Emergency Projects
Frequently Asked Questions

Q: What is the reason behind the newly enacted APA Emergency Project Regulation?

A: Since 2011, natural disasters and weather events, such as Tropical Storm Irene, have resulted in significant damage to Adirondack communities. The APA's newly enacted Emergency Project Regulation clearly defines projects that qualify as emergency projects and are therefore exempt by statute from the APA's normal regulatory review. The regulations put in place a straight forward process that allows for a rapid, coordinated response by landowners, local governments, and State agencies to these events. In addition, the proposed regulations establish a streamlined after-the-fact certification procedure that results in clear documentation that the actions undertaken do not require additional permits or variances.

Q: Does work done during an emergency require advance review by the APA?

A: No. Consistent with the APA Act, the Emergency Project Regulation does not require prior review for anyone undertaking emergency land use or development which is immediately necessary for the protection of life or property. What the newly enacted regulation does is clearly define what emergencies and emergency projects are so that the APA's role is clear and predictable for landowners, local government officials and other State agencies. Landowners, local governments, State agencies, and emergency personnel may always undertake necessary actions to address threats to life or property.

Q: If advance notice is not required, what is the benefit of the newly enacted regulation?

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

Q: Is there a time limit on the APA's response to after-the-fact certifications of emergency projects?

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

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

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

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

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

Q: What is an Emergency Recovery Authorization?

A: The Emergency Recovery Authorization covers additional work necessary to recover from the aftermath of the emergency or to correct work done immediately during the emergency. Issuance is appropriate when there is not sufficient time to allow for normal permit and/or variance procedures.

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

A: Unlike an Emergency Certification, an Emergency Recovery Authorization is required before additional work may commence, but will be provided on an expedited basis. The APA will work with landowners, local governments, and State agencies to coordinate efforts for additional recovery from emergencies. The goal is to ensure that recovery work meets the long term protection and stabilization of valuable resources. The Emergency Recovery Authorization also assists in obtaining funding reimbursement for restoration work within the time frames imposed by the funding source.

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

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

Q: How will the APA work with landowners and municipalities?

A: An informational flyer detailing the regulations is available on the APA's website at www.apa.ny.gov. APA staff will provide ongoing professional advice to landowners and municipalities regarding appropriate measures to address emergency events, and will consult in advance of an anticipated emergency with local government officials and provide guidance and assistance in the development of an appropriate recovery plan, when appropriate.