

What's so great about wetlands?

- Wetlands protect drinking water by filtering out chemicals, pollutants, and sediments that would otherwise clog and contaminate our waters.
- Wetlands soak up runoff from heavy rains and snow melts, providing natural flood control.
- Wetlands release stored flood waters during droughts.
- Wetlands provide critical habitats for a major portion of the State's fish and wildlife, including endangered, commercial and recreational species.
- Wetlands provide high quality open space for recreation and tourism.

WHY DO WETLANDS NEED PROTECTION?

Over the last two hundred years, the United States has lost over 117 million acres of its wetlands.

Erosion, flooding, and sedimentation has resulted. Furthermore, the decrease in wetlands has decreased populations of waterfowl, fish, and shellfish. With over 54 percent of the total wetlands in the continental United States already lost, and an additional 200,000 acres disappearing every year, protecting our remaining wetlands has become a critical national priority.

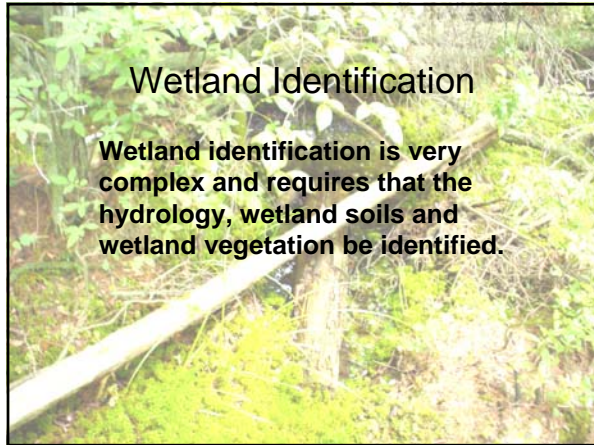
Freshwater Wetlands Act N.J.S.A 13:9B

The freshwater Wetlands Protection Act requires the NJ DEP to regulate virtually all activities proposed in the wetland, including cutting or killing of vegetation, dredging, excavation or removal of soil, drainage or disturbance of the water level, filling or discharge of any materials, driving of pilings, and placing of obstructions.



WETLANDS: Commonly referred to as swamps, marshes, "low spots" or bogs. However, many wetlands in NJ are forested and do not fit the "classic" picture of a swamp or marsh. For example, with sandy soils, water may rarely break the surface and not appear swampy at all.





Wetland Identification

Wetland identification is very complex and requires that the hydrology, wetland soils and wetland vegetation be identified.

Freshwater Wetland Regulations

Applies to the entire state of New Jersey except:

- Coastal Wetlands that were not mapped under the Wetlands Act of 1970



Wetlands are Classified by Value

- **Exceptional resource value: 150' buffer**
 - Threatened or endangered species habitat
 - FW1 or FW2 trout production waters
- **Intermediate resource value: 50' buffer**
 - Anything not exceptional or ordinary
- **Ordinary resource value: 0' buffer**
 - Small, isolated and more than 50% surrounded by development
 - Ditch or swale
 - Detention basin originally dug in uplands

Seasonal Conditions

In some seasons, it may be difficult to determine the resource value of a wetland. In this case, an application will be given the choice of accepting an exceptional resource value determination, or wait until accurate resource value can be determined.



WHAT IF MY LAND CONTAINS FRESHWATER WETLANDS?

If your land contains freshwater wetlands, you are very limited in what you may do in the wetlands.

The most common type of freshwater wetlands permit is a general permit. General permits cover a limited number of very minor activities, such as:

- repair of existing structures
- short roads or driveways
- docks
- utility lines
- stream bank stabilization
- septic system repair



Wetland Maps

Wetland maps are available at the municipal clerks' office and county clerks' office. They can also be obtained through DEP's Maps and Publications Office at (609) 777-1038 or through the I-map service through the DEP:



<http://www.state.nj.us/dep/gis/depsplash.htm>

Wetland Maps



*****NJ Wetland Maps provide guidance on where wetlands are found, but they are not the FINAL word. Only an official determination for DEP called an LOI or Letter of Interpretation can be used as a final determination *****

Letters of Interpretations (LOI)

<http://www.state.nj.us/dep/landuse/forms/chkloi.pdf>

A LOI can tell for sure if you have freshwater wetlands on your property.



