ATTACHMENT

4.6.F Regulations for the Administration and Management of the Wild, Scenic, and Recreational Rivers System in New York State, Excepting Private Land in the Adirondack Park, 6 NYCRR Part 666, 1994
PART 666
Regulation for Administration and Management of the Wild, Scenic and Recreational River System in New York State Excepting the Adirondack Park

Statutory Authority: Environmental Conservation Law Article 15, Title 27

June 1994
PART 666

REGULATION FOR ADMINISTRATION AND MANAGEMENT

OF THE

WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM

IN NEW YORK STATE

Excepting private land in the Adirondack Park

Statutory Authority: Environmental Conservation Law
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Effective Date: June 23, 1994
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OF THE
WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM
IN NEW YORK STATE
Excepting private land the Adirondack Park

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Section

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Section 666.1. Purposes and policies of the Act.

The purpose of the Wild, Scenic and Recreational Rivers System
Act is to institute a state wild, scenic and recreational rivers
system within New York. Many rivers of the state, and their
immediate environs, possess outstanding natural, scenic, ecological,
recreational, aesthetic, botanical, geological, hydrological, fish
and wildlife, historical, cultural, archaeological and scientific
values. Improvident development and use of these rivers and their
immediate environs will deprive present and future generations of
the benefit and enjoyment of these unique and valuable resources.
It is the policy of the state as set forth in the Wild, Scenic and
Recreational Rivers System Act (Title 27 of Article 15 of the
Environmental Conservation Law) hereafter termed "the Act", that
designated rivers of the state and their immediate environs
possessing the aforementioned characteristics shall be preserved in
a free-flowing condition and shall be protected for the benefit and
enjoyment of present and future generations.

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666.2. Purpose and application of this Part.

(a) The purpose of this Part is to implement the Act by establishing statewide regulations for the management, protection, enhancement and control of land use and development in river areas on all designated wild, scenic and recreational rivers in New York State, except for private land in river areas within the Adirondack Park. Land use and development of private land in river areas within the Adirondack Park are subject to the provisions of Part 577 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York (9 NYCRR Part 577).

(b) It is the further purpose of this Part to provide for the protection and enhancement of the interests of landowners in the enjoyment and use of their properties in designated river areas and to help to insure that recreation and other uses are consistent with the intent of the Act.

(c) The regulations set forth in this Part may be complemented by the promulgation of regulations for individual river areas. Such regulations shall be consistent with the Act and no less restrictive than this Part and shall address the specific management issues that are relevant to individual river areas.

(d) It is a purpose of this Part to encourage the participation of local governments in the management planning process necessary to achieve the goals of the Act. It is a further purpose of this Part to authorize and encourage administration by local governments of those provisions of this Part that are within their respective jurisdictions, in place of the Department's administration of such provisions, when such local governments are legally, technically and financially capable of administering such provisions in a manner consistent with the provisions of the Act and this Part.

(e) In its administration and enforcement of this Part, the Department shall give primary emphasis to the protection and enhancement of the natural, scenic, ecological, recreational, aesthetic, botanical, geological, hydrological, fish and wildlife, historical, cultural, archaeological and scientific features of designated rivers and river areas.

(f) Priority must be given to providing and maintaining wildlife travel corridors, and areas to support important wildlife and botanical values identified in the river corridor designation and final river area boundary studies.

(g) All new land use or development in a river area must be undertaken in compliance with the standards listed in this Part. No person will:

   (i) Undertake a new land use or development in a river area without a permit unless such use or development is listed as "no permit necessary".

   (ii) Undertake a new land use or development allowed pursuant to a permit except in accordance with such a permit issued prior to undertaking the land use or development.

(h) Any new land use or development not listed in this Part as "no permit necessary", "permit required" or "notification
required", is presumed incompatible with the purposes of the Act.

(i) Land uses lawfully existing shall mean:

(1) in the case of the subdividing of land, the approval of such plat pursuant to Section 1116 of the Public Health Law or the conditional or preliminary approval of such plat pursuant to Section 276 of the Town Law, Section 7-728 of the Village Law or Section 32 of the General City Law; provided, however, that final plat approval is granted within six months of preliminary plat approval; or

(2) in the case of the review of a site plan not involving the subdividing of land, the approval by the appropriate body or office of a city, town or village of the site plan; or

(3) in those cases not covered by paragraph (1) or (2) of this subdivision, the issuance of a building permit or other authorization for the commencement of the activities or development for which such permit or authorization was issued; or

(4) in the case of local government jurisdictions which do not require such permits or authorizations or for land uses which do not require any government approval, the actual and substantial lawful commencement of the land use or development.

(j) Any lawfully existing land use which is discontinued for one year following the effective date of this Part in a given river area, will thereafter be a new land use or development and be subject to the permit requirements and standards of this Part. This restriction will not apply to agricultural land included in a certified farm plan which has been farmed in two of the preceding five years or which is enrolled in a federal set-aside program.

(k) Neither the Act nor this Part will be construed to create or to confer upon any person any right of access, or of ingress and egress, over, upon or to any private lands to reach water or bodies of water that are within a designated river area.

666.3. Definitions.

As used in this Part, the following words and terms will have the meaning ascribed to them and will apply for purposes of administering the Act in addition to any other words and terms defined in Section 15-2703 of the Act.

(a) "Accessory structure" means any structure covering an area of 800 square feet or less, located on the same premises and incidental and subordinate to the main structure.

(b) "Accessory use" means any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of the principal use of the structure or lot.

(c) "Act" means the Wild, Scenic and Recreational Rivers System Act as set forth in Title 27 of Article 15 of the Environmental Conservation Law or any successor provision of law.

(d) "Agricultural use" means any management of any land for the production of agricultural products including crops; field crops; fruits; vegetables; horticultural specialties; livestock and
livestock products; including the sale of products grown or raised directly on such land, and the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds, but not including land used for the processing of any agricultural product.

(e) "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.

(f) "Basal area" means the sum of the cross-sectional areas of specified or total vegetation within a given area measured at four and one-half (4.5) feet (breast height) above ground.

(g) "Boat launching site" means a site for the launching of boats and that may or may not contain a ramp for trailer boats or attendant parking facilities.

(h) "Clearcutting" means any cutting of trees one inch or more in diameter measured at breast height that results in a residual density of trees of less than thirty (30) square feet of basal area per acre.

(i) "Clustering" means the varying of the area and shoreline frontage requirements for structures within a specific tract of land from the area and shoreline frontage requirements of a local zoning ordinance, for the purpose of preserving the natural and scenic qualities of the land in accordance with the provisions of Section 281 of the Town Law, Section 7-738 of the Village Law and Article 37 of the General City Law.

