



Department of Environmental Conservation



US Army Corps of Engineers®

**State Programmatic General Permit (SPGP) -1  
for Emergency Response and Storm Recovery Activities in  
In Regulated Waters in New York State excluding New York State Department of  
Environmental Conservation Regions 1, 2, and portions of Region 3**

Issued by  
The United States Army Corps of Engineers (USACE), New York and Buffalo Districts and  
The New York State Department of Environmental Conservation (NYSDEC)

Pursuant to  
Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1344, 6 NYCRR 608.9)  
Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Article 15, Title 5 of the Environmental Conservation Law (ECL) Protection of Waters (6 NYCRR 608)  
Article 24 of the ECL Freshwater Wetlands (6 NYCRR 663)  
and Article 15, Title 27 of the ECL Wild, Scenic and Recreational Rivers (6 NYCRR Part 666)

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

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## A. Introduction and Authorities

### Introduction

Eligible emergency response and post-storm recovery activities occurring within state and/or federally regulated waters to facilitate the restoration of sites that were damaged as a result of a major storm event, as described in this State Programmatic General Permit (SPGP), are authorized in these geographic areas: All of New York State except in NYSDEC Region 1 (Long Island), NYSDEC Region 2 (New York City), Coastal Erosion Hazard Areas in NYSDEC Region 3, and in tidal wetlands regulated by Article 25 of the Environmental Conservation Law including tidal wetlands located in and along the Hudson River south of the Tappan Zee Bridge. "Regulated waters" are all waters subject to the jurisdiction of the United States Army Corps of Engineers (USACE) and/or the New York State Department of Environmental Conservation (NYSDEC) pursuant to the authorities outlined in Section A of this SPGP. Regulated waters include tidal and fresh waters, rivers, streams, lakes, ponds, wetlands.

This permit is activated by the USACE and NYSDEC as needed in response to major storm events, and is not valid unless activated by the appropriate USACE district and NYSDEC. In the event of a Federal and/or State Emergency Declaration, this SPGP is automatically activated on the date of the declaration. See the attached terms and conditions of this permit to determine if written affirmation from USACE and/or NYSDEC is necessary prior to commencing work. Permittees will have two (2) years from date of activation to complete work. Upon activation, a notice will be placed on the USACE Buffalo District web site at: [www.lrb.usace.army.mil/Missions/Regulatory](http://www.lrb.usace.army.mil/Missions/Regulatory) and the USACE New York District web site at: <http://www.nan.usace.army.mil/Missions/Regulatory> and the NYSDEC web site at: [www.dec.ny.gov](http://www.dec.ny.gov).

A time extension of up to two years can be requested according to these terms: the permittee has submitted a written request for extension to NYSDEC and USACE at least thirty (30) days prior to the end of the two-year authorized work period, there has been no change from the original scope of the project, and the permittee has received a written response authorizing the extension of coverage. General Condition #21 of this SPGP contains additional information about renewals and time extensions.

See the attached terms and conditions of this permit to determine if written affirmation from the USACE and/or the NYSDEC is necessary prior to commencing work.

Prior to commencing the activity authorized by this permit or directing a contractor to perform such activity on your behalf, be sure that all parties read, understand and are prepared to comply with the terms and conditions of this permit.

Noncompliance with any of the terms or conditions of this permit may result in an order to remove the activity, civil and/or criminal penalties, or both.

Every effort will be taken by USACE and NYSDEC to expedite the review of emergency activities associated with this permit.

In the event that either agency determines that permits are not required for a particular storm event, at a particular time, or a specific activity, it does not obviate the need to obtain permits from the other agency. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.

### Authorities

**Projects covered under this SPGP must meet permit issuance standards as set forth in the implementing regulations. Either USACE or NYSDEC may deny coverage of this permit to projects that do not meet permit issuance standards as conditioned by the terms of this permit. These projects may require an individual permit from one or both agencies. The USACE and the NYSDEC reserve the right**

**to re-assign a project to a different work category as described in Section C of this SPGP or to include any additional special conditions or to require an individual permit as may be necessary to safeguard the public interest or protect important public resources on a case-by-case basis.**

### ***Federal Authorities***

Section 404 of the Clean Water Act (33 U.S.C. 1344)  
and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Work and structures located in, or that affect, navigable waters of the United States, including work over and under those waters, as prescribed in USACE regulations implementing Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and the discharge of dredged or fill material into Waters of the U.S., including but not limited to wetlands, as prescribed in USACE regulations implementing Section 404 of the Clean Water Act (33 U.S.C. 1344), would be eligible for consideration under this SPGP.

### ***State Authorities***

Article 15, Title 5 of the ECL Protection of Waters (only 6 NYCRR 608.2, 608.4, 608.5 and 608.9)  
Article 24 of the ECL Freshwater Wetlands (6 NYCRR 663)  
Section 401 of the Clean Water Act Water Quality Certification (6 NYCRR 608.9)  
and Article 15, Title 27 of the ECL Wild, Scenic and Recreational Rivers (6 NYCRR Part 666)

Work and structures located in, or that affect navigable waters of New York State (NYS) or the bed or banks of protected streams as prescribed in NYSDEC regulations implementing Article 15, Title 5 of the ECL; federally-delegated Section 401 Water Quality Certifications for work pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344); and outside of the Adirondack Park, Freshwater Wetlands and their associated Adjacent Areas regulated under Article 24 of the ECL; and Wild, Scenic and Recreational Rivers regulated under Article 15, Title 27 of the ECL would be eligible for consideration under this SPGP.

Within the Adirondack Park, Freshwater Wetlands and their associated Adjacent Areas, Wild, Scenic and Recreational Rivers and shorelines are subject to the jurisdiction of the New York Adirondack Park Agency (APA) pursuant to Article 24 and Article 15, Title 27 of the ECL and Executive Law § 801 et seq. Projects in the Adirondack Park covered by this SPGP may require a separate authorization from the APA unless they qualify as an “emergency project” pursuant to 9 NYCRR § 572.15 of APA’s regulations. Qualifying emergency projects will not require an APA permit and/or variance.

### ***Related State Authorizations***

#### ***Coastal Erosion***

If a project occurs along Lake Erie or Lake Ontario within a Coastal Erosion Hazard Area, as identified on the NYSDEC Coastal Erosion Hazard Area Map in Appendix F of this SPGP the applicant must obtain a separate authorization under the NYSDEC Coastal Erosion Management Permit Program.

#### ***Storm Water***

Any project which will disturb greater than one acre of land, cumulatively, is required to obtain authorization separately under the State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP -0-15-002 or current version thereof) through the NYSDEC.

#### ***Section 401 Water Quality Certification***

The NYSDEC has granted Section 401 Water Quality Certification for activities in Categories A and B of Section C of this SPGP. Section 401 Water Quality Certification will be granted for activities in Category C of Section C of this SPGP when the activity is authorized by the NYSDEC.

## **Coastal Consistency Certification**

The USACE has determined that, subject to the condition that all Category C activities within or affecting the NYS Coastal Area (as described in Section C of this SPGP) require an individual consistency concurrence from the NYS Department of State (DOS), this SPGP is consistent to the maximum extent practicable with the New York State Coastal Management Program pursuant to 15 CFR Part 930 subpart C. DOS has concurred with this determination. Category A and B activities may be undertaken without DOS review.

Applicants proposing to undertake Category C activities, within or affecting the NYS Coastal Area, shall submit a consistency certification and all necessary data and information to the DOS. If the DOS objects to (denies) an applicant's consistency certification, the consistency provisions of the Coastal Zone Management Act prohibit the USACE from authorizing the proposed activity.

To determine if the applicant's project is in the NYS Coastal Area, and to learn how to submit a Consistency Certification, please visit the DOS's website at: <http://www.dos.ny.gov/opd/programs/consistency/index.html>.

## **B. Application and Notification Requirements**

### **Pre-Construction Requirements**

An applicant may be required to notify NYSDEC or USACE or both agencies to obtain authorization to commence activities, as identified below.

#### **Category A**

If the activity representing the single and complete project meets the work description and impact thresholds identified in Category A of Section C of this SPGP, and meets all terms and conditions of this SPGP, then prior to the commencement of the proposed work, the applicant must submit to the appropriate NYSDEC Region a complete permit application in accordance with the instructions in Appendix A.

If the NYSDEC does not reply to the applicant within five (5) business days of receiving the Joint Agency Authorization Form, then the applicant may proceed with the project as proposed. If the NYSDEC provides authorization prior to five (5) business days, the applicant may proceed with the project.

An applicant is not required to obtain written permission from either the USACE or the NYSDEC to commence work under Category A of this SPGP after the five (5) business day period.

#### **Category B**

If the activity representing the single and complete project meets the work description and impact thresholds identified in Category B of Section C of this SPGP, and meets all of the terms and conditions of this SPGP, then prior to the commencement of the proposed work the applicant must:

1. Submit to the appropriate NYSDEC Region a complete permit application in accordance with the instructions in Appendix A, and
2. Receive written verification from the NYSDEC prior to the commencement of work.

Activities in Category B which meet the terms and conditions of this SPGP may proceed without written authorization from the USACE following receipt of NYSDEC verification that the proposed work is in accordance with the terms and conditions of this SPGP.

Although the NYSDEC is the agency that would verify most projects under Category B of this SPGP in accordance with their authorities and on behalf of the USACE, the USACE may also verify Category B activities under this SPGP on behalf of the NYSDEC in an effort to improve our collective response to a storm event. This is most likely to occur when making permit decisions in the field. Therefore, prior verification by

either the NYSDEC or the USACE under Category B of this SPGP is sufficient to commence work in accordance with the terms and conditions of this SPGP.

### **Category C**

Category C activities require written approval from both NYSDEC and USACE prior to the commencement of the work.

If the activity representing the single and complete project meets the work description and impact thresholds of Category C in Section C of this SPGP, written authorization must be obtained from the NYSDEC and USACE prior to the commencement of any work being conducted under the terms and conditions of this SPGP. A completed permit application per the instructions in Appendix A of this SPGP is to be submitted to both the appropriate District office of the USACE and the regional NYSDEC office. The work shall not proceed until both agencies authorize in writing that the work may proceed in accordance with the terms and conditions of this SPGP.

### ***Project-Specific Features That Automatically Require Category C Review***

Regardless of activity thresholds and/or category assigned in Section C of this SPGP, if a project will affect any of the resources indicated below, the applicant must use Category C authorization instructions above to obtain permit coverage under this SPGP if such coverage is available.