FRESHWATER WETLANDS LETTER OF INTERPRETATION (LOI) APPLICATION CHECKLIST AND FEE TABLE

This checklist is for all LOIs. The Department issues the following three types of LOIs:
 1. A preliminary LOI for a site or a portion of a site called a Letter of Interpretation (LOI) for a site or a portion of a site called a Letter of Interpretation (LOI) for a site or a portion of a site.
 2. A final LOI for a site or a portion of a site.
 3. A final LOI for a site or a portion of a site.

To complete this checklist, you will need:
 Attachment A: Form letter for providing certified true copies of an application.

NOTE: Please provide one (1) copy of each item listed on the checklist, unless the form specifically states that more copies should be provided.

NOTE: The person who signs the LOI Form as the applicant must be the owner of the site, and a person who is not the owner must sign the application and an agreement of indemnification and hold the applicant on the applicant's behalf. For example, the applicant may be a partner in a partnership or a sole proprietor. If the applicant is not the owner, the applicant must sign the application and an agreement of indemnification and hold the applicant on the applicant's behalf. If the applicant is not the owner, the applicant must sign the application and an agreement of indemnification and hold the applicant on the applicant's behalf.

NOTE: After the Department has received an application for a final LOI, or a preliminary LOI, the applicant must submit a copy of the wetlands portion of the application to the Department and then submit the rest of the application to the Department. The Department will not issue the LOI until the survey is submitted.

NOTE: If, at any time, the site is in a state of construction, any construction the applicant shall provide any and all information regarding said construction to the office with the appropriate date of construction application.

APPLICATION REQUIREMENTS

3 purposes of an LOI

- Determine if freshwater wetlands, transition areas and/or State open waters are present.
- Determine the boundaries of freshwater wetlands, transition areas and/or State open waters.
- Establish Resource value(s) of freshwater wetlands.

Types of LOIs

- **Presence/Absence**

Department determines if Fresh Water Wetland (FWW) and/or Transition Area (TA) or State open Waters(SOW) exist on site

- **Footprint of Disturbance**

Department determines if FWW, SOW and/or TA on a portion of site (maximum of one acre)

- **Line Delineation**

Department delineates FWW , SOW and/or TA

- **Line Verification**

Department confirms or modifies a delineation proposed by applicant

LOI Line Verification

A LOI line verification is required when a property is 1 acre or larger. Line Verifications are issued for the following reasons:

- A municipal tax lot no larger than the "site"
- For larger sites the DEP will verify a wetland line on only a portion of the property if:
 - The site is publicly owned
 - The site is larger than 10 acres
 - The portion is one acre or smaller
 - Portion is clearly marked on plan/ground

LOI Effect and Duration

- The Division of Land Use Regulation may change the resource value classification if T&E species habitat is disclosed or discovered after the LOI is issued or if the surface water quality standards change



- If additional wetlands are identified after LOI issuance, the LOI may be revised

LOI Extension

<http://www.state.nj.us/dep/landuse/forms/chkloieix.pdf>



FRESHWATER WETLANDS LETTER OF INTERPRETATION (LOI) EXTENSION APPLICATION CHECKLIST AND FEE TABLE (Revised 1/2010)

This checklist is to be used for an extension to an LOI. Rules governing LOI extensions can be found at N.J.A.C. 17:27A.6.

To complete this checklist, you will need the following attachments:
Attachment A: Form letter for providing certified mail notice of an application.

NOTE: Please provide only ONE COPY of each item listed on this checklist, unless the item specifically states that more copies should be provided.

NOTE: The person who signs the LOI or LOI extension on the applicant must be the owner of the site, or a person with sufficient legal authority over the site to carry out all requirements of any subdivision request. Other persons named on the application or proposed subdivision, and may be identified in the application as the applicant's agent. For example, the applicant may be a person who is not the owner of the site. However, the applicant must not be a corporation, partnership, limited liability company, or other entity who has identified or proposed the subdivision and who does not have legal authority to carry out the project applied for. This person should be identified in the application as the agent.

Freshwater Wetland Exemptions

- Limited exemptions for existing farming, ranching, or forestry operations.
- The Hackensack Meadowlands Development Area is exempt from the DEP wetlands program, but require permits from the Army Corps of Engineers or the Hackensack Meadowlands Development Commission.
- Wetlands disturbances in the Pinelands are permitted through the Pinelands Commission (except for the discharge of dredged or fill materials)

A transition area is a strip of land surrounding each wetland. They:

- Buffer the wetlands from human activities
- Provide refuge for wildlife
- Act as a filter for stormwater flowing into a wetland



Wetland Buffers

If you want to pursue activities in an area within 150 feet of a wetland, you may be in a transition area (sometimes called a buffer) and you may need a DEP transition area waiver.



