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**U.S. Army Corps of Engineers
Baltimore District**

**Interim Removal Action
Component 1 - Phases 2 and 3
Areas A and B
Former Lake Ontario Ordnance Works
Lewiston and Porter
Niagara County, New York**

**Draft Permit Application Report and
Environmental Compliance Checklist**

Supplement to the 60% Design

Contract Number DACA31-96-D-0006
Delivery Order 0002

December 1998

Prepared for:

U.S. ARMY CORPS OF ENGINEERS
Baltimore District
10 South Howard Street
Baltimore, Maryland 21201

98P-3252-1

Prepared by:



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**INTERIM REMOVAL ACTION
COMPONENT 1—PHASES 2 and 3
AREAS A and B
FORMER LAKE ONTARIO ORDNANCE WORKS
LEWISTON AND PORTER
NIAGARA COUNTY, NEW YORK**

**DRAFT PERMIT APPLICATION REPORT AND
ENVIRONMENTAL COMPLIANCE CHECKLIST**

SUPPLEMENT TO THE 60% DESIGN

Prepared for

**U.S. ARMY CORPS OF ENGINEERS
BALTIMORE DISTRICT**
10 South Howard Street
Baltimore, Maryland 21201

December 1998

Prepared by

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DRAFT PERMIT APPLICATION REPORT

DRAFT PERMIT APPLICATION REPORT

This Draft Permit Application Report provides application forms, procedures, and supporting data for identified permit applications for the Interim Removal Action for Component 1, Phases 2 and 3 at the former Lake Ontario Ordnance Works (LOOW). This document is part of the Supplement to the 60% Design for Component 1, Phases 2 and 3, and supersedes the previous 60% Draft Permit Application Report submitted in September 1997. This document provides information for Phases 2 and 3, which consist of removal activities at Areas A and B on the Chemical Waste Management (CWM) property.

The only anticipated permit application potentially required for Phases 2 and 3 is related to wetlands. If wetlands are identified in the remediation areas following the site-specific survey, a permit for disturbance/excavation of wetlands may be necessary. The need for such a permit will depend on the results of the site-specific wetlands survey discussed in the environmental checklist. Attachment 1 of this document provides a copy of the New York State Department of Environmental Conservation (NYSDEC)/United States Army Corps of Engineers (USACE) Joint Application for Permit and portions of the wetlands regulations guidelines.

Attachment 2 provides the information necessary for preparing an Erosion and Sedimentation Control Plan. The Erosion and Sedimentation Control Plan does not require a permit.

According to a representative from the town of Porter, a local construction permit is not required for soil removal activities when the area is restored to original conditions.

For Phases 2 and 3, it is assumed that a National Pollutant Discharge Elimination System (NPDES)/State Pollutant Discharge Elimination System (SPDES) permit is not required because stormwater/groundwater will be discharged through CWM's existing permitted outfall; see the Environmental Compliance Checklist for more details.

The Environmental Compliance Checklist is provided following Attachment 2.

**ATTACHMENT 1 — NYSDEC/COE JOINT APPLICATION FOR PERMIT
AND PORTIONS OF THE WETLANDS REGULATIONS GUIDELINES**

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
UNITED STATES ARMY CORPS OF ENGINEERS



JOINT APPLICATION FOR PERMIT

DEC APPLICATION NUMBER

DISTRIBUTION

1st COPY Permit Administrator
2nd COPY Corps of Engineers
3rd COPY Program
4th COPY NYS Agency
5th COPY Applicant

US ARMY CORPS APPLICATION NO

Please read ALL instructions on back before completing this application. Please type or print clearly in ink. Attach additional information as needed.

- ☐ FRESHWATER WETLANDS ☐ TIDAL WETLANDS ☐ WATER SUPPLY ☐ LONG ISLAND WELL
- ☐ PROTECTION OF WATERS FOR:
- ☐ A. Construction or placement of docks and moorings ☐ B. Construction, reconstruction, or repair of a DAM or other impoundment structure
- ☐ C. Disturbance of a STREAM BED or BANKS or excavation in or fill of NAVIGABLE WATERS ☐ 401 WATER QUALITY CERTIFICATION
- ☐ COASTAL EROSION CONTROL ☐ LAKE GEORGE PARK COMMISSION (Docks and Moorings) ☐ WILD, SCENIC OR RECREATIONAL RIVERS
- ☐ AQUATIC PEST CONTROL FOR: ☐ A. Aquatic Vegetation Control ☐ B. Fish Control ☐ C. Insect Control

1. LIST PREVIOUS PERMIT/APPLICATION NUMBERS AND DATES (If any)

IF OTHER THAN INDIVIDUAL, PROVIDE TAXPAYER ID NUMBER

2. APPLICANT IS A/AN

☐

Owner

☐

Operator

☐

Lessee

☐

Municipality/Governmental Agency

(Check as many as apply)

3. NAME OF APPLICANT (Use Full Name)

MAILING ADDRESS

TELEPHONE (Where can be reached during day)

()

POST OFFICE

STATE

ZIP CODE

4. NAME OF

☐

Owner

☐

Agent/Contact Person

(Check one)

MAILING ADDRESS

TELEPHONE (Where can be reached during day)

()

POST OFFICE

STATE

ZIP CODE

5. PROJECT/FACILITY LOCATION (Mark location on map, see Number 1a on reverse side)

County

Town or city

Village

STREET ADDRESS/LOCATION (If different from applicant)

POST OFFICE

STATE

ZIP CODE

DEC USE ONLY

NYTM-E

NYTM-N 4

6. NAME OF STREAM OR BODY OF WATER

7. HAS WORK BEGUN ON PROJECT? If YES, attach explanation on starting work without permit, include dates. Show work on map and/or drawing.

☐

Yes

☐

No

8. PROPOSED STARTING DATE

9. APPROXIMATE COMPLETION DATE

10. PROPOSED USE:

☐

Private

☐

Public

☐

Commercial

11. WILL PROJECT OCCUPY STATE LAND?

☐

Yes

☐

No

12. PROPOSED PURPOSE:

13. PROJECT DESCRIPTION: (e.g. quantity and type of material to be excavated, dredged or used for fill or rip rap, location of disposal sites; type of structure to be installed; height of dam; size of impoundment; capacities of proposed water sources; extent of distribution system; size of marina and type of docks and moorings to be installed; etc.)

14. WILL THIS PROJECT REQUIRE ADDITIONAL FEDERAL, STATE AND/OR LOCAL PERMITS?

☐

Yes

☐

No

If yes, please list:

15. Separate Authorization or Letter of NO JURISDICTION Should be Received from DEC and the US Army Corps Prior to Initiation of Work in Wetlands and Waterways:

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C. Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than five years, or both, where an applicant knowingly and willfully falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

☐ I hereby authorize the agent named in Number 4. above to submit this application on my behalf.

DATE

SIGNATURE OF OWNER

TITLE

DATE

SIGNATURE OF AGENT/CONTACT PERSON

TITLE



United States
Environmental Protection
Agency - Region 2

Water Management Division
Marine & Wetlands
Protection Branch

December 1993
EPA-902-R-93-004

DLEBINSKI

WETLANDS

REGULATION GUIDEBOOK FOR NEW YORK STATE

404








































EPA






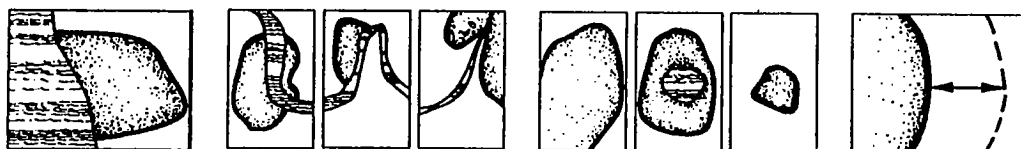
401

SEQR4

FIGURE 2

WETLAND SITUATION	
Bordering Navigable Waters	<div>Bordering Streams</div> <div>    </div> <div> <div>>5 cfs</div> <div><5 cfs</div> </div>
Isolated	<div>    </div> <div> <div>>10acre</div> <div>1-10</div> <div><1acre</div> </div>
Adjacent Areas	<div>  </div> <div> <div>100 ft fresh</div> <div>300 ft tidal</div> </div>
PERMITS REQUIRED	
Rivers and Harbors Act Section 10	
Clean Water Act Section 404 Individual Permit	      
Clean Water Act Section 404 General Permit	  
State Freshwater Wetlands Act	       
Use and Protection of Waters Program	    
Tidal Wetlands Act	 
Waterfront Revitalization of Coastal Areas and Inland Waterways Act	    
Coastal Erosion Hazard Areas Act	

	Direct Authority
	Discretionary Authority
	If mapped on the New York State Freshwater Wetlands Maps or designated by DEC or APA



WETLANDS REGULATION GUIDEBOOK

TABLE 1. OVERVIEW OF MAJOR REGULATIONS PERTAINING TO WETLANDS IN NEW YORK

Regulation	Implementation	Jurisdiction	Application to Wetlands	Implementing Agency	Reference Page
Federal Clean Water Act, Section 404	Requires permit for discharge of dredged or fill materials, including excavation activities and placement of pilings, as defined.	Waters of the United States.	Includes all wetlands (with some exceptions).	U.S. Army Corps of Engineers, U.S. Environmental Protection Agency	15
Federal Clean Water Act, Section 401	Requires, as a condition of federal permit approvals, state certification that federal permit meets state water quality standards.	Federal permits affecting waters of the state.	Includes all wetlands that may be affected by a federally permitted activity.	New York State Department of Environmental Conservation	22
Federal Rivers and Harbors Act, Section 10	Requires permit for all construction activity in navigable waters.	Navigable waters to mean high water mark of tidal waters, and ordinary high water mark of fresh waters.	Wetlands to the limits of navigable waters.	U.S. Army Corps of Engineers	24
Federal Coastal Zone Management Act	Requires notice of consistency with the state coastal zone management plan as a condition of federal activities, federal license approvals, and federal support of local activities.	New York's coastal counties and along lakes Erie and Ontario, St. Lawrence and Niagara Rivers, Hudson River south of Troy Dam, East and Harlem Rivers, Kill Van Kull, and Arthur Kill.	Wetlands within the coastal areas of New York State.	New York State Department of State	24
Food, Agriculture, Conservation, and Trade Act of 1990 (Farm Bill)	The Swampbuster provision denies eligibility for all U.S. Dept. of Agriculture farm program benefits to those who convert a wetland by draining dredging or filling.	Areas considered wetland according to the Soil Conservation Service's designation.	Wetlands that have not been converted to agricultural use prior to December 23, 1985.	Agricultural Stabilization and Conservation Service	26
National Environmental Policy Act (NEPA)	Requires full disclosure of potential impacts associated with proposed federal actions.	All major federal actions.	All wetlands.	Varies with the proposed action; lead agency is usually the federal agency issuing the permit	25