#### **1. Threatened or Endangered Species**

##### **a. Federal**

No activity is authorized under this SPGP which is likely to directly or indirectly jeopardize the continued existence of a federally listed threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under this SPGP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

Regardless of the proposed activity and corresponding Category, the applicant must submit an application to the USACE for any project located within the Sensitive Areas identified in Appendix D of this permit. Work shall not begin on the activity until the applicant is notified by the USACE that the requirements of the ESA have been satisfied and that the activity is authorized. Note that in the event that a project has already been authorized and/or funded by another federal agency, the applicant must provide the USACE with that federal agency’s determination, as part of the application, in order to demonstrate compliance with Section 7 of the ESA.

Authorization of an activity by this SPGP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS), The ESA prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

**b. State**

No activity is authorized under this SPGP which is likely to cause the taking of a species listed by the New York State pursuant to Article 11, Title 5 of the ECL as threatened or endangered. A taking is defined as pursuing, shooting, hunting, killing, capturing, trapping, snaring and netting of a species as well as lesser acts such as disturbing, harrying or worrying. All projects in areas of potential habitat as defined by the NYS Natural Heritage Program will require review to determine if there is potential for taking.

**2. Historic Properties**

**a. Federal**

In cases where the lead federal agency determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. Regardless of the proposed activity and corresponding category, an applicant must submit an application to the USACE if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties.

Work shall not begin on the activity until the applicant is notified by the USACE that the requirements of the NHPA have been satisfied and that the activity is authorized. If a project has already been authorized and/or funded by another federal agency, the applicant must provide the USACE with federal agency's determination, as part of the application, in order to demonstrate compliance with Section 106 of the NHPA.

**b. State**

A federal Section 106 review is sufficient to meet the requirements of the NYS Historic Preservation Act (SHPA). If a Section 106 review is not required, consultation with the NYS Office of Parks, Recreation and Historic Preservation (OPRHP) pursuant to Section 14.09 of SHPA may be necessary to determine if the project will have an adverse impact on registered or eligible archaeological sites or historic structures.

**3. Wild and Scenic Rivers- Federal**

The Upper Delaware River has been designated as a National Wild and Scenic River (NWSR) from the confluence of the East and West Branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York. Also, the portion of the Genesee River located within Letchworth Gorge State Park, beginning at the southern boundary of the park and extending downstream to the Mt. Morris Dam, was designated by Congress as a permanent Study River in the Genesee River Protection Act of 1989. Any activity in these waters requires an application to the USACE. No activity may occur within a NWSR, including Study Rivers, unless the National Park Service (NPS) has determined in writing that the proposed work will not adversely affect the NWSR designation or study status and the activity is authorized by the USACE.

**4. Federal Projects**

An application is required to be submitted to the USACE for any proposed activity located within, or which may affect, a Federal project, and the work may not proceed unless it is authorized by the USACE.

**Post-Construction Requirements**

Within 30 days of the completion of the work authorized by this permit, regardless of category, the permittee is required to complete and submit the Post-Construction Compliance Form contained in Appendix C to both the appropriate USACE District and NYSDEC Regional offices.

## C. Eligible Activities

This SPGP authorizes 13 different types of activities associated with the repair or replacement of structures and/or fills that were functional just prior to the storm, bank stabilization, waterway restoration and stabilization and temporary construction access or dewatering impacts necessary to accomplish the emergency response or storm recovery work per the specific thresholds prescribed in the table below.

An applicant must determine which general activity description most closely represents the proposed project. Then, the applicant must determine the proposed project's appropriate category by determining whether or not the proposed project will be conducted within that category's thresholds and, if applicable, according to the Detail(s) referenced in the table. Details are available in Appendix E of this permit.

Details, for the purpose of this SPGP, are drawings or plan specifications that indicate the project design and required Best Management Practices (BMPs). By adhering to the Detail(s) associated with a project, the applicant will design and perform the work in a manner that minimizes any adverse environmental effect on the aquatic resource(s). Activity Details are associated with the table in this Section and indicate practices that must be followed in order to comply with a specific activity or category within this SPGP. BMPs are described in BMP Details (Appendix E of this SPGP) and are associated with the Special Conditions in Section E of this SPGP. BMP Details must be followed in order to comply with this SPGP unless a comparable alternative is approved by the NYSDEC and/or USACE.

An applicant must assign the proposed project to Category A, B or C and must apply for coverage under this SPGP according to the proposed project's assigned category.

If the proposed project cannot be conducted according to the work description and impact thresholds in either Category A or Category B of the table, the proposed project is either not eligible for this SPGP (see Section D of this SPGP) or the applicant must proceed with the application and notification requirements for the proposed project under a Category C review process.

Certain accumulated sediment/gravel removal activities as indicated in Section C of this SPGP will be assigned a category depending on areal extent of the activity and whether or not an applicant designs and implements the activity according to the Post-Flood Emergency Stream Intervention Training Manual Tools (ESI Manual).

## ELIGIBLE ACTIVITIES TABLE

General Activity Description	Category A Activity Can Commence 5 Business Days after Joint Agency Authorization Form Submitted to NYSDEC	Category B Activity Must be Verified by NYSDEC OR USACE	Category C Prior Authorization Required from NYSDEC AND USACE
<b>1 Culverts Conveying Streams</b>	In-place repair (not replacement or resetting) of previously authorized existing culverts conveying streams.	Replacement and/or re-setting of previously authorized existing culverts conveying streams in accordance with <b>Activity Detail 1.</b>	Repair or replacement of culverts that do not otherwise qualify for activities A1 or B1.
<b>2 Bulkheads &amp; Vertical Walls</b>	In-place repair (not replacement) of previously authorized bulkheads or vertical walls.	Replacement of previously authorized bulkheads or vertical walls in accordance with <b>Activity Detail 2.</b>	Repair or replacement of bulkheads & vertical walls that do not otherwise qualify for activities A2 or B2.
<b>3 Bridges</b>	In-place repair (not replacement or resetting) of previously authorized bridges.	Replacement and/or re-setting of previously authorized bridges in accordance with <b>Activity Detail 3.</b>	Repair or replacement of bridges that do not otherwise qualify for activities A3 or B3.
<b>4 Other Structures &amp; Fills</b>	In-place repair of previously authorized other structures and/or fills not covered in activities A1, A2, or A3. No permanent loss to regulated waters or installation of articulated concrete mats.	Repair or replacement of previously authorized other structures and/or fills not covered in activities B1, B2, or B3. Minor deviations, at the end of this table, are allowed. Utility repair and replacements in accordance with <b>Activity Details 4A and 4B.</b>	Repair or replacement of other structures and/or fills that exceed the requirements for activities A4 and B4.
<b>5 Bank Stabilization</b>		Bank stabilization up to 500 LF (No vertical walls). Bank stabilization must be done in accordance with <b>Activity Details 5, 6, 7, or 8.</b>	Bank stabilization not qualifying for activity B5.
<b>6 In-Stream Structures</b>		Installation of in-stream grade or directional control structures that do not span the entire channel width in accordance with <b>Activity Details 9 or 10.</b>	Installation of in-stream grade or directional control structures that span the entire channel width per <b>Activity Detail 11</b> or other structures as authorized by agencies.
<b>7 Sediment / Gravel Removal within Streams using ESI Manual</b>	Removal of storm deposited sediment/gravel in stream channels up to 100 LF using ESI Manual.	Removal of storm deposited sediment/gravel in stream channels for a total distance of between 100 LF to 500 LF using ESI Manual.	Removal of storm deposited sediment/gravel in stream channels for a total distance greater than 500 LF using ESI Manual.
<b>8 Sediment / Gravel Removal within Streams Not Using ESI Manual</b>		Removal of storm deposited sediment/gravel in stream channels for a total distance of up to 200 LF not using ESI Manual.	Removal of storm deposited sediment/gravel in stream channels for a total distance greater than 200 LF not using ESI Manual
<b>9 Debris and Sediment Removal within Wetlands</b>	Removal of storm deposited debris within regulated waters and/or adjacent areas that does not involve the placement of fill or the use of mechanized equipment.	Removal of storm-deposited debris or storm deposited sediment/gravel within regulated waters and/or adjacent areas with ground disturbances of up to 0.10 acre that does not involve the placement of fill.	Removal of storm-deposited sediment/gravel within regulated waters and/or adjacent areas with disturbances exceeding 0.10 acre
<b>10 Stream Channel Re-Alignments</b>		Stream channel re-alignments up to 100 lf.	Stream channel re-alignments greater than 100 lf.

General Activity Description	Category A Activity Can Commence 5 Business Days after Joint Agency Authorization Form Submitted to NYSDEC	Category B Activity Must be Verified by NYSDEC OR USACE	Category C Prior Authorization Required from NYSDEC AND USACE
11 Temporary Access and Dewatering		Temporary access or dewatering within regulated waters and/or adjacent areas impacting up to 0.10 acre and/or involving the construction of causeways up to ½ width of the stream channel at OHW / MHW elevation.	Temporary access or dewatering within regulated waters and/or adjacent areas impacting greater than 0.10 acre; involving the construction of causeways exceeding ½ width of stream channel at OHW / MHW elevation; and/or utilizing dredged / excavated material for temporary fills.
12 Dredging and Return Water	Return water from upland contained dredge material disposal area	Dredging and/or the discharge associated with the excavation of up to 500 cubic yards of storm deposited sediments/gravel in navigable waters, lakes and ponds with upland disposal.	Dredging and/or the discharge associated with the excavation of greater than 500 cubic yards of storm deposited sediments/gravel in navigable waters, lakes and ponds with upland disposal.
13 Beach Restoration			Beach restoration to pre-storm conditions below OHW / MHW elevation.