The width of the transition area may vary from 150 feet down to nothing, depending on the resource value of the particular wetlands determined by DEP.

Buffers

For example, a wetland containing endangered species habitat would require a 150 foot wide transition area, whereas a small wetland in a ditch might not require any transition area at all. Most freshwater wetlands require a 50-foot transition area.

Common Problems:

- Fences in Wetlands & Transition Area
- Tree Cutting in a Wetlands or Transition Area
- Transition Area - Normal Property Maintenance



Transition Area Waivers

<http://www.state.nj.us/dep/landuse/forms/chktaw.pdf>

- Changes the shape or size of the transition area

OR

- Allows regulated activities within the transition area



Transition Area Waiver Types

1. Averaging
2. Special Activity waivers for stormwater management, linear development, redevelopment, activities eligible for an Individual Permit
3. Matrix width reduction
4. Hardship wavier



Transition Area Wavier Types Include:

- General Permit transition area wavier for all GPs except 1, 7,22 and 24
- An access transition area wavier (more details to follow)



Transition Area Waivers

It is a good practice to check that any development plans submitted to the town include the survey referenced by DEP in it's LOI letter. If any work is proposed within the wetlands or within the transition area determined by DEP, the developer should be able to show that they have obtained necessary permits, transition area waiver or exemption letter from DEP for the work in those regulated areas.

Transition Area Exemptions



- If the activity had municipal approvals prior to 1989
- Framing , ranching or silviculture on a farm established by July 1988
- Forestry in accordance with a State approved forest management plan.

Wetlands Surveys

A survey of the approved delineated boundary line is required.

- It may be submitted as part of an LOI application, but adjustments to the line must be re-surveyed, or
- The survey may be submitted after LUR inspects and approves the delineation

The LOI will not be issued until the final survey is submitted.

Wetlands Surveys

- Survey requirements can be waived if wetlands extent can be easily determined in the future.
- If the LOI only covers a portion of the site, a survey of the boundaries of the portion of the site that are covered by the LOI should also be submitted

Coastal & Freshwater Wetlands General Permits

- Reduced application materials required
- Minimal standards specified in the GP
- Low cost fee
- Reduced public notification process
- Reduced timeframe for processing

General Permits



Authorize specific regulated activities in:

- Freshwater Wetlands
- Transition Areas
- State Open Water Areas

General Permits for:

- Maintenance and repair of existing features
- Underground utility lines
- Discharge of return water from and Upland
- Hazardous site investigation and Clean – up
- Landfill closures
- Regulated activities in non-tributary wetlands
- Human made ditches and swales in headwaters
- House Additions

General Permits for:

- Airport sight line clearing
- Very minor road crossing
- Minor road crossing
- Outfalls and intake structures
- Surveying and investigation
- Lake dredging
- Water monitoring devices
- Mosquito control activities

General Permits for:

- Habitat creation and enhancement activities
- Trails and boardwalks
- Dam repair
- Docks and piers
- Bank stabilization
- Above ground utility lines
- Expansion of Cranberry growing operations in the Pinelands

General Permits for:

- Spring Development
- Malfunctioning Individual Septic Systems
- Minor Channel or stream cleaning for local government agencies
- Redevelopment of previously disturbed areas

Most Common GPs

- Maintenance of existing facilities
- Underground utility lines
- Filling of isolated wetlands
- Activities in ditches and swales
- Minor Road Crossings
- Stormwater outfalls



GP Approval

All GPs need written approval except:

- Maintenance of an off-stream stormwater management facility (GP1)
- Repair of a malfunctioning septic system (GP 25)
- Minor channel or stream clearing (GP 26)

These are automatically approved after a waiting period (unless the Division of Land Use Regulation notifies you)

GP Authorization Limits

- Disturbance limits are listed under each GP and apply to the entire site upon which activities occur.
- Projects cannot be segmented: For example: one portion of the site cannot be under a GP and another portion under an Individual Permit or projects cannot apply for separate GPs for portions of the same site.
- Unless specified differently, the limits of disturbance under a GP apply to total disturbance (both temporary and permanent).
- If a regulated activity is not covered by any general permit or a combination of general permits, an individual FWW or open water fill permit must be obtained. If a regulated activity in a transition area is not covered by any general permit or a combination of general permits, an individual Transition Area waiver must be obtained.