WETLANDS REGULATION GUIDEBOOK

TABLE 1 (cont.). OVERVIEW OF MAJOR REGULATIONS PERTAINING TO WETLANDS IN NEW YORK

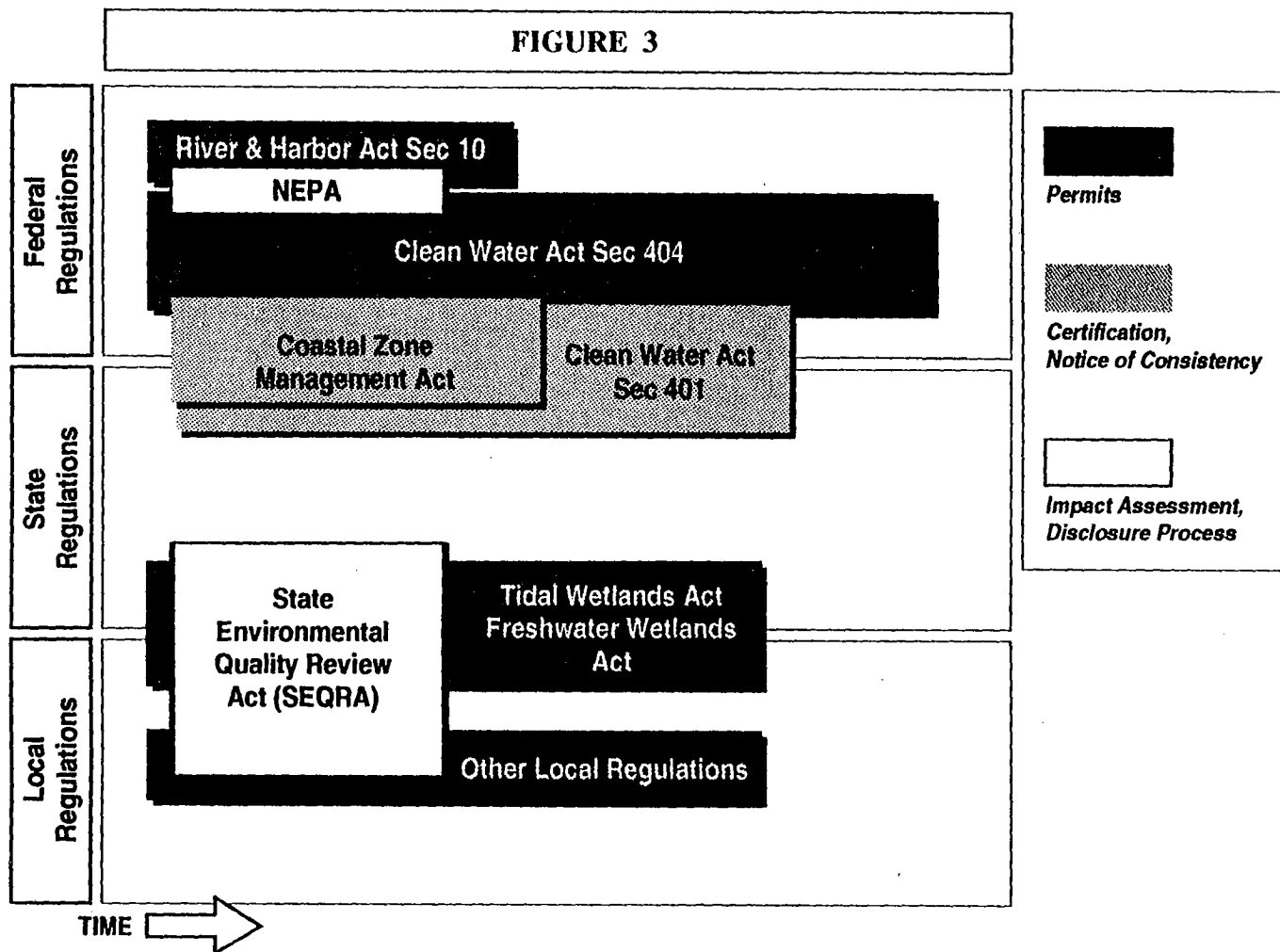
Regulation	Implementation	Jurisdiction	Application to Wetlands	Implementing Agency	Reference Page
New York State Freshwater Wetlands Act	Protects freshwater wetlands and requires a 100ft adjacent buffer area.	All wetlands shown on New York State Freshwater Wetlands Maps, and as designated by the DEC and the APA.	Wetlands of 12.4 acres or greater in size, or smaller wetlands of unusual local importance. Within the Adirondack Park: wetlands of one acre or greater, and less than one acre if adjacent to open water.	New York State Department of Environmental Conservation, Adirondack Park Agency	29
Use and Protection of Waters Program	Protects the bed and banks of water bodies.	Navigable and protected waters of the state.	The excavation or placement of fill in navigable and protected waters of the state including adjacent wetlands requires a permit.	New York State Department of Environmental Conservation	39
New York State Tidal Wetlands Act	Protects tidal wetlands and adjacent areas.	All wetlands as shown on the New York State Tidal Wetlands Inventory Maps and as designated by DEC.	Coastal fresh, intertidal marsh; coastal shoals, bars, flats; littoral zone; high marsh, salt meadow, formerly connected salt marshes; and uplands within 300ft of wetlands.	New York State Department of Environmental Conservation	32
New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act	Oversees all permit activities in the state's coastal waterways and adjacent shorelines and in some inland waters.	All federal, state, and local actions within coastal areas of New York State.	All wetlands affected by actions within coastal areas.	New York State Department of State	33
Coastal Erosion Hazard Areas Act	Protects Natural Protective Features and Structural Hazard Areas along coastal and Great Lakes waters.	All coastal areas of the Marine District, and the Great Lakes and associated waters.	Wetlands within regulated Natural Protective Features and Structural Hazard Areas.	New York State Department of Environmental Conservation	40
State Environmental Quality Review Act (SEQRA)	Requires, through state process, the full disclosure of potential impacts associated with proposed actions.	All federal, state, and local actions, including permit issuance, within New York State.	All wetlands affected by actions, except those actions specifically exempted or excluded.	Lead Agency (determined by nature of proposed action)	35

PERMITTING SEQUENCE

Completion of the permit processes that apply to a particular project can take from a few months for small projects to more than a year for complex projects.

The chart below shows the relative timing of

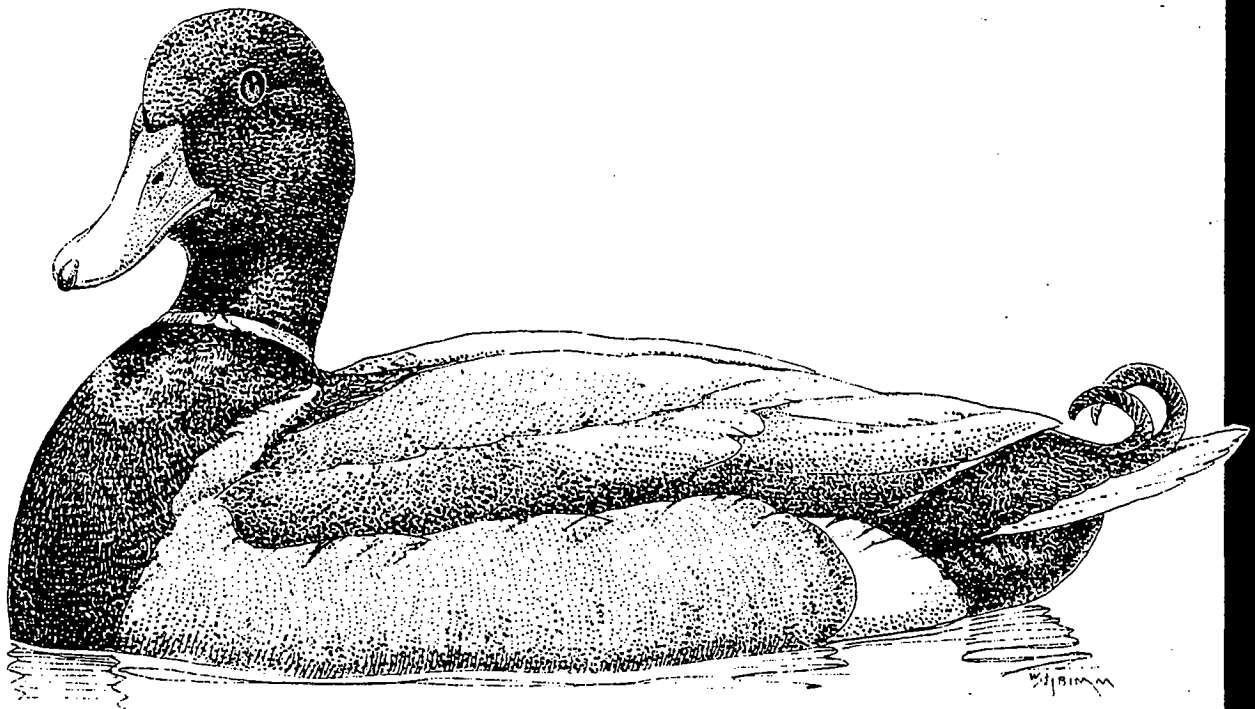
major permit and related activities. One or more of these permits may be required. For more information, see Figure 2, Table 1, and a more detailed description of regulations in the text following.





New York State Department of Environmental Conservation

FRESHWATER WETLANDS PROGRAM

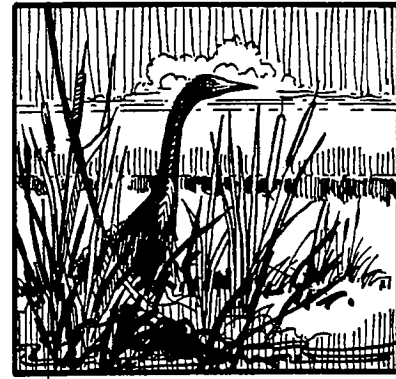


APPLICANT'S GUIDE

GEORGE E. PATAKI, Governor

MICHAEL D. ZAGATA, Commissioner

FRESHWATER WETLANDS PROGRAM



ARTICLE 24, ENVIRONMENTAL CONSERVATION LAW
IMPLEMENTING REGULATIONS: 6 NYCRR PARTS 663, 664, AND 665

INTRODUCTION

Freshwater wetlands are lands and submerged lands, commonly called marshes, swamps, sloughs, bogs, and flats, supporting aquatic or semi-aquatic vegetation. These ecological areas are valuable resources, necessary for flood control, surface and ground water protection, wildlife habitat, open space, and water resources. Freshwater wetlands also provide opportunities for recreation, education and research, and aesthetic appreciation. Adjacent areas may share some of these values and in addition, provide a valuable buffer for the wetlands.

Certain kinds of human activities can adversely affect, and in some cases, destroy the delicate ecological balance of these important areas. The policy of New York State, as set forth in the Freshwater Wetlands Act, is to preserve and protect the benefits that wetlands provide. To implement this policy, the New York State Department of Environmental Conservation (DEC) created the Freshwater Wetlands Regulatory Program which is designed to prevent the despoliation and destruction of freshwater wetlands by establishing and enforcing regulations that:

1. Are compatible with the preservation, protection, and enhancement of the present and potential values of wetlands,
2. Will protect the public health and welfare, and
3. Will be consistent with the reasonable economic and social development of the state.

In general, to be protected under the Freshwater Wetlands Act, a wetland must be 12.4 acres or larger. Wetlands smaller than this may be protected if the commissioner has determined that they have unusual local importance because they provide one or more of the benefits indicated above.

WETLANDS ARE MAPPED

The Freshwater Wetlands Act requires the DEC to map all protected wetlands, with the exception of the Adirondack Park Region which is mapped by the Adirondack Park Agency (APA). Mapping is done in order to identify those wetlands that meet the limits set forth in the law, and to provide a way by which affected landowners can be notified that a particular wetland is protected. A tentative wetlands map for a county is prepared using a variety of techniques and sources. Then landowners whose property may contain protected wetlands or adjacent areas are notified of a public hearing to be held on the accuracy of the maps. All comments received from the hearing are then considered before the map is officially filed with the clerks of all local governments.

Wetland boundaries are likely to change over time, and the law makes provisions for amending the maps to reflect these changes. However, any changes are subject to due process of law and may require an additional public hearing.

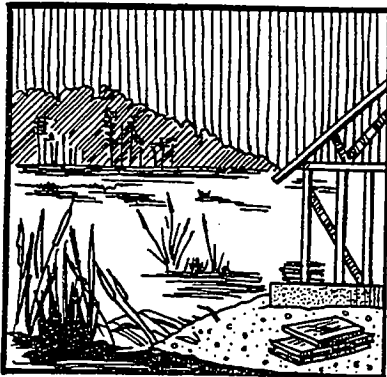
Official freshwater wetlands maps showing the locations of New York's wetlands are on file at DEC regional offices, the APA, and local government offices.

REGULATED ACTIVITIES

The Freshwater Wetlands Act provides for the regulation of activities that may occur in freshwater wetlands and their adjacent areas. Adjacent areas are outside wetlands and extend 100 feet from the wetland boundary, measured horizontally. In rare cases, this adjacent area distance measurement may be larger. The wetland categories used in these regulations are identified by the types of vegetation present. The regulations identify classifications of uses as well as procedures and requirements for conducting activities in wetlands. Almost any activity which may adversely impact the natural values of the wetlands or their adjacent areas is regulated.

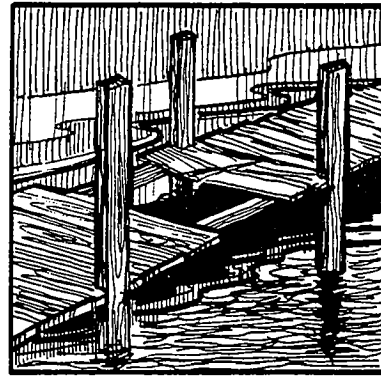
Examples of activities which require a permit include:

1. Construction of buildings, roadways, septic systems, bulkheads, dikes, or dams;
2. Placement of fill, excavation, or grading;
3. Modification, expansion, or extensive restoration of existing structures;
4. Drainage, except for agriculture;
5. Application of pesticides in wetlands.



**DO YOU
NEED A
PERMIT?**

IS YOUR PROJECT EXEMPT?



DO NOT START A PROJECT BEFORE OBTAINING A PERMIT!

If activities which are regulated under the Freshwater Wetlands Act are begun before a permit is obtained, the person undertaking these activities and any contractors working for that person may be subject to enforcement action by the DEC. Such action may include:

1. Civil or criminal court action, or both
2. Fines, or
3. An order to remove structures or materials or perform other remedial action, or both.

EXEMPT ACTIVITIES

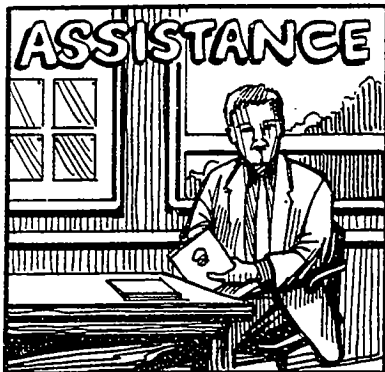
Certain activities are exempt from regulation and **DO NOT** require a permit. The most common of these are listed below.

1. Normal agricultural practices, except filling, clearcutting of trees, or construction of non-agricultural structures;
2. The harvesting of natural products and recreational activities (fishing, hunting, trapping, hiking, swimming, picnicking, or firewood collection);
3. Continuance of lawfully existing land uses;
4. Routine maintenance of existing functional structures such as repairing broken docks, repainting structures, or resurfacing paved areas; and
5. Selective cutting of trees and harvesting of fuelwood (not clearcutting).