**Minor Deviations:** This term is specifically being applied to General Activity Description 4, Other Structures & Fills. Minor deviations in the structure's configuration or fill area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair or replacement may be authorized by this SPGP, provided that they do not change the purpose of or increase the capacity of the pre-storm facility. All of the following must be adhered to in order to be eligible for Category B review:

1. The work cannot cause the loss of greater than 0.05 acre of regulated waters.
2. Any extension of a structure or fill must be necessary to maintain the pre-storm function of the facility (i.e. increase length of ramp due to new gap between a pier and post-storm shoreline).
3. All replacement activities shall be in-place to the maximum extent practicable, and when it can't it must at least overlap the footprint of the pre-storm structure and/or fill area.
4. **No minor deviations are authorized under Category B for aerial and buried utility lines in federal navigable waters, or for utility lines placed on the bed of federal navigable waters. In federal navigable waters, Category C review is required for any deviations in height above water, depth below the bed, change in alignment, and/or any increase in size. See Activity Details 4A & 4B for additional requirements for utility lines.**

## D. Non-Eligible Activities

The following activities or practices are not eligible for coverage under this SPGP:

1. Any work in regulated waters to reclaim land that was lost over an extended period of time due to normal erosion occurring prior to the storm event.
2. Repair and/or replacement of existing structures and/or fills that were non-functional just prior to the storm event.
3. Restoration of non-functional bulkheads and their remnants (including deadman and pierheads) existing prior to the storm.
4. Repair and/or replacement of bulkheads that extend greater than 18 inches waterward from the pre-storm location.
5. Installation of new bulkheads or vertical walls in wetlands, vegetated shallows or mudflats where structures previously did not exist.
6. The removal of stream gravel for the express purpose of sale as part of a gravel mining operation.
7. Dredging or extraction of sediment or debris that was not deposited from the storm event, or is not necessary to prevent the loss of property or reduce flooding and/or erosion.
8. Any channelization, channel widening, deepening, or straightening activity that contributes to stream instability.
9. Side-casting of dredged material along streams.
10. Construction of in-stream sediment detention basins.
11. Installation of new gabion rock walls below the Ordinary High Water (OHW) or Mean High Water (MHW) elevation.
12. Installation of new concrete aprons.
13. Permanent replacement of multiple barrel culverts used at a single crossing within streams.
14. Slip lining and invert paving of culverts with the exception of cured-in-place pipe lining.
15. Use of grouted rip-rap.
16. Building permanent berms with the excavated stream material or any other materials.
17. Permanent loss and/ or dredging or excavation in mudflats, vegetated shallows, or submerged aquatic vegetation.
18. Any activity in areas of concentrated shellfish populations.
19. Any activity that results in a loss of a bog or a fen as classified per the publication: Edinger et al., 2014. *Ecological Communities of New York State*. Second Editions. New York Natural Heritage Program. New York State Department of Environmental Conservation, Albany, NY.

20. Dredging or excavation of materials containing toxic pollutants in toxic amounts (See Section 307 of the Clean Water Act).

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## **E. Special Conditions**

The NYSDEC and USACE reserve the right to add additional special conditions when authorizing activities under this SPGP. Unless otherwise authorized by NYSDEC or USACE, the following conditions and associated BMP Details shall be implemented for any work authorized under this SPGP:

### **Erosion and Sediment Controls / Stabilization Measures**

1. Appropriate soil erosion and sediment controls shall be installed, used and maintained in effective operating condition during all work. Controls shall be inspected periodically to ensure that they are not damaged, repairs shall be completed promptly, and shall remain in place until the site is stabilized by the regrowth of suitable vegetation. At a minimum, erosion and sediment control and stormwater management practices shall be designed, installed and maintained in accordance with the latest version of the "New York Standards and Specifications for Erosion and Sediment Control" and the "New York State Stormwater Management Design Manual".
2. All exposed soil and other fills, as well as any work above the mean/ordinary high water mark shall be permanently stabilized and/or vegetated as soon as practicable.
3. Disturbance of existing vegetation shall be kept to the minimum necessary to perform the permitted work.
4. All synthetic erosion and sediment control features (e.g., silt fencing, netting, geotextile mats), which are intended for temporary use during construction, shall be completely removed and properly disposed of after their initial purpose has been served. Only natural fiber materials, which will degrade over time, may be abandoned in place.

### **Stockpiles and Upland Disposal**

5. Fill or other excavated materials shall not be stockpiled in a manner conducive to erosion, or in areas with the potential to cause turbid runoff during storm events. No stockpiles shall be placed on beaches.
6. All storm-deposited sediment dredged or excavated from regulated waters that is not used as backfill shall be deposited in uplands, outside of any floodplain, and be contained from re-entering any regulated waters. Disposal sites must be identified in the application.
7. Dredged sediment or excavated material must remain on the parcel from which it was removed unless the dredged sediment or excavated material is approximately 90% sand or gravel or larger, or comes from a site with no known contamination. The placement of dredged sediment or excavated material offsite under any other conditions may render the activity ineligible for the SPGP until NYSDEC approves a project-specific sediment management plan.
8. With the exception of woody debris utilized for bank stabilization, storm-deposited debris shall not be used as backfill and shall be deposited in uplands, outside of any floodplain, and be contained from re-entering any regulated waters.
9. Materials resulting from trench excavation for utility line repair or ditch reshaping activities which are temporarily sidecast or stockpiled into regulated waters must be backfilled or removed to an upland area within 30 days of the date of deposition. Upland options for stockpiles shall be utilized prior to temporary placement within regulated waters, unless it can be demonstrated that it would not be practicable or if the impacts of complying with this upland option requirement would result in more adverse impacts to the aquatic environment. Except as described in this special condition, dredged or excavated material must not be sidecast or temporarily stored in state and federally regulated wetlands.

10. Pursuant to 6 NYCRR 360-1.2(b)(4)(ix), materials dredged or excavated in accordance with the terms and conditions of this SPGP are not subject to a Solid Waste Permit.
11. Mats or geotextile fabric shall be placed under any temporary fill or stockpile and shall be removed following construction.

## **Water Handling Plan / Dewatering Activities**

12. Construction access shall be by means that avoid or minimize impacts to aquatic sites (e.g. upland access, floating barges, temporary bridges, equipment mats, etc.). Refer to BMP Details 12 and 13.
13. Work in tidally-influenced regulated waters shall be undertaken during low tide, except for work that occurs within the limits of a floating barrier (i.e., turbidity curtain) or within a dewatered area. Refer to BMP Detail 14. To the maximum extent practicable, no work shall occur during periods of high water and/or wave conditions.
14. Turbidity controls in the form of a floating barrier (i.e., turbidity curtains, silt curtains, silt barriers or turbidity barriers) installed to isolate work areas in open regulated waters, shall remain in place during all excavation and restoration operations. Turbidity controls shall not be placed across channelized flow. Refer to BMP Detail 14.
15. No in-stream work shall occur during periods of high flow, except for work that occurs in dewatered areas behind temporary diversions, cofferdams or causeways, to unplug culverts and bridges, or to install temporary culverts or bridges for emergency access. Refer to BMP Details 15, 16, 17 and 18.
16. Dry stream crossing methods (e.g., passive flow bypass, cofferdam, pump around and/or flume) shall be utilized within stream channels to reduce downstream impacts from turbidity and sedimentation. Refer to BMP Details 15, 16, 17 and 19.
17. Diversion channels through soil shall be lined with non-erodible material such as stone or plastic to limit erosion and reduce particle suspension. Diversion channels through gravel bars shall be excavated and restored in the dry using channel plugs. Refer to BMP Detail 15.
18. Temporary dewatering structures shall be constructed of clean material such as prefabricated impervious dikes/berms or sandbags. If stone is utilized, it shall be protected from erosion by plastic liners or filter fabric. Refer to BMP Details 15, 16, 17 and 19.
19. Waters accumulated in isolated work areas shall be discharged to an upland settling basin or well vegetated area to provide for settling and filtering of solids and sediments. Return waters shall be as clear as the flowing water upstream of the work area. Refer to BMP Detail 20.
20. Temporary dewatering structures and associated fill shall be completely removed and the affected waters restored immediately following the completion of work. Refer to BMP Details 15, 16, 17 and 19.
21. Energy dissipation devices shall be utilized at the downstream end of diversion channels, flume systems and pumping operations to prevent scour, erosion and particle suspension.
22. In-stream construction shall require dewatering techniques that avoid or minimize impacts to aquatic sites. Refer to BMP Details 12, 13, 14, 15, 16 and 17.

## **Water Quality / Pollution Prevention**

23. All necessary precautions shall be taken to preclude contamination of any regulated waters by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, or any other environmentally deleterious materials associated with the project.
24. No activity may involve the use of unsuitable material, which includes, but is not limited to chemical or hazardous waste, trash, debris, car bodies, tires, asphalt, etc. Material that is used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act (CWA)). If there is a question as to whether the material is unsuitable, the applicable USACE District or NYSDEC shall be contacted and must authorize prior to the commencement of the activity.
25. All return flow from dredge material disposal areas shall not result in an increase in turbidity in the receiving waters that will cause a substantial visible contrast to natural conditions.
26. For activities involving the placement of concrete into regulated waters, no direct contact shall be allowed between uncured concrete and the regulated waters. The permittee must either employ watertight forms or pour concrete only during low tide. Forms shall be dewatered prior to the placement of the concrete. Washings from ready-mixed concrete trucks, mixers, or other devices shall not be allowed to enter any regulated waters. The use of tremie concrete is allowed, provided that it complies with New York State Water Quality Standards.
27. Use of creosote treated wood is prohibited in New York State. All treated wood must be aged in the open air for at least three months prior to in-water use. Wood must be clean and free of surface deposits. Timber with surface deposits must be washed for at least five minutes under running water prior to use. Any wood debris, such as sawdust or wash water, must not enter any regulated waters. This washing must occur more than 100 feet from regulated waters. The use of wood treated with Pentachlorophenol is prohibited in marine or brackish waters. For more information, contact the applicable NYSDEC regional office and U.S. Environmental Protection Agency regional office.
28. Temporary causeways and work pads within regulated waters shall be constructed within the confines of a water control structure and shall consist of clean non-erodible material such as broken concrete, stone, timber, steel or other inert materials. The temporary causeways and work pads shall not be installed until the water control structure is in place and the area has been completely dewatered, and shall be removed prior to removal of the water control structure. Equipment staging and lay down areas shall not be located in wetlands.

