

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
FOR THE LAKE GEORGE PARK STREAM PROTECTION REGULATIONS**

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
FOR
ADOPTION OF STREAM CORRIDOR MANAGEMENT REGULATIONS
FOR
THE LAKE GEORGE PARK**

**PREPARED BY: LAKE GEORGE PARK COMMISSION
PO BOX 749, 75 FORT GEORGE RD.
LAKE GEORGE, NEW YORK 12845**

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
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COVER PAGE

This is a Final Generic Environmental Impact Statement (FGEIS) for the adoption of stream corridor protection regulations for the Lake George Park.

The purpose of the regulations is to better protect the water quality of Lake George and its tributaries by retaining vegetative buffers along streams in the Lake's watershed when land is developed. It is also the purpose to protect the natural resources and hydrologic functions of streams by establishing standards for stream crossings and modifications.

The Lake George Park is located along the southeastern boundary of the Adirondack Park in upstate New York. The Lake George Park consists of the Lake and a defined area of the surrounding countryside that roughly aligns with the boundaries of the Lake's watershed. The total surface area of the Park is approximately 300 square miles. Areas of the Park are located within three counties: Warren, Washington, and Essex and within 12 municipalities: the Towns of Lake George, Warrensburg, Bolton, Hague, Horicon, Luzerne, Ticonderoga, Putnam, Dresden, Fort Ann, Queensbury and the Village of Lake George.

The Lead Agency for this action is the Lake George Park Commission, 75 Fort George Rd, PO Box 749, Lake George, New York 12845. www.lgpc.state.ny.us

The contact person is: Michael P. White, Executive Director
PO Box 749
Lake George, New York 12845
(518) 668 9347
mpwhite@lgpc.state.ny.us

The Final Generic Environmental Impact Statement was prepared by:

The Lake George Park Commission
75 Fort George Road, PO Box 749
Lake George, New York 12845

The LGPC received technical assistance in preparing some of the responses to public comments from:

Center for Watershed Protection, Inc. (CWP)
8390 Main Street
Ellicott City MD 21043

Maps and narratives about the preparation of maps were prepared by:

Warren County Soil and Water Conservation District.

The date of acceptance of the FGEIS is: _____

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SECTION 1. EXECUTIVE SUMMARY.

This is a Final Generic Environmental Impact Statement (FGEIS) for the development of stream corridor protection regulations for the Lake George Park. It has been prepared by the Lake George Park Commission (LGPC), a New York State planning, environmental and public safety agency devoted to the preservation of Lake George and the safety of its users. When promulgated, the regulations are intended to fulfill the responsibility of the Commission as set forth in Section 43-0112 (5) of the agency legislative mission. The FGEIS completes a Draft Generic Environmental Impact Statement (DGEIS) which was prepared for the LGPC by the Center for Watershed Protection.(CWP) The DGEIS is revised as herein noted and incorporated by reference into this FGEIS.

Article 43 of the Environmental Conservation Law conveys to the Commission specific responsibility to develop rules and regulations to protect the natural resources of the Lake George Park especially the superior water quality of the Lake. In 43-0112 (1) the Legislature acknowledges human activities in the Lake's watershed have the potential to degrade the Lake's water quality and that unabated pollution could render the Lake unfit for human consumption. The Legislature's directive on stream corridor protection in 43-0112 (5) follows this intent that development and use of the areas near streams occur only with the greatest care so that these corridors would be managed to avoid unwarranted impacts to the essential character of the Lake George Park.

Tributaries of Lake George are more than water conduits. They are resources in and of themselves. They provide human benefits and a range of biologic functions. In evaluating the potential environmental impacts of any program to protect this type of resource, it is appropriate to carefully consider the full range of environmental consequences that may result. Accordingly, the DGEIS correctly evaluated not just the lake water quality impacts but also the potential for human development to degrade the structural (morphic) hydraulic and biotic functions of streams.

The evaluation of existing conditions of development in the DGEIS has led the LGPC to the conclusion that there is an absence of consistent objectives and standards for stream protection around the Lake. It is also clear that stream corridors are being altered in ways that will have sustained environmental impacts. Finally, that there exist effective measures which if integrated into new development will significantly mitigate these impacts.

Presented therefore, are some critical issues relative to the future of Lake George, with no shortage of technical complexity added into the mix. In order to be effectively managed, development plans must yield somewhat to environmental considerations. At the same time, environmental objectives need to be cast in the context of essential social and economic considerations. Among these considerations are societal norms and legal protections relative to the use and enjoyment of private property. At the core, then is the need to find a path forward that balances environmental protection, fairness and the essential concept private property rights.

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This Final Generic Environmental Impact Statement (FGEIS) will endeavor to strike just such a balance between environmental considerations and the relevant social and economic considerations. To do so the FGEIS presents, in Section 2, a more detailed description of the history of the project and the steps and considerations that have preceded this point. The purpose of this summary is to demonstrate that the LGPC tested the proposition that there could be a general consensus among the various public and private interests as to a proper course to fulfill 43-0112 (5). Indeed some progress in reaching a shared understanding was made and can be gleaned from the record of results of this two year public planning effort. However, this state of general agreement that the Lake could be better protected could not be converted into a specific regulatory outcome that attracted wide support.

Section 3 presents the revisions to the DGEIS. The key revisions are those changes made to the DGEIS regulations. The significant revisions are presented in a ~~redline~~ version and discussed. Appendix A is the complete annotated revisions. There is also a list of corrections and revisions to the DGEIS. Thirdly, Section 3 has a section on the analysis of the effect on private property.

Section 3 also discusses the no action alternative in greater detail. The DGEIS presents, in some detail, the benefits to the water quality of receiving waterways and to stream ecology from the preservation of vegetative buffers along streams as land is developed. It also describes the currently applicable regulatory programs and standards. It is axiomatic that the no action alternative, the absence of sufficient buffers, is simply the reciprocal of the benefits expected to be derived from the action and thus the DGEIS is entirely centered on the no action alternative. However, in the interest of completeness, this FGEIS addresses the current approaches in land use and state regulations affecting streams in some greater detail for consideration in the final decisions. This analysis requires the assumption that the LGPC could ignore its legislative mission and that existing conditions and impacts would continue unabated in combination with future impacts.

Section 4 of the FGEIS contains a summary and response to public comments. Public comments received were extensive and robust. Some of the comments have led to reconsideration of the selected alternative in the DGEIS namely the draft regulations. Wherever a comment relates to a provision of the regulations that has been revised, the revisions are noted and the response indicates the rationale that was applied in making the change.

Section 5 describes the thresholds and conditions for future actions and criteria as to those actions which will require additional evaluation pursuant to SEQRA and 6NYCRR 617.

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SECTION 2. HISTORY OF THE PROJECT

The adoption of stream protection regulations for Lake George has its beginnings in the mid 1980s. The results of the Lake George Urban Runoff Study, and the companion Nationwide Urban Runoff Program (NURP) jolted people into a realization that urbanized runoff was having a much more significant impact on the water quality of Lake George than anyone could have believed. Many had assumed that the decline in the Lake's water quality was largely a function of poorly operating on-site wastewater treatment systems. However, the NURP results showed that the kind and concentration of contaminants conveyed by stormwater was easily capable of accounting for the bulk of the impacts that were altering the Lake.

Chapter 617 of the Laws of 1987 was the New York State Legislature's response amending Article 43 and giving broad new powers to the LGPC including the subject authority for stream corridor protection.

The LGPC's stormwater management regulations, promulgated in 1992 and revised in 1998, establish standards for development. Essentially, runoff from newly created impervious surfaces must be directed to retention and infiltration devices. Within these devices, surface runoff water is re-directed to the shallow soil where filtering by the soil particles, absorption and microbial action "treat" the runoff and structural aspects, retard its release to a flow rate consistent with pre-development conditions.

According to the most recent phosphorus budget for Lake George (Sterns and Wheeler, 2001), the majority of phosphorus entering Lake George is from surface runoff. While tributary streams contribute only 57% of the total annual water volume to the lake, they contribute 83% of the annual phosphorus load. The Sterns and Wheeler (2001) report also concluded that the majority of this phosphorus load comes from developed land. Although developed land at the time the report was prepared represented only 5% of Lake George watershed, it contributed 43% of the load from surface runoff, and 37% of the total phosphorus load, including groundwater and atmospheric sources.

The effectiveness of these stormwater control measures is certainly not absolute. Native forest coverage with the thick carpet of duff and considerable roughness may produce virtually no runoff during a modest (1 inch) rain storm (EPA). At the same time, a rain storm of similar size falling on a paved area may produce an inch of runoff per square foot or 124 gallons for every 10' by 20' parking space. This runoff is likely to release as much as 20 times the phosphorus expected to be released from a forest area of the same size (Lin 2004). Accordingly even if efficiency for the stormwater control measure is assumed at 90%, then phosphorus export is expected to double after paving. Site and design limitations, poor construction methods and lack of dedication to maintenance of stormwater control measures are ever-present variables that can reduce stormwater control measure effectiveness.

The design standards for stormwater control measures establish setbacks for infiltration devices from all permanent and intermittent streams to ensure that runoff has sufficient

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travel distance to effectively reduce containments before emerging in the stream channel. Areas subject to vehicle travel are required to be managed in stormwater control devices that are set back 100 feet from streams. Runoff from roadways and parking lots tends to contain grease, oil, lead, cadmium, chlorides, fecal coliform bacteria and plant nutrients. Since streams tend to exist at a valley floor having eroded a much wider swath, development along streams is almost always up-gradient of the stream. Stormwater is directed on project sites from higher to lower levels so that it is often very difficult to locate stormwater control measures anywhere except between the stream and the impervious surface.

2005

In 2005, the LGPC retained the Chazen Companies, Inc., (Chazen) a planning and engineering firm, to conduct an outreach and opportunities study. All local elected representatives as well as local planning and zoning officials received a questionnaire about the needs and prospective benefits of a Tree Cutting and Stream Corridor Protection Program. Chazen also conducted interviews with various environmental groups. The Chazen report was released in August 2005 and included the following pertinent results.

“The results of the survey call for improved measures to address stream corridor protection.

- 1. Eighty- six percent (86.3%) of the respondents agreed that activities taking place in stream corridors are a matter of concern for the community.*
- 2. Respondents are closely divided on whether local land use regulations adequately address stream corridor protection. Forty-four percent believe land use regulations adequately address the issue, while 35.6% expressed the controls as inadequate.*
- 3. Two thirds (66%) of the respondents indicated that their local planning board regularly addressed stream corridor protection during the site plan/subdivision review process. However, 69.3% believe measures to manage stream corridors could be improved.”*

Chazen also provided summary conclusions which advocated for a watershed planning approach to address the interwoven issues of water quality. The recommendations included the following pertinent findings.

“Our observation is that the watershed communities have a basic understanding that a problem exists, but lack clear definition of the issues, as well as the technical capacity to address the problems. Lacking a regional approach, a uniform solution has not been developed.

In contrast, the three advocacy groups we interviewed have a clear understanding of the problems, have worked to improve their technical capacity, and have developed their own individual approaches to resolving these watershed issues. The effort of lake protective groups have not resulted in a uniform approach or shared solution adopted by the municipalities.

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The common theme throughout the study was the need for a coordinated approach, the need to improve resources (i.e., staff, technical capacity) available to the local communities, and the importance of educating and involving all classes and categories of individuals and organizations (e.g. homebuilder, landowner, logger, excavator) that may have involvement in the land development process.”

The Chazen final report is incorporated by reference herein and included as Appendix C of this FGEIS.

2005- 2007

In November of 2005, the LGPC held a meeting in conjunction with the Lake George Watershed Conference¹ (now the Lake George Watershed Coalition) to discuss the content of a work plan for preparation of a Watershed Plan Governing Stream Corridor Protection and Tree Cutting. **A copy of the invitation and explanation about the meeting that was sent to the chief executive officer of each municipality is contained in Appendix C.** Attending conference members were invited to participate in the formulation of the key objectives of the plan

In accordance with the recommendations in Chazen 2005 and the advice received from Watershed Conference members, the LGPC undertook a community planning process with the goal of developing a Watershed Protection Plan Governing Stream Corridor Protection and Tree Cutting. In 2006, the LGPC retained Saratoga Associates, Architects, Landscape Architects, Planners and Engineers (SA) to conduct the planning process and prepare several integrated reports. The work plan for the project included the objective of fashioning regulations and programmatic approaches to fulfill the LGPC’s authority under the two topical areas. The company was to assist the LGPC in conducting a series of facilitated planning workshops, perform a literature review, conduct a “build-out” analysis, prepare a visual assessment, prepare draft and final impact statements and develop a regulatory impact statement and related State Administrative Procedures Act (SAPA) documents. Outreach work to various interest groups began in the Fall of 2006.

On behalf of the LGPC, SA developed a contact list. The contact list included chief elected officers (town supervisor/mayor) governing board members, planning and zoning board members and land use/zoning officials, environmental organizations, State agency representatives, chamber of commerce and similar business organizations, individual developers and others. During the final quarter of 2006, SA began a series of one-on-one meeting with groups and also began a coordinated public outreach and flow of initial materials.

¹ For a complete list of the membership of the Lake George Watershed Coalition visit lg2000@nycap.rr.com

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During 2006 and 2007, SA, at the LGPC's request, held four facilitated workshop meetings. More than 30 organizations were represented at one or more of the workshops including municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities, many of whom attended and participated. The outputs of the meetings were documented in a series of status reports by SA.

On December 4, 2007, the LGPC invited all of the stakeholder representatives (including local elected officials) to attend a meeting of the LGPC to hear about and discuss a preliminary draft of the regulations.

Subsequent to the meeting the LGPC determined the following:

1. The process to that point had helped to organize and energize stakeholders and to identify and narrow the issues to be decided.
2. There was the basis for a general agreement among participating entities that vegetative stream buffers offer environmental benefits but significant differences remained as to the necessary or desirable width of such buffers. Accordingly, a consultant could not draft a set of regulations that would be acceptable to all of the participants.
3. The preliminary draft regulations were overly complex leading to problems including misunderstanding and mistrust as to the intent and application.
4. There was a clear polarity in opinions as to who should administer the regulations.
5. The information provided by SA was deficient to form a scientific basis for selecting an appropriate buffer width for protecting the Lake's water quality and other objectives of the plan.

Subsequently, the LGPC determined to discontinue its relationship with SA and withdraw the preliminary draft regulations. Also, it was decided to proceed with the stream corridor protection regulations and reserve on tree cutting so as to simplify the process as much as possible. Thirdly, the LGPC decided to retain a new consultant with special expertise to assess watershed issues and stream buffers.

Early in 2008, the LGPC retained Center for Watershed Protection (CWP) to take up where the project left off, to prepare an environmental impact statement and draft regulations.

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CWP held two public meetings in May and June 2008 to gather impression from stakeholder organizations and the public about the issues. The invitees included a growing list of stakeholders including municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities, many of whom attended and participated.

The DGEIS was the subject of internal LGPC review during the Fall of 2008 and was released on January 5, 2009.

The LGPC formally accepted the DGEIS as complete on January 27, 2009 and set a period for public comment until March 15, 2009. The SEQRA hearing consisting of a morning/afternoon and evening sessions was held on February 24, 2009.

The following is a time line of the significant events in the process leading up to completion of the FGEIS:

May 16, 2005 – On behalf of the LGPC, The Chazen Companies conducted an initial assessment of opportunities for a shared consensus on tree-cutting and stream corridor protection. A questionnaire about needs, benefits and opportunities was distributed to each municipal, planning and zoning board member and to every organization identified as having a potential interest. Chazen Companies also held a series of meetings with identified stakeholder organizations.

August 9, 2005 – Chazen Companies report was released. The key recommendation was that the LGPC utilize a planning and programmatic approach to develop the initiatives to fulfill 43-0112 (5). The report which was mailed to the Supervisor/Mayor of each municipality, is attached as Appendix C of this FGEIS.

November 9, 2005 – The LGPC coordinated a meeting with the Lake George Watershed Conference to solicit information from conference members on a work plan for a contract to advance the Initial meeting held at the Lake George Watershed Conference

February 15, 2006 – A letter was sent from LGPC Chairman Young to the CEOs of each municipality announcing that Saratoga Associates (SA) had been retained to undertake a planning and public participation process on tree-cutting and stream corridor protection.

March 7, 2006 – A SEQRA lead agency coordination letter was sent to state agencies and Supervisor/Mayor of each municipality.

October 20, 2006 – A letter was sent to a list of organizations including the Supervisor/Mayor of each municipality and planning board chairs to encourage input and participation in the coming planning process. The letter indicated that they would soon be contacted by SA about the first meeting.

October 27, 2006 – A letter and e-mail distribution from SA to a list of organizations, Supervisors/Mayors of each municipality and municipal officials invited officials to attend or, if unable to attend, to designate a representative to attend the initial project meeting November 16, 2006. (To the LGPC's knowledge, no CEO official designated a representative)

November 13, 2006 – A meeting announcement, agenda, Project Overview & Emerging Discussion Points and Exploratory Report was distributed to the growing list of "stakeholder" organizations including Supervisor/Mayor of the municipalities.

November 16, 2006 - The first in a series of four facilitated workshop meetings was held among stakeholder groups. Stakeholder participation would eventually grow to more than 30 organizations. The

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purpose of the workshops was to advance and understanding of the issues and to more toward a consensus on the necessary and appropriate actions. The Zoning Officers/Land Use Coordinators for the Towns of Bolton, Hague and Lake George and a Village Board member from the Village of Lake George were regular attendees and participants at these meetings.

