



Department of
Environmental
Conservation

Wetlands Regulations – What's Changed?

6 NYCRR Part 664 – Freshwater Wetlands Jurisdiction and Classification

August 15, 2025

Overview

- Freshwater Wetlands Law

What is a Wetland?

How did Law Change?

- Is a Permit Needed?

Regulated Activities

New JD Process

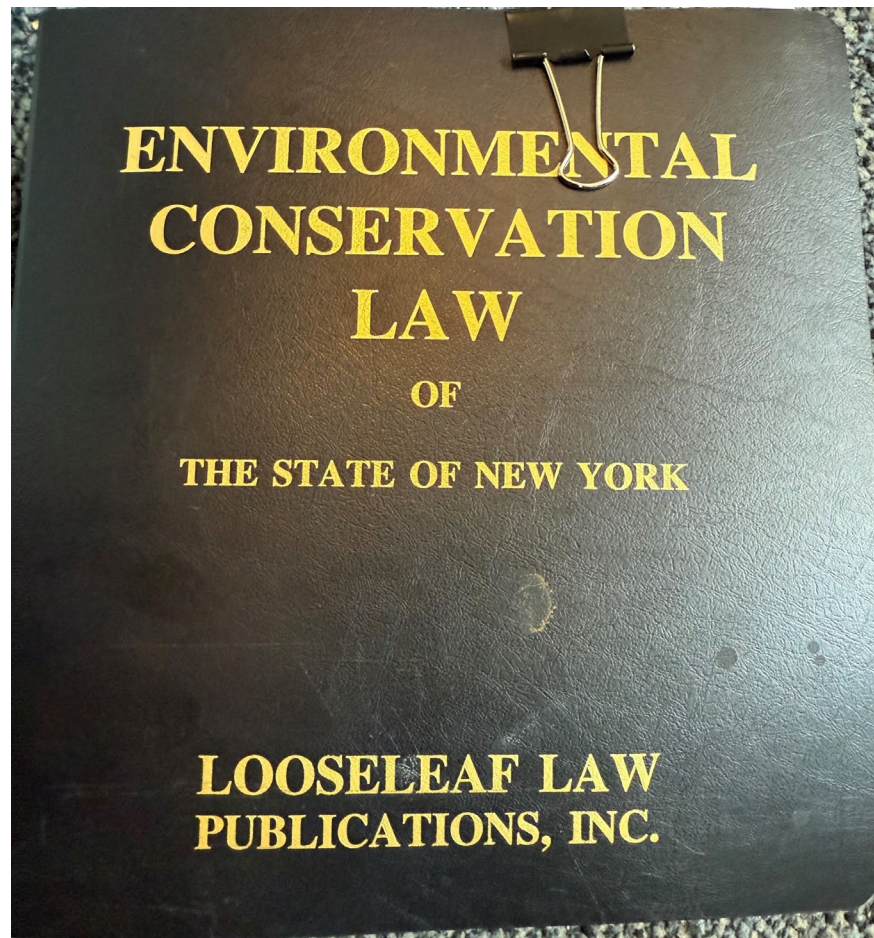
- General Permits



Environmental Conservation Law Article 24 Freshwater Wetlands

September 1, 1975

Defined Wetlands as:



“Freshwater wetlands” means lands or waters of the state which contain any or all of the following:

- Emergent Vegetation
- Rooted, Floating-Leaved Vegetation
- Submergent Vegetation

Swamp (forested) to Shrub-Swamp to Emergent to....Submergent



Is a lake or pond a wetland? Parts of it are wetland.