FRESHWATER WETLANDS GENERAL PERMIT AUTHORIZATION APPLICATION CHECKLIST AND FEE TABLE (Updated 12/1/2018)

This checklist is to be used for all freshwater wetland general permits except General Permit 21 (Water or discharge of pollutants into surface water bodies or discharge into surface water).

See special application checklist for general permit 21.

To complete this checklist, you will need the following attachments:

- Attachment A: Form for providing certified map copies of an application
- Attachment B: Form for providing noncertified copies of an application
- Attachment C: List of municipalities with proposed site plans
- Attachment D: List of municipalities with long term LURP 1 forms, application form

NOTE: Please provide only ONE copy of each item listed below, unless the item specifically states that more copies should be provided.

NOTE: The person who signs the LURP 1 form as the applicant must be the owner of the site or a person with sufficient legal authority over the site to carry out development of any authorization issued. Others may assist the applicant in preparing the application and may be involved in the application at the appropriate stage. For wetlands, the applicant may be a person who is under contract to buy the site. However, the applicant may not be a licensed engineer, architect, or other person who has accepted preparing the application and who then has made legal authority to sign the permit application. This permit cannot be submitted to the Division of Land Use Regulation.

NOTE: Most general permits now include authorization for transition area disturbances if a project qualifies for the general permit, so include transition area waiver to transition.

NOTE: If any portion of this site is known or suspected of having any contamination the applicant must provide any and all information regarding such contamination to the office with the associated permit application.

<http://www.state.nj.us/dep/landuse/forms/chkqpn25.pdf>

GP Conditions

- 10. If any activities are considered "major developments", the stormwater management rules shall apply. (1/4 acre of new impervious or 1 acre of site disturbance)
- 11. Excavated or dredged materials have to be disposed of outside of a wetland, transition area or state open water, or other environmentally sensitive area.
- 12. The amount of stabilization materials (rip-rap etc.) shall not exceed the minimum necessary to prevent erosion.

GP Conditions

- 13. Best Management practices shall be followed (see 1.4)
- 14. If the activity is subject to the Water Quality Management Planning rules, the activity shall be consistent with those rules.
- 15. See 4.3 © Table A for fish timing requirements to be met
- 16. Activities shall not take place in a vernal habitat or a transition area to a vernal habitat.

Fish Timing Conditions

Department may reduce extend, modify on a case by case basis provided:

-Applicant demonstrates less impact to a fishery resource if activities occur during timing restriction

-The combined effects of the timing restriction would restrict activities to less than 183 calendar days per year.

(Applicant must demonstrate steps to minimize fisheries impact)

-Due to project nature or unusual circumstances, timing restriction must be extended to protect fisheries of threatened and endangered

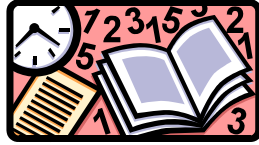


Modifying or Extending a GP?

An issued GP can be modified if:

- The changes in the project are still acceptable under the GP
- No significant change in use or environmental impact is proposed

You can now get an extension of your permit, including GP authorization.



Individual Permits

- Only if there is no practical alternative to the activity in a non-wetland area.
- Project must be minimized
- Activity cannot adversely impact endangered species habitat
- Must be consistent with an approved Water Quality Management Plan
- Mitigation is required

Coastal & Freshwater Wetlands Individual Permit Requirements

- Expanded public notice & comment period or public hearing held
- Strict compliance with every applicable Coastal Zone Management rule & Individual FWW standards
- Requires alternatives analysis
- Requires mitigation & long term monitoring
- Large permit application fees

WETLANDS ACT OF 1970 (N.J.S.A. 13:9A)

http://www.state.nj.us/dep/landuse/13_9a.pdf

13:9A-1 Legislative intent, inventory and mapping of tidal wetlands, filing in office of county recording officer

1. The Legislature hereby finds and declares that one of the most vital and productive uses of the natural lands in the coastal watersheds of this State is the use of the tidal wetlands for wildlife habitat and for the protection of the State's fisheries. It is the policy of the State to protect and preserve these lands and to ensure that they are used in a manner that is consistent with the public interest and the protection of the State's fisheries. It is the intent of the Legislature to provide for the protection and preservation of these lands and to ensure that they are used in a manner that is consistent with the public interest and the protection of the State's fisheries.