## **Wetlands**

29. To the maximum extent practicable, the placement of fill in wetlands shall be designed to maintain pre-construction surface water flows/conditions between remaining on or off-site waters. This may require the use of culverts and/or other measures. Refer to BMP Detail 18. Furthermore, the activity shall not restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters). The activity may alter the pre-construction flows/conditions if it can be shown that it benefits the aquatic environment (i.e. wetland restoration and/or enhancement).
30. Discharges of fill material associated with the construction of temporary access roads and work pads in wetlands shall be placed on filter fabric. All temporary fills shall be removed upon completion of the work and the disturbed area restored to pre-construction contours, elevations and wetland conditions.
31. For repair of utilities in wetlands, the permittee shall install and/or reestablish impermeable trench dams or breakers to prevent inadvertent drainage of regulated waters.

32. Heavy equipment working in wetlands or mudflats must be placed on equipment mats, or other measures must be taken to minimize soil disturbance and compaction to the maximum extent practicable. Refer to BMP Detail 13.

## **Streams / Rivers**

33. Work areas shall be dewatered and isolated from stream or river flow to the maximum extent practicable. Refer to BMP Details 12, 13, 14, 15, 16, 17, 18 and 19.
34. Excavated materials shall not be placed along the top of bank or used to create a berm or increase berm bank height. Gravel shall not be pushed up on stream / river banks, slopes etc., unless otherwise authorized. Building berms with the excavated material is expressly prohibited.
35. Whenever feasible, bank grading and in-water removal of material shall be carried out by land-based equipment rather than from the stream / river bed or within flowing water. Generally, work shall proceed from the downstream end to the upstream end of the project reach.
36. Materials temporarily or permanently installed within/on the bed or banks of a stream / river must be of an adequate size and/or placed in a manner that will resist erosion/remobilization of the material during normal or expected high flow events. Furthermore, the activity shall not restrict or impede the passage of normal or expected high flows.
37. Stream / river banks shall be immediately revegetated or otherwise stabilized following the completion of grading or excavation activities.
38. The final configuration of the stream / river channel shall match the geomorphology (i.e., channel dimension, plan, and profile) of a stable reach upstream and downstream of the work site as suggested in the Post-Flood Emergency Stream Intervention Training Tools. This shall include the establishment of a low flow channel as appropriate. The bottom elevation of the stream / river bed shall blend with the adjoining upstream and downstream stable channel reaches.
39. No activity may substantially disrupt the life cycle of those species of aquatic life indigenous to regulated waters, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of regulated waters shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
40. Any in-stream stabilization structure that spans a regulated water must provide for the passage of aquatic organisms, including fish.
41. Unless approved in writing by the appropriate Regional Natural Resources Supervisor of the NYSDEC or their designee, in-stream work is prohibited during the following time periods:
- i. in cold water trout fisheries (waters classified under Article 15 of New York's Environmental Conservation Law with a "t" or "ts" designation), beginning October 1 and ending May 31;
  - ii. in perennial warm water fisheries, (non- trout waters classified under Article 15 of New York's Environmental Conservation Law as "A, B or C"), beginning March 1 and ending July 15.
42. Stone aprons and scour protection placed in streams / rivers shall be installed flush with the invert elevation and filled with native bed material and supplemented with similarly sized material, if needed, to fill interstitial spaces.

## Invasive Species

43. Any tree debris within designated invasive insect quarantined areas, including Emerald Ash Borer (EAB) and Asian Longhorned Beetles (ALB), shall be disposed of by chipping to less than 1 inch in any two dimensions, then used as mulch, erosion control, building agent, or fuel. Wood may only be moved from EAB or ALB quarantine areas under a permit from the NYS Department of Agriculture and Markets. For more information on the Emerald Ash Borer, see <http://www.dec.ny.gov/animals/47761.html>.
44. To prevent the potential introduction of invasive species into regulated waters from other areas the following measures will be taken: Before equipment and materials are used in any project work area involving regulated waters the equipment will be inspected for, and cleaned of, any visible soils, vegetation, and debris.
45. Invasive species and attached soil material that has been removed from vehicles, equipment, and materials, or generated from cleaning operations shall be rendered incapable of any growth or reproduction by placing in plastic bags at least 3 mil thick, hauled in a covered truck, and properly disposed of offsite; or the material shall be managed within the infested project area, provided that no filling of any wetlands or adjacent areas will occur. A list of invasive species is within 6 NYCRR 575 and available at: <http://www.dec.ny.gov/regulations/93848.html>.

## **F. General Conditions (Applicable to all Activities Authorized by this SPGP)**

To qualify for SPGP authorization, the permittee must comply with the following general conditions as applicable along with any project specific conditions that may be imposed by USACE and/or NYSDEC. Projects authorized by this SPGP shall have minimal individual and cumulative adverse environmental impacts as determined by the USACE and/or NYSDEC.

### **Navigation**

1. No activity may cause more than a minimal adverse effect on navigation.
2. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters.

### **Floodplains**

3. Fills within 100 year floodplains must comply with applicable Federal Emergency Management Agency (FEMA) approved state or local floodplain management requirements. Documentation of compliance with FEMA approved state or local floodplain management requirements shall be submitted with the application.

### **Migratory Birds**

4. The applicant is responsible for obtaining any "take" permits required under the USFWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The applicant shall contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.
5. Activities in regulated waters that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

### **Discovery of Previously Unknown Remains and Artifacts**

6. If any previously unknown historic, cultural or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the USACE or other designated lead federal agency must be immediately notified of what was found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required consultation has been completed. Further, should human remains be encountered during any phase of the proposed project, such person or persons encountering the human remains must immediately cease work and must not disturb or remove the remains, must protect the exposed portions of the remains from inclement weather and vandalism, and immediately notify the permittee. Within 24 hours of notification, the permittee must notify the appropriate USACE Office and the New York State Office of Parks, Recreation, and Historic Preservation, Peebles Island State Park, P.O. Box 189, Waterford, New York 12188-0189. The USACE will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

### **Tribal Rights**

7. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

### **Liability and Indemnification**

8. In issuing this permit, the USACE does not assume any liability for the following:

- a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes;
  - b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
  - c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
  - d) design or construction deficiencies associated with the permitted work; and
  - e) damage claims associated with any future modification, suspension, or revocation of this permit.
9. The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
10. The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the NYSDEC, USACE and its representatives, employees, and agents for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to NYSDEC or USACE's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the NYSDEC and/or USACE and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

## **Environmental Values**

11. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, wildlife, and natural environmental values, and discourage the establishment or spread of plant species identified as non-native invasive species by any federal or state agency.

## **No Right to Trespass or Interfere with Riparian Rights**

12. This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

## **Inspections**

13. The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by NYSDEC or USACE or authorized representative(s) in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The permittee shall provide a person to accompany the NYSDEC or USACE's representative during an inspection to the permit area when requested by the NYSDEC or USACE. A copy of the completed, signed, Joint Agency Authorization Form and project drawings must be available for inspection by the NYSDEC or USACE at all times at the project site or facility. Failure to produce a copy of the permit upon request by a NYSDEC or USACE representative is a violation of this permit.

## **Previously Authorized Activities or Orders**

14. Unless expressly provided for by the NYSDEC or USACE, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the NYSDEC or USACE or any of the terms, conditions or requirements contained in such order or determination.

## **Combining Permits**

15. The NYSDEC or USACE reserves the right to use this SPGP in combination with any existing or future Nationwide Permit General Permit or Individual Permit.

## **Limits of this Authorization**

16. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.
17. The applicant is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.
18. This permit does not grant or convey any property rights either in real estate or material or exclusive privileges.
19. This permit does not authorize any injury to the property or rights of others.
20. This permit does not authorize interference with any existing or proposed Federal project.

## **Permit Expiration and Renewal**

21. The work authorized under this SPGP must be completed within two (2) years of the activation date. If the permittee fails to complete the work within the two year timeframe, a time extension of up to two (2) years can be requested. Time extension requests must be submitted in writing at least thirty (30) days prior to the expiration date of the original verification. In the case where written approval was required by the NYSDEC and/or the USACE, the agencies will review time extension requests on a case-by case basis. Such requests will be considered a reverification of the project's eligibility for coverage under the SPGP. Agency review of such requests will take in to account the existing conditions at the project site at the time of the extension request and will follow the reevaluation process specified below in General Condition 24 a) through d).

## **Permittee's Contractors to Comply with the Permit**

22. The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law, Clean Water Act, and Rivers and Harbors Act as those prescribed for the permittee.

## **Proper Maintenance and Abandonment**

23. Structures or fills authorized by this SPGP shall be maintained in good condition and in conformance with the terms and conditions of this SPGP to ensure public safety and compliance with this SPGP. A permittee is not relieved of this requirement until a transfer of permit coverage is obtained as indicated in General Condition #26. Should a permittee wish to cease maintenance of, or abandon the authorized activity, without transferring the authorization under this SPGP, he/she must apply for a modification from the authorizing agency or agencies, which may require restoration of the area to the original condition.

## Reevaluation of Permit Decision

24. The NYSDEC or USACE may reevaluate the decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a) Failure to comply with the terms and conditions of this permit;
  - b) The information provided by the permittee in support of the permit application proves to have been false, incomplete, or inaccurate;
  - c) Significant new information surfaces which was not considered in reaching the original public interest decision; and
  - d) Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or 6 NYCRR Part 621.13 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5 or NYCRR Part 621.3. The referenced enforcement procedures provide for the issuance of an administrative order requiring a permittee to comply with the terms and conditions of the permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by USACE or NYSDEC, and if the permittee fails to comply with such directive, the agency may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

## Permit Modification, Suspension, Revocation or Transfer

25. This permit may be modified, suspended, or revoked in whole or in part pursuant to:
- a) the policies and procedures of 33 CFR 325.7; and any such action shall not be the basis for any claim for damages against the United States; and
  - b) the basis of any ground set forth in paragraphs (1) through (6) in 6 NYCRR Part 621.13(a).
26. When the property associated with the work authorized by this permit is sold or transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, the transferee must sign and date below and forward a copy of the permit transfer to the NYSDEC and USACE to validate the transfer of this authorization and must do so before the transfer of ownership occurs. A copy of this SPGP verification must be attached to the letter, and the letter must contain the transferee's name and contact information as well as the following statement and signature:

*"The structures or work authorized by this SPGP are still in existence at the time the property is transferred, the terms and conditions of this SPGP, including any special conditions, continue to be binding on the new owner(s) of the property. By signing below, I hereby validate the transfer of this SPGP and the associated liabilities associated with compliance with its terms and conditions."*

(Transferee)

(Date)

## Restoration

27. If upon the expiration or revocation of this permit, the project has not been completed, the permittee shall, without expense to the State or USACE, and to such extent and in such time and manner as the NYSDEC or USACE may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site, including any regulated waters to its former condition. No claim shall be made against the State of New York or the USACE on account of any such removal or alteration. Non-compliance with this notice would result in the pursuit of further enforcement action by the State of New York and/or the USACE.
28. The permittee understands and agrees that, if future operations by the United States or the State of New York require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work

shall cause unreasonable obstruction to the free navigation of navigable waters, or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the permittee will be required, upon due notice from either agency to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States or the State of New York and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the regulated waters hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the NYSDEC may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the regulated water. No claim shall be made against the United States or the State of New York on account of any such removal or alteration.