(j) "Commercial sign directory" means any structure, frame or other support that contains two (2) or more signs as that term is used in this Part.

(k) "Commercial use" means any use involving the offer for sale or rental, sale, rental or distribution of goods, services or commodities or the provision of recreation facilities or activities for a fee, but not including the manufacturing of goods or commodities.

(l) "Commissioner" means the Commissioner of the Department of Environmental Conservation, his successors to office and any agency which may succeed to the duties of such office.

(m) "Community" means an area of existing development delineated by DEC as part of the final boundary setting process that has a minimum of 30 acres and, at the time of legislative designation, a minimum of 85% of the lots developed. In addition, the area must have either lot sizes that average 1/2 acre or less or no less than 40% of the lots developed for industrial, institutional and/or commercial uses.

(n) "Cultural feature" means any building, structure, historic district, area, site or object, including an underground or underwater site, of significance in the history, architecture, archaeology or culture of this state, its communities or the nation and is eligible for inclusion on the State Register or National Register of Historic Places.

(o) "Department" means the Department of Environmental Conservation or any agency or body that may succeed to the duties
of such office.

(p) "Development" means any activity that materially affects the existing condition, use or appearance of any land, structure or improvement including any grading, road construction, installation of utilities or other improvements or any other development preparatory or incidental to any such activity, or the subdividing of land as defined in this Part, by any person.

(q) "Existing dam" means a dam that is in existence when a river is designated in the system and that is presently capable of impounding water in a manner and at a level consistent with the design of the structure as it existed on the date upon which the river was designated in the system.

(r) "Forest management" means forestry practices, including harvesting of a forest woodland or plantation or other types of cuttings planned as part of a deliberate forest management program and the construction, alteration or maintenance of forest management roads, skidways, logging landings and fences, and related research and educational activities.

(s) "Forest management road" means any dirt or other unimproved road, including skidways, and used solely for forest management purposes.

(t) "Forestry management structure" means any structure directly and customarily associated with forest management.

(u) "Free-flowing" means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping or any other modification of the waterway except for stream improvement structures for fishery management purposes.

(v) "Height" means the distance as measured from the lowest point of natural ground surface grade elevation to the highest point of the structure.

(w) "Improvement" means any change in or addition to land, including but not limited to grading, filling, excavating or adding banks, fences, dikes, ditches, pipelines, poles, electrical conduits, roads, streets, curbs, gutters, sidewalks, driveways, parking lots or spaces.

(x) "Industrial Use" as it applies to such new uses allowed in communities means uses that are limited to light manufacturing, production, assembly of goods or warehousing.

(y) "Industrial Uses" as it applies to the determination of community boundaries means all existing uses that are customarily associated with the production, storage and transportation of goods.

(z) "Institutional Use" means government buildings, health care facilities, churches, schools, fire and police facilities, water and sewage treatment plants, correctional facilities, or other facilities of a similar public or semipublic nature as determined by the Department.

(aa) "Integrated Pest Management" means the use of practical non-chemical approaches, including possible limited use of approved pesticides, for the avoidance and control of pest infestations. It also includes general education and technical training of on-site personnel and the establishment of implementation procedures,
evaluation mechanisms and reporting for the management program.

(bb) "Land" means the earth, on or below the surface of the ground, including all natural resources.

(cc) "Land use" means any use or appearance of land or a structure, including the particular nature, scale, extent, density and intensity of the use.

(dd) "Local government" means any county, city, town or village.

(ee) "Logging landing" means an area where harvested trees are assembled for further processing or are loaded for transportation.

(ff) "Lot coverage" means that portion or percentage of the lot which is occupied by buildings, structures, pavement or other impervious surfaces.

(gg) "Major public utility use" means: any electric power transmission or distribution line and associated equipment with a rating of more than fifteen (15) kilovolts and that is one (1) mile or more in length; any telephone inter-exchange or trunk cable or feeder cable that is one (1) mile or more in length; any telephone distribution facility containing twenty-five (25) or more pairs of wire and designed to service a new residential subdivision; any television, cable television, radio, telephone and other communication transmission tower; any pipe, conduit or other appurtenance used for the transmission of gas, oil or other fuel that is one (1) mile or more in length; or any electric substation, generating facility or maintenance buildings. Also see subdivision (vv) of this section.

(hh) "Mean high water" means the approximate high-water level for a given body of water at a given location, that distinguishes between predominantly aquatic and predominantly terrestrial habitat as determined, in order of use, by the following:

(i) available hydrologic data, calculations, and other relevant information concerning annual water levels (e.g. discharge, storage, tidal, and other recurrent water elevation data);

(ii) vegetative characteristics (e.g. location, presence, absence, or destruction of terrestrial or aquatic vegetation);

(iii) physical characteristics (e.g. clear natural line impressed on a bank, scouring, shelving, or the presence of sediments, litter, or debris); and

(iv) other appropriate means that consider the characteristics of the surrounding area.

(ii) "Mobile home" means any self-contained dwelling unit designed to be transported on its own wheels or those of another vehicle and which may contain the same water supply, sewage disposal and electric systems as immobile housing. A dwelling unit that is constructed in sections and transported to and assembled on the site and fixed to a permanent foundation is not a mobile home.

(jj) "Motor vehicle" means a device for transport incorporating a motor or an engine of any type for propulsion and with wheels, tracks, skids, skis, propeller, air cushion or other
contrivance for traveling on or over land or water or through water, other than a motorized vessel as defined in this Part.

(kk) "Motorized equipment" means any machine or device powered or driven by an internal combustion engine of any type.

(ll) "Motorized vessel" means any boat or craft driven or powered by an internal combustion engine of any type.

(mm) "Multiple family dwelling" means any detached building of three or more dwelling units.

(nn) "One hundred (100) year floodplain" means any land susceptible to being inundated by water from a flood having a one-percent chance of being equalled or exceeded in any given year.

(oo) "Open space recreation use" means any recreation use particularly oriented to and utilizing the outdoor character of an area including necessary trails. "Motorized open space recreation use" means any open space recreation use which utilizes a motor vehicle or motorized vessel and "non-motorized open space recreation use" means any other open space recreation use.

(pp) "Person" means any individual, corporation, partnership, joint venture, association, organization, government or any agency or political subdivision thereof, or any other entity.

(qq) "Principal building" means any structure which exceeds eight hundred (800) square feet of floor space. In addition, all agricultural use structures and private dwellings or mobile homes occupied by a farmer of land will together constitute a single principal building.

(rr) "Private dwelling" means any detached building containing one or two dwelling units, including a mobile home.

(ss) "Private road" means any road other than a forest management road or a public road.

