

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

## Division of Environmental Permits, Region 3

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[www.dec.ny.gov](http://www.dec.ny.gov)



**Department of  
Environmental  
Conservation**

Thank you for submitting a jurisdictional inquiry to the Department of Environmental Conservation (DEC or Department). The Department receives a large volume of these inquiries, and we are unable to conduct a thorough review of all projects in preliminary phases. In most cases, the resources are available on the DEC website in order to determine whether a permit is required or specific measures to avoid the need for a permit.

The Department strongly recommends using our online Environmental Resource Mapper (ERM) to screen for natural resources which are potentially regulated by DEC. The ERM can be found at the following link: <https://www.dec.ny.gov/animals/38801.html>. The ERM shows the approximate location of State-mapped freshwater wetlands, the location and classification of streams/waterbodies, occurrences of threatened and endangered species, and more (using the "Layers and Legend" ribbon). Please use the ERM to review your project area as you plan your project and/or determine if a permit application needs to be submitted to the DEC.

The Department offers the following general comments on our permit jurisdictions below, including links to further information on our website to assist you in determining whether an application needs to be submitted to DEC.

### **PROTECTION OF WATERS**

**Stream Disturbance** - A Protection of Waters Stream Disturbance permit is required to physically disturb the bed or banks (up to 50 feet from stream) of streams or waterbodies under 10 acres classified as AA, A, or B, or those with a classification of C which also have a standard of T or TS. Disturbance of the bed or banks of streams or waterbodies with a classification of C or D which do not have a T or TS standard do not require this permit. As described above, the ERM can be used to find out classifications of mapped streams and waterbodies. For more information, please visit <https://www.dec.ny.gov/permits/6554.html>.

**Excavation and Fill** - A Protection of Waters Excavation and Fill permit is required for excavating or placing fill in navigable waters of the state, below the mean high water level regardless of classification. For more information, please visit <https://www.dec.ny.gov/permits/6548.html>.

**Dams** - A Protection of Waters Dam permit is required for constructing, reconstructing, repairing, or modifying dams and water impounding structures of certain height and/or impoundment threshold capacities (please visit <https://www.dec.ny.gov/permits/6552.html> for a list exemption criteria).

**Docks, Moorings & Platforms** - A Protection of Waters Docks, Moorings & Platforms permit is required for constructing, reconstructing, or repairing docks or platforms and installing moorings on, in or above navigable waters to create docking facilities, mooring areas or to facilitate other activities. As DEC jurisdiction will be dependent on ownership of the underwater lands, please obtain a determination on ownership from the NYS Office of General Services at [LandUnderWater@ogs.ny.gov](mailto:LandUnderWater@ogs.ny.gov). More information, including common exemption criteria for the DEC permit, may be found here: <https://www.dec.ny.gov/permits/6550.html>.



## **FRESHWATER WETLANDS**

Most physical disturbances within NYS regulated freshwater wetlands and their 100-foot adjacent areas require a Freshwater Wetlands Permit. For more information, please visit <https://www.dec.ny.gov/permits/6279.html>.

Wetland boundaries shown on the ERM and other publicly available sources are approximate. In order to initiate the permitting process, the wetland boundary would have to be delineated by DEC staff, or DEC staff can validate a boundary delineated by others. For any questions regarding the location of wetland boundaries as shown on the ERM or other sources, please contact the DEC Bureau of Ecosystem Health at (845) 256-3087 and leave a brief message including your name, contact information, and the specific location

## **TIDAL WETLANDS**

The Department regulates disturbances to tidal wetlands and their adjacent areas (which may extend up to 300 feet away from the wetland boundary). Tidal wetlands are mapped by the Department, and in Region 3, can be found along the shore of Long Island Sound and some tributary rivers to the Sound, as well as the Hudson River south of the Governor Mario M. Cuomo Bridge. The tidal wetland maps can be viewed online through the DECinfo Locator under the "Environmental Quality" tab and "Environmentally Sensitive Areas" heading. The DECinfo Locator is available at <https://www.dec.ny.gov/pubs/109457.html>. If your project is within 300 feet of mapped wetland, you will need to get a jurisdictional determination from Division of Marine Resources staff on the location of the adjacent area and the current boundaries of the wetland. Please contact Angela Schimizzi at [angela.schimizzi@dec.ny.gov](mailto:angela.schimizzi@dec.ny.gov). Provide a map with your project location and a request for jurisdictional determination. For more information, including what types of activities require a permit, please visit <https://www.dec.ny.gov/permits/6359.html>.