APPLICATION PROCEDURES

Pre-Application Assistance

Applicants often find a pre-application conference to be a helpful forum to explain a proposed project to DEC. It is highly recommended for complex, multi-residential, commercial or industrial projects. This meeting allows you to obtain at least preliminary answers to questions about wetland and adjacent area boundaries, application procedures, and standards for permit issuance. A pre-application conference can be scheduled by contacting the appropriate Compliance Services regional office of DEC. It is often best to keep initial plans flexible until the project design has been reviewed in relation to the standards of the regulatory agencies involved. On occasion, minor changes in layout can avoid disagreements and delays.



CONTACT DEC EARLY IN YOUR PLANNING.

Multiple mailings, multiple reviews, and misunderstandings can be eliminated by seeking clarifications from DEC staff at the planning stages of the project, and by submitting accurate, complete information.

Usually, if you have a major project, the wetland boundary will have to be shown on your project plans. You can choose to have a consultant delineate the boundary for you, subject to verification by department staff, or request the DEC to "flag" the wetland boundary for you. If a field determination is needed, you may be able to schedule one at this time.

Application Requirements

Some requirements may be waived for small projects but in general, a complete application must include:

1. The application form including a detailed description of the proposed project (provide the required number of copies).
2. A location map showing the precise location of the project by reference to known landmarks such as streets and public buildings. (A photocopy of a USGS topographic map or equivalent will usually be sufficient.) If the project site is a vacant lot, provide the number of the nearest utility pole, distance to the nearest intersection, or location of another identifying landmark (required number of copies).
3. Project plans at a scale of 1"=50' or larger, including topography at a contour interval prescribed by the DEC Regional Office (required number of copies). The plan must show existing conditions and the work to be performed. The wetlands boundary verified by DEC staff may also be shown on the plans. (See Pre-application Assistance, above.) The extent of all fills or excavations and the dimensions of all proposed buildings or structures must be shown on the plans. If a septic system is part of the proposed project, the plan must show the location of the system including the test hole location and data and the elevation of the system above seasonal high groundwater. **EXAMPLES OF PROJECT PLANS ARE SHOWN AT THE BACK OF THIS GUIDE.**
4. Recent clear photographs of the project site and wetlands area mounted on a separate sheet labeled with the view shown and the date of the photographs.

5. Information necessary for the requirements of the State Environmental Quality Review Act (SEQR) and the State Historic Preservation Act (SHPA) [See page 12 regarding SEQR and SHPA] which will include:
 - a. A completed Environmental Assessment Form (EAF) (Part I), and in certain cases, a Draft Environmental Impact Statement (DEIS)
 - b. A completed Structural Archeological Assessment Form (SAAF) (if required), and in certain cases, a cultural resource survey.
6. If the applicant is not the owner of the land for which the application is submitted, written permission of the landowner for the applicant to file the application and undertake the proposed activity. If the application is for state-owned underwater lands, written notice that the applicant is seeking the appropriate grant, easement or lease of such lands from the New York State Office of General Services is sufficient.
7. Other information which the DEC staff may determine is necessary to adequately review and evaluate the application, such as engineering or supplemental reports, justifying this proposal over alternative non-wetland sites and alternative layouts or designs which might avoid or minimize impacts to wetlands. This information will assist DEC in evaluating the project using the regulatory standards for permit issuance found in 6NYCRR Part 663 and discussed on pages 8 through 11 of this guide. If, after this **examination of alternatives**, there are remaining impacts to the wetlands which cannot be avoided, then you may be required to submit a **proposal to compensate for losses** by replacing lost wetlands or wetland natural values (eg. construct new wetlands, enhance habitat diversity of existing wetlands, or construct facilities replacing wetland functions such as flood control structures or waste treatment facilities).

NOTE: Application forms and other required materials must be submitted to the DEC Regional Permit Administrator for the county where the activity or project is located.

Once an application is declared complete and review begins, it may become necessary to request additional information to complete the review and make a decision. The applicant will be notified of what information is necessary, and this must be submitted before a final decision can be reached on the project application.

**IS YOUR
PROJECT MAJOR
OR MINOR?**



MINOR/MAJOR PROJECTS

Review time frames, procedures, and requirements for public notice for applications are different for major and minor projects under the Uniform Procedures Act requirements (Part 621).

Generally, minor projects have shorter review time frames and require less public review.

Notice of all major projects must be published in both the Environmental Notice Bulletin (ENB) and a designated local newspaper to allow for public review.

MINOR PROJECTS IN **WETLAND** AREAS include:

1. In-kind and in-place reconstruction of existing functional bulkheads or similar structures.
2. Restoration, reconstruction, or modification of existing functional structures or facilities which involve the temporary disturbance of less than 50 square meters (approximately 540 square feet) of ground surface.
3. Installation of a dock, pier, or wharf built on floats or open-work supports and having a top surface area of 20 square meters (approximately 200 square feet) or less.
4. Installation of utility service to an individual residence or installation of utilities to a structure from an existing distribution facility, not involving major modifications or construction activities (eg. clearing and grading) in the wetland.
5. Selective cutting but not elimination or destruction of vegetation which does not significantly affect the benefits of the wetland.
6. Dredging of less than 400 cubic meters (approximately 523 cubic yards) to maintain presently existing navigational channels.
7. Routine beach regrading and cleaning.
8. Drilling of a water well for a single-family dwelling.
9. Application of a pesticide to the grounds of a private residence by the owner of that residence.

MINOR PROJECTS IN **ADJACENT** AREAS include:

1. In-kind and in-place reconstruction of existing functional bulkheads or similar structures.
2. Restoration, reconstruction, or modification of existing functional structures or facilities which involve the temporary disturbance of less than 50 square meters (approximately 540 square feet) of ground surface.
3. Installation of a dock, pier, or wharf built on floats or open-work supports and having a top surface area of 20 square meters (approximately 200 square feet) or less.
4. Expansion or substantial modification of existing functional structures, excluding drainage ditches.
5. Installation of utilities to a structure from an existing distribution facility, not involving major modifications or construction activities (eg. clearing and grading) in the wetland. (Installation of utility service to an individual residence is an exempt activity in an adjacent area.)
6. Removal or breaching of beaver dams.

7. Selective cutting but not elimination or destruction of vegetation which does not significantly affect the benefits of the wetland.
8. Clearcutting of trees.
9. Dredging of less than 400 cubic meters (approximately 523 cubic yards) to maintain presently existing navigational channels.
10. Routine beach regrading and cleaning.
11. Drilling of a water well for a single-family dwelling.
12. Application of a pesticide to the grounds of a private residence by the owner of that residence.
13. Application of a pesticide pursuant to a pesticide permit issued by the DEC.
14. Intensive, organized, and repetitive use of all-terrain vehicles, air and motor boats, and snowmobiles.

ALL OTHER regulated activities are considered MAJOR PROJECTS under the Uniform Procedures Act.

Examples of MAJOR PROJECTS include:

1. New construction of a residence, commercial facility, industrial facility or any related structure in a wetland or within 100 feet of the wetland.
2. Expansion of or substantial modification of existing structures or facilities in a wetland including residential, commercial, and industrial buildings or sanitary disposal systems within 100 feet of the wetland.
3. Draining, except as part of an agricultural activity.
4. Clearcutting of trees or other vegetation in a wetland.
5. Filling, even for agricultural purposes.
6. Dredging except as listed above in the minor project categories.
7. Mining.
8. Road construction.
9. Construction of new or replacement of non-functional dams, docks, or bulkheads.
10. Application or storage of pesticides, except applications in an adjacent area as described above in minor projects.

APPLICATION FEES

There are no application fees for freshwater wetlands permits applications.

TIME FRAMES

Application submission, time frames, and processing procedures are governed by the provisions of Article 70 of the Environmental Conservation Law, the Uniform Procedures Act, and its implementing regulations, 6NYCRR Part 621.

Within 15 calendar days of the receipt of a Freshwater Wetlands application, the DEC will determine whether or not it contains all the information needed to begin review. If the application is incomplete, the Compliance Services staff will send the applicant a notice detailing what is needed.

When all the necessary information has been submitted, the application is declared complete and the review process begins.

For minor projects, which are listed on pages 6 and 7, a decision on the permit should be made within 45 calendar days. Major project review can take up to 90 days if no public hearing is held, and up to 60 days after the close of a public hearing, if one is necessary.

Time frames MAY BE suspended:

1. By mutual agreement of the DEC and the applicant,
2. If enforcement action has been started against the applicant, or
3. If another agency is leading the environmental review of the project under SEQOR and has not yet completed the review. (See the SEQOR section on page 12.)

STANDARDS FOR PERMIT ISSUANCE

Gaining permit approval under the Freshwater Wetlands regulations can be a very demanding process. This is because most construction projects in or near wetlands are likely to adversely affect wetlands, and so the regulations do not encourage such development.

For example, you will likely be required to:

1. Examine alternative sites and project designs that avoid and reduce impacts to wetlands;
2. Develop plans to create or improve wetlands or wetland functions to compensate for unavoidable impacts to wetlands;
3. Demonstrate overriding economic and social needs for your project that outweigh the environmental costs of impacts on the wetland.

Given this burden, it is clearly worthwhile to avoid regulated and incompatible activities in or near wetlands, where possible.

If you decide to pursue a permit application, then you must provide the documentation described in this guide as part of the application. This will avoid a lengthy and costly process of successive information requests by DEC and reduce the total review time.

Compatibility

The Freshwater Wetlands regulations assign different levels of "compatibility" for certain projects, depending on the type of project (eg: clear cutting of trees, home construction, filling, disposal of sewage) and how close to the wetland the project occurs (ie. whether you are in the wetland or in the 100 ft. area adjacent to the wetland). The farther away from the wetland and the less permanent the disturbance, the

more likely a project is to be compatible with the functions, values and benefits of the regulated wetland.

For example, on the bottom of this page are three alternative layouts for a house and septic system near a wetland. The compatibility of each option under the regulations is listed.

Projects considered "usually compatible" are most likely to gain project approval.

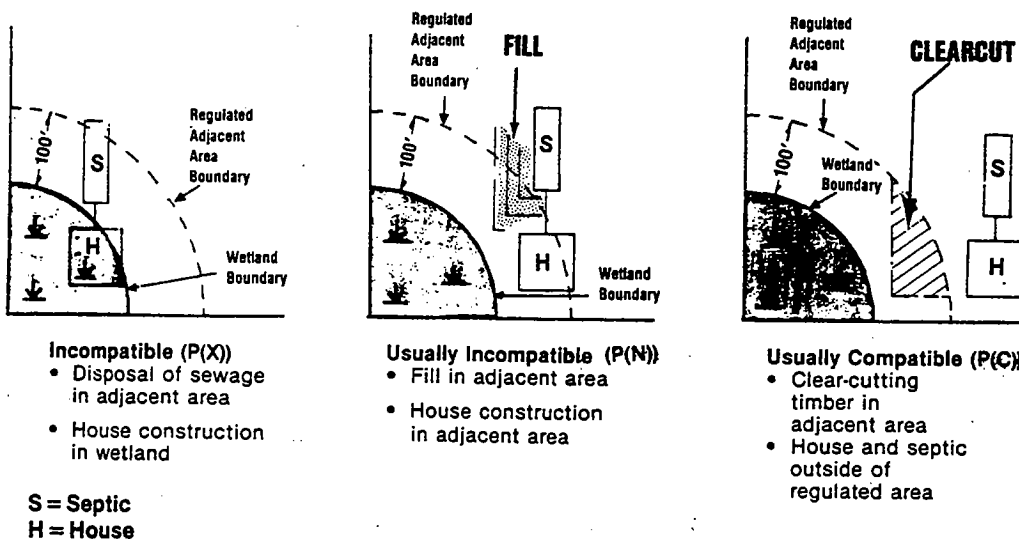
The Department has assigned classifications to regulated freshwater wetlands based on their respective functions, values and benefits. Wetlands may be Class I, II, III or IV, with Class I wetlands being the most valuable and subject to the most stringent standards.

Visit your town or county clerk's office or DEC regional office and ask to review the wetland maps early in the planning stages of your project, preferably before submitting your application. Locate your property and check to see whether or not there is a protected wetland on, or adjacent to, your property. Not all wetlands are protected by DEC. Also, most wetlands whether or not protected by DEC, are still under the jurisdiction of the Corps of Engineers. See page 12 for more information on Corp of Engineers permits.

If there is a protected wetland on your property and your project may come close (within 100 ft.) to it, you should contact the DEC Regional Office that serves your area. Make a request for a Division of Fish and Wildlife biologist to come to your site and mark the wetland boundary. It is important that this line be shown on any site plans you submit with your permit application. The biologist may also advise you of the classification of the wetland.

You need this information in order to plan for your proposed project to avoid or minimize impacts to the wetland.

Fig. 1 COMPATIBILITY OF ALTERNATIVE PROJECT LAYOUTS (Under Article 24 ECL and 6NYCRR Part 663 Freshwater Wetlands)



Weighing Of Need Against Benefit

Projects that are found not compatible with wetland functions, values and benefits or having more than insubstantial impacts on the wetland must meet additional weighing standards contained in the regulations, as follows:

Alternatives

You must demonstrate that your proposal is the only physically or economically feasible alternative for accomplishing your objectives. You must also have no physically or economically feasible alternative on a site that is not a freshwater wetland or its adjacent area.

For example, if your objective is to gain access to a piece of your property to build a house and you plan to build a road through a wetland to get to the property, is this the only option available? Can you build the house on another site where it won't require such access? Are there non-wetland portions of the same property available for the road that do not require crossing a wetland or its adjacent area? Are there any existing access trails requiring less disturbance to upgrade and render them usable? If the access needed is temporary (eg: logging trail) can you make temporary arrangements with a neighbor to gain access through another route around the wetland? Can you use temporary methods of access such as mats or planks laid down?

