



Department of
Environmental
Conservation

Navigating the New Freshwater Wetlands Regulations

6 NYCRR Part 664 – Freshwater Wetlands Jurisdiction and Classification

April 9, 2025

Overview

Freshwater Wetlands Statute

Final Regulations

Implementation

General Permits



NY National Guard Activation Due to Extreme Weather Events

2024 – NYNG Mobilized

- June – Capital District & North Country – Heat Wave
- July – Syracuse to Rochester & Finger Lakes Region – Severe thunderstorm and winds
- August – Western LI & NYC & Kingston – Hurricane Debby
- November – Sterling State Park Wildfire

2023 – NYNG Mobilized

- March mobilized to respond to severe winter weather in Hudson Valley and Capital District.
- April mobilized to respond to wildfires in Orange County.
- July mobilized to severe flooding in Northeastern NY.



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”



Wetland Classification (664.5)

Class I to Class IV

Based on Remote Characteristics

Used in Permitting Decisions under Part 663



No More Regulatory Maps

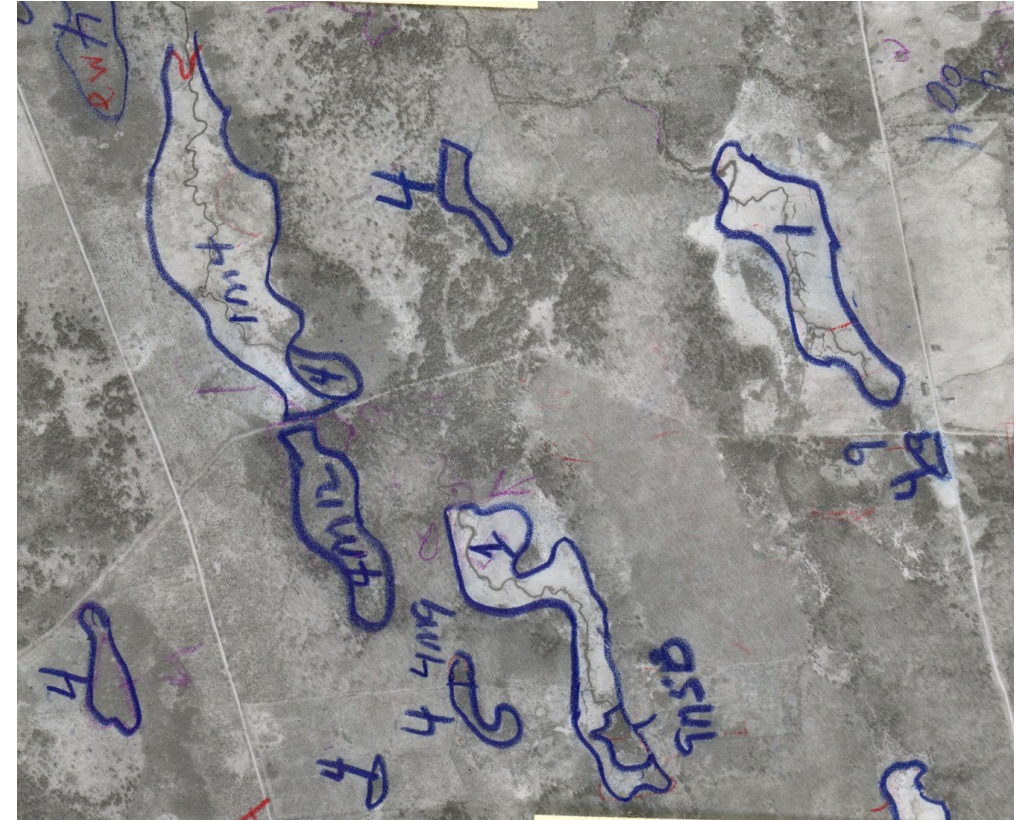
Old Maps

Based on a field visit of each site taking in consideration

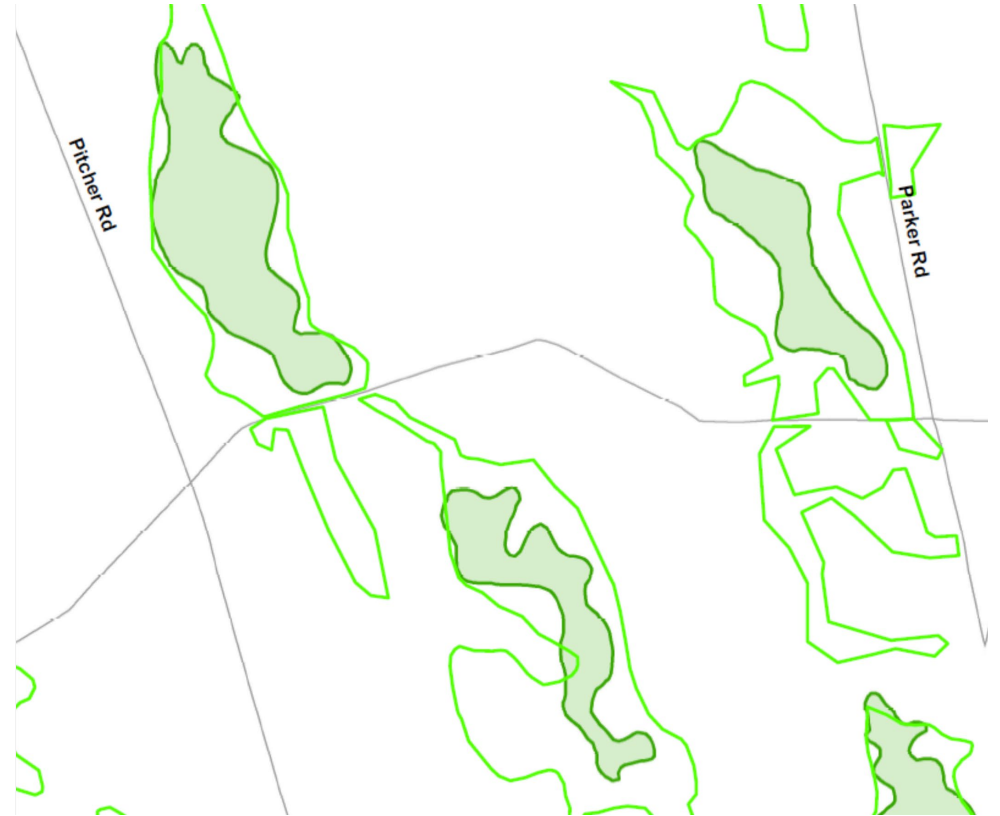
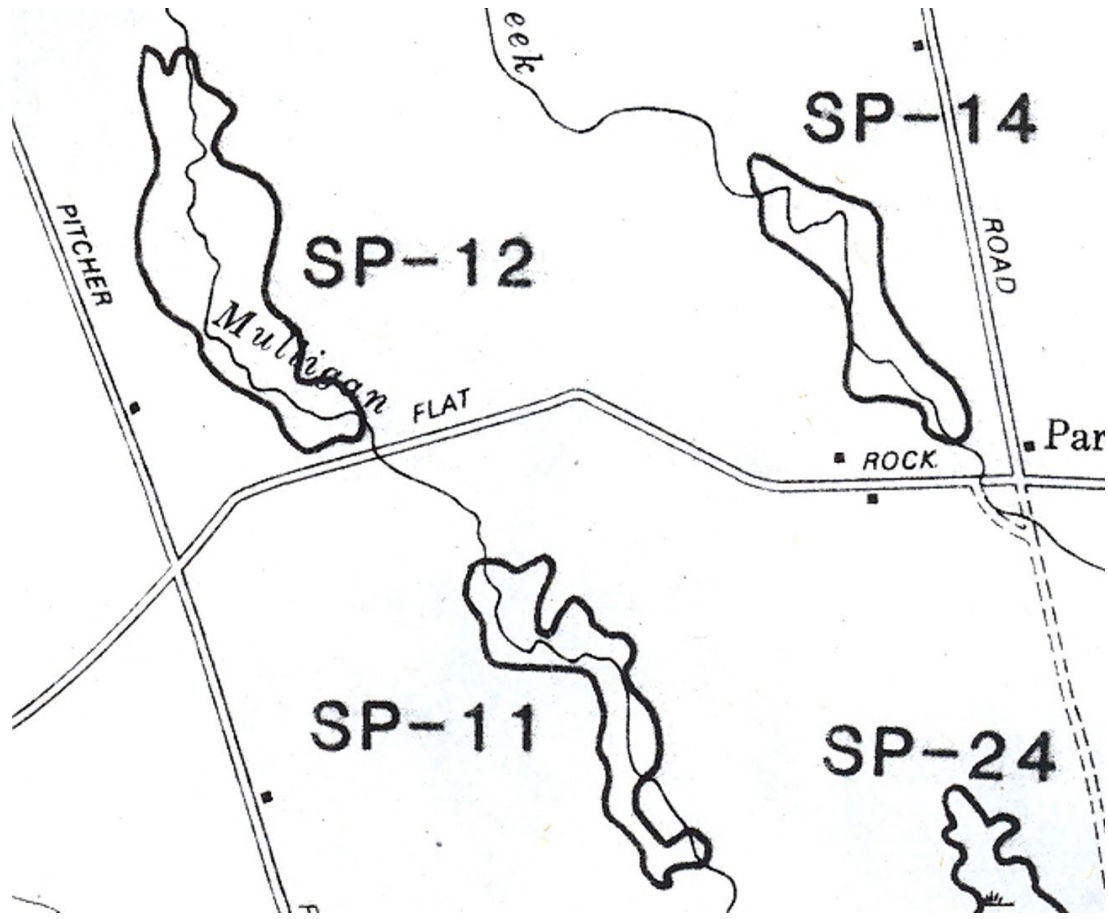
- Wetland Type
- Benefits
- Distribution & Location




