

Overview of NY's Freshwater Wetlands Regulatory Changes

February 1, 2024, 1:00-2:30 p.m.

Hudson River Estuary Program Conservation and Land Use Webinar Series

My name is Christine Vanderlan and I'm a conservation and land use specialist with the Hudson River Estuary Program. Welcome, everybody. I'm going to try again to share my Powerpoint slides to get us started and to get those into slideshow mode.

Okay, great, so our subject today is an Overview of New York's freshwater wetland regulatory changes and before

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I introduce our presenter, I'm gonna cover some webinar-related details and tricks for Webex, but first for all of you folks who are so timely and joining early, I have a little jeopardy style question.

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I noticed that our DEC template slide colors here are really well suited to the jeopardy colors, and if I could hit tab only once it would really help with the jeopardy aspect of this, but here we are, February 1st with this freshwater wetlands topic webinar and it just so happens that a very special

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day was first celebrated February second back in one thousand nine hundred ninety- seven, raising awareness globally about the importance of wetlands for people and the planet and that is, pause for a moment...World Wetlands Day.

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And World Wetlands Day is also celebrating an international treaty, recognizing the importance of wetlands and where countries are pledging to conserve wetlands, so you can learn more about that if you look up World Wetlands Day. So now for our Webex tips. A lot of folks

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newer to Webex can encounter some challenges with the audio, and one tip is that you can switch audio to a phone connection if audio through your computer is not working. Well, this also really helps if your video is kind of laggy, if your internet connection is unstable,

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switching your phone over to audio is a really good trick to get the most out of your connection and, and smooth everything out so you can have a good experience. So look for the three dots next to that red circle with the "x" in it to be able to switch audio and ask for a callback or to call in.

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If you have problems or technical issues, please use the chat to chat with me, Christine. And we ask during the program that you use the Q and A function to direct questions for our speaker and we'll be monitoring those and asking those after the presentation.

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We may not get, we have a lot of people attending this webinar today, which is fantastic. We might not get to all of your questions, but we will be providing an email address for you to ask something that goes on answered today and we'll do our best to field as many as we can.

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So as participants, you are muted, we are recording the webinar. Something that we do as part of our series of webinars is we ask for a little feedback at the end. So when you exit the webinar, you'll get a little four question survey that pops up, and we do use your input to understand how we're doing.

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And also to help us plan future webinars. So please share that feedback through the survey. If you are taking this webinar and speaking training credit, if you serve on a municipal planning board or zoning board and are seeking that training credit, you'll receive an email after the event.

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And that will be your certificate of attendance. So look for that.

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Now I want to just give a little background about the Hudson River Estuary program, the program that I work for, and that is the organizer of the conservation and land use webinar series. The Estuary program is a special program within the Department of Environmental Conservation and we work

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throughout this green shaded area on the screen, which is the Hudson River Estuary watershed. So all of the lands that drain via streams and creeks to the tidal portion of the Hudson River make up the Hudson River Estuary watershed. Throughout this area,

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we work to achieve these key benefits, generally working to protect, restore, and revitalize the Hudson River and its communities. You can learn more about the Hudson River Estuary Program at the website on this page, and then also

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by reading our five year action agenda, which guides our work.

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Within the program, the conservation and land use team works with municipalities on conservation initiatives, conservation planning, on understanding natural resources and planning for conservation in communities throughout

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the watershed. And you can reach out to me for information about how you might work with us. And more

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More information about the kind of work we do and a lot of the resources that are available for municipalities for local land use and conservation planning are available through our Cornell webpage shown here. The conservation planning in the Hutson River Estuary watershed page, which is really a clearinghouse for all

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kinds of information related to local conservation and land use planning. So feel free to check that out.

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We are very excited, I just wanted to mention at the top here why our team is particularly excited about today's topic. In the work that we do with municipalities throughout the watershed, we emphasize the value of wetlands, their function in the landscapes and their contributions to

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clean water, for habitat supporting biodiversity, for acting as carbon sinks, and we highlight the great diversity of wetlands that are present in the region. So the update, the expansion

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of regulatory jurisdiction to a whole host of wetlands that otherwise had not been covered under state jurisdiction before is a really exciting development. Something that we're really glad to be sharing and able to share more about with all of you through this webinar series.

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We have an exciting set of programs coming up, if you think it's February, you're looking ahead to Spring and if you're familiar with our program, you might be thinking, "AMRC," so I'm gonna turn it over to Laura to mention what's coming up with that.

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Laura Heady: Great, thanks, Christine. Hi, everybody, I'm Laura Heady. I work with Christine on our conservation and land use team here at the Hudson River Estuary program and I manage our Amphibian Migrations and Road Ccrossings projects, which, for those of you who are vernal pool enthusiasts or forest enthusiasts, you probably.

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Know a lot about the group of amphibians that rely on that habitat complex. And coming soon to a road near you, we're gonna be seeing these migrating amphibians, probably usually around mid March, but give or take depending on the weather in a particular year. They're gonna start emerging from the forest and

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moving towards vernal pools for breeding, and in the Hudson Valley since the project started in two thousand and nine, we've had over a thousand people volunteered to go out onto roads and help shepherd them across safely, gather data about the migration and the species they're seeing, and if you're interested in joining us in that endeavor, this coming year, we're gonna be holding

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two in-person trainings, one in Albany County and one in Ulster County, and the dates are listed there, and then for those of you unable to attend an in-person training. We're also gonna hold one virtually on February twenty- second. Earlier, I posted our Cornell Web link in the chat, if you go to that link and go to our home page,

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the events listings have links to these three different trainings. in addition, I'll just say for those of us joining us from down to Westchester County, we have a number of AM and RC partners who are going to be holding programs locally to help us get the word out even further, and so the Teatown Lake Reservation,

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Pound Ridge, town of Bedford volunteers are all holding some training, so you can learn about those by contacting me. We also have the amphibian migration and road crossing project web link in the chat as well. So, yeah, looking forward to meeting and hopefully seeing some of you with those programs.

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Thanks, Christine.