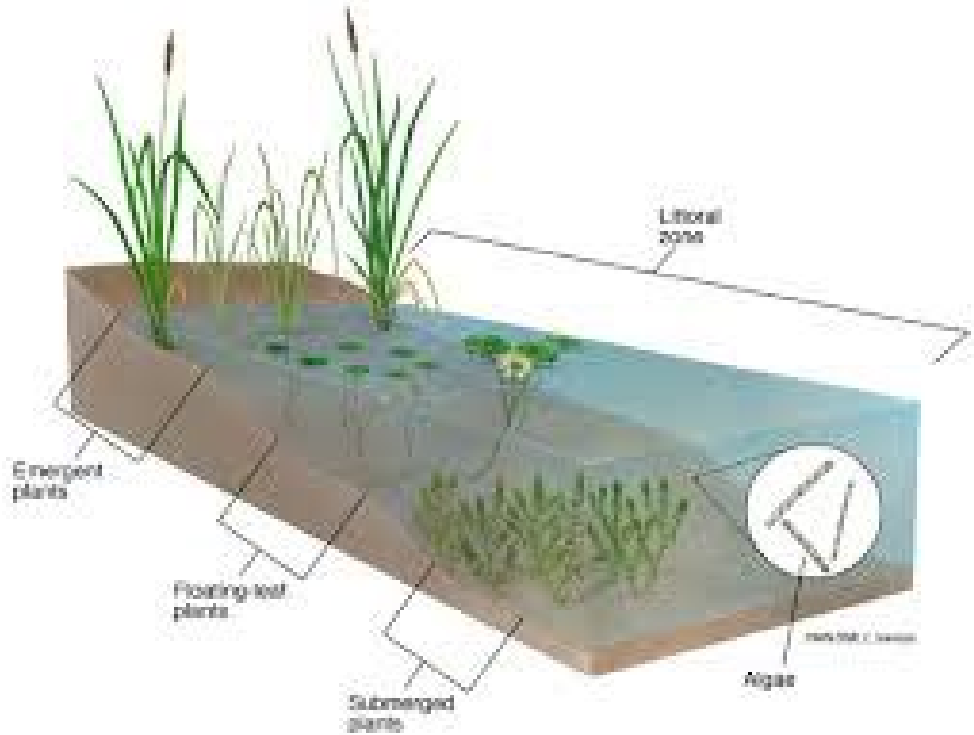


Photo Credit Minnesota DNR



Statutory Provisions Amended April 2022

Freshwater Wetlands Act (Article 24)

- Jurisdiction no longer tied to maps
- Regulate larger wetlands >12.4 acres (>7.4 acres in 2028)
- Regulate smaller wetlands of “Unusual Importance”
- Why Change?



Wetlands of Unusual Importance

- 1) Urban areas
- 2) Rare plants
- 3) Previously designated as a wetland of Unusual Local Importance (ULI)
- 4) Wetlands in floodways
- 5) Previously mapped
- 6) Habitat for essential behavior of Endangered/threatened/special concern/species of greatest conservation need
- 7) Watershed with significant flooding
- 8) Productive vernal pools
- 9) Class I wetland
- 10) Regional or local significance
- 11) Significant for protecting state's water quality



geographic features, including mountains, hills, or ridges.

664.3. Purposes and Approach

(a) Public policy. It is the public policy of the State, as set forth in the Freshwater Wetlands Act, to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of wetlands, and to regulate use and development of wetlands to secure the natural benefits of those wetlands, consistent with the general welfare and beneficial economic, social, and agricultural development of the State. It is the purpose of this Part to implement that policy by clarifying certain aspects of wetland identification and delineation of



July 13, 2023

When is a Permit Needed?

INFORMATIONAL Maps – Determining Jurisdiction

The screenshot displays the New York State Department of Environmental Conservation's Environmental Resource Mapper. The website header includes the NYS logo and navigation links for Services, News, and Government. The main title is 'Environmental Resource Mapper'. On the left, a 'Layers and Legend' panel shows various map layers. The 'Informational Freshwater Wetland Mapping' layer is selected with a blue checkmark. A disclaimer box is overlaid on the map, stating that the maps are for informational purposes only and do not necessarily depict wetlands regulated under New York's Freshwater Wetlands Act. The map itself shows a portion of New York State, including Lake Huron, the Adirondack Mountains, and the Hudson River, with various cities and towns labeled.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Services News Government

Environmental Resource Mapper

Search

Tools

Layers and Legend

- ☐ Waterbody Classifications for Lakes
- ☐ Waterbody Inventory/Priority Waterbodies List
 - ☐ Lakes and Reservoirs
 - ☐ Estuaries
 - ☐ Rivers and Streams
 - ☐ Shorelines
- ☐ Previously Mapped Freshwater Wetlands (Outside of the Adirondack Park)
- ☒ **Informational Freshwater Wetland Mapping**
- ☐ Imperiled Mussels
- ☐ Mussel Screening Pounded Waters

Other Wetland Layers

Reference Layers

Informational NYS Freshwater Wetlands

Disclaimer : These maps are for informational purposes only. They are intended to be used as a planning tool for landowners and project sponsors and do not necessarily depict wetlands regulated under New York's Freshwater Wetlands Act (Article 24 of NY Environmental Conservation Law).

