NEW YORK STATE | Adirondack Park Agency

FRESHWATER WETLANDS

This is a supplement to the Citizen's Guide, which provides basic information about Adirondack Park Agency regulations.

Regulated Wetlands

Defined in §802 of the Adirondack Park Agency Act, wetlands are "any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh which are either (a) one acre or more in size or (b) 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[1]." Section 578.3 of the Agency's regulations provides additional wetland information, and the criteria for identifying wetland areas are provided in the New York State Wetland Delineation Manual (available at http://www.apa.ny.gov).

Wetland Permitting

Under the Adirondack Park Agency Act and the Freshwater Wetlands Act, an Agency permit must be obtained for the following activities involving wetlands in the Adirondack Park:

1. Draining, dredging, or excavating[2] a wetland;

2. Placing fill, including soil, stone, sand, gravel, mud, trash, structures, pilings, roads, or any other obstruction or substance[3], into a wetland;

3. Clearcutting[4] more than three acres;

4. Releasing any form of pollution into a wetland, including pesticides and sewage effluent or other liquid waste;

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[1] Areas that are less than one acre in size and meet the New York State Wetland Delineation Manual criteria are considered wetlands for Agency purposes if: 1) the adjacent waterbody is at least 6.6 feet deep; 2) the adjacent waterbody is at least one acre in surface area; 3) the adjacent waterbody and the wetland together are at least one acre in surface area; or 4) the adjacent waterbody has a permanent surface water inlet or outlet.

[2] With certain exceptions; see section 578.3(n)(4) of Agency regulations and the Agency's flyer titled "Hand Harvesting of Aquatic Plants" for additional information.

[3] With certain exceptions; see section 578.3(n)(4) of Agency regulations for additional information.

[4] For Agency purposes, a clearcut is generally defined as any cutting of trees over six inches in diameter at breast height over any 10-year cutting cycle, where the average residual basal area remaining is less than 30 square feet per acre within the area harvested. See sections 570.3(f) and 573.7 of Agency regulations for additional information.

5. Installing any sewage drainage field or seepage pit or any sewer outfall in or within 100 feet of a wetland;

6. Undertaking any other activity within or outside of a wetland that substantially impairs the functions served by or the benefits derived from the wetland, including the diversion of surface or subsurface drainage or natural water flow that adversely affects the natural hydrological regime of or substantially increases erosion of or siltation or sedimentation into the wetland; or

7. Creating by subdivision any lot that contains wetlands and any lot adjoining a lot that contains wetlands, as well as all land use and development related to these subdivision lots, *unless* the Agency issues a letter finding that:
    - All lot boundaries will be located at least 200 feet from all wetlands;
    - All new roads providing access to more than one lot will be located at least 50 feet from all wetlands;
    - All non-wetland areas of the wetland subdivision lots will be accessible by road without crossing or causing adverse impacts to wetlands[5]; and
    - Any lot containing a lawfully existing principal building will also contain its associated water supply, wastewater treatment system, and an adequate replacement site for the on-site wastewater treatment system that is located at least 100 feet from all wetlands[6].

When a regulated activity is proposed, a wetland biologist will determine the value rating for the wetland. As described in §578.10 of Agency regulations, the standards for approval of activities involving wetlands depend on the value rating, with stricter standards for activities in high value wetlands. Please note that development is generally prohibited in wetlands with a value rating of "1."

For specific locations, the Agency will determine whether wetlands are present and will delineate wetlands upon the request of any person having a legal interest in the property. These determinations involve examination of maps at Agency headquarters, interpretation of aerial photographs, and/or field visits by Agency wetland biologists. Please contact the Agency for additional information.

WETLAND IDENTIFICATION AND IMPORTANCE

Deep Water Marsh

Areas of open water filled with plants that float freely or are rooted are called deep water marshes. The leaves of the rooted plants are either submerged or floating. Such plants as pondweeds, duckweeds, and wild celery are important food for waterfowl. The shallow waters of a deep water marsh and the protecting vegetation make them important areas for fish spawning and nurseries.