1960 – 70's Air Photos



Old Regulatory Map vs. Today's Technology



INFORMATIONAL Maps



Services News Government

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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)

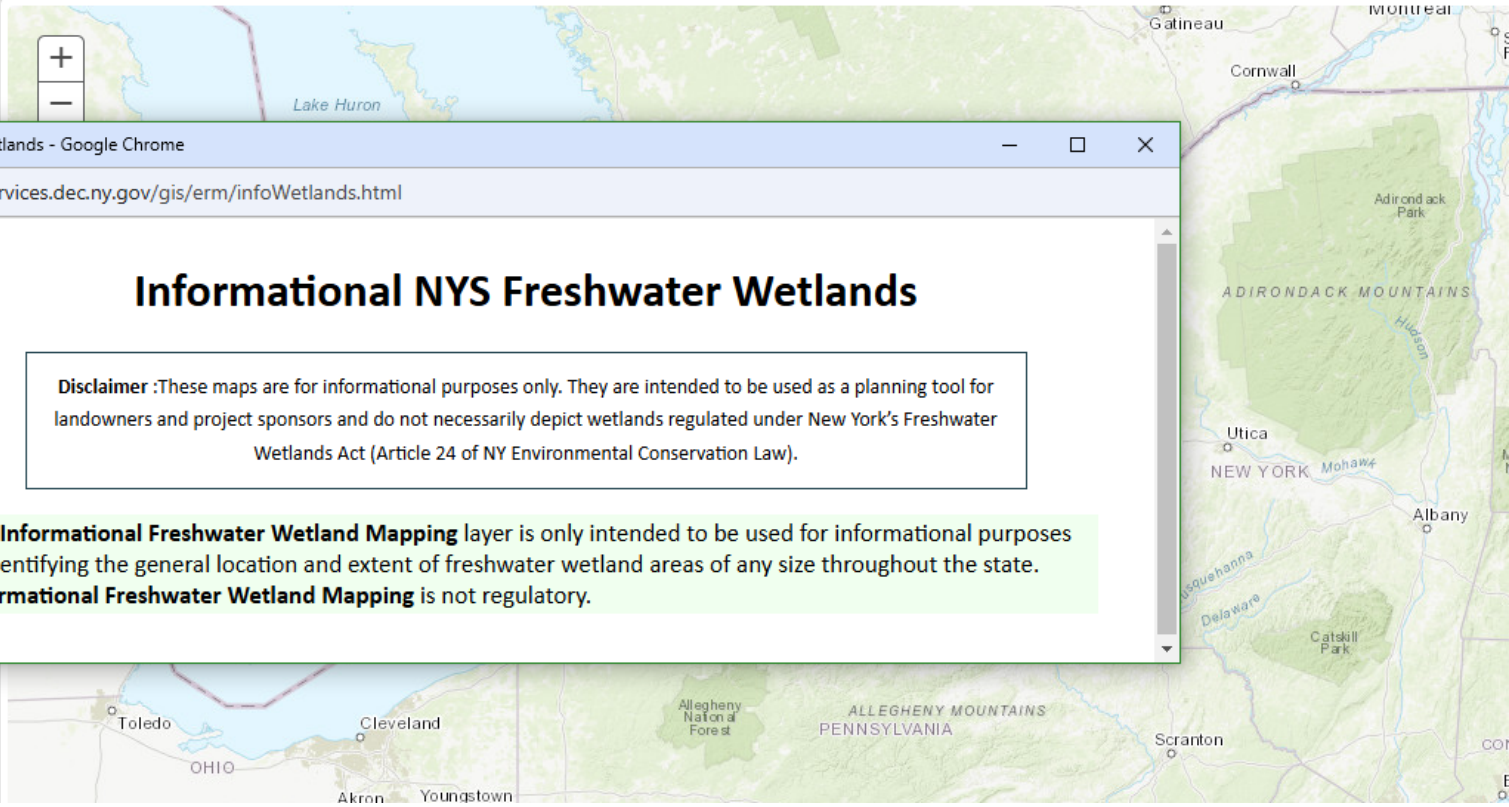
☒ Informational Freshwater Wetland Mapping

☐ Imperiled Mussels

☐ Mussel Screening Ponded Waters

Other Wetland Layers

Reference Layers



NYS Wetlands - Google Chrome

gisservices.dec.ny.gov/gis/erm/infoWetlands.html

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.

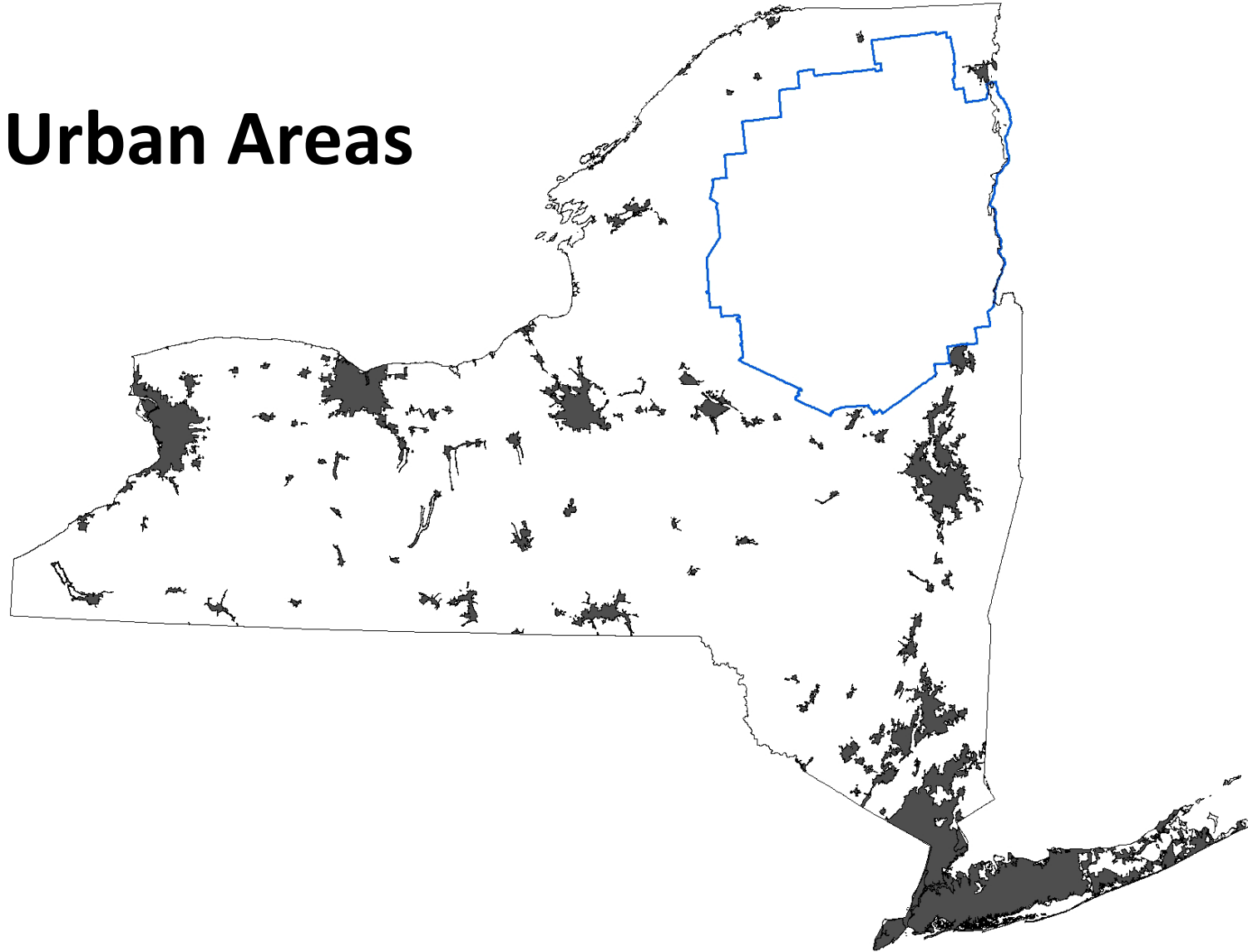
Wetlands of Unusual Importance



- 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

- 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**
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Urban Areas