The **Informational Freshwater Wetland Mapping** layer is only intended to be used for informational purposes in identifying the general location and extent of freshwater wetland areas of any size throughout the state. **Informational Freshwater Wetland Mapping** is not regulatory.

Regulated Activities

- New construction of buildings, driveways, and accessory structures
- Clear cutting vegetation
- Filling, Excavation, dredging, and draining
- Applying pesticides/herbicides*
- 6 NYCRR Part 663.4(d)

*Excluding for crop production



Exempt Activities



- Ordinary maintenance and repair of existing functional structures and improved areas
 - maintaining existing lawns and landscaped areas
 - Maintaining existing docks or structures
 - resurfacing paved areas
- Boating, fishing, and other outdoor recreation
- Standard Agricultural Practices
- Selective Cutting Trees

Exempt Activities 6 NYCRR Part 663.4

<i>Procedure and Compatibility by Area</i>			
<i>Items</i>	<i>Activities</i>	<i>FWW</i>	<i>AA</i>
1.	Continuing lawfully existing uses and continuing all activities normally and directly associated with any such use, except for those activities covered by items 38, 39, 40 and 41, where such continuance does not involve expansion or significant alteration of the existing use and does not affect additional wetland area.	E	E
2.	Establishing scenic, historic, wildlife and scientific preserves, where no significant impairment of the wetland or its benefits is involved.	E	E
3.	Boating, hiking, swimming, camping, picnicking and other similar nonmotorized forms of outdoor activity, where no significant impairment of the wetland or its benefits is involved.	E	E
4.	Depositing or removing the natural products of wetlands in the process of recreational or commercial fishing, shellfishing, aquiculture, hunting or trapping, including the erection and maintenance of temporary hides or blinds.	E	E
5.	Conducting educational and scientific research activities where no significant impairment of the wetland or its benefits is involved.	E	E
6.	Establishing walking trails, where no significant impairment of the wetland or its benefits involved.	E	E
7.	Establishing an individual recreational mooring.	E	E
8.	Gathering fuelwood, except as covered by items 22, 23 and 24.	E	E
9.	Conducting an agricultural activity, as defined in the act or section 663.2 of this Part.	E	E
<i>Existing Structures and Facilities</i>			
	Normally, maintenance, repair or restoration of existing facilities will not cause adverse impacts on wetlands. This is not always true, however, for construction activities that are associated with such maintenance, repair or restoration, such as the placing of access roads, staging areas and utilities. Various such associated activities are listed elsewhere in this chart.		

Exempt Activities

Ordinary Maintenance and Repair of Existing Functional Structures, Facilities or Improved Areas			
Items	Activities	FWW	AA
10.	Ordinary maintenance and repair of existing functional structures, facilities or improved areas, including but not limited to bridges, roads, highways, culverts, railroad beds, bulkheads, docks, beaches, piers, wharves, pilings, dolphins, utility rights-of-way, buildings, landscaped or paved areas, lawns and mosquito control ditches. Such maintenance and repair might include, for example, replacing broken boards in docks, repainting structures, redriving pilings, resurfacing paved areas, and installing and removing docks on a seasonal basis, but does not include activities covered by items 22, 23, 24, 38, 39, 40 and 41 or other applicable items listed in this chart.	E	E

Transition Period (Applicability 664.1)

Proposed regulations include a transition period of 3.5 to 2 years

Before 1/1/25, project meets one of the following:

- DEC wetlands permit or complete application
- Final Environmental Impact Statement (FEIS) or Negative Declaration for Type 1 and unlisted actions by lead agency
- Site plan approval by municipality



Jurisdictional Determination(JD) Process

NEW JD Process (664.8)

Step 1 – Parcel JD: Determine if there are state-jurisdictional wetlands and/or adjacent areas within the parcel or property boundaries.

Step 2 – Wetland Delineation: Determine extent of wetlands and adjacent areas on the parcel or property

Step 3 – Determine if a project requires an Article 24 Permit (**Project JD**)



Online Jurisdictional Determination (JD) Request Form

- **Allow Pop Ups**
- **What you'll need**
 - **Landowner:**
 - Parcel ID #
 - Physical Address
 - Contact Info: Mailing Address/Email
 - **Private Company/NGO**
 - Same as above
 - Company Name
 - Shapefile – not required but appreciated

Apply for a Jurisdictional Determination

To apply for a freshwater wetland JD, submit an online request to DEC and provide your name, parcel address and ID number, and your contact information.

