

SUMMARY OF REGULATORY IMPACT STATEMENT

The Lake George Park Commission (“Commission”) is directed by the Legislature to adopt rules and regulations in conformity with the provisions of the Environmental Conservation Law (“ECL”). Specifically, ECL section 43-0107(8) provides that the Commission may adopt, after public hearing, such regulations as deemed necessary to administer Article 43 of the ECL including section 43-0112(5) requiring promulgation of regulations relative to stream corridor management, including standards for locations of roads, stream channelization, frequency of stream crossings, timber harvesting and vegetative cutting restrictions within designated stream corridors.

The State Legislature has determined that it is in the public interest to preserve, protect, conserve, and enhance the unique natural and scenic resources of the Lake George Park (“Park”). In 1987, Chapter 617 was enacted to amend Section 43 of the ECL for the purpose, among others, to establish permit requirements and standards for the protection of stream corridors within the Park with the intent to preserve water quality of Lake George and its tributaries; to protect the riparian and aquatic ecosystems; and to provide environmentally sound use of the Park’s land resources.

Lake George (“Lake”) is a 44 square mile lake in the southeastern portion of the Adirondack Park and includes approximately 131 miles of shoreline and is fed by more than 150 streams. The Park is comprised of approximately 100 square miles of State-owned land in portions of Warren, Washington and Essex County and 12 local municipalities. The Lake is the primary drinking water supply for two municipalities, hundreds of commercial resorts and thousands of lakefront properties and the reserve supply for one municipality. The Lake supports a marine and tourism economy.

The Lake’s water source is precipitation either directly to the water surface or to the Lake’s watershed, including groundwater flows and surface water runoff carried by tributaries, which contribute approximately fifty-five percent of the Lake’s source by volume. Precipitation falling on developed areas produces stormwater runoff that is enriched in pollutants and contaminants. Urbanized runoff contains grease, oil, lead, plant nutrients, chlorides, suspended solids, fecal coliform bacteria and other contaminants. Water quality in Lake tributary streams and in the Lake is significantly reduced near storm sewer outfalls after storm events. For

example, while ninety-three to ninety-five percent of the Lake's watershed is undeveloped, developed portions contribute forty-three percent of the phosphorus load from watershed.

The Lake overall is experiencing diminished water quality. An analysis from 1980 through 1990 found, among other things, an increase of thirty to fifty percent in biological productivity, increased levels of various soluble nutrients and a gradual shift from oligotrophic to mesotrophic in portions of the Lake. Separate analysis has found increase chlorides over the last twenty-eight years. Tributaries of the Lake George Basin ("Basin") were identified as impaired waters on the 2008 New York State Section 303(d) List of Impaired/TDML Waters due to, among others, silt and sediment from runoff and erosion. Sediment deposits at the outfalls of major streams have created deltas interfering with navigation and recreation. Restoring seven affected shoreline areas will require the removal of over 200,000 cubic yards of sediment and will cost approximately 6 to 8 million dollars.

The Commission's review of existing regulations and measures designed to mitigate the impact of land development and stream disturbances found a lack of common objectives and consistent standards to maintain vegetative buffers along streams of a developed Basin. The proposed regulations establish designated stream corridors along DEC regulated and mapped streams that are tributary to the Lake for the purpose of protecting the water quality and environmental characteristics. The regulations identify the subject water course; establish a required permit for development, land disturbances and land clearing in designated stream corridors; limit construction of impervious surfaces; limit hydro-modification of identified stream channels; provide exemptions and waivers; and provide that variances may be pursued by application in accordance with 6 NYCRR section 646-4.18.

The proposed regulations retain stream buffers which will significantly reduce the future effects of unbuffered human land use on the environment. Stream vegetative buffers of sufficient width effectively reduce sediment and nutrients in overland flow; trap and filter a range of contaminants; slow soil sloughing and erosion; and protect animal habitats, migrations, and reproduction. Forest cover regulates temperature preserving fish and wildlife habitats. A vegetative buffer will reduce the anticipated future reduction in water quality in streams and the Lake as land is developed. Reduced water quality may lead to growth of water weeds and algae degrade effecting the environment and utility for recreation, navigation, and commerce. A

decline in water quality has been correlated to a decline in property values and tourism, which are economic effects recognized as having state-wide influence. The regulations will also have cost avoidance benefits as lake restoration costs will be reduced.

The State government, through the Commission, will have the direct costs of administering and enforcing the regulations and coordinating with the Department of Environmental Conservation (“DEC”), Adirondack Park Agency (“APA”) and the Department of Transportation (“DOT”). Staff resources will be used for permit monitoring, compliance, enforcement, and consultations with other agencies. It is estimated that there will be no additional cost to the Commission to administer the provisions of this program, as tasks will be delegated among existing staff. It is expected that the DEC will delegate permit issuing authority for ECL section 15-0501 to the Commission which will lead to a reduction in costs for the DEC and will offset some funds expended by the Commission. The DOT administers highway systems with stream crossings within the Park. These culverts and bridges require periodic repair and replacement and such activities may invoke the requirements of the proposed regulations. The Commission has agreements governing stormwater management with DOT which includes coordination of activities relative to stream corridors. The agreement provides for consultation between the agencies relative to jurisdictional activities. The consultation required is not anticipated to add any significant cost to DOT for providing notification to the Commission of such undertakings, as this practice is in place today to a large extent. County and municipal highway departments undertake stream disturbance projects under ECL section 15-0501 and are covered under DEC issued general permits. The proposed regulations include standards that have been in place in practice via DEC’s general permit for several years, and no substantial changes are anticipated. These design standards being implemented are not expected to increase construction costs for local government projects to build or replace stream crossings. Local governments will not experience additional costs unless they elect to enter into an agreement with the Commission to administer one or more aspects of the regulations. If a local government elects to enter into a delegation agreement, stream corridor vegetation protections will be incorporated into local land use programs. This would add an additional feature for review of projects already requiring a permit.

Project sponsors may incur costs in obtaining a permit, including limited technical or engineering services for consultation, preparation of project plans and interacting with the agency during the review process.

These costs depend upon the variables of the project including project location; existing development and prior land use approvals; and design flexibility. Additional costs for this project sponsors are seen as minimal, as described in the examples and narrative in the full Regulatory Impact Statement.

The proposed rule does not impose any program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district.

There is no duplication of rules or requirements of state and federal governments.

The Commission considered alternatives to the proposed regulations. To take no action would ignore the mandates of the ECL and would not resolve the lack of common objectives and consistent standards of the existing rules and regulations. It would also lead to the anticipated diminished water quality of the Lake. Alternatives were also considered for various definitions of a stream, various widths of the stream buffer, various projects subject to the requirements, standards for existing development and the variance standard.

The Commission also considered alternatives to the width of the stream buffer including a three zone buffer system which was determined to be an administrative burden, and a buffer of 100 feet which was ultimately determined to have an undue impact upon the regulated public. The Commission created a flexible variance standard balancing interest of community/environmental protections and property interests.

There is no conflict with federal standards as there are no existing federal standards for development, land clearing, and stream disturbance for preserving water quality of the Lake and its tributaries.

The proposed regulations will take effect upon adoption.