

HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

PERMIT SYSTEM AT GREAT SACANDAGA LAKE

Part 606 of the NYS Environmental Conservation Law

SUMMARY OF
PROPOSED RULES

The following is a summary only, and has been prepared solely for purposes of compliance with the New York State Administrative Procedure Act (SAPA) for rule making. The summary is a generalization of the draft rules and as such may not be construed as complete, definitive, or binding on the District or permit holder.

October 17, 2007

606.1 DEFINITIONS

This section enumerates the many terms and phrases used in the rules and their meanings for interpretation of the rules.

606.2 PURPOSE AND SCOPE

This section establishes that the permit system and the supporting rules are designed to allow eligible persons to voluntarily apply for and receive provisional, temporary and revocable written permission, via a permit, to access the Great Sacandaga Lake (Reservoir). The rules will be effective upon approval by the Department of Environmental Conservation. When the proposed rules take effect, they are to supercede prior official rules governing the permit system. If any part of these rules is found to be unlawful, the unlawful provision will be removed.

606.3 POWERS OF THE BOARD

The Board's powers include the following: 1) to maintain and operate the reservoir, 2) to grant temporary access to State lands around the Lake, 3) to administer a permit system for such temporary access,

606.4 GENERAL - APPLIES TO ALL USERS

The proposed rules apply to all persons who enter and use the Reservoir and surrounding public lands. Violations of these rules will be enforced. Use of the Reservoir and surrounding public lands are at the user's own risk. Neither New York State nor the District is liable for damages or losses, including losses from other users and their guests. Nothing in these rules is to be interpreted as an entitlement to access the Reservoir. If access to the Reservoir is recorded on a deed by the State, such access is given outside of the permit system.

Access Permits are provisional, temporary and revocable. Access Permits do not authorize access to private land or exclusive use of the access area or the Reservoir. Use of permit areas is limited to uses described on the permit, and included in the Rules. Only signs authorized by the Regulating District and state or federal agencies are allowed. No signs, posted permits, and boundary markers may be moved or destroyed.

Camping is prohibited on access areas. No garbage, debris, or sewage may be disposed on access areas or into the Reservoir without a NYSDEC permit. No vehicle may be abandoned or stored on access areas. No unregistered vehicles are allowed on access areas. Boats may be moored only to docks or moorings. Permit holders may prohibit the parking of vehicles on their permit areas. Number of watercraft and boats depend on the width and type of the permit area. Permit holders are also prohibited from construction of permanent structures, altering the flow of water, causing erosion,

mining, and other activities within the permit area. Permit areas are accessible to the permit holder and guests. Each permit holder is responsible for maintaining clean and sanitary conditions.

606.5 ACCESS PERMIT SYSTEM

Permits may be issued for applications completed by eligible applicants. Seven types of permits are available: 1) Recreational – Front Lot, 2) Recreational – Back Lot, 3) Commercial (Non-Marina), 4) Commercial (Marina), 5) Association, 6) Municipal, and 7) Non-Use.

The cost of the permit system is to be sustained by permit holder fees. Fees for permits depend upon the permit requested. Rules establish when and how fees will be adjusted.

The Board is authorized to set and modify widths of permit areas. Widths of permit areas by permit type are provided in the rules. Permit area widths will be measured at an elevation of 771 feet above sea level. All docks, floats, moorings, and boats must be confined to within Permit areas.

The permit is not a right or interest in property. The permit is subordinate to the District's Authority. The permit may only be used for activities and uses authorized in the permit and the rules. The District may access the permit areas at all times for any lawful purpose. Permits are issued to the applicant only. The applicant must be an

owner of real property within specified areas around the Reservoir. New owners of eligible properties may apply for a permit.

All activities in permit areas are subject to federal, state, and local laws. Work permits must also comply with the requirements of the Great Sacandaga Lake Historic Properties Management plan. The issuance of a permit may not interfere with the District's right to regulate the Reservoir, its water levels and management.

The District has the right to compel compliance and take enforcement actions against violations of the rules. Violations consist of failure to comply with the rules or any conditions of the permit, an encroachment, or actions that are detrimental to the Reservoir or public health. Actions that harm the public health are subject to a suspension of the permit without notice. Permit holders will be notified of other violations, which permit holders must address. Permit holders may apply to the District's appeals process. If deemed necessary by the Board, permits may be revoked for violations. The Board may lawfully compel compliance to enforce violations.

606.6 ACCESS PERMIT APPLICATION

Only owners of eligible properties may apply for a permit. The applicant must demonstrate proof of eligibility. Eligibility depends on the permit applied for.