## **WATER QUALITY CERTIFICATION**

If the US Army Corps of Engineers requires a permit pursuant to Section 404 of the Clean Water Act for the discharge to fill in Waters of the U.S., then a Section 401 Water Quality Certification (WQC) will be required. Issuance of these certifications is delegated in New York State to DEC. If the project qualifies for a Nationwide Permit, it may be eligible for coverage under a DEC Blanket WQC. Coverage under a Blanket requires compliance with all conditions for the corresponding Nationwide Permit. For more information and to view the DEC Blanket WQCs, please visit <https://www.dec.ny.gov/permits/6546.html>. A determination on Corps jurisdiction and Nationwide Permit eligibility is likely necessary for a DEC jurisdictional determination.

Previously, United States Environmental Protection Agency rules, effective September 11, 2020 concerning WQCs, required a pre-filing meeting request be sent to DEC at least 30 days prior to applying. The U.S. District Court for the Northern District of California issued an order on October 21, 2021 vacating and remanding EPA's 2020 Clean Water Act (CWA) Section 401 Certification Rule (No. 3:20-cv-04636-WHA). As a result, the submission of the pre-filing meeting request form is no longer required.

## **STATE-LISTED SPECIES**

If your project location is within an orange bubble in the ERM identified as an animal species listed as Endangered or Threatened, your project may need to be reviewed for potential impacts to those species. Your next step should be to find out which species are present by using the EAF Mapper at <https://gisservices.dec.ny.gov/eafmapper/>; any listed species in the vicinity of the project site will be reported on the last page of the report generated by the EAF Mapper (you may use the EAF Mapper even if you are not completing or submitting an EAF).

If the ERM identifies listed plants, or special concern or unlisted animals, for more information make an online request to the New York Natural Heritage Program at <https://legacy.nynhp.org/project-screening>. Potential impacts to listed plants and special concern animals should be considered in project design but are not directly regulated. State-protected native plants are covered by Environmental Conservation Law §9-1503 and 6 NYCRR Part 193.3. Additional information on listed plants can be found at <https://www.dec.ny.gov/animals/7135.html>, and information on special concern animals at <https://www.dec.ny.gov/animals/7494.html>.

Listed endangered and threatened animal species and the habitat they occupy are protected by state law and regulation. An incidental take permit is required for any activity that is likely to result in harm to a state-listed threatened or endangered species or its habitat.

For guidance on how to avoid potential impacts associated with a proposed project and feedback on whether your project may need an incidental take permit, you will need to provide as much of the following information as possible to the Region 3 Wildlife Program at [Wildlife.R3@dec.ny.gov](mailto:Wildlife.R3@dec.ny.gov).

- **Project location information:** site location map identifying the town, county and nearest crossroads and the proposed project boundaries (e.g., USGS, DOT, tax parcel map, shapefiles, etc.).
- **Photographs:** include any photos of the proposed project location or habitats (forest cover, wetlands, etc.).
- **Project Description:** narrative including project details, activities, and scope and scale of the project.

Please note, additional information such as project plans, timelines/schedules, habitat assessments, and/or details on avoidance measures may be requested for a final determination or guidance.

### **WATER WITHDRAWAL**

A water withdrawal permit from DEC is required for ANY type of non-agricultural withdrawal with a withdrawal capacity (i.e., not demand) of 100,000 gallons per day or more, based on the combined rated-capacity of the pumps on all sources. For more information, please visit <https://www.dec.ny.gov/permits/6379.html>. Agricultural withdrawals are subject to different permitting requirements, for more information please visit <https://www.dec.ny.gov/lands/86747.html>. If you have a question which cannot be answered using information from the website, please contact the Division of Water at [DOW.R3@dec.ny.gov](mailto:DOW.R3@dec.ny.gov).

### **STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) WASTEWATER**

Discharges of wastewater to surface water and groundwater are regulated and may require a permit. A discharge is regulated if it includes any pollutant, including sewage, industrial by-product, and heat from coolant systems. All discharges to surface waters require a permit. All discharges of industrial pollutants require a permit. Industrial pollutants include agriculture-related by-products from brewing, distilling, canning, and silage. Sewage discharges to groundwater do not require a SPDES permit if they are less than 1,000 gallons per day; residencies of less than 5 bedrooms will not require a permit. For more information, please visit <https://www.dec.ny.gov/permits/6306.html>. If you have a question which cannot be answered using information from the website, please contact the Division of Water at [DOW.R3@dec.ny.gov](mailto:DOW.R3@dec.ny.gov).