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Christine: All right now my slides are advancing again. Today's webinar, the recording will be available next week, along with a transcript, and all of the webinars from our conservation and land use series have recordings and transcripts that are available to you through the DEC website and I just wanted to put a star

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alongside one of them that was offered last November, which focused on protecting Wetlands and streams in your community and that really examined both state and federal protections for wetlands, then also ways communities can be protecting wetlands, as well as streams in their community, so you

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want to check that out if you missed it, and now I'm going to turn it over to Krista Spohr, who's an environmental program specialist with the New York State DEC. You may see there's some other panelist names at the top of your screen or wherever those panels appear on your screen. We are also joined by other staff from DEC

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who will be helping the field questions and Krista will help introduce those folks as well. So I'm gonna stop sharing my slides and then invite Krista to take over.

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Krista Spohr: Thank you, Christine. Thank you for stopping sharing your slides because that was really hard to look at that picture of me. So.

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Share.

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Oh, let me start us at the beginning.

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Okay, hang on one second.

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Welcome, thank you. Okay, so welcome everybody and like we said it's a very exciting time.

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It is. And World wetlands day tomorrow. So this is coming out at a great time today. We'll be talking about the overview of New York freshwater, the wetland regulatory changes. So the freshwater wetlands repeal and replace part six, six, two.

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Come.

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So today we'll talk about the freshwater wetlands act, the current part six- six- four, why change was needed, a path forward. The proposed part six- six- four, that's our path forward and the advanced notice of proposed rule making,

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right now.

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So article twenty- four, the New York Freshwater Wetlands Act, it constitutes of mapped wetlands that are greater than twelve point four acres. It also calls for unusual local importance and a hundred foot adjacent area around the wetland.

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And we classify wetlands one through four. So what I mean by classifying wetlands one through four is we look at a few different things to classify them. One being the most restrictive permitting process and four being the least restrictive. So we look

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At the ability of the wetland and perform wetland functions and provide wetland benefits. We look at special ecological importance. An example is an inland- poor fen. We look at special features like habitat for endangered, threatened species, at hydrological and

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pollution control features. So there's about forty criteria that we look at and for a class one wetland there's seven criteria. So currently our maps are paper maps, the regulatory maps and they're based on a field visit of each

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site taking in consideration the wetland type, the benefit, the distribution and the location. And this is how they were created way before all this technology. So old cartography. To give you a little context in nineteen seventy- five article, twenty- four Freshwater

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Wetlands Act was enacted. So in one thousand, nineteen hundred eighty four was the first county that finalized its wetland maps. In one thousand ninety two was the first map amendment. So by nineteen ninety two, we realized these aren't the best, we have to do some updates and then

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by nineteen ninety- five, that was the last map amendment. So we realized that there was a lot of issues with the maps. If you think about it a pen, just the, the pen line on the map. How big is that pen line? Where is that? Where is that wetland boundary?

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How thick is it? So, in two thousand eleven to two thousand, twenty- two, DEC made a huge effort and shout out to JR Jacobson. He's the head of the fresh water wetlands program. This has been his baby to get legislation passed

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to remove the maps as no longer regulatory. And why might that be? Well, because currently for a little bit more context, currently there's about one point two million acres of wetlands on those maps, but it's estimated that we need about a million more acres

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added to the maps to meet the twelve point four threshold.

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Essentially the map stink.

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So how do you make a map amendment? Well it's a giant, as JR actually calls it, a paper tiger, so we need to get out some certified mail to the landowner. There also needs to be an affidavit, a publication stating that the wetland is boundaries are changing.

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And all of this costs money.

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Sorry, thank you for waiting. So about we estimated about seven point five million dollars to update the maps. So we definitely needed a new path forward and that new path forward is significant statutory changes to

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the freshwater wetlands act that was passed in twenty- twenty- two.

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So what was decided based on that legislation is that the threshold is gonna stay at the twelve point four acre threshold until twenty- twenty- eight. And in twenty- twenty- eight, the default threshold decreases to seven point

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four acres.

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So in twenty- twenty- five, the regulatory maps are gone. There's still gonna be informational maps and I don't know if you've explored on DEC's the environmental resource mapper, still gonna be available, but on the website, but no

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connection with the extent of regulation.

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So the proposed part, six, six, four.

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is we're still having class one to class four wetlands, but it's gonna be remote determinations using GIS mapping. So there's an MOU we have with Cornell and they're currently creating us some software, some GIS software so that we can do

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these determinations remotely. And thirty- five class criteria. So before there was forty, now there's thirty- five. And for the class one wetlands, there's nine criteria. So our classification goal, this is to show, we're trying to shoot right

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between the twos and the threes, so that there's the majority of the acreage of the wetlands fall between the class twos and the class threes. Some being in the fours and some being in the ones and now we can regulate

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smaller wetlands and this is done by some, we call unusual importance. So that unusual importance is regardless of the wetland size, if it possesses one or the more following characteristics as determined by the department, pursuant to the regulation criteria. So this is

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So one is a watershed with significant flooding. Two is urban areas. Three is rare plants. Four habitat for essential behavior of endangered, threatened, special concern, or species of greatest conservation need. Five is class one wetlands previously designated

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as a wetland of unusual local importance. Productive vernal pools. Wetlands and flood ways. Previously mapped wetlands. Regional or local significance, and significant for protecting the state's water quality.

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So that brings us to the advanced notice of proposed rule making. This is the repeal and replace the part six, six, four.

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This is.

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currently what we're in, So the advanced notice of proposed rulemaking went into the state register and the environmental news bulletin on January third of this year. It includes questions on eight specific areas of the express terms.

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There's a link within it to the complete express terms, and we did this because we wanted to solicit public comment to guide the development of the notice of the proposed rule making, and it provides an efficient mechanism for incorporating good ideas while meeting the January twenty- twenty-five

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statutory deadline.

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Things that make you go hmmm. So when looking at these provisions, there's about five and a half that there is no, that are, there's no discernment. The language is very clear on how we can regulate that.

