



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



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

[illegible]

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)

Freshwater Wetlands Permitting

Permitting

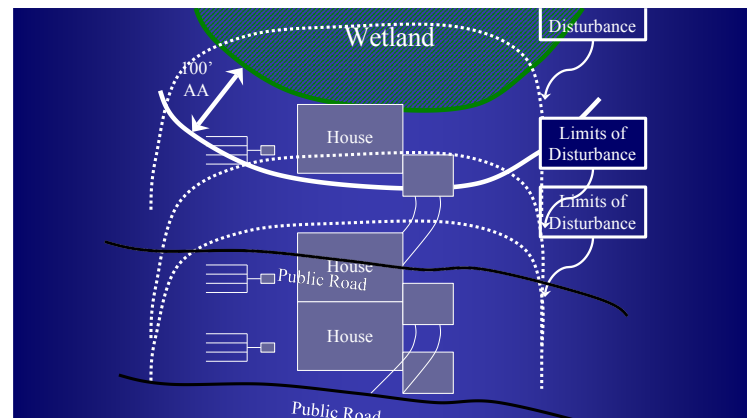
- Regulate wetland and 100-foot adjacent area
- ~1,300 freshwater wetlands permit applications
- Permits can be issued for all procedural categories
- Permit hearings are exceedingly rare
- Decisions depend on details of the site, the wetlands, and the proposal

14

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.

18

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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