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## G. Definitions

The following definitions are for the purpose of this SPGP.

Adjacent Area: consistent with 6 NYCRR 664.2, those areas of land or water that are outside a wetland and within 100 feet of the boundary of the wetland.

Applicant: The applicant is the legally responsible party or person filing appropriate applications and supporting materials for the purpose of obtaining a permit. Eligible applicants are owners, lessees, and operators at a project site or facility.

Best Management Practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Bottomless Culvert: A culvert structure without a bottom, where the channel bed is exposed.

Bridge: A span structure carrying a road, path, railroad, or canal over a regulated water, ravine, road, railroad, or other obstacle. Examples of bridges include suspension, truss, arches, beams and cantilevers.

Bulkhead: A retaining structure of timber, steel, or reinforced concrete, used for shore protection.

Contaminated Sediment: A sediment containing chemical concentrations that pose a known or suspected threat to the environment or human health.

Cubic Yard per Linear Foot: A calculation of the average quantity of material placed below the OHW / MHW elevation. This measurement is obtained by multiplying the total linear footage of the work along the stream / river channel times the average depth, in feet, of the material placed below OHW / MHW, times the average width, in feet, of the material below OHW / MHW, divided by 27.

Culvert: A conduit such as a drain or pipe that passes under a road, or railroad, footpath, etc. or through an embankment. Culverts provide a conveyance through which water can flow. Shapes may include round, elliptical, flat-bottomed, pear-shaped, and box which can be 3 or 4 sided. Material maybe concrete, metal, plastic, PVC, or stone and can be any width or length.

Cured-In-Place Pipe Lining: A culvert rehabilitation process in which a felt tube is saturated with resin and inverted or pulled into a deteriorated pipe. See NYS Department of Transportation (NYSDOT) Standard Specifications Sec. 602-Rehabilitation of Culvert and Storm Drain Pipe.

Direct Effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Erosion: Erosion is the loss or displacement of land along the coastline due to the action of waves, currents, tides, wind-driven water, waterborne ice, or other impacts of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters, or groundwater seepage.

Federal Projects: Any work or activity of any nature for any purpose which was or will be performed by the Chief of Engineers pursuant to Congressional authorizations. Federal projects are built by the USACE and include navigation, ecosystem restoration and flood risk management projects, among others, as well as those projects that are currently operated and maintained by a state or local sponsor based upon an agreement made between the local sponsor and the USACE. For more information, contact the appropriate USACE District Office.

**Functional:** A structure is considered functional if it is currently operating as designed for its intended use and has been maintained in working order (e.g. in the case of a bulkhead that forms the barrier between land and water, it keeps the water on the water side and the land on the land side).

**Historic Property:** Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

**Invasive Species:** Invasive species are defined in Section 19-1703(10) of the Environmental Conservation Law as a species that is: a) non-native to the ecosystem under consideration; and b) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. For the purposes of this definition, the harm must significantly outweigh any benefits. A list of invasive species is within 6 NYCRR 575 and available at: <http://www.dec.ny.gov/regulations/93848.html>.

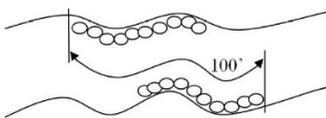
**Invert Paving:** A culvert rehabilitation process in which the invert of a deteriorated pipe is reinforced with steel mesh or studs and paved with concrete.

**Lake:** A large open body of water surrounded by land, generally larger and/or deeper than a pond.

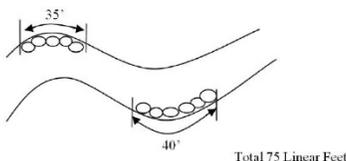
**Landward:** Towards the land from a fixed point (OHW / MHW elevation) or structure.

**Linear Footage of Stream Disturbance (LF):** For the purposes of this SPGP, the linear footage of stream disturbance should be measured as follows:

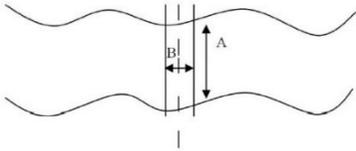
- Work on one bank: LF is measured along the bank at the OHW / MHW elevation from start to finish, following the contours of the bank.
- Work on both banks with overlap: LF is measured along the centerline of the stream from the upstream most point of work to the downstream most point of work.



- Work on both banks with no overlap: LF is measured along the banks at OHW / MHW elevation from start to finish on each bank and the distances are added together to calculate the total linear footage.



- Transverse or perpendicular stream disturbance: LF is measured from the top of bank on one side to the top of bank on the opposite side of the stream and from the upstream and downstream limits of the work. The total LF is the greater of the two measurements.



A (width) or B (length) whichever is greater.

**Loss of Regulated Waters:** Regulated waters that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation or change the use of a regulated waters. The acreage of loss of regulated waters is a threshold measurement used in determining whether a project may qualify for this SPGP as well as to determine the appropriate category of agency review for this SPGP. Regulated waters temporarily filled, flooded, excavated or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of regulated waters.

**Mean High Water:** Mean high water (MHW) is the approximate average high water level for a given body of water at a given location that distinguishes between predominantly aquatic and predominantly terrestrial habitat as determined, in order of use by the following:

- a) available hydrologic data, calculations, and other relevant information concerning water levels (e.g., discharge, storage, tidal, and other recurrent water elevation data); (mean high water elevations are established, using this method, for certain regulated waters as presented in section 608.11 of this Part);
- b) vegetative characteristics (e.g., location, presence, absence or destruction of terrestrial or aquatic vegetation);
- c) physical characteristics (e.g., clear natural line impressed on a bank, scouring, shelving, or the presence of sediments, litter or debris); and
- d) other appropriate means that consider the characteristics of the surrounding area. (6 NYCRR 608.1(r)).

**Mudflats:** Broad flat areas along the sea coast and in coastal rivers to the head of tidal influence and in inland lakes, ponds, and riverine systems. When mud flats are inundated, wind and wave action may re-suspend bottom sediments. Coastal mud flats are exposed at extremely low tides and inundated at high tides with the water table at or near the surface of the substrate. The substrate of mud flats contain organic material and particles smaller in size than sand. Mud flats are either un-vegetated or vegetated only by algal mats (40 CFR 230.42).

**Navigable Waters:** For the purposes of this SPGP, navigable waters includes all state and federal navigable waters as further defined:

**Navigable Water (NYS):** All lakes, rivers, streams and other bodies of water in the state that are navigable in fact or upon which vessels with a capacity of one or more persons can be operated notwithstanding interruptions to navigation by artificial structures, shallows, rapids or other obstructions, or by seasonal variations in capacity to support navigation. It does not include waters that are surrounded by land held in single private ownership at every point in their total area. (6 NYCRR 608.1(u))

**Navigable Water (Federal):** Those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce (33 CFR 329.4). Buffalo District list of federally navigable waters can be found at: <http://www.lrb.usace.army.mil/Portals/45/docs/regulatory/Section10NavigableWaterways/waterwayNY.pdf>. Contact the New York District to determine if the activity is located within a navigable water.

**NYS Coastal Area:** Coastal waters and inland waterways as defined in New York State Executive Law, Article 42, Section 911: "Coastal area" shall mean (a) the state's coastal waters, and (b) the adjacent shorelands,

*including landlocked waters and subterranean waters, to the extent such coastal waters and adjacent lands are strongly influenced by each other including, but not limited to, islands, wetlands, beaches, dunes, barrier islands, cliffs, bluffs, inter-tidal estuaries and erosion prone areas. The coastal area extends to the limit of the state's jurisdiction on the water side and inland only to encompass those shorelands, the uses of which have a direct and significant impact on the coastal waters. The coastal area boundaries are as shown on the coastal area map on file in the office of the secretary of state as required in section nine hundred fourteen of this article.*

**Ordinary High Water:** An ordinary high water (OHW) mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e) and Regulatory Guidance Letter (RGL) 05-05).

**Other Structures and/or fills:** Includes utilities, roads, houses, attendant features, and in-water access features (i.e., docks, piers, boat ramps, etc.), aids to navigation, or any other manmade objects. Other structures does not include culverts, bridges, bulkheads and/or vertical walls.

**Permittee:** The permittee is the legally responsible party or person who has obtained authorization under this SPGP. Eligible permittees are owners, lessees, and operators at a project site or facility.

**Pond:** A small open body of water surrounded by land, generally smaller and/or shallower than a lake.

**Post-Flood Emergency Stream Intervention (ESI) Manual:** NYSDEC, in partnership with NYS Soil and Water Conservation Districts, has developed a training program and manual to help municipal officials, contractors and machine operators respond to flood damage based on fluvial geomorphic processes. The Post-Flood Emergency Stream Intervention Training Manual can be found at the following link:  
<http://www.dec.ny.gov/lands/86450.html>

**Practicable:** Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Previously Authorized:** Allowed by the appropriate local, state or federal authority.

**Regulated Waters:** All waters subject to the jurisdiction of the USACE and/or the NYSDEC pursuant to the authorities outlined in Section A of this SPGP. Regulated waters include tidal and fresh waters, rivers, streams, lakes, ponds and wetlands.

**Repair:** In place service or a minor fix of an existing structure which does not result in a change in alignment, dimension or materials. Repair includes the removal of storm-deposited debris and storm-deposited sediment within and immediately adjacent to culverts and bridges for the purpose of restoring flow. Repair does not include re-setting structures which have been displaced by the storm event.

**Replacement:** Restoration of a structure that was removed from its place or damaged beyond repair as a result of the storm event.

**Retaining Wall:** A structure that retains (holds back) any material (usually earth) and prevents it from sliding or eroding away. It is designed so that to resist the material pressure of the material that it is holding back.