- 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**
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Essential Behavior

- Breeding
- Hibernation
- Reproduction
- Feeding
- Sheltering
- Migration
- Overwintering



20 Wetland Dependent SGCN Species w/ moderate to very high threats from habitat loss:

Species	Primary habitat?	Breeding and/or nesting habitat?	Species	Primary habitat?	Breeding and/or nesting habitat?
American black duck	Y	Y – Both	Bog turtle	Y	Y – Both
Golden-winged warbler	Y	Y – Both	Eastern hog-nosed snake	N	N
Kentucky warbler	Y	Y – Both	Queen snake	Y	N
Louisiana waterthrush	Y	Y – Both	Spotted turtle	Y	Y – Breeding
Northern harrier	Y	Y – Both	Eastern cricket frog	Y	Y – Both
Northern pintail	Y	Y – Breeding	Atlantic coast leopard frog	Y	Y – Both
Sedge wren	Y	Y – Both	Northern metalmark	Y	N
Short-eared owl	Y	Y – Both	Four-spotted pennant	Y	Y – Both
Yellow-breasted chat	N	Y – Breeding	Double-ringed pennant	Y	Y – Both
Blanding's turtle	Y	Y – Breeding	Seaside dragonlet	Y	Y – Both

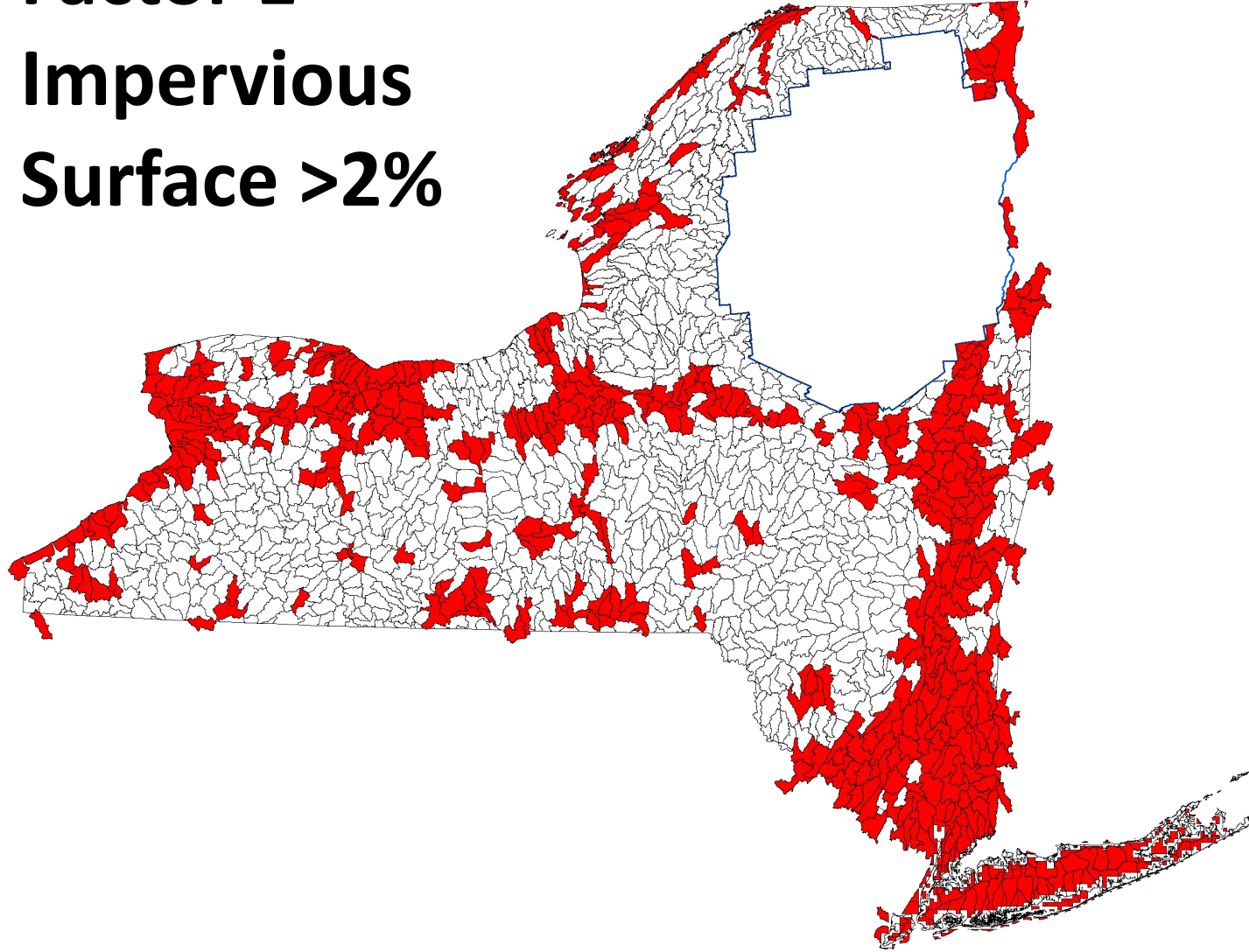
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Watershed with significant flooding

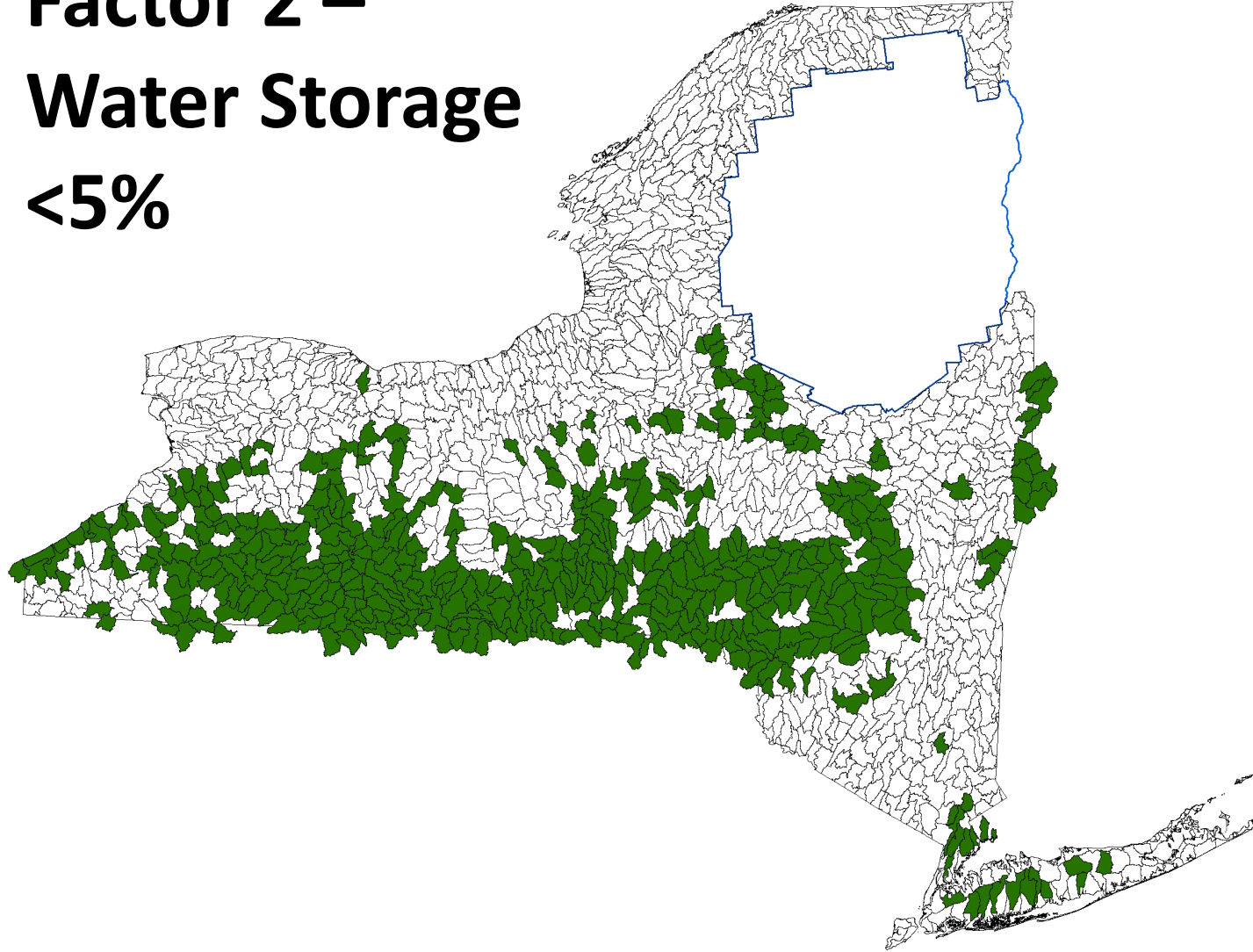
HUC 12 watershed **with all of the following:**

- Runoff
 - Impervious Surface >2%
- Holding Water
 - Water storage area <5%
- Human Risk
 - Within 4 km, of urban area