Remember, the most profitable or least costly alternative is not considered the only feasible alternative under the regulations.

Avoid or Reduce Impacts

The proposed activity must minimize impacts to or loss of the wetland or its adjacent area, including impacts to the functions, values and benefits of these wetlands. This may include an examination of alternative project layouts, designs, and pollution control features for the project.

Using the above access road example, does the proposed route cross the least amount of wetland or adjacent area possible? Is the road the narrowest design necessary to allow reasonable access? Could a bridge span or a series of box culverts be used instead of a solid fill with a culvert pipe for a portion of the route? Have you proposed hay bale barriers along the road or drainage channels and sediment ponds in your design to control direct runoff and erosion?

For a housing project, design options might include fewer numbers of units or clustering of units, rearranging the pattern or layout of parking or shifting the building "footprint" to skirt around wetlands or adjacent areas.

Mitigation

Even after evaluating every reasonable alternative in arriving at final site, design, layout and pollution control measures, you may still be left with some unavoidable impacts or losses to wetlands. If you can't adequately avoid or reduce these impacts you must propose some compensation or restoration for these impacts, sometimes called "mitigation" measures.

For example, to compensate for a loss of 2 acres of cattail marsh you may offer to artificially create 4 acres of cattail marsh nearby through some careful grading, soil and drainage preparation and plantings. This approach anticipates that at least half of the artificially created marsh will survive and "make up" for the 2 acres lost due to the project.

Another example may be to enhance some remaining wetland with a small pond to increase biological diversity and productivity. This may be one method of compensating for the loss of some purple loosestrife marsh which was not as diverse or productive. This approach might be desirable where you haven't adequate suitable acreage nearby to replace the acreage lost.

Ultimately, the acceptability of your mitigation plan will depend on how likely it is to effectively replace or enhance the wetland functions, values, and benefits lost due to your proposed project.

If you meet all of the weighing standards discussed above and provide an acceptable mitigation plan that adequately compensates for any unavoidable impacts to the wetland, then a permit may be issued. If your mitigation plan does not completely compensate for all unavoidable impacts and some net loss or impact to the wetland remains, however, then you are faced with the final weighing standard of economic and social need.

Economic and Social Need

The consideration of economic and social need includes both the applicant's needs (such as reasonable access to and use of the property, a safe and healthy place to live, the ability to repair property damage) and the economic and social burdens that a project may impose on the public (such as prompting the need for sewer systems, schools, fire protection, flood protection, contingency plans for contamination). The level of need is weighed against the public burden and the level of net losses or impacts to the wetland. The department must strike a reasonable balance in order to issue a permit. In general, the more important the wetland functions, values and benefits and the greater the potential loss or reduction of these attributes, the greater the amount of economic and social need that the applicant must demonstrate and document to prevail in obtaining a permit.

In Summary

Under the Freshwater Wetlands regulations, as you are required to meet each successive step in the hierarchy of standards for permit issuance, the burden on you increases to document and demonstrate your ability to meet these standards. Take a hard look at your project and these standards before pursuing an application. You will better appreciate the level of effort and expectations that will be involved. In other words, "look before you leap."

OTHER REQUIRED DEC PERMITS AND DETERMINATIONS

Your project or activity may require additional permits under other DEC permit programs.

For example, Protection of Waters permits are required for certain activities such as dredging or filling which take place in navigable waters or activities which may result in disturbance to the bed or banks of protected streams. Also, if the activity will require a permit from the Corps of Engineers, then a Section 401 Water Quality Certification by DEC may also be needed. If you are not sure whether your project requires more than one DEC permit, contact the Regional Office for the county where the wetland is located. If the project does indeed require more than one permit, check off all the pertinent boxes at the top of the application form.

12 Freshwater Wetlands Program

The materials necessary for all required permits must be submitted at the same time to allow simultaneous review of the entire project. Review of your project may not commence until these materials are submitted.

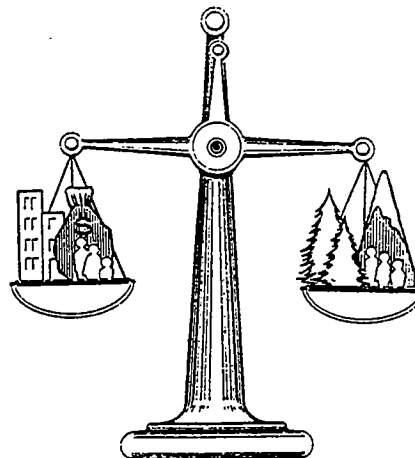
State Environmental Quality Review Act (SEQR)

The provisions of the Uniform Procedures Act require that applications for DEC permits cannot be considered complete unless certain requirements of the State Environmental Quality Review Act (SEQR) have been met. This initially involves the applicant filing a completed environmental assessment form (EAF). Upon receipt of the application and EAF, DEC may choose to coordinate the SEQR environmental review of the project with other state or local agencies having jurisdiction over the project. In doing so, an agency other than DEC may ultimately be designated as the "lead agency". The "lead agency" determines whether or not the proposed project will have a significant adverse impact on the environment. If the project may have a significant adverse impact, the applicant must submit a Draft Environmental Impact Statement (DEIS).

State Historic Preservation Act (SHPA)

In accordance with the State Historic Preservation Act (SHPA), DEC must evaluate whether or not a project may have an impact on historical structures or archeological sites. If your application packet includes a Structural Archeological Assessment Form (SAAF), please fill out the form according to its instructions. In some cases, a cultural resource survey, including a field study of archeological or historic features may be needed.

**TRY TO
STRIKE A
BALANCE.**



JURISDICTION OF OTHER AGENCIES

U.S. Army Corps of Engineers

The Corps of Engineers regulates dredging, the discharge of dredged or fill material, and the construction of certain structures in waterways and wetlands. Over recent years, the Corps jurisdiction has expanded beyond those major waterways that were traditionally referred to as "navigable waters."

There is a Joint Application procedure to help applicants obtain a Corps of Engineers permit. When you file your application with DEC a copy will be forwarded by DEC to the Corps of Engineers. However, the two agencies have different application requirements and the Corps of Engineers will contact you for additional information as needed.

A determination that no permit is required from DEC does not necessarily mean that no permit is required from the Corps. Likewise, having obtained a DEC permit does not relieve the applicant from the obligation to comply with federal law. If there is any question of jurisdiction, you should contact the Corps of Engineers directly.

For information on the Corps of Engineers' permit requirements, you may write or call their offices listed on the last page.

New York State Department of State

If the wetland is located in a coastal area, and a federal approval is required, the federal agency must obtain a Coastal Consistency Certification from the New York State Department of State before it can give its approval. If such a certification is needed, you will be informed of this by the federal agency involved, usually the Corps of Engineers, who will need to make a State Coastal Consistency Certification a part of its permit decision. If a federal approval is not required, DEC will need to make a State Coastal Consistency Certification a part of its permit decision.

In New York, coastal areas include the Atlantic Ocean, Long Island Sound, Arthur Kill, Kill van Kull, Harlem River, East River, Hudson River south of the federal dam in Troy, Niagara River, St. Lawrence River, Lake Ontario, Lake Erie, and all connecting waterbodies, bays, harbors, shallows, and marshes.

This consistency program will also apply to some designated inland waterways in New York where local waterfront revitalization programs have been developed. Again, you will be informed if a certification must be prepared and whether any further information will be required from you.

New York State Office of General Services (OGS)

It is your responsibility to determine whether your project involves any New York State-owned underwater lands and to obtain necessary approvals or easements for their use from the New York State Office of General Services (OGS).

During review of your application, DEC will notify OGS of your project, if state-owned underwater lands appear to be involved.

For questions involving underwater properties owned by the state, contact:

Office of General Services, Division of Land Utilization
Bureau of Land Management, Corning Tower
Empire State Plaza, Albany, NY 12242
(518) 474-2195

Adirondack Park Agency (APA)

Freshwater wetlands located within the boundaries of the Adirondack Park are regulated by the Adirondack Park Agency (APA), not the DEC. Although the Freshwater Wetlands Act is applicable within the Park, Title 8 of the Act grants the administration of this program to the APA. Wetlands over one acre in size or any size wetland adjacent to open water are regulated within the Adirondack Park.

For questions involving freshwater wetlands in the Adirondack Park, contact:

Adirondack Park Agency, P.O. Box 99, Ray Brook, New York 12977
(518) 891-4050

14 Freshwater Wetlands Program

Local Governments

The Freshwater Wetlands Act allows local governments to assume jurisdiction for regulating wetlands once DEC has filed a map for their areas. Therefore, in your area, your municipality or county may be the regulating body. For information on this, check with the appropriate DEC Regional Office for the county where the wetland is located or with the local government. The DEC staff can advise you of which agency has permit jurisdiction.

Finally, county, city, town or village building permits, flood plain permits, or other approvals may be necessary. You should check with the appropriate offices. You must inform DEC of any other local approvals needed for your project. This will enable a coordinated review among all involved agencies.

MISCELLANEOUS INFORMATION

References

The following 6NYCRR Regulations may be helpful for information pertaining to questions on the application forms. You may request those which are applicable to your project from the appropriate DEC Regional Office.

Part 663-Freshwater Wetlands Permit Requirements

Part 664-Freshwater Wetlands Maps and Classification

Part 665-Local Government Implementation of the Freshwater Wetlands Act and Statewide Minimum Land-Use Regulations For Freshwater Wetlands

Part 617-SEQR

Part 621-Uniform Procedures

Other publications which may be of assistance include:

Applicant's Guide to Protection of Waters

Freshwater Wetlands brochure

Wetlands and Real Property Valuation brochure

How to Apply for a DEC Permit brochure

Applicant's Guide to SEQR brochure

Applicant's Guide to the State Historic Preservation Act

Permit Modifications

You must submit a written request for any modifications, renewals, or transfers of your permit. Major modifications (revisions) may require the submission of a new application. If an extension of time is needed to complete the project, you should submit a written request briefly explaining the circumstances. Such request should be made at least 30 days in advance of the permit's expiration date to avoid any lapse in the permit.

Should the affected property be sold to a new owner, the permit must also be transferred to the new owner. A transfer of permit may be granted upon request by the new owner when accompanied by written consent from the prior permit holder. Contact the appropriate Compliance Services regional office.

to obtain a DEC Application for Permit Transfer form. Please submit this transfer application well in advance of the proposed transfer to allow for review time.

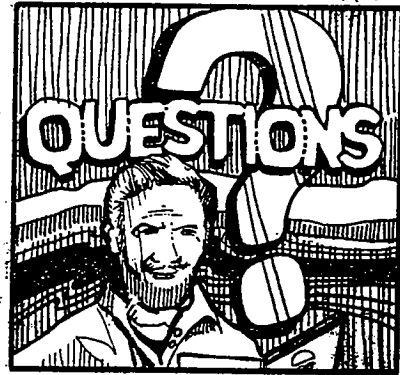
Regulated activities may not be carried out by the new owner until the permit transfer has been approved by DEC.

Questions ?

On the last page is a map showing the DEC Regions and the addresses and telephone numbers of the Regional Offices. Anyone may contact the Regional Permit Administrators or other Compliance Services staff at these offices for more information on this permit program or any other items mentioned in this guide.

If, **AFTER** carefully reviewing these forms and instructions, you have any specific questions about the application procedures, or need information about SEQR, or SHPA, contact the Division of Compliance Services in the appropriate region. Technical questions may be directed to biologists in the Division of Fish and Wildlife.

ARE ALL YOUR QUESTIONS ANSWERED?



PREPARING THE FRESHWATER WETLANDS APPLICATION

FORM 95-19-3. Joint Application for Permit. This form is used to identify the applicant, type, and location of the project and the type(s) of permit(s) required.

CHECK BOXES. Indicate all the permits which will be required for the project. (Review of all permits will be concurrent.)

ITEM 1. Previous Permits/Applications. List all permits or applications (from the DEC or other governmental agency), with numbers and dates of each, which have been issued previously for this project or for another project at this location.

ITEM 2. Enter the required information.

ITEM 3. Name and Address of Applicant. Use the name of the individual, corporation, municipality, or agency who is legally responsible for the project or activity. For example; for a municipality: "Town of Wheeler" not "Mayor James Smith," for a company: "Smith Estates Corporation" not "Jim Smith," only for an individual would it be: "James Smith" **NOTE:** Please be sure that either ITEM 3 or ITEM 4 includes the name, address, and telephone number of a contact person who can be reached at any time of the year.

ITEM 4. Name and Address of Owner, Agent/Contact Person. Here is where to put the name and address of the person DEC should contact about the project. This may be a town official, a consultant, an engineer or the owner of the property itself. Enter this information if it is different from the information in ITEM 3. **NOTE:** If the application will be signed by this contact person who is not the actual applicant listed above, written authorization from the applicant must be provided.

ITEM 5. Project location. Please be as specific as possible, using county, town, village, street address, and any other information which might pinpoint the project such as number of nearest utility pole or highway marker, distance to nearest intersection, or the geographic location of the project on a specific bay, cove, creek, channel, etc.

ITEMS 6-11. Enter the required information.

ITEM 12. Describe the purpose for which this project is being undertaken.