December 11, 2006 – The LGPC coordinated with the schedules of each lakefront Supervisor/Mayor to be sure they were available to attend a luncheon meeting. At the meeting those present heard a presentation by SA on the process and CEOs and representatives of the LGPC discussed issues.

January 18, 2007 – The second meeting in the series of facilitated workshops was held. The SA representatives conducted a consensus building process and group discussion exercise.

April 18 2007 – The third in the series of workshops was held. Dr Kenneth Wagner, a consulting limnologist with ENSR, presented on the design of vegetative buffers for stream protection. More than 60 individuals including municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities attended and participated.

July 2007 – The LGPC's newsletter, which has a circulation of 10,000 copies, updated the public on the status of the project and invited public comments and participation.

August 16, 2007 – A distribution by SA sent to stakeholders announces the availability of results of the public participation process thus far and gives notice of the coming meetings. Stakeholders are encouraged to attend as the meeting will be the final in a series before SA will offer recommendations to the LGPC

August 31 and September 6, 2007 – The final facilitated workshop meetings are held with pointed effort to resolve differences remaining especially on the issue of buffer width. Invitees included municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities, several whom attended and participated.

November 16, 2007 – The LGPC releases draft for discussion tree-cutting and stream corridor protection regulations.

November 28, 2007 – The LGPC holds a public meeting on the preliminary draft for discussion regulations and accepts public comment.

January 2008 – The LGPC announces that it has concluded its engagement of SA and intends to contract for additional consulting services. Also, to reduce complexity, the LGPC intends to proceed with the stream corridor protection regulations and reserve action on the tree-cutting regulations.

February 29, 2008 – As lead agency, the LGPC provided notice that it has adopted a SEQRA Positive Declaration

March 11, 2008 – Letter to Stakeholder Organizations & Individuals regarding Adoption of SEQRA Positive Declaration.

April 1, 2008 - The LGPC's spring newsletter provides an update on the project and directs interested parties to the LGPC web site for review of a growing body of material on the topic of stream corridor protection.

April 30, 2008 – The LGPC gives notice to its list of stakeholders, now over 100 organizations and individuals and to the public and media of the first of two public meetings coordinated by the Center for Watershed Protection (CWP).

May 28, 2008 – CWP gives a presentation and holds a discussion with attendees at workshop meeting.

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June 12, 2008 – Notice of the second meeting on Stream Corridor Management in the LG Park is distributed.

June 25, 2008 – The second CWP workshop meeting held. The invitees included more than 60 organizations including municipal planning and zoning staff, board members and chief elected officers of the lakefront municipalities, many of whom attended and participated.

November 26, 2008 – The LGPC issues a news release regarding the revised schedule for release of the DGEIS.

December 2008 – LGPC representatives visit Supervisors of the Towns of Hague, Bolton and Lake George and spoke by telephone with the supervisors of Queensbury and Dresden.

January 5, 2009 – Announcement is made of the availability for review of the Draft Generic Environmental Impact Statement (DGEIS).

January 27 2009 – The LGPC formally “accepts” the DGEIS and sets the public comment period.

January 29, 2009 – A letter is sent to municipalities notifying them of the availability of the DGEIS

February 12, 2009 – The LGPC gives notice of the public hearing on Draft Generic Environmental Impact Statement (DGEIS)

February 24, 2009 – Public Hearing held at the Holiday Inn (a.m. session) and Public Hearing held at the Fort William Henry Conference Center (p.m. session)

The LGPC’s original work plan with Saratoga Associates provided for public scoping to occur before drafting of the DGEIS. At the outset of 2008 as CWP was retained, the LGPC reasoned that the extensive and comprehensive public planning process conducted during 2006 and 2007 was sufficient to identify the main issues, potential impacts and subjects of public controversy and therefore, that a formal scoping process would be redundant.

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SECTION 3. REVISIONS AND CORRECTIONS TO THE DGEIS

3.1. REVISIONS TO THE DRAFT REGULATIONS

The regulations in the DGEIS which in SEQRA parlance represent the selected alternative have been revised.

(text to be added is underlined. Text to be deleted is in ~~strike through~~.)

1. Perhaps the most significant revision to the DGEIS regulations redefines a stream to comprise those streams identified on a map and inventory. The revision references a new Appendix A. The map of streams in Appendix A is the same map which appears as Figures 1 -4 on pages 16 through 18 of the DGEIS.

~~Stream means shall include a any permanent or intermittent natural water course identified in Appendix A Inventory and Map of Protected Streams.~~

2. The definition of *existing development* has been revised and a new definition for *existing lot of record* has been added. The DGEIS regulations applied more flexible standards to the construction of a single family house and related facilities on a vacant parcel in a subdivision approved for a single family house by a municipality or the APA prior to the effective date of the regulations. The revision expands this to apply to any existing lot of record. A significant number of parcels along streams were created by divisions before subdivision approvals were required. This treatment of existing lots of record is more consistent with the approach taken by municipal land use programs.

Existing development means buildings, structures, impervious surfaces, landscaped areas, utilities and ~~accessory structures amenities on a parcel or contiguous parcels in common ownership devoted to a single land use present~~ on the effective date of this Article.

~~Existing development shall also include a vacant parcel in a subdivision approved for a single family home by a municipality or the APA prior to the effective date of this Article.~~

Existing lot of record means a portion or a parcel of land the boundaries of which are described in a deed that has been properly recorded in the County Clerk's Office prior to the effective date of this Article. Whenever two or more contiguous existing lots of record are held in common ownership on the effective date of this Article such lots shall be deemed to be a single existing lot of record.

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3. A definition for accessory structure has been added so that the use of the term in the regulations would be clarified.

Accessory structure or use means a structure or use that is clearly incidental and subordinate to and serves the principal use or building and is located on the same lot with the principal use or building.

4. *Landscaped area* is a term used in the definition of existing development and also used in an exemption. Landscaped areas existing on the effective date of the regulations can be maintained. A definition of *landscaped area* has been added to clarify the intent in this regard.

Landscaped area means an area of vegetation which has been actively maintained as a lawn, garden, hedge, planting bed, or rain garden.

5. The regulations employ the definitions in 6NYCRR 645-2 and 646-4 unless otherwise noted. The definition of development in 646-4 includes subdivision of land. The addition of the phrase *including the subdivision of land*, accordingly, is not substantive but is intended to help clarify the regulations.

No person shall undertake development, land disturbance, or land clearing including the subdivision of land in a designated stream corridor without first receiving a permit pursuant to this Subpart.

6. The definition of emergency actions that are exempt from permit requirements has been revised. The revision would clarify the regulations to allow those activities necessary to protect life, health and property. No prior notice is required to undertake emergency actions. Those undertaking such actions would be required to notify the LGPC within three days.

Emergency actions necessary to protect the public health, safety or welfare or to prevent damage to private property for which notice is provided to the Commission within 72 hours after the emergency action~~authorized in writing by the Commission.~~

7. Three additional exemptions have been added.

Removal of storm damaged trees that are a hazard to people or buildings.

Construction of a fence.

Agricultural activities that the Commission determines are in accordance with a soil and water conservation plan approved by the appropriate county soil and water conservation district.

8. There was a public comment expressing concern that the land owner notification for timber harvesting may develop into a burdensome requirement. The revision here and

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the creation of a new Appendix B is intended to reduce this concern by demonstrating that the notification is a simple check sheet and can be modified only by formal revisions to these regulations.

The permit requirements in Section III 1 of this Article shall not apply to timber harvesting provided the following are met:

- i. the property owner provides a completed *notice of intent to harvest timber checklist* (Appendix B) to the Commission a minimum ten (10) days in advance of starting land disturbance or vegetation removal and posts a copy of the *notice of intent to harvest timber checklist* in a conspicuous location at the access to the property to be harvested,
- ii. the project does not require construction of a stream crossing, road, log head, land clearing or land disturbance in the riparian zone,
- iii. timber harvesting is in accordance with the *New York State Forestry Best Management Practices for Water Quality BMP Field Guide*, which is expressly incorporated herein by reference and can be found at www.dec.ny.gov.
- iv. not more than 50% of the basal area of trees is removed within the riparian zone,

9 As indicated above, removal of storm damaged trees that represent a hazard to people or buildings has been added to the activities exempted from permit requirements. A revision to the standards for activities allowed in the riparian zone clarifies that a permit is required prior to the removal of down trees within 50 feet of the high water mark. As explained in the DGEIS, downed trees are the base of a food web that supports life in the stream. Downed trees in the stream bed also create structure that benefits many species. It is a natural process. Retention of downed trees should be encouraged but there will be occasions when removal of such will be reasonable and necessary. Please refer to revision 7 above and the following revision to the standards.

~~Fallen or undermined~~ trees that ~~represent a direct threat to human life or~~ are blocking stream channels,

10. The term water quality treatment practices used in the allowed activities in the outer zone is imprecise as mentioned in several comments. The DGEIS regulations have been revised to clarify that stormwater control measures are an allowed use provided they are in accordance with the stormwater design requirements. Generally, stormwater design requirements allow location of controls within the stream corridor only for minor project impervious areas that are not subject to vehicular traffic. Grassed filter strips are a stormwater control measure that has been shown to enhance the stormwater management functions of a vegetative buffer when designed to maintain a diffuse flow of surface runoff. Grassed filter strips should not be fertilized but they can be mowed and watered. They can have the appearance and many of the functions of a lawn. Many public comments expressed the opinion that the DGEIS regulations are overly restrictive

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of private property owners. In response, gardens have also been added to the allowed uses in the outer zone.

Gardens, and stormwater control measures consistent with the design standards of this Subpart.

11. The standards for existing facilities have been revised to incorporate the new term *existing lot of record*. As explained in revision note #2, the more flexible standards of meeting design requirements “to the maximum extent practicable” with a 35 foot minimum setback for all development and clearing now applies to pre-existing lots as well as to approved vacant parcels. The more flexible continues to apply to expansion of any existing facility by up to 25% of impervious surface in any consecutive 10 year period. The phrase in the designated stream corridor has been deleted. The previous phrasing may have lead to confusion in applying the 25% rule. As it now reads, the 25% expansion applies to all impervious surface area of an existing facility whether or not any of the existing impervious area is located within the designated stream corridor.

3. Standards for ~~the expansion of~~ existing lots of record development

Provided i, ii, iii and iv of this section are met, the following uses may be authorized by a permit:

A. A single family ~~home house, driveway and accessory structures related facilities may be constructed~~ on an existing lot/vacant parcel of record.

B. The expansion of ~~of~~ property in a subdivision approved for such use by a municipality or the APA prior to the ~~effective date of this Article and any~~ existing development ~~may be continued or expanded in the designated stream corridor~~ up to a 25% increase in impervious surfaces ~~in the designated stream corridor~~ in any consecutive 10 year period. ~~provided all of the following are met:~~

12. The FGEIS revises the DGEIS regulations to add a provision for the Commission to grant a waiver in an individual case where an applicant proposes to undertake a project under the standards for *existing development* and the area within the 35 foot setback is greater than 30% of the area of the *existing lot of record*. The revisions establish certain conditions and limitations on waivers for minimum environmental protection. The revisions also authorize the agency to delegate approval of waivers to staff so that project sponsors so affected do not confront unnecessary delays in administrative processing of permits.

C. Waiver provisions for existing lots of record of a certain size.

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The Commission may grant a waiver allowing construction of a single family house, driveway, and accessory structures on an existing lot of record within 35 feet of the high water mark of a stream when it is determined that the area within 35 feet of the mean high water mark is greater than 30% of the area of an existing lot of record provided all of the following conditions exist:

i. development, land disturbance, land clearing and vegetation removal shall be limited by the Standards for Protection of Stream Corridors in 1 and 2 above to the maximum extent practicable,

ii. The total area of lot coverage by impervious area including any building, driveway, parking area, deck, patio, sidewalk and hardscape following the development does not exceed 30 percent coverage of the existing lot of record,

iii. The slope is not greater than 10 %,

iv. The project complies with the standards and requirements for stormwater management contained in this Subpart.

D. The Commission may delegate the authority to issue waivers to Commission staff and may impose conditions on any waiver that it determines are necessary to protect the resources of the park and the public health, safety and welfare.

13. The FGEIS revises the DGEIS regulations in regard to passing the 50-year, peak storm rather than the 50-year 24 hour storm. The revision also allows a greater design capacity to be required when a hazardous condition is identified.

1. All stream crossings shall be designed to safely ~~pass accommodate~~ the fifty (50)-year, ~~peak twenty-four (24) hour~~ storm event. The Commission may require additional design features it determines necessary to prevent a hazard to down stream property-

14. The reference to amending the stream map has been deleted. By incorporating the map into the regulations, streams may be added or subtracted only by promulgating revisions to the regulations.

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~~4. The Commission shall prepare and amend as necessary a map of streams that shall aid in identifying the streams subject to this Article. The Commission shall provide notice to affected property owners of any amendments to the map.~~

15. The separate provision related to emergency actions is being deleted and language added to exemptions that allow actions necessary to protect people or buildings.

~~**Section XI. Emergency Actions**~~

~~The Commission may issue written authorization for emergency actions which would otherwise be subject to the permit requirements of this Article when it determines such actions are necessary to prevent harm to the public health, safety and welfare, to avoid damage to property or structures and to reduce the likelihood of environmental damage provided such actions are consistent with the standards herein.~~

The complete annotated revised regulations are attached as Appendix A.

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SECTION 3.

3.2 REVISIONS TO THE TEXT OF THE DGEIS

16. Page i:

Delete the following text:

The purpose of the regulations is to better protect the water quality of Lake George and its tributaries by retaining vegetative buffers along streams in the Lake's watershed when land is developed. It is also the purpose to protect the natural resources and hydrologic functions of streams by establishing standards for stream crossings and modifications.

Replace with:

The purpose of the regulations is to preserve the water quality of Lake George and its tributaries, protect the riparian and aquatic ecosystems and hydrologic functions of streams within the Lake George Park. This will be accomplished by establishing permit requirements and standards for the protection of stream corridors, and establish standards for stream crossings and modifications.

17. **Section 3.1**

Page 13, In the paragraph that begins, "Lake George has historically..."

Replace the paragraph with the following text:

Lake George has historically been one of the clearest lakes in the region. In 2001, the "Lake George Plan for the Future" (LGWC, 2001), was developed to chart a course for future management in the Lake George Basin. In order to prepare this plan, a committee composed of scientists, government officials, and representatives of the municipalities was formed. The Committee reviewed scientific literature available to that point, and concluded that, over the past 20 years, ongoing monitoring programs have indicated declining water quality, particularly in the southerly portions of the lake. Nonpoint source pollution was identified as the single greatest threat to the Lake, including impacts from septic systems, poor land use practices, untreated stormwater runoff, stream bank erosion, and other pollutant sources.

18. Page 13, In the third line of the paragraph that begins, "Chloride Concentrations.."

In the second sentence, delete the text:

"LGA, 2001"

Replace with:

"LGWC, 2001"

19. Page 14, 6th line

Delete the following text:

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“in the case of small headwater stream protection”

Also delete the word “buffer”

20. Section 3.2 Project Benefits

Page 14:

Delete the following text:

The implementation of stream corridor management would offer numerous benefits to the Lake George Watershed (as discussed in detail in Chapter 7), including:

Replace with:

The proposed regulations will preserve the water quality of Lake George and its tributaries and protect the riparian and aquatic ecosystems and hydrologic functions of streams within the Lake George Park. These goals will be accomplished by providing the following direct benefits to the streams of the Lake George Watershed (as discussed in Chapter 7), including:

21. Section 4.5 Quality of Streams Contributing to the Lake

Delete the following text:

“The streams of the Lake George Watershed are primarily first and second order, or “headwater” streams, on highly erodible soils with steep slopes. These characteristics make these streams highly vulnerable to the impacts of development. “

Replace with:

“The streams of the Lake George Watershed are primarily first and second order, or “headwater” streams. These small intermittent and perennial streams are highly vulnerable to development. In Lake George, the highly erodible nature of the soils combined with the steep slopes throughout the watershed increase the potential for erosion throughout the network of small streams.”

22. Section 4.6.1 Water Quality of the Lake

Page 23, First Line:

Delete the text:

“as reported by LGA, 2001”

23. Section 5.0 Impacts of Land Development

Page 26, in the first sentence of the paragraph that begins, “In lake systems, decreased...”

Delete:

“headwater streams, which are often not identified on maps.”

Replace with:

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“first and second order headwater streams, which are often not identified on available USGS maps”

24. Page 26, in the first sentence of the paragraph that begins, “About 90%...”

Delete:

“About 90% of Lake George’s streams are headwater streams, and these are critical to the riparian and lake ecosystems. Like most headwater streams, they often flow only during rainfall or snowmelt. They are often lost to drying and may be buried, piped, moved or filled during construction, despite their collective importance to higher order streams and other downstream waters.”

Replace with:

“An initial analysis of mapped DEC streams in the Lake George Basin, suggests that approximately 90% of the stream segments are headwaters (i.e., first or second order). These small, often steep, streams are critical to the riparian and lake ecosystems. A significant fraction of this small stream network may be buried, piped, moved or filled during construction, despite their collective importance to higher order streams and other downstream waters.”

25. Section 6.3 Municipalities in the Lake George Basins

Replace this entire section with the following text:

The municipalities of the Lake George Basin have, to varying degrees, laws in place to provide stormwater management, vegetative clearing standards, and restrictions in the stream corridor.