Deciduous Swamp

[5] This requirement is generally applied to mean that access roads could be constructed at least 50 feet from wetlands to reach all non-wetland areas of the subdivision lots.

[6] This requirement is generally applied to mean that the lot contains a potential replacement wastewater treatment system site that: 1) is at least 1,500 square feet in size; 2) is no more than 60 feet in length; 3) has slopes of 15% or less; and 4) and is located greater than 100 feet from all waterbodies.

These are wetlands where the covertype contains mostly live deciduous trees, twenty feet or more in height. The trees grow on hummocks or in seasonally or permanently flooded areas. Swamp maples and willows are evident in lowland deciduous swamps. These swamps are spotted with dead trees which are used by flying squirrels and chickadees. The swamps provide a habitat for nesting waterfowl and a great variety of birds and wildlife. Their soils are usually very fertile, promoting rapid plant growth and a wide diversity of plants and animals. Because these swamps filter great quantities of water, they play a very important role in purifying water and maintaining high water quality.

Wet Meadows

Wet meadows are wetlands where most of the cover is composed of sedges, rushes, and coarse grasses, most of which tend to grow in clumps. Groundwater is at or near the surface for much of the year, including significant parts of the growing season, creating saturated soils. These meadows are often found in the flood plains of lakes and rivers and in the areas once flooded by beaver dams or other impoundments. Their soils are mostly mineral in structure.

Bog

A bog is a closed wetland from which drainage is either extremely slow or absent and where the vegetation grows on a saturated mat of peat. The mat sometimes covers all of the surface of a shallow pond, sometimes it covers only a portion leaving open water. The peat is formed by species of sphagnum moss which die, but do not decay because of the acidity and low oxygen levels of the bog. All processes in a bog including nutrient recycling are slowed down by the stagnant acid water. This is why bogs are so sensitive. It takes centuries to recover from disturbance.

Emergent Marsh

Emergent marshes are shallow wetlands that are flooded with standing or running water much of the year. Their cover consists of such plants as cattails, bulrushes, pickerel weed, loosestrifes, and arrowheads. Emergent marshes have the most valuable covertype and one of the highest levels of productivity and habitat diversity. Not only does the vegetation in these wetlands provide nesting habitat, food, and cover for many waterfowl and other wildlife, but it adds large quantities of nutrients to food chains. These marshes are attractive to muskrat, ducks and geese, herons, and egrets, mink and deer.

Shrub Swamp

A shrub swamp is a wetland where woody shrubs, less than twenty feet in height, make up most of the covertype. Shrub swamps are often found in floodplains, in frost pockets and other depressions, on the edges of ponds, lakes and bogs, along meandering streams, and in hillside drainages. These areas have two things in common: fresh water flowing through them and a high level of productivity. Alders, hollies and viburnums typify these swamps and have berries which are eaten by a wide variety of birds. The shrubs are the nesting habitat of such diverse species as the rose-breasted grosbeak and kingbirds, and game birds, including woodcock, pheasant and grouse. It is also the habitat of beaver and otter, and waters adjacent to shrub swamps are essential to spawning northern pike.

Coniferous Swamp

A coniferous swamp is a wetland where most of the plant cover consists of live coniferous trees over twenty feet in height. The trees often grow on hummocks in deep organic deposits with pockets of water or sphagnum moss between them. Coniferous swamps are most important because they give off large quantities of water over much of the year. In summer, this process helps keep surrounding soil temperatures low. This, combined with the cooling effects of the swamps' dense shade, helps maintain low water temperatures critical to the survival of cold water fish in streams running through these swamps. The shelter offered by coniferous swamps creates clear wintering fields so important to the survival of deer and other animals and birds.

This flyer is intended to provide general information regarding Agency jurisdiction. Other provisions or restrictions may apply if an Agency permit or variance is required or if the property has previously been subject to Agency review.

Please contact the Agency with any questions at 518-891-4050. For a binding written response as to whether a specific proposal requires Agency review, please submit a Jurisdictional Inquiry Form (JIF). The JIF form is available on the Agency website at www.apa.ny.gov/Forms/jiform.pdf.