ITEM 13. Project description. Give a brief description of the proposed project, including a reasonable estimate of quantities of material to be excavated or placed, and pertinent dimensions of the project to be built, and the distances and direction that the project will be from the wetland. More detail should be given in the accompanying maps and plans.

ITEM 14. Indicate any other permits required by other agencies which are needed for this project. Also indicate any other permits, which are the responsibility of another applicant, and are needed for the project which involves this wetlands application. This might be, for example, a water supply permit which is applied for by a town for the same subdivision project for which a developer has submitted a wetlands application.

ITEM 15. The application **MUST** be **SIGNED** and **DATED**, or it cannot be processed.

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
UNITED STATES ARMY CORPS OF ENGINEERS



DEC APPLICATION NUMBER

US ARMY CORPS APPLICATION NO

DISTRIBUTION

1st COPY Permit Administrator
2nd COPY Corps of Engineers
3rd COPY Program
4th COPY NYS Agency
5th COPY Applicant

JOINT APPLICATION FOR PERMIT

Please read ALL instructions on back before completing this application. Please type or print clearly in ink. Attach additional information as needed.

- ☒ FRESHWATER WETLANDS ☐ TIDAL WETLANDS ☐ WATER SUPPLY ☐ LONG ISLAND WELL
- ☐ PROTECTION OF WATERS FOR:
- ☐ A. Construction or placement of docks and moorings ☐ B. Construction, reconstruction, or repair of a DAM or other impoundment structure
- ☐ C. Disturbance of a STREAM BED or BANKS or excavation in or fill of NAVIGABLE WATERS ☐ 401 WATER QUALITY CERTIFICATION
- ☐ COASTAL EROSION CONTROL ☐ LAKE GEORGE PARK COMMISSION (Docks and Moorings) ☐ WILD, SCENIC OR RECREATIONAL RIVERS
- ☐ AQUATIC PEST CONTROL FOR: ☐ A. Aquatic Vegetation Control ☐ B. Fish Control ☐ C. Insect Control

1. LIST PREVIOUS PERMIT/APPLICATION NUMBERS AND DATES (If any)

NONE

IF OTHER THAN INDIVIDUAL, PROVIDE TAXPAYER ID NUMBER

2. APPLICANT IS A/AN

☒ Owner ☐ Operator ☐ Lessee ☐ Municipality/Governmental Agency (Check as many as apply)

3. NAME OF APPLICANT (Use Full Name)

JOE AND JANET DOE

MAILING ADDRESS

P. O. Box 831

TELEPHONE

(Where can be reached during day)

8844

POST OFFICE

ALABAMA

ZIP CODE

14003

4. NAME OF ☐ Owner ☒ Agent/Contact Person (Check one)

BEETHOVEN BUILDERS INC. (1)

DOEN

MAILING ADDRESS

89 GENESEE ST.

TELEPHONE (Where can be reached during day)

(716) 381-6666

POST OFFICE

BATAVIA

STATE

NY

ZIP CODE

14020-1123

5. PROJECT/FACILITY LOCATION (Mark location on map, see page 2)

County GENESEE

TOWN

Village ALABAMA

STREET ADDRESS/LOCATION (If different from map)

24 GORTO

POST OFFICE

ALABAMA

ZIP CODE

1 14003

DEC USE ONLY

NYTM-E

NYTM-N 4

6. NAME OF STREAM OR BODY OF WATER

7. HAS WORK BEGUN ON PROJECT? If YES, attach explanation on starting work without permit, include dates.

Show work on map and/or drawing.

☐ Yes ☒ No

8. PROPOSED STARTING DATE

APRIL 15, 1996

9. APPROXIMATE COMPLETION DATE

JUNE 30, 1996

10. PROPOSED USE:

☒ Private ☐ Public ☐ Commercial

11. WILL PROJECT OCCUPY STATE LAND?

☐ Yes ☒ No

12. PROPOSED PURPOSE:

TO BUILD SINGLE-FAMILY DWELLING FOR OWNER OCCUPANCY

13. PROJECT DESCRIPTION: (e.g. quantity and type of material to be excavated, dredged or used for fill or rip rap, location of disposal sites; type of structure to be installed; height of dam; size of impoundment; capacities of proposed water sources; extent of distribution system; size of marina and type of docks and moorings to be installed; etc.)

SINGLE-FAMILY HOUSE, WELL, DRIVEWAY,
SEPTIC TANK AND LEACH FIELD, LEVEL THE CONTOURS WITH APPROXIMATELY
775 CU.YDS. OF MIXED GRAVEL AND SILT LOAM FROM OFF-SITE.
ALL SLOPES TO BE SEEDS AND MULCHED.

14. WILL THIS PROJECT REQUIRE ADDITIONAL FEDERAL, STATE AND/OR LOCAL PERMITS?

☒ Yes ☐ No If yes, please list:

GENESEE CO. HEALTH DEPT.

15. Separate Authorization or Letter of NO JURISDICTION Should be Received from DEC and the US Army Corps Prior to Initiation of Work in Wetlands and Waterways.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C. Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than five years, or both, where an applicant knowingly and willfully falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

☐ I hereby authorize the agent named in Number 4. above to submit this application on my behalf.

3/12/96

DATE

Joe Doe Janet Doe

SIGNATURE OF OWNER

OWNER

TITLE

3/12/96

DATE

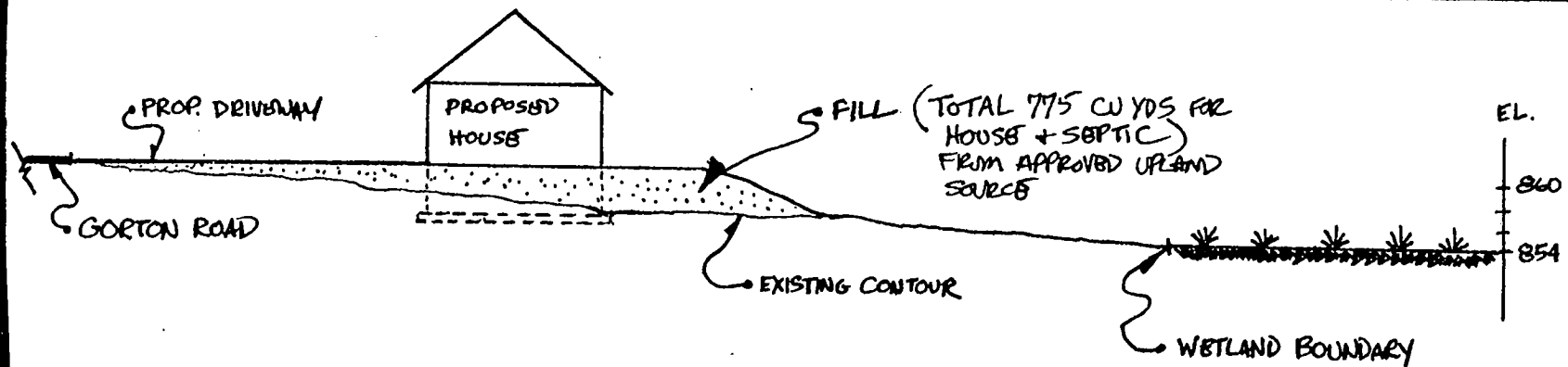
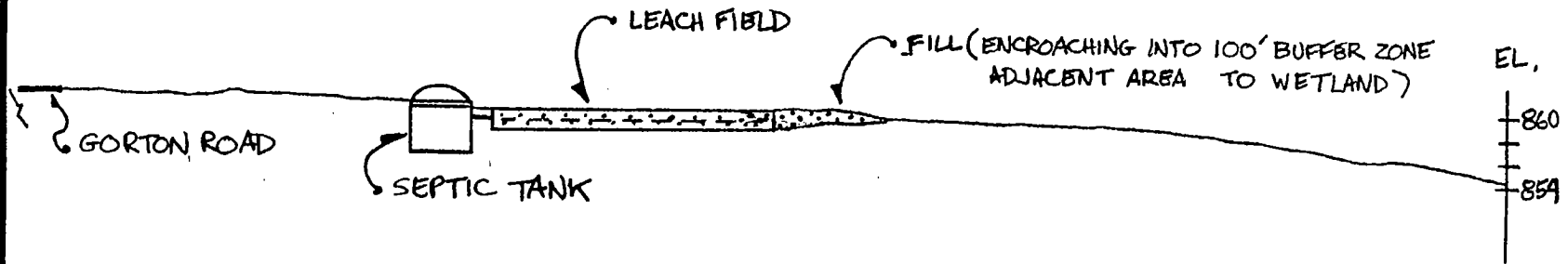
L. B. Buell

SIGNATURE OF AGENT/CONTACT PERSON

CONTRACTOR

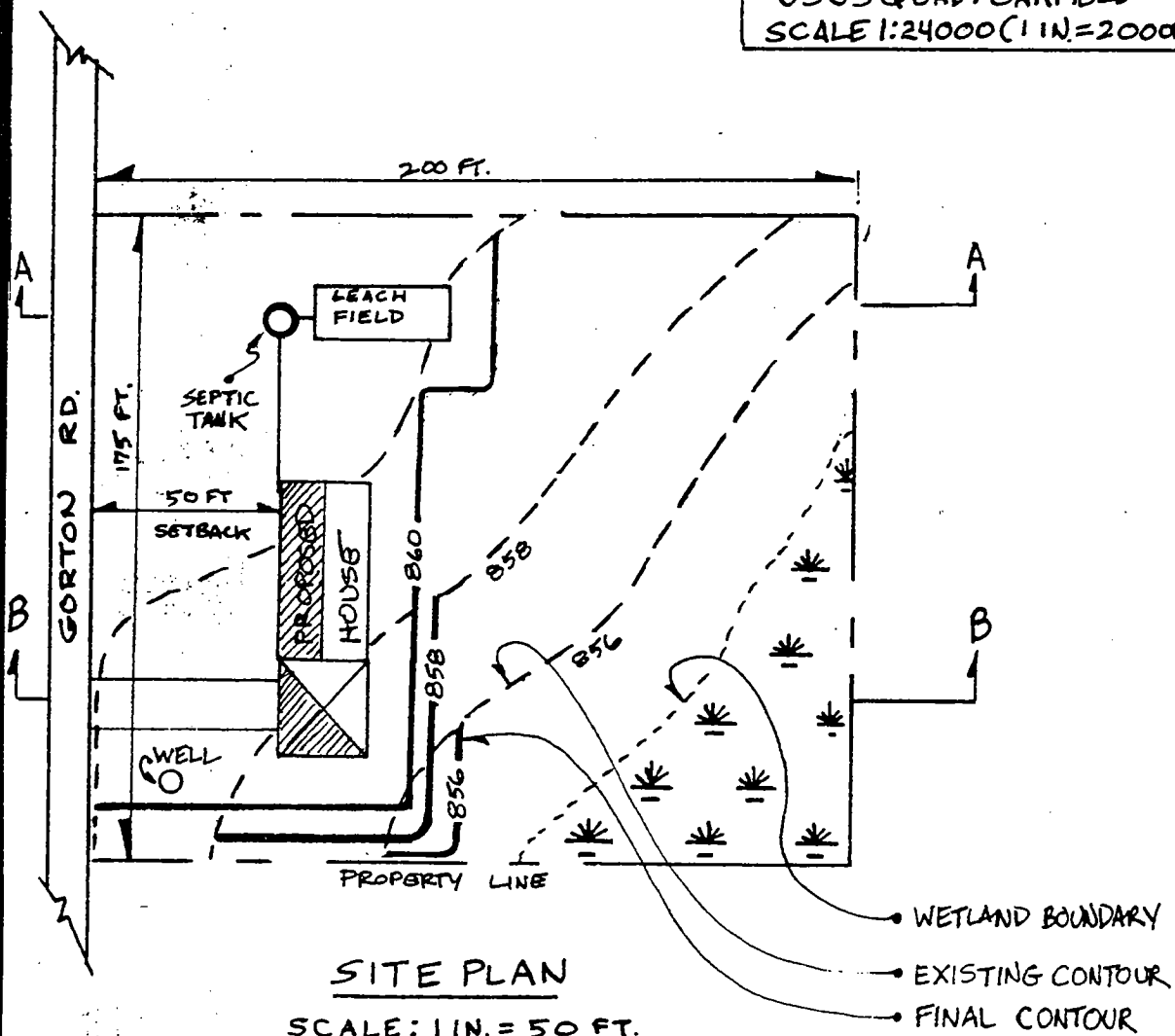

TITLE

NOTE: THIS PLAN DOES NOT NECESSARILY REPRESENT AN APPROVABLE PROJECT OR AN ACTUAL PROJECT SITE, NOR DOES IT REFLECT LOCAL HEALTH OR BUILDING CODES WHICH MAY ALSO APPLY TO THE PROJECT.



A topographic map of the Phelps Pond area. The map shows Phelps Pond at the top, with a road running horizontally across the middle. A point labeled 'SITE' is marked on the road. To the left of the site is a hatched rectangular area. To the right is a 'Stone Cem' (cemetery). Contour lines are labeled with elevations such as 650, 660, 670, 680, and 697. A north arrow is in the upper left corner, and a scale bar is at the bottom left. The map is bordered by 'LEDGE' at the top and 'MADE' on the right side.

