

Subdivisions (d) and (g) of section 570.2 are proposed to be amended as follows:

(d) The procedures for the review of permit and variance applications are set forth in Parts 572 and 576 of this Title, respectively.

(g) These regulations also contain provisions with respect to State agency projects (Part 579), hearing procedures (Part 580), enforcement (Part 581), local and regional land use planning (Parts 583 and 584), [and the requirements] implementation of the State Environmental Quality Review Act[, ] (Part 586), and implementation of the Freedom of Information Law[, ] and Open Meetings Law (Part [586] 587).

Subdivision (b) of section 570.3 is proposed to be amended as follows:

(b) *Bed and breakfast* means a tourist accommodation located within a single[-] family dwelling or multiple[-] family dwelling.

Paragraph (1) of subdivision (d) of section 570.3 is proposed to be amended as follows:

[(1)] *Campground* means:

(1) any area designed and in fact used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar facility designed for temporary shelter, without structural additions to or removal of wheels from vehicles admitted.

Subdivision (f) of section 570.3 is proposed to be amended as follows:

(f)[(1)] *Clearcutting* means:

(1) any cutting of trees over six inches in diameter at breast height over any 10-year cutting cycle where the average residual basal area of such trees after such cutting is less than 30 square feet per acre, measured within the area harvested.

(2) [Provided, however, that where] Where regeneration is assured by stand conditions such that after such cutting the average residual basal area of trees at least one inch in diameter at breast height is at least 30 square feet per acre, measured within the area harvested, [a clearcut] clearcutting will not be deemed to have taken place unless the average residual basal area of trees over six inches in diameter at breast height is less than 10 square feet per acre, similarly measured.

[(3) Rules with respect to agency jurisdiction and review of clearcutting are set forth in section 573.7 of this Title.]

Paragraph (2) of subdivision (g) of section 570.3 is proposed to be amended as follows:

(2) in moderate intensity use, low intensity use, rural use and resource management areas: (i) wetlands; (ii) lands at elevations of 2,500 feet or more; (iii) lands within 1/8 mile of State lands classified wilderness, primitive or canoe by the State Land Master Plan; and (iv) lands within ¼ mile of rivers navigable by canoe designated by section 15-2715 of the Environmental Conservation Law to be studied for inclusion in the wild, scenic and recreational rivers system. The rivers to be studied are listed in Appendix Q-6 of this Title; and

Subdivision (k) of section 570.3 is proposed to be amended as follows:

(k) *Freshwater wetlands* or *wetlands* means wetlands as defined in subdivision (a[k]p) of this section.

Subdivision (l) of section 570.3 is proposed to be amended as follows:

(l) *Guest cottage* means not more than one residential structure which is associated with a single[-] family dwelling and which:

(1) is used only on an occasional basis;

(2) is used only by guests of the resident(s) of the single[-] family dwelling;

(3) is not for rent [f]or hire separately from the single[-] family dwelling;

(4) contains one-half or less of the enclosed floor space of the associated single[-] family dwelling or 2,000 square feet, whichever is less; and

(5) otherwise meets the definition of accessory structure.

Paragraph (3) of subdivision (m) of section 570.3 is proposed to be amended as follows:

(3) is served by a sanitary pit privy or chemical toilet and does not have a conventional, [on-site] onsite wastewater treatment system;

Paragraph (1) of subdivision (t) of section 570.3 is proposed to be amended as follows:

[(1)] *Major public utility use* means:

(1) any electric power transmission or distribution line and associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone inter-exchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to provide initial telephone service for new structures; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission

of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits, including any water storage tanks, designed to service 50 or more principal buildings.

Subdivision (v) of section 570.3 is proposed to be amended as follows:

(v) [(1)] *Material detrimental reliance* means, for the purposes of applying section 571.5 of this Title, that the recipient of a jurisdictional determination has completed significant project components, or expended significant sums of money or otherwise taken significant actions in furtherance of the project, based upon a written formal jurisdictional determination issued by those agency staff members identified in section 571.5(b) of this Title and would experience a substantial adverse economic effect if the jurisdictional determination were reversed.

[(2)] *Procedures for determining* mean high water marks are set forth in section 571.3 of this Title.]

Subdivision (x) of section 570.3 is proposed to be amended as follows:

(x)[(1)] *Multiple[-] family dwelling* means:

(1) any apartment, town house, condominium, cooperative or similar building, including the conversion of an existing single[-] family dwelling, designed for occupancy in separate dwelling units therein by more than one family.

(2) *Multiple[-] family dwelling* shall also include any such building containing two or more separate dwelling units used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has a legal right of occupancy at differing times.

Paragraph (1) of subdivision (y) of section 570.3 is proposed to be amended as follows:

[(1)] *Open space recreation use* means:

(1) any recreation use particularly oriented to and utilizing the outdoor character of an area, including a snowmobile, trail bike, jeep or all-terrain vehicle trail; cross-country ski trail[,]; hiking and backpacking trail; bicycle trail; horse trail; or playground[;], picnic area, public park, public beach or similar use.

Subdivision (ab) of section 570.3 is proposed to be amended as follows:

(ab) *Preexisting subdivision of land or preexisting subdivision* means any subdivision or portion of a subdivision lawfully in existence prior to August 1, 1973. For the purposes of this definition, *lawfully* shall have the meaning set forth in subdivision ([z]aa) of this section.

Paragraphs (1), (3), (6) and (8) of subdivision (ac) of section 570.3 are proposed to be amended as follows:

(1) a single[-] family dwelling or mobile home constitutes one principal building;

(3) each dwelling unit of a multiple[-] family dwelling, including each separate dwelling unit used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has a legal right of occupancy at differing times, constitutes one principal building;

(6) all agricultural use structures and single[-] family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as one principal building;

(8) a structure containing a commercial use which is also used as a single[-] family dwelling constitutes one principal building.

Paragraph (1) of subdivision (ak) of section 570.3 is proposed to be amended as follows:

[(1)] *Structure* means:

(1) any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single[-]family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto.

Paragraph (1) of subdivision (al) of section 570.3 is proposed to be amended as follows:

[(1)] *Subdivision of land or subdivision* means:

(1) any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person, or by any group of persons acting in concert as part of a common scheme or plan.

[Subdivision of land] *Subdivision of land* shall include any map, plat or other plan of the division of land, whether or not previously filed.

Subparagraph (ii) of paragraph (2) of subdivision (al) of section 570.3 is proposed to be amended as follows:

(ii) subdivisions where land is divided into sites by lease, license or separate occupancy without any formal conveyance of fee title or other interest in realty, such as the granting of permission for emplacement of a number of mobile homes, or the construction of a single[-]family dwelling or mobile home on a lot already containing an existing single[-]family dwelling or mobile home;

Paragraphs (3) and (4) of subdivision (al) of section 570.3 is proposed to be amended as follows:

(3) The mere filing of maps, plats or plans required by statute, or entering into a contract of sale or other agreement where possession of or title to land is not actually or constructively transferred, shall not be considered to be the undertaking of a [subdivision] subdivision. *Undertake* is further defined in subdivision (a[1]m) of this section.

(4) [Subdivision of land] Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses.

Paragraph (1) of subdivision (am) of section 570.3 is proposed to be amended as follows:

[(1)] *Undertake* means:

(1) any commencement of a material disturbance of land, including the commencement of road construction, grading, the installation of utilities, the clearing of building sites, excavation (including excavation for the installation of foundations, footings and septic systems), or any commencement of landscaping or any other material disturbance of land preparatory or incidental to a proposed land use or development or subdivision.

Subdivision (an) of section 570.3 is renumbered as subdivision (ao) of section 570.3 and a new subdivision (an) is proposed to be added as follows:

(an) Wastewater means any sewage, septic or other liquid wastes for purposes of administering the Adirondack Park Agency Act, the Freshwater Wetlands Act, and the Wild, Scenic and Recreational Rivers Act.

Subdivision (ao) of section 570.3 is proposed to be renumbered as subdivision (ap) of section 570. 3 and is proposed to be amended as follows:

(ap) [(1)] *Wetlands or freshwater wetlands* means:

(1) any land annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh, which is (i) one acre or more in size, (ii) located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, in which case there is no size limitation.

(2) Open waters immediately adjacent to [a wetland] wetlands and lands entirely surrounded by [a wetland] wetlands will be considered part of the [wetland] wetlands if these areas are essential to the preservation of the wetland vegetation.

