



C.P.R. for Wetlands: *Conserve, Protect, and Restore* Breathing new life into our sense of place

Community Involvement in Wetland Protection NEW YORK

Background

From the tidal wetlands that are found in the coastal regions downstate, to the freshwater wetlands that are found across larger portions of upstate New York, each wetland serves a number of important functions. Wetlands provide a natural purifying process for surface waters, control flood waters, replenish water supplies, and provide habitat for an abundance of wildlife. Endangered song birds such as the golden winged warbler and the olive sided flycatcher, as well as the American woodcock are often found in the wetlands of New York State. In fact, one-half of the 160 species identified as endangered or threatened by the New York State Department of Environmental Conservation (DEC) are wetland dependent. Without wetlands, the makeup and diversity of New York's natural habitats would be significantly compromised, the quality of our water would be at greater risk, and the tourism and commercial fishing industries of New York State would be compromised.

The Regulatory Landscape

The basis for wetland regulation is clear: wetlands provide public benefits and no individual, business, or governmental agency has the unrestricted right to alter the natural character of wetlands, as alterations may pollute the water, increase flooding, destroy habitat, or cause other harm.

Federal Laws

Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act provide the regulatory framework for the federal government's role in regulating activities that impact wetlands. The federal program is administered by the U.S. Army Corps of Engineers (Corps) with oversight by the U.S. Environmental Protection Agency (EPA). In addition to this wetland regulatory program, the federal farm programs, the Endangered Species Act, and other

sections of the Clean Water Act (Section 401 – Water Quality Certification and Section 402 – National Pollution Discharge Elimination System) can help protect wetlands.

State Laws

The Freshwater Wetlands Act (FWA), Article 24 of the Environmental Conservation Law (ECL), provides the DEC and the Adirondack Park Agency (APA) with the authority to regulate freshwater wetlands across the state. Originally passed in 1975, the FWA establishes a state policy to "preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate use and development of such wetlands to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social, and agricultural development of the state (ECL Article 24-0103)." Under the FWA, wetlands that are larger than 12.4 acres or those that are deemed to be of unusual local importance by the commissioner of the DEC, are protected. Within the Adirondack State Park wetlands above one acre in size, or smaller wetlands if they have free interchange of flow with any surface water, are regulated. Freshwater wetlands adjacent to navigable or protected streams also are regulated under the Stream Protection Act, Article 15 of the ECL.



Photo Courtesy of the Citizens for a Green North Tonawanda.

Under New York's freshwater wetland regulatory program, a permit is required for certain activities including, but not limited to:

1. Filling, including filling for agricultural purposes
2. Draining and altering water levels, except as part of an agricultural activity
3. Removing or breaching beaver dams
4. Clear-cutting trees and other wetland vegetation
5. Grading, dredging, or mining
6. Constructing roads
7. Drilling a water well to serve an individual residence
8. Installing docks, piers, or wharfs
9. Constructing bulkheads, dikes, or dams
10. Constructing a residence or related structures or facilities
11. Constructing commercial or industrial facilities, public buildings, or related structures
12. Installing utility services
13. Applying pesticides

Additionally, the Tidal Wetlands Act (TWA), Article 25 of the ECL grants authority to the DEC to regulate tidal wetlands. DEC requires a permit for almost any activity that will alter wetlands in the tidal zone or the adjacent areas (adjacent areas extend up to 300 feet inland from the wetland boundary and up to 150 feet inland within New York City).

Local Regulations

Wetlands also may be regulated under local ordinances either specific to wetlands, or as part of other local land-use decisions, such as subdivision approvals or waterways protection programs. Not all local governments protect wetland specifically, but many do on Long Island and in southeastern New York. The Dutchess County Environmental Management Council has prepared a helpful booklet entitled *Local Strategies for Wetland and Watercourse Protection: An Educational Guide* to assist localities with wetland protection options at the local level, and they can be reached at 845-677-5253.

What You Can Do

Federal, state, and local regulations provide opportunities for citizens to participate in wetland protection activities. In addition to reviewing and commenting on proposed projects that would impact wetlands, citizens can promote wetland protection in many ways. Here are seven ways you can get involved:

- 1) Review and comment on public notices of wetland dredge and fill applications that can be found on DEC's Environmental Notice Bulletin each week at www.dec.state.ny.us/website/enb/index.html;
- 2) Promote proper wetland stewardship among private landowners;
- 3) Get involved in wetland restoration;
- 4) Participate in wetland management on public lands;
- 5) Help to establish a local wetland protection ordinance;
- 6) Promote permanent protection through conservation easements and purchase; and
- 7) Educate yourself and others about the importance of wetlands and how to protect them.

Where to Go for More Information

For information on the federal wetland regulatory program, contact one of the U.S. Army Corps of Engineers' NY District offices at (716) 879-4313 (Buffalo District Office) or (212) 264-3996 (New York District Office) or on the web at www.usace.army.mil.

For information on New York's freshwater wetland regulatory program, contact Patricia Riexinger at the DEC Bureau of Habitat within the Division of Fish, Wildlife and Marine Resources at (518) 402-8848 or on the web at www.dec.state.ny.us/website/dfw/mr/habitat/fwwprog.htm. For more information on New York's tidal wetland permit program, contact your regional DEC office (contact information is available at www.dec.state.ny.us/website/dcs/regions/index.html) or visit www.dec.state.ny.us/website/dcs/tidalwet/tidalweto2.html.

For information on local regulatory programs, contact the planning department of your municipality.

Remember, citizens are the essential link in wetland protection. Get involved now!