2. The Department of Environmental Protection shall, within 3 years of the effective date of this act, cause an inventory and map of all tidal wetlands within the State. The boundaries of such wetlands shall generally define the areas that are at or above high water and that are subject to periodic flooding, including the areas that are subject to periodic flooding by the tides of the ocean. The map shall show the location of such wetlands and shall be filed in the office of the county recording officer of the county or counties in which the wetlands are located. The map shall also show the location of the wetlands that are subject to periodic flooding by the tides of the ocean and shall be filed in the office of the county recording officer of the county or counties in which the wetlands are located.

3. The Department shall cause the map, copies of which shall be deposited in the office of the county recording officer, to be filed in the office of the county recording officer of the county or counties in which the wetlands are located.

4. The Department shall cause the map, copies of which shall be deposited in the office of the county recording officer, to be filed in the office of the county recording officer of the county or counties in which the wetlands are located. The map shall also show the location of the wetlands that are subject to periodic flooding by the tides of the ocean and shall be filed in the office of the county recording officer of the county or counties in which the wetlands are located.

The land immediately adjacent to a tidal water often contains coastal wetlands. These wetland areas are a vital coastal resource serving as habitat for many creatures. The wetlands also serve as buffers that protect upland areas from the flooding and damage caused by storms



The Wetlands Act of 1970 requires the DEP to regulate development in coastal wetlands. Any time land is located near tidal water, there is a good possibility of coastal wetlands on the property. Some signs that may indicate the presence of wetlands are tall reeds and grasses, or ground that is usually flowed by the tide...either daily or during high tide events.

NOTE: Because these wetlands are flowed by tidal water, they are also regulated under Waterfront Development.

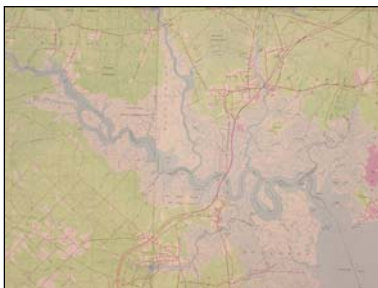
The regulated coastal wetlands are shown on maps prepared by the DEP. Unlike DEP's freshwater wetlands maps, the coastal wetlands maps are used to determine jurisdiction. These maps are available for public inspection at each county clerk's office.





These areas are located in Middlesex, Monmouth, Ocean, Burlington, Atlantic, Cape May, Cumberland and Gloucester Counties and include the waterward or upper wetland boundary of the wetland maps which are specified in the rule.

Coastal Wetland Maps



Can be found at the county recording office

Permits are required for all activities in the coastal wetlands including: filling, excavation or the construction of any structure; the installation of utilities; construction of impoundments; the diversion or appropriative use of water and driving over or upon wetlands which may alter or impair the natural contour or vegetation.





Prohibited activities include disposal of solid waste, discharge of sewage or industrial waste, application of pesticides or storage of pesticides

Exemptions

Coastal Wetlands property under the jurisdiction of the Hackensack Meadowlands Development Commission are not mapped, and therefore are only regulated under the Waterfront Development Act.



Exemptions



The continuance of commercial production of salt hay or other agricultural crops on lands utilized for these purposes on or before April 13th, 1972 or activities conducted by the NJ DEP, the Natural Resource Council and the State Health Department are also exempted from the Coastal Wetland regulations.

Jurisdictional Determinations

<http://www.state.nj.us/dep/landuse/forms/jurisdet.pdf>

OFFICIAL USE ONLY
NJDEP Jurisdictional Determination Form

Project Name: _____ Date: _____
Applicant: _____
Site Address: _____
Project Location: _____
Project Description: _____
Project Location: _____
Project Location: _____

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
600 East State Street
PO Box 287
Trenton, NJ 08646

Coastal Wetlands General Permits

- Reduced application materials required
- Minimal standards specified in the GP
- Low cost fee
- Reduced public notification process
- Reduced timeframe for processing

Please click on the link below to be transferred to the quiz for this module.

<http://www.surveymonkey.com/s.asp?u=653391766582>