(3) The definition of *wetlands* is stated in technical terms in section 578.3(k) of this Title. Lands will not be considered [wetlands] wetlands unless they also meet that definition.

[(4) Procedures for determining the existence of wetlands are set forth in 571.2 of this Title.]

Subdivision (ap) of section 570.3 is renumbered as subdivision (aq) of section 570.3.

Section 571.1 is proposed to be amended as follows:

[(a)] The agency will, upon request of any person having a legal interest in property and contemplating land use or development or subdivision thereon, determine whether an agency permit is required, or whether a variance is required from the shoreline restrictions or other restrictions of these regulations.

Paragraph (2) of subdivision (b) of section 572.3 is proposed to be amended as follows:

(2) Requests for preapplication conceptual review shall be submitted in writing to the deputy director [of] regulatory programs. The request shall include identification of the project site and a statement of the goal(s) of the project, and any reasonable alternative preliminary project designs which also achieve the project goal(s). Should a project sponsor believe that no reasonable alternatives exist which achieve the project goal(s),

the project sponsor may include a statement describing the reasons for such a conclusion. Upon receipt of a conceptual review request, agency staff may provide an individualized request for additional information regarding the project and any reasonable alternatives which would achieve the project goal(s). Agency staff shall also publish notice of the request for conceptual review in the Environmental Notice Bulletin.

Subdivision (c) of section 572.3 is proposed to be amended as follows:

(c) Plans and information provided by the project sponsor shall not be binding upon the project sponsor; nor shall findings or recommendations by the agency staff for purposes of this section constitute authorization to commence the project and shall not be binding upon the agency with respect to any subsequent permit application or other approval for the proposed project.

Paragraph (1) of subdivision (a) of section 572.4 is proposed to be amended as follows:

(1) Applications may be submitted only by a project sponsor, as defined in section 570.3(a)[b]d) of these regulations, shall contain the signatures of the owners of record of the land involved as co-applicant, and shall contain a description of the project in the form and manner required in the appropriate application form. The agency will promptly notify the project sponsor that the submission does not contain the minimal information necessary to initiate the application process, such as signatures of the landowners, an incomplete site plan or project description or is missing required attachments (*e.g.*, copy of the current deed); and the agency will not commence review clocks or other processing without this information.

Paragraphs (4) and (6) of subdivision (c) of section 572.4 are proposed to be amended as follows:

(4) any plans the project sponsor has for future development related to the project;

(6) information related to alternate sites, in the case of projects which are not site-specific, such as antennae, towers, utility lines or other facilities, public buildings and facilities, and in cases where the project sponsor has the power of eminent domain; and

Subdivision (b) of section 572.10 is proposed to be amended as follows:

(b) The agency will hold a public hearing on any variance application. If a public hearing is also to be held on the project, Part 580 of these regulations shall govern the conduct of the consolidated hearing. A public hearing solely concerning the variance application shall be conducted pursuant to section [572.15] 576.5 of this [Part] Title.

Paragraph (3) of subdivision (a) of section 572.11 is proposed to be amended as follows:

(3) projects which have been the subject of a public hearing held pursuant to [section 572.15 or] Part 580 of these regulations.

A new paragraph (4) of subdivision (a) of section 572.11 is proposed to be added as follows:

(4) projects requiring variances which have been the subject of a public hearing held pursuant to section 576.5 of this Title.

Subdivision (e) of section 572.22 is proposed to be amended as follows:

(e) New evidence may not be submitted upon any appeal or request for reconsideration. New evidence may be submitted as part of a request to amend a permit pursuant to section 572.19 of this Part, or, for variances or projects subject of a public hearing, by motion to reopen the hearing pursuant to sections [572.15(e)] 576.5 or 580.14(h) of this Title, as applicable.

Subdivision (d) of section 572.23 is proposed to be amended as follows:

(d) The issuance of a general permit by the agency shall constitute a type I action[,] for purposes of 6 NYCRR Part 617 [cited above].

Subdivision (g) of section 572.23 is proposed to be amended as follows:

(g) In the event that use of a certificate is deemed appropriate, and upon application by any qualified person, the deputy director[ of]-regulatory programs (or designee) shall issue to that person for the location specified, a certificate setting forth the terms and conditions of the general permit approved pursuant to this section. Failure to comply with the terms and conditions of the general permit or certificate automatically voids the authority granted thereunder.

Paragraphs (2) and (4) of subdivision (e) of section 573.4 are proposed to be amended as follows:

(2) Each immediate family member of a person who has continuously owned a landholding since May 22, 1973 may receive one parcel from that landholding, provided that the parcel is conveyed by the landowner by bona fide gift, devise or inheritance. In such a case, so as to allow the construction of one[-] single family dwelling or mobile home on the gift lot, the overall intensity guidelines and minimum lot size requirements of the Adirondack Park Agency Act shall not apply; however, the minimum shoreline lot width and setback requirements of these regulations shall apply.

(4) A permit is required for the construction of a single[-] family dwelling or mobile home on a lot, parcel or site even though created by gift, devise or inheritance if the lot, parcel or site created by gift, devise or inheritance is located in a resource management area, industrial use area or critical environmental area.

Paragraph (6) of subdivision (f) of section 573.4 is proposed to be amended as follows:

(6) An agency permit is required for the construction of a single[-] family dwelling or mobile home on a lot in a preexisting subdivision which has not received New York State Department of Health approval if located in a resource management or industrial use area, or in a critical environmental area.

Subdivision (h) of section 573.4 is proposed to be amended as follows:

(h) *Preexisting vacant lots of record acquired subsequent to May 22, 1973.* No agency permit is required for the resale of a preexisting, separately-owned vacant lot of record as of May 22, 1973 (as described by section 811[1][a] of the Adirondack Park Agency Act) which is subsequently acquired by an owner of adjoining lands. An agency permit is required for any new land use or development on the lot which is a class A or class B regional project as provided in section 810 of the Adirondack Park Agency Act.

Clause (b) of subparagraph (i) of paragraph (1) of subdivision (i) of section 573.4 is proposed to be amended as follows:

(b) the land being conveyed as a boundary line adjustment may not be used by the receiving parcel towards the mathematical calculation of the potential for principal buildings under the [APA] Adirondack Park Agency Act; and

Paragraphs (2), (3) and (4) of subdivision (i) of section 573.4 are proposed to be amended as follows:

(2) A reconfiguration of the boundary between adjoining parcels which were not in common ownership as of May 22, 1973, but which does not meet the criteria specified above, may be approved in advance as a “boundary line adjustment” in the discretion of Agency staff if the boundary line adjustment lands are of a size,

nature and [configuration] configuration which could not reasonably accommodate the construction of a principal building. Subdivisions (1)(ii) and (iii) of this subdivision will still apply.

(3) The boundaries between two adjoining parcels which are the subject of an agency permit, order or settlement agreement, or which are considered lots in a pre[-]existing subdivision, may not be altered by a conveyance of land between them as a “boundary line adjustment” unless authorized by a new or amended agency permit, order or settlement agreement.

(4) Adjoining parcels which were in common ownership as of May 22, 1973 are treated as one merged parcel pursuant to section 811(1)(a) of the [APA] Adirondack Park Agency Act. A reconfiguration of the boundaries of such parcels is a subdivision, and will require an agency permit pursuant to the terms of Section 810 of the [APA] Adirondack Park Agency Act.

Subdivision (e) of section 573.5 is proposed to be amended as follows:

(e) Public and [semipublic] semi-public buildings. An expansion by 25 percent or more of the existing floor space of a municipal building, or of any component building of a college, school, hospital, animal hospital, library, place of worship, museum, research center, rehabilitation center or similar facility, shall be deemed a 25 percent expansion of a public or [semipublic] semi-public building. An agency permit is required for the construction of any new component building, other than an accessory structure, which is a class A or class B regional project as provided in sections 810 and 811(5) of the Adirondack Park Agency Act.

Subdivisions (e) and (f) of section 573.6 are proposed to be amended as follows:

(e) No agency permit is required for the replacement of a mobile home by a single[-]\_family dwelling, or a single[-]\_family dwelling by a mobile home. Where the existing dwelling will not be removed until after the new dwelling is emplaced or constructed, an agency permit is required for the "subdivision into sites" which

would result if the subdivision is a class A or class B regional project as provided in section 810 of the Adirondack Park Agency Act.