Stormwater Management

The Towns of Queensbury, Lake George and Bolton, and the Village of Lake George have adopted the Lake George Park Commission’s regulations for stormwater management. In the remainder of the watershed, the stormwater management regulations are administered by the LGPC.

Vegetative Clearing

In addition, some of the municipalities have measures in place governing the removal of vegetation. A summary of these findings is as follows:

- The Towns of Lake George and Queensbury are the only municipalities with specific standards for tree clearing.
- The Village of Lake George and the Towns of Fort Ann, Putnam, Ticonderoga, Hague, and Bolton have some tree clearing guidance, but no specific standards.
- The Town of Dresden has no process in place to review plans or regulate land development.

Stream Corridor Management

Five of the nine municipalities have restrictions in their zoning codes which affect building in the stream corridor. These restrictions differ widely between towns in terms

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of the definition of a stream, restrictions on cutting and filling, and setbacks for buildings and other impervious cover (Table 1). Only two of these five municipalities, the Town and Village of Lake George, explicitly protect intermittent streams. Thus, there is an absence in some areas and in other areas a lack of uniform and effective protection for the headwater streams that are so important to watershed health.

Perennial streams are not much better protected. Restrictions on land development near perennial streams, where they exist, vary greatly between municipalities. While some municipalities reference and implement APA standards for clearing vegetation, others have different standards. The Town of Lake George, for instance, requires a site plan but does not disallow stripping or filling within 100 feet of streams. This site plan approval requirement only applies to navigable waters. As mentioned above, navigable stream segments represent a very limited number of Lake George tributary streams. The Town of Bolton, on the other hand, effectively applies a slope protection standard, disallowing cutting or grading within 10 feet of the top of the slope. Building setbacks apply in several municipalities and typically range from a 50 to 100 foot setback from streams depending on the zone. However, only one municipality (Queensbury) requires a specific setback for other impervious surfaces.

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26. Section 7.0 Project Benefits

Page 37, First Paragraph of Section 7.0

Delete:

“The Lake George Basin is dominated by steep, small streams, and an initial analysis of its stream network suggests that 90% of the mapped stream segments are headwaters.”

Replace with:

“The Lake George Basin is dominated by steep, small streams, and an initial analysis of mapped DEC streams in the Lake George Basins suggests that approximately 90% of the stream segments are headwaters (i.e., first or second order).”

27. Section 8.1.1: Alternative 1: Recommended Buffer Widths

Page 45, Last bullet before table

Delete:

“EOR (2001) recommends a minimum 100’ buffer for all streams with steep slopes (Figure 15). “

Replace with:

“EOR (2001), summarized recommended buffer widths in scientific literature, based on an exhaustive literature review (Figure 15). While this specific review was for wetland buffers, the recommended widths can be applied to stream buffers as well, based on the desired functions of the buffer. At a minimum, the streams of the Lake George Basin require sediment and phosphorus reduction on steep slopes.”

28. Section 8.4.1 Alternative 1

Page 53, Delete

“Since the maps were produced, the database has been expanded to add streams discovered and documented.”

Add

“The map in the DGEIS was prepared for the LGPC by the Warren County Soil and Water Conservation District (WCSWCD) and released for public review in June 2008. Subsequently, WCSWCD added one additional documented stream to the database. Printed versions of the revised database were released to the public by WCSWCD but the revisions were never incorporated into the DGEIS. The mapped streams and stream segments represented on the LGPC Map of Designated Streams are the same ones contained on the WCSWCD June 2008 map which is also contained in the DGEIS.”

29. 8.4.2 Alternative 2. Apply to Intermittent Streams

Page 53, First Paragraph of this section, starting at the second sentence.

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Add the following text:

“Sutherland (2001) found that 25% of the streams entering Lake George are intermittent, (i.e., flowing only during wet periods), with another 40% exhibiting low flows during dry periods. While the majority of the flow into George Lake is delivered by larger streams (i.e., 2/3 of the flow by the seven largest streams), these are in turn fed by a network of smaller streams, including intermittent streams in the headwaters. Thus, by an estimate, a significant percentage of the total stream flow to the Lake is conveyed at some point in intermittent streams. Such streams are subject to erosive forces and can transport significant quantities of nutrients and sediments directly to the Lake and to other streams. Accordingly, the protection of these resources in any water quality program is a logical and necessary step.

30. 8.4.4 Selected Alternative

Page 54, First Paragraph

Delete

“The proposed regulation would apply equally to intermittent and perennial streams. This option was selected for several reasons. First, intermittent streams convey a significant percentage of the Lake’s source water. To exclude them from the definition of a stream would reduce the effectiveness of the stream buffer program to filter nutrients and pollutants from areas being developed. Second, this approach allows for easier administration because the presence of perennial streams does not have to be determined. Variations in rainfall from year-to-year can limit the ability to identify perennial streams, particularly during dry years. Having a clear standard also reduces the potential for disagreement to arise over whether certain portions of the stream are intermittent or perennial.”

Add

“The selected alternative and revised FGEIS regulations define a stream to mean those watercourses that are represented on the Inventory and Map of Protected Streams which will be promulgated with the regulations. The Inventory and Map of Protected Streams is contained in Figures 1 – 4 in the DGEIS. The Inventory and Map of Protected Streams includes virtually all of the USGS “blue line” (perennial) and “dashed blue line” (intermittent) streams. This selected alternative is within the range of alternatives identified in the DGEIS and as in the DGEIS would exclude ephemeral streams. The alternative was selected in consideration of the public comments received. The LGPC has reasoned that this alternative provides much more certainty as to the number and location of streams and adjacent properties that will be subject to the regulations. It will also eliminate the need to conduct a field investigation and to complete an assessment to determine whether a particular unmapped stream segment is ephemeral or intermittent and thereby improve responsiveness to jurisdictional inquiries. There are an unknown number of small streams and stream segments not identified on the map. These may drain catchments and flow directly to the Lake or join and contribute to larger (map) streams. The LGPC intends to continue to canvass the Park and identify and classify streams. This may lead to an update of the Inventory and Map at some future date.

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However, any such update will require a revision to the regulations with appropriate public notice and participation.”

3.3. Additions to the DGEIS

1. Evaluation of the Effects on Private Property

Concurrent with the preparation of draft regulations, the LGPC undertook an analysis of the potential effect of stream buffers of various widths on private property.

Data in a geographic information system (GIS) stream inventory database were accessed. This information included a delineation of all parcels within the Lake George Park with land area that drains to Lake George directly or via tributaries. Parcels outside the Lake’s drainage basin were not included since projects on such property would be exempted from the proposed regulations.

Stream data used was originally imported from a GIS database of protected streams (NYSDEC). Obvious errors were corrected. Information on parcel boundaries was obtained from county tax records and merged.

There are an estimated 115,849 total acres of land surface within the Lake George Park that drains to Lake George directly or via a tributary stream. Of this area, approximately 65,553 acres is private land surface (WCSWCD 2008). Figure 1 shows the distribution by Town.

Figure 1.

<u>Town</u>	<u>Total Land Area in LG Basin Area (Acres)</u>	<u>Total Private Land Area in LG Basin Area (Acres)</u>
Ticonderoga	2863.01	2762.77
Lake George (T)	13222.04	9973.17
Lake George (V)	287.61	269.48
Hague	29507.24	12885.94
Bolton	32257.68	20150.39
Dresden	8717.40	3624.66
Putnam	5459.73	4921.09
Ft. Ann	12114.41	4368.89
Queensbury	8532.44	7062.79
Warrensburg	1995.20	1465.74
Lake Luzerne	221.10	221.10
Horicon	3534.32	609.83

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Totals:	115849.16	65553.08
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Parcels having any portion of area within 110 feet of the approximated centerline of a designated stream were identified using a Geographic Information System (GIS). The 110 distance assumes a designated stream corridor width of 100 feet and an average stream width of 20 feet. Approximately 5185 acres of private land would be contained within a designated stream corridor of 100 feet. This area represents 7.9% of the total area of private land within the Lake George drainage basin.

There are 2309 parcels of private property (21% of the total number of private parcels, 10,995) which contain some area within a designated stream corridor. Figure 2 displays the distribution of these parcels by municipality.

Figure 2.

	<u>Parcel Count (Total) in LG Basin</u>	<u>Total Private Parcel Count in Basin</u>	<u>Private Parcels impacted by 110 ft. buffer</u>	
Ticonderoga	778	760	77	9.90%
Lake George (T)	2466	2417	544	22.51%
Lake George (V)	608	581	104	17.90%
Hague	1628	1436	353	24.58%
Bolton	3320	3134	659	21.03%
Dresden	499	457	114	24.95%
Putnam	680	669	89	13.30%
Ft. Ann	616	554	133	24.01%
Queensbury	1690	1648	212	12.86%
Warrensburg	40	31	15	48.39%
Lake Luzerne	19	19	3	15.79%
Horicon	34	9	6	66.67%
Totals:	11600	10955	2309	21.08%

Affected parcels are those that will be the site of future development, land disturbance or vegetation clearing within a designated stream corridor. Projects on property along streams that can direct development and disturbances away from the stream corridor can avoid permit jurisdiction. An estimation of the number of “affected parcels,” therefore requires a projection of the number of parcels that will be the site of a future development project some portion of which is located within the designated stream corridor. There is no good way to project how many such parcels may be the subject of future development.

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Figure 3 presents the number of parcels affected by more than 20% by stream buffers of various widths as a percentage of the total affected.

Figure 3.

<u>Town</u>	<u>Percent Parcels Where 110 ft buffer is greater than 20% of total parcel area</u>	<u>Percent Parcels Where 50 ft buffer is greater than 20% of total parcel area</u>	<u>Percent Parcels Where 35 ft buffer is greater than 20% of total parcel area</u>
Ticonderoga	48.1%	27.3%	20.8%
Lake George (T)	64.0%	35.1%	26.8%
Lake George (V)	67.3%	38.5%	23.1%
Hague	57.8%	26.6%	18.1%
Bolton	51.6%	25.9%	17.8%
Dresden	61.4%	28.1%	21.1%
Putnam	48.3%	23.6%	10.1%
Ft. Ann	46.6%	21.1%	13.5%
Queensbury	53.3%	22.2%	13.2%
Warrensburg	13.3%	0.0%	0.0%
Lake Luzerne	33.3%	33.3%	0.0%
Horicon	16.7%	0.0%	0.0%
Total	46.8%	23.5%	13.7%

Parcels that are potentially affected were selected as to whether they were vacant or occupied based on the broad assumption that vacant parcels are more likely to undergo future development. Of the 2309 potentially affected parcels, 2279 are in lakefront communities. Of this set of potentially affected parcels, 1596 are identified as occupied by an existing home or business. 683 are identified as vacant. Construction or expansion of single family homes and accessory structures and expansion of other facilities by up to 25% on these existing lots of record would be subject to the stream protection standards to the maximum extent practicable with a minimum building and clearing setback of 35 feet.

The LGPC reviewed calculations of the area within 35 feet of streams as a percentage of the total parcel area. Figure 4 presents the results as distributed by municipality.

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Figure 4.

<u>Town</u>	<u>Mean percentage of area within 35 ft. for all parcels</u>	<u>Mean percentage of area within 35 ft. parcels > 20 acres</u>	<u>Mean percentage of area within 35 ft. parcels < 20 acres</u>
Ticonderoga	17.46%	4.02%	21.74%
Lake George (T)	19.55%	3.80%	22.86%
Lake George (V)	23.64%	0.00%	23.64%
Hague	13.53%	4.37%	16.87%
Bolton	12.93%	4.08%	15.41%
Dresden	17.92%	4.44%	24.54%
Putnam	11.53%	3.48%	15.14%
Ft. Ann	11.20%	3.59%	14.15%
Queensbury	11.11%	4.33%	14.00%
Warrensburg	4.87%	3.25%	8.12%
Lake Luzerne	10.51%	4.47%	16.55%
Horicon	4.31%	4.46%	3.56%
Mean	13.21%	3.69%	16.38%

In the overall, the minimum setback for development from streams of 35 feet for existing lots of record encompasses an average of 13.2% of the area of those parcels. Parcels greater than 20 acres have an area within the 35 foot distance of 3.7% on average, parcels less than 20 acres average 16.4 % within the 35 foot area. (There are a very small number of affected parcels (22) in the off-Lake municipalities. Their inclusion in the calculation of mean percentage affected skews the result toward a lesser value)

The relationship between the size of parcel and the mean area affected by the 35 foot distances was evaluated. Figure 5 reveals that there are 1707 existing parcels in the lakefront communities affected by a buffer distance of 35 feet, 417 of which are less than one acre. Of these, the area affected by a 35 foot buffer is 33.2% and 27.5%, for vacant and occupied parcels, respectively.

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Figure 5

Town Vacant land	<u>Private Parcels impacted by 35 ft. buffer</u>	< 1 ac.	mean %	1-5 ac	mean %	5-10 ac.	mean %	10- 20 ac.	mean %	vacant > 20 ac.	mean %
Ticonderoga	30	10	43.77%	4	15.67%	4	5.33%	2	4.70%	10	3.70%
Lake George (T)	126	33	37.22%	47	18.25%	15	5.70%	14	12.55%	17	5.19%
Lake George (V)	5	4	29.78%	1	2.23%	0	0.00%	0	0.00%	0	0.00%
Hague	73	18	33.15%	29	16.48%	6	11.94%	5	2.85%	15	6.34%
Bolton	175	22	29.06%	48	12.99%	38	8.52%	32	7.12%	35	3.69%
Dresden	31	11	29.88%	4	14.89%	2	6.21%	3	8.35%	11	6.04%
Putnam	27	5	33.52%	7	9.32%	2	7.36%	4	2.58%	9	3.74%
Ft. Ann	32	10	28.14%	9	7.67%	5	4.44%	2	5.68%	6	4.60%
Queensbury	54	6	34.43%	24	13.38%	5	6.32%	6	6.63%	13	4.04%
Total			33.22%		12.32%		6.20%		5.61%		4.15%
Occupied											
									10.49		
Ticonderoga	28	11	25.52%	9	14.40%	3	1.56%	1	%	4	4.80%
Lake George (T)	277	102	34.62%	98	15.81%	18	7.95%	6	6.87%	53	3.36%
Lake George (V)	5	4	29.78%	1	2.23%	0	0.00%	0	0.00%	0	0.00%
Hague	193	53	21.27%	55	13.24%	13	11.86%	16	7.50%	56	3.84%
Bolton	354	71	30.23%	5	14.76%	52	7.31%	25	7.14%	81	4.25%
Dresden	54	18	39.92%	13	15.78%	2	3.96%	4	%	17	3.41%
Putnam	44	9	21.96%	14	15.36%	6	9.04%	2	8.50%	13	3.29%
Ft. Ann	79	17	21.70%	14	14.53%	8	10.38%	15	6.19%	25	3.48%
Queensbury	120	13	22.23%	36	14.48%	19	10.86%	13	7.12%	39	4.43%
Total	1707	417	27.47%	53	13.40%		6.99%	150	7.12%	404	3.43%

The affected area within a 35 foot buffer for 417 parcels < 1 acre (27% for occupied, 33% for vacant parcels) is the primary reason the LGPC revised the DGEIS draft regulations to add a waiver provision. The significant computation is not parcel size but percent area

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affected. Even larger parcels can be more significantly affected if, for instance, they are bisected by a meandering stream. Accordingly, a percent affected threshold was adopted as the basis for determining eligibility of a parcel for a waiver.

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3.4. NO ACTION ALTERNATIVE

Should the LGPC elect to ignore the legislative directives of 43-0112 (5) then the foreseeable result is a continuation in development practices that prevail and which have resulted in the decline of Lake water quality, the loss of stream ecological functions and acceleration of sedimentation and erosion as is so clearly described in the DGEIS. In fact, the number and magnitude of such conditions could be expected to increase and the effects of the additional impacts would combine with the existing impacts to accelerate the Lake's decline. The DGEIS does not include a section entitled, "No Action Alternative." The action evaluated in this document is the implementation of Stream Corridor Standards. Thus, the "No Action Alternative" is described by Sections 5 and 6 of the DGEIS. These sections discuss the adverse impacts of development and the limited nature of programs currently in place to address these impacts.

There does not appear to be any common objectives or consistent standards to maintain vegetative buffers along streams when land is developed under current state and local codes. APA shoreline setbacks are not applicable to the basin's streams except for limited reaches that are navigable. DEC protection for streams deals only with disturbances to the bed and banks of a stream. Typically this limits DEC's authority under ECL Article 15 to the stream high water mark. It should be noted that this authority was in place when the Legislature drafted its directive to the LGPC.

With one limited exception, there are no impervious surface setback requirements for streams currently in place under municipal land use program. There are no stream corridor protection standards to limit vegetation clearing near streams in five of the nine lakefront municipalities, generally those where the LGPC administers stormwater management regulations. A hodgepodge of clearing limits and building setbacks apply under local codes in the remaining four municipalities. For example, both Lake George and Hague have cutting restrictions that relate to navigable streams. Of the very extensive network of Lake George tributaries in these towns, few reaches could be considered navigable even by canoe. Building setbacks are the most common restrictions near streams. These range from 30 feet in one community to 50 feet in another to 100 feet in certain zones of the remaining two communities.