The District reserves the right to assign and modify permit areas by type of permit. The District will maintain a waiting list for Back Lot permit requests. Property

owners will be registered on the list in the order their request was made and received. It is the registrant's responsibility to ensure their information is correct. No guarantees can or will be made about the availability of a Back Lot permit. Notice of availability will be sent to the first registrant on the waiting list. A registrant may be removed from the list for the following reasons: 1) has been issued a permit, 2) was notified and did not reply, 3) the application was rejected, 4) the eligible property was sold. Exceptions exist whereby a registrant may not be removed from the waiting list.

Applicants must sign and certify that their applications are accurate, is a lawful owner of eligible property, and that they understand the rules. No action will be taken on incomplete applications. Commercial permits will require liability insurance, which must include the District as an insured party. No variances will be given for any insurance requirements. Commercial permit renewals will require proof of compliance from all applicable agencies and a detailed layout of improvements to be made on access areas. The District may amend plans for access permit areas.

The District and its staff will determine if the application is complete and compliant with the rules. Access permits expire at 11:59 on March 14. No guarantees will be made by the District that an access area is suitable for a particular use. Access permits will indicate with other information the location of the access area. The District has the right to set and adjust access area widths in a reasonable manner. Submerged lands are not part of the access area.

Renewal applications will be mailed by the District on or before February 1st. Additional information may be required by the District for permit renewal. Permit holders who fail to respond by the expiration date will be notified a second time, after which they will have 30 days to respond. If permit holder fails to respond to a third notice, the permit will be relinquished and the permit holder must remove all of his possessions from the Permit Area. If the permit holder fails to do so, at the permit holder's expense, the District will remove all materials from the access area.

Permit holders who sell eligible properties will have their permits terminated. New owners of such property may apply for an access permit. Renewal of commercial permits will require additional information and proof of insurance. Permit holders may apply for relocation to new access areas, or request to have their access area re-designated in certain circumstances. Permit holders may request to have their Front Lot access area reduced.

Permit holders aggrieved by a District decision may file an appeal within 45 days of such decision. The District will review and if necessary investigate the issues. Based on the rules and the evidence, the Executive Director may grant relief in writing. If the relief is not satisfactory, the permit holder may appeal to the Board. Upon hearing evidence and public comments, the Board will render a decision within 75 days. The permit holder, upon the Board's decision, may seek judicial review under Article 78.

606.7 PERMIT FEES

The full cost of the permit system will be covered by permit fees. Fee revenues and permit system costs will be reconciled for each three-year budget cycle. Depending on the permit type, certain fees apply.

A completed application consists of a signed and filed application, supporting documentation, and full payment of applicable fees. No refunds will be given for incomplete work permits. Permit fees will be fixed annually and adjusted every 3 years. The Board reserves the right to adjust fees and fee structures to cover administrative costs. Consideration of such adjustment will be publicly noticed. The next adjustment is scheduled for consideration in 2009 for implementation in 2010.

606.8 SITE ALTERATIONS PERMIT APPLICATION

Projects requiring a work permit may not commence until District approval is provided. All structures must be temporary and removable. All other necessary federal, state, or local permits must be secured by the permit holder. Work permit applications will include a detailed plan and payment of a fee. An APA co-application fee will be paid for any work requiring Adirondack Park Agency Section 814 approval. Permit holders seeking a work permit that requires compliance with SEQRA are responsible for SEQRA compliance and related expenses. Ground disturbances require a work permit and may require a Phase 1B field reconnaissance study. All work activities are subject to field inspections by the District. Activities requiring or not subject to a work permit are

enumerated in the Appendices. Standards for construction of stairs and landings are also listed in the Appendices.

The placement of docks requires a work permit. Docks must be, among other standards, floatable, removable, and non-hazardous to aquatic life. Commercial docks are subject to additional standards. Allowable dock configurations are specified in the rules and appendices. Boat canopies are permissible only on certain dock configurations and must meet certain standards. Moorings, swim floats, and ice fishing shacks may be placed only on certain access areas and during certain times of the year. All non-conforming temporary structures before the effective date of the rules may remain non-conforming until replaced. The placement of certain signs will require a work permit. A special activity permit must be approved for placement of canopies and portable toilets.

The proposed rules include the following 6 Appendices:

- Access Permit Fees: This appendix covers miscellaneous; usage and work permit fees and the methodology for determining fees (Note that all permit fees have been frozen through December 31, 2009).
- Authorized Work Activities and Work Permit Fees: This appendix covers the types of activities that do and do not require work permits and the applicable fees.
- Allowable Floatable Dock Configurations: Graphics on acceptable configurations for floating docks.

- Allowable Stairway and Stairway Landing Configurations: A graphic on acceptable configurations for stairways and stairway landings.
- Guidelines For Permit System Appeals To The Board: Guidelines that set forth the procedure for making appeals to the Board of the Hudson River - Black River Regulating District.