N



United States Army Corps of Engineers District Offices

Department of the Army
ATTN: Chief, Regulatory Branch
New York District, Corps of Engineers
26 Federal Plaza, New York, NY 10278-0090
Telephone (212) 264-3996
DEC Regions 1, 2, 3, 4, 5

Department of the Army
ATTN: Chief, Regulatory Branch
Buffalo District, Corps of Engineers
1776 Niagara Street, Buffalo, NY 14207-3199
Telephone (716) 879-4330
DEC Regions 6, 7, 8, 9

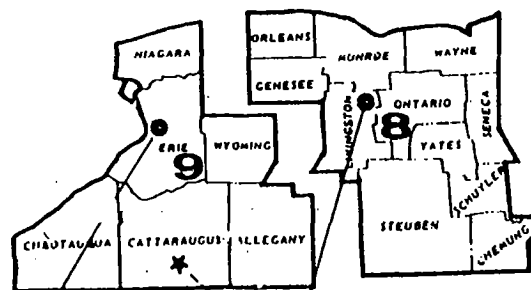
Department of Environmental Conservation Division of Compliance Services

REGION 6—DCS

State Office Building
317 Washington St.
Watertown, NY 13601-3787
(315) 785-2245

SUB-OFFICE—DCS

State Office Building
207 Genesee St.
Utica, NY 13501-2885
(315) 793-2555



REGION 9—DCS

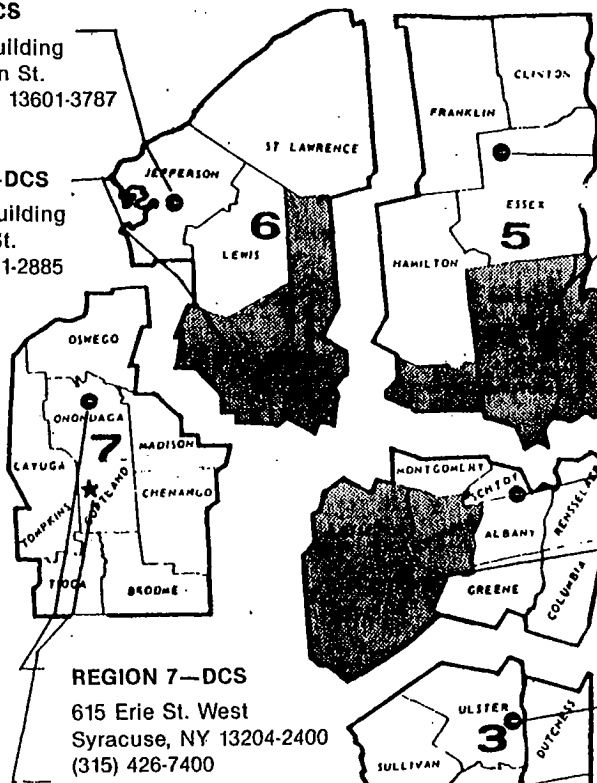
270 Michigan Ave.
Buffalo, NY 14203-2999
(716) 851-7165

SUB-OFFICE—DCS

128 South St.
Olean, NY 14760-3632
(716) 372-6242

REGION 8—DCS

6274 E. Avon-Lima Rd.
Avon, NY 14414-9519
(716) 226-2466



REGION 7—DCS

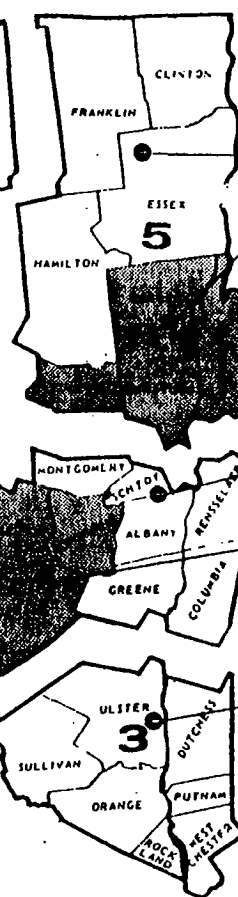
615 Erie St. West
Syracuse, NY 13204-2400
(315) 426-7400

SUB-OFFICE—DCS

1285 Fisher Ave.
Cortland, NY 13045-1090
(607) 753-3095

REGION 2—DCS (New York City)

1 Hunters Point Plaza
47-40 21st St.
Long Island City, NY 11101-5407
(718) 482-4997



REGION 5—DCS

Route 86, PO Box 296
Ray Brook, NY 12977-0296
(518) 897-1234

SUB-OFFICE—DCS

County Route 40
P.O. Box 220
Warrensburg, NY 12885-0220
(518) 623-3671

REGION 4—DCS

1150 North Wescott Road.
Schenectady, NY 12306-2014
(518) 357-2069

SUB-OFFICE—DCS

Route 10, Jefferson Rd.
HCR#1, Box 3A
Stamford, NY 12167-9503
(607) 652-7364

REGION 3—DCS

21 South Putt Corners Rd.
New Paltz, NY 12561-1696
(914) 256-3054



REGION 1—DCS

SUNY Campus
Loop Rd., Building 40
Stony Brook, NY 11790-2356
(516) 444-0365



Regional Headquarters

Regional Sub-Offices

Indicates the portion of a region
served by the Sub-Office

ATTACHMENT 2—INFORMATION NECESSARY FOR PREPARING AN EROSION AND SEDIMENTATION CONTROL PLAN

PHONE CONVERSATION RECORD

Conversation with:

Name NIAGRA COUNTY SOIL & WATER

Company CONSERVATION OFFICE

Address _____

Phone _____

Subject _____

Date 6, 23, 97

Time 11:00 AM PM

☒ Originator Placed Call

☐ Originator Received Call

W.O. NO. _____

Notes:

LEARNED THAT NO ADDITIONAL PERMITS OR DOCUMENTATION IS REQUIRED BY NIAGRA COUNTY PROVIDED THAT THE STATE GUIDELINES ARE MET. PARTICULARLY, THE MAXIMUM OF 5 ACRES OF DISTURBED LAND AT ANY TIME.

ATTACHED ARE THE STATE GUIDELINES FOR E/S CONTROL ALONG WITH A SAMPLE WORKSHEET OF ITEMS TO BE ADDRESSED.

☐ File _____

☐ Tickle File _____ / _____ / _____

☐ Follow-Up By: _____

☐ Copy/Route To: _____

Follow-Up-Action: _____

Originator's Initials _____

Appendix A

NYS DEC Erosion and Sediment Control Guidelines for New Development

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233



Thomas C. Jorling
Commissioner

• NIAGRA COUNTY SOIL & WATER CONSERVATION OFFICE
(716) 434-4949

April 1991

MEMORANDUM

TO: Regional Water Engineers, Bureau Directors, Section Chiefs
FROM: Salvatore Pagano - Director, Division of Water
SUBJECT: Division of Water Technical and Operational Guidance Series (5.1.10)

EROSION AND SEDIMENT CONTROL GUIDELINES FOR NEW DEVELOPMENT (Originator: Philip M. DeGaetano)

I. PURPOSE

To provide soil erosion and sediment control guidelines to regional water staff involved in the review of land development projects. These guidelines are to be used in conjunction with the Stormwater Management Guidelines (TOGS 5.1.8) in reviewing proposed development projects.

II. DISCUSSION

Sediment in runoff from construction sites can have a significant effect on the quality of downstream waters. It is of such concern that it has been highlighted as a source category to be addressed by the EPA regulations on stormwater management. It is also identified as a significant source category in the State Nonpoint Source Assessment Report.

The potential effects of increased sediment are varied:

*Sediment may destroy fish habitat through blanketing of fish spawning and feeding areas and elimination of certain food organisms, directly impact fish through gill abrasion and fin rot, and reduce sunlight penetration, thereby impairing photosynthesis of aquatic plants. Suspended sediment decreases recreational values, reduces fishery habitat, adds to the mechanical wear of water supply pumps and distribution systems, and adds to treatment costs for water supplies. Nutrients and toxic substances attached to sediment particles are transported to waterbodies and may

enter aquatic food chains, cause fish toxicity problems, contribute to algal blooms, impair recreational uses, and degrade the water as a drinking water source.*

The following guidelines are designed for consideration by both government officials and project sponsors in the preparation and review of erosion and sediment control plans for a land development project. If implemented properly, the guidelines herein will assist in achieving the following water and natural resource management objectives.

- ◆ reduce the erosion potential from a development or construction project;
- ◆ decrease nonpoint source pollution and water quality degradation;
- ◆ maintain stream channels for their biological functions, as well as for drainage, through reduced sediment deposition.

The U.S. Environmental Protection Agency has recently adopted stormwater management regulations which will be implemented through the National Pollutant Discharge Elimination System (NPDES). Consequently, the N.Y. State Pollutant Discharge Elimination System (SPDES) program may be used in this state to implement the new federal regulations. The regulations contain provisions which require control of erosion from certain land development projects. However, the federal stormwater management program is not fully operational at this time.

Until the stormwater permit system is operational, it would be appropriate to use the authority of the State Environmental Quality Review Act (SEQRA) to apply the erosion and sediment control guidelines which make up this TOGS for all land development projects and construction activities when it is determined that soil erosion and sedimentation is a relevant area of environmental concern or when it is determined that soil erosion and sedimentation, if not controlled, may have a significant effect on the environment. Upon such determination, an erosion and sediment control plan should be prepared. The following are examples of projects where soil erosion and sedimentation are common relevant areas of environmental concern.

1. land clearing or land grading projects involving five or more acres;
2. residential development consisting of five or more dwelling units, unless each dwelling unit is on a lot of two or more acres;
3. industrial and/or commercial projects which result in an impervious surface of one or more acres;
4. site preparation on slopes which exceed 1½ ft. of vertical rise to 10 ft. of horizontal distance (or site preparation in areas of severe erosion potential where such areas have been mapped);
5. site preparation within 100 ft. of a wetland;
6. site preparation within 100 ft. of any watercourse;
7. excavating or filling which exceeds a total of 100 cu. yds. of material within any parcel or any contiguous parcels.

¹ Nonpoint Source Management Program. January, 1990.

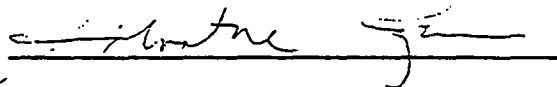
Pursuant to the consistency requirements of the New York State Nonpoint Source Management Program as authorized under Section 319 of the Federal Clean Water Act of 1987, and pursuant to Presidential Executive Order 12372 requiring intergovernmental review of federal programs, the erosion and sediment control guidelines herein should be applied to all eligible federal agencies which either undertake development projects in the State or assist development projects through funding.

III. GUIDANCE

It is the policy of the Division of Water that an erosion and sediment control plan be prepared for all projects for which soil erosion and sedimentation has been identified as a relevant area of environmental concern, or, for which if it is not controlled, it may have a significant effect on the environment. The plan should be prepared and submitted as part of the SEQQR process.

The attached guidelines were developed to aid persons in preparing and reviewing erosion and sediment control plans. They provide guidance on sound management practices, but are not fixed and inflexible rules to be applied in reviewing erosion control plans without considering the particular facts and circumstances of a particular project.

It should be noted that some communities may have duly adopted erosion control requirements, and that they should be consulted and complied with. In the absence of such requirements, Regional Water staff are encouraged to consult the management practices described in this guidance where appropriate to encourage their use by county and local agencies and by developers and consultants involved in preparing and reviewing development plans and proposed projects. To the fullest extent practicable, Regional Water staff should seek the assistance of County Soil and Water Conservation District staff during the review of erosion and sediment control plans.



Salvatore Pagano
Director, Division of Water

Attachment

cc: Dr. Banks
Mr. Campbell
Ms. Chrimes
Mr. Bruening
Regional Engineers for Envir. Quality

EROSION AND SEDIMENT CONTROL GUIDELINES FOR NEW DEVELOPMENT

- A. Existing vegetation on a project site should be retained and protected as much as possible to minimize soil loss on a project site and to minimize erosion control costs.
- B. Sediment control practices/measures, where necessary, should be designed to protect the natural character of rivers, streams, lakes, coastal waters or other waterbodies on-site and minimize erosion and sedimentation off-site from the start of land disturbance activities to establishment of permanent stabilization.
 - 1. The off-site impacts of erosion and sedimentation related to land clearing, grading and construction activities should not be any greater during and following land disturbance activities than under pre-development conditions.
 - 2. Pursuant to Part 700 et seq. of Title 6, Chapter X of NYCRR:
 - a. toxic and other deleterious substances shall not be discharged in amounts that will adversely affect the taste, color or odor thereof, or impair the waters of the state for their best (classified) usages,
 - b. suspended, colloidal and settleable solids shall not be discharged in amounts that causes substantial visible contrast to natural conditions, or causes deposition or impairs the waters for their best (classified) usages.

This means that stream reaches on-site and downstream of construction areas should not have substantial visible contrast relative to color, taste, odor, turbidity and sediment deposition from the reaches upstream of the construction area. Impacts such as these which result from construction or developmental activities are a violation of Part 700 water quality standards and may be subject to enforcement actions.

- C. Erosion and sediment control measures should be constructed in accordance with an erosion and sediment control plan. The plan should:
 - 1. describe the temporary and permanent structural and vegetative measures that will be used to control erosion and sedimentation for each stage of the project from land clearing to the finished stage.
 - 2. provide a map showing the location of erosion and sediment control measures.
 - 3. provide dimensional details of proposed erosion and sediment control facilities as well as calculations used in the siting and sizing sediment basins. (Guidance for performing calculations can be obtained in the reference cited in Section E.8.)
 - 4. identify temporary erosion and sediment control facilities which will be converted to permanent stormwater management facilities.
 - 5. provide an implementation schedule for staging temporary and permanent erosion and sediment control facilities.