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Table 1. Local Zoning Provisions Relative to Stream Corridors

Municipality	Stream definition	Cutting restrictions	Filling/use/disturbance	Building setbacks	Impervious area setbacks
Lake George(V)	All perennial and intermittent streams	Adopts APA standards**	None	50 feet	None. 50% to 90% coverage allowed
Lake George(T)	All perennial and intermittent streams	Stripping within 100 feet of navigable streams requires site plan*	within 100 feet of navigable streams requires site plan	30 feet or as in shoreline setback only from navigable streams.	None, but may be required for site plan approval
Bolton	None	No cutting within 10 ft. of the top of slope	no grading within 10 ft. of the top of slope	Shoreline setback applies to any brook, stream or river. Also 50-100 for certain zones.	None
Hague*	Navigable by boat*	Adopts APA standards** 35 feet along shoreline of streams with 20% removal for access (or as in cutting plan)	None	50 to 100 ft depending on zone	None
Queensbury	Not defined referred to as those regulated by DEC		50 feet no fill or hard surfacing	50 to 200 feet depending on zone	50 feet no fill or hard surfacing
Fort Ann	none	none	none	none	none
Dresden	none	none	none	none	none
Putnam	none	none	none	none	none
Ticonderoga	none	none	none	none	none

* Defining streams as those navigable excludes most segments of LG tributaries

**APA standards apply only to navigable streams. Most reaches of LG tributaries are not navigable even by canoe

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SECTION 4 SUMMARY AND RESPONSE TO COMMENTS

There were approximately 375 comments received on the Draft Generic Environmental Impact Statement. These include about 315 written comments and 60 oral statements made at the public hearing. Typically, comments covered more than one topical area but could be interpreted as generally supportive of the purpose of the regulations or generally opposed. Approximately 210 of the comments are interpreted to oppose the regulations with 34 of these offered by people who clearly indicated that they own property along a stream that would be affected by the rules. Of these, approximately 107 comments expressed similar concerns including: the lack of a clear definition of a stream; unwarranted encumbrance of private property; regulatory “taking”; anti-growth/ anti property rights; road runoff the bigger problem; and lack of scientific justification.

Approximately 165 comments have been interpreted to be supportive of the need for regulations. Many of these supportive comments related opinions that stream buffers are essential to protect the water quality of Lake George. Of these, approximately 113 advocated at least some strengthening of the regulations. A majority of those supportive comments suggested increasing recommended buffer widths to 150 feet, adding a provision to expand buffer widths at steeper slopes, increasing limits on timber harvesting in the riparian zone and adding clarification and definitions. Many of the generally supportive comments objected to a specific provision that would allow the Commission to delegate administration of the regulations to willing local governments indicating that local government efforts to protect the Lake have been unsatisfactory.

The Commission also received letters from elected officials that warrant acknowledgement here. New York State Senator Elizabeth O’C. Little wrote in strong opposition to the regulations indicated her hope that they be withdrawn from consideration as unnecessary. New York State Assemblywoman Teresa R. Sayward also wrote in strong opposition stating that the regulatory action should be suspended until a favorable resolution can be reached between local municipalities and property owners.

The State elected officials refer in their letters to resolutions adopted by the Warren County Board of Supervisors and by the Town Boards of Hague, Bolton, Lake George, Warrensburg, Ticonderoga and Horicon that oppose the current draft regulations. The resolutions indicate that there is no scientific documentation supporting the need, nor has the Commission considered alternatives or adequately assessed the impacts on citizens. The resolutions further express that the existing laws and permit process adequately protect the Lake, and that the rules are unnecessary, vague and complex. The resolutions opine that the Commission has not adequately consulted or notified affected property owners.

Washington County commented on the regulations as well. These comments raise similar need, justification and definition issues in opposing the current form of the rules.

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Comments were also received from New York State Department of Environmental Conservation and the Adirondack Park Agency.

For the purposes of responding, comments that were shared by a number of people have been summarized. These generalized comments are reported first. Individual comments or unique aspects of the general comments are addressed second.

Generalized Comments.

A significant number of comments expressed issues with the need for the regulations in the first place, questioning the explanations and justifications in the DGEIS.

Response

The Commission was prompted to consider the concept of stream corridor protection by the legislative directives of Article 43-0112 (5) which states:

"The Commission shall, after consultation with the department, the department of health, the Adirondack Park Agency and each municipality located in whole or in part within the Park, further promulgate regulations relative to stream corridor management which shall include standards for the location of roads, stream channelization, the frequency of stream crossings, and timber harvesting and vegetative cutting restrictions within designated stream corridors. The regulations adopted pursuant to this section may be stricter than regulations promulgated by the department."

Having considered expert advice provided by the Center for Watershed Protection, the LGPC finds that the current condition, characterized by an absence of stream corridor protections in many areas of the Park and limited provisions applicable elsewhere, is inadequate to protect the water quality of the Lake and the general quality of Lake tributaries. Accordingly, the need for the regulations is established by the legal mandate of Article 43 and the lack of consistent and effective stream corridor protections now in place.

Existing Conditions Are Not Adequate

There does not appear to be any common objectives or consistent standards to maintain vegetative buffers along streams when land is developed under current state and local codes. APA shoreline setbacks are not applicable to the basin's streams except for limited reaches that are navigable. DEC protection for streams deals only with disturbances to the bed and banks of a stream and was in place when the legislature drafted its directive to the LGPC. With one limited exception, there are no impervious surface setback requirements for streams currently in place under municipal land use program. There are no stream corridor protection standards to limit vegetation clearing near streams in five of the nine lakefront municipalities, generally those where the Commission administers stormwater management regulations. A hodgepodge of clearing limits and building setbacks

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apply under local codes in the remaining four municipalities. These range from 30 feet in one community to 50 feet in another to 100 feet in certain zones of the remaining two communities.

Existing Stormwater Management Programs Are Not Sufficient to Protect Streams From The Impacts of Development Along Them

Contrary to the popular notion, Lake George is not primarily “spring-fed.” Rather its primary source is precipitation, the majority of which is transported to the Lake by streams (Shuster 1994). A main concern is what happens between the point precipitation reaches the ground and the point it enters a stream. In its transit, runoff removes pollutants from impervious surfaces which are dissolved or suspended in the runoff. The amount and characteristics of such material being “washed” from developed areas is very significant in comparison to the amount released from undeveloped land (Sutherland 1983).

Stormsewer systems concentrate runoff and pollutants and discharge them to receiving waters. Several of the natural streams entering the Lake are now primary conduits for urbanized stormwater runoff and have outfalls located near public and private beaches where contact recreation occurs. Water quality of the Lake is significantly reduced near stormsewer outfalls following storm events (Siegfried 1982).

It is possible to mitigate some of the water quality impacts of development by incorporating effective stormwater control mechanisms. Infiltration of runoff from impervious surfaces into the ground is the objective of the Lake George Park Stormwater Management Program. Movement of the runoff through the soil reduces suspended sediments and some portion of the nutrients including Phosphorus, some of which is transported attached to the sediments. Microbial action and chemical exchange also occurs in the soil. Nitrogen, another key nutrient, is most effectively removed by the uptake by woody plants and trees as the plume of infiltrated runoff moves through the shallow groundwater (Mayer, Reynolds, Canfield 2005). Separating grease and oil from the water, settling of suspended sediments in ponds and filtering and nutrient uptake by wetland type vegetation are also stormwater control strategies.

Generally, locating impervious surfaces in stream channels is incompatible with effective stormwater management. Impervious areas must be constructed to maintain certain distance separations from streams in order to provide adequate distance for effective stormwater treatment. The separation distances of impervious surfaces from the streams establishes an area in which to locate stormwater control measures that receive runoff as gravity flow from up gradient impervious development. This enables the construction and location of devices which detain and filter runoff before release or which infiltrate it into the soil.

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Stormwater control measures are assigned values for their effectiveness in removing various pollutants based upon empirical measures of their performance (Schueler, 1996). For example, certain simple control measures such as grassed filter strips may effectively remove 80% of suspended sediments by volume when they are initially constructed. As with any filter, the greatest volume of reduction is achieved by removal of the larger particles, a design feature most easily achieved. Greater levels of treatment require removal of the smaller particles. Smaller size aggregates are very difficult to remove by filtering and the primary mechanism for removal of small-sized sediments and soluble nutrients is infiltration (Gharabaghi 2001).

A filter designed to capture smaller particles tends to plug if it is loaded with coarser material because the pore space and roughness of the filter surfaces are lost over-time. This reduces long-term effectiveness. Accordingly, treatment effectiveness for stormwater is optimal when designs incorporate several methods in series. Effective designs attend to the removal of coarser material first, usually by settling. After removal of coarse sediments, infiltration and vegetative uptake can be used effectively to further reduce pollution concentrations.

Phosphorus removal rates for many devices fall in the 30 to 60 % range (EPA Technical Note #95). The *New York State Department of Environmental Conservation Stormwater Construction Design Manual* establishes a 40% removal rate for Phosphorus whenever post-construction water quality treatment is required. Yet, the load of phosphorus from a parking lot may be 20 times the amount in runoff from the same area when it was native forest (DGEIS). Accordingly, a 50% Phosphorus reduction under such circumstances results in a ten fold increase in load. At this level, treatment methods are inadequate to achieve the standards of protection for water quality that the Legislature established in Article 43-0112.

Infiltration in a vegetative buffer is a good method for additional removal of fine particles and soluble nutrients (www.maf.govt.nz) when preceded in series by other devices to remove floatables, coarser particles and grease and oil. Accordingly, it is the LGPC's conclusion that additional water quality benefits are derived from the introduction of vegetative stream buffers in association with effective stormwater management. Further the application of such buffers is necessary in order for the LGPC to reach the legislative findings required under 43-0112 that stormwater management incorporated into development achieves optimum protection of water quality and that pollutants loads in runoff following development do not exceed that which prevailed from the site prior to development.

Construction of Impervious Surfaces Immediately Along Streams Delivers Stormwater Runoff Rapidly

Another impact on streams and the Lake occurs when development alters ground and surface water flows. Impervious surfaces prevent infiltration of precipitation

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and transport surface water runoff rapidly into conduits and receiving waters. This rapid release of water during storms raises the water level of streams above natural levels and may causes scouring and erosion of the stream banks. The resulting sedimentation affects life in the stream and water quality in the Lake in several important ways. With less infiltration, there is reduced groundwater replenishment. Groundwater is the primary source to sustain stream flows during non-storm periods. The reduction in the contribution to stream flows from groundwater during dry periods after development can reduce or eliminate the stream habitat for a variety of species. When impervious surfaces are located in close proximity to streams there is limited opportunity to effectively prevent rapid transport of runoff to the stream

Stormwater Programs Are Inadequate to Protect Key Functions of Streams Including Habitat

Removal of vegetation immediately along streams has consequences for wildlife and fish habitat, as well. Stream water temperature is a key factor in habitat for fish and other species and the loss of the tree canopy can result in a significant increase in stream water temperature. The removal of vegetation, especially on the moderate to steep slopes and sandy/loam soil found locally, starts the process of soil sloughing and erosion that transports sediments and organic matter to the stream. Sediments overlay desirable stream bottom habitat and fine particles reduce predation opportunities, clog gills and disrupt fish reproduction. Removal of vegetation or suburbanization removes amphibian habitat and disrupts animal migrations and reproduction.

Development Close To Streams Reduces The Natural Flow Variations

Streams are dynamic and energetic systems that are interacting with the surrounding land. Streams around Lake George have eroded impressive valleys and will eventually fill and destroy the Lake. The position of a stream at any given point of time is transitory with changes expected to occur in relative short order in a geologic timescale. Accordingly, the effective management of the functions of a stream requires that a certain area of land also be managed. The strength of the interaction of the stream and the adjoining land is a function of distance with the strongest connection occurring at the closest point and diminishing outward. Vegetation along the banks of the stream and on nearby slopes is a critical feature of the land/stream dynamic when the energetic and ecological functions of the stream are considered.

Comment

Perhaps the topic most frequently addressed is the issue that the regulations establishing a 100 foot zone of protection along streams represents a “taking” by regulation of the total

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value or a significant portion of the value of private property. Comments in this regard cited several examples including ones wherein the location of a stream coursing through a parcel would deny the owner virtually any area for building or customary use of property. Another example cited a large parcel with two streams so that the area affected by the buffers would be a significant percentage of the parcel's total area.

Response

The LGPC has incorporated flexibility into the regulations to ensure that private property impacts are given appropriate consideration and that there are measures to effectively mitigate disproportionate impacts in individual cases. The LGPC has identified three components to this essential consideration.

The first and most obvious consideration is to insure that the regulations do not abridge the continued use of land and improvements thereon that are existing when the regulations take effect. The regulations have several clear expressions in this regard. Existing buildings, landscaped areas, uses and impervious cover are clearly exempted from the permit requirements and standards and may be continued and maintained. A public comment suggested the need to clarify the meaning of the term landscaped area. A definition of this term has been added to the regulations and this revision to the FGEIS is noted.

The second consideration deals with future projects on existing parcels and with the expansion of existing facilities. The DGEIS regulations establish a more flexible standard for *existing development* in recognition of the fact that optimum distances for protective buffers may not be practically possible in cases where lot sizes and dimensions are a given. Separate standards are established for expansion of existing facilities up to 25% and for new homes on vacant parcels. These projects have to meet the general standard for stream corridors to the "maximum extent practicable," with a minimum setback from streams for all clearing and impervious surfaces of 35 feet from the high water mark of the stream.

Public comments pointed out that existing parcels may not result from approved subdivisions but rather were created prior to the effective date of subdivision regulations. Under certain legal constructions there may be a vesting of rights in such holdings that bears consideration in this context. The FGEIS revises the DGEIS to add a definition of *existing lot of record*. The effect of this revision is that the more flexible standards for existing development (maximum extent practicable/35 feet) apply to projects on any pre-existing parcel which involve the construction of a single family house or to the expansion of any existing facility by up to 25%.

Thirdly, even in consideration of the less restrictive standard for *existing development*, the LGPC's evaluation of the effect of the regulations on private property reveals that some properties will be disproportionately affected when the

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small lots are bordered or bisected by a stream. The magnitude of the effect can be calculated as a percentage of the total area of the parcel that is contained within the 35 foot minimum setback for *existing development*. (see evaluation of affected parcels) Public comments expressed concern that an inordinate number of properties seeking variances could lead to delays and administrative complexities for applicants. The LGPC has also reasoned that when too many variance applications are required the program becomes unwieldy.

The FGEIS revises the DGEIS regulations to add a provision for the LGPC to grant a waiver in an individual case in which an applicant proposes to undertake a project under the standards for *existing development* and the area within the 35 foot setback is greater than 30% of the area of the *existing lot of record*. The revisions establish certain conditions and limitations on waivers for minimum environmental protection. The revisions also authorize the agency to delegate approval of waivers to staff so that project sponsors so affected do not confront unnecessary delays in administrative processing of permits.

The fourth consideration is the overarching authority of the LGPC to grant a variance to any provision of the regulations when the record supports that the impact of the strict application results in a disproportionate effect. This may from time to time relate to the concept of reasonable return on investment when land is held as a commodity in anticipation of some future return following development. However, a finding of hardship is not required for the area variance standards being referenced. Rather, the variance criteria apply a flexible standard of balancing interest of community/environmental protection and property interests. It is a benefit that the criteria for variances being employed have a well established track record and case law history.

Comment

A large number of the comments indicated that the LGPC has failed to adequately evaluate the impact on private property. Several of these comments referred to data in a preliminary assessment of regulatory flexibility that was released by the LGPC and which includes a list of potentially affected properties near streams.

Response

Concurrent with the preparation of draft regulations, the Commission undertook an analysis of the potential effect of stream buffers of various widths on private property. The FGEIS includes revisions to the DGEIS to incorporate the data that the LGPC considered.

Affected parcels were identified using a geographic information system database. The affected acreage overall was determined for parcels, any portion of which is within 110 feet of a mapped stream. This assumes an average stream width of 20 feet. The area of each parcel affected by buffers of 35, 50, 75 and 110 feet were

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calculated and expressed as a mean percentage of the parcels for each municipality. Since parcel size is a factor in determining the percent affected, the LGPC evaluated the percent affected as a mean value for various parcel size categories. The results of this analysis and the LGPC's conclusions are set forth in Section 3 of the FGEIS.

The protection of 100 foot stream buffers when large upland parcels are subdivided is not particularly problematic since the area affected is a relatively small percentage of the parcel and the building density allowed is generally low. Provisions are made in the regulations for more flexible standards for existing lots of record. A setback of 35 feet for existing lots of record affects, on average, 12.3% of the area of affected vacant parcels that are 1 – 5 acres in size, 13.4% for occupied parcels in the same size categories. The LGPC has reasoned that buffers affecting 25% or less of a parcel's area would not constitute a taking of the property since the remaining area provides for development and customary uses.

There are 417 parcels of the 2307 overall affected parcels less than 1 acre in size. For these parcels, the mean area affected by a 35 foot setback is 33.2% for vacant parcels and 27% for occupied parcels. The LGPC has noted that these smaller parcels along streams and especially ones bisected by a stream would be disproportionately affected.

The LGPC has also noted that runoff from existing developed areas is having a significant effect on the Lake's water quality and that this condition is particularly difficult and costly to reverse. Any remaining vegetated areas along streams in previously developed areas likely provide the only semblance of stormwater pollution abatement. The loss of these buffers due to expanded development is particularly problematic. It is under these circumstances that the combined objectives of protecting natural resources without undue impact upon private property become most complex. At this critical nexus, the balancing of interests can only occur by careful review of the individual circumstances. Therefore, the challenge in drafting regulations is to ensure that flexible mechanisms exist for these future decisions.