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But then there's another five and a half that we had to put some considerable effort into figuring out the definitions for, so the ones in the darker font are the five and a half that are solidly stated already in the language. So we're looking at urban areas.

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This is Urban areas that we take from the US census that they did in twenty twenty. So if you're wondering like as an example of one, if you're wondering where those urban areas are, this is where they are, and we got them from the US Census.

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So now moving down to the habitat for essential behavior of species of greatest conservation needs. So we define species of greatest conservation need by it contains habitat for an essential behavior of species listed in the New York State Wildlife Action plan as a species of greatest conservation

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need where habitat loss has been identified by the department as a high or moderate threat to New York populations.

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So I'm highlighting this here again, just to, to draw out that it's about the habitat that we're looking at not the species, the animal or the plant species itself. We're trying to protect the habitat. Moving down to the watershed with significant flooding.

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We used HUC twelve watersheds with the following. So this is what a hydrological unit count. That's what HUC twelves are. So you can see how small they are and the larger the number, is than the smaller, the area. so it's kind of flip flopped.

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So we looked at it meets the following criteria: needs to have impervious surface that's greater than two percent, needs to have a water storage area that's less than five percent, and it needs to be upstream within two kilometers of an urban area. So this is our way of looking at the run- off,

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holding water capability and human risk.

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So now to everyone's favorite: productive vernal pools. So the language says "productive vernal pool". So we looked at two different things to, to determine those productivities. We looked at the species groups and also where those

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are located. Where in the state. Plus in the statue it says that we have to post these on the website.

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So species groups for the productive vernal pools. The common species: the spotted salamander in the wood frog. The special concern species: Jefferson's salamander, blue spotted salamander and hybrids, and the listed species and rare oddball species.

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Those are like the tiger salamander and the marble salamander.

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Geographic areas. All this determination, the geographic area and this was found and the productivity and the vernal pools that were found, was came from the New York Natural Heritage program. So they're the ones that did this report to discover these known productive vernal pools, and this is how they

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Broke up the state. So to be a productive vernal pool, the common species, the spotted salamander and wood frog in the Hudson Mohak area there needs to be fifty five or thirty- egg masses and in the Great Lakes area there needs to be two egg masses. In other areas,

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there needs to be ten or fifteen egg masses. So the special concern species that Jefferson Salamander, the blue spotted salamander and hybrids were looking at the lower Hudson, New York City, Long Island, and Adirandack area. There needs to be just one egg mass.

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And in the Great Lakes, Southern tier and the Hudson Mohak area, there needs to be twenty- egg masses. So those listed species and rare odd ball ones. The Tiger Salamander and Marble Salamander there just needs to be one egg mass anywhere. And so we came up with these because we're getting the top thirty

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Percent of productive vernal pools in that area.

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So regulated Vernal pools in that statute, it says the department shall create and maintain on its website, a list of geographic coordinates of vernal pools known to the department and that meet the criteria and sub- paragraphs one through six of paragraph g- of

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this section. The department shall publish updates to the productive vernal pool list in the environmental notice bulletin. So in order to get a vernal pool to be known, there's still things we need to iron out, like, how's that process gonna go? We know that it's gonna be much similar to how getting

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the amendments to the map were. So there's gonna be, there's needs to be certified letters in the mail. There needs to be public affidavit notice in the, in a newspaper, but those are still the things we're working at.

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So class one wetland. A class one wetland will be habitat that has threatened and endangered animals, threatened plants, significant coastal fish and wildlife habitat areas, a tidally influenced freshwater wetland, not.

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Regulated by article twenty- five, a contiguous to a

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an article twenty- five regulated tidal wetland, critically imperiled wetland plant community, a nutrient poor wetland, in a FEMA floodway, or contiguous to drinking waters.

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So other provisions we are looking at... that's the regional or local significance. So there's two criteria we look at for the regional or local significance. One is the wetland is located within the area, specifically designated as a critical

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environmental area or a CEA with specific reference to wetland protection by a local government, and then the second is the wetland is partially located in, within the Adirondack Park and jurisdictional to the Adirondack Park Agency.

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So more changes. So we are looking at extending the adjacent areas about three hundred feet for nutrient poor wetlands. The nutrient poor wetlands are listed here and the reason why we wanted to.

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Extend the three hundred foot- adjacent area to nutrient poor wetlands is because any addition of new input of nutrients adversely impacts the wetland. So it needs more special attention and more regulation.

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So there is an appeal to determination or to the jurisdictional determinations. So the first step is you have to have an initial, an initial consultation.

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And that's the delineation. So essentially a field meeting to discuss.

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Complete the JDP application within a hundred and twenty days from that initial consultation.

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And the acceptable bias of the appeal would be missing technical information, incorrect application of regulatory criteria, incorrect application of guidance. And the department has sixty days to respond.

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Moving into the advanced notice of proposed rulemaking contents. There is eight sections, so eight provisions with specific questions that we have. So like, taking it back to where I was talking before where it was highlighted with the blue

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on the list of eleven, these are the list of five and a half where we had to put some work into, so we're asking specific questions to the public on, hey, we thought of this. What do you think? So that's like this significant flooding, the rare animals, vernal pools.

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Class one, extending the adjacent areas. And on the advanced notice of proposed rulemaking there is a link to the draft express term. So it's all of the express terms and not just these eight.

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So this is what the advanced notice looks like. There's the setup, what DEC is considering, the excerpt from the express terms exactly how we go about it, and then the question.

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So we did this advanced notice so that you can help us, we can help you, and we can all help the resource. This is the email.

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Already, you know, send your comments and go and also a link will be dropped in where you can find the advance notice of proposed rule making.

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But let's also talk about the timeline and the associated steps it's gonna take to get this into play by twenty- twenty- five.

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So in twenty- twenty- four January third, the advance notice of proposed rule making went out it was published in State Register. Comment period to that advance notice ends on the twentieth, so that was a little more than forty- five days because it landed on a holiday weekend. In April we wanna get out our Notice of Proposed Rulemaking in the

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State register, so that's the next step. It's kind of like we got two rounds of public comment in, by doing this advanced notice. And October, November, then the regulations get adopted and get posted on our website. And we can shout from the hill tops of what the new regulations are. So

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By January first, the new regulations can take effect.