(tt) "Project" shall mean any action, activity or development which may result in direct or indirect physical impact on a river area, including, but not limited to, any activity specifically regulated by this Part.

(uu) "Public road" means any road over which the public has a right of way.

(vv) "Public utility use" means any electric power transmission or distribution line; any telephone or television trunk or feeder cable or distribution line; any pipe or conduit for the transmission of gas, oil, or other fuels; any water or sewage system pipe or conduit; any television, radio, telephone or other communication transmission tower or receiving device or facility; and any appurtenant facilities whether or not such use is subject to review under Articles VII, VIII, and X of the Public Service Law. Also see subdivision (gg) of this section.

(ww) "Refuse" means anything thrown away or rejected as worthless or useless, including but not limited to trash, rubbish, garbage and human wastes.

(xx) "River" means a flowing body of water or a section or portion thereof, including streams, creeks, runs, kills, rills, branches or lakes, which has been designated in the Act, including any tributary thereto expressly included in the designation.

(yy) "River area" means the river and the land area in its
immediate environs bounded as established by the Commissioner pursuant to section 15-2711 of the Act. Upon designation and until boundaries are established by the Commissioner, the river area shall be that area within one half mile of each bank of the river.

(zz) "River area management plan" means a plan for the management of a river area or areas as described in Section 666.6 of this Part.

(aaa) "River bank" means that land area immediately adjacent to and which slopes toward the bed of a watercourse, the integrity of which is necessary to maintain the watercourse. For purposes of this Part, a bank will not be considered to extend more than 50 feet horizontally from the mean high water line, except that it may be extended upgrade to the crest of a contiguous bluff, cliff, hillside or similar feature, where necessary to protect a watercourse.

(bbb) "River bed" means that land area covered by water at mean high water.

(ccc) "Road" means any highway, hard-surfaced road, improved or dirt road.

(ddd) "Run-of-river" means an operational mode for an impounding structure wherein the instantaneous outflow from the impoundment (as releases, spillage, and/or leakage) is always equal to the instantaneous inflow into the impoundment. The storage level of the impoundment must not be permitted to fall below the crest of the dam/flashboards except for emergency situations.

(eee) "Scientific features" means any special physical or natural attributes in the designated river area that are verified by scientific investigation.

(fff) "Sign" means any inscribed surface, pattern or artificial lighting, pictorial, symbolic, ornamental or emblematic structure, barrier, fluttering apparatus or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any business, activity, object, service or place, give directions or to bear any other kind of message. The term "sign" must not include any traffic control device; any sign placed for less than three months to advertise any event sponsored by a civic, religious, fraternal group or similar not-for-profit organization; to advertise the sale of any merchandise on a temporary basis from a residence; to address any candidate or question that is the subject of a public election or any political issue; to advertise the availability of the premises or some portion thereof for sale or lease; or any patriotic flag or banner not used to advertise a commercial use.

(ggg) "State agency" means any department, bureau, commission, board or other agency of the State, including any public benefit corporation, any member of which is appointed by the governor.

(hhh) "Statewide Rivers Inventory" means the inventory of river corridor natural, cultural, and recreational resources maintained by the Department.

(iii) "Stream improvement structure for fishery management purposes" means any structure made of naturally occurring materials which are designed solely for fishery management purposes and which
do not materially alter the natural character of the waterway. Examples include fish barrier dams, fish passage structures, minor dikeing, cribbing, rip-rapping, bank stabilization and stream deflectors and other structures or improvements.

(jj) "Structure" means any object, other than a traffic control device, which is constructed, installed, or placed on land to facilitate land use, and includes such examples as buildings, mobile homes, sheds, tanks, outdoor lighting, bridges, water access parking areas, fences and poles and any fixtures, additions and alterations thereto and, unless placed for a period of less than six months, trailers, travel trailers, campers, or tents.

(kk) "Subdividing of land" or "subdivision" means any active, effective, or proposed division of land into lots, parcels or sites, whether contiguous or not, for the purpose of any form of separate ownership or occupancy as part of a common scheme (including grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group or person acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed.

(ll) "Trail" means a marked and maintained path or way four feet or less in width, and located and designed to provide for reasonable access in a manner causing the least effect on the local environment.

(mm) "Undisturbed area" means that portion of a lot or subdivision that is left in a natural state without grading, mowing, landscaping, or destruction or removal of vegetation.

(nn) "Water access parking area" means a site for the parking of not more than ten vehicles with foot trail access to the water and which does not contain a ramp for trailer boats.

(oo) "Water-dependent use" means an activity that can only be conducted on, in, over or adjacent to a water-body, because such activity requires access to water, and involves the use of water as an integral part of the activity.

666.4. Classes of rivers and management objectives for river areas.

The system consists of three classes of rivers as designated under Section 15-2711 of the Act.

(a) Wild rivers are generally five (5) miles or more in length, free of diversions and impoundments, and accessible only by water, foot or horse trail. Their river areas are primitive and undeveloped in nature. In general the minimum distance from the river to a public road or a private road open to the public is one-half mile. Management of wild river areas will be directed to the perpetuation of their wild condition.

(b) Scenic rivers are generally free of diversions or
impoundments with limited road access. Their river areas are essentially primitive and undeveloped or are used for agriculture, forest management and other dispersed human activities which do not in themselves substantially constrain public use and enjoyment of these rivers and their environs. Management of scenic river areas will be directed to preserving and restoring their natural scenic qualities.

(c) Recreational rivers are generally readily accessible, and may have a significant amount of development in their river areas and may have been impounded or diverted in the past. Management of recreational river areas will be directed to preserving and restoring their natural, cultural, scenic and recreational qualities, except in areas delineated by the Department as communities, which will be managed to avoid adverse environmental impacts and loss of existing river corridor values.

666.5. Local government implementation.

Pursuant to Section 3-0301(2)(p) of the Environmental Conservation Law, the Commissioner may delegate to a local government or a group of local governments its powers, functions, and responsibilities, except review and determination of any application for a permit from a state agency, for administration of designated river areas as it deems proper upon determining that such local government or group of local governments has adequate legal authority, expertise, staff, funding and such other capabilities as the Commissioner may prescribe as being necessary to fully carry out such powers, functions and responsibilities in place of the Department and in a manner consistent with the Act.

666.6. Boundaries of river areas.

(a) Boundaries will be established subject to the finding of the Commissioner that they are consistent with the purposes and policies of the Act and facilitate the management objectives thereof. Boundaries will be delineated and established to include within the river area those natural, cultural and recreational features whose protection and preservation are necessary to accomplish the purposes of the Act. Such features may include: scenic areas; natural, scientific and cultural features; flood plains and wetlands; significant fish and wildlife habitats; watershed and hydrological aquifer features, ecologically important areas and river-related outdoor recreational facilities. In delineating a river area boundary, consideration may be given to the existence of property boundaries or regulatory boundaries.