(f) An agency permit is required for the recommencement of any existing land use or development, except a single[-] family dwelling, which has been discontinued for a period exceeding five years, or under circumstances which indicate that such use has been abandoned, if the land use or development is a class A or class B regional project as provided in section 810 of the Adirondack Park Agency Act.

Subparagraph (ii) of paragraph (1) of subdivision (b) of section 573.7 is proposed to be amended as follows:

(ii) effective August 1, 1983, clearcutting of more than three acres within a [fresh-water] freshwater wetland.

Subparagraph (ix) of paragraph (1) of subdivision (d) of section 573.7 is proposed to be repealed and replaced as follows:

(ix) the latest edition of the *New York State Forestry Best Management Practices for Water Quality: BMP Field Guide* (Watershed Agricultural Council Forestry Program, New York State Department of Environmental Conservation, and Empire State Forest Products Association) will be adhered to, at a minimum; and

Subdivision (b) of section 573.8 is proposed to be amended as follows:

(b) A bed and breakfast shall be considered an accessory use and not a tourist accommodation if the following criteria are met:

(1) [T]the guest rooms are located within a structure that has been used as a single[-] family dwelling for a period of five years or more prior to conversion to a bed and breakfast[.];

- (2) [T]the single[-] family dwelling is the owner’s primary residence and at least one bedroom is reserved for the owner’s exclusive personal use[.];
- (3) [N]no meals (except breakfast) are served to paying guests and no meals are served to the general public[.];
- (4) [I]in a structure containing more than three existing bedrooms, no more than 50 percent of the bedrooms and no more than five bedrooms total are available for paying lodgers[.];
- (5) [T]the use also meets all the criteria of “accessory use” as defined in subdivision 4 of section [570.3(b) of this Title] 802 of the Adirondack Park Agency Act, except that no accessory structure or guest cottage shall be used as a bed and breakfast[.];
- (6) [T]the sewage treatment system complies with all applicable New York State Department of Health and local standards[.]; and
- (7) [A]at least one off-street parking space is provided on premises for each room for rent.

Section 574.4 is proposed to be modified as follows:

§ 574.4 [Sewage Disposal Standards] Wastewater Treatment System Standards.

Unless otherwise provided in [the] an agency permit, [individual sewage disposal systems`] wastewater treatment systems associated with a project which are designed to treat less than 1,000 gallons of wastewater per day shall be designed, installed and maintained in accordance with the standards [of the Commissioner of Health set forth in the booklet *Waste Treatment - Individual Household Systems* filed by the Department of Health as Appendix 75-A to Volume 10 (Health [A])] set forth in “Wastewater Treatment Standards – Residential Onsite Systems”, Appendix 75-A, Title 10, of the Official Compilation of Codes, Rules and Regulations of the State of New York, and with the additional standards set forth in Appendix Q-4 of this Title.

Subdivision (a) of section 574.8 is proposed to be amended as follows:

(a) For purposes of applying the conversion provision of section 811(1)(b) of the Adirondack Park Agency Act, structures associated with resort hotels, rental cottages and group camps shall only include a single[-], or multiple[-] family dwelling, dormitory, hotel, main lodge, cabin, cottage, bungalow, bunkhouse or other structure which is permanently affixed to the land and is suitable for conversion to single[-] family residential use, taking into account its existing character, condition and facilities, and general site considerations.

Paragraphs (2) and (3) of subdivision (e) of section 575.1 are proposed to be amended as follows:

**(2) MINIMUM [ON-SITE SEWAGE DISPOSAL] ONSITE WASTEWATER TREATMENT  
SYSTEM SETBACKS.**

All land use areas 100 ft.

Paragraph (3) of subdivision (e) of section 575.1 is proposed to be amended as follows:

**(3) MINIMUM VEGETATIVE CUTTING RESTRICTIONS.**

All land use areas

(i) Not more than 30 percent of the trees six inches or more in diameter at breast height within 35 feet of the mean high[-] water mark may be cut over any 10-year period.

(ii) No cutting of any vegetation may take place within six feet of the mean high[-] water mark, except that up to 30 percent of the shoreline may be cleared of vegetation on any individual lot.

(iii) These standards do not prevent the removal of diseased vegetation, or of rotten or damaged trees or of other vegetation presenting safety or health hazards. Any person having a legal interest in property and planning to

cut shoreline trees or vegetation thereon may request an agency determination whether such trees or vegetation qualify for removal pursuant to this subparagraph.

Section 575.2 is proposed to be amended as follows:

- (a) All distances specified in the shoreline restrictions are measured horizontally. Shoreline lot widths are measured along the shoreline as it winds and turns at the mean high[-]\_water mark.
- (b) Building setback restrictions are measured along the shortest line between any point of the structure and any point on the mean high[-]\_water mark.
- (c) [Sewage disposal] Wastewater treatment system setbacks are measured along the shortest line between any point of the seepage pit, drainage field or other leaching facility and any point on the mean high[-]\_water mark.
- (d) In the case of the Great Sacandaga Lake, *mean high[-]\_water mark* shall mean the spillway elevation contour of 771 feet above mean sea level.

Subdivisions (c) and (f) of section 575.4 are proposed to be amended as follows:

- (c) Decks or porches which are above water level and extend beyond the structural footprint of any boathouse, as that term is defined in section 570.3([f]c) of this Title, are subject to the shoreline setback restrictions if those portions which extend beyond the structural footprint exceed 100 square feet in the aggregate.
- (f) A retaining wall which is constructed of dry laid stone or untreated natural logs, and is smaller than 200 square [fee] feet in size, and does not exceed two feet in height above the mean high water mark, shall not be subject to the applicable shoreline setback requirements and variance procedures, provided that it:
  - (1) is designed to control an on-going erosion problem;

(2) is limited to the area necessary to control such erosion; and

(3) follows the existing natural elevation and contour of the shoreline.

Subdivisions (c) and (d) of section 575.7 are proposed to be amended as follows:

(c) Any lawfully existing [on-site] onsite wastewater treatment system which is in non-conformance with the agency shoreline setback requirements, when proposed to be replaced, must be replaced in conformance with the setback requirements to the greatest extent possible, and in any case, no closer to the mean high water mark. No variance will be required for a replacement system which meets this requirement and which will also provide enhanced treatment over the lawfully existing system as determined by the agency, provided such system is not also being expanded to meet an actual or potential occupancy increase.

(d) Any proposed expansion of a non-conforming [on-site] onsite wastewater treatment system designed to service an actual or potential increase in occupancy of the shoreline structure served[,] must meet all existing standards for such systems, including the shoreline setback requirements. Otherwise, a variance will be required for the system expansion.

Subdivision (s) of section 577.2 is proposed to be amended as follows:

(s) *Shoreline lot* means any lot (1) within or adjoining the mean high[-] water mark of a wild, scenic or recreational river, or (2) located within 100 feet of such mean high[-] water mark or within any applicable setback distance of this Part, whichever is greater.

Subparagraph (ii) of paragraph (2) of subdivision (c) of section 577.6 is proposed to be repealed and replaced as follows:

(ii) Forest management shall conform to recognized silvicultural systems as defined in *The Dictionary of Forestry* (Society of American Foresters, 1998) appropriate to the site, and shall be in accordance with the terms of the latest edition of the *New York State Forestry Best Management Practices for Water Quality: BMP Field Guide* (Watershed Agricultural Council Forestry Program, New York State Department of Environmental Conservation, and Empire State Forest Products Association).

Subdivision (b) of section 577.9 is proposed to be amended as follows:

(b) *Application for approval of land management plan.* Any person or persons who own 500 or more acres of contiguous land within a river area, or a local government with respect to all of the acreage within its jurisdiction which falls within a river area[ or], may propose a land management plan for agency approval. A land management plan proposed by a local government may be part of a local land use program.

Subdivision (b) of section 577.10 is proposed to be amended as follows:

(b) The procedures governing the agency's review of applications for variances from the provisions of this Part, and public hearings thereon, shall be:

(1) for variance applications involving a rivers project, the same as those set forth in section 572.10 of [these regulations,] this Title; and

(2) for variance applications not involving a rivers project, the same as those set forth in [sections 572.15 through 572.19 of these regulations] section 576.5 of this Title.