[ONLINE JURISDICTIONAL DETERMINATION FORM](#)

You **must provide physical address of the parcel, parcel ID #, and a way to contact you.** Either mailing address or email. Preferably email, to receive a parcel jurisdictional determination.



Online JD Request Form

NYS Freshwater Wetlands Jurisdictional Determination Reques...

First Name:*

Last Name:*

This request is being sent by or on behalf of:*

-Please select-

If this project has any associated spatial data, please upload the shapefile(s) below:

1

Drop file here or select file

Contact Telephone Number:*

Contact Email Address:

This request is being sent by or on behalf of:*

Private Landowner

Government Agency

Private Company

Private Landowner

Real Estate Professional

atial data, please upload the

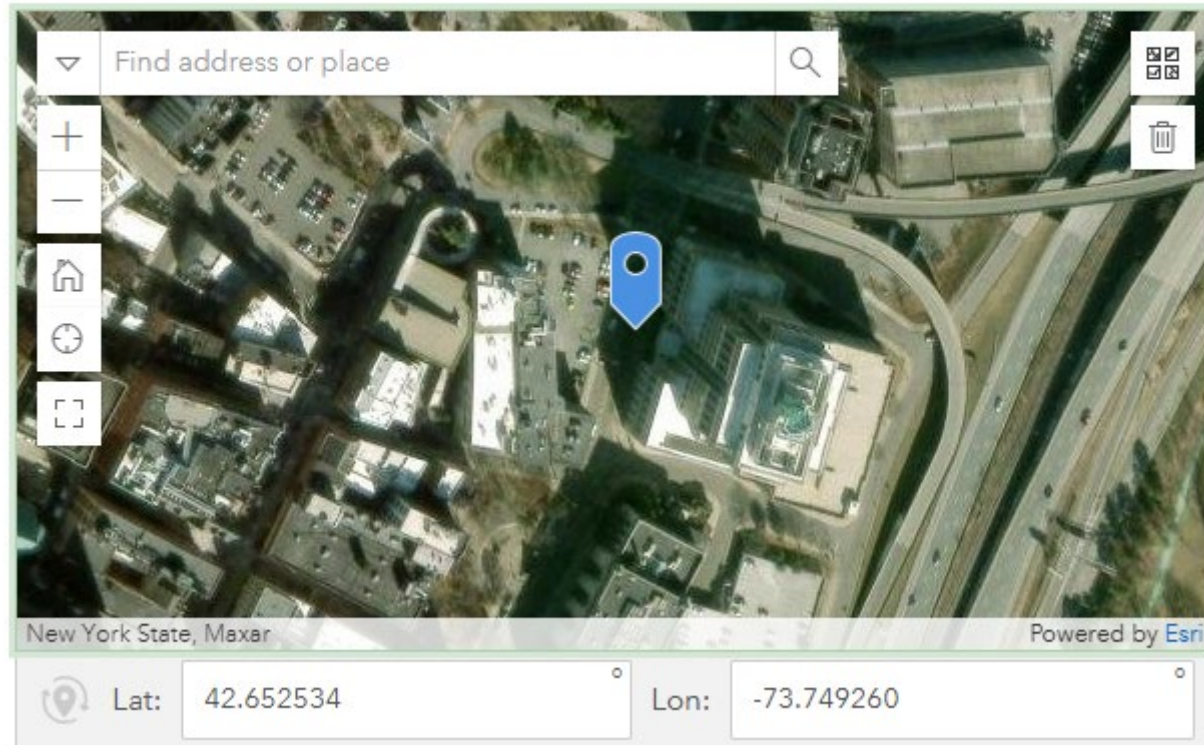
here or select file

Contact Telephone Number:*

Online JD Request Form

Parcel Address:*

Please click the map icon, type the address of the parcel where you wish the determination to be performed into the search bar, and confirm the point is in the proper location.