Schueler and others have noted the direct relationship between percent impervious coverage in a watershed and the decline of water quality of receiving waters. As percent imperviousness of the watershed increase there is a direct and proportional decline in water quality. At 30% impervious, the effects of stormwater runoff on receiving waters becomes particularly difficult to mitigate. The effect is confirmed locally as reduced Lake George water quality near stormwater outflows is correlated to percent imperviousness (Siegfried 1982).

As explained above, the LGPC has revised the regulations and the selected alternative in the FGEIS to include a waiver provision for projects affecting existing facilities and existing lots of record where the area within the 35 foot setback from streams is greater than 30% of the area of the existing lot of record. Also, the regulations adopt the stormwater management variance standards. These are

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“area” variance criteria as opposed to the generally more difficult “use” standards. The standards are consistent with standards in municipal codes.

Comment

Many comments expressed that the vegetative buffer should be expanded to 150 feet.

Response

The DGEIS evaluates a range of buffer widths and related strategies. The LGPC believes the selected alternative best balances the environmental benefits and the other essential social and economic considerations including the effect on private property.

Comment

Many comments expressed that the buffer width should be expanded for projects on steep slopes.

Response

As explained in the DGEIS, the pollutant removal benefits of buffers are directly and inversely related to slope. Accordingly, slope is the most common variable used to expand buffer widths in the codes and ordinances reviewed for the DGEIS including the EPA model ordinance. The DGEIS gives this alternative a careful discussion. However, determining slope and dealing with issues related to slope add complexity to the administration of the regulations. When slope is used in this way, the location of the buffer boundary on the ground at any point cannot be determined until the slope is determined.

The selected alternative of a conservative stream corridor width of 100 feet was made in consideration of the moderate to steep slopes prevailing in the Lake George basin. A uniform width avoids complexity that would otherwise encumber the permit process with slope determinations for each application. This will save time and costs for applicants and the LGPC.

Comment

The regulations have the effect of reducing the value of property.

Response

The Commission has reasoned that the value of private land is primarily a function of demand. Proximity to Lake George, an immensely valuable property amenity, helps drive a robust demand for property along and near the Lake. The effect of the Lake on property values can be examined by comparing the assessed value of land

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near the Lake with land of similar topography and location that is not along the Lake.

The Town of Bolton has several miles of Lake frontage and more than a billion dollars (\$1,078,964,805)² in assessed value of property. The land without improvements is assessed at \$669,694,549 or \$16,798 per acre. Warrensburg a neighboring town with no frontage on the Lake, similar in size and terrain and with good access to I87 has a land value assessment one fifth that of Bolton (\$128,538,800) or \$3,238 per acre. Thurman a town equal distance from I87 as Bolton but 30% larger has a total land value assessment less than one tenth of its Lake front neighbor.

The high value of property located in Lake front communities converts to relatively modest property tax rates. (tax paid = rate x assessed value). Tax rates that are the envy of most communities and sales tax revenue from tourism are spin-off amenities that the Lake provides to Lake front communities and property owners. Property values are also affected by other community amenities such as highly rated public schools. Lake George, Bolton, Whitehall, Fort Ann and Ticonderoga schools are districts that benefit from the high value of assessed property because of the Lake's influence.

There is ample evidence that diminished water quality of lakes reduces the value of nearby land (Maine DEP). Poor development practices and ineffective oversight potentially impact thousands of homes and businesses along the lake, thousands who rely on the Lake for drinking water and untold numbers who recreate, visit and enjoy the Lake's splendor.

Lake users rate water quality as the most important feature affecting their enjoyment of the Lake (Holmes 2006). Accordingly, protecting the amenity value of Lake George can be seen as essential to protecting current property values as well as preserving the splendid rate of growth in value that this proximate property has enjoyed.

It is anticipated that there will be cases where the effect of the rules on an individual parcel will be unduly burdensome. There are provisions to grant a variance in any individual case where the rules cause a disproportionate effect on a land owner.

Comment

A very frequent objection recorded was that the regulations create uncertainty as to the specific streams that would be subject to protection. Many commenters expressed concern with the definition of stream that includes intermittent water courses with no corresponding definition of intermittent. Many opined that this would lead to the application of the standards to an inordinate number of waterways. A parallel to this

² Warren County Real Property 2008 data.

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concern is the greater and undeterminable amount of private property that might be affected.

Response

The DGEIS regulations have been revised to define the streams to be protected as those appearing on the map and listed on the inventory of streams. The LGPC intends to promulgate the map and the inventory of streams that is contained in the DGEIS. The inventory of streams is well advanced and includes virtually all of the perennial streams and many intermittent streams especially the larger ones. Additional work will be progressed to identify streams that should be protected but these may be added only by the promulgation of revisions to the regulations. The regulations establish a three year period from their promulgation as a timeframe for review of the regulations. This would be an appropriate timeframe to consider revising the inventory and map of streams. The revisions to the FGEIS are being noted here and in the summary of revisions.

At such time revisions to the stream map are proposed the public would be afforded notice pursuant to the State Administrative Procedures Act with an opportunity for comment. A public hearing would also be required. This should help reduce concern among property owners that streams would be added without due process or sufficient justification.

Comment

Some commenters expressed opinions that first and second order streams only be the subject of protections. (The stream order methodology, use of terms in the DGEIS such as headwater stream and the definition of streams in the regulations appears to be creating some confusion).

Response

Revisions to the DGEIS have been identified so there is a more consistent use of terms. The term first order stream is used most often in the literature to describe a stream that has a source in precipitation or groundwater. A second order stream is formed by the joining of two first order streams and so on. There are several reasons to regulate the first, second, third and fourth order streams, including:

- While the eight largest streams carry much of the volume of runoff they are formed by the confluence of numerous smaller tributaries. Regulating only the larger streams, would effectively be regulating only the main stems of the larger streams. There remains the real potential for environment impacts both to the larger streams and the Lake to result from construction in the corridors of smaller streams.**
- The DGEIS summarizes many of the benefits of small, headwater streams, including supporting the quality of larger streams and as habitat.**

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Comment

A significant number of the commenters expressed the opinion that the DGEIS fails to provide sufficient scientific justification that 100 foot stream buffers are necessary to protect the water quality of Lake George. Further, they opine that much narrower buffers in combination with the effective stormwater management program presently in place would effectively protect streams and the Lake water quality while reducing the effects on use of private property.

Response

Please refer to Comment #1 for a discussion of the pollutant removal/treatment limitations of stormwater control measures. Even with stormwater management utilizing the controls most highly rated for effectiveness, retaining vegetative buffers along streams provide additional benefits for the Lake's water quality that are necessary to meet the Legislative objectives of Article 43-0112. Also, vegetative buffers provide benefits that stormwater control measures do not provide. The benefits provided are the avoidance of impacts including: raising the temperature of the stream water, preventing destabilization and erosion of the banks, and removal of the loss of habitat.

The DGEIS also explains that the effectiveness of buffers in reducing pollutant loads is reduced as the slope of the land increases. Greater widths are needed on the moderate to steep slopes likely to be encountered around Lake George. An alternative was considered to set a narrower base width with a formula to expand the width as slope increases. This adds administrative complexity since the location of the protected area cannot be determined until the slope is established. A uniform buffer with of 100 feet is selected as the preferred alternative since it is adequate under the prevailing slope conditions.

Comment

Related to the above, numerous commenters expressed the opinion that several direct research studies of buffers support a finding that buffers of a much narrower width than proposed (5 to 10 meters) reduce suspended sediments by up to 80% with corresponding reductions in Phosphorus.

Response

Please refer to Comment #1 for a discussion of the pollutant removal/treatment limitations of stormwater control measures. Even with stormwater management utilizing the controls most highly rated for effectiveness, retaining vegetative buffers along streams has additional benefits for the Lake's water quality that are necessary to meet the Legislative objectives of Article 43-0112.

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Phosphorus is the Lake's limiting nutrient so it is of special concern. As mentioned above, Phosphorus loads from impervious areas may be 20 times the load from the same area covered by undisturbed native forest. Stormwater control measures have effectiveness ratings for Phosphorus removal of between 30 and 60 % (Schueler 1994). Accordingly, a 50 % reduction of Phosphorus from a new parking lot may result in a 10 fold increase in load compared to the pre-existing condition. Buffers provide the opportunity to achieve additional levels of treatment before runoff water reaches streams.

In Section 43-0112 the Legislature directed the LGPC to develop stormwater management regulations that ensure that the total annual volume of runoff and pollution in runoff following development not exceed that which prevailed prior to development. The Legislature correctly identified in 43-0112 (5) that this would require the wise conservation and management of vegetation along streams. An 80% reduction in suspended sediment cannot be interpreted as meeting the no net change directive of the law. In order to better remove the finer particles and to ensure a longer lasting effectiveness in pollutant removal, substantial buffers are necessary.

The comments point to the effectiveness of a grassed filter strip at removing especially coarser sediments. Grassed filter strips are an identified stormwater control measure contained within the existing stormwater regulations. They have good utility when used in series with other methods. The regulations provide for the location of stormwater control measures in the outer zone provided they are consistent with the design standards. Grassed filter strips are not the same as a lawn and should not be fertilized. However, they do provide many of the functions of a landscaped area, can be mowed and provide open space.

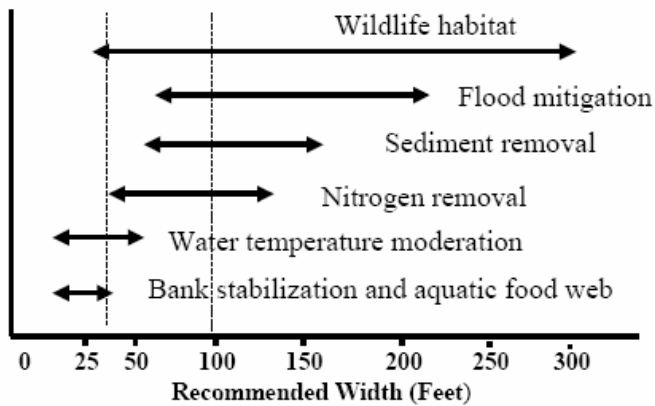
Comments

Several commenters note that buffer benefits of bank protection, stream shading, and reduction of overland pollutant transport are achieved with lesser widths than proposed and that the benefit often cited in support of wider buffers, providing wildlife habitat and pathways, is a secondary concern for Lake George.

Response

The information in the DGEIS supports the position that buffer widths less than 100 feet provide bank stabilization and water temperature moderation. However, effective Nitrogen and sediment removal require greater distances. Figure 13 from the DGEIS illustrates this point.

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Comment

Several commenters questioned, with the 8 largest streams conveying approximately 2/3rds of the surface runoff, why different (less restrictive) buffer widths and requirements should not apply to the scores of smaller streams.

Response

The eight larger streams represent simply the confluence of many smaller stream segments and their protection is not possible unless these tributaries are also protected. As mentioned above, even small streams can convey pollution in runoff to the Lake or to their receiving stream. Smaller streams also provide important habitat and disturbances to the near-stream area can have pronounced effects.

Comment

Several public comments centered on inaccuracies in the location streams depicted on the map of streams contained within the DGEIS.

Response

The data points representing the location of the mapped streams were imported from the DEC Protected Streams Inventory Map database which is at a larger scale than the LGPC map. The data points representing the approximate centerline of the streams have been adjusted in several cases to improve the accuracy of the maps as much as possible. The maps are sufficient to identify those streams that will be protected. However, the maps may be imprecise as to the location of the stream relative to other features at any given point. Accordingly, the location of a designated stream, the determination of the high water mark and the delineation of the stream corridor will require field verification.

Comment

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Numerous comments centered on a provision of the regulations that would require a permit for removal of dead or diseased trees indicating that awaiting permit approvals would not be possible when responding to storm damage or immediate safety conditions.

Response

The provisions affecting removal of damaged trees have been revised. Under the revisions, the removal of storm damaged trees that are a hazard to people or buildings is exempted from permit requirements.

Comment

Several commenters opined that the regulations lacked concise definitions and that such vagueness disadvantages project sponsors in the review phase of projects.

Response

The DGEIS regulations have been revised to add definitions including those for landscaped area, existing lot of record as well. The revisions also define streams as only those identified on the map to be promulgated with the regulations. This should help clarify the intent and avoid disadvantages to project sponsors.

Comment

There were several comments that expressed concern that the regulations fail to adequately address distinctions between regulated streams and properties in terms of topography, soil type, groundwater and other site specific considerations.

Response

The most common considerations for expanding or narrowing a stream buffer are slope and stream quality, based on classification as a trout stream or other high quality water. Other special conditions are typically not incorporated into stream corridor regulations, with rare exceptions. In developing the regulations, buffer expansion for slope was considered. The simpler option of a uniform buffer width, with some clearing allowed in the outer zone, was selected to reduce complexity in implementation and to make the regulatory impacts more discernable. All of the streams in the Lake George watershed are high value streams. The mapped streams are classified under State regulations as AA meaning that their highest and best usage is for water supply.

Comment

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Several comments questioned the LGPC's authority to regulate private property or real property.

Response

The LGPC's authority is set forth in Article 43 of the Environmental Conservation Law. The LGPC has received legal advice that the regulations being considered are in accord with the authority granted by this law.

Comment

Numerous comments raised various versions of concerns that there would be interference with the current use of property such as harvesting firewood, mowing of grass and the trimming of lawns. The comments in this regard pointed to the need to have very clear exclusions in the language so that it's not subject to someone's interpretation that might change over time as board members or staff changes. One such comment expressed it this way "to the extent possible, certainly the quiet enjoyment of property should be a rule and to the extent possible, should be preserved."

Response

The maintenance of structures, utility rights of way, impervious surfaces and landscaped areas existing on the effective date of the regulation which do not require a disturbance to the stream bed are exempted from permit requirements and standards. A definition of landscaped area has been added for better clarity. Timber harvesting is subject to separate standards under the regulations and may be undertaken within a designated stream corridor subject to notice to the LGPC and in accordance with the provisions in Section V.

Comment

There were several comments that current stormwater management programs (especially in combination with land use regulations) adequately protect streams. Some of these pointed to the National Urban Runoff Program (Sutherland 1982) study data as obsolete and pointed out that the DGEIS is not supported by any comparative analysis of pre-stormwater program / post-stormwater program data.

Response

As stated above, stormwater control measures are not fully effective in mitigating the effects of stormwater runoff and there are additional benefits to water quality when stream buffers are used in combination. Despite tremendous community efforts, much of the pollution in runoff from existing development documented by NURP remains largely unabated. This reveals the technical complexity and extraordinary cost of retrofitting past problems of this kind. At best, improved methods of stormwater management have attenuated the increase in pollution since

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being enacted as more native forest cover has been converted to impervious surfaces.

The extraordinary complexity and cost of retrofitting is the most compelling argument for incorporating effective strategies into development in the first instance.

Comment

The lack of current data on stream quality undermines acceptance of the DGEIS, according to several.

Response

There is a range of very good and transferable information from research in other areas as well as on-going assessments of Lake George tributaries that were assessed in the DGEIS.

Comment

Many comments pointed to the impact of runoff from highway systems and the fact that the regulations would do little to address this. Several commenters opined that in the context of all of the surface water runoff impacts to the Lake, the regulations imposed a disproportionate burden on stream side property owners.

Response

The fact that there remains the difficult problem of retrofitting stormwater from pre-existing highway systems does not obviate the need to address the future problems that would otherwise be associated with development in stream corridors.

Comment

Several comments expressed the need for the LGPC to engage in greater public education in addition to or as an alternative to regulations.

Response

The LGPC agrees that better education and awareness by the public is important and necessary for the protection of the Lake. However, education, in and of itself cannot fulfill the legislative directives in Article 43 to ensure that development in stream corridors will not further exacerbate the impacts of land development in the Lake's watershed.

Comment

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There were numerous comments in general support of effective stream corridor regulations. Many of these provide support of the regulations with the caveat that the LGPC administers them. Many commenters expressed opposition to the provision allowing delegation to local government.

Response

The regulations contain a provision that allows the LGPC to enter into agreements with local governments for the administration of the regulations. The rules also contain a provision that indicates that notwithstanding any such agreement, the LGPC retains the authority to enforce any violation. The LGPC intends that any such agreements for local administration incorporate sufficient oversight and transparency to ensure effective administration of the requirements.

Comment

A significant number of comments expressed that the buffer width should be expanded, that timber harvesting in the riparian zone be further restricted and that many definitions be established or clarified.

Response

The regulations contain the buffer widths recommended by CWP. Additional buffer width could achieve additional environmental benefits at a diminishing rate of return. The LGPC believes that the proposed widths strike the appropriate balance between environmental protection and private property rights.

Timber harvesting of trees within 50 feet of the stream could occur provided several conditions are met. The LGPC has reasoned that appropriate timber harvesting methods have the effect of sustaining forest cover in the stream corridor over the long run. If performed in accordance with the conditions, removal of 50% of the basal area of trees in the corridor will not adversely affect the stream functions or water quality.

Comment

Several commenters expressed that the regulations contradict current Adirondack Park regulations opining that these provide adequate protection of streams.

Response

Shoreline vegetation clearing requirements of the Adirondack Park Act apply to lakes, rivers and navigable streams, even if navigable only by canoe. The designated streams are generally not navigable, even by canoe. Accordingly, the shoreline vegetation cutting restrictions are not applicable in most cases and the proposed regulations therefore do not duplicate or conflict with them.

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Comment

Several comments received expressed that the regulations were unclear as how much a permit would cost and who would determine what could be done with private land.