Subdivision (c) of section 578.1 is proposed to be amended as follows:

(c) This Part does not apply to the replacement in kind or to the routine repair of structures, roads, or [on-site sewage disposal systems] onsite wastewater treatment systems lawfully existing in wetlands on May 1, 1983, provided there is no (1) draining, (2) filling, (3) substantial increase in erosion, siltation or sedimentation, (4) diversion of surface [of] or subsurface drainage that adversely affects the natural hydrologic regime, or (5) other material alteration of the wetland.

Subdivisions (a) and (b) of section 578.2 are proposed to be amended as follows:

(a) No person shall undertake any regulated activity without first obtaining [any] an agency permit.

(b) No person shall install any [on-site sewage drainage field] leaching component of an onsite wastewater treatment system or seepage pit or any sewer outfall within the area adjacent to a freshwater wetland without first obtaining an agency permit pursuant to section 578.11 of this Part.

Subparagraph (iv) of paragraph (1) of subdivision (n) of section 578.3 is proposed to be amended as follows:

(iv) erecting any structures, constructing any roads, driving pilings, or placing of any other obstructions whether or not changing the pattern of flow or elevation of the water; or

Subparagraph (i) of paragraph (2) of subdivision (n) of section 578.3 is proposed to be amended as follows:

(i) any form of pollution, including installing a septic tank or sewer outfall, discharging [sewage] wastewater treatment effluent or other liquid wastes into or so as to drain into a freshwater wetland; or

Subdivisions (c), (e), (f), (g), (i), (j), (p), (q) and (t) of section 578.3 are proposed to be amended as follows:

(c) *Bog* means a wetland where standing or slowly running water is at or near the surface during a normal growing season, and where the vegetation grows on an accumulation of largely undecomposed acidic organic debris which is saturated at or near the ground surface by standing or slowly flowing water throughout a normal growing season. The base of the vegetative community is typically a mat formed by peat moss (*Sphagnum* spp.) and which also contains some or all of the following species, many of which are specially adapted to saturated or acid soil conditions: leatherleaf (*Chamaedaphne calyculata*), sheep and swamp laurels (*Kalmia angustifolia*, *K. polifolia*), labrador tea (*Ledum groenlandicum*), bog rosemary (*Andromeda [glaucophylla] polifolia*), low bush cranberries (*Vaccinium [oxycoccus] oxycoccus*, *V. macrocarpon*), rhodora (*Rhododendron canadense*), cottongrasses (*Eriophorum* spp.), sedges (*Carex* spp., *Cyperus* spp.), black spruce (*Picea mariana*), American larch or tamarack (*Larix laricina*), bog aster (*[Aster] Oclemena nemoralis*), pitcher plant (*Sarracenia purpurea*), sundews (*Drosera* spp.), liverwort (*Cladopodiella fluitans*), and orchids (*Arethusa bulbosa*, *Pogonia ophioglossoides*, *Calopogon [pulchellus] tuberosus*, *[Habenaria] Platanthera* spp.). Other commonly associated species include sweet gale (*Myrica gale*), chokeberry (*[Pyrus] Photinia* spp.), northern white cedar (*Thuja occidentalis*), red maple (*Acer [rebrum] rubrum*), and white pine (*Pinus strobus*).

(e) *Classic or kettlehole bog* means a wetland at least 250 feet in diameter within a closed drainage basin with a minimal or wholly subterranean inlet and a minimal or no outlet stream, composed of differing wetland vegetative cover types in substantially concentric zones, proceeding from (1) an [outeredge] outer edge of coniferous wooded wetlands growing on saturated organic deposits composed mainly of partially decayed sphagnum moss, inward towards (2) a floating mat of sphagnum mosses and shrubby heath plants to (3) an inner area of open water, known as the bog pond, which has an acidity of pH 5.00 or lower, and is typically [anoxyous] anoxic and stained a dark brown in color from decaying vegetation.

(f) *Coniferous swamp* means a wetland or wetland covertype where a significant part of the vegetational community consists of live coniferous trees over 20 feet in height, usually growing on hummocky terrain or on deep organic soil deposits and with pockets of water and/or sphagnum moss between the hummocks.

Coniferous swamps usually contain some or all of the following trees: black spruce (*Picea mariana*), American larch or tamarack (*Larix laricina*), hemlock (*Tsuga [candensis] canadensis*), white cedar (*Thuja occidentalis*), red spruce (*Picea rubens*), balsam fir (*Abies balsamea*), and occasionally white pine (*Pinus strobus*).

(g) *Covertypes or wetland coverage* means [any of] any of the groups of wetland vegetation set forth in the definitions of "artificial mudflat," "coniferous swamp," "deciduous swamp," "deep water marsh," "emergent marsh," "shrub swamp," and "wet meadow" in this section. Where technical and common, colloquial or local type names were inconsistent, the prevailing common usage is employed.

(i) *Deep water marsh* means a wetland or wetland covertype where a significant part of the vegetational community consists of free floating vegetation, rooted vegetation with floating leaves, or submergent vegetation, usually containing some or all of the following plants: duckweed (*Lemna* spp.), water lilies (*Nymphaea* spp., *Nuphar* spp., *Nymphoides* spp.), coontail (*Ceratophyllum demersum*), water milfoil (*Myriophyllum* spp.), bladderwort (*Utricularia* spp.), pondweeds (*Potamogeton* spp.), watershield ([*Braselia*] *Brasenia schreberi*), big duckweed (*Spirodela [polyrhiza] polyrrhiza*), watermeal (*Wolffia* spp.), naiads (*Najas* spp.), wild celery (*Vallisneria americana*), muskgrass (*Chara* spp.), stonewort (*Nitella* spp.), waterweeds (*Elodea* spp.) and water [smartweeds] smartweeds (*Polygonum* spp.).

(j) *Emergent marsh* means a wetland or wetland covertype where a significant part of the vegetational community consists of herbaceous plants encroaching on water areas and flooded with standing or running water much of the year. Emergent marshes usually contain some or all of the following plants: arums (*Peltandra* spp., *Calla* spp.), pickerel weeds (*Pontederia cordata*[, *P. lanceolata*]), water milfoils

(*Myriophyllum* spp.), water starworts (*Callitriche* spp.), bladderworts (*Utricularia* spp.), water smartweeds (*Polygonum* spp.), water plantains (*Alisma* spp.), arrowheads (*Sagittaria* spp.), [loosetrifes] loosestrifes (*Lythrum* spp.), water willow/swamp loosestrife (*Decodon verticillatus*), rushes (*Juncus* spp.), burreeds (*Sparganium* spp.), cattails (*Typha* [*latifolia*] *latifolia*, *T. angustifolia*), horsetails (*Equisetum* spp.), pipeworts (*Eriocaulon* spp.), spikerushes ([*Elocharis*] *Eleocharis* spp.), bulrushes (*Scirpus* spp.), sedges (*Carex* spp., *Cyperus* spp., *Dulichium arundinaceum*), [burreed] common reed (*Phragmites* [*communis*] *australis*), wild rice (*Zizania aquatica*), [blue flag] blueflag (*Iris* spp.), hydrophilic grasses (*Phalaris arundinacea*, *Glyceria* spp., *Calamagrostis* spp., *Leersia* spp.), royal fern (*Osmunda regalis*), sweet gale (*Myrica gale*), and occasionally leatherleaf (*Chamaedaphne calyculata*).

(p) *Selective cutting of timber* means any cutting of timber within the boundaries of a freshwater wetland (1) which is not "clearcutting" as defined in section 570.3(j)f of these regulations, or (2) which results in a cut area less than three acres in size.

(q) *Shrub swamp* means a wetland or wetland covertime where a significant part of the vegetational community consists of woody vegetation less [that] than 20 feet in height, often found in floodplains, in frost pockets and other depressions, on the edges of ponds, lakes and bogs, and in hillside drainages. Shrub swamps usually contain some or all of the following shrubs: alders (*Alnus* spp.), willows (*Salix* spp.), viburnums (*Viburnum* spp.), dogwoods (*Cornus* spp.), chokeberries ([*Pyrus*] *Photinia* spp.), meadowsweet (*Spirea* spp.), sweet gale (*Myrica gale*), buttonbush (*Cephalanthus occidentalis*), leatherleaf (*Chamaedaphne calyculata*), highbush blueberries and lowbush cranberries (*Vaccinium* [*orymbosum*] *corymbosum*, [*V. atrococcum*,] *V. [oxycoccus]* *oxycoccus*, *V. macrocarpon*), sheep and swamp laurels (*Kalmia angustifolia*, *K. polifolia*), labrador tea (*Ledum groenlandicum*), bog rosemary (*Andromeda* [*glaucophylla*] *polifolia*), and mountain holly (*Nemopanthus* [*mucronata*] *mucronatus*).