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The associated steps that are going on with this is, this is the work that needs to be done. Is develop general permits, develop standard operating procedures, develop informational maps.

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And again, thank you so much for your time, for being interested in our wetlands, and how we are going about protecting them. I, at this point, I'm gonna open it up to

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comments and questions.

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Laura Heady: Great, thank you so much, Krista.

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We're gonna start, we have lots of questions in the Q and A box. I thought we'd start, there's a few questions that are kind of about some of the basics. I thought we could start there, including how are the sizes of seven point four acres and three hundred feet adjacent are

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determined, and then also if you could just explain what express terms are. So those are three questions that were kind of about some of the basics that, that folks are asking.

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Krista Spohr: Okay, so Matt, I don't know if you want to field, I can field the express terms, but if you want to field how they come up with this seven point four in the...

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Good afternoon everyone. My name's Matt Walter. I'm the fresh water wetlands program manager for the state

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As far as determining the wetlands and determining in the location and extent of wetlands and their acreage, that will be done remotely, we are currently working with Cornell University. They are modeling wetlands at a ten-meter resolution throughout New York state. And those are going to serve as our

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informational maps, so that will be the starting point when we in Central office our team, you know, engages in a jurisdictional determination when we receive a request from new folks. A a member of the public or a developer that's needs to know are there jurisdictional wetlands in a given area of interest

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00:52:55.740 --> 00:53:15.540

anywhere in New York State, other than the Adirondack Park or I should say the interior of the Adirondack Park. So the initial will be determined remotely based on the Cornell mapping and other spatial data that's available to us. And the second part of that was what the

138

00:53:15.660 --> 00:53:18.100

three hundred foot adjacent area...

139

00:53:19.380 --> 00:53:28.340

Laura Heady: My interpretation of the question, and maybe I'm wrong was, was how were those numbers decided upon like, why the drop from say, twelve point four to seven point four acres?

140

00:53:29.660 --> 00:53:34.740

And how is like three hundred foot adjacent area determined? So how were those new parameters determined?

141

00:53:35.380 --> 00:53:36.740

Matt Walter: Okay, so.

142

00:53:39.260 --> 00:53:48.500

the three hundred foot, you know, was in recognition that the increased sensitivity of

143

00:53:48.860 --> 00:53:50.260

Bog type,

144

00:53:50.740 --> 00:54:11.220

And the fact that nutrient inputs can really do them in. They, they adversely impact the, the ecological function of, of those bog types, those wetland cover types. Three hundred feet being, you know, three times what the normal hundred foot regulated adjacent area buffer

145

00:54:11.700 --> 00:54:27.700

is for all other regulated wetlands. We'll just understand that, you know, any nutrient inputs are bad and so it takes a wider buffer zone in order to protect those wetlands.

146

00:54:30.420 --> 00:54:34.980

The, so I'm sorry, what's the other part of the questions?

147

00:54:36.340 --> 00:54:53.940

Krista Sporn: She also asked her, they sorry asked about express terms and what that means and express terms are the terms that are in the language in the legislation. So did I answer that properly?

148

00:54:56.020 --> 00:54:58.580

Matt Walter: Yeah, it's the draft regulatory language.

149

00:55:05.620 --> 00:55:26.740

Christine Vanderlan: Okay, so we have questions about the determination of productive vernal pools and one, I'm gonna ask a couple on this topic. So the first is who will determine whether the egg masses in a vernal pool meets the threshold for mapping? who does the counting?

150

00:55:26.900 --> 00:55:28.140

151

00:55:33.780 --> 00:55:38.260

Matt Watler: I will answer that quite broadly by saying someone that has the credentials to do.

152

00:55:38.900 --> 00:55:59.380

The vernal pools topic has generated a great deal of angst and concern and generated a lot of questions and let me just open by saying that broadly speaking, it's really going to be a voluntary program because in order for

153

00:56:00.020 --> 00:56:19.860

the department or folks in the natural heritage program working, you know, with the department to identify productive vernal pools, first off, people have to have the expertise to identify the egg masses of various species and then also compare them against the overall

154

00:56:21.820 --> 00:56:40.340

number of egg masses that are found within vernal pools broken down by the variability in productivity in the different regions of the state that Krista has shared with us earlier that map, broken up. So conceptually, this came from work

155

00:56:40.500 --> 00:57:00.820

of the natural heritage program folks that are the experts in the realm of, you know, identifying and studying vernal pools and their productivity by species assemblage. And, you know, the relative egg mass counts. Folks through the years we've gotten a lot of inquiries from members of the public that are interested in

156

00:57:01.020 --> 00:57:05.300

having some type of protections to vernal pools that are on their property

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00:57:05.940 --> 00:57:26.300

And so this, this is an addition, an expansion of our regulatory protections for Vernal pool wetland types that enables people to contact us, and if we verify that, you know, this indeed is a, an exceptionally productive vernal pool within the top thirty percent of productivity for

158

00:57:28.380 --> 00:57:46.900

the species within that region of the state, you know, we will add a vernal pool to our registry and other than that, the other vernal pools that we will start off with are those that the folks in the natural heritage program have data for based on the work

159

00:57:46.980 --> 00:58:07.380

that they've done on public lands. So that's gonna be the starting point is compiling this online registry, you know, indicating what vernal pools and what regions of the state have been identified as being, especially productive meaning that, you know, in terms of productivity the top thirty percent of productivity.

160

00:58:08.060 --> 00:58:16.340

And based on relative productivity in a given region of the state. I hope I'm making sense.

161

00:58:17.620 --> 00:58:19.540

Krista: I think you are, but.

162

00:58:21.140 --> 00:58:21.460

You work with.

163

00:58:25.940 --> 00:58:28.500

Christine: I think I caught that too. So it was

164

00:58:29.220 --> 00:58:44.220

reasonably clear, there are questions about specifics in there, like, can you explain fifty five or thirty egg masses? Does that mean anywhere in the range between thirty to fifty five egg masses and if so why is there an upper limit?

