



AGRICULTURAL USES AND STRUCTURES; AGRICULTURAL SERVICE USES

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

Some definitions of special significance to agriculture include:

"Agricultural use" means any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

"Agricultural use structure" means any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

"Agricultural service use" means, any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use. Agricultural service uses generally involve some type of processing or added value to an agricultural product that is grown or raised on a different property.

Permitting

"Agricultural uses" and "agricultural use structures" are generally exempted from permitting requirements under New York State's Adirondack Park Agency Act, as well as Agency regulations implementing the Freshwater Wetlands Act and the Wild, Scenic and Recreational Rivers System Act. Fill or construction of a structure in a wetland requires an Agency wetland permit unless there is a showing that the structure is required to be in the wetland for agricultural purposes.

The undertaking of a new "agricultural service use" or expansion by more than 25% of an existing agricultural service use requires an Agency permit in all land use areas except Hamlet. An agriculture service use structure greater than 40 feet in height may also require a permit.

An on-farm dwelling that serves as farm worker housing does not require a permit under the APA Act or the Rivers Act if the dwelling is located within a designated agricultural district or the use has been described as "agricultural in nature" by the New York State

Department of Agriculture and Markets. A permit may be required for the dwelling's construction under the Wetlands Act.

Under the APA Act, all agricultural use structures and all single family dwellings and mobile homes occupied by farmers and employees involved in the farm operation and members of their immediate families together comprise one principal building. Therefore, for permitting purposes, one farm can contain multiple agricultural use structures and residences with only enough acreage to support a single principal building.

Shorelines

Under the APA Act, structures in excess of 100 square feet in size, including fences and greenhouses, are subject to shoreline setback requirements. In addition, the Rivers Act requires substantial setbacks for structures, regardless of size, within designated river areas.

Clearing of Land for Agricultural Purposes

The clearing of land is not considered timber harvesting and does not require an Agency permit when:

- 1) The land to be cleared is not within a designated Wild river area;
- 2) The federal Natural Resources Conservation Service has issued a non-wetland (NW) certified wetland agricultural program determination for the area to be cleared; and
- 3) The Commissioner of the New York State Department of Agriculture and Markets has issued an opinion pursuant to Section 308(4) of Agriculture and Markets Law that the proposed clearing is "agricultural in nature."

Existing Agency Permits

Agency permits are recorded and "run with the land," and are therefore binding on all subsequent owners. If an owner of land finds that an existing permit condition interferes with agricultural practices, the Agency should be contacted to review whether the condition remains appropriate.

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

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