The screenshot shows a web-based map application. At the top, there is a search bar with a dropdown arrow and the placeholder text "Find address or place". To the right of the search bar is a magnifying glass icon. Below the search bar is a vertical toolbar with icons for zooming in (+), zooming out (-), home, compass, and a full-screen icon. The map itself is an aerial view of an urban area with a blue location pin placed on a building. To the right of the map are two icons: a grid of four squares and a trash can. At the bottom of the map, there is a status bar that reads "New York State, Maxar" on the left and "Powered by Esri" on the right. Below the map, there are two input fields for coordinates. The first field is labeled "Lat:" and contains the value "42.652534". The second field is labeled "Lon:" and contains the value "-73.749260". Both fields have degree symbols (°) to their right.

Find address or place

New York State, Maxar

Powered by Esri

Lat: 42.652534°

Lon: -73.749260°

Timeline for JD (664.8 € through (g))

90 Days to provide a Parcel JD and 90 Days to provide a Project JD

- Fails to provide answer within 90 days
- Make notice of that failure by means of certified mail.
 - **New York State Department of Environmental Conservation Director of the Division of Fish and Wildlife**
625 Broadway
Albany, NY 12233-4750
- Fail to answer within **10 business** days of the receipt of such notice, freshwater wetland jurisdiction for the subject parcel shall be deemed **waived for a period of five years** from the date of the waiver.