**Revetment:** A retaining wall or other method such as mats or mattresses installed to protect banks from erosion.

**River:** A large natural stream of water emptying into an ocean, lake, or other body of water and usually fed along its course by converging tributaries.

**Scour:** Refers to a localized loss of soil, often around a foundation element.

Single and Complete Project: The total project at a specific site that is proposed or accomplished by an permittee, or whomever they hire to perform the work. If there are multiple activities proposed, such as a culvert replacement with a temporary access fill, or dredging in combination with beach restoration, the single and complete project must be reviewed using the procedures for the highest Category in which an activity falls. For example, if the culvert replacement portion of the work falls under Category C, but the temporary access work itself falls under Category A, the whole project must be reviewed under Category C.

Slip Lining: A trenchless method utilized to rehabilitate an existing culvert or pipe. Slip lining is used to repair leaks or restore structural stability by installing a smaller, "carrier pipe" into a larger "host pipe", grouting the annular space between the two pipes, and sealing the ends.

Stream: A tributary that is a natural, man-altered (ditched/ relocated), or man-made channel with bed, banks and an OHW / MHW mark that carries flow (perennial, intermittent or ephemeral).

Stream Bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Storm Deposited Debris: Any natural or man-made debris including trees, brush, metals, plastics, structure, etc. that were deposited by a discrete storm event(s). Storm deposited debris does not include any sand, silt, cobble, gravel or stone.

Storm Deposited Sediments: Material including any soil, sand, silt, clay, cobble, gravel or stone that was deposited by a discrete storm event(s).

Storm Event: A distinct period of violent disturbance of the atmosphere with strong winds and usually rain, thunder, lightning, or snow that results in the Federal and/or State Emergency Declaration or activation of this SPGP by the respective USACE and NYSDEC office.

Submerged Aquatic Vegetation (SAV): Rooted flowering plants that have colonized primarily soft sediment habitats in coastal, estuarine and freshwater habitats (Dennison et al. 1993). These plants occupy an underwater habitat and provide ecological benefits such as protective cover for juvenile fish and macroinvertebrates, food for waterfowl and a source of oxygen in the water.

Temporary: Temporary is defined as being in place for no more than 180 days, unless otherwise specified.

Tidal Water: Those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. (33 CFR 328.3)

Upland Disposal Area: An area outside of regulated waters, including any associated buffer zones, in which storm deposited debris and/or storm deposited sediment are placed, stabilized and otherwise properly disposed.

Vegetated Shallow: Permanently inundated areas that under normal circumstances support communities of rooted aquatic vegetation, such as turtle grass and eelgrass in estuarine or marine systems as well as a number of freshwater species in rivers and lakes (40 CFR 230.43).

Vertical Wall: A wall built at a right angle to the ground, stream bed, or bed of a waterway. Vertical walls include bulkheads and retaining walls.

Waterward: Towards the water from a fixed point such as a structure.

Waters of NYS: Per ECL 15-0107, lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial limits of the State of New York, and all other bodies of surface or underground water, natural or artificial, inland or coastal, fresh or salt, public or private, which are wholly or partially within or bordering the state or within its jurisdiction.

Waters of the United States: A term used to identify waters subject to jurisdiction by the USACE pursuant to Section 404 of the Clean Water Act. Waters of the United States include federal navigable waters as defined above; interstate waters; waters whose use, degradation or destruction of which could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States; tributaries of the aforementioned waters; the territorial seas; and wetlands adjacent to these waters. Waters of the United States can include waters and wetlands that are not subject to state jurisdiction under Environmental Conservation Law. A complete definition of waters of the United States and their limits can be found at 33 CFR 328.

Wetlands: A federally regulated wetland and/or a state-regulated Freshwater Wetland.

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## H. Acronyms

ALB – Asian Longhorned Beetle  
BMP – Best Management Practice  
DOS – New York State Department of State  
EAB – Emerald Ash Borer  
ECL – Environmental Conservation Law  
ESA – Endangered Species Act  
ESI Manual – Post-Flood Emergency Stream Intervention Manual  
FEMA – Federal Emergency Management Agency  
FHWA – Federal Highway Administration  
MHW – Mean High Water  
NEPA – National Environmental Protection Act  
NMFS – National Marine Fisheries Service  
NOAA – National Oceanic and Atmospheric Administration  
NPS – National Park Service  
NRCS – Natural Resource Conservation Service  
NYCRR - New York State Codes, Rules and Regulations  
NYS – New York State  
NYSDEC – New York State Department of Environmental Conservation  
OHW – Ordinary High Water  
OPRHP - Office of Parks, Recreation and Historic Preservation  
PCN – Pre-construction Notification  
SAV – Submerged Aquatic Vegetation  
SHPA – State Historic Preservation Act  
SPDES – State Pollutant Discharge Elimination System  
SPGP – State Programmatic General Permit  
SWCD – Soil and Water Conservation District  
USACE – U.S. Army Corps of Engineers  
USFWS – U.S. Fish and Wildlife Service

## I. Signatures

\_\_\_\_\_  
USACE New York District Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
USACE Buffalo District Engineer

\_\_\_\_\_  
Date

\_\_\_\_\_  
NYSDEC Chief Permit Administrator

\_\_\_\_\_  
Date

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## Appendix A: Application Form and Instructions

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Department of  
Environmental  
Conservation

**NEW YORK STATE STORM RECOVERY SPGP  
JOINT AGENCY APPLICATION AND AUTHORIZATION  
FORM**

STORM EVENT NAME \_\_\_\_\_  
EFFECTIVE DATE / EXPIRATION DATE \_\_\_\_\_  
APPLICATION INSTRUCTIONS ARE LOCATED IN APPENDIX A  
OF THIS SPGP



**Applicant/Owner Contact Information:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Email: \_\_\_\_\_

**Project Location**

Municipality: \_\_\_\_\_ County: \_\_\_\_\_  
Directions or Physical Street Address: \_\_\_\_\_  
Nearest Road Intersection (Distance/Direction): \_\_\_\_\_  
Latitude / Longitude: \_\_\_\_\_ / \_\_\_\_\_  
Regulated Water Name/ID: \_\_\_\_\_

**Agent/Representative Contact Information (If different from Applicant/Owner):**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Email: \_\_\_\_\_

**Authorized Activities (Check all that apply)  
Complete Description of Activities is included in Table 1 of SPGP**

General Activity Description	Category A Activity Can Commence 5 Business Days after Joint Agency Authorization Form Submitted to NYSDEC		Category B Activity Must be Verified by NYSDEC OR USACE		Category C Prior Authorization Required from NYSDEC AND USACE	
	A1	<input type="checkbox"/>	B1	<input type="checkbox"/>	C1	<input type="checkbox"/>
1 Culverts Conveying Streams	A1	<input type="checkbox"/>	B1	<input type="checkbox"/>	C1	<input type="checkbox"/>
2 Bulkheads and Vertical Walls	A2	<input type="checkbox"/>	B2	<input type="checkbox"/>	C2	<input type="checkbox"/>
3 Bridges	A3	<input type="checkbox"/>	B3	<input type="checkbox"/>	C3	<input type="checkbox"/>
4 Other Structures	A4	<input type="checkbox"/>	B4	<input type="checkbox"/>	C4	<input type="checkbox"/>
5 Bank Stabilization			B5	<input type="checkbox"/>	C5	<input type="checkbox"/>
6 In-Stream Structures			B6	<input type="checkbox"/>	C6	<input type="checkbox"/>
7 Sediment / Gravel Removal within Streams using PFESI Manual	A7	<input type="checkbox"/>	B7	<input type="checkbox"/>	C7	<input type="checkbox"/>
8 Sediment / Gravel Removal within Streams Not Using PFESI Manual			B8	<input type="checkbox"/>	C8	<input type="checkbox"/>
9 Debris and Sediment Removal within Wetlands	A9	<input type="checkbox"/>	B9	<input type="checkbox"/>	C9	<input type="checkbox"/>
10 Stream Channel Re-Alignments			B10	<input type="checkbox"/>	C10	<input type="checkbox"/>
11 Temporary Access and Dewatering			B11	<input type="checkbox"/>	C11	<input type="checkbox"/>
12 Dredging and Return Water	A12	<input type="checkbox"/>	B12	<input type="checkbox"/>	C12	<input type="checkbox"/>
13 Beach Restoration					C13	<input type="checkbox"/>

**Project Description** (Method of work, type of equipment used, access point, debris disposal location, and dimensions or linear feet of stream or wetland disturbance, etc).

**Details (Check all that Apply):**

Culverts, Bulkheads/Vertical Walls, Bridges & Outfalls		In-Stream Directional Structures		BMP Details: Dewatering and Temporary Access	
Culverts Conveying Streams (D1)	<input type="checkbox"/>	J-Hooks (D9)	<input type="checkbox"/>	Temporary Bridge (D12)	<input type="checkbox"/>
Bulkhead/Vertical Walls (D2)	<input type="checkbox"/>	Log Vanes (D10)	<input type="checkbox"/>	Equipment Mats (D13)	<input type="checkbox"/>
Bridges (D3)	<input type="checkbox"/>	Cross Vanes (D11)	<input type="checkbox"/>	Turbidity Curtain (D14)	<input type="checkbox"/>
Utilities (D4A or D4B)	<input type="checkbox"/>			Passive Flow Bypass (D15)	
<b>Bank Stabilization</b>				Cofferdam (D16)	<input type="checkbox"/>
Vegetated Banks (D5)	<input type="checkbox"/>			Pump Around (D17)	<input type="checkbox"/>
Root Wads (D6)	<input type="checkbox"/>			Temporary Culvert (D18)	<input type="checkbox"/>
Coir Logs (D7)	<input type="checkbox"/>			Flume (D19)	<input type="checkbox"/>
Rip-Rap Slope Protection (D8)	<input type="checkbox"/>			Upland Dewatering Area with Return Flow (D20)	<input type="checkbox"/>

**Applicant / Owner Certification (If different applicant and owner, both must sign):**

I have read this permit and I affirm that I will construct and operate this project in strict compliance with the approved plans and terms and conditions of this permit as well as the Environmental Conservation Law, Section 404 of the Clean Water Act (33 U.S.C. 1344), and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and applicable regulations. I understand that any false or inaccurate statements made in the application for this permit are punishable as a Class A misdemeanor. As a condition of this permit, I accept full legal responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agree to indemnify and save harmless the state from suits, actions, damages, and costs of every name and description resulting from this project. I hereby consent to Agency inspection of the project site and adjacent property areas. Agency staff may enter the property without notice between 7:00 am and 7:00 pm, Monday - Friday. Inspection may occur without the owner, applicant or agent present. If the property is posted with "keep out" signs or fenced with an unlocked gate, Agency staff may still enter the property. Agency staff may take measurements, analyze site physical characteristics, take soil and vegetation samples, sketch and photograph the site. I understand that failure to give this consent may result in denial of the permit(s) sought by this application.