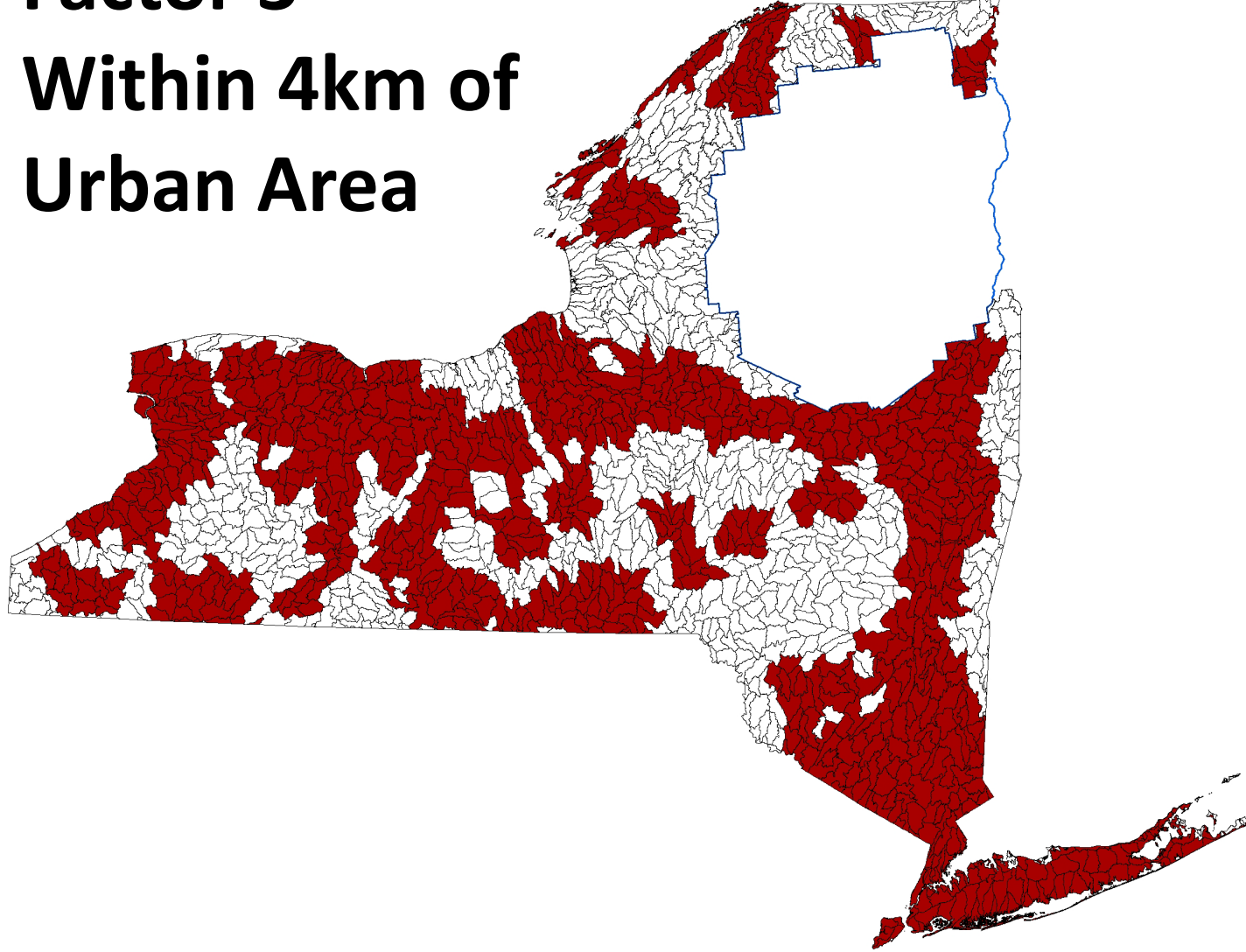
**Factor 1 –
Impervious
Surface >2%**



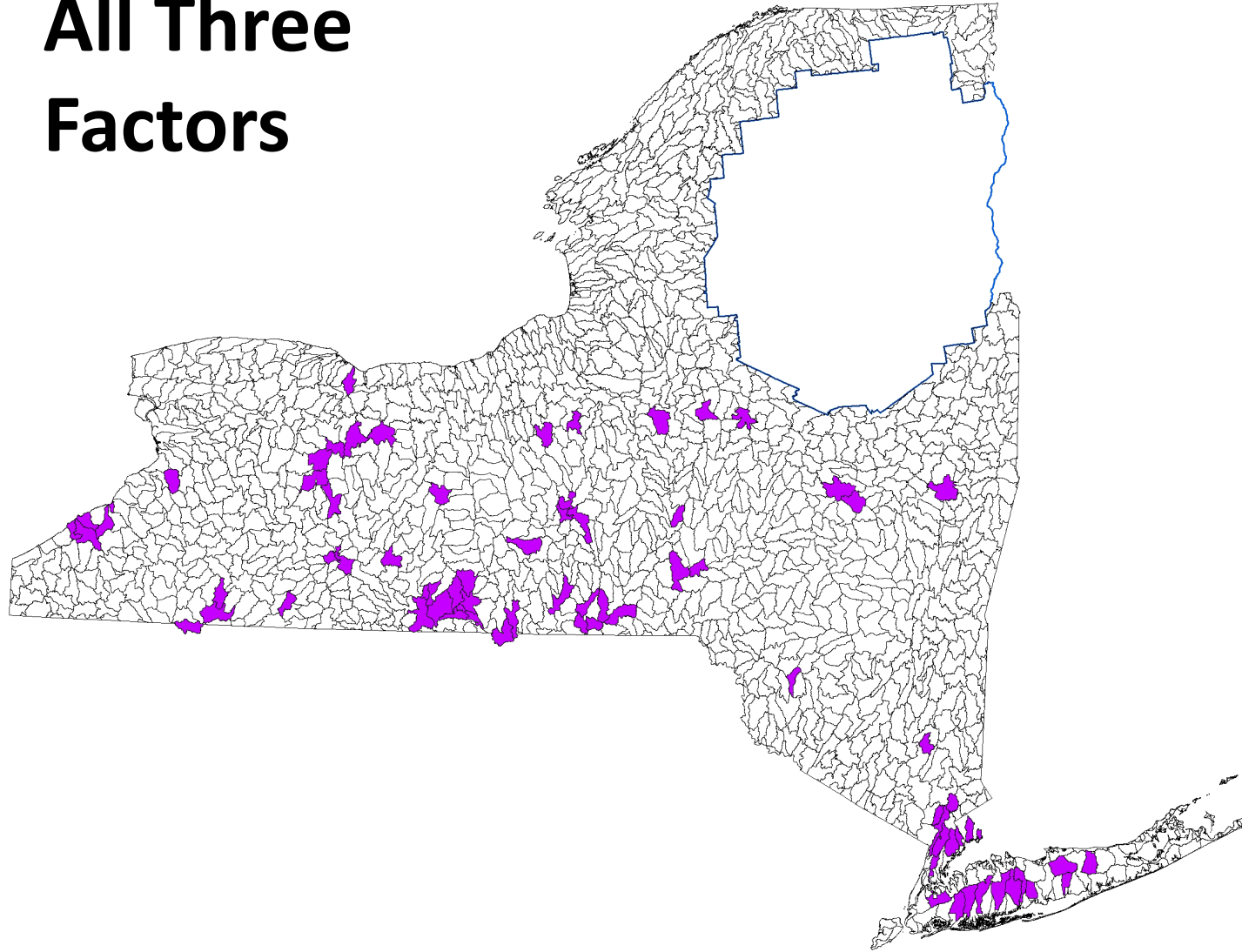
**Factor 2 –
Water Storage
<5%**



**Factor 3 –
Within 4km of
Urban Area**



All Three Factors



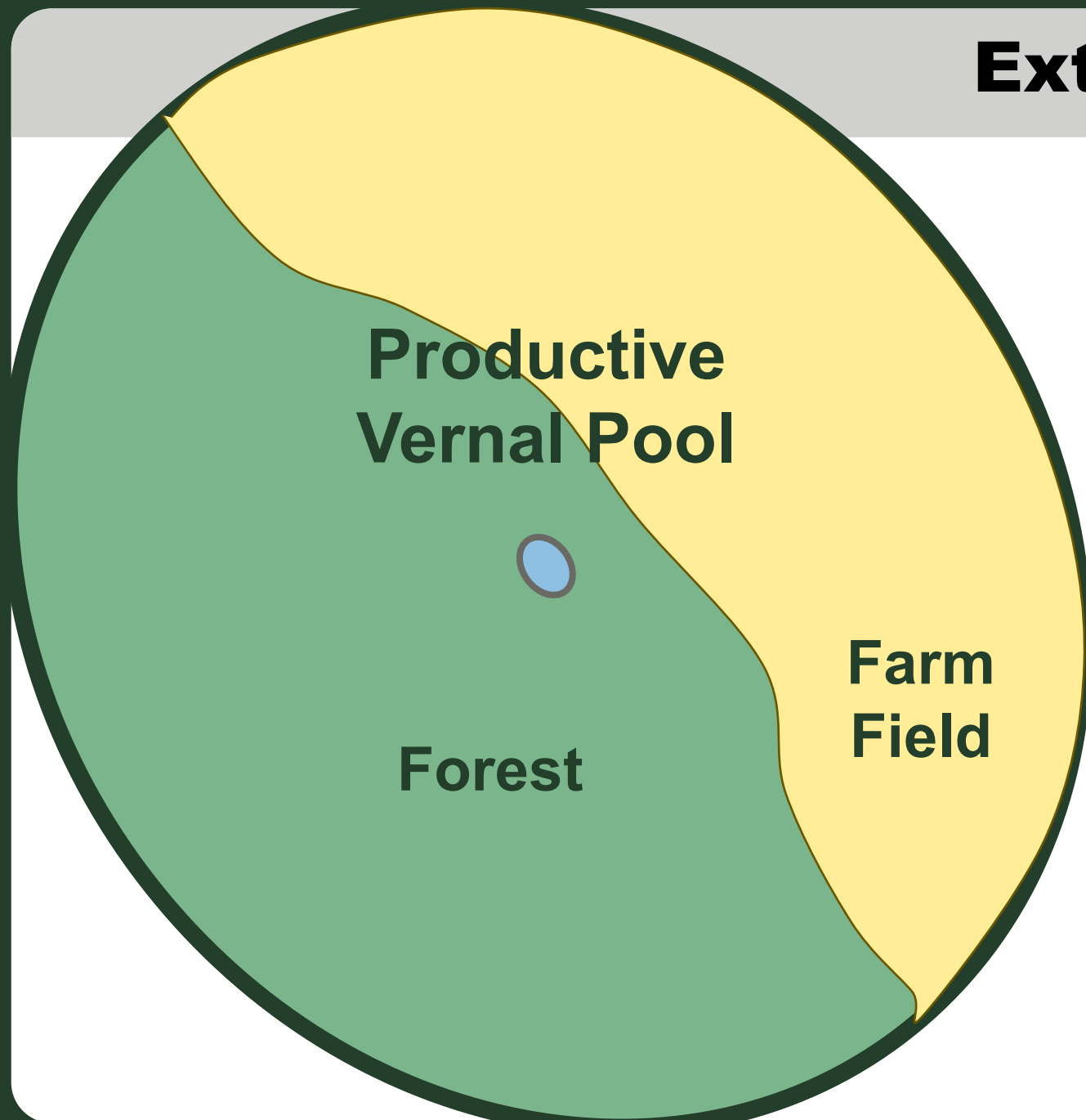
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Vernal Pools – Requirements to be Regulated

- Must have wetland vegetation
- Must be surveyed
- Must be productive (stringent egg mass count)
- Must be documented
- Must be submitted to DEC
- Must get on list
- Must be posted on website



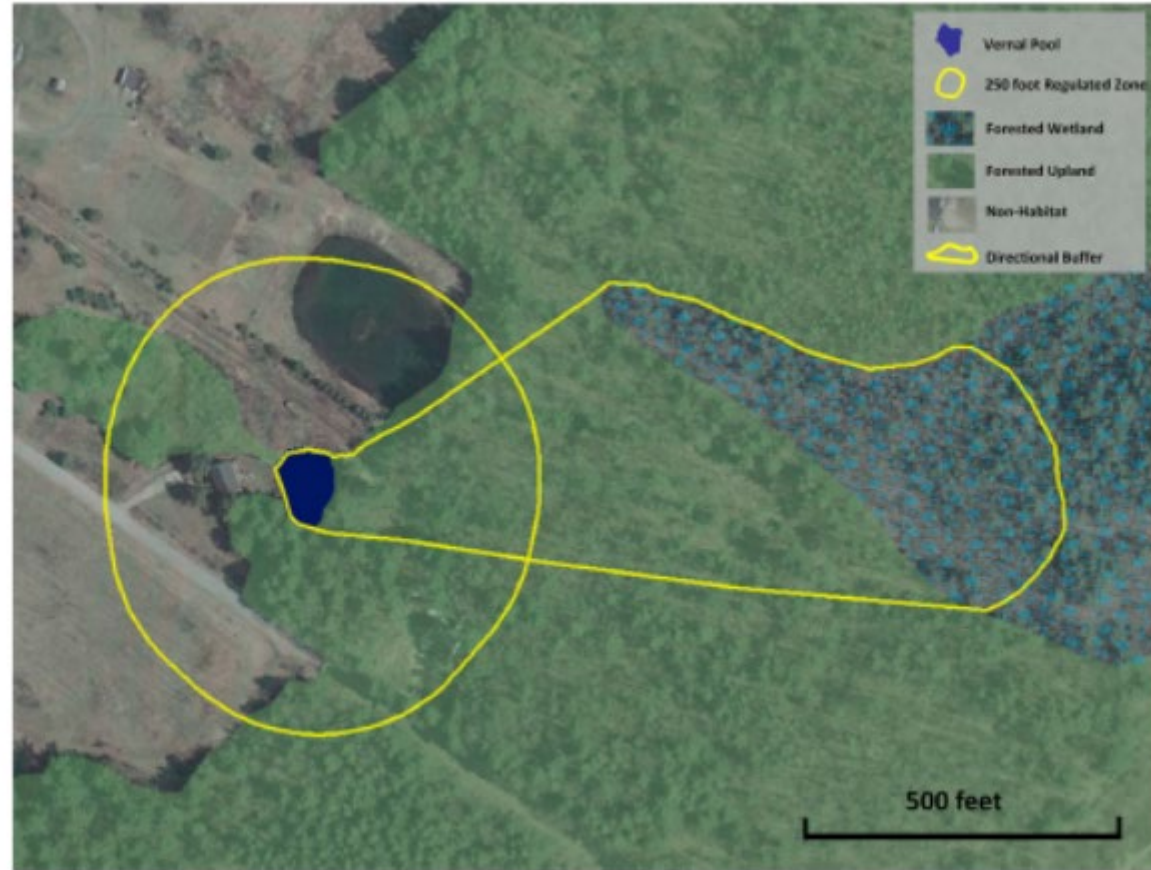
Extending Adjacent Area



Distance and orientation
based on:

- Individual analysis of proposed project associated impacts
- Environmental conditions

Directional Vernal Pool Buffer



- 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
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Critical Environmental Areas

- (j) Local and Regional Significance
- Appendix F of the SOP - Critical Environmental Area (CEA) with specific reference to wetland protection by a local agency in its written justification supporting the designation.
- Found on JD pg.



Appendix F - Critical Environmental Area (CEA) with specific reference to wetland protection by a local agency in its written justification supporting the designation.