165

00:58:45.820 --> 00:58:47.140

Matt Walter: I don't.

166

00:58:48.340 --> 00:58:49.620

I think it was ever.

167

00:58:50.380 --> 00:58:54.740

Laura: What was that Krista, your slide you were talking about spotted salamanders wood frogs.

168

00:58:54.900 --> 00:58:56.020

Were those.

169

171

00:58:58.620 --> 00:59:17.140

Krista: Yep, so those numbers were referring to the different species and it also, those numbers came from what we're looking for is for the top thirty percent, most productive pools, so it's gonna that again, it's going back to the data that Natural Heritage Program

172

00:59:18.420 --> 00:59:37.060

Has going back to the data that Natural heritage has, but I understand what the question is, but can the person who I asked the question? I am happy to get you a more detailed answer because

173

00:59:38.540 --> 00:59:58.740

that's why we're bringing it to the public so we can work on this together, so I can get you a more detailed answer on how we came up with that, and if you have data to show, you know, there's a better way to do it. We are open to that, but to that person who sent that question. Please shoot me an email or you, I'll get it from this webinar

174

00:59:58.740 --> 01:00:02.540

and I'll give you a more detailed question or answer.

175

01:00:03.220 --> 01:00:06.420

Christine Vanderlan: Okay, do you want to go back to that slide? Would that also help?

176

01:00:08.500 --> 01:00:22.420

I guess I'm wondering if there's a range thirty to fifty five, maybe it doesn't necessarily mean fifty- five is an upper limit, but for certain species, your number would be fifty five, not thirty, or maybe be forty or something like that.

177

01:00:22.740 --> 01:00:24.140

Krista: There we go.

178

01:00:25.620 --> 01:00:27.620

Me, oh.

179

01:00:33.300 --> 01:00:33.940

This way.

180

01:00:34.220 --> 01:00:45.180

So on that same topic, someone was asking about are people allowed to count in one year? and does that number become the number? or ore accounts for egg masses something that get repeated?

181

01:00:47.360 --> 01:01:07.840

Matt Walter: Yeah, and there's a little bit different than a normal wetland jurisdictional determination because as we were gonna continue to operate as a currently operate with, with jurisdictional determinations in that, you know, we make a jurisdictional determination and that determination is good for a five year period from the date of the

182

01:01:08.040 --> 01:01:28.320

initial determination. In the case of vernal pools, you know, this being a largely a voluntary program, in addition to us, you know, cataloging the vernal pools that have been identified as being especially productive on public lands throughout the state, there will be no term set on that. So

183

01:01:28.440 --> 01:01:31.520

once a vernal pool in a given area has been identified as being

184

01:01:33.040 --> 01:01:52.640

especially productive, that top thirty percent of productivity for that individual species or assemblage of species, it will be added and it will remain on the listing and until a time when somehow it's determined that that vernal pool no longer

185

01:01:53.440 --> 01:02:13.120

Productive. You know, with climate change the size of vernal pools can certainly factor into their longevity and whether or not the vernal pools are forming and productive you know, for decades on and on, I think most

186

01:02:13.760 --> 01:02:33.600

folks that are at least somewhat familiar with vernal pools understand that year to year there, there can be a great deal of variability in the extent of the margins, you know, the inundated area and the level of productivity, depending on what that year holds for that very narrow period of the year.

187

01:02:35.640 --> 01:02:40.000

Within which vernal pools are productive. I'll leave it at that.

188

01:02:40.640 --> 01:02:41.280

And, and.

189

01:02:42.560 --> 01:03:00.600

Krista Spohr: I was just gonna add that, yes, seeing the slide is more is easier to describe, but yeah, like fifty five is for the spotted salamander, and then in that Hudson-Mohawk area, and thirty is for the wood frog. So I think that may be answered the question.

190

01:03:01.120 --> 01:03:02.400

Christine Vanderlan: Yeah, I think so.

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01:03:02.840 --> 01:03:03.040

Okay.

192

01:03:03.720 --> 01:03:04.840

Thanks.

193

01:03:05.000 --> 01:03:06.520

You're welcome.

194

01:03:09.680 --> 01:03:27.880

Laura Heady: Before we shift off from vernal pools, Christine. I just, there were a couple other questions, one of which was, is there concern about publishing the locations of vernal pools and that might empower collectors or coaches, particularly for listed species that occur near vernal pools.

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01:03:29.280 --> 01:03:32.840

Matt Walter: That is definitely been a concern and we've.

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01:03:34.520 --> 01:03:36.920

For folks that work with mapping.

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01:03:38.920 --> 01:03:58.720

We anticipate, you know, going with the centroid, basically a latitude and longitude point, we're certainly not gonna map the margins of a vernal pool given how variable that can be a year to year to year over time, but having the listing that is something that we have considered.

198

01:04:00.720 --> 01:04:05.600

Depending on the, the comments that we get from you folks, we, we may.

199

01:04:07.840 --> 01:04:27.520

Find a more general way like to the parcel or, you know, go with what you see on our element occurrences data through the natural heritage program where there isn't a precise location indicated, it's more general in nature. There's like a central point and a

200

01:04:29.040 --> 01:04:44.800

general buffer zone of a given radius drawn around the point of the initial detection without revealing precisely where a species was observed, so we're open to.

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01:04:45.840 --> 01:04:51.880

getting your input as to how we could orchestrate this because that is, that is a current concern that we have.

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01:04:53.240 --> 01:05:08.760

Krista Spohr: We're also trying to be transparent, you know, we're trying to allow there to be knowledge of it, but at this same, because in the law, in this new legislation, it says that we will.

203

01:05:10.680 --> 01:05:14.800

The coordinates will be known, so if we can

204

01:05:16.200 --> 01:05:18.240

figure out a way.