(b) In recreational river areas, the Department may designate specific areas as communities that meet the criteria for such areas as specified in Section 666.3(m). Also, any local government partially or wholly within a designated river corridor may submit to the Department the boundary of a proposed community designation.
Such proposal will include specific boundaries and supporting information relative to the criteria. The Department will publish a notice in the Environmental Notice Bulletin and in at least one newspaper having general circulation in the area of any departmental or local governmental proposal for a community designation and may hold a public hearing prior to making a decision to adopt, modify or reject such proposal. Boundaries may not exceed a width of one-half mile from each bank of the river.

(c) Boundaries will be established by the Commissioner following a public hearing held in or near the river area after a river has been included in the system. The Department will publish notices in the Environmental Notice Bulletin and in at least one newspaper having general circulation in the area at least thirty days in advance of any such Departmental hearing. Failure of any person to be aware of the hearing will not invalidate the boundary subsequently established. Within the Adirondack Park, the boundaries will be mutually agreed upon by the Department and the Adirondack Park Agency.

(d) Upon establishment of the boundary, the Commissioner will file a map and narrative description of same with the clerk of each county in which the designated portion of the river is located. The Commissioner will also notify affected local governments and state agencies of same and provide them with a map and narrative description of the boundary. A notice of establishment of the boundary will be placed in the Environmental Notice Bulletin and a map and narrative description of the boundary will be provided to interested parties upon request.

(e) Boundaries may be established or amended independently or concurrently with the process of adopting a river management plan and any complementary regulations for an individual designated river, as provided by Section 666.7 of this Part.

(f) Upon the designation of a river in the system and until boundaries for the river are established, the provisions of this Part will be applicable within one-half mile from each bank of the river.

(g) Unless otherwise specified, the boundaries of river areas described as a uniform distance from a river bank will themselves wind and turn as the river does. All distances from a river will be measured horizontally from the bank of the river.

(h) The Commissioner may amend the boundaries of any river area after a public hearing, at the initiative of the Department or as may be requested by any other person, if in the judgment of the Commissioner such amendment would further the purposes and policies of the Act and more aptly facilitate the management objectives thereof. Notice of the hearing will be provided in the same manner as when boundaries are established originally.

(i) Upon request by any landowner, tenant, mortgagee, contract vendee or optionee or other person having a legal interest in a given property, the Department will determine the terminal points of the river area or classified sections thereof and the bank at relevant points along the river area.
666.7. River area management plans.

(a) Management plans will be developed by DEC for designated river areas to recommend specific actions to protect and enhance all river corridor resources. The Department will encourage participation by local government and interested persons and organizations in the development of studies, reports and plans for rivers designated for study or administration under the Act and also encourage their participation in the planning process necessary to achieve the goals of the Act.

(b) A river area management plan for a particular river may be prepared by the Department, by an affected local government or group of affected governments or by any person or entity acting in cooperation with any affected local government or governments or this Department. In the event that such plans are not to be prepared by the Department, those local governments, persons or other entities engaged in such activity will be approved by the Department, will act in an advisory capacity to it, and will coordinate and cooperate fully with the Department. The Department will provide such guidance and assistance as may be required to insure that the proposed river management plan is sufficient.

(c) A river area management plan not prepared by the Department and submitted to the Commissioner for final approval will be reviewed and acted upon by the Department within a reasonable period of time from its submission.

(d) A river area management plan will:

1. Describe existing conditions in the river corridor, including: those natural, cultural and recreational resources identified in available information sources, such as the statewide rivers inventory; prevailing land and water uses; land ownership patterns; and existing management devices.

2. Identify the resource management issues not adequately addressed by administration under Part 666.

3. Identify alternatives considered in determining the actions needed to address the issues identified in Section 666.7(d)(2).

4. Propose goals, objectives, policies, management guidelines and necessary actions to implement the plan which are consistent with the purposes and policies of the Act.

5. Propose, if necessary, a river area regulation for full implementation of the plan.

6. Propose, if necessary, a revised river area boundary, consistent with Section 666.6 of this Part, for full implementation of the plan.

(e) A plan prepared in accordance with this section is required prior to promulgation of specific river area regulations referenced in Section 666.7(d)(5).

(f) The Commissioner will not approve any proposed plan until conducting a public hearing on the plan held in or near the river area.

(g) Upon the Commissioner's approval of a plan, notice will be published in a newspaper of general circulation in the river
666.8 Permits.

(a) The procedures and schedules for applications for rivers system permits are governed by Article 70 (Uniform Procedures Act) of the Environmental Conservation Law "ECL" and its implementing regulations contained in Parts 621 and 624 of this Title. An application for a permit will be filed by the applicant with the regional permit administrator on a form prescribed by the Department. Such application must set forth the purpose, character and extent of the proposed regulated activity and shall set forth in detail the reasons the applicant seeks a permit. The application will include:

1. a detailed description of the regulated activity;
2. a map showing the area affected, with the location of the proposed regulated activity and the river;
3. a statement addressing feasible alternatives which do not affect river area resource values or on a site that is not regulated by this Part;
4. a statement identifying the owner of the subject property and, where applicable, written permission of said owner for the applicant to seek permission for, and to carry out, the proposed activity;
5. a description of the planned use of the subject property once the proposed regulated activity is completed;
6. a plan at a scale acceptable to the Department which identifies the lot boundary and the river;
7. clearly labeled photographs of the site;
8. a variance request when applicable as specified in Section 666.9; and
9. such additional information as the regional permit administrator deems necessary to enable the department to make the findings and determinations required under this Part. For example, the applicant may be required to submit a list of the names of the owners of record of lands adjacent to the subject property upon which the regulated activity is to be undertaken.

(b) The Department may require the applicant to provide a reasonable number of copies of the application, including associated documents and maps, for the purpose of public review.

(c) The Department may treat the application as a request for a determination that the proposed project is an action which does not require a permit under this Part.

(d) The date of expiration of any permit issued pursuant to this part will be not more than five years from the date such permit was issued.

(e) Review procedures are governed by Article 8 (State Environmental Quality Review Act) of the ECL and its implementing
regulations contained in Part 617 of this Title. Reviews and determination of any permit application from a state agency must be conducted by the department, and must not be delegated to any local government.

(f) Before a river system permit is issued, it must first be determined that:

(1) The proposed land use or development is consistent with the purposes and policies of the Act and with the provisions of this Part;

(2) The resources specified in Section 666.2(e) of this Part will be protected and the proposed activity will not have an undue adverse environmental impact;

(3) No reasonable alternative exists for modifying or locating the proposed activity outside of the designated river area; and

(4) Actions proposed to be undertaken by state agencies are designed to preserve, protect or enhance the resources and values of designated rivers.