Name of Critical Environmental Area	County	Town or City	Acres	Designation Date	Object ID#
Accabonac Harbor	Suffolk	East Hampton	919.1	2/10/1988	104
All State Wetlands	Ulster	Woodstock	268.8	11/24/1993	78
Bontecou Lake	Dutchess	Stanford, Washington	139.8	4/8/1987	83
Buttercup Farm Sanctuary	Dutchess	Stanford	310.6	4/8/1987	108
Carlls River	Suffolk	Babylon	109.7	2/10/1988	125
Cazenovia Lake	Madison	Cazenovia	1,164.0	4/12/2011	157
Cazenovia Village Wellhead	Madison	Cazenovia	247.5	4/12/2011	91
Cedar Swamp	Ulster	Wawarsing	8,331.7	8/7/2019	228
Central Suffolk Pine Barrens	Suffolk	Brookhaven, Riverhead, Southampton, Southold	125,688.0	2/10/1988	175
Chittenango Creek	Madison	Cazenovia, Fenner, Nelson	370.1	4/12/2011	5
Coastal Zone Area South	Suffolk	Brookhaven, Southampton	15,245.6	5/18/1987	32
Coastal Zone Area South	Suffolk	Brookhaven	2,614.1	5/18/1987	58
Coastal Zone Area South	Suffolk	Brookhaven, Islip	324.9	5/18/1987	241
Deuel Hollow Area	Dutchess	Dover	1,006.7	6/20/1986	209
Fishers Island	Suffolk	Southold	758.1	3/16/1990	74
Glen Lake	Warren	Queensbury	638.7	11/30/1989	82
Great Swamp	Dutchess, Putnam	Dover, Patterson, Pawling	1,981.8	2/8/1992	29
Great Swamp	Putnam	Patterson, Southeast	2,261.0	10/23/1988	121
Hogback Hill	Dutchess	Hyde Park	2,329.9	6/7/2009	154
Hudson River	Bronx, Kings, New York, Richmond,	Cortland, Greenburgh, Mount Pleasant, New	9,986.5	1/31/1990	28