(t) *Wet meadow* means a wetland or wetland covertime where a significant part of the vegetational community consists of sedges, rushes, and coarse grasses, most of which tend to grow in clumps or tussocks. Groundwater is at or near the surface for most of the year including a significant part of the growing season, creating saturated soils. Wet meadows are often found in lake and river annual flood plains and in abandoned beaver and dam flowages. In agricultural areas, they are often maintained but uncultivated parcels used for pasture and/or hayfields, [which] uses which can alter their physical appearance or species composition. Under natural conditions, however, tussocks in wet meadows may support some or all of the following species: rushes (*Juncus* spp.), sedges (*Carex* spp. and *Cyperus* spp.), bluejoint grasses (*Calamagrostis* spp.), bulrushes (*Scirpus* spp.), spikerushes (*Eleocharis* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), [blue flags] blueflag (*Iris* spp.), sensitive fern (*Onoclea sensibilis*), marsh fern ([*Dryopteris thelypteris*] *Thelypteris palustris*), vervains (*Verbena* spp.), thoroughwort ([*Eupatorium*] *Eupatorium* spp.), St. Johnsworts (*Hypericum* spp.), false loosestrifes (*Ludwigia* spp.), loosestrifes (*Lythrum* spp.), and smartweeds (*Polygonum* spp.). Cattails (*Typha latifolia*, *T. angustifolia*) may be present between tussocks.

Clause (d) of subparagraph (ii) of paragraph (3) of subdivision (n) of section 578.3 is proposed to be amended as follows:

(d) if any lot described in subparagraph (i) of this paragraph contains a lawfully existing principal building, the lot must meet [this] these criteria: (1) the [on-site] onsite water supply and wastewater treatment systems for the principal building must be located on the lot containing that principal building, and (2) there must be identified on that lot an adequate replacement site for the [on-site] onsite wastewater treatment system which [site] is located at least 100 feet from the wetland.

Subdivision (c) of section 578.5 is proposed to be amended as follows:

(c) *Emergent marsh* is the most valuable individual covertype and one of the highest in productivity of all temperate ecosystems. The emergent vegetation provides nesting habitat, food and cover for many waterfowl and other wildlife, provides large annual increases in biomass, and cycles large quantities of nutrients into food chains. Emergent marshes usually contrast with surrounding areas in physical structure and therefore provide habitat diversity and "edge." Where purple loosestrife (*Lythrum salicaria*) or reed (*Phragmites [communis] australis*)[,] constitute approximately two-thirds or more of the wetland, however, the value assigned is lower (3) as these species are less productive and support much less wildlife use than other marsh species. 2

Subdivision (d) of section 578.5 is proposed to be amended as follows:

(d) *Deciduous swamps* are frequently used by nesting and migrating waterfowl. They are also heavily used by other birds and wildlife. Deciduous swamps are often intermittently flooded and [dessicated] desiccated. Their soils exhibit high fertility which promotes rapid plant growth and a wide variety of flora and fauna. Windthrow of the shallow rooted trees found in such swamps tends to create habitat variety. During the growing season, such swamps transpire and filter great quantities of water, contributing to the maintenance of water quality and the moderation of micro-climatic conditions. 2

Subdivision (k) of section 578.5 is proposed to be amended as follows:

(k) *Wetlands associated with open water* provide breeding and spawning areas as well as food and cover for wildlife and fish using the open water. They are an integral part of open water ecosystems and provide natural nutrient exchange. They purify water entering the open water and may improve its quality whether measured in rate of flow, dissolved oxygen content, clarity, or ionic content. They often provide temporary storm water storage and ameliorate downstream flooding. *Wetlands with over 20 acres*

*[in size or] within the mean high water mark of lakes, ponds, rivers and streams* are integral parts of those water bodies and can dramatically affect quality and flow in those waterbodies and are rated highest (1).

*Wetlands with under two acres [in size or not] within the mean high water mark* are of much less importance to the adjoining water body and are rated lower (3). 2

Subdivision (w) of section 578.5 is proposed to be amended as follows:

(w) *Wetlands of demonstrable historical, archeological or paleontological significance* are generally of high value for scientists and laymen alike depending upon the specific historic event, or archeological or paleontological feature involved. 3

Subdivision (x) of section 578.5 is proposed to be amended as follows:

(x) *Wetlands that contribute significantly to open space or [esthetic] aesthetic values in a hamlet, moderate intensity or low intensity use area* serve to preserve open space and aesthetic values in areas where most growth will and should occur according to the Adirondack Park land use and development plan map. They often provide welcome visual relief due to their natural character, and opportunities for wildlife viewing within built-up areas. 3

Subdivision (g) of section 578.8 is proposed to be amended as follows:

(g) *Introducing [sewage] wastewater treatment effluent or installing septic tanks or sewer outfalls* in wetlands or adjacent areas may contaminate ground or surface water with undesirable nutrients or organisms. Excessive nutrient loads may alter the vegetative composition or fish and wildlife use, and/or affect the suitability of water for human use. Organisms introduced with [sewage] wastewater effluent may create a general health hazard. Effluent may increase successional rates through the introduction of excessive levels of

nutrients or by warming ambient water temperatures. Abnormal levels of water may be created in wetlands. These impacts may interfere with fish and wildlife as well as human use of water resources.

Subdivision (a) of section 578.11 is proposed to be amended as follows:

(a) No person shall install any [on-site sewage drainage field] leaching component of an onsite wastewater treatment system or seepage pit or any sewer outfall within the area adjacent to a freshwater wetland without first obtaining an agency permit.

Subdivisions (b) and (c) of section 580.1 are proposed to be amended as follows:

(b) This Part does not apply to public hearings on variances where no agency permit is required, or to public hearings on projects requiring variances which are held solely to consider the variance request. Such hearings will be held in accordance with section [572.15(e)] 576.5 of this Title.

(b) Except as required by article 3 of the State Administrative Procedure Act, the agency staff is authorized to waive any or all of the procedural provisions of this Part in the case of single[-]family dwellings, mobile homes or subdivisions of land involving less than five lots, parcels or sites. Hearings on such projects shall be as informal as possible.

Paragraph (8) of subdivision (a) of section 580.4 is proposed to be amended as follows:

(8) a statement that any person may speak or submit a written statement; and

Paragraph (6) of subdivision (b) of section 580.4 is proposed to be amended as follows:

(6) by sending a copy of the notice by mail [to] to the environmental notice bulletin for publication therein, and to any person or State agency which has previously filed with the agency, in January of the current year, a

written request for individual notice of the particular hearing, or of hearings on particular types of projects, or those to be located in particular places or types of places, in accordance with the terms of the request; and

Subdivision (b) of section 580.5 is proposed to be amended as follows:

(b) any person receiving individual notice pursuant to section 580.4(b)(3) of this Part; and

Subdivision (b) of section 580.10 is proposed to be amended as follows:

(b) If a party fails to appear at the hearing, he shall be deemed to have waived the right to participate in the proceedings, except for good cause shown and in the discretion of the hearing officer.

Paragraph (3) of subdivision (d) of section 580.14 is proposed to be amended as follows:

(3) If a witness fails to respond to a subpoena, the record of the hearing shall note such default. If the hearing officer determines that the testimony of the witness is essential for the completion of a party's case, he shall adjourn the hearing until the party has a reasonable opportunity to attempt to obtain compliance with the subpoena.

Subdivision (c) of section 580.17 is proposed to be amended as follows:

(c) Section [587.3(d)] 587.4 of these regulations, concerning *ex parte* communications with the agency, shall also apply.

Subdivision (i) of section 581-1.2 is proposed to be amended as follows:

(i) *Permit holder* means any person or State agency that has been issued an agency permit or variance pursuant to the [act] Act, the FWA, or the Rivers Act or any person or State agency that has assumed the

benefits and obligations of an agency permit or variance pursuant to law, regulation, permit condition or property ownership.

Subdivision (a) of section 581-2.6 is proposed to be amended as follows:

(a) The executive director may initiate an enforcement proceeding to be held by the enforcement committee for a determination whether a violation has occurred and a decision on an appropriate disposition of an enforcement action. Whenever this section refers to the enforcement committee, it shall mean the agency where the agency considers [and] an alleged violation pursuant to section 581-2.2 of this Subpart.