Please be advised that, prior to construction of any new or modified waste disposal system for a discharge authorized under a SPDES permit, the permittee must submit to DEC an approvable engineering report, plans, and specifications prepared by NYS-licensed engineer and developed in accordance with standards accepted by the Department. Please submit a complete Application for Approval of Plans for a Wastewater Disposal System along with the design documents to

[DOW.R3@dec.ny.gov](mailto:DOW.R3@dec.ny.gov). Copies of this Application for Approval of Plans form must be requested from the Division of Water via email.

### **SPDES STORMWATER**

If the overall project will disturb over one acre of land (or 5000 square feet or more of land within the NY City Department of Environmental Protection East of Hudson Watershed<sup>1</sup>), the project sponsor must obtain coverage under the current SPDES General Permit for Stormwater Discharge from Construction Activity (GP-0-20-001), and a Stormwater Pollution Prevention Plan (SWPPP) must be developed which conforms to requirements of the General Permit. Authorization for coverage under this SPDES General Permit is not granted until the Department issues all other necessary DEC permits. Information on gaining coverage under GP-0-20-001 is available online at <https://www.dec.ny.gov/chemical/43133.html>. If you have a question which cannot be answered using information from the website, please contact the Division of Water at [DOW.R3@dec.ny.gov](mailto:DOW.R3@dec.ny.gov).

### **AREA-SPECIFIC JURISDICTIONS**

Two permit jurisdictions apply only in specific locations. Please note that in these regulatory areas, virtually all activities beyond ordinary maintenance of existing structures may require a permit.

**Coastal Erosion Management:** Projects along the shoreline of Long Island Sound may also require a Coastal Erosion Management permit for work in the Coastal Erosion Hazard Area (CEHA). The CEHA is mapped in Region 3 along the outer shoreline of the Villages of **Larchmont** and **Mamaroneck**, the Town of **Mamaroneck**, and the Cities of **Rye** and **New Rochelle**<sup>2</sup>.

**Wild, Scenic, Recreational Rivers (WSRR):** Two river sections in DEC's Region 3 are mapped under WSRR with associated regulated River Areas. Projects in the following areas may require a WSRR permit:

- the Village of **Sloatsburg** and nearby portions of the Town of **Ramapo**, up to 0.5 mile from the Ramapo river;
- the Towns of **Gardiner** and **Shawangunk**, up to 0.5 mile from the Shawangunk Kill;

Projects in these specific areas should contact the Department for a determination whether their parcel is regulated.

### **OTHER**

Please note, this is not an exhaustive list of all the DEC permits, licenses, or approvals that may be required for a given project. If you believe any one of the above-described permits could be required for your project, an application must be submitted. The application forms, lists of required materials for application, guidance on the permit process, and examples of regulated projects are available at <https://www.dec.ny.gov/permits/6222.html>. Please note, approvals from other agencies may be required as well. DEC cannot comment on other agencies' jurisdiction, and other agencies must be contacted directly for questions on their jurisdiction.

If you continue to have questions about DEC permit jurisdiction for your project after reviewing the online resources linked to above, please contact the Division of Environmental Permits at [dep.r3@dec.ny.gov](mailto:dep.r3@dec.ny.gov), or 845-256-3054. However, please note that basic jurisdictional inquiries are not afforded any regulatory timeframes or procedures in which staff has to process or respond.

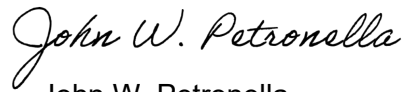
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<sup>1</sup> The NYC DEP watershed boundary can be viewed on the interactive Recreation Area Map on their website at <https://www1.nyc.gov/site/dep/recreation/recreation.page>

<sup>2</sup> Note: The City of New Rochelle is a Certified CEHA Community and issuance of Coastal Erosion Management Permits is the responsibility of the City.

Submission of actual applications can be made to the Region 3 Office in New Paltz or to the email above; electronic submission of applications is highly recommended and will speed processing.

Sincerely,

A handwritten signature in black ink that reads "John W. Petronella". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

John W. Petronella  
Regional Permit Administrator  
Division of Environmental Permits