Response

The permit application fees for major and minor projects are the same amount as major and minor stormwater permits application fees \$50 and \$100 respectively. The regulations prescribe that development along designated streams may be undertaken in accordance with a permit which would be granted for projects that conform to the standards. Projects that do not conform to the standards could be approved in an individual case as a waiver or a variance.

Comment

Several commenters expressed the opinion that the current stream protection regulations of DEC are adequate and the proposed regulations unnecessarily duplicate them.

Response

The New York State Department of Environmental Conservation administers Article 15-0501 of the ECL Stream Disturbance. Permit requirements are established for the disturbance to the bed or banks of protect streams. However, this program does not govern the protection of upland vegetative buffers. The removal of vegetation above the bank but along the stream has several direct effects upon the stream as described in some detail in the DGEIS. As such, the subject program is not viewed as adequate for the purposes of protecting the unique quality of Lake George tributaries.

Comment

There were several comments urging the regulations be revised to include “incentives” for restoration of vegetative buffers on property that has been developed and where buffers have been depleted. Others suggested that the current language relative to existing development suggest that the LGPC may seek to unilaterally impose restrictions that would require the discontinuation of lawful uses previously established.

Response

The regulations contain a provision authorizing the LGPC to establish a stream corridor restoration grant program with so much funds as the LGPC may allocate. The stream corridor grant program has a parallel in the stormwater management grant program. Under this program the LGPC was able to secure and pass through with in-kind support more than \$60,000 (circa 1995 dollars) to plan and undertake

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stormwater retrofit projects. The LGPC hopes to have even better success in stream restoration efforts. The LGPC has sufficient authority under this provision and separate sections of law to enter into agreements to facilitate restoration of stream buffers.

The LGPC does not see where any rational reading of the draft regulations would allow it to unilaterally impose restrictions that would require the discontinuation of any lawful use of land established before the regulations take effect.

Comment

At least two commenters expressed the opinion that the regulations limiting tree cutting in the riparian zone would not allow the kind of clearing that allows new trees in the understory to develop thereby leaving no replacements when mature trees die.

Response

The natural death of large trees creates areas for re-generation sufficient to sustain forest cover.

Comment

A good number of comments pointed to stormwater runoff from State highways as a more significant and immediate problem. These comments tended to view the stream corridor regulations as misplaced and addressing a disproportionately small percentage of the water quality problems. Some expressed the opinion that efforts would be better served to reach some agreement with NYSDOT to reduce sand and salt applications.

Response

Concentrating on retrofitting to the exclusion of effective regulation of new development simply creates more of a difficult to solve problem.

The West Brook Wetland Restoration Project is an example of a State highway runoff retrofit project that will effectively manage a large area of state highway runoff that here to for was unabated. The State's action is possible due to the availability of land purchased by a consortium of municipal and environment groups. The LGPC commends all involved in this most impressive effort.

The project helps illustrate many of the difficulties in retrofitting runoff pollution from highway systems. First, many State, county and local roads have such narrow right of ways that effective mitigation of runoff cannot occur without the purchase of additional land. Often such land is occupied by homes or businesses and not available for purchase except by eminent domain. Many local roads transit steep hills and convey large volumes of stormwater runoff down steep grades to State highway drainage infrastructure. It is very difficult to effectively manage runoff

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within the existing right-of ways on such steep slopes. Examples include: Flat Rock, Stone Schoolhouse, Lockhart Mountain, Dodd Hill, Split Rock, Trout Lake, Coolidge Hill, Diamond Point, Route 11, Horicon, and Mohican Roads. Washington County Rt. 6, Gull Bay, and Glenburnie drain runoff to the Lake or to lake tributary streams. Retrofitting highway runoff is expensive and technically complex.

Many of these roads are examples of road construction which essentially follow stream valleys since the erosive action of the streams has resulted in more modest grades. Often, runoff from roadside ditches conveys runoff directly into streams. However, the amount of publicly owned roadway surface area is estimated to be much less than of the basin's total impervious surface than privately owned buildings, parking areas, roadways, and etc. Those public roadway and streets often receive runoff from private development.

As mentioned above, high cost, technical complexity and slow progress in retrofitting pre-existing highway and streets specifically and existing development, in general, is the strongest argument for doing it right in the first instance.

The LGPC is planning a conference of area state and local highway officials with the objective of identifying opportunities for additional projects, strategies and funding to retrofit stormwater impacts from highways.

Comment

At least two comments, one generally supportive one oppositional, expressed the opinion that the regulations would be ineffectual unless they deal with "runouts" the practice of highway departments directing the flow from roadside ditches directly into streams.

Response

The LGPC agrees. The regulations are applicable to State, County and local highway projects and construction of new runouts is not an allowed use in the stream corridor. The LGPC intends to work with State, County and local highway departments to plan and retrofit existing runouts to reduce pollution in stormwater.

Comment

There were a number of comments that raised specific issues with the adequacy of the DGEIS in several material respects. At least one comment on behalf of a municipality indicated that the LGPC erred in not undertaking a formal scoping process for the DGEIS indicating that the comments of the towns may have been addressed had scoping been conducted.

Response

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Under the State Environmental Quality Review Act, public scoping of the content of an Environmental Impact Statement is optional. During 2006 and 2007, the LGPC retain a private planning, engineering and landscape architectural firm to conduct a public planning and consensus building process. This process organized more than 30 stakeholder organizations in discussions about the central issues of stream corridor management and tree-cutting. Four facilitated public meetings were held over a period of 16 months with more than 110 representatives and the public attending. Please refer to Section 2 of the FGEIS for a complete timeline of the process. The LGPC reasoned that this extensive public outreach was an effective process at identifying the significant issues to be considered in the DGEIS. Of particular note was the LGPC's decision to limit the project to stream corridor protection and to reserve action on tree-cutting regulations to a future time.

Despite a number of facilitated meetings and consensus building efforts there remained at the end of 2007, significant disagreements among some stakeholder organizations as to the need for the regulations and the appropriate width of vegetative buffers. The LGPC believes that the process adequately presented the key issues and tested opportunities for a broad consensus and that additional public scoping would not have resolved these differences.

Comment

The above commenter also expressed the view that the DGEIS evaluates the wrong "action" since it purports to address the action of implementing stream corridor regulations but describes the potential impacts only of land development.

Response

Human activities in the Lake's watershed, especially land development, are having an effect on the Lake as demonstrated by the various studies cited in the DGEIS. These impacts are both construction related and sustained. Sustained impacts result from both losses and additions. The permanent loss of the native vegetative cover has an effect as does the addition of toxins, pollutants and nutrients that result from cultural processes of modern life. These impacts are cumulative in that they are slow and incremental changes that cannot be assimilated by the Lake. The result is that the Lake changes. The Lake's state of primary productivity, referred to as trophic status, is being permanently altered thereby reducing the clarity and attractive qualities of the Lake.

The Positive Declaration and the DGEIS rightly conclude that the potential for this and other consequences to continue and for the Lake's water quality to decline are the primary environmental considerations in efforts to develop stream corridor protections. The requirements that developers retain vegetative buffers, zones of protection along streams when land developed, have obvious social and economic considerations. These are essential considerations that are appropriately considered in the EIS in the context of the essential environmental considerations.

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It would be misplaced and illogical indeed if the EIS considered the potential environmental impacts of the promulgation process with its drafting and public hearings and avoided confronting the underlying human activities at the root of the matter.

Comment

The comment is also critical that the DGEIS evaluates alternatives only in terms of lesser or wider buffers and that a meaningful analysis should have included discussion of actual alternatives and strategies to addressing the perceived problem.

Response

As mentioned above, the LGPC initiated consideration of stream corridor protection to fulfill its legislative mission as set forth in Article 43-0112 (5). Having done so, the LGPC finds that the current condition, characterized by an absence of stream corridor protections in many areas of the Park and limited provisions applicable elsewhere, is inadequate to protect the water quality of the Lake and the general quality of Lake tributaries. The evaluation plainly reveals a distinct set of problems cause by the prevailing practices of development in and along streams. These impacts can only be corrected by direct action relative to human alteration of the stream corridors.

The Lake's water quality is subject to impacts from other sources such as failed septic systems, urbanized stormwater runoff, fertilize use, invasive species and more. Action on all of these fronts is clearly warranted. It is not within the scope of the EIS to undertake a comparative analysis of the potential benefits of various alternative water quality strategies nor would such strategies, when embodied in regulations be any less controversial. The target problems have been identified and their mitigation is an achievable objective. The LGPC is obliged by statue to act upon them.

Comment

A comment opines that there is a lack of adequate evaluation of the no action alternative in the DGEIS indicating that only by evaluating the no action alternative can the SEQRA lead agency adequately justify the need to pursue the action.

Response

The DGEIS evaluates in great detail the on-going impacts to the Lake associated with disturbances to streams and development in stream corridors. The DGEIS also details the State regulations and local land use programs currently in place that affect streams and explains their limitations relative to addressing the on-going impacts. This is the no action alternative and the DGEIS is all about it. Unless

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effective action is taken to change the prevailing patterns of human activity, these problems will continue. Also, with growth the combined effect of the future cases and the current contributors will accumulate to a larger result.

However, bowing to tradition the DGEIS has been revised to expand on the topic of no action. The new section helps to reveal that in majority land area of the Park there is a complete lack of stream corridor protections. In the remaining area there is a hodgepodge of local building setbacks or discretionary clearing limits that lack a consistent purpose or standardized application.

Comment

As mentioned above, there were a number of comments received that raise issue with the continued use of properties sometimes referred to as “grandfathering” or vested rights. One comment indicated that the DGEIS is deficient because such a large potential impact (the loss of vested rights) is not addressed in sufficient detail.

Response

The DGEIS regulations are clear that the stream corridor permit requirements and standards do not apply to the continued use of property established before the regulations would take effect. Permits are required for development, land disturbances, land clearing and subdivisions, terms that have defined meanings that are referenced from the LGPC’s current regulations. The DGEIS regulations have been revised to add a definition of an *existing lot of record*. Under the revisions, development on an existing lot of record would be subject to the more flexible standards of maximum extent practicable/35 feet. A definition of landscaped area has been added to help clarify the existing open space areas of developed parcels that can be maintained without permits. A waiver provision has also been added.

Comment

A comment is critical that the DGEIS is overly broad, vague and too generic...generic labeling of streams, uniform buffer widths and a lack of empirical data makes the DGEIS irrational.

Response

The FGEIS strengthens the DGEIS by defining several important terms. Among the significant changes is the definition of a *stream* which now includes only mapped watercourses.

Comment

Another commenter expressed concern with the adequacy of the DGEIS discussion on the no action alternative. In this comment reference is made to the Lake Chemistry report

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for 2008 by DFWI that shows the salt level in Lake George has continued to rise and that an area of oxygen depletion occurs in the Lake's south basin each year... if the LGPC continues to do nothing to protect stream corridors, then salt levels will continue to rise, dead zone will grow and the water quality south to north will continue to deteriorate.

Response

The stream corridor protection regulations, when implemented, will be effective action to better protect streams and the Lake's water quality.

Comment

The above comment and at least one other expressed the opinion that the DGEIS discussion could be strengthened by a more detailed evaluation of the results of Sterns and Wheeler (2001) which incorporates the most recently prepared nutrient budget for the Lake.

Response

A discussion of the Sterns and Wheeler (2001) report has been added.

Specific Comments.

One comment expressed that there's no place anywhere in 43-0112 that states the vegetative stream buffers along streams within Lake George Park should be established. There's no mention of buffer of any kind. The DGEIS discusses management of stream corridors which is a narrow strip on either side of the stream but no statutory authority to establish a buffer. Lake George Park Commission is only authorized to manage stream corridors by creating standards for the location of roads, creating standards for stream channelization, creating standards for frequent stream crossings, and creating timber harvest and vegetative cutting regulations.

Response

The LGPC believes that the FGEIS regulations are in accordance with the legislative authority conveyed by 43 -0112 (5) and fulfill the stated objectives without overstepping. The regulations establish vegetative cutting restrictions, building and impervious surface setbacks only as necessary to protect the functions of streams and the water quality of the Lake.

Comment

One comment expressed that the biggest problem facing urban watersheds and streams is the high level of impervious coverage. "When asked what the primary sources of impervious coverage were, he stated (Thomas Schueler .car habitat, parking lots, driveways, roads and highways". Also in this interview, he states that when it comes to

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buffer zones there's no fixed width. Appropriate buffer zone depends of the specific stream condition. Yet he uses studies of 40 other areas of the country to do the DGEIS. One approach to total stream protection, he goes on to say, is to treat quantity and quality storm water from existing impervious surfaces which you already do in your regulations.

Response

As explained above, stream vegetative buffers can provide additional treatment for urbanized stormwater runoff when used in combination with other stormwater control measures. Buffers are not proposed here as an alternative to proper stormwater treatment. Vegetative buffers also help protect the morphic, hydraulic and biotic functions of streams.

Comment

Development activity pg. 41 in the DGEIS...only five percent of the Lake George watershed is developed and you say that development has been rapid in the basin since the early 2000. I disagree. By any other state or regional standard, there has been a depression of development in our area for the past 20 years. According to the Warren County Fire Protection and Building Code Enforcement, between 1998 and 2008 there were a total of 19 homes built in the village of Lake George, 302 in the town of Lake George, 362 in the town of Bolton and 97 in the town of Hague. In the past six years the town's averaged only a handful a year, Hague 8 per year, Lake George averaged 28 per year, Bolton averaged 37 per year and the village of Lake George only 2 ½ per year. In Lee County Florida with its very sensitive ecological system and the Gulf of Mexico they have more than that in week in 2004.

Response

The DGEIS refers to the rate of growth, the increase in our area, not the change as an absolute number in comparison to other areas.

Comment

Many researchers report substantial sediment removal within few meters of upslope boundaries, grass filter strips, in particular have been shown to be very effective at trapping sediment particles. Meble and Alberts, 1979 found that 91 percent of incoming sediment to a grass filter strip was deposited on the first 2 feet...not 100 feet...the first 2 feet. Much of the larger particles of sediment may be removed in 16 feet but finer particles may require 33 feet.

Response

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Please refer to the response to the first comment for a more complete discussion of the pollutant removal effectiveness of various stormwater control measures. Grassed filter strips are a stormwater control measure identified in the LGPC's stormwater management regulations. The regulations cite the Comparative Pollutant Removal of Urban BMP Designs prepared by the Metropolitan Washington Council of Governments (1987). This study reported on a comprehensive testing of alternative best management practice (BMP) performance over time under various conditions. A twenty foot wide turf strip is identified as having a low overall pollutant removal capacity with 20 – 40 % removal rate for suspended sediments and a 0 – 20% removal rate for Total Phosphorus. A 100 foot forested strip with level spreader has an overall moderate pollutant removal rating with an 80 – 100% removal rate for suspended sediments and a 40 – 60 % removal rate for Total Phosphorus. A level spreader is a stormwater control device that ensures that flow is not concentrated as it moves across the strip by retaining and releasing water as sheet flow over an extended berm.

As mentioned above, treatment for suspended sediments is best accomplished by a combination of methods. Coarse particles tend to plug pore space and rapidly diminish the filtering efficiencies of controls. Settling in an extended detention pond allows the coarse particles to fall out of suspension. Such ponds can be excavated from time to time to remove collected sediment and reclaim the capacity of the pond. This helps protect the additional fine filtering and nutrient update functions of a vegetative strip (buffer).

Vegetative buffers are not an effective substitute for comprehensive stormwater designs. Rather, buffers offer additional benefits when used in combination with other stormwater control measures. Vegetative buffers also provide benefits unrelated to stormwater management as explained above.

Comment

One comment expressed concern that the rules do not adequately address the responsibility to maintain a stream to prevent hazards such as fallen trees being transported downstream where they can cause blockage or damage.

Response

As mentioned in the DGEIS, down trees provide the base of the food web and also create structure that enhances habitat. Removal of trees representing a hazard to people or buildings is exempted from permit requirements. Otherwise a permit may be granted to allow the removal of down trees that pose a potential treat to down stream structures.

Comment

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“Stream temperatures...100-foot wide buffer are not warranted to shade a stream. New York State DEC timber harvesting guidelines that deal with problems caused by soil erosion, siltation and attention to aesthetics suggests a 10-foot buffer where you should avoid tree and understory cutting. It goes on to say that this keeps the banks in place and shades the water. Another factor is that many streams are only a few feet wide can get enough shade from their own banks. In addition, a forested buffer is not as efficient as a grass buffer on slopes. Therefore, even if your forested buffer saved a degree or two, the sediments would not be filtered out as well and 303D impairment is silt and sedimentation. In the review of riparian buffer zone effectiveness by ministry of agriculture and forestry did a study on temperatures. One study conducted found that if cooler temperatures are found to help habitat and biological diversity, 17-foot buffer on one side of a stream can accomplish that but the forest strip will not be as effective at removing sediment but the grass buffer will, especially on steeper slopes. Narrow buffers can maintain cooler waters...Maleason and Quinn, 2004. The buffer with the forestry site studied by Quinn in 2004 began at 26 feet. There have not been enough studies they went on to say to show that there is a significant effect from minor temperature changes. The University Of Idaho College Of Natural Resources found that the number of trees needed to cool a stream is based on the width of the stream. The buffer only has to be on one side of the stream to shade an entire stream. In fact many small streams are shaded by their banks. If the stream only runs with snow melt, there is no need for cooling because the velocity of snow melt will not warm before it reaches Lake George in March or April. Most streams in Lake George Basin are narrow except for where they enter the Lake.”