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01:05:20.000 --> 01:05:41.120

Laura Heady, Yeah, and I think it's worth reminding everybody again that there's really specific questions in the proposed rulemaking to get input from the, from the public on how these are gonna be shaped. So I just want to remind folks and I know that one of your team put the link in the chat, but maybe to do that again, just to remind folks to go check that out.

206

01:05:41.480 --> 01:05:49.440

Because a lot of the questions are raising, are questions that have already been raised too, by the DEC and they're looking for input on that.

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01:05:49.480 --> 01:05:50.720

Krista Spohr: Thank you, Laura.

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01:05:52.200 --> 01:05:53.280

That's exactly why we are here.

211

01:05:58.400 --> 01:06:16.960

Christine Vanderlan - I see a question of a little more straightforward to answer, so maybe we'll switch to something like that. So the question is about what is actually changing on January first twenty- twenty five? So could you go over that again.

212

01:06:16.960 --> 01:06:24.520

Krista Spohr: So January first, the regulatory maps are gone. There's no more, we're not beholden to jurisdiction

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01:06:25.440 --> 01:06:27.240

to the paper maps.

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01:06:29.760 --> 01:06:32.720

Matt, do you want anything to add to that?

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01:06:36.160 --> 01:06:39.360

217

01:06:47.680 --> 01:07:07.520

Matt Walter: The regulatory maps are no longer binding in terms of the extent of our regulatory authority. That's what that means. I mean, you know, we've been saying in more common general terms that the maps are gone, however, the maps are not going away. What's going away is

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01:07:10.240 --> 01:07:26.680

the limitations on the extent of our regulatory authority, in recognition of the maps being so poor and the location and the extent of wetlands having been mapped such a long time ago using outdated methodology.

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01:07:28.000 --> 01:07:38.880

It has raised all sorts of problems in our permit reviews and doesn't meet the need for transparency and informing the public as to where there are

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01:07:40.200 --> 01:08:00.640

large wetlands or small wetlands that meet our criteria for jurisdiction, And that's why we're transitioning to having not regulatory maps that limit our authority to protect the wetlands on the landscape. We're changing over to informational maps, so that

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01:08:00.680 --> 01:08:21.120

wetlands that meet the acreage thresholds, that's square one as far as January first twenty- twenty five. You know, wetlands that are five hectares or greater, you know, twelve point, four, three point, three, six acres. We say twelve point, four acres in size or greater meet our criteria

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01:08:21.759 --> 01:08:28.160

Meet the article twenty- four criteria for jurisdiction. Any wetlands that meet the acreage threshold will

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01:08:30.160 --> 01:08:37.759

be jurisdictional whether or not they were previously mapped or not. The informational maps that we're having produced by Cornell through the modeling,

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01:08:40.319 --> 01:08:58.240

Are just that. They are informational. Our regulatory authority, if we find that a fine scale on the ground at a given parcel, connected to, you know, a proposal either by an individual land owner or something larger scale or, you know, a developer working on a project, we

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01:08:58.960 --> 01:09:07.839

find that the Cornell informational mapping along a given edge may not be accurate. What's important

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01:09:07.839 --> 01:09:08.480

is the acreage.

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01:09:09.160 --> 01:09:14.880

And for larger projects, of course, many folks on, on the phone know that wetland delineation

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01:09:14.920 --> 01:09:16.160

needs to be done.

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01:09:16.200 --> 01:09:18.080

Identify the actual location and

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01:09:18.880 --> 01:09:19.359

extent of wetlands needs to be done before

231

01:09:20.080 --> 01:09:20.640

anyone breaks ground.

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01:09:21.640 --> 01:09:29.600

Following that, of course we need to determine the hundred foot regulated adjacent area extending beyond the actual wetland

233

01:09:30.560 --> 01:09:34.080

based on our methodology. So I

234

01:09:34.240 --> 01:09:37.279

hope that answers the question, the distinction between.

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01:09:38.000 --> 01:09:41.759

how we're operating now with maps that we're drawn back in the eighties

236

01:09:41.799 --> 01:09:42.920

using

237

01:09:43.120 --> 01:09:50.080

stereoscopes and grease pencils, that depending on how hard that mapper that day, pressed on that grease pencil,

238

01:09:50.120 --> 01:10:07.360

that line could be anywhere from seventy feet wide, the outer extent of a wetland margin, to a hundred and fifty feet wide, and because the maps were drawn at a one to twenty- four thousand scale where one inch on the map equals two thousand feet on the ground.

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01:10:08.800 --> 01:10:11.160

So that's another mapping detail

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01:10:13.120 --> 01:10:21.400

that factored into the inaccuracy of the maps that we've been working with for too long. So.

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01:10:26.360 --> 01:10:34.880

Laura Heady: Related to kind of more straightforward questions. There's a number of folks asking for just some clarification on the three foot adjacent area, whether that is

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01:10:36.160 --> 01:10:48.320

for all wetlands now, or if that's just for a certain set of wetlands and then also if there'll still be a five hundred foot check zone beyond the new three hundred foot adjacent area for wetland screening.

243

01:10:48.980 --> 01:10:59.140

First, the question is what is the adjacent area gonna be? What's it, what is it changing to, and what, what constitutes the need for three hundred foot adjacent area?

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01:11:02.980 --> 01:11:10.020

Matt Walter: Yeah, so the three hundred feet pertains to nutrient poor wetlands.

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01:11:10.740 --> 01:11:17.700

Laura Heady: Matt, while you're on that too. There's a number of questions with folks just asking for some explanation about nutrient poor and what that means, too. So maybe you can elaborate

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01:11:18.340 --> 01:11:20.260

within this answer.

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01:11:25.380 --> 01:11:29.860

Matt Walter: I don't know. I don't know if I'm really equipped to do that to be honest with you.

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The three hundred foot adjacent areas not getting tacked on to every wetland that we identify as

254

01:11:57.540 --> 01:12:02.140

jurisdictional, it's this subset of nutrient poor wetlands.

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01:12:11.460 --> 01:12:13.420

Krista Spohr: Here it is again.