Subdivision (a) of section 581-2.7 is proposed to be amended as follows:

(a) Where the executive director determines that there is reasonable cause to believe that a violation has occurred, an application involving an unresolved violation on the proposed project site shall not be processed and the time periods of section 809 of the [act] Act shall not run until the alleged violation is resolved in accordance with the provisions of this Part or by a court. The executive director shall notify the [applicant] project sponsor of such determination and action in writing.

Section 581-2.8 is proposed to be amended as follows:

An alleged violation of the statutes and regulations administered by the agency, of any permit or order issued by the agency or its designee, of any agreement administratively resolving a violation, or a refusal to comply with a request for access to property or information involving a violation or to redress ongoing damage to the natural resources of the Adirondack Park, may be referred to the Attorney General pursuant to section 63 of the Executive Law and section 813 of the [act] Act or the relevant provisions of the ECL as follows:

- (a) by the executive director with the advice and consent of the chairperson(s) of the enforcement committee; or
- (b) by the enforcement committee or the agency.

Subdivision (c) of section 581-3.1 is proposed to be amended as follows:

(c) noncompliance with the terms and conditions of an agency permit or order, or noncompliance with any provision of the [act] Act, ECL, or agency regulations, related to the permitted activity.

Subdivision (b) of section 581-3.2 is proposed to be amended as follows:

(b) To commence such proceedings, the executive director shall serve a notice of intent to modify, suspend or revoke an agency permit on the permit holder reciting the grounds for the agency's action, and identifying the material facts, documentary evidence, the provisions of law upon which the notice [if] is based, and the requested agency actions. The notice may identify alternative actions to be considered and decided by the agency. The notice shall include:

(1) the date and place the agency will consider the matter;

(2) a statement that any written response to the notice of intent shall be signed by the permit holder or his attorney and served upon the executive director within 30 days of the date of the notice;

(3) a statement offering the permit holder an opportunity for a hearing in accordance with the hearing procedures set forth under Subpart 581-4 of this Part; and

(4) a statement that the permit holder may appear at the hearing either in person or by counsel, and be heard concerning any disputed matter of [factor] fact or law or with respect to the nature of any proposed resolution.

The notice shall state that a permit holder may authorize a person other than an attorney to speak on his behalf so long as the permit holder appears in person at the hearing.

Paragraph (3) of subdivision (a) of section 581-4.3 is proposed to be amended as follows:

(3) a statement that the respondent may appear at the hearing either in person or by counsel, and be heard concerning any disputed matter of fact or law or with respect to the nature of any proposed resolution. The notice should state that a respondent may authorize a person other than an attorney to speak on his behalf so long as the [permit holder] respondent appears in person at the hearing.

Subdivision (b) of section 581-4.5 is proposed to be amended as follows:

(b) At any time after the institution of a proceeding and prior to close of the hearing, the hearing officer may permit a person to intervene as a party where it is demonstrated that there is a reasonable likelihood that the petitioner's private rights would be substantially affected by the result sought by the executive director or within the authority of the agency to determine and that those rights cannot be adequately represented by the executive director, the respondent and/or permit holder, [and] or any other [parties] party to the proceeding. In addition, the hearing officer may permit a person to intervene as a party with amicus status upon a finding that the petitioner has identified a legal or policy issue that should be addressed in the hearing and in the final determination of the agency and that the petitioner has a sufficient interest in such issue and through expertise, special knowledge or unique perspective may contribute materially to the record on such issue.

Paragraph (2) of subdivision (e) of section 581-4.9 is proposed to be amended as follows:

(2) The agency shall rule on any such motion prior to [make] making its determination with regard to the hearing.

Section 581-4.16 is proposed to be amended as follows:

(a) Upon the Agency's receipt of a hearing record pursuant to section 581-4.14(h) of this Subpart, the enforcement committee shall review the record and make a recommendation to the agency for consideration.

(b) In reaching its determination, the agency shall review the record and committee recommendations and make a final determination. The agency's final determination will be embodied in an order which contains findings of fact and conclusions of law and may provide for:

(1) a finding of liability or dismissal of the charges;

(2) an assessment of penalties or other sanctions consistent with the applicable provisions of the [act] Act or the ECL;

(3) injunctive relief including abatement or restoration activities, and provision for financial security to assure completion of such activities;

(4) modification, suspension or revocation of an agency permit;

(5) a combination of any or all of the foregoing; and

(6) any determination deemed appropriate under the circumstances and consistent with applicable provisions of the [act] Act, the ECL and/or the rules and regulations of the agency.

[(7)] (c) T[t]he final determination of the agency shall be issued on or before 60 days after the receipt by the agency of a hearing record.

[(8)] (d) A[a] copy of the final determination and order shall be served on the parties.

Paragraph (1) of subdivision (e) of section 582.2 is proposed to be amended as follows:

(1) provides for site review of all new [on-site sewage disposal systems] onsite wastewater treatment systems prior to issuance of building permits; and

Subparagraph (iii) of paragraph (4) of subdivision (a) of section 583.5 is proposed to be amended as follows:

(iii) the chairman of the regional planning agency, if any, within [those] whose jurisdiction the land is located;

Paragraph (1) of subdivision (b) of section 586.5 is proposed to be amended as follows:

(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] section 617.4 or in subdivision (a) of this section.

Subdivision (c) of section 586.5 is proposed to be repealed.

Section 586.7 is proposed to be amended as follows:

As early as possible in its formulation of an action it 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 SEQR [pursuant to ECL 8-0111(2), ECL 8-0117 and 6 NYCRR 617.5];

(b) is an exempt or type II action, in which case it shall have no further obligation under SEQR or 6 NYCRR Part 617;

(c) is an excluded action[, in which case it will determine whether the Commissioner of Environmental Conservation will require that an EIS be prepared] pursuant to ECL section 8-0111(5)[(a)(i)];

(d) involves a Federal agency, in which case it shall act pursuant to ECL section 8-0111(1) or (2) and 6 NYCRR section 617.15 [617.16];

(e) involves one or more other agencies, in which case it shall act pursuant to ECL section 8-0111(6) and section 617.6 [or 617.7, whichever applies] to establish a lead agency.

Subdivision (a) of section 586.8 is proposed to be amended as follows:

(a) If the agency determines that an action is a type I action or unlisted action subject to SEQRA and will not have a significant effect upon the environment, it shall prepare, maintain and file a notice of determination that an EIS will not be prepared ("negative declaration") and [maintain] written analyses and findings supporting such determination in accordance with 6 NYCRR [617.10(b) and 617.7] section 617.12 and in the file referred to in subdivision (b) of this section.

Subdivision (a) of section 586.9 is proposed to be amended as follows:

(a) If the agency determines that a type I or unlisted action is subject to SEQRA and may have a significant effect on the environment, it shall prepare, maintain 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(c)] section 617.12 and in the file referred to in section 586.8(b) of this Part.

Section 586.10 is proposed to be amended as follows:

Environmental impact statements shall conform to the requirements of 6 NYCRR [617.14] section 617.9 as to form and content.

Section 586.11 is proposed to be amended as follows:

(a) Upon completion of a draft environmental impact statement, or upon acceptance of a draft environmental impact statement from an applicant pursuant to 6 NYCRR [617.8] section 617.9, the agency shall prepare and file a notice of completion in accordance with 6 NYCRR [617.10(d)] section 617.12.

(b) In order to provide an opportunity for public response the agency shall, in addition to the filing required by 6 NYCRR [617.10(e)] section 617.12, file its notices of completion and draft environmental impact statements in the file referred to in section 586.8(b) of this Part and will incorporate reference to them in notices required by law in connection with the action.

Subdivision (a) of section 586.12 is proposed to be amended as follows:

(a) Upon completion of the draft environmental impact statement, or upon acceptance of a draft environmental impact statement from an applicant pursuant to 6 NYCRR [617.8] section 617.9, the agency shall determine whether to conduct a public hearing thereon, based upon:

Section 586.13 is proposed to be amended as follows:

(a) The final environmental impact statement shall be prepared within 45 calendar days after the close of any hearing, or within 60 calendar days after the filing of the draft environmental impact statement, whichever occurs last; the last date for preparation may be extended pursuant to 6 NYCRR [617.8(e)(2)] section 617.9(a)(5)(ii).