(g) Any permit issued pursuant to this Part may be issued with conditions as are necessary to assure the preservation and protection of affected river area resources and to assure compliance with the policy and provisions of the Act and the standards and provisions of this Part.

(h) Any permit issued pursuant to this Part may authorize the undertaking of the authorized regulated activity on a periodic basis, as specified in the permit, over a period of time not exceeding five years from the date of issuance of the permit. Such permit shall contain a condition requiring the permittee to notify the Department at least fourteen days in advance of each occasion upon which the permitted activity will be conducted.

666.9. Variances from the regulations.

(a) No variance may authorize any development or improvement prohibited by the Act. The Department, upon receipt of a written request made in conjunction with a permit application pursuant to this Part, may vary or modify any provision of this Part relating to allowable land uses or development so long as it is the minimum variance necessary and only if:

(1) in the case of a request for a use variance, the provision(s) to be varied or modified would cause an unnecessary hardship for the applicant. In order to prove such unnecessary hardship the applicant must demonstrate that:

(i) the provision(s) to be varied or modified deprive the applicant of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;

(ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the river corridor;

(iii) the requested use variance, if granted, will
not alter the essential character of the river corridor; and
(iv) the alleged hardship has not been self-created.

(2) in the case of a request for an area variance, the area or dimensional provision(s) to be varied or modified would cause practical difficulty for the applicant. In making its determination, the Department will consider the benefit to the applicant if the variance is granted, as weighed against the adverse impacts upon river resources. The Department will also consider:

(i) whether and to what extent a change will be produced in the character of the river corridor or a detriment to nearby properties will be created by the granting of the area variance;
(ii) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
(iii) whether the requested area variance is substantial;
(iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the river corridor; and
(v) whether the alleged practical difficulty was self-created, which consideration will be relevant to the decision of the Department, but will not necessarily preclude the granting of the area variance.

In addition to addressing the foregoing considerations, an applicant for an area variance has the option of seeking to prove, by competent financial evidence, that the strict application of the subject provision(s) of this Part will result in significant economic injury. Such evidence will be limited to the effect of such provision(s) upon the value of the property in question; whether the value would be enhanced were a variance granted will not be relevant. If the applicant demonstrates significant economic injury, the burden is on the Department to establish that the strict application of the subject provision(s) is reasonably related to the purpose and policy of the Act and this Part.

(3) in the case of applicants which are State agencies or municipal corporations, the granting of a variance must be equally as environmentally protective of the river values identified in section 666.2(e) of this Part as compliance with the provision(s) to be varied and must fulfill a public health, safety or welfare function.

(b) A written request for a variance will contain each of the following:
(1) a description of the variance requested;
(2) a listing of each standard to be varied;
(3) a statement of the minimum relief necessary from each standard to be varied;
(4) a map of the area showing the location of the
requested variance, proposed mitigation, property boundaries, and adjacent owners of record, if deemed necessary by the Department; 

(5) in the case of a request for a use variance, the applicant may be required to provide financial evidence which may include the following:

(i) the rate of return on the property both with and without the requested variance;
(ii) the owner's investment in the property, including purchase price, taxes, expenses, carrying costs, and cost of improvements; and
(iii) income, if any, produced by the property.

(6) a discussion of alternative site possibilities outside the river area; and

(7) a discussion of proposals for environmental impact reduction and/or mitigation. Such proposed mitigation must comply with the following:

(i) the mitigation must occur on or in the immediate vicinity of the site of the proposed variance if possible;
(ii) the location of the proposed mitigation must be subject to regulation under the Act and this Part upon completion; and
(iii) the mitigation must provide substantially the same or more benefits than will be lost through the proposed activity.

(c) Any mitigation required in connection with the grant of a variance will be included as a permit condition and must be completed if other work is commenced.

(d) Any land use or development which, but for this subdivision, would require a variance due to noncompliance with one or more specific standards or criteria in this Part, may be permitted by the Department without such variance if:

(1) the Department determines that the project, if approved, will not adversely impact any affected river resource; and

(2) the project satisfies all other applicable standards and criteria, including the standards for permit issuance set forth in Section 666.8.

For the purposes of this subdivision, a determination of complete application pursuant to Part 621 of this Title shall not preclude the Department from requiring an applicant to submit additional information in the event that one or more potential significant adverse impacts are identified and a variance is necessary for the project to proceed.

666.10. Penalties and enforcement.

Any person who violates the Act, this Part or any order issued by the Department pursuant to the Act or to such regulations may be liable for all penalties and other remedies provided for in the Environmental Conservation Law. Such penalties and remedies may be
in addition to any other penalty or remedy available under any other law.

666.11. Preservation of natural flow.

(a) Dams and Waterway Improvements.
(1) No dam, weir, bulkhead, rip-rap, diversion or other structure or modification of the waterway shall be constructed upon any river area which has been included in the state wild, scenic and recreational rivers system except stream improvement structures for fisheries management purposes as expressly authorized in Section 15-2709.
(2) New construction or new operation of hydropower facilities on wild rivers is prohibited.
(3) The Department may approve permits and certifications for the installation of new hydroelectric generation facilities at existing dams on scenic and recreational rivers provided that:
   (i) a run-of-river operational mode is employed;
   (ii) there is no diversion of the river above or below the existing dam;
   (iii) any ancillary facilities, such as access roads and transmission lines, conform with the requirements of the Act, this Part and other applicable State laws and regulations; and
   (iv) such dams are not on lands in the Forest Preserve, State Nature and Historic Preserve Trust, in State parks, or in State reforestation, multiple use, unique, or wildlife management areas.

(b) Natural flow.
(1) The natural flow of water in wild rivers shall be maintained and there shall be no new diversions thereof or withdrawals therefrom.
(2) Permit application reviews of proposed groundwater withdrawals which are located in the watershed of the river area and are regulated pursuant to Article 15, Title 15 of the Environmental Conservation Law shall include consideration of the effect of the proposed activity on streamflow and associated water table levels. Permits for groundwater withdrawals will not be issued if it is determined that such withdrawals would result in significant lowering of the water table or reduction of streamflow.
(3) Any changes in water releases from an existing water-impounding structure shall be conducted in a manner that will insure the protection, perpetuation and enhancement of riverine biota and the natural, scenic and recreational values of the designated river.
(4) All water-dependent and water-related developments or land uses, consumptive or otherwise, which are located in or upstream of a designated river segment, and which affect all or part of the flow in the designated river, will be required:
   (i) to operate in a run-of-river mode; or
(ii) to maintain a downstream baseflow that will provide appropriate protection, perpetuation and enhancement of the riverine biota and the natural, scenic and recreational values of the designated river segment.

