



Department of  
Environmental  
Conservation

# Navigating the New Freshwater Wetlands Regulations

6 NYCRR Part 664 – Freshwater Wetlands Jurisdiction and Classification

May 2, 2025

# Overview

Freshwater Wetlands Statute

Regulated Activities

General Permits

New JD Process



# Exempt Activities



- Ordinary maintenance and repair of existing structures and improved areas
  - maintaining existing lawns and landscaped areas
  - resurfacing paved areas
- Seasonal installation and removal of docks
- Boating, fishing, and other outdoor recreation

# Regulated Activities

- New construction of buildings, driveways, and accessory structures
- Clear cutting vegetation
- Excavation, dredging, and draining
- Installing and expanding new docks
- Applying pesticides/herbicides



# Statutory Provisions

## Freshwater Wetlands Act (Article 24)

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



# 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

# **Submergent Aquatic Vegetation**

# Jurisdictional Determinations (SOP Appendix A pg. 27)


- The ENTIRE Lake is not regulated
- Summary of waterbodies w/submerged aquatic vegetation regulated under Article 24, outside the Hudson River
- Making jurisdictional determinations staff will:
  - Consult the latest list.
  - Assess regulation under Article 24 based on submerged vegetation presence and area depth (less than six feet) with regulated wetland.
- Currently 12.4+ acres in size
- As of 2028 – 7.4+ acres in size



# How Appendix A Came to Be

- Lakes of 12.4+ acres
- Lakes w/Previous Pesticide Application Permitting
- 199 – Lakes on List
- NY - ~6,000 Lakes

WATERBODY NAME	COUNTY
CONIFER LAKE	GREENE
CONVERSE LAKE	WESTCHESTER
COPAKE LAKE	COLUMBIA
COSSAYUNA LAKE	WASHINGTON
CRANBERRY POND	SULLIVAN
CREST VIEW LAKE	ORANGE
CROOKED LAKE	RENSSELAER
CRYSTAL LAKE	OTSEGO
CRYSTAL LAKE	RENSSELAER
DEANS POND	CORTLAND
DENTON LAKE	DUTCHESS
DUCK LAKE	CAYUGA
DUTCHESS LAKE	DUTCHESS
EAST BAY	WAYNE
EAST POND	SULLIVAN
ECHO LAKE	SULLIVAN
ELLIS POND	DUTCHESS
EMADINE POND	DUTCHESS
EVENS/ EVANS LAKE	SULLIVAN
FAUN LAKE	WYOMING
FOREST GLEN LAKE	SULLIVAN
FOUR CORNER ROAD POND	COLUMBIA
FRESH POND (SHELTER ISLAND)	SUFFOLK
FRESH POND (EAST HAMPTON)	SUFFOLK
FRESH POND (HUNTINGTON/SMITHTOWN)	SUFFOLK



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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC)  
DIVISION OF MATERIALS MANAGEMENT - BUREAU OF PESTICIDES  
MANAGEMENT  
APPLICATION FOR A PERMIT TO USE A PESTICIDE  
FOR THE CONTROL OF AN AQUATIC PEST - TITLE 6 NYCRR PART 327/328/329  
<http://www.dec.ny.gov/chemical/8530.html>

SUBMIT THE APPLICATION 3 MONTHS BEFORE THE PROPOSED TREATMENT  
A CHECK OF \$100 MUST ACCOMPANY THE PERMIT APPLICATION  
REFER TO THE ATTACHED APPLICATION INSTRUCTIONS

AQV (1/2022)

FOR DEC USE:  
Application Number \_\_\_\_\_  
Water Body Name \_\_\_\_\_  
Date Received \_\_\_\_\_  
Fee Receipt Number \_\_\_\_\_  
Type of Application \_\_\_\_\_  
New \_\_\_\_\_ Previous # \_\_\_\_\_  
NYCDEP/APA/Other \_\_\_\_\_

**1. PERMIT APPLICANT INFORMATION**

Name of Permit \_\_\_\_\_  
Applicant/Association/Agency: \_\_\_\_\_  
Name of Authorized Person signing the Application:  
(if on behalf of an Association/Organization) \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_ Website: \_\_\_\_\_  
The Permit Applicant is a (check appropriate):  
Riparian Owner: \_\_\_\_\_ Lessee: \_\_\_\_\_ Association of Riparian Owners: \_\_\_\_\_  
Owners/Lesseees, a copy of the pesticide application must be attached \_\_\_\_\_  
**INFORMATION**  
Contact: \_\_\_\_\_  
Email: \_\_\_\_\_  
Certified in Category 11 (Aerial) did the applicator make pesticide recommendations?  
Select one: Yes ☐ No ☐  
Telephone Number: \_\_\_\_\_

# **Freshwater Wetlands Permitting**

# Procedural Categories

Categories in permitting regulations (Part 663)

E = Exempt

P(C) = Permit Required (usually compatible)

P(N) = Permit Required (usually incompatible)

P(X) = Permit Required (incompatible)