(b) If the action has been withdrawn, or if, on the basis of the draft environmental impact statement or hearing, the agency determines that the action will not have a significant effect on the environment, it will not prepare a

final environmental impact statement but will prepare and file its determination in accordance with 6 NYCRR [617.8(e)(1)] section 617.9(a)(5)(i).

(c) The filing of a notice of completion of a final environmental impact statement and the filing of the statement itself shall take place in the same manner as a draft environmental impact statement in accordance with 6 NYCRR [617.10(g) and (h)] section 617.12. Final environmental impact statements and notices of completion shall also be filed in the file referred to in section 586.8(b) of this Part.

(d) The notice of completion shall conform to 6 NYCRR [617.10(g)] section 617.12 in form and content.

Subdivision (b) of section 586.14 is proposed to be amended as follows:

(b) 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)] section 617.11 are prepared and filed in accordance with 6 NYCRR [617.10] section 617.12 and in the file referred to in section 586.8(b) of this Part.

Paragraph (5) of subdivision (j) of section 587.1 is proposed to be amended as follows:

(5) A denial of an exception from disclosure under paragraph (4) of this subdivision may be appealed by the person submitting the information and a denial of access to the record may be appealed by the person requesting this record in accordance with this paragraph.

A new subdivision (d) of section 588.4 is proposed to be added as follows:

(d) Whenever words of the masculine or feminine gender appear in any rule or regulation, unless the sense of the sentence indicates otherwise, they shall be deemed to refer to both male or female persons. This construction shall apply to gender indicative suffixes or prefixes as well as to gender indicative words.

Section 588.8 is proposed to be repealed and replaced as follows:

This Title includes all regulations of the Adirondack Park Agency effective as of XXXXXX, 2013.

Appendix Q-4 is proposed to be amended as follows:

ADDITIONAL STANDARDS FOR THE INSTALLATION OF INDIVIDUAL [ON-SITE SEWAGE DISPOSAL SYSTEMS] ONSITE WASTEWATER TREATMENT SYSTEMS

This appendix sets forth the standards employed by the agency in the review of the type and manner of installation of [individual onsite sewage disposal systems] onsite wastewater treatment systems associated with a project [subject to its jurisdiction] which are designed to treat less than 1,000 gallons of wastewater per day.

These standards are applied in addition to those standards set forth in [the New York State Department of Health publication *Waste Treatment Facilities - Individual Household Systems*, filed as Appendix 75-A to Volume 10 (Health [A] ) of NYCRR] “Wastewater Treatment Standards – Residential Onsite Systems”, Appendix 75-A, Title 10, of the Official Compilation of Codes, Rules and Regulations of the State of New York.

1. The natural ground intended for the leaching facility of an onsite wastewater treatment system shall have a minimum depth of four feet of usable soil above bedrock, impervious material, or maximum high seasonal groundwater. When fractured bedrock is encountered, the usable soil depth shall be at least six feet.
2. Within 200 feet of the shoreline of a lake, pond, river or stream,[:] if the soil percolation rate is 0 to 3 minutes per inch, a leaching facility for an onsite wastewater treatment system will not be permitted.
3. Precatory or hortatory language such as “should” in [the Department of Health publication referred to above] “Wastewater Treatment Standards – Residential Onsite Systems”, Appendix 75-A, Title 10, of the Official

Compilation of Codes, Rules and Regulations of the State of New York shall be deemed to be mandatory; provided that the agency may approve modifications in the course of its review of individual projects.

Paragraph 4 of Appendix Q-5 is proposed to be amended as follows:

4. *Grasse River, Main Branch* (from the confluence with the South Branch to the most northerly intersection with the park boundary).

Paragraph 9 of Wild Rivers of Appendix Q-6 is proposed to be amended as follows:

9. *Piseco Outlet* (One-half mile east of Route 10 bridge to confluence with West Branch of the Sacandaga) – ¼ mile from each bank.

Paragraph 13b of Scenic Rivers of Appendix Q-6 is proposed to be amended as follows:

13b. *South Branch of the Grasse River* (Grasse River Flow area to Twin Ponds Outlet) Beginning at a point due south of the outlet of Grasse River Flow at a point ¼ mile from the south bank of said river; thence westerly along a line that is ¼ mile from and parallel to the south bank of said river to a point where that line intersects with Route 3; thence northeasterly along Route 3 to a point where said Route 3 intersects with a gravel road to Deer Meadows; thence northwesterly and westerly along said gravel road to a point where said road intersects with a point that is ¼ mile from the south bank of said river; thence continuing along a line that is ¼ mile from and parallel to the south bank of said river.

Additionally, beginning at a point southwest of Brother Ponds, in the Town of Clifton, where Twin Ponds Outlet is ¼ mile from the north bank of said river; thence following Twin Ponds Outlet towards said river until reaching a point that is 400 feet from the east bank of said river; thence southerly along a line that is 400 feet from and parallel to the east bank of said river to a point where that line intersects an intermittent stream from

the east; thence easterly along that stream bed to a point that is ¼ mile from said bank of said river; thence southerly and southeasterly along a line that is ¼ mile from and parallel to the east or north bank of said river to the point of intersection with a log-haul road used by Draper Corporation and Newton Falls Paper Company; thence following said road [southerasterly] southeasterly to a point where said road curves and begins heading northeasterly and intersects with the 1440' contour line; thence southeasterly along a straight line to the top of a height of land at the 1480' contour; thence northeasterly to an adjoining height of land at 1480' elevation; thence continuing northeasterly to the point of intersection with said log-haul road; thence [southerasterly] southeasterly along said road to the point of intersection with the 1400' contour line; thence northeasterly along said contour line to a point that is ¼ mile from the north bank of said South Branch of the Grasse River; thence southeasterly and easterly to the point of intersection with the Clifton-Colton town line; thence southerly along that town line to the point of intersection with said gravel log-haul road jointly used by Draper Corporation and Newton Falls Paper Company; thence southeasterly and easterly along said gravel road to the point of intersection with Route 3; thence northeasterly and easterly along Route 3 to a point where said route is ¼ mile from the north bank of the Grasse River Flow; thence continuing along a line that is ¼ mile from and parallel to the north or east bank of said Flow and said South Branch of the Grasse River.

The list of Towns preceding Paragraph 8 of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

Towns of Newcomb, Minerva, Indian Lake, Chester, Johnsburg[h], Thurman, Warrensburg[h], Stony Creek, Lake Luzerne and Hadley

Paragraph 12 of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

12. *West Branch of the Oswegatchie River* (From the snowmobile and footbridge crossing approximately 1 mile upstream of Round Pond to the Adirondack Park boundary) – ¼ mile from each bank.

The list of Towns preceding Paragraph 13 of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

Towns of Long Lake, Arietta, Harrietstown, [Altamont] Tupper Lake and Piercefield

The list of Towns preceding Paragraph 18 of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

Towns of Johnsburg[h], Thurman and Wells

Paragraph 22b of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

22b. *Main Branch of the Saranac River* (Town of Saranac section) - Continuing along a line ¼ mile distant from and parallel to the north bank of said river at the south boundary of the Town of Saranac to a point where that line intersects Route 3; thence along Route 3 until the hamlet of Redford is reached; resuming on the east boundary of said hamlet at a point 1/8 mile distant from the said north bank; thence east and northeasterly along a line 1/8 mile distant from and parallel to said bank of said river to a point where said line intersects a Land Use and Development Plan (L.U.D.P.) Rural Use Area; thence along Route 3 through the Rural Use Area and into the Moderate Intensity Use Area until reaching a point where said Route 3 is 1/8 mile distant from the north bank of said river; thence along a line 1/8 mile distant from and parallel to the north bank of said river until that line intersects again with Route 3; thence along said route until it intersects a L.U.D.P. Low Intensity Use Area; thence following the boundary of said area north, northeasterly and northwesterly until a point where said

boundary is ¼ mile distant to the said north bank of said river; thence northeasterly along a line ¼ mile distant from and parallel to the said north bank of said river to a point where said line intersects a L.U.D.P. Rural Use Area; thence southerly along the boundary of said area to a point 1/8 mile distant from the north bank of said river; thence generally easterly along a line 1/8 mile distant from and parallel to the said north bank of said river to a point where said line intersects Route 3; thence along Route 3 to the east boundary of the Town of Saranac; thence southerly along said boundary to a point ¼ mile distant from the south bank of said river; thence southwesterly along a line ¼ mile distant from and parallel to the said bank of said river to the point where said line intersects a [L.U.P.D.] L.U.D.P. Low Intensity Use Area; thence southwesterly along the boundary of said area to a point 1/8 mile distant from said bank of said river; thence along a line 1/8 mile distant from and parallel to said bank of said river to a point where that line intersects the west boundary of a L.U.D.P. Resource Management Area; thence southerly along said boundary to a point ¼ mile distant from said bank of said river; thence along a line ¼ mile distant from and parallel to said bank of said river until intersecting with the south boundary of the Town of Saranac.