Freshwater Wetlands Permitting

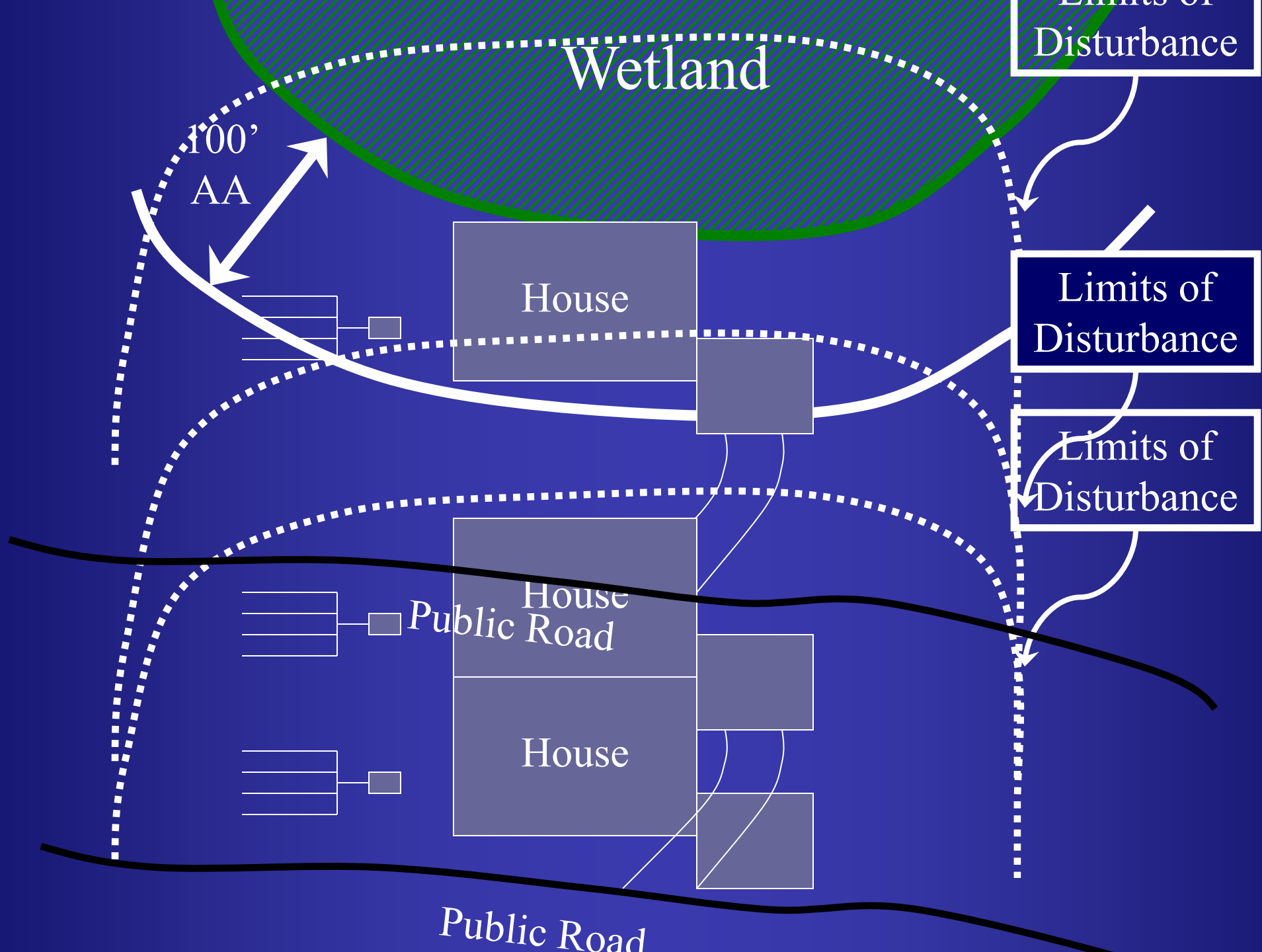
Permitting

- Regulate wetland and 100-foot adjacent area
- ~1,300 freshwater wetlands permit applications
- Permits can be issued for all procedural categories
- Permit hearings are exceedingly rare
- Decisions depend on details of the site, the wetlands, and the proposal

3 Step Permit Review Process

Avoid
Minimize
Mitigate





General Permits

Freshwater Wetlands General Permit (GP-0-25-003)



Five-Year Term

Allow:

- Repair, replacement, or removal of existing structures and facilities;
- Construction or modification of various residential, commercial, industrial, or public structures;
- Temporary installation of access roads and laydown areas;
- Cutting trees and vegetation;
- Drilling test wells;
- Routine beach maintenance and replenishment in areas under DEC jurisdiction.

Lake Shorelines Freshwater Wetlands General Permit (GP-0-25-007)

- **Housing Development GP (GP-0-25-006)** - would authorize the construction of detached single- family homes, multiple family dwellings up to and over four units, and apartment buildings, and all unavoidable permanent and temporary disturbances associated with the development. An unavoidable impact limit acreage worksheet defines the limits of impact. Unavoidable permanent impacts will require wetland mitigation.



General Permits Currently Under Review

- The Community-Scale Solar Energy Installations GP (GP-0-25-004)
- Electric Utility Right of Way Maintenance and Repair General Permit (GP-0-25-005)
- Housing Development GP (GP-0-25-006)
- Management of Invasive Species (GP-0-25-008) Modification of Management of Invasive Species General Permit (GP-0-25-008)
- Natural Gas Utility Right of Way Maintenance General Permit (GP-0-25-009)



At the End of the Day

- Need to consider project impacts on wetland functions and benefits...
- For unavoidable impacts, mitigation may be required...
- Any unmitigated impacts are then assessed in relation to economic and social need.



“It is a rough road that leads to the heights of greatness.”

– *Lucius Annaeus Seneca*

Questions



Thank You!

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Department of
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Agricultural Activities

(c) *Agricultural activity* means:

(1) the activity of an individual farmer or other landowner in:

(i) grazing and watering livestock;

(ii) making reasonable use of water resources for agricultural purposes;

(iii) harvesting the natural products of wetlands;

(iv) the selective cutting of trees;

(v) the clear-cutting of vegetation, other than trees, for growing agricultural products;

(vi) constructing winter truck roads of less than five meters (approximately 16 feet) in width for removing trees cut in accordance with subparagraph (iv) of this paragraph, where construction is limited to cutting vegetation and compacting ice and does not alter water flows;

Agricultural Activities Con't

- (vii) operating motor vehicles for agricultural purposes;
- (viii) draining for growing agricultural products;
- (ix) erecting structures, including fences, required to enhance or maintain the agricultural productivity of the land;
- (x) using chemicals and fertilizers according to normally accepted agricultural practices, in order to grow crops for human and animal consumption or use, in or adjacent to wetlands, where authorized by other State, Federal or local laws; including application of stabilized sludge as fertilizer when applied at agronomic loading rates in accordance with a valid Part 360 or 364 land spreading permit; or
- (xi) otherwise engaging in the use of wetlands for growing agricultural products such as crops, vegetables, fruits or flowers; but

NOT Exempt Agricultural Actives

(2) does not mean:

(i) clear-cutting trees;

(ii) constructing roads that require moving earth or other aggregate or that alter water flow or in any way deviate from subparagraph (1)(vi) of this subdivision;

(iii) filling or deposition of spoil, even for agricultural purposes;

(iv) mining; or

(v) erecting structures not required to enhance or maintain the agricultural productivity of the land.