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



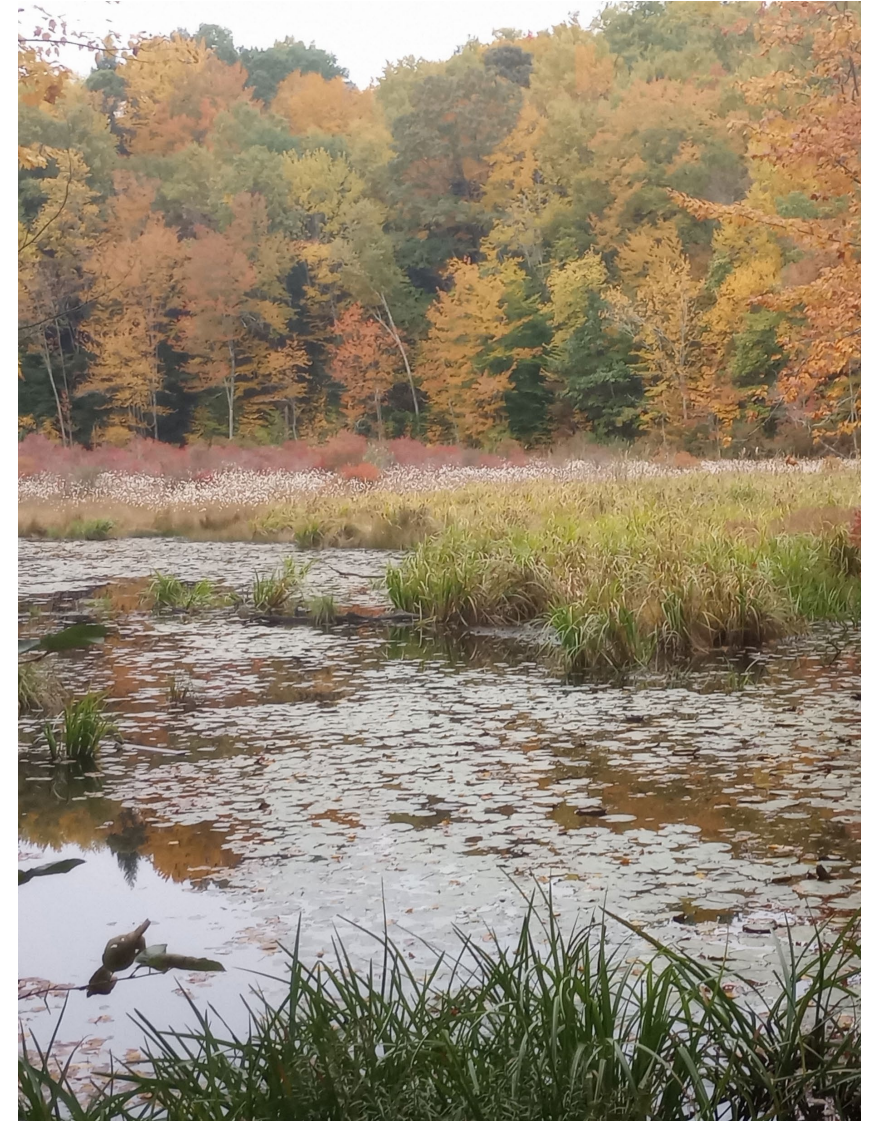
Extending Adjacent Area (664.7)

Nutrient poor wetlands

Vernal pools known to be productive for amphibian breeding

To preserve and protect the wetland

Individual analysis of the area surrounding each nutrient poor wetland or productive vernal pool



Article 24 Permits Issued in the Past 5 Years

	23-24	22-23	21-22	20-21	19-20
Region 1	304	295	384	288	337
Region 2	57	57	51	44	72
Region 3	168	233	241	266	207
Region 4	130	175	184	188	151
Region 5	55	67	57	74	76
Region 6	63	66	57	65	63
Region 7	119	107	95	109	123
Region 8	140	144	154	182	223
Region 9	107	113	104	104	94
Total	1143	1257	1327	1320	1346

Year	23-24	22-23	21-22	20-21	19-20
Total Permits	1757	1929	1978	2042	2076

Article 24 Permitting Averages for the last 5 years:
Rounded 1278.6
1279

Article 24 Permitting Averages for the last 10 years:
Rounded: 1319.5
1320

NEW JD Process (664.8)

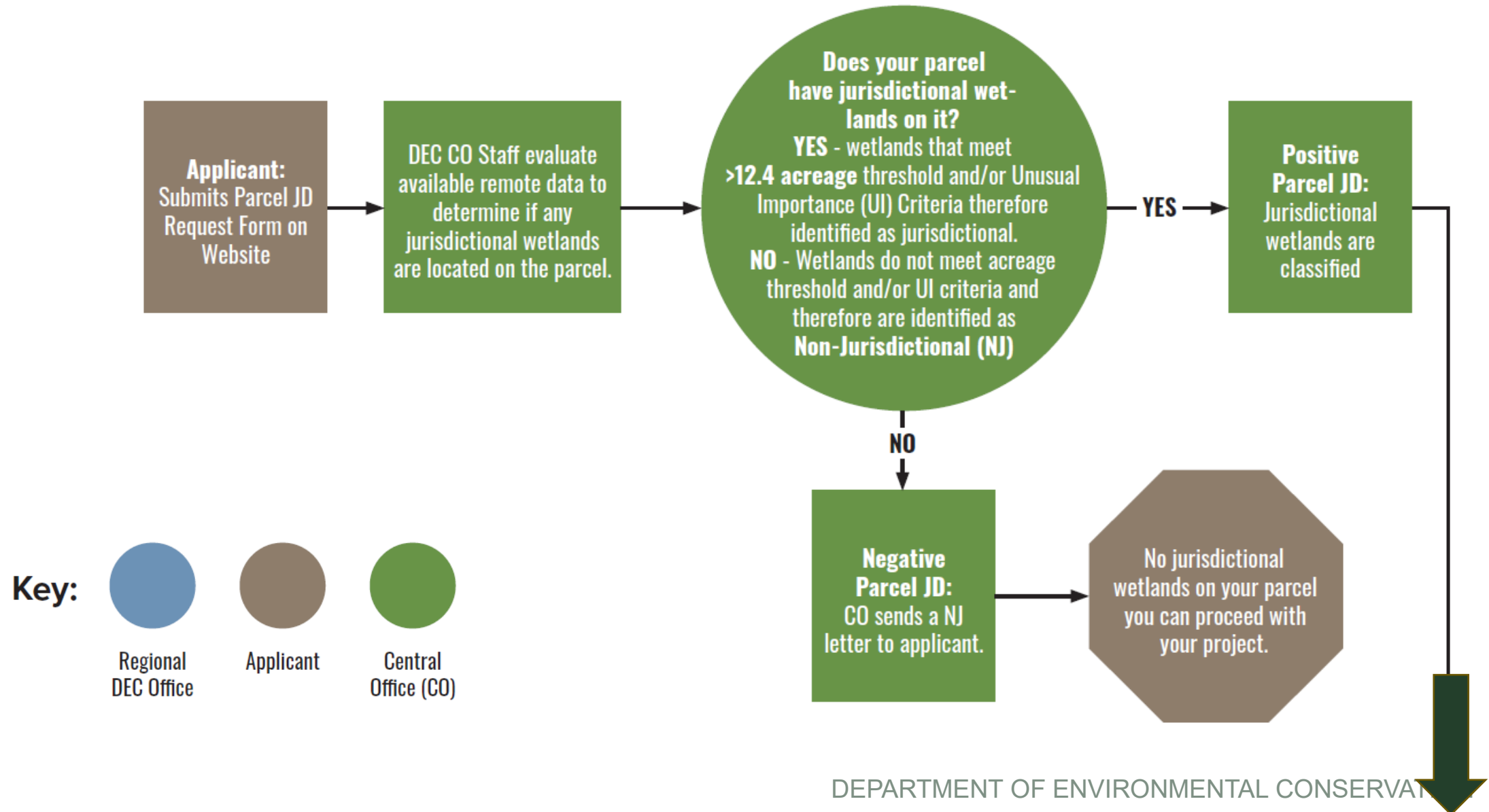
Step 1 – Parcel JD: Determine if there are state-jurisdictional wetlands and/or adjacent areas within the parcel or property boundaries.