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01:12:24.900 --> 01:12:31.940

Laura Heady: And so basically what we're seeing is that this expanded adjacent area is for this particular

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01:12:32.780 --> 01:12:44.740

set of wetlands that are pretty unique. Some of them are kind of rare and they're a little bit more sensitive to potential inputs from runoff and pollutants and things like that. So that broader adjacent area will serve to protect them.

261

01:12:45.380 --> 01:13:05.220

Krista Spohr: In a very broad terminology, the, these wetlands their nutrient poor. So when more nutrients gets added into it, say there's a septic system next to it or something, more nutrients gets added into it. It's gonna break down the ecology of the wetland a lot easier than it would a different kind of wetland.

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01:13:05.380 --> 01:13:15.460

Because you're oxidating a very acidic wetland, that's, we can give more, but that's the, the basis of it.

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01:13:16.100 --> 01:13:20.100

Laura Heady: And Krista and Matt related to this,

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01:13:21.860 --> 01:13:33.060

these nutrient poor wetlands, are these all identified by the NY Natural Heritage program or how do you, I guess landowner,s or project sponsors, or anybody know that there's a nutrient poor wetland near them?

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01:13:41.900 --> 01:14:02.180

Matt Walter: Some are. Honestly, I don't know how good the fine landscape scale the accuracy and extent of the mapping of these wetlands are. What Cornell is doing is mapping wetlands throughout the state at a ten meter resolution.

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01:14:02.940 --> 01:14:21.300

We will be working with natural heritage data for these wetlands that they do have mapping information for, and then beyond that, it will be part of the jurisdictional determination or, or field delineation to identify

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01:14:22.700 --> 01:14:30.340

whether or not these types of wetlands are present within an area that someone's interested in doing something, has some project proposal.

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01:14:33.540 --> 01:14:38.260

Laura Heady: And for some who are not familiar with the natural heritage program data, these

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01:14:39.660 --> 01:14:49.860

community types are part of their ecological community mapping for New York State. And that's so these are all well defined and there's resources online where you could read about what these are.

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01:14:52.140 --> 01:14:55.300

Christine, did you want to shift gears to a different topic?

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01:14:58.500 --> 01:15:08.260

Christine Vanderlan: I'm trying to scan the questions to come up with one that hasn't been answered. So I think I have to keep going a little further down the list.

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01:15:15.180 --> 01:15:29.300

One is about the army corps of engineers playing a role and another about, do you still have a joint application, which I'm guessing is a joint application for federal and state. Do you want to address that?

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01:15:29.940 --> 01:15:39.500

Matt Walter: Nothing's changing with the joint application process. The only thing that's changing here is how is how New York determines jurisdiction of wetlands.

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01:15:45.860 --> 01:15:46.500

Christine: Great.

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01:15:46.500 --> 01:16:02.500

Laura Heady: And I think it's worth noting for some that might not be familiar that the Army corps has never used maps, right? They've always been, they've been regulating wetlands for years without maps. So this shift away from maps for the DEC is not a novel approach.

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01:16:04.500 --> 01:16:10.820

A question did just come in just asking to what extent are wetlands in New York State appropriately mapped? Maybe

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01:16:10.860 --> 01:16:11.460

It's

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01:16:11.700 --> 01:16:13.380

Worth explaining a little bit more.

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01:16:13.380 --> 01:16:33.860

Krista Spohr: Yeah, so, and I, I mean, I don't want to bother you with the slide, but there is because of the way they were mapped, there's about one point two million wetlands that are mapped, but because it's such an inefficient system, we are missing a million acres of wetlands on those maps.

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01:16:33.900 --> 01:16:49.500

And that's why there was this need to get away from those maps. They're keeping us kind of hog tied, I guess is that that word? So we can't efficiently regulate what's out there.

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01:16:50.500 --> 01:17:10.340

Matt Walter: Just to add to that a bit. What Krista is sharing is that there are an estimated million acres of wetlands throughout New York State that meet our jurisdictional criteria that were not included in the original mapping effort, and so we

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01:17:10.340 --> 01:17:30.820

are not regulating wetlands that have met New York State's jurisdictional criteria for protections, going all the way back to the beginning of article twenty- four, which again was nineteen seventy- five, August nineteen seventy- five. And then in most areas of the state maps were promulgated in the

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01:17:31.460 --> 01:17:51.300

mid- eighties, around nineteen eighty four. So, but with that antiquated mapping methodology looking at flyover imagery through stereoscopes at a one to twenty- four thousand scale, many large wetland areas were missed. So

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01:17:51.340 --> 01:18:11.780

This update to our regulatory structure for part six, six, four, our wetland mapping and the classification that's linked to the mapping effort, it's a big effort to bring a bunch of wetlands into the fold that we have had jurisdictional criteria for protecting, but because

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01:18:11.820 --> 01:18:32.260

they weren't mapped we could not easily protect them. And then beyond that, there was a question earlier, someone asked about the acreage threshold, dropping to seven point four acres, three hectares come January first to twenty- twenty eight that I don't think we didn't address. Well.

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01:18:32.340 --> 01:18:52.740

That is, that's an effort to expand our wetland protections in New York state and we've gotten a lot of pressure through the years, especially with all of the discussions that have come up and all of the changes with the extent of the Army corps of engineers, their regulatory authority changing or getting confusing with the changes.

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01:18:54.180 --> 01:19:13.220

In "Waters of the US", how it's, how they're defined how, you know, adjacency is determined and those on the line that are familiar with "waters of the US" and, and the challenges to the regulatory authority that have come about

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01:19:13.980 --> 01:19:33.700

In the last ten-fifteen years, we got a lot of pressure to do more, and that's, that's really what it comes down. We're doing more, and we're, we're trying to balance wetland protections with not regulating absolutely every wetland

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01:19:33.940 --> 01:19:50.340

out there on landscape, but protecting a heck of a lot more than we've been able to protect. So I, I think that's the simplest and most general answer. I can, I can give to that question for why are we dropping our acreage threshold? We want to do more. That's why.