Response

As described in the DGEIS and here, stream corridor protection needs to address several functions of the stream and several aspects of stormwater management to preserve stream and Lake environmental quality. These include providing an area for the stream to meander over time, protecting the immediate riparian vegetation to reduce bank erosion, maintaining morphic, hydraulic and biotic stream functions, reducing pollutant loads from urbanized stormwater, preserving wildlife habitat and more. The stream corridor protection provisions also need to be developed in the context of essential social and economic considerations. The LGPC believes that the strategies incorporated into the regulations will achieve the essential environmental objectives while minimizing the regulatory impacts on affected private property.

Comment

What revisions were made to the DGEIS Lake George Park Commission...this is on your front page...it says DGEIS prepared by Center for Watershed...and goes on. It said there were some revisions. What revisions were made by the Lake George Commission?

Response

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The revisions to the several internal drafts were not tracked. By accepting the DGEIS, the LGPC takes responsibility for its content.

Comment

...who prepared the new maps that appear(ed) on your website sometime between February 10 and February 14 a month after the DGEIS became public? Was it the Warren County Soil and Water Conservation District as mentioned on page I? Did the Fund for Lake George or the water keeper have any input on the maps and the streams indicated on them?

Response

Warren County Soil and Water Conservation District (WCSWCD) prepared a stream map for the LGPC that was completed and provided in June 2008. This is the map that is contained in the DGEIS. This June 2008 version of the map of streams is the map the LGPC intends to promulgate with the regulations.

Comment

The regulation will not only cause undue hardship on property owners but it can increase the problems it seeks to stop. "Setting up a no cutting zone along the streams will cause ... trees along the stream to grow bigger and it will force the property owner to cut more trees further from the streams. This means when we have an ice storm...the trees along the stream will be much more likely to blow over and uproot creating the exact problem the ruling is seeking to stop." When large trees are cut it allows growth of small trees and shrubs that are better at protecting loose top soil. Brush and small trees assist wildlife such as deer and turkey.

Response

Falling trees in an undisturbed natural buffer within the stream corridor is a natural occurrence that benefits the biotic functions of the stream by providing food as mentioned in the DGEIS. Regeneration of native trees will occur naturally wherever the canopy is open.

Comment

A 100 foot setback in affect makes a standard building lot of the 2 to 3 acres size that has a stream running through it almost unbuildable." This affects the commenter directly since they own two such lots, one planned for a retirement home and one as an investment to facilitate the retirement home.

Response

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The FGEIS revises the DGEIS to add a waiver provision for construction or expansion of a single family home and accessory structures on an *existing lot of record*. Property eligible for a waiver would be those existing lots of record where the 35 foot minimum setback for building clearing and impervious surfaces of 35 feet exceeds 30% of the area of the lot area. The percent affected approach was determined by the LGPC to be the most consistent measure of the potential regulatory impact. A 40,000 square foot square lot bordered by a stream would have an area of 7,000 square feet within the 35 foot zone or 17.5% affected area. Residential development that covers 30% of the land with impervious surfaces is fairly dense and incorporating a 17.5% open space area would not be too difficult. A similar lot bisected by a stream 10 foot wide would have a 16,000 affected area or 40% of the lot area. Such a lot would be eligible for a waiver under specified conditions. The LGPC believes the waiver and variance provisions provide the agency with the tools necessary to obviate unwarranted effects on private property in individual cases without undue complexity and bureaucratic delays.

Comment

The commenter owns four one acre lots along a brook that is largely undeveloped but has a few small structures. A county road follows the brook's channel. The road was recently repave and repaired with no improvements to stormwater made for lack of funding. The commenter reports that "runouts" (diversion swales) were fashioned in macadam to direct road runoff from roadside swales ditches directly into the stream. The Town recently approved a townhouse development project that provides for stormwater runoff controls within 10 feet of the stream. The commenter recommends enforcement of existing laws and addressing poor highway practices.

Response

The LGPC agrees that due diligence is required to ensure the uniform application and enforcement of existing laws but believes additional requirements are needed to protect streams.

The above commenter also states that they have four existing lots with existing structures but not all have been approved for subdivision ... the language should include pre-existing lots not just those approved. Also expansions greater than 25% should be evaluated. The 35 foot set back should continue and there should be a provision for sustainable building in the outer zone with consideration given for the total land usage to encourage rain gardens or other methods to control water runoff.

Response

Two revisions to the FGEIS will address this comment. The new definition of *existing lot of record* and the new provision for a waiver will establish more flexibility to deal with the situation described.

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Comment

If it is your purpose to stop the flow of sediments, contaminants and nutrients into lake George and to preserve the ecology of streams and protect fish and other wildlife, I would suggest that you first address the issues with the County and/of State agencies and large utility companies who seemingly above the law before you dictate to me and other property owners whether we can mow our lawns or cultivate our gardens.

Response

The regulations being considered would apply to agencies of the State, counties and local governments and to public utilities.

Comment

The cutting restriction for timber harvesting of 50% of the basal area within 50 feet of the stream appears excessive.

Response

The requirements for timber harvesting were developed after consultation with representatives of the timber industry. Appropriate methods of timber harvesting sustain the native forest cover in the long term and incorporate best management practices that prevent erosion and sedimentation.

Comment

Permanent crossings should pass the 50 year (or 100 year depending on the hazard involved) peak flow storm event and not the 50 year, 24 hour event.

Response

The DGEIS regulations have been revised. The referenced provision now reads as follows. All stream crossings shall be designed to safely pass the fifty (50)-year, peak storm event. The Commission may require additional design features it determines necessary to prevent a hazard to down stream property.

Comment

Road disturbance limited to 30 feet width in stream corridors are unrealistic on steep slopes, thus the need for flexibility.

Response

The variance provisions provide a mechanism for the LGPC to consider variations.

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Comment

Variations should be reviewed by a board experienced in environmental issues and design, not a Zoning Board of Appeals.

Response

Variance applications under LGPC jurisdiction will be reviewed by the Commission board which currently reviews variances for wharfs, stormwater and other regulations. The comment makes a point worth considering at such time as a delegation of permit authority to a local government is considered.

Comment

All driving and impervious surfaces within stream corridors should be justified and when justified should meet rigorous standards.

Response

Roads, buildings and impervious surfaces are not permitted uses in a designated stream corridor under the regulations. Construction or expansion of single family homes on existing lots of record and the expansion of existing facilities by up to 25% would be subject to the more flexible standard “maximum extent practicable”/ 35 feet. Under this provision, driving surfaces may be allowed in the corridor provided the project incorporates stormwater management in accordance with the LGPC program requirements.

Comment

The LGPC is proposing establishing, or perhaps furthering of, another bureaucracy which as every citizen knows real quick hardens with respect to the scope of its purview. Soon decisions reflect the strictest enforcement of the written words. Then, the written words, as time passes are inevitably amended to be even stricter (read APA). Pass these regulations and the LGPC will have taken a large step toward becoming a much maligned bureaucracy.

Response

The LGPC acknowledges the risk of bureaucratic intransigence and administrative complexity. However, these are not inevitable consequences. The LGPC has a good record of regulatory administration and has maintained flexibility in the administration of its rules. The LGPC has taken considerable pains to ensure that the process to develop the regulations is open, transparent, science-based, participatory and rational.

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Comment

The Commission should have as its goals in the final regulations ...optimum stream corridor protection in their natural character and especially to ensure protection and enhancement of stream mouth wetland functions...

Response

The core objective of the regulations is to retain the natural character of streams as much as possible while permitting the use of private property.

Comment

The LGPC should largely discourage projects from impacting stream corridors within the bed, banks and riparian zone.

Response

Stream crossings and bed disturbances are necessary from time-to-time. The regulations have provisions to mitigate the potential environmental impacts of these projects

The LGPC should develop in concert with NYSDEC, provisions for the collaborative review of needed projects by state or private foresters and trained loggers adept at resource protection and standard practices.

Response

The regulations reference and incorporate *New York State Forestry Best Management Practices for Water Quality BMP Field Guide* which was developed in concert with industry representatives and trade groups and which represents a shared understanding of the technology and methods to protect water quality during timber harvesting activities.

Comment

We question whether a 10-day notice provision on timber harvesting operations is sufficient and realistic timeframe for needed review assessment and controls.

Response

The *notice of intent to harvest timber checklist* is intended to advise the LGPC in advance of commencement of timber harvesting activities and to provide a checklist to determine whether stream crossing or other permits are required. The LGPC intends to follow up with inspections of logging operations to evaluate compliance

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with the best management practices. It is not the intent to perform a prior review of project plans.

Comment

Intermittent stream is a critical term as it defines the limitations of these regulations. Without a sound and solid delineation of what constitutes intermittent, the scope of the regulations will be subject to change based on opinions of the LGPC staff. (LGPC)

Response

As explained above, the definition of stream has been revised in the FGEIS so that streams are those watercourses that appear on the map.

Comment

Impervious surface... either a comprehensive list of surfaces considered impervious or the criteria for determining such classifications, needs to be developed.

Response

References to *impervious surfaces* have been revised to *impervious area*, a term that is defined by reference to Subpart 646 Stormwater Management.

Comment

Landscaped area ... this definition is of critical importance. How extensive must human alteration of the landscape be in order to constitute landscaping. Is the raking of leaves sufficient? Is clearing the understory?

Response

A definition of landscaped area has been added.

Comment

The results of most studies noted in the DGEIS are totally subjective. The ones that appear to be based on some scientific information were based on studies and papers done based on conditions and existing regulations at that time. Since the 1990s stormwater management regulations have been adopted and enforced by the LGPC and the Towns that accepted the responsibility.

Response

While stormwater management is a critical component of watershed management, stormwater management practices do not serve as an alternative to vegetated

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stream buffers. First, stream buffers offer several benefits of buffers that cannot be provided by stormwater practices alone, such as shading, providing large woody debris, stabilizing the stream channel, and supporting habitat for amphibious animals.

The stormwater management regulations adopted by the Commission pursuant to ECL 43-0112 (1 – 6) address the objectives and separate authority for stream corridor regulations does not exist. The stormwater management regulations adequately address any additional need. These regulations are promoting no development within the Lake George Park. Implementing these outrageous regulations will not fix anything. If there is a water quality problem it is from roads and outdated septic systems.

Response

While, effective management of stormwater, wastewater and proper highway management are all critical components of watershed management, they do not serve as an alternative to vegetated stream buffers. Stream buffers offer several benefits of buffers that cannot be provided by stormwater practices alone, such as additional pollutant removal, shading, providing large woody debris, stabilizing the stream channel, and supporting habitat for amphibious animals.

Comment

It is the public perception that this has not been a fair process and that no scientific evidence has been submitted to show any need for such extreme regulations. The commenter also expresses the view that there has been undue influence on the process by certain environmental organizations and that there is an inherent conflict of interest among the LGPC, The Fund for Lake George, the Warren County Soil and Water Conservation District, Darrin Freshwater Institute and Lake George Watershed Conference.

Response

The FGEIS revises the DGEIS to incorporate a project history and time-line. More than 30 organizations from all sectors of the community participated over a 16 month period. The process included four facilitated workshop meetings attended by more than 100 people. Please refer to the project history for a more complete record of the process.

Comment

A comment summarizes the objectives in 43-0112.6 to develop stream corridor management regulations that will include standards for the location of roads, stream channelization, frequency of stream crossing and standards for timber harvesting and

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vegetative cutting limit indicating such objectives do not comport with the regulation's width and management of stream buffers.

Response

The LGPC believes that the FGEIS regulations are in accordance with the legislative authority conveyed by 43 -0112 (5) and fulfill the stated objectives without overstepping. The regulations establish vegetative cutting restrictions, building and impervious surface setbacks only as necessary to protect the functions of streams and the water quality of the Lake.

Comment

No map of streams was on your website before 2/10/09 except the one within the DGEIS which was not legible. Some time around 2/14/09 maps appeared. The public can't give educated input if they can't tell how much it will negatively affect them.

Response

Click on the maps and zoom in for more detail.

Comment

Watersheds that have adopted anything similar have used only USGS blue-line streams.

Response

The LGPC gave consideration to several alternative criteria for designative protected streams. The map and inventory of designated streams that is being promulgated with the regulations represents all of the perennial streams and many intermittent streams.

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SECTION 5 THRESHOLDS AND CONDITIONS FOR FUTURE ACTIONS

Actions authorized under the Lake George Park Stream Corridor Protection Program shall conform to the standards contained in the regulations and a duly authorized permit.

A supplemental assessment of potential environmental impacts or supplemental environmental impact statement pursuant to 6 NYCRR 617 shall be required for any activity which exceeds any of the following thresholds:

1. Construction of a dam impounding more than 1 million gallons of water.
2. Permanent diversion of a stream from a natural channel.
3. Temporary diversion of a perennial stream for more than 48 hours.
4. Creating an obstruction to fish passage.
5. Activities likely to produce uncontrolled sedimentation.
6. Revisions to the Inventory and Map of Protected Stream.

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LITERATURE CITED

Center for Watershed Protection (2003). Impacts of Impervious Cover on Aquatic Systems. *Watershed Protection Research Monograph 1*. Center for Watershed Protection. Ellicott City, MD.

Fischer, R. A. and C. J. Fischenich. 2000. Design Recommendations for Riparian Corridors and Vegetated Buffer Strips. U. S. Army Engineer Research and Development Center. SR-24.

Holmes, T., N. Connelly and T. Brown. 2006. Lake George Recreation Study Plan, 2005. Prepared for: Lake George Park Commission

Lake George Park Commission (LGPC). 1995. Draft Generic Environmental Impact Statement for Stormwater Management Plans within the Lake George Park. Prepared for the Lake George Park Commission, Lake George, New York.

Lin, J. P. 2004. Review of Published Export Coefficient and Event Mean Concentration (EMC) Data. *WRAP Technical Notes Collection* (ERDC TN_WRAP_04-3), U.S. Army Engineer Research and Development Center, Vicksburg, MS

Mayer, P. M., S. K. Reynolds Jr., T. J. Canfield. 2005. Riparian Buffer Width, Vegetative Cover, and Nitrogen Removal Effectiveness: A Review of Current Science and Regulations. U.S. Environmental Protection Agency, Office of research and Development, National Risk Management Research Laboratory, Ada, Oklahoma. 27 pp.

Schueler, T. 1996. Irreducible Pollutant Concentrations Discharged from Urban BMPs. Technical Note 75. Watershed Protection Techniques.

Shuster, E. L. 1994. Hydrogeology of the Lake George drainage basin, southeaster Adirondack mountains, New York. Ph. D. Thesis. Rensselaer Polytechnic Institute, Troy, New York. 246 pp. + appendices.

Shuster, E. L., R. G. LaFleur and C. W. Boylen. 1994. The Hydrologic Budget of Lake George, Southeastern Adirondack Mountains of New York. Department of Earth and Environmental Sciences. Rensselaer Polytechnic Institute, Troy, New York. In *Northeastern Geology*, v. 16, no. 2, 1994, p 94-108.

Siegfried, C. Water Quality and Phytoplankton of Lake George, New York, Urban Storm Runoff and Water Quality Gradients. Department of Environmental Conservation (DEC) Publication. May 1982.

Stearns & Wheeler, LLC. Total Phosphorus Budget Analysis, Lake George Watershed New York. October 2001

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Wenger 1999. A review of the scientific literature on riparian buffer width, extent and vegetation. Office of Public Service & Outreach Institute of Ecology, University of Georgia. Athens, GA.

Sutherland, J. W., J. A. Bloomfield and J. M. Swart. 1983. Final Report: Lake George Urban Runoff Study, National Urban Runoff Program. Bureau of Water Research, New York State Department of Environmental Conservation, Albany, New York. 84pp. +appendices.

U.S. Environmental Protection Agency, Technical Note # 95 from Watershed Protection Techniques. 2(4): 515 – 520.

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Appendix A

Draft Stream Corridor Management Regulations for the Lake George Park

Statutory Authority: *“The Commission shall, after consultation with the department, the department of health, the Adirondack Park Agency and each municipality located in whole or in part within the Park, further promulgate regulations relative to stream corridor management which shall include standards for the location of roads, stream channelization, the frequency of stream crossings, and timber harvesting and vegetative cutting restrictions within designated stream corridors. The regulations adopted pursuant to this section may be stricter than regulations promulgated by the department.”* 43-0112 (5) Environmental Conservation Law.

Section I. Intent

The purpose of this Article is to establish permit requirements and standards for the protection of stream corridors within the Lake George Park; to preserve the water quality of Lake George and its tributaries; to protect the riparian and aquatic ecosystems of streams within the Lake George Park; and to provide for the environmentally sound use of the Lake George Park’s land resources.

Section II. Definitions

Terms used in this Article shall have the meaning set forth in 6 NYCRR 646-4.4 and 6NYCRR 645-2 except for the following terms that shall have the stated meanings when used in this Article:

Accessory structure or use means a structure or use that is clearly incidental and subordinate to and serves the principal use or building and is located on the same lot with the principal use or building.

Basal area means the cross section area of trees in a stand measured at breast height (4.5’), expressed as square units per unit area.

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Designated stream corridor means the stream bed and the area extending 100 feet from the high water mark on each side of ~~a the-stream bed~~ and shall also include the area designated as a stream corridor on any development permit approved in accordance with this Subpart. The stream corridor shall be measured in a direction directly perpendicular to the stream's high water mark and in the horizontal plane.