The list of Towns preceding Paragraph 23a of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

Towns of North Hudson, Schroon, [Counties of Essex and] Horicon, Chester, Bolton, Warrensburg[h] and Lake George

The list of Counties preceding Paragraph 23a of Recreational Rivers of Appendix Q-6 is proposed to be amended as follows:

[County of] Counties of Essex and Warren

Section A. DETERMINANT: SOIL of Appendix Q-8 is proposed to be amended as follows:

1. Characteristic: Poorly drained or seasonally wet soils.

Description: Soil with a high-water content or seasonal high-water table less than 1 ½ feet from the surface.

Land use implications: [Onsite sewage disposal systems] Onsite wastewater treatment systems will not function adequately and may pollute groundwater supplies. There may also be a problem of flooded basements, backed-up toilets, broken pavements, cracked walls and similar situations. These problems may lead to community health hazards, environmental problems, inconvenience and economic hardship. Severe developmental limitations exist in those areas that contain a high proportion of poorly drained or seasonally wet soils. Such areas are capable of sustaining development at only a very low level of intensity.

2. Characteristic: Moderately drained soils.

Description: Soils with a seasonal high-water table 1 ½ to 4 feet below the surface.

Land use implications: A potential for [septic] onsite wastewater treatment system failure or groundwater pollution exists. The New York State Department of Health recommends that the bottom of a [septic] onsite wastewater treatment system tile field be 18 to 30 inches below the soil surface at final grade, with a minimum depth of two feet between the bottom of the tile field and the water table. Special precautions must also be taken to avoid washouts where deep road cuts are necessary. An occasional problem for roads, streets and parking lots on this soil is the “washboard” effect caused by frost heaving. Although these soils can tolerate a higher level of development than can poorly drained soils, moderate development limitations still exist.

3. Characteristic: Well-drained soils.

Description: Soils with a depth to the seasonal high-water table of more than four feet.

Land use implications: Areas containing well-drained soils present only slight development limitations.

Generally, this type of soil can adequately filter the effluent from [septic tank] onsite wastewater treatment systems and poses few other construction problems.

#### 4. Characteristic: Low permeability soils.

Description: Soils with a permeability rate of less than one inch per hour.

Land use implications: Soils with low permeability characteristics present severe development problems.

[On-site sewage disposal] Onsite wastewater treatment systems may overflow, causing pollution of surface water. Street, road and parking lot surfaces heave, and building walls and foundations tend to crack. Sanitary landfills may cause acute problems when located on soils with these characteristics.

#### 5. Characteristic: Moderately permeable soils.

Description: Soils with a permeability rate of one inch per 30 to 60 minutes.

Land use implications: Problems experienced in soils with this characteristic are similar to, but slightly less severe than, problems experienced with soils of low permeability. In general, adequately designed and engineered [septic systems] onsite wastewater treatment systems, roads and structures help solve the problems that these soils can cause, but these alternatives tend to be expensive. Areas containing a high percentage of these soils should not be developed at a high level of intensity.

#### 6. Characteristic: Permeable soils.

Description: Soils with a permeability rate of more than one inch per 30 minutes.

Land use implications: Generally, these soils present only slight development limitations, and they can handle a relatively intense level of development. However, excessive permeability may create a potential for the

pollution and contamination of groundwater and nearby uncased wells if onsite [sewage disposal] wastewater treatment systems are employed.

7. Characteristic: Shallow depth to bedrock.

Description: Soils with a depth to bedrock of less than one and 1 ½ feet.

Land use implications: These soils present severe development constraints. Massive excavation costs are necessary to do even minimal development. [On-site sewage disposal] Onsite wastewater treatment systems are not possible under these conditions, as soil depths are not sufficient to provide adequate filtration of effluent. Community sewage systems can only be installed at a prohibitive cost. Shallow soils also present substantial road and building construction problems. These soils should not be developed.

8. Characteristic: Moderate depth to bedrock.

Description: Soils with a depth to bedrock of 1 ½ to 4 feet.

Land use implications: These soils present moderate development limitations. [On-site sewage disposal] Onsite wastewater treatment problems can arise with effluent flowing directly over the bedrock into nearby drainages or groundwater supplies. The more shallow portions of these soils result in increased excavation costs. Intense development should not occur in these areas.

9. Characteristic: Deep soils.

Description: Soils with a depth to bedrock of more than four feet.

Land use implications: Relatively intense development can occur on these soils.

10. Characteristic: Extremely stony soils.

Description: Soils with over 35 percent coarse fragments less than three inches in diameter.

Land use implications: These soils present development problems. Excavation for such purposes as onsite [sewage disposal] wastewater treatment systems, homesites with basements, and streets and roads is costly and difficult. Soils with this description affect the rate at which water moves into and through the soil. The difficulty of establishing a good vegetative ground cover can cause erosion problems. Generally, intense development should be avoided on soils of this nature.

Paragraph 3 of section B. DETERMINANT: TOPOGRAPHY of Appendix Q-8 is proposed to be amended as follows:

3. Characteristic: [Law] Low and moderate slopes.

Description: Areas with slopes of not greater than 15 percent.

Land use implications: Such slopes can be developed at a relatively intense level, so long as careful attention is given to the wide slope variability in this range. Construction or engineering practices that minimize erosion and siltation problems must be utilized on the steeper slopes in this range.

Paragraph 1 of section C. DETERMINANT: WATER of Appendix Q-8 is proposed to be amended as follows:

1. Characteristic: Floodplains.

Description: Periodically flooded land adjacent to a water body.

Land use implications: These areas should not be developed. Periodic flooding threatens the safety of residents and the destruction of structures. Development that would destroy the shoreline vegetation would result in

serious erosion during flood stages. [On-site sewage disposal] Onsite wastewater treatment systems will not function properly and will pollute both surface and ground waters.

Paragraph 3 of section C. DETERMINANT: WATER of Appendix Q-8 is proposed to be amended as follows:

3. Characteristic: Marshes.

Description: Wetlands where there is found a grass-like vegetative cover and a free interchange of waters with adjacent bodies of water.

Land use implications: These areas present severe developmental limitations. Continual flooding makes [on-site sewage disposal] onsite wastewater treatment impossible and construction expensive. The filling of these areas will destroy the most productive [eco-system] ecosystem in the park and will lower their water retention capacity. Therefore, these areas should not be developed.

Paragraph 3 of section D. DETERMINANT: FRAGILE ECO-SYSTEM of Appendix Q-8 is proposed to be amended as follows:

**D. DETERMINANT: FRAGILE [ECO-SYSTEM] ECOSYSTEM**

3. Characteristic: Ecotones.

Description: Areas of abrupt change from one [eco-system] ecosystem to another, giving rise to extraordinary plant and animal diversity and productivity.

Paragraph 2 of section H. DETERMINANT: PUBLIC FACILITY of Appendix Q-8 is proposed to be amended as follows:

2. Characteristic: Proposed public sewer systems.

Description: Areas identified in a county comprehensive sewerage study where public sewer systems are considered feasible.

Land use implications: Encouraging relatively intense development in these areas will often provide the necessary impetus to establish the proposed systems. These systems will overcome certain health hazards and associated environmental problems that would [other-wise] otherwise be considered limiting.

Paragraph 4 of I. DETERMINANT: EXISTING LAND USE of Appendix Q-8 is proposed to be amended as follows:

4. Characteristic: Agricultural lands.

(a) (1) Description: Areas under intensive agricultural management in which there is evidence of continuing capital investment for buildings and new equipment.

(2) Land use implications: These areas are an important resource within the Adirondack Park. These areas are of economic importance in some areas of the park. Consequently, these areas should only be developed at a very minimal level of intensity.

(b) (1) Description: Areas containing less viable agricultural activities [frequently] frequently interspersed with other types of land uses.

(2) Land use implications: These areas are important to the [open-space] open space character of the park and also contain pockets of important agricultural soils. Consequently, they should be utilized for a low level of development intensity.