(c) Natural drainage systems, including perennial and intermittent streams, swales, and drainage ditches in an open, undisturbed condition, along with adjacent vegetated filter strips shall be maintained.


The following water quality standards will apply:
(a) In wild river areas:
   (1) New discharges of any substances are prohibited; and
   (2) Upon its designation by the Legislature, the water quality classification of the river will be evaluated by the Department and consideration will be given to reclassifying the river to Class N pursuant to 6 NYCRR Part 609 if this is not the present classification. If a Class N classification is not applicable, the most restrictive classification appropriate, considering future uses of the river, will be applied. Such evaluation will be accomplished as part of the boundary setting process under Part 666.6;
(b) In scenic and recreational river areas:
   (1) New discharges from point sources are not allowed unless the applicant shows that such discharge will not have a detrimental impact on river area resources; and
   (2) Upon its designation by the Legislature, the water quality classification for a river will be evaluated by the Department and a consideration given to reclassification to the most restrictive classification appropriate, considering river corridor resources identified in the statewide rivers inventory, designation study report and final corridor boundary study, as well as future uses of the river and river area which are allowable. Such evaluation will be accomplished as part of the boundary setting process under Part 666.6;
(c) Existing discharges from point sources will be minimized or eliminated; and
(d) Stormwater runoff from point and nonpoint sources will be controlled and managed by the Department as follows:
   (1) Plans are required for all non-point sources and will be designed to minimize pollutant discharges within the river area;
   (2) Stormwater runoff from a new development will not exceed pre-developmental (natural) conditions; and
   (3) Stormwater runoff must be managed to the extent practicable within each newly created lot. Development plans must provide for control of the first 1/2-inch of runoff from all disturbed and otherwise developed areas.
666.13. Table of use guidelines.

The table and listing of uses, restrictions and standards in this section is incomplete. It includes many of the most often used provisions of this Part. Notes in the tables provide additional standards, restrictions and references.
## WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM

### 60YCRG PART 666

#### USE GUIDELINES

### Classes of Rivers:
- Wild Rivers
- Scenic Rivers
- Recreational Rivers
- Communities

### Procedural Requirements:
- NPN - No permit necessary.
- NR - Notification required.
- P - Permit required.
- PI - Presumed incompatible.
- X - Prohibited use.

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<th>LAND USES AND DEVELOPMENTS</th>
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<th>RECREATIONAL COMMUNITY</th>
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<td>A. EXISTING LAND USES</td>
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<td>1. Continuation, without change, of land uses lawfully existing on the date upon which this Part first takes effect in the river area.</td>
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<td>2. Maintenance, rehabilitation, restoration, replacement or reconstruction without change of lawfully existing structures or their improvements.</td>
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<td>3. Resumption of a land use after it is discontinued for one year. [See Note (i)]</td>
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<td>4. Development of any lawfully existing lot for land uses or developments allowed in the river area notwithstanding that the lot may not satisfy the specified minimum lot area or shoreline frontage widths. [See Note (ii)]</td>
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**NOTE:**

(i) This requirement is not applicable to agricultural land which has been farmed in two of the preceding five years or which is enrolled in a federal set-aside program as part of a certified farm plan.

(ii) All contiguous parcels held in actual or effective ownership on or after the date upon which this Part first takes effect in a given river area shall be deemed a single lot.

### B. DAMS, IMPOUNDMENTS AND WATER WITHDRAWALS

1. Modification of the waterway by impoundment, diversion, rip-rap, bulkheads, structures or improvements impeding or altering the natural flow of water or free-flowing condition of the river. [See Part 666.11(a) & Note] | X    | X      | X                      |
2. Water withdrawals from the river subject to the provisions of Part 666.11(b). | X    | P      | P                      |
3. Surface water diversions subject to the provisions of Part 666.11(b). | X    | P      | P                      |
4. Groundwater withdrawals subject to the provisions of Part 666.11(b)(2). | X    | P      | P                      |
5. Water releases from impoundments in the watershed of the designated segment subject to the provisions of Part 666.11(b). | X    | P      | P                      |
6. Water-related or water-dependent land uses or developments in the watershed of a designated river segment and which affect all or part of the flow in the designated river subject to the provisions of Part 666.11(b). | X    | P      | P                      |

**NOTE:**

New construction or operation of hydroelectric generation facilities will be permitted at existing dams on scenic and recreational rivers subject to the provisions in Part 666.11(a)(3).
**C. RESIDENTIAL STRUCTURES**

1. Private dwellings, mobile homes, and multiple family dwellings located within the 100-year floodplain or within 150 feet of the river and/or tributary bank.

2. Private dwellings and mobile homes dwellings:
   a. located between 150 and 250 feet of the river or tributary bank. [See Notes (i)-(vii)]
   b. located more than 250 feet from the river or tributary bank. [See Notes (i)-(vii)]

3. Multiple family dwellings located more than 150 feet from the river bank. [See Notes (ii), (iv)-(vii)]

4. Conversions of existing principal buildings associated with resort hotels, rental cottages and group camps to residential use.

5. Expansions of lawfully existing residential structures which do not exceed any standard in this Part up to a cumulative total of 500 square feet from the date this Part first takes effect.

**NOTE:**

(i) All new residential structures constructed within 500 feet of the bank must be screened by vegetation or topographic features as viewed from the river; must not exceed 34 feet in height; and must not be constructed on a slope greater than 15 percent.

(ii) Each private dwelling or mobile home in a scenic river area must be on a lot of at least 4 acres and have, when applicable, a shoreline frontage of at least 300 feet.

(iii) Each private dwelling or mobile home in a recreational river area must be on a lot of at least 2 acres and have, when applicable, a shoreline frontage of at least 200 feet.

(iv) Multiple family dwellings must be on a lot of at least one acre per living unit and have, when applicable, a shoreline frontage of at least 200 feet.

(v) Clustering will be encouraged and may be allowed by rivers system permit in order to maintain undeveloped and undisturbed open areas.

(vi) When clustering is permitted, the minimum cumulative, developable acreage, density and, when applicable, shoreline lot width must be satisfied for the parcel as a whole. For scenic and recreational river areas, not less than 40 percent or 30 percent of the clustered subdivision respectively will be retained in an undisturbed condition during and after development.

