



January 17th, 2025

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RE: Freshwater Wetland Regulations and General Permit

Wetlands are an extremely valuable and fragile resource across New York State. The New York Forest Owners Association supports wise, sustainable management of all lands and resources and has commented many times on the various changes proposed for Freshwater Wetlands in New York. The recent changes to the Freshwater Wetland Regulations, adopted as of January 1, 2025, and the proposed General Permit raise serious concerns for the agricultural and forestry sectors. Of particular concern is the silvicultural exemption, and protection for endangered bats.

Silvicultural Exemption

In Amendments to Article 24 Freshwater Wetlands Title 23 of Article 71 of the Environmental Conservation Laws under Title 7, 24-0701, item 4, effective January 1, 2025, it states in part:

On lands in active agricultural use or silviculture use, the activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit under subdivision one of this section...

This has been generally referred to as the silvicultural exemption.

From the beginning of the Freshwater Wetlands Act in 1975, it was recognized that certain agricultural and forest management practices are compatible with sustained existence of wetlands while at the same time actually enhancing the resiliency and health of the wetland. It is also well known that there are practical limits on the times of the year when even limited tree harvesting can be undertaken without causing environmental disruption to the site. Any permitting process, even though on a "fast-track" basis takes time and often results in operations being postponed for a year. The exemption as updated in the amendments to take effect January 1, 2025 preserve this exemption.

In the draft general permit proposed (GENERAL PERMIT GP-0-25-003 Freshwater Wetlands) that would be required for any activities on wetlands, the following Authorized Activities are included:

5. Temporary access roads and/or laydown areas in the wetland adjacent area where no woody vegetation above 3 inches diameter at breast height is cleared.

6. Selective cutting, hazard tree removal, and/or removal of dead ash trees not including clear cutting.
7. Cutting of trees or other vegetation in the wetland adjacent area necessary to complete any other authorized activity in this permit within the disturbance thresholds identified, except where prohibited.

However, since the original and amended statute exempts these activities, no further general permit should be required. Requiring a permit, even though well-intentioned, can easily lead to any operation being held up for at least a year due to weather conditions. During this time markets can change, and other economic or environmental factors may change.

We recommend that another category under EXCLUDED JURISDICTIONS be added:
Lands in active agricultural use or silvicultural use.

Endangered bat habitat

Under Natural Resource Permit Conditions of the proposed General permit, item 6 reads as follows:

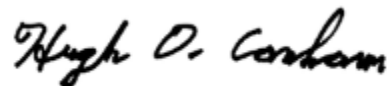
- 6. Tree Removal Restrictions** Tree removal is prohibited between March 1 and November 30 in Nassau and Suffolk Counties and between April 1 and October 31 in the rest of New York State to protect threatened and endangered bat species, unless otherwise authorized by the Regional Permit Administrator.

This section is shown as applying to the Following Permits: EXCAVATION & FILL IN NAVIGABLE WATERS; STREAM DISTURBANCE; FRESHWATER WETLANDS. This broad coverage could be misleading with unintended consequences and cause undue hardship on any forest management or agricultural activity across a wide spectrum. It is recommended that more specific wording be used, including limiting this action to known occupied sites and other conditions as contained in existing federal and New York state guidelines for endangered bat species.

The New York Forest Owners Association appreciates the opportunity to comment on this important issue of wetlands and stands ready to assist the New York State Department of Environmental Conservation in educating landowner about this and other legislation and regulations affecting sustainable forest management on New York's 13 million acres of privately owned and woodlands.



Edward Neuhauser
President



Hugh Canham
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