Existing development means buildings, structures, impervious ~~areassurfaces~~, landscaped areas, utilities and ~~accessory structures amenities on a parcel or contiguous parcels in common ownership devoted to a single land use present~~ on the effective date of this Article. ~~Existing development shall also include a vacant parcel in a subdivision approved for a single family home by a municipality or the APA prior to the effective date of this Article.~~

Existing lot of record means a portion or a parcel of land the boundaries of which are described in a deed that has been properly recorded in the County Clerk's Office prior to the effective date of this Article. Whenever two or more contiguous existing lots of record are held in common ownership on the effective date of this Article such lots shall be deemed to be a single existing lot of record.³

High Water Mark (HWM) of a stream means a line along the banks of a stream that is the approximate seasonal peak water level as indicated by the cut of the bank and the demarcation between terrestrial and aquatic vegetation. For the purpose of determining the high water mark, ponds of one acre or less within the stream shall be included.

Landscaped area means an area of vegetation which has been actively maintained as a lawn, garden, hedge, planting bed, or rain garden.

³ This addition and the revision above means that the more flexible standard "maximum extent practicable/35 feet would apply to all pre-existing lots instead of the more limited approved lots in the previous draft.

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Outer zone means an area beginning at the outer edge of the riparian zone and extending to the edge of the stream corridor.

Riparian zone means an area in a designated stream corridor including the stream bed and extending 50 feet from the high water mark of a stream.

Stream ~~means shall include a any~~ permanent or intermittent natural water course identified in Appendix A *The Inventory and Map of Protected Streams*.⁴

Stream bed means the flow area of a stream at and below the high water mark of a stream.

Timber harvesting means cutting trees for sale or use by the land owner and the clearing, construction, use and maintenance of a wood road, log head and skid trail necessary to access trees cut for sale or use by the land owner. Timber harvesting shall not include vegetation removal, road construction, excavation, land clearing or land disturbance for development.

Section III. Prohibitions

1. No person shall undertake development, land disturbance, or land clearing including the subdivision of land⁵ in a designated stream corridor without first receiving a permit pursuant to this Subpart.
2. No person shall disturb the bed or banks of any stream without first receiving a permit pursuant to this Subpart.
3. No person shall discharge, throw, or abandon any foul, noxious or deleterious substance into a stream or designated stream corridor.
4. No person shall fail to conform to any permit issued pursuant to this Subpart.

⁴ The inventory and map is the same as the map of streams contained in the DGEIS. Referenced in this way, streams could be added or removed from jurisdiction only through a formal rule-making process which includes a public hearing.

⁵ The definition of development includes subdivisions so this is simply a clarification.

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5. No owner of real property located within the Lake George Park shall maintain a condition on such property, which due to a human disturbance of land or vegetative cover, or soil, results in the erosion of soil into any stream or water body. The Commission shall notify a property owner of such condition on his property and shall afford a reasonable time period to correct such condition. Failure of the property owner to remedy such condition shall be a violation of this Article with an additional violation for each day the condition continues.

Section IV. Exemptions

The permit requirements in Section III 1 of this Article shall not apply to any of the following:

1. Emergency actions necessary to protect the public health, safety or welfare or to prevent damage to private property for which notice is provided to the Commission within 72 hours after the emergency action authorized in writing by the Commission.⁶
2. Any project that received required approvals prior to the effective date of this Article.
3. Projects located entirely outside the land drainage basin of Lake George.
4. ~~4.~~ Maintenance of structures, utility rights-of-way, impervious areas surfaces and landscaped areas existing on the effective date of this Article which do not require disturbance to the stream bed.
5. Removal of storm damaged trees that are a hazard to people or buildings.⁷
6. Construction of a fence.
7. Agricultural activities that the Commission determines are in accordance with a soil and water conservation plan approved by the appropriate county soil and water conservation district.

⁶ This clarifies the previous draft in regard to emergency actions and previous section XI is deleted.

⁷ This revision responds to public comments as to the need to protect life and property from storm damage.

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Section V. Provisions Relating to Timber Harvesting

1. The permit requirements in Section III 1 of this Article shall not apply to timber harvesting provided the following are met:
 - v. the property owner provides a completed *notice of intent to harvest timber checklist* (Appendix B)⁸ to the Commission a minimum ten (10) days in advance of starting land disturbance or vegetation removal and posts a copy of the *notice of intent to harvest timber checklist* in a conspicuous location at the access to the property to be harvested,
 - vi. the project does not require construction of a stream crossing, road, log head, land clearing or land disturbance in the riparian zone,
 - vii. timber harvesting is in accordance with the *New York State Forestry Best Management Practices for Water Quality BMP Field Guide*, which is expressly incorporated herein by reference and can be found at www.dec.ny.gov.
 - viii. not more than 50% of the basal area of trees is removed within the riparian zone,

2. The *notice of intent to harvest timber checklist* shall be submitted on forms available on the Commission's website www.lgpc.state.ny.us and may require a plan and profile view of any road to be constructed. A *notice of intent to harvest timber checklist* may cover a period of up to three years.

3. If the Commission determines that the scope of vegetation removal, road construction, excavation, land clearing or land disturbance proposed or undertaken under a permit exemption for timber harvesting constitutes development or otherwise poses a threat to the natural resources of the Park, it shall give notice to the property owner that a permit is required pursuant to this Subpart. After such notice, failure by any person to obtain a permit or conform to the permit requirements shall constitute a violation of this Subpart.

4. No person shall undertake timber harvesting or vegetative removal in a designated stream corridor except in accordance with *New York State Forestry Best Management Practices for Water Quality BMP Field Guide* which is expressly incorporated herein by reference and can be found at www.dec.ny.gov. Whenever the Commission determines that timber harvesting or vegetative removal is occurring or has occurred in a manner not in accordance with the *New York State Forestry Best Management Practices for Water Quality BMP Field Guide*, it shall give notice to the property owner setting forth a reasonable period of time to undertake specific corrective action. Failure to undertake the specific corrective action prescribed in the notice within the period of time shall constitute a violation of this Article. Each day the property owner fails to undertake the specific corrective action after the period of time shall be a separate violation.

Section VI. Project Classification

⁸ A notice of intent to harvest time checklist has been added to the regulations as an appendix.

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Minor and Major project classifications established in Section 646-4.12 shall apply to any project that requires a permit pursuant to this Article.

VII. Standards for the Protection of Designated Stream Corridors

The following activities and uses may be authorized by a permit:

1. Riparian Zone
 - i. Flood control structures, bank stabilization, stream restoration, and erosion and sedimentation control projects,
 - ii. Footpaths,
 - iii. Utility Rights of Way,
 - iv. Road crossing,
 - v. Removal of dead, diseased, or dying trees,
 - vi. Fallen ~~or undermined~~ trees that ~~represent a direct threat to human life or~~ are blocking stream channels,
 - vii. Removal or pruning of invasive species,
 - viii. Fishing and canoe access sites,
 - ix. Removal of structures and other activities and uses that benefit the stream corridor.
2. Outer Zone

Uses and activities allowed in the Riparian Zone and the following uses:

 - i. ~~Water quality treatment practices, Gardens, and stormwater control measures consistent with the design standards of this Subpart,~~⁹
 - ii. Biking or hiking paths,
 - iii. Clearing of not more than 30% of the individual trees over 6" DBH during any 10 year period,
 - iv. Stormwater control measures consistent with the standards of this Subpart.
3. Standards for ~~the expansion of~~ existing lots of record development

⁹ This clarifies the intent to allow stormwater control measures in the outer zone subject to the design standards.

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Provided i, ii, iii and iv of this section are met, the following uses may be authorized by a permit:

A. A single family ~~home~~ house, driveway and accessory structures ~~related facilities may be constructed~~ on an existing lot vacant parcel of record.

B. ~~The expansion of~~ property in a subdivision approved for such use by a municipality or the APA prior to the ~~effective date of this Article~~ and any existing development ~~may be continued or expanded in the designated stream corridor~~ up to a 25% increase in impervious area surfaces in the designated stream corridor in any consecutive 10 year period. ~~provided all of the following are met:~~¹⁰

i. Development, land disturbance, land clearing and vegetation removal shall be limited by the Standards for Protection of Stream Corridors in 1 and 2 above to the maximum extent practicable,

ii. Buildings, impervious areas surfaces, land disturbance, land clearing and vegetative removal are not allowed within 35 feet of the high water mark of a stream except as necessitated by a stream crossing,

iii. All existing indigenous vegetation within 35 feet of the HWM of the stream shall be preserved.

iv. The project complies with the standards and requirements for stormwater management contained in this Subpart.

C. ~~Waiver provisions for existing lots of record of a certain size.~~

The Commission may grant a waiver allowing construction of a single family house, driveway, and accessory structures on an existing lot of record within 35 feet of the high water mark of a stream when it is determined that the area within 35 feet of the mean high water mark is greater than 30% of the area of an existing lot of record provided all of the following conditions exist:

¹⁰ This revision incorporates the term existing lot of record. Construction of a single family home on any pre-existing lot would now be subject to the more flexible standards for existing development.

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i. development, land disturbance, land clearing and vegetation removal shall be limited by the Standards for Protection of Stream Corridors in 1 and 2 above to the maximum extent practicable,

ii. The total area of lot coverage by impervious area including any building, driveway, parking area, deck, patio, sidewalk and hardscape following the development does not exceed 30 percent coverage of the existing lot of record,

iii. The slope is not greater than 10 %,

iv. The project complies with the standards and requirements for stormwater management contained in this Subpart.¹¹

D. The Commission may delegate the authority to issue waivers to Commission staff and may impose conditions on any waiver that it determines are necessary to protect the resources of the park and the public health, safety and welfare.¹²

4. Prior to the issuance of a permit pursuant to this Article, the Commission shall ascertain the probable effect of the project on the water quality of the stream and the Lake and on the natural resources of the Park including the flora and fauna. When it is determined that the proposed activity will endanger the health, safety or welfare of the public or lead to unnecessary, uncontrolled or undue impacts to water quality, to the natural resources of the Park or to the physical or ecological integrity of a designated stream corridor, the permit shall be denied.

Section VIII. Standards for Stream Crossings and Stream Bed Disturbances

The following criteria shall apply to all stream crossings and stream bed disturbances.

1. Stream crossing, channelization, or piping is allowed only for utility crossings, logging roads, public roads (including subdivision roads to be accepted), approved private roads and driveways to access private real property.
2. Separate road and utility crossings shall not be approved when the consolidation of the proposed crossings is feasible.

¹¹ The new waiver provision is intended to provide relief for property owners that are disproportionately affected by the standards.

¹² Delegation of authority to grant waivers would reduce waiting time for permit decisions in routine cases.

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3. When separate road and utility crossings are necessary the preferred methodology for utility establishment shall be by directional boring under the stream bed.
4. The number of crossings shall be limited to one per subdivision per stream.
5. When culverts or arches are used, they shall be used so as to maintain the natural course and bed of the stream.
6. Culverts and arches must be sized and designed in accordance with standard design practices, including allowing for safe passage for wildlife and floodplain flows.
7. All stream crossings shall be designed to safely ~~pass accommodate~~ the fifty (50)-year, ~~peak twenty-four (24) hour~~ storm event. The Commission may require additional design features it determines necessary to prevent a hazard to down stream property.
8. Stream crossings shall not impound water during the 10-year storm event, or result in a barrier to fish passage.
9. Any stream crossing structure placed within the stream bed shall be designed with a minimum width of one and one-fourth (1.25) times the width of the stream bed to the high water mark.
10. Permanent culverts shall be embedded 20% of the area of the culvert at the downstream end of the culvert.
11. Culverts shall be flat (0% slope) along their linear length. Any stream bed disturbance shall retain the natural bed, elevation and course of the stream
12. Any stream bed disturbance shall be limited to the minimum disturbance necessary.
13. Disturbances for roads shall be limited to a maximum width of thirty (30) feet.
14. Crossings that convey wastewater shall be depicted on a certified survey. The survey map shall be filed with the Office of the County Clerk in the county where the property is located.
15. No permit shall be issued pursuant to this Subpart, unless the Commission first determines that the activity is reasonable and necessary, will not endanger the health, safety or welfare of the public and will not cause damage to downstream properties or the natural resources of the Lake George Park.

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Section IX. Plan Requirements

Project plans shall be required to include information the Commission determines is reasonably necessary to complete its review and generally shall include: plan views of proposed and existing buildings and impervious areassurfaces, grading plans, temporary erosion and sedimentation controls, limits of clearing, areas of selective cutting, location of trees to be removed, soil tests, slopes, landscape and plantings and buffer areas to be protected. Designated stream corridors shall be depicted on subdivision plats submitted for approval. The Commission may require that an approved subdivision plat, survey or permit be filed with the county clerk and/or the designated stream corridor be protected by deed reference.

Section X. Administration

1. A variance to any standard in this Article shall be processed in accordance with the requirements of 646-4.18 of this Subpart.
2. Whenever the permit requirements of this Article apply in conjunction with the requirements of Article 2 of this Subpart, a single application form, fee, and permit processing shall be applicable.
3. The fee for permits required pursuant to the Article shall be those established for major and minor stormwater projects pursuant to 6 NYCRR 645.5.
- ~~4. The Commission shall prepare and amend as necessary a map of streams that shall aid in identifying the streams subject to this Article. The Commission shall provide notice to affected property owners of any amendments to the map.~~¹³

~~54.~~ The Commission may enter into agreements with municipalities for administration of designated stream corridor management programs that are consistent with the intent, purpose and standards of this Subpart. Such agreements may provide for administration of permits and enforcement of this Article. However, the agreements shall not limit the Commission from taking enforcement action if it determines that a violation

¹³ The revision to the definition of a stream as being identified in the inventory and map in Appendix A means that streams can be added or subtracted on through a formal rule-making process.

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this Subpart or of any permit issued pursuant to this Subpart endangers the health, safety and welfare of the public or results in damage to the natural resources of the Park.

56. The Commission may enter into agreements governing administration of this Subpart with the Department and the APA.

67. The Lake George Park Stream Corridor Management Grant Program is hereby established as a mechanism for the Commission to provide funds from the Lake George Park Trust Fund to local governments, conservation districts and citizen committees to plan and undertake stream corridor restoration projects.

78. The Commission may issue general permits to highway departments, conservation districts or other entities to authorize a number of similar projects or activities.

89. The Commission may require that the boundary of stream corridors be marked with appropriate signage to reduce encroachments into the corridor.

910. The Commission shall develop a guide to minor projects that shall set forth the objectives of this Article and provide applicants with strategies for the prudent conservation of resources and the protection of designated stream corridors.

~~Section XI. — Emergency Actions~~

~~The Commission may issue written authorization for emergency actions which would otherwise be subject to the permit requirements of this Article when it determines such actions are necessary to prevent harm to the public health, safety and welfare, to avoid damage to property or structures and to reduce the likelihood of environmental damage provided such actions are consistent with the standards herein.~~

Section XII. Continuation

Within three years of the effective date of this Article, the Commission shall undertake a review of these stream corridor management regulations to determine whether the need exists for their continuation, repeal or modification.

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Appendix B

**STATE OF NEW YORK
LAKE GEORGE PARK COMMISSION**
75 FORT GEORGE ROAD, P.O. BOX 749
LAKE GEORGE, NEW YORK 12845
TELEPHONE: (518) 668-9347
FACSIMILE: (518) 668-5001
www.lgpc.state.ny.us

**NOTICE OF INTENT TO HARVEST TIMBER
CHECKLIST**

Notice is required to be provided to the Lake George Park Commission prior to commencement of timber harvesting or vegetation removal within the Lake George Park* and within 100 feet of the high water mark of either side of a mapped stream**.

This notice should be provided to the Lake George Park Commission a minimum of ten (10) days in advance of starting timber or vegetation cutting.

Does the harvesting require driving equipment through or construction of a crossing of a stream identified in the Inventory and Map of Protected Streams? The map can be found on our website www.lgpc.state.ny.us. (Construction of a crossing includes disturbance to the bed or banks of a stream, placement of culverts, bridge abatements, head walls, etc.)

YES NO

If you answered YES — STOP a permit is required before beginning.

Does the harvesting require cutting vegetation, land clearing or land disturbance such as roads or log heads within 50 feet of the mean high watermark of a mapped stream?

YES NO

If you answered YES — STOP a permit is required before beginning.

Will the harvesting remove more than 50% of the basal area*** of trees from an area bounded by a distance of 50 feet of the high watermark of either side of a mapped stream and running 200 feet along the high water mark?

YES NO

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If you answered YES — STOP a permit is required before beginning.

Will the harvesting operation, log head, skid trails, roads, equipment use and material handling be in accordance with the New York State Forestry Best Management Practices for Water Quality (BMP Field Guide)? The BMP Field Guide can be found at www.dec.ny.gov.

YES NO

If you answered NO — STOP a permit is required before beginning.

Land Owner:

Name:
Address:
Telephone Number:

Property Location:

County/Town:
Tax Parcel I.D. # OR You may attach a large USGS Map with Marked Location
Public Road Access:

Timber Harvesting Company or Individual:

Name:	
Address:	
Telephone Number:	Cell Number:
Contact Person:	

Date
Commencing: _____

Estimated Area to be
Harvested: _____

Road Construction:

Will any kind of fill be placed to construct or re-surface a road, trail or skid way?

YES NO

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
FOR THE LAKE GEORGE PARK STREAM PROTECTION REGULATIONS**

If you answered YES, please see the requirements for Stormwater Management.

I certify that the above information is true to the best of my knowledge.

Signature of Owner or Harvester

Date

Please Print Name