# Permitting

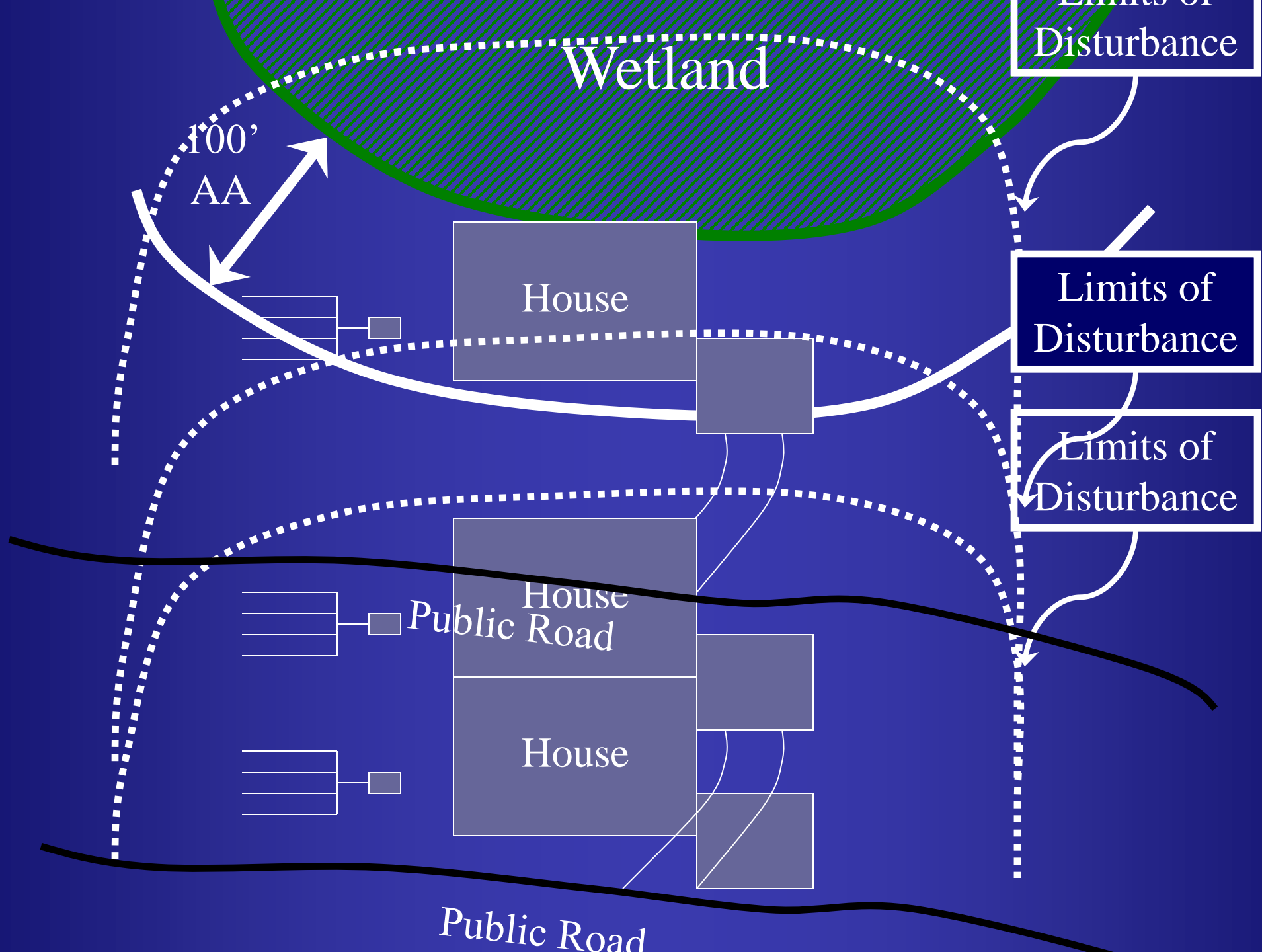
- Regulate wetland and 100-foot adjacent area
- ~1,300 freshwater wetlands permit applications
- Permits can be issued for all procedural categories
- Permit hearings are exceedingly rare
- Decisions depend on details of the site, the wetlands, and the proposal

# Permit Issuance Standards

# **3 Step Permit Review Process**

**Avoid**  
**Minimize**  
**Mitigate**





# 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.

# General Permits

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



# General Permit Public Comments Under Review

- ***Lakes and Shorelines GP (GP-0-25-007):***
  - Shoreline erosion protections,
  - repair and replacement of existing functional shoreline protection,
  - in kind replacement or repair of boat or access ramps,
  - installation of new single lane boat/access ramps,
  - repair and replacement of existing functional boat houses, docks, platforms, or similar over water structures,
  - installation of new residential docking facility,
  - demolition of existing structures and removal of structural fill,
  - maintenance dredging of existing residential dockages,
  - new navigational dredging,
  - installation of dry fire hydrants, water intake lines, or beach well.



# General Permit Public Comments Under Review

## *Management of Invasive Species (GP-0-25-008).*

- Management of invasive and nuisance species by various methods such as
  - hand harvesting,
  - suction harvesting,
  - aquatic pesticides,
  - benthic barriers,
  - mechanical harvesting and cutting.



# **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)





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

– *Lucius Annaeus Seneca*

# *Thank You!*

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