6. provide a maintenance schedule for soil erosion and sediment control facilities and describe maintenance activities to be performed.
- D. Erosion and sediment control measures should be constructed prior to beginning any other land disturbances. The devices should not be removed until the disturbed land areas are stabilized.
- E. Specify guidance.
1. Exposure Restrictions: No more than 5 acres of unprotected soil should be exposed at any one time. Previous earthwork should be stabilized in accord with approved design standards and specifications referenced in Section E.8 before additional area is exposed. (Site factors including topography, soil erosion potential, proximity to wetlands and water courses may require limiting the amount of raw earth that can be exposed at any one time to less than 5 acres.)
 2. Grading: Perimeter grading should blend with adjoining properties.
 3. Vegetative Protection: Where protection of trees and/or other vegetation is required, the location of the site to be protected should be shown on the erosion control plan. The method of protecting vegetation during construction should conform to the design criteria referenced in Section E.8.
 4. Drainage control.
 - a. Surface runoff that is relatively clean and sediment free should be diverted or otherwise prevented from flowing through areas of construction activity on the project site. This will greatly reduce sediment loading in surface runoff.
 - b. A fill associated with an approved temporary sediment control structure or permanent stormwater management structure, should not be created which causes water to pond off-site on adjacent property, without first having obtained ownership or permanent easement for such use from the owner of the off-site or adjacent property.
 - c. Natural drainage channels should not be altered or relocated without the proper approvals. Pursuant to Article 15 of the Environmental Conservation Law, a protected stream and the bed and banks thereof should not be altered or relocated without the approval of the Department of Environmental Conservation.²
 - d. Runoff from any land disturbing activity should not be discharged or have the potential to be discharged off-site or into storm drains or into watercourses unless such discharge is directed through a properly designed, installed and maintained structure, such as a sediment trap, to retain sediment on-site. Accumulated sediment should be removed when 60% of the storage capacity of the sediment retention structure is filled with sediment.
 - e. For finished grading, adequate gradients should be provided so as to prevent water from standing on the surface of lawns for more than 24 hours after the end of a rainfall, except in a swale flow area which may drain as long as 48 hours after the end of rainfall.

² A natural drainage channel refers to a swale, water course in a gully, or a protected or unprotected stream. Natural drainage channels should not be altered or relocated on adjacent properties without first having obtained ownership or a permanent easement for the altered or relocated drainage channel from the owner of the off-site or adjacent property.

- f. Permanent swales or other points of concentrated water flow should be stabilized with sod, rip-rap, paving, or covered with a approved erosion control matting as provided for in the design criteria referenced in Section E.8.
 - g. Surface flows over cut and fill slopes should be controlled as provided for in the design criteria for vegetating waterways referenced in Section E.8.
- 5. Timing.
 - a. Except as noted below, all sites should be seeded and stabilized with erosion control materials, such as straw mulch, jute mesh, or excelsior within 15 days of final grading. If construction has been suspended, or sections completed, areas should be seeded immediately and stabilized with erosion control materials. Maintenance should be performed as necessary to ensure continued stabilization.
 - i. For active construction areas such as borrow or stockpile areas, roadway improvements, and areas within 50 ft. of a building under construction, a perimeter sediment control system consisting, for example, of silt fencing or hay bales, should be installed and maintained to contain soil.
 - ii. On cut side of roads, ditches should be stabilized immediately with rock rip-rap or other non-erodible liners, or where appropriate, vegetative measures such as sod. When seeding is approved, an anchor mulch should be used and soil should be limed and fertilized in accord with recommendations referenced in Section E.8.
 - iii. Permanent seeding should optimally be undertaken in the spring from March 21 through May 20, and in late summer and early fall from August 25 to October 15. During the peak summer months and in the fall after October 15 when seeding is found to be impracticable, an appropriate mulch should be applied. Permanent seeding may be undertaken during summer if plans provide for adequate watering of the seedbed.
 - iv. All slopes steeper than 3:1 (h:v), as well as basin or trap embankments, and perimeter dikes should, upon completion, be immediately stabilized with sod, seed and anchored straw mulch, or other approved stabilization measures. Areas outside of the perimeter sediment control system should not be disturbed. Maintenance should be performed as necessary to ensure continued stabilization.
 - b. Temporary sediment trapping devices should be removed within thirty (30) calendar days following establishment of permanent stabilization in all contributory drainage areas. Stormwater management structures used temporarily for sediment control should be converted to the permanent configuration within this time period as well.
- 6. Stream protection.
 - a. The bed and banks of all on-site and off-site streams that may be impacted by land clearing, grading, and construction activities should be protected to prevent stream, river, lake or coastal sedimentation, streambank erosion, stream enlargement and degradation or loss of

fisheries habitat. Measures for protecting the bed and/or banks of a stream may include, for example, gabion baskets, rip-rap, log cribbing, and vegetative measures.³

- b. Where temporary work roads or haul roads cross stream channels, adequate waterway openings must be constructed using spans, culverts, washed rock backfill or other acceptable, clean methods that will ensure that road construction and use do not result in turbidity and sediment downstream. All stream crossing activities and appurtenances shall be in compliance with a permit issued pursuant to Article 15 of the Environmental Conservation Law, where applicable, and should be carried out in conformance with guidelines in DEC'S Stream Corridor Management manual.⁴

7. Maintenance.

- a. An erosion control plan for a project site should identify maintenance requirements for erosion and sediment control practices utilized, and it should provide a maintenance schedule. All erosion and sediment control measures should be inspected periodically and maintained in conformance with the schedule so as to ensure they remain in effective operating condition until such times as they are removed.
- b. All points of construction ingress and egress should be protected to prevent the deposition of materials onto traversed public thoroughfare(s) either by installing and maintaining a stabilized construction entrance, or by washing all vehicle wheels in a safe disposal area. All materials deposited onto public thoroughfare(s) should be removed immediately. Proper precautions should be taken to ensure that materials deposited onto public thoroughfares are removed so that they do not enter catch basins, storm sewers, or combined sewers.
- c. Accumulated sediment should be removed when 60% of the storage capacity of the retention structure is filled with sediment.

8. Design specifications.

Designs, standards and specifications for controlling erosion and sedimentation are found in the following publication and should be identified and shown in the erosion control plan:

Empire State Chapter, Soil & Water Conservation Society, New York Guidelines for Urban Erosion and Sediment Control, Syracuse. March 1988.

³ Whenever possible, vegetative streambank stabilization practices are recommended over structural practices such as rip-rap and gabion linings which may unnecessarily alter the existing stream ecosystem.

⁴ New York State Department of Environmental Conservation, "Stream Corridor Management: A Basic Reference Manual," Albany, 1986.

APPENDIX F



Nassau County Soil and Water Conservation District
1425 Old Country Road, Building J - Plainview, NY 11803 - Phone (516) 454-0900

EROSION AND SEDIMENT CONTROL PLAN REVIEW CHECKLIST

LEGEND FOR REVIEW CHECKLIST

AS = ALTERNATIVES SUGGESTED

A = ADEQUATE

INC = INCOMPLETE

R = REQUESTED, NOT SUBMITTED

NA = NOT APPLICABLE

NC = NOT CHECKED

PROJECT NAME: _____ SITE LOCATION: _____

APPLICANT'S NAME & ADDRESS: _____

THE DISTRICT HAS REVIEWED THE SUBJECT PROPOSAL AND SUGGESTS THE FOLLOWING ITEMS BE REVISED TO PROVIDE THE PROPER SOIL EROSION, SEDIMENT, AND STORMWATER CONTROLS CONSISTENT WITH THE SUBJECT TOPOGRAPHY. TECHNICAL REVIEW SUPPLIED BY THE SOIL CONSERVATION SERVICE

PLANS - GENERAL

- _____ 1. Scope of plan clearly delineated and noted in title block
- _____ 2. Vicinity map with scale and north arrow.
- _____ 3. Legend, scales, north arrow for plan view.
- _____ 4. Existing and proposed topography shown, contours labeled and spot elevations at critical areas.
- _____ 5. Typical designs on plan review drawings shown for necessary diversion berms, interceptor drains and outlets, level spreaders, storm drain inlet protectors, grassed waterways, etc.
- _____ 6. Limit of 100 year floodplain delineated on plan.
- _____ 7. Existing and proposed improvements and utilities.
- _____ 8. The total disturbed area delineated on site plan:
 - _____ a. Indicate the total acreage to be paved, roofed, sodded, seeded, etc.
 - _____ b. Delineate all areas to be stabilized vegetatively by seeding, sodding, or ground covers.
 - _____ c. Greenbelt areas are clearly delineated.
- _____ 9. Standard General Notes.
- _____ 10. Scale.
- _____ 11. Sequence of operations.
- _____ 12. Stock pile area designated or referenced.
- _____ 13. Property boundaries indicated, and easements as needed.
- _____ 14. Street profiles.
- _____ 15. Composite drainage area map for plans requiring more than one sheet, with sediment control measures shown in their approximate locations.

SOILS INFORMATION

- ☐ 16. Detailed soils Map attached or overlaid on plan map with interpretations.
- ☐ 17. Deep soil pit logs attached and exact location shown on plan map for all proposed dry and diffusion wells, and septic systems.

EROSION AND SEDIMENT CONTROL PLAN REVIEW CHECKLIST - Page 2

SOIL EROSION AND SEDIMENT CONTROL

- ☐ 18. Permanent Dikes (perimeter, diversion, interceptor)
 - ☐ a. Practice meets purpose and design criteria.
 - ☐ b. Positive drainage is maintained, and contributing drainage area shown
 - ☐ c. Outlet to sediment trapping device or onto stable outlet
 - ☐ d. Points of vehicular crossings shown and stabilized (mountable berm).
 - ☐ e. Standard detail and construction specifications
- ☐ 19. Temporary Swales (interceptor, perimeter).
 - ☐ a. Practice meets purpose and design criteria.
 - ☐ b. Contributing drainage area shown.
 - ☐ c. Channel grade exceeding ____% slope properly stabilized.
 - ☐ d. Adequate outlet or discharge condition.
 - ☐ e. Provisions for traffic crossing shown on plan.
 - ☐ f. Standard detail and construction specifications
- ☐ 20. Traps (Rip-rap, earth, pipe, and storm inlet).
 - ☐ a. Practice meets purpose and design criteria
 - ☐ b. Contributing drainage area delineated on plan.
 - ☐ c. Trap sized by largest drainage area (existing or developed) to trap.
 - ☐ d. Type and size of outlet structure.
 - ☐ e. Outlet conditions.
 - ☐ f. Plan view of trap and storage area (drawn to scale with bottom dimensioned
 - ☐ g. Volume calculations.
 - ☐ h. Bottom, crest and clean-out (at 50% trap efficiency) elevations.
 - ☐ i. Standard detail and construction specifications
- ☐ 21. Straw Bale Dike and Silt Fence
 - ☐ a. Meets purpose and design criteria
 - ☐ b. Controlled slope less than 100 feet
 - ☐ c. Drainage area less than 1 acre per 100 feet of dike or fence. (for sheet erosion only)
 - ☐ d. Standard detail and construction specifications
- ☐ 22. Grade Stabilization Structure (flume, pipe, slope drain, etc.)
 - ☐ a. Meets purpose and design criteria
 - ☐ b. Pipe drain size noted
 - ☐ c. Contributing drainage area shown
 - ☐ d. Standard detail and construction specifications
- ☐ 23. Permanent Structural Practices or Sediment Control Measures Exceeding the Design Criteria of the Standard detail.
 - ☐ a. Practice meets purpose and design
 - ☐ b. Drainage area map
 - ☐ c. Runoff calculations
 - ☐ d. Calculations for size, velocity, and Q
 - ☐ e. Standard detail with dimensions and construction specifications
- ☐ 24. Provisions for protecting cut and fill slopes from surface runoff

____ 25. Site Grading

- ____ a. Maximum created slope of 2 foot horiz. to 1 foot vert.
- ____ b. Slopes requiring regular maintenance will be no steeper than 3 foot deep.
- ____ c. Details of cut and fill slopes shown

EROSION AND SEDIMENT CONTROL PLAN REVIEW CHECKLIST - Page 3

____ 26. Seeding Specification and Notes

- ____ a. Seedbed Preparation
- ____ b. Permanent seeding (mix and rate) - includes method of application.
- ____ c. Temporary seeding (mix and rates) - includes method of application
- ____ d. Mulching (includes anchoring method)
- ____ e. Sod (type and installation)
- ____ f. Fertilizer (amount and type)
- ____ g. Lime (amount and type)
- ____ h. Seeding dates (temporary and Permanent - to cover entire year).

____ 27. Storm inlets adequately protected (detail required)

____ 28. Stabilized construction entrances shown on plan (detail required)

____ 29. Provisions for sediment and erosion control of areas disturbed for storm drain and utility construction.

____ 30. Storm Drainage

- ____ a. Drainage area map and computations
- ____ b. Plan and profile indicating pipe size, type, slope, Q, structures, and inlet (type), top and invert elevations
- ____ c. Proposed outlet protection dimensions and computations.
- ____ d. Constructed outfall ditch or swale cross-section and flow computations for depth and velocity
- ____ e. Profile of outfall sufficient to show natural gradient of accepting channel or conduit.
- ____ f. Outlet protection of 0% slope for minimum required distance

____ 31. Riprap and Gabions

- ____ a. Median stone size and minimum depth of treated section shown on plan.
- ____ b. Riprap placed upon approved filter cloth
- ____ c. Cross-section detail of treated areas

____ 32. Permit notification from other agencies

____ 33. Storm Water Management referred to: _____ Date: _____

Nassau County DPW _____

Town of _____

City of _____

Village _____

____ 34. Sediment Basin or Recharge Basin

- ____ a. Seedbed preparation, seeding rate and method of application, and mulch details included.