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

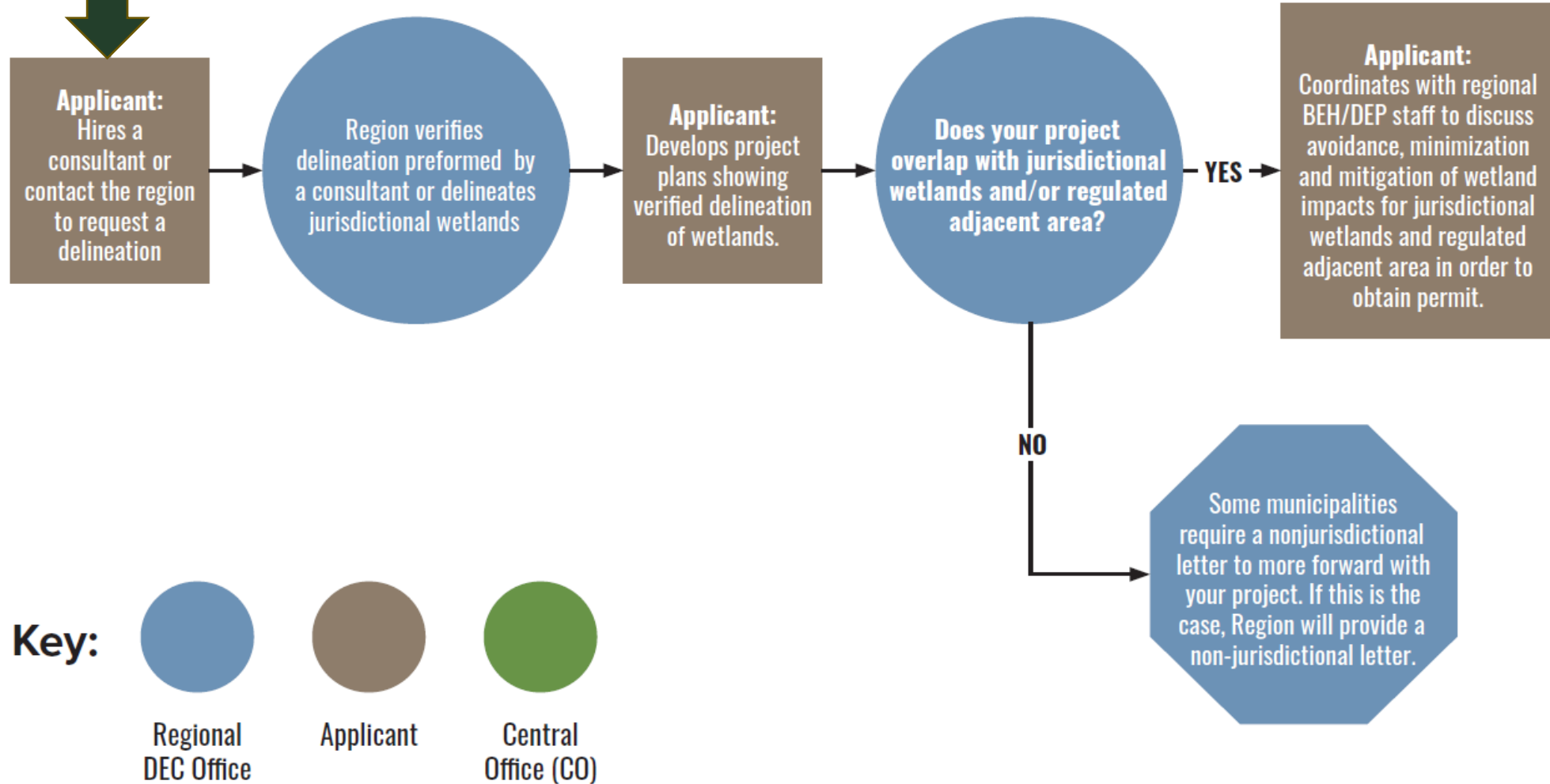
Step 3 – Determine if a project requires an Article 24 Permit (Project JD)



Parcel Jurisdictional Determination (JD) Process



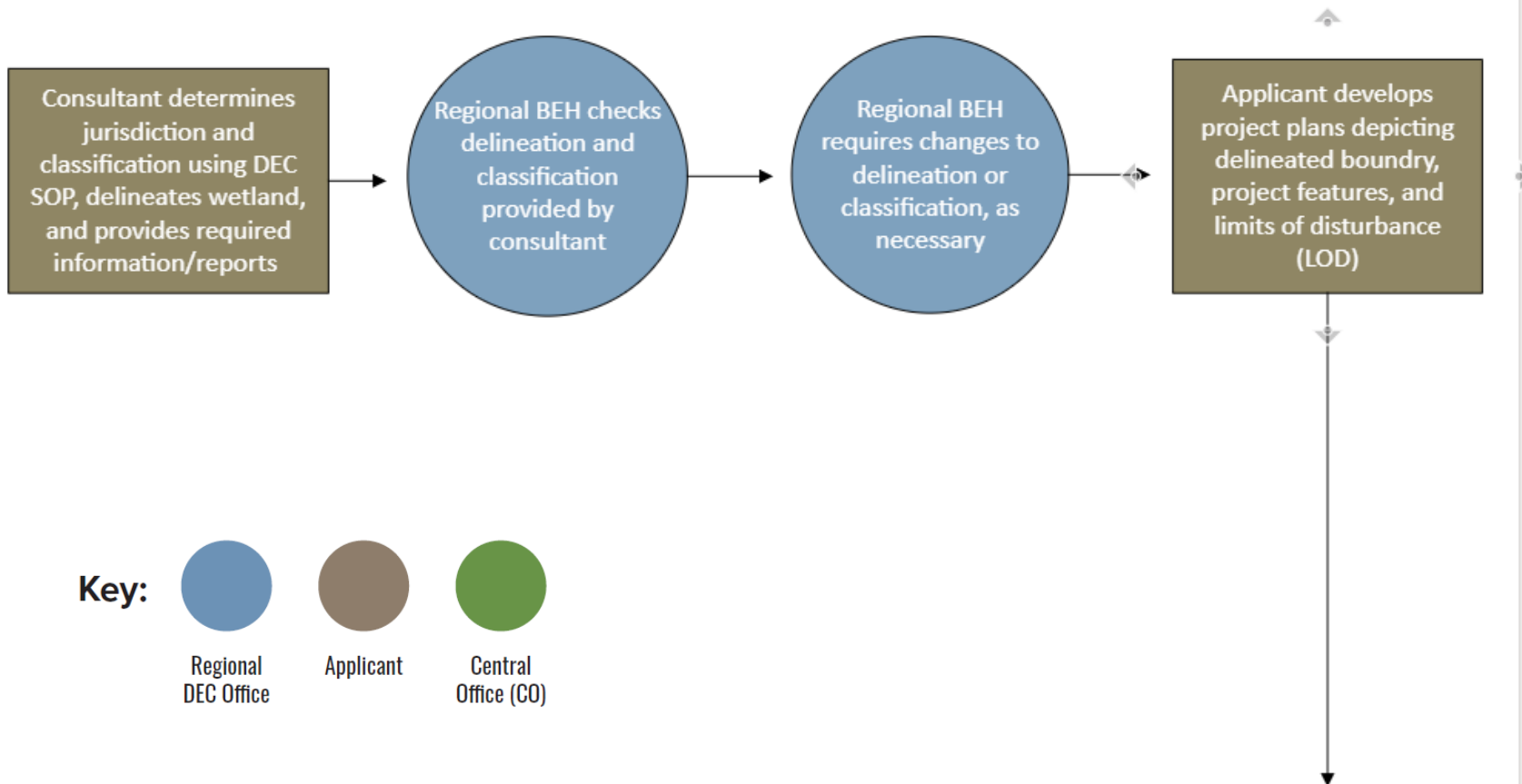
Project Jurisdictional Determination (JD) Process



Parcel JD Consultant Option

1. Applicant determines there are jurisdictional wetlands on the parcel.
2. Using the "Standard Operating Procedures for Remote Jurisdictional Determinations" PDF and "Consultant Option Parcel JD" PDF located on the website, applicant can skip the Parcel JD step and move to Project JD.
3. Applicant submits the compiled list to the region to have the data verified.
4. Once data is verified, applicant develops project plans depicting delineated boundary, project features and limit of disturbance.
5. Applicant moves to the permit process or Project JD.

Parcel Jurisdictional Determination (JD) - Consultant Option Process



Parcel JD – Consultant Option



Department of
Environmental
Conservation

KATHY HOCHUL
Governor

AMANDA LEFTON
Acting Commissioner

Parcel JD – Consultant Option

To use the Parcel JD – Consultant Option, consultants and other environmental professionals with wetlands expertise must submit the following information to the appropriate regional Bureau of Ecosystem Health email address (listed below) to schedule boundary validations:

- Name and contact information of the property owner.
- Name and contact information of the consultant.
- Location of parcel(s), street address or nearest intersection, County, Town, and tax map identification numbers.
- Summary report that describes all the wetlands regulated by Article 24 on the parcel or property, including nutrient poor wetlands and vernal pools productive for amphibian breeding where adjacent areas may be extended pursuant 6 NYCRR Part 664.7(a). The report must include an accounting of all the acreage criteria and unusual importance criteria met for each wetland(s) based on the most recent version of DEC's "Standard Operating Procedures (SOP) for Remote Jurisdictional Determinations and Classification of Freshwater Wetlands Pursuant to 6 NYCRR Part 664, Freshwater Wetlands Jurisdiction and Classification." Off-site wetlands, where appropriate, must be considered when making jurisdictional determinations.
- Proposed classification of each Article 24 regulated wetland(s) located on the parcel(s) based on the most recent version of DEC's "Standard Operating Procedures (SOP) for Remote Jurisdictional Determinations and Classification of Freshwater Wetlands Pursuant to 6 NYCRR Part 664, Freshwater Wetlands Jurisdiction and Classification." Off-site wetlands, where appropriate, must be considered when proposing classifications.
- A wetland delineation report that includes a map of the regulated wetlands with property boundaries and field data sheets. USACOE or other comparable data sheets are acceptable.
- Shapefiles of the delineated wetland boundary, wetland survey area for large parcels, and if known, the limits of disturbance for the proposed project.




