Agency also proposes a general permit which can be promptly issued based on specified parameters which are different than those established for the non-jurisdictional determination.

SUBJECT: Expansion of non-conforming shoreline structures

SECTION: 575.5 and 575.7

STATUTORY AUTHORITY: Executive Law Article 27

It is proposed that Section 575.5, subsection 2, of Agency regulations be amended to prohibit the expansion of pre-existing structures located within the shoreline setback area unless a variance is granted. This removes an exemption which gave non-conforming structures more opportunity to expand than existing structures. A companion Section 575.7, dealing with the shoreline setbacks for on-site wastewater treatment systems, is also proposed to be amended. A new subsection (c) will require that when a pre-existing non-conforming on-site wastewater treatment system is being replaced, it must be located to meet the shoreline setback requirements to the greatest extent possible. Also, a new subsection (d) is added to require a variance for the expansion of a non-conforming wastewater treatment system in conjunction with an actual or potential proposed increase in occupancy of the associated structure.

SUBJECT: Land division along roads or rights-of-way owned in fee

SECTION: 573.4

STATUTORY AUTHORITY: Executive Law Article 27

Section 573.4(b) is proposed to be removed. This will eliminate the automatic creation of separate parcels (available for sale without permit) due to the bisection of one large parcel by roads or rights-of-ways owned in fee, which division of lands often violated the overall intensity guidelines.

SUBJECT: "Floor Space"

SECTION: 570.3

STATUTORY AUTHORITY: Executive Law Article 27

A new Section 570.3(bb) is added to provide a definition for "square feet of floor space for a building". A new Section 570.3(bc) is added to define the "square footage of a structure other than a building".

SUBJECT: "Hunting and Fishing Cabin"

SECTION: 570.3

STATUTORY AUTHORITY: Executive Law Article 27

It is proposed to amend section 570.3(u) to create a new definition of "hunting and fishing cabin and private club structure". The definition focuses on physical attributes of the structure, but also retains the essential aspects of the existing definition relating to use requirements.