**D. NON-RESIDENTIAL STRUCTURES**

1. Agricultural use structures located 100 feet or more from the river bank. [See Notes (i) & (ii)]

2. Forest management and accessory structures (other than docks and boathouses) located on slopes of 15% or less, beyond the 100-year floodplain and:
   a. 150 feet or more from the river bank, whichever is greater. [See Notes (i)-(iii)]
   b. 250 feet or more from the river bank, whichever is greater. [See Notes (i)-(iii)]

3. Lean-tos
   a. with less than 200 sq.ft. of floor space. [See Notes (i)-(iii)]
   b. with 200 sq.ft. or more of floor space. [See Note (ii)]

4. Docks. [See Note (iv)]

5. Boathouses for boat storage or shelterage only. [See Note (iii)]


7. Fences.

**NOTE:**

(i) Structures listed above as NPN are P when located less than 500 feet from the river bank or 250 feet from the bank of a tributary but beyond the setbacks specified above.

(ii) No new non-residential structure shall exceed 34 feet in height except agricultural silos.

(iii) New forest management and accessory structures constructed with 250-500 feet of the bank of the river shall be screened by vegetation or topographic features as viewed from the river.

(iv) Any new dock will be designated and developed so as to minimize its intrusion, if any, into the river and will not impede its natural flow or, if applicable, its navigability.
E. ROADS, TRAILS, BRIDGES AND MOTORIZED ACCESS

1. Private or public roads and private driveways greater than 100 ft. long. [See Notes 1, 2, and 3(i)]

2. Forest management roads and tributary bridges:
   a) located less than 150 feet from the bank of the designated river.
   b) located 150 feet or more from the bank of the designated river.

3. Trails. [See Notes 3(ii) and (iii)]

4. The use and operation of motor vehicles or motorized equipment
   a) for forest management purposes only.
   b) required for any other allowable use.

5. Bridges:
   a) other than over a designated river, for non-motorized open space recreational uses. [See Notes 1(i), 2(i)]
   b) over a designated river for public roads or for non-motorized open space recreational uses. [See Notes 1(i), 2(i) and 3(iii)]

NOTE:

1. For Areas With A Scenic River Designation:
   (i) New or extended public roads, private roads open to the public, and any bridges necessary thereto may be constructed only to provide access for the public to the shoreline of a portion of a scenic river area that is at least 2 land-miles, as measured along the river, from the nearest existing public access on the same side of the river. Except for that portion of a public road which provides access to a river, all such new or extended roads shall be constructed no closer than 500 feet from the river bank.
   (ii) No vehicle access exists to a new or existing water-dependent residential or agricultural land-use or development, within a scenic river area, a new private road may be allowed provided that it is not open to the general public, is located at all points at least as far from the river as the land-use or development, and is not located inside or within 100 feet of the river bank.

2. For Areas with a Recreational or Community Designation:
   (i) All roads, bridges, and motorized access customarily associated with allowable uses in recreational river areas shall be allowed inside or within 500 feet of the river bank only as such uses are necessary for access to or for crossing the designated river.
   (ii) If there is no vehicle access to a new or existing land use or development within a recreational river area, a new private road may be developed only if it is not open to the general public, is located at all points at least as far from the river as the land use or development to which it will provide access, and is not located inside or within 100 feet of the river bank.
   (iii) If there is no vehicle access to a new or existing commercial, industrial or institutional land use or development dependent upon river access within a community, a new private road providing access to the river may be developed only if it is located at all points at least as far from the river as the land use or development to which it will provide access and is not located inside or within 100 feet of the riverbank, except for single points of access.

3. For All Designated Areas:
   (i) Any new public or private road for non-motorized open space recreation uses shall be reasonable and necessary; be located, designed, and constructed to minimize its visibility from the river, to minimize alteration of the natural environment, and to avoid undue adverse environmental impacts; have its uses effectively restricted to those specified by the person undertaking such activity; and have any associated bridges designed so as to not interfere with the recreational use of the river.
   (ii) Any new trail for non-motorized open space recreation uses shall be located, designed, and constructed to minimize its visibility from the river, to minimize alteration of the natural environment, and to avoid undue adverse environmental impacts; have its uses effectively restricted to those specified by the person undertaking such activity; and have any associated bridges designed so as to not interfere with the recreational use of the river.
   (iii) Any bridge associated with a new trail shall be constructed, to the greatest extent, of naturally occurring materials.
### F. WATER QUALITY, WASTEWATER TREATMENT, AND WASTE DISPOSAL

1. Private water supply wells.
2. Private sewage disposal systems.
3. Waste treatment, storage or disposal except in temporary containers specifically intended for storage of such refuse.

**NOTE:**

For additional concerns, standards and requirements, see Section 666.12 on preservation of water quality.

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### G. SIGNS AND COMMERCIAL SIGN DIRECTORIES

1. Public safety or regulatory signs by any authorized state or local government agency or public utility, where otherwise allowed by law.
2. Posting signs pursuant to Sections 11-2109 and 11-2111 of the Environmental Conservation Law that:
   a) do not exceed 3 sq. ft. in size or 10 feet in height;
   b) exceed 3 sq. ft. in size or 10 feet in height.
3. Informational and directional signs as are necessary to the continuance of any existing use that:
   a) do not exceed 1 sq. ft. in size or 10 feet in height.
   b) exceed 1 sq. ft. in size or 10 feet in height.
4. All other signs which are located more than 500 ft. from the river bank, do not contain nor are lighted by any flashing or intermittent lights, and:
   a) are no larger than 3 sq. ft. in size and are located only upon the property with which the subject of the sign is associated.
   b) are no larger than 10 sq. ft. in size.

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### H. PUBLIC UTILITY USES

1. Public utility uses which are subject to review pursuant to Articles VII, VIII, and X of the Public Service Law.
2. Public utility uses which do not constitute major public utility uses, do not cross the designated river and are proposed to be located more than 500 feet from the river bank.
3. Public utility uses which are not subject to Articles VII, VIII, and X of the Public Service Law which:
   a) are proposed to cross the river, or located within 500 feet of the river bank. [see Notes (iii)-(iv)]

**NOTE:**

(i) River crossings by public utility uses shall be located only where the impacts on the scenic qualities of the river area, as seen from other parts of the river area, are minimized.

(ii) River crossings by public utility uses shall be limited in number and location, to the extent feasible, to those points along a river where crossings are now made, or in conjunction with bridges, but in no case shall they be more frequent than once every 2 miles, as measured along the course of the river.

(iii) A river area public utility use shall be so located, designed and constructed as to avoid undue adverse environmental impacts and to minimize visibility from the river and from other parts of the river area.

(iv) No pole erected for any public utility use, other than those utility uses under the jurisdiction of Article VII or Article VIII of the Public Service Law, shall exceed 40 feet in height.