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-

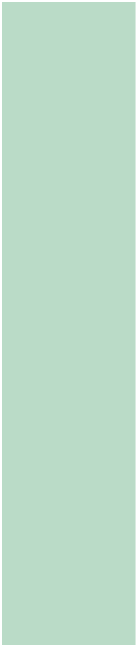
If this project has any associated spatial data, please upload the shapefile(s) below:

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

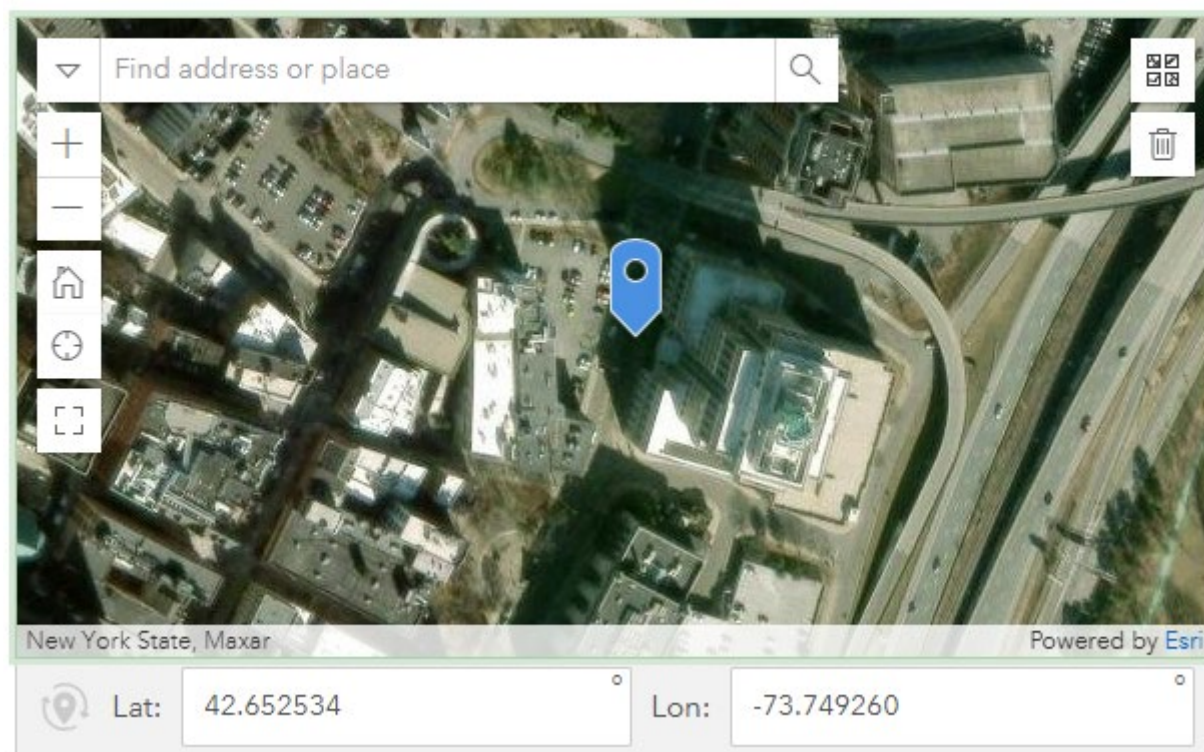
here or select file

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", followed by a magnifying glass icon. Below the search bar is a vertical toolbar with icons for zooming in (+), zooming out (-), home, compass, and full-screen. To the right of the search bar are icons for a grid view and a trash can. The main area is an aerial map of an urban area with a blue location pin. At the bottom left of the map, it says "New York State, Maxar". At the bottom right, it says "Powered by Esri". Below the map, there are two input fields: "Lat: 42.652534" and "Lon: -73.749260", each with a degree symbol (°) to its right.

Timeline for JD (664.8 € through (g))

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

If the department fails to provide a definite answer in writing, or notification of an extension within 90 days of the receipt of a parcel jurisdictional determination, or a project jurisdictional determination, the requestor shall make notice of that failure by means of certified mail.

If the department fails to provide a definite answer within 10 business days of the receipt of such notice, freshwater wetland jurisdiction for the subject parcel shall be deemed waived. Such waiver shall serve as a complete defense to the enforcement of the Act for a period of five years from the date of the waiver.

Positive Jurisdictional Determination Letter



Department of
Environmental
Conservation

KATHY HOCHUL
Governor

AMANDA LEFTON
Acting Commissioner

LETTER OF POSITIVE JURISDICTION – FRESHWATER WETLANDS

March 19, 2025

Sent via email to: [REDACTED]

Re: DEC Freshwater Wetlands Parcel Jurisdictional Determination for parcel 316.18-1-1.1, Town of Queensbury, Warren County

Dear [REDACTED],

Based on the parcel identified in your request, the New York State Department of Environmental Conservation (DEC) has determined that the parcel contains freshwater wetlands and/or freshwater wetlands adjacent areas (AA) regulated by DEC pursuant to Article 24 of the Environmental Conservation Law (ECL). Specifically, the parcel contains freshwater wetlands that meet an Unusual Importance (UI) criterion in that it is located within an urban area, as defined and identified by the United States Census Bureau.

The table below identifies the orientation of jurisdictional wetlands and adjacent areas within the parcel, the wetland class, and the classification characteristic(s) identifying it as a Class II wetland.

Tax ID #:	Wetland / AA Location	Classification
316.18-1 - 1.1	Wetland and adjacent area cover the majority of the parcel and extend offsite to the northwest and southeast.	Class II: located wholly within an urban area

This determination shall remain valid for five years from the date of this letter (through 03/17/2030).

A freshwater wetlands permit from DEC is required for any regulated activity planned or

Positive Jurisdictional Determination Letter

A freshwater wetlands delineation is necessary to determine the precise boundary of jurisdictional wetlands areas on the subject parcel.

Please use this link <https://dec.ny.gov/nature/waterbodies/wetlands/freshwater-wetlands-program/freshwater-wetland-jurisdictional-determination> to identify and contact the appropriate DEC Regional Office prior to undertaking any regulated activities on the

Division of Fish and Wildlife | Bureau of Ecosystem Health
625 Broadway, Albany, NY 12233-4756 | www.dec.ny.gov | FW.EcoHealth@dec.ny.gov

referenced parcel to determine whether a permit is required. In addition, you can visit DEC's website to learn more about the types of jurisdictional determinations and wetland delineations:

<https://dec.ny.gov/nature/waterbodies/wetlands/freshwater-wetlands-program/freshwater-wetland-jurisdictional-determination>

Pursuant to ECL section 24-0301(4), there is a rebuttable presumption that areas meeting the definition of Freshwater Wetland are regulated and subject to permit requirements. If you believe this jurisdictional determination has been made in error, you may request an initial consultation with DEC by scheduling a meeting on the parcel or property with the appropriate regional office to review the jurisdictional determination, pursuant to 6 NYCRR 664.9.

Please note that this letter does not relieve you of the responsibility of obtaining any necessary permits or approvals from other agencies or local municipalities.

If you have questions regarding this determination, please email FWWjurisdiction@dec.ny.gov.

Review of Jurisdictional Determinations (664.9)

Initial consultation/delineation (field meeting, discussion)

Complete JD appeal application within 120 days from initial consultation

Acceptable basis of appeal:

- Missing technical information
- Incorrect application of regulatory criteria
- Incorrect application of guidance

Department responds within 60 days



Typical Projects General Permit



- 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.

Drafts Permits Released February 5, 2025

- Electric Utility Right of Way Maintenance and Repair General Permit (GP-0-25-005)
- Lake Shorelines Freshwater Wetlands General Permit (GP-0-25-007)
- 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)
- Modification of Stream Crossings for Timber Harvesting General Permits (GP-0-23-004 and GP-0-23-005)
- Housing Development GP (GP-0-25-006)
- The Community-Scale Solar Energy Installations GP (GP-0-25-004)
- ***Comment period extended to 3/31***



Drafts Permits Released February 5, 2025

- **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.
- **The Community-Scale Solar Energy Installations GP (GP-0-25-004)** - would authorize the following activities: installation of temporary and permanent access roads; construction of power interconnections and collection lines; vegetation clearing and ground disturbance necessary for solar project installation; and wetland mitigation and enhancement actions in areas under DEC jurisdiction.





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

– *Lucius Annaeus Seneca*

Questions



Thank You!

Krista Spohr
Freshwater Wetlands Outreach
Coordinator
New York State Department of
Environmental Conservation

Krista.spohr@dec.ny.gov

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