\* \_\_\_\_\_  
Applicant/Owner Signature Date

**For Official Agency Use Only**

**Special Conditions / Requirements:**

**In-Stream Work Restriction Dates:** Unless approved below, in-stream work is prohibited during the following time periods:

- in cold water fisheries (trout waters) October 1 through May 31.
- in perennial warm water fisheries, (non- trout waters) March 1 through July 15.

**Alternative Work Restriction Dates as approved by NYSDEC:** \_\_\_\_\_ **Initials** \_\_\_\_\_

NYSDEC Representative Name/Title: _____	
Authorized NYSDEC Signature: _____	
Date/Time: _____	Field Verified? Yes <input type="checkbox"/> No <input type="checkbox"/>
USACE Representative Name/Title: _____	
Authorized USACE Signature: _____	
Date/Time: _____	Field Verified? Yes <input type="checkbox"/> No <input type="checkbox"/>
NYSDEC ID#: _____	Other Agency ID#: _____
USACE ID#: _____	Other Agency ID#: _____

*\*Agency Signatures are not required for Category A Activities. Applicant may proceed after 5 Business Days.*

*\*Verification of Category B Activities must be signed by at least one Agency.*

*\*Authorization for Category C Activities must be signed by BOTH of the Agencies.*



## NEW YORK STATE STORM RECOVERY SPGP PROJECT SKETCH SHEET



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**Instructions:** Project sketches must be drawn in a neat and clear manner that can be reproduced. The sketch must show the proposed work in relation to any regulated waters. When applicable, the direction of stream flow must be shown on the sketch. The sketch should include measurements including the length, width, height and depth of the proposed activities. The measurements must be provided in linear feet and be taken from fixed points within the project area. The Details in Appendix E of this SPGP can be referenced on the project sketch. Where appropriate, both plan and cross-sectional view sketches should be provided to show the extent of the authorized activities in relation to the regulated waters. The locations of any photographs taken in support of the application should be shown on the sketch. Providing sketches in the aforementioned format will assist applicants in demonstrating that the project complies with the terms and conditions of this SPGP and assist the agencies in making permit decisions.

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PREPARED BY:

DATE:

## **Application Materials (to be submitted with all applications):**

To ensure timely delivery, it is recommended that the application package be delivered to the NYSDEC and/or USACE using a method that tracks delivery of the package. Please submit the required information as outlined below to the appropriate NYSDEC Region and/or USACE District addresses provided in Appendix B.

### **Category A**

If the activity representing the single and complete project meets the work description and impact thresholds identified in Category A of Section C of this SPGP, and meets all terms and conditions of this SPGP, then prior to the commencement of the proposed work, the applicant must submit to the appropriate NYSDEC Region a complete permit application.

If the NYSDEC does not reply to the applicant within five (5) business days of receiving the joint application, then the applicant may proceed with the project as proposed. If the NYSDEC provides authorization prior to five (5) business days, the applicant may proceed with the project.

The applicant is not required to obtain written permission from either the USACE or the NYSDEC to commence work under this SPGP after the five business day period.

### **Category B**

If the activity representing the single and complete project meets the work description and impact thresholds identified in Category B of Section C of this SPGP, and meets all of the terms and conditions of this SPGP, then prior to the commencement of the proposed work the applicant must:

- 1) Submit to the appropriate NYSDEC Region a complete permit application and
- 2) Receive written verification from the NYSDEC prior to the commencement of work.

Activities in Category B which meet the terms and conditions of this SPGP may proceed without written authorization from the USACE following receipt of NYSDEC verification that the proposed work is in accordance with the terms and conditions of this SPGP.

Although the NYSDEC is the agency that would verify most projects under Category B of this SPGP in accordance with their authorities and on behalf of the USACE, the USACE may also verify Category B activities under this SPGP on behalf of the NYSDEC in an effort to improve our collective response to a storm event. This is most likely to occur when making permit decisions in the field. Therefore, prior verification by either the NYSDEC or the USACE under Category B of this SPGP is sufficient to commence work in accordance with the terms and conditions of this SPGP.

### **Category C**

Category C activities require written approval from NYSDEC and USACE prior to the commencement of the work.

If the activity representing the single and complete project meets the work description and impact thresholds of Category C in Section C of this SPGP, written authorization must be obtained from the NYSDEC and USACE prior to the commencement of any work being conducted under the terms and conditions of this SPGP. A completed permit application is to be submitted to both the appropriate District office of the USACE and the regional NYSDEC office. The work shall not proceed until both agencies authorize in writing that the work may proceed in accordance with the terms and conditions of this SPGP.

## **Application Contents**

### **1. Application Form:**

The applicant shall submit an application package to the USACE/NYSDEC using the Storm Recovery SPGP Joint Agency Application and Authorization Form (Appendix A). Please submit the required information to the appropriate USACE District and NYSDEC offices as identified in Appendix B. Note any previous USACE and/or NYSDEC permit numbers for the project location, if known.

**2. Location Map:** preferably depicted on a USGS 7.5 minute topographical map. The map shall include a north arrow, property/project boundary and adjacent roads and highways to enable orientation/direction. Any disposal site proposed to be used must also be identified.

**4. Project Drawings:** All information must be clearly labeled in legible, reproducible 8 ½ x 11-inch drawings.

- a) Plan view (as if viewed from overhead) maps and drawings. The boundary of all regulated waters within the project area, including construction access and staging areas, should be clearly identified. The temporary and permanent disturbance to regulated waters should be clearly defined on an overview drawing with blow-ups of the disturbance areas with dimensions of disturbance clearly legible.
- b) Typical cross-section views of all proposed excavation and fill in waters, including wetlands areas include dimensions and volumes.
- c) All drawings shall indicate the location and elevation of Ordinary High Water (OHW), Mean High Water (MHW), and / or other tidal datum for tidal projects, as applicable, and include the datum utilized (e.g. IGLD 1985, NGVD 1929).

### **4. Project Description:**

- a) a detailed project description
- b) project purpose and need for the project
- c) direct and indirect effects the project could potentially cause to the aquatic resource
- d) dimensions of all permanent and temporary fills, excavations, and impacts occurring in waters including wetlands to include length, width, and depth (below the OHW / MHW elevation).
- e) Volume of material proposed for removal from waters, including wetlands, expressed in cubic yards. If multiple areas are proposed within the project areas, provide separate amounts for each distinct removal area.
- f) Volume of proposed fill material to be placed in waters, including wetlands, expressed in cubic yards. Separate volumes should be provided for each activity/component.
- g) Evidence that the structure and/or fill to be replaced or rehabilitated was serviceable just prior to storm event.
- h) Information on the age of the structure and/or fill and any past permits.

### **5. Site Photos:**

- a) Ground level: pre and post storm event, if available
- b) Aerial: these are extremely useful in identifying limits of proposed work, pre-storm location, etc., some potential sources are:
  - <http://www.bing.com/maps/>
  - <http://www.orthos.dhSES.ny.gov/>
  - <https://maps.google.com/maps>

**6. Disposal sites:** All disposal sites must be identified, a description of the disposal area provided and methods proposed to prevent reentry into any regulated waters. Note that the permit does not authorize disposal (temporary or permanent) into any regulated waters.

### **Endangered Species:**

- When the FEMA or other Federal agency (Natural Resource Conservation Service (NRCS), Federal Highway Administration (FHWA), etc.) is the Federal Lead Agency\* for the National Environmental Protection Act (NEPA): The applicant will coordinate with the Federal Lead Agency and the USFWS and/or National Oceanic and Atmospheric Administration Fisheries Service (NOAA-Fisheries) formerly NMFS in accordance with approved federal agency procedures. In order to proceed under this SPGP, the applicant must provide the USACE with that federal agency's determination, as part of the application, in order to demonstrate compliance with Section 7 of the ESA. (\*NOTE – the federal agency which provides project funding will generally be considered the lead.)
- For projects not receiving funding from a Federal agency, or for projects not yet reviewed by FEMA, applicants must submit an application to the USACE for any project located within the Sensitive Areas identified in Appendix D of this permit. Work shall not begin on the activity until the applicant is notified by the USACE that the requirements of the ESA have been satisfied and that the activity is authorized. The application must include a written statement and documentation concerning any federally listed Threatened and Endangered (T&E) species or designated critical habitat that might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat. Lists of T&E species in NYS are available at: <http://www.dec.ny.gov/animals/7494.html>. For projects located in Sensitive Areas, the application shall include a discussion of potential T&E habitat within the project site. If there is potential habitat for any federally listed species within the project site the following must be submitted:
  - a. The results of any habitat surveys and presence/absence surveys. Note: all surveys must be coordinated with the USFWS and/or NOAA-Fisheries (NMFS) prior to initiation.
  - b. A detailed description of the proposed project, including secondary impacts and approximate proposed project construction schedule of project activities (e.g. land clearing, utilities, stormwater management).
  - c. A description of the natural characteristics of the property and surrounding area (e.g. forested areas, freshwater wetlands, open waters, and soils). Additionally, please include a description of surrounding land use (residential, agricultural, or commercial).
  - d. A description of the area to be disturbed by the proposed project, including the species and number or acres of trees to be removed.
  - e. The location of the above referenced property and extent of any project related activities or discharges clearly indicated on a copy of a USGS 7.5 minute topographic quadrangle (quad) with the name of the quad(s) and latitude/longitude clearly labeled.
  - f. A description of conservation measures to avoid or minimize impacts to listed species.

**Historic Properties:** When FEMA, or other Federal agency (NRCS, FHWA, etc.) is the Federal Lead Agency for NEPA: The applicant will coordinate with the Federal Lead Agency and the State Historic Preservation Office in accordance with their approved Section 106 National Historic Preservation Act (NHPA) procedures. In order to proceed under this SPGP, the applicant must provide the USACE with the lead federal agency's determination, as part of the application, in order to demonstrate compliance with those requirements.