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1. **FOREST MANAGEMENT, VEGETATIVE CUTTING AND AGRICULTURE**

1. Forest management practices, excluding forest management roads, and other vegetative cutting:
   a) located less than 100 feet from the river bank. (see Notes below)
   b) located 100 feet or more from the river bank.

2. Clearcutting
   a) areas less than 25 acres.
   b) areas 25 acres or more, aggregating areas of 8 acres or more which are separated by less than 300 feet at any point by an intervening area with an average basal area of at least 60 sq.ft. per acre of trees one inch or more in diameter at breast height. (see Notes below)

3. Harvesting, cutting, culling, removal, thinning or other disturbance of vegetation, not associated with development.
   a) located less than 100 feet from the river bank. (see Notes below)
   b) located 100 feet or more from the river bank.

4. Agricultural uses
   a) less than 100 feet from the river bank. (See Note (xvi))
   b) 100 feet or more from the river bank.

**NOTE:**
(i) Trees must be felled, where possible, so tops land away from streams.
(ii) Logging debris must be removed from streams immediately.
(iii) Tributary crossings may be no closer than 300 feet apart and must be at right angles to the stream channel.
(iv) Tributary crossings are prohibited where stream bank slopes exceed 10 percent or the stream bottom is not composed substantially of rock.
(v) Skidding or winching of logs or trees in or along the axis of tributary channels or across wild rivers is prohibited.
(vi) Log landings must be located on well drained sites 200 feet or more from the river bank and on slopes of less than 10 percent.
(vii) Road grades may exceed 30 percent for no more than 150 feet.
(viii) Clearcuttings must leave a 50 foot uncut strip along streams, ponds and wetlands and must be conducted under a harvesting plan approved by the Department.
(ix) All roads, including skidways, must be regraded after logging is completed.
(X) Diversion devices must be installed during construction of roads on slopes exceeding 10 percent in such a way that water is diverted from the road and is not discharged directly into the designated river or its tributaries.
(xi) Any debris resulting from forest management must, if such debris consists of hardwoods, be lopped so that no such debris is piled higher than 4 feet above ground level or, if such debris consists of conifers, lopped so that all limbs are removed up to a point where the tree trunk has a diameter not exceeding 3 inches.
(xii) Forest management roads must be located so as to minimize their visibility from the river.
(xiii) Logging equipment must not be stored within the banks of the river or abandoned within the river area.
(xiv) No forest management roads will be allowed inside or within 150 feet of the river bank, except those forest management roads necessary for crossing the designated river and developed pursuant to a Rivers System permit.
(xv) The harvesting, cutting, culling, removal or thinning of vegetation inside or within 100 feet of the bank of the river, that is allowed with a Rivers System permit, must be undertaken in a manner that preserves the stability of the river bank and minimizes erosion and direct runoff to the river. Such cutting must be performed in recreational river areas for the purpose of creating a view provided that it occurs only in association with a residential structure and that screening of the structure is maintained as viewed from the river.
(xvi) New agricultural uses within 100 feet of the river bank must be done in accordance with the best management practices (BMP's) contained in the certified county Soil and Water Conservation District conservation plan for the farm. A letter of notification and a copy of the certified farm plan must be submitted to the regional DEC permit administrator prior to commencement of any clearing or removal activities. Failure to comply with the applicable BMP’s will be considered a violation of this Part.
### J. RECREATIONAL USES AND DEVELOPMENTS

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**NOTE:**
(i) Any new boat launching site or water access area will be designated and developed so as to minimize its intrusion, if any, into the river and will not impede its natural flow or, if applicable, its navigability.

(ii) In scenic and recreational river areas, new structures other than fences, launch sites, docks, bridges, water access parking areas, boat launching sites, and agricultural-use structures shall not be constructed on slopes of 15 percent or greater and shall be constructed beyond either:
   (a) the limit of the 100-year floodplain; or
   (b)(1) in scenic river areas, two hundred and fifty feet (250) feet from the river bank or any tributary;
   (2) in recreational river areas, one hundred and fifty (150) feet from the river bank or any tributary; whichever is greater.
K. MISCELLANEOUS USES AND DEVELOPMENTS
1. Railroad and appurtenant facilities.
2. Retail or rental facilities directly associated with river recreation with 10% or more lot coverage.
3. Other commercial, industrial, or institutional uses. [See Notes (i)-(x)]
4. Subdividing of land:
   a) one and two lot subdivisions for residential development.
   b) all other subdivision of land.
5. Disturbances of the bed or banks of the river including fill, excavation or permanent structures.
6. Disposal of refuse and human waste of any nature in a river area except in temporary containers specifically intended for storage of such refuse until collection from its point of generation.

NOTE:
(i) New development must be screened from the view of the river. It must not detract or interfere with the quality of the view, or exceed 34 feet in height unless it is not visible from other points in the river corridor.
(ii) New lots must be 3 acres or more of which 30% must remain in an undisturbed condition during and after construction.
(iii) Existing lots that are smaller than 3 acres may be developed for industrial, commercial and institutional uses so long as they are able to conform to the other provisions in these notes.
(iv) Lot coverage may not exceed 10% of the lot area. Wetland, Terrance, floodplain, and open water land is excluded from lot coverage calculations, except open space calculations. Potential future development must be addressed by the applicant at the time of applying for approval of the initial development.
(v) Developments must be setback a minimum of 100 feet from public roads except where such setback would interfere with the setback from the river or other resources.
(vi) Development must not occur on slopes of 15% or greater.
(vii) Natural drainage systems, including perennial and intermittent streams, swales, and drainage ditches in an open, undisturbed condition, along with adjacent vegetated filter strips must be maintained.
(viii) Priority must be given to providing and maintaining wildlife travel corridors and areas to support important wildlife and botanical values identified in the river corridor designation and final river corridor studies.
(ix) New activities are limited to those which do not release harmful effluent into the groundwater or substantially and cumulatively alter associated water table or streamflow levels. No discharge will be permitted at any point from any private or public sewage disposal system, in such a way or of such a nature or temperature, as can harm river corridor values.
(x) Commercial, industrial and institutional uses may not exceed water usage equivalent to that of the residential development permitted on the lot under this Part (e.g. limited to dry stores or equivalent facilities).
(xi) New commercial, industrial and institutional uses must be set back 500 feet from the river bank, 100 year flood plain, wetlands and tributaries.

L. OTHER LAND USES AND DEVELOPMENTS NOT SPECIFICALLY LISTED

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Any person aggrieved by the issuance, denial, suspension, or revocation of a permit may within thirty days from the date of the commissioner's order seek judicial review pursuant to article seventy-eight of the civil practice law and rules in the supreme court for the county in which the river area is located.

666.15. Severability.

If any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons and circumstances.