ADDITIONAL COMMENTS

Plans reviewed by: _____ Date Reviewed: _____

ENVIRONMENTAL COMPLIANCE CHECKLIST

REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 1, Phases 2 and 3

Areas A and B
 PHASE I INTERIM REMOVAL ACTION SUPPLEMENT TO 60% DESIGN
 FORMER LAKE ONTARIO ORDNANCE WORKS
 NOTE: This supersedes the January 1998 Environmental Checklist

(BASED ON CENAB-EN SOP 340-5 DATED 12/19/93)

Note: Need to conduct site-specific wetlands survey because information previously obtained from New York State Department of Environmental Conservation (NYSDEC) maps shows locations of major wetlands in the region. Information from site visits indicates the possible presence of wetlands in and/or near areas designated for remedial actions.

Regulation/Action	Required in PreDesign	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
National Environmental Policy Act (NEPA)	✓	✓				Should follow this for removal actions.
<ul style="list-style-type: none"> Signed Finding of No Significant Impact (FONSI) 	✓	✓				Negative Declaration should address this; need to verify no wetlands, but it is possible that wetlands will be affected.
<ul style="list-style-type: none"> FONSI Published 						
<ul style="list-style-type: none"> Environmental Assessment (EA) 	✓	✓				A short environmental assessment "checklist" form may be required; negative declaration to be submitted first. (This will also satisfy New York State Environmental Quality Review [SEQR] Act.)
<ul style="list-style-type: none"> Environmental Impact Statement (EIS) 						Not applicable.
<ul style="list-style-type: none"> Categorical Exclusion 						
<ul style="list-style-type: none"> Record of Decision 						

REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 1, PHASES 2 AND 3

AREAS A AND B PHASE I INTERIM REMOVAL ACTION SUPPLEMENT TO 60% DESIGN FORMER LAKE ONTARIO ORDNANCE WORKS (Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Apply/Obtain Erosion and Sedimentation (E&S) Control Plan/ Permit		✓	✓			No additional permits/documentation required by Niagara County, provided State requirements are met; need to submit E&S Plan to Niagara County for review and approval.
Apply/Obtain Stormwater Management Plan/Permit						Not applicable as long as NY State E&S and stormwater guidelines are followed.
Submit NPDES for Construction Activities		✓	✓			SPDES for stormwater discharge during construction not required (but need to comply with NY Stormwater Guidelines); need to verify this with NYSDEC. SPDES permit may be required if Contractor disposes of treated or untreated water on the ground. However, for Phases 2 and 3, it is assumed that stormwater/groundwater from the excavation areas will be discharged to existing ditches that flow to CWM's (property owner) existing permitted outfall. Stormwater/ groundwater that has contacted potentially contaminated soils will be staged separately and will be sampled/analyzed prior to discharge to the CWM outfall to verify that permit requirements are met. CWM has specific discharge requirements as listed in the Technical Specifications.
Investigate FIPS/FIMR Requirements for Design and Construction		✓				To be determined by CENAB.
• Make FIPS/FIMR Determination		✓				To be determined by CENAB.
• Prepare Appropriate FIMR Documentation						To be determined by CENAB.

REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 1, PHASES 2 AND 3

AREAS A AND B
 PHASE I INTERIM REMOVAL ACTION SUPPLEMENT TO 60% DESIGN
 FORMER LAKE ONTARIO ORDNANCE WORKS
 (Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
<ul style="list-style-type: none"> Prepare and Process Agency Procurement Request (APR) for Delegation of Procurement Authority (DPA) 						To be determined by CENAB.
<ul style="list-style-type: none"> Obtain Approved DPA Prior to CBD (Design) and Prior to Advert (Const) 						To be determined by CENAB.
Request Local Building/Construction Permit		✓	✓			Construction permit for soil removal not applicable as verified by town of Porter.
Wetlands Delineation	✓	✓				Need to conduct site-specific wetlands survey (information previously obtained was locations of major wetlands in the region from NYSDEC maps) because areas potentially have wetlands.
Apply/Obtain Section 404 (CWA) Requirements		✓				May be applicable according to New York State/COE; depends on results of site-specific wetlands survey and any unanticipated scope changes. Covered under EPA National Permit 38, which requires notification and NYSDEC/COE joint permit if wetlands to be disturbed.
<ul style="list-style-type: none"> Water Quality Cert, Section 401 (CWA) 		✓				Use joint permit application if required; see above.
<ul style="list-style-type: none"> COE Section 10 Permit 						Not applicable.
Request Necessary Real Estate Easements						Not applicable.
Investigate Floodplain Verification	✓					Complete.

REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 1, PHASES 2 AND 3

AREAS A AND B
 PHASE I INTERIM REMOVAL ACTION SUPPLEMENT TO 60% DESIGN
 FORMER LAKE ONTARIO ORDNANCE WORKS
 (Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Pursue National Historic Preservation Act (NHPA)	✓		✓			Areas to be remediated not known to be historically significant (need to verify with ACRES and NYS). Need to contact NY Office of Parks, Recreation, and Historic Preservation, 518-237-8643, Archeologist Bob Kiln (# 255) or Cynthia LaKenore (# 288) for procedures to follow for the possibility of encountering historical archeological resources during construction.
• Phase I Inves and Cons with SHPO						Not applicable.
• Phase II Inves and Cons with SHPO						Not applicable.
• Design Phase III (MIT)						Not applicable.
Determine Whether Project Shown on Master Plan						LOOW not on a Master Plan; not applicable.
Develop Reforestation Plan						Not applicable.
Obtain Air Quality Permits						Not applicable.
Investigate State/Local Water and Sewage Permits		✓				Not applicable, except for complying with CWM's SPDES permit if water is to be discharged into their ditch system; discharge limits are listed in technical specifications.
Prepare Draft DD Form 1354		✓				Cost Engineering Branch of CENAB to prepare.
Obtain Excavation Permit			✓			Contractor to obtain from CENAB after notice to proceed.
DOT Requirements		✓				

REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 1, PHASES 2 AND 3

AREAS A AND B

PHASE I INTERIM REMOVAL ACTION SUPPLEMENT TO 60% DESIGN
FORMER LAKE ONTARIO ORDNANCE WORKS
(Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
• Investigate Transportation/Disposal Route in Design		✓	✓			Need to review NYDOT requirements. Contractor to select route based on disposal facility selected. Contractor must comply with applicable DOT requirements (shipping papers, etc.).
• Highway Occupancy Permits			✓			Contractor must use a licensed hazardous waste hauler transporter.
Safety Review (OSHA Regulations)		✓	✓			To be done by Construction Division of CENAB and Installation.
Obtain Building Occupancy Permit						Not applicable.
Request Utility On-Site Delineation		✓	✓			Contractor to verify location of utilities and coordinate survey with property owner and local utilities companies.
Request DD Form 337		✓				To be done by CENAB.
Investigate Insect Infestation						Not applicable.
Site Categorization						Complete.
• Preliminary Assessment Screening	✓					Complete; accomplished through existing ACRES and WESTON reports (PRDI).
• Characterize HTRW Contamination	✓					Complete; accomplished through existing ACRES and WESTON reports (PRDI).
Investigate Unexploded Ordnance (UXO)			✓			Not applicable for UXO.

REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 1, PHASES 2 AND 3

AREAS A AND B
 PHASE I INTERIM REMOVAL ACTION SUPPLEMENT TO 60% DESIGN
 FORMER LAKE ONTARIO ORDNANCE WORKS
 (Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Obtain Asbestos Survey and Abatement Approvals		✓		ACRES (survey only)	January 1998 (survey only)	Asbestos-containing materials (ACM) were identified; loose/friable and some nonfriable ACM has been identified for removal under a separate phase/not applicable.
Investigate PCB Presence		✓				PCBs identified in PRDI.
Investigate Lead Paint Presence				ACRES	January 1998	Completed as part of asbestos survey; lead was identified in some buildings/not applicable for Phases 2 and 3.
Investigate Radon Presence						Not applicable.
• Verify During Design						
Obtain RCRA Permit						
• 90-Day RCRA Storage						Not applicable assuming waste will be on-site less than 90 days.
Manifesting Training			✓			To be done by the Contractor.

SOP 340-5

APPENDIX A

The purpose of this Appendix is to be a glossary of the items on the SOP 340-5. To define the terms, show a repository for the action, and when the item is normally accomplished.

National Environmental Policy Act (NEPA)

The installation normally would have completed this action prior to design start. If not the installation, designer, and Planning Division need to meet to initiate effort as early as possible.

Erosion & Sedimentation Control Plan/Permit

Are temporary measures in place to control and prevent erosion and sedimentation during construction. Designer initiates this in cooperation with local governing authority. This is normally accomplished prior to the 30% design.

Stormwater Management Plan/Permit

Stormwater Management Plan are permanent measures in place to control runoff and improve water quality. Designer initiates this in cooperation with local governing authority. This is normally accomplished prior to the 30% design.

National Pollutant Discharge Elimination System (NPDES)

Requested by EPA to document stormwater discharges from construction and resulting permanent facility. Designer initiates this in cooperation with local governing authority. This is normally accomplished prior to the 30% design.

Federal Information Processing System (FIPS)**Federal Information Management Regulations (FIMR)**

Designer identifies the FIP equipment and decides what equipment is subject to the FIMR. The Design Manager would process the paperwork. If there is equipment that is covered by the FIMR a Requirements Analysis has to be performed and a Delegation of Procurement Authority (DPA) has to be requested. Also, the Cost Engineering Branch would estimate the FIP equipment. The DPA has to be accomplished and approved prior to advertising the project. ETL 1110-3-433 and EC 25-1-184 contain additional information relating to FIPS/FIMR.

Request Local Building Permit

Designer contacts local governing authority on the applicability of local building permits. Should be accomplished at the 50-60% stage.

Clean Water Act Requirements

Water Quality Certificate Section 401 is a law that mitigates the effects on water quality both during and after construction.

Wetlands Permits Section 404 is a law to re-establish wetlands destroyed by construction activities. The designer in cooperation with installation environmental office determines the applicability and pursues permits. Should be accomplished at the 60-90% stage.

Request Necessary Real Estate Easements

Designer in cooperation with the Real Estate Division obtain temporary and permanent easements necessary for the construction of the project. Accomplished at the 30-60% design stage.

Investigate Floodplain Verification

This is the designers responsibility to obtain floodplain maps and determine if the project is listed in a floodplain zone. Should be accomplished prior to the 10% design.

National Historic Preservation Act

Installation requirement that should be completed prior to design start.

Project shown on Master Plan

Designer in cooperation with installation determines if the project is shown on the master plan. Accomplished prior to the 10% design.

Develop Reforestation Plan

To reestablish forest areas disturbed by construction activities. The designer in cooperation with the installation pursue requirements through local governing authority. Accomplished prior to the 30% design.

Air Quality Permits

The designer in cooperation with the installation pursue requirements through local governing authority. Accomplished prior to the 30% design.

State/Local Water and Sewage Permits

The designer in cooperation with the installation pursue requirements through local governing authority. Accomplished prior to the 30% design.

DD Form 1354

DD Form 1354, Real Property Management Form, Cost Engineering Branch prepares this form with support from the designer. Accomplished prior to the 30% design.

Excavation Permit

Contractor is responsible for filing and obtaining permit. This would take place immediately after notice to proceed (NTP).

DOT Requirements

The designer pursues requirements mandated by the local Department of Transportation (DOT) regarding items such as: utility crossings, new intersections, and etc. Accomplished prior to the 30% design.

Transportation/Disposal Routes unless specified would be determined by the contractor.

Safety Review (OSHA Requirements)

Construction Division and Installation should review design for compliance to OSHA requirements. Safety Reviews are performed at all design review submittals prior to advertising.

Obtain Building Occupancy Permit

This would only apply for a project on non-government land and would be obtained from the local governing authority. Accomplished immediately prior to beneficial occupancy.

Request Utility On-Site Delineation

This would only apply on non-government land. This refers to companies such as Miss Utilities that would mark the property for any utilities that are buried. For existing utilities on government installations refer to the Master Plans. This would be accomplished prior to the 10% design.

Request DD Form 337

DD Form 337, Request for Approval of Disposal of Building and Improvements must begin early in the planning and design process. This should be performed by the designer in cooperation with the installation.

Investigate Insect Infestation

This is accomplished prior to design by the Installation.

Site Categorization

This is accomplished prior to design by the Installation.

Investigate Unexploded Ordnance (UXO)

This is accomplished prior to design by the Installation.

Obtain Asbestos Survey

This is accomplished prior to design by the Installation.

Investigate PCB's Presence

This is accomplished prior to design by the Installation.

Investigate Lead Paint Presence

This is accomplished prior to design by the Installation.

Investigate Radon Presence

This is accomplished prior to design by the Installation.

Resource Conservation Recovery Act (RCRA)

A RCRA Permit would be obtained by the Installation prior to storing any hazardous material on the installation.