For projects not receiving Federal-Aid from a Federal agency or for projects not yet reviewed by FEMA, applicants must submit an application to the USACE if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties.

The application shall include:

- a) A statement indicating if the proposed activity may affect a historic property listed in, determined to be eligible for listing in, or potentially eligible for listing in, the National Register of Historic Places,
- b) A map indicating the location of proposed work and the location of the historic property,
- c) A copy of any completed survey reports. If a survey has not been performed, list resources checked in making the determination,
- d) Copies of any available correspondence from New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) regarding historic properties.

Information regarding cultural resources may be found at: <http://nysparks.state.ny.us/shpo/index.htm>. Inquiries regarding the determination of the presence of cultural resources at or near the project site should be directed to OPRHP.

**National Wild and Scenic Rivers (NWSR):** The Upper Delaware River has been designated as a National Wild and Scenic River from the confluence of the East and West Branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York. Also, the portion of the Genesee River located within Letchworth Gorge State Park, beginning at the southern boundary of the park and extending downstream to the Mt. Morris Dam, was designated by Congress as a permanent Study River in the Genesee River Protection Act of 1989. No activity may occur within a NWSR, including Study Rivers, unless the National Park Service (NPS) has determined in writing that the proposed work will not adversely affect the NWSR designation or study status. Category C review is required for any project that would impact the designated portions of the Genesee River or the Upper Delaware River. Information regarding NWSR may be found at: <http://www.rivers.gov/wildriverslist.html>. If already completed through a different required federal review process, submit documentation of the National Park Service determination to USACE as part of the application package. If USACE is the lead federal agency for the project, submit either the National Park Service determination or an assessment on the project's short and long term beneficial and/or adverse effects on the designated water.

**Appendix B: USACE District and NYSDEC Regional Contact Information & Jurisdiction Maps**

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## **AGENCY CONTACT INFORMATION**

### **NYS Department of Environmental Conservation**

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

#### **NYS DEC REGION 3**

Regional Permit Administrator  
21 South Putt Corners Road  
New Paltz, NY 12561-1620  
(845) 256-3054  
[dep.r3@dec.ny.gov](mailto:dep.r3@dec.ny.gov)

#### **NYS DEC REGION 4**

Regional Permit Administrator  
1130 North Westcott Road  
Schenectady, NY 12306-2014  
(518) 357-2069  
[dep.r4@dec.ny.gov](mailto:dep.r4@dec.ny.gov)

#### **NYS DEC REGION 4 Sub-Office**

Deputy Regional Permit Administrator  
65561 State Hwy 10  
Stamford, NY 12167-9503  
(607) 652-7741  
[dep.r4@dec.ny.gov](mailto:dep.r4@dec.ny.gov)

#### **NYS DEC REGION 5**

Regional Permit Administrator  
PO Box 296  
1115 Route 86  
Ray Brook, NY 12977-0296  
(518)897-1234  
[dep.r5@dec.ny.gov](mailto:dep.r5@dec.ny.gov)

#### **NYS DEC REGION 5 Sub-Office**

Deputy Regional Permit Administrator  
PO Box 220  
232 Golf Course Rd  
Warrensburg, NY 12885-0220  
(518) 623-1281  
[dep.r5@dec.ny.gov](mailto:dep.r5@dec.ny.gov)

#### **NYS DEC REGION 6**

Regional Permit Administrator  
317 Washington Street  
Watertown, NY 13601-3787  
(315) 785-2245  
[dep.r6@dec.ny.gov](mailto:dep.r6@dec.ny.gov)

#### **NYS DEC REGION 6 Sub-Office**

Deputy Regional Permit Administrator  
207 Genesee Street  
Utica, NY 13501-2885  
(315) 793-2555  
[dep.r6@dec.ny.gov](mailto:dep.r6@dec.ny.gov)

#### **NYS DEC REGION 7**

Regional Permit Administrator  
615 Erie Blvd. West  
Syracuse, NY 13204-2400  
(315)426-7438  
[dep.r7@dec.ny.gov](mailto:dep.r7@dec.ny.gov)

#### **NYS DEC REGION 7 Sub-Office**

Deputy Regional Permit Administrator  
1285 Fisher Avenue  
Cortland, NY 13045-1090  
(607) 753-3095  
[dep.r7@dec.ny.gov](mailto:dep.r7@dec.ny.gov)

#### **NYS DEC REGION 8**

Regional Permit Administrator  
6274 E. Avon - Lima Road  
Avon, NY 14414-9519  
(585) 226-2466  
[dep.r8@dec.ny.gov](mailto:dep.r8@dec.ny.gov)

#### **NYS DEC REGION 9**

Regional Permit Administrator  
270 Michigan Avenue  
Buffalo, NY 14203-2915  
(716) 851-7165  
[dep.r9@dec.ny.gov](mailto:dep.r9@dec.ny.gov)

#### **NYS DEC REGION 9 Sub-Office**

Deputy Regional Permit Administrator  
182 East Union Street  
Allegany, NY 14706-1328  
(716) 372-0645  
[dep.r9@dec.ny.gov](mailto:dep.r9@dec.ny.gov)

### **NYS Department of State**

Division of Coastal Resources  
Consistency Review Unit  
One Commerce Plaza  
99 Washington Avenue, Suite 1010  
Albany, NY 12231-00001  
(518) 474-6000  
[www.nyswaterfronts.com](http://www.nyswaterfronts.com)  
PO Box 296  
1115 Route 86  
Ray Brook, NY 12977-0296  
(518) 897-1234

### **U.S. Army Corps of Engineers**

[www.usace.army.mil](http://www.usace.army.mil)

For DEC Region 3  
U.S. Army Corps of Engineers NY District  
ATTN: Regulatory Branch  
26 Federal Plaza, Room 1937  
New York, NY 10278-0090  
(917) 790-8411  
Email: [cenan.publicnotice@usace.army.mil](mailto:cenan.publicnotice@usace.army.mil) [www.nan.usace.army.mil](http://www.nan.usace.army.mil)

For DEC Regions 4, 5  
**Department of the Army**  
**ATTN: CENAN-OP-R**  
**NY District, Corps of Engineers**  
1 Buffington Street  
Building 10, 3<sup>rd</sup> Floor  
Watervliet, NY 12189-4000  
(518) 266-6350 - Permits team  
(518) 266-6360 - Compliance Team

Email: [cenan.rfo@usace.army.mil](mailto:cenan.rfo@usace.army.mil)

For DEC Regions 6, 7, 8, 9  
**U.S. Army Corps of Engineers**  
**Buffalo District**  
ATTN: Regulatory Branch  
1776 Niagara Street  
Buffalo, NY 14207-3199  
(716) 879-4330  
Email: [LRB.Regulatory@usace.army.mil](mailto:LRB.Regulatory@usace.army.mil)  
[www.lrb.usace.army.mil](http://www.lrb.usace.army.mil)



**Appendix C: Post Construction Compliance Form**

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### New York State Programmatic General Permit Post Construction Compliance Form

Within 30 days of the completion of the work authorized by this SPGP, this form must be completed and submitted, along with at least two color photographs and a location map depicting the completed work, to the appropriate USACE District and NYSDEC Regional Office via electronic mail or regular mail. USACE District and NYSDEC Regional Office contact information is located in Appendix B of this SPGP.

1. Storm Event: \_\_\_\_\_

2. Application Numbers (if assigned on the Application Form/ Joint Agency Authorization Form):

USACE \_\_\_\_\_ NYSDEC \_\_\_\_\_

3. Permittee:

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email: \_\_\_\_\_

4. Project Location:

Municipality: \_\_\_\_\_

Directions or Street Address: \_\_\_\_\_

Nearest Road Intersection

(Distance/Direction): \_\_\_\_\_

Latitude / Longitude: \_\_\_\_\_ / \_\_\_\_\_

Waterbody Name/ID/Reach: \_\_\_\_\_

5. Indicate which activities were performed and provide a brief description of the work that has been completed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Impact Information:

Type of waters disturbed by the completed work: (i.e. stream, river, lake, pond, wetland): \_\_\_\_\_

Total Disturbance (Temp or Perm Loss): \_\_\_ linear feet of stream, \_\_\_\_\_ acre wetlands and/or \_\_\_\_\_ acre lake/pond

Distance work performed above, below or around a structure (i.e. road crossing/utility line/pier): \_\_\_\_\_

Amount of fill placement below OHW / MHW elevation of waters, in cubic yards: \_\_\_\_\_

Amount of storm deposited sediment removal, in cubic yards: \_\_\_\_\_

Duration of temporary access/dewatering impacts: \_\_\_\_\_

Disposal location(s) for any storm deposited sediment/debris: \_\_\_\_\_

7. Date work completed: \_\_\_\_\_

8. Permittee Certification:

I certify that I have complied with the terms and conditions of the New York State Programmatic General Permit.

\_\_\_\_\_  
Permittee Signature

\_\_\_\_\_  
Date

## Appendix D: Endangered Species Act Sensitive Areas

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## Appendix E: Details

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## Appendix F: Coastal Erosion Hazard Area Map

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The following municipalities, listed by county, have Coastal Erosion Hazard Areas (CEHA) within their municipal boundaries. The municipalities with an asterisk are certified by NYSDEC and a permit must be sought directly from the municipality. For all other listed municipalities, a CEHA permit must be sought through NYSDEC:

- Cayuga County: Fair Haven Village, Town of Sterling\*
- Chautauqua County: Towns of Dunkirk\*, Hanover, Pomfret, Portland, Ripley, Sheridan\*, Westfield; Village of Silver Creek; City of Dunkirk
- Erie County: Towns of Brant, Evans, Hamburg\*
- Jefferson County: Towns of Ellisburg\* and Henderson
- Monroe County: Towns of Greece\*, Hamlin\*, Irondequoit, Parma, Penfield, Webster, City of Rochester\*
- Niagara County: Towns of Newfane, Porter, Somerset, Wilson\* and Village of Wilson
- Orleans County: Towns of Carlton, Kendall\* and Yates\*
- Oswego County: Towns of Mexico, New Haven, Oswego, Richland, Sandy Creek and Scriba; City of Oswego\*
- Wayne County: Towns of Huron\*, Ontario, Sodus\*, Williamson and Wolcott; Village of Sodus Point