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01:19:51.620 --> 01:20:11.460

Laura Heady: And Matt, I'll just say is, you know, we, we work a lot with a public in our program and we hear a lot of concern about the biodiversity crises and climate crises, and so obviously wetland protection is a front and center strategy to help relieve the pressure from both of those, but I think I'm, I'm still not sure this.

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01:20:11.500 --> 01:20:17.220

Question is being answered in terms of how did the number seven point four acres, like I, I remember years ago,.

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01:20:17.460 --> 01:20:17.860

people asking

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01:20:18.100 --> 01:20:19.140

like twelve point four acres,

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01:20:19.820 --> 01:20:21.700

What did that number come from?

There is the drop just specifically to seven point four, not eight or not six, or, you know, like, how did that number come about?

301

01:20:32.860 --> 01:20:36.420

Matt Walter: We got a lot of people asking us, "Why aren't you going down to one acre?"

302

01:20:37.700 --> 01:20:40.900

Down to all sorts of different acreage thresholds.

303

01:20:43.500 --> 01:20:49.860

All I can tell you is that it was an internal discussion and, and it was, you know, good governance. It was an attempt at

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01:20:50.620 --> 01:21:11.740

as I just said, balancing the need for increased wetland protections and one thing I need to throw out here is that even if you're not very well versed in, in wetlands and you don't have a strong love of wetlands, and an appreciation of the open space that they provide, just the beauty on the land,

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01:21:12.420 --> 01:21:21.980

one thing that absolutely every person on this call benefits from, on the wetlands front is that they serve as flood water buffering capacity.

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01:21:23.300 --> 01:21:36.060

When we look at New York State with all the flooding that is going on and all the devastation connected to that flooding, that's directly linked to us having made many mistakes dating way back to the twenties

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01:21:36.700 --> 01:21:41.820

in where we developed the land and

308

01:21:43.100 --> 01:21:56.540

the biggest benefit that I think we are going to get out of protecting more of New York State's wetlands is the, is the alleviating some of the flood risk and some of the flooding

309

01:21:57.460 --> 01:21:59.460

devastation that we've seen.

310

01:22:00.580 --> 01:22:01.020

I want.

311

01:22:02.300 --> 01:22:20.860

Kicked around the question was kicked around and discussed, you know, through office of general counsel and, you know, division and right on up to the commissioner and other state agencies, and that's where we landed. I can't provide any more.

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01:22:21.500 --> 01:22:32.380

fine details as to where we came, we landed on three hectares. But...

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01:22:33.020 --> 01:22:36.860

It was us wanting to do more and moving to do. So.

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01:22:37.500 --> 01:22:40.060

Laura Heady: Great, no, that's a good answer. Thank you.

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01:22:40.740 --> 01:22:57.340

Getting back to the kind of more of the procedural jurisdictional determination, so somebody asked if Wetland Maps are in part or for some, based on the presence of a wetland indicator species, how can such maps be created on the basis of imagery alone?

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01:22:59.260 --> 01:23:14.620

Right, so if wetlands are determined sometimes by the presence of an indicator species, whether it's a plant or an animal, how can that determination be made now if it's only solely remotely and based on imagery, like on desktop, basically.

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01:23:14.940 --> 01:23:35.100

Matt Walter: The location and extent of the wetland is not determined by species. It's determined by the spatial area of the inundated wetland habitat area. The species factors into the classification of the wetlands, but the location of the wetlands has to do with

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01:23:35.180 --> 01:23:55.580

the actual inundation and, and duration of that inundation through the year, and the extent of, of the wetland area. It's as far as our wetland protections go related to species that's connected to preserving the habitat for

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01:23:56.260 --> 01:23:57.980

sensitive species.

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01:23:59.580 --> 01:24:17.980

Laura Heady: My guess is, they're thinking about like, hydrophytic vegetation, you know, there used to be so, right soils, hydrology and hydrophytic vegetation being kind of a field indicators. So, so what you're finding is that you're remote sensing work can adequately address the location and area.

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01:24:19.980 --> 01:24:33.980

Matt Walters :Yes, we're confident that, that we're going to be able to identify, you know, the large wetlands, especially, are, are going to stand out and the informational mapping that is the starting point for our jurisdictional determinations, you know, currently.

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01:24:34.220 --> 01:24:34.620

Still...

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01:24:34.620 --> 01:24:42.300

Being modeled and produced by Cornell will be leaps and bounds better than what we've been working with.

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01:24:43.620 --> 01:25:04.060

As far as identifying the location of wetlands of given size, and then we could do our desktop assessment of the acreage. The size of that wetland, you know, in practice, you're gonna have an individual, let's just get it small for the sake of conversation...you're gonna have an individual land owner that wants to do something in a corner of their, you know, acre of

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01:25:04.060 --> 01:25:08.540

property and they know there's a wet area there and the

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01:25:09.420 --> 01:25:12.380

codes officer says you better call the DEC, so they call us.

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01:25:13.020 --> 01:25:15.580

First thing we do, we look at their parcel and we look.

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01:25:18.140 --> 01:25:32.220

Ask questions where are you interested in doing and where , in your relation to your house and the road, and then we take a hard look at the Cornell mapping, look at the wetlands in the area, but then of course, in order to identify the acreage threshold when they were not it's met,

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01:25:33.180 --> 01:25:41.820

most likely in most cases, we will need to look beyond that parcel, beyond that property in order to identify how big are the wetlands in that area.

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01:25:42.900 --> 01:25:48.220

Do they meet the acreage threshold criteria for jurisdiction under

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01:25:48.540 --> 01:25:50.700

Under New York State?

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01:25:53.980 --> 01:25:58.460

Laura Heady: Thank you, Christine. Did you have a question queued up?

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01:25:59.140 --> 01:26:18.300

Christine Vanderlan: Hi, there are a couple of questions about flooding which we touched on a little bit a few minutes ago, and the questions are about, you know, defining what is significant flooding. I think that's the language. What makes it significant flooding, how would that be determined?

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01:26:20.260 --> 01:26:38.780

Matt Walter: So we took, we've also petitioned this group to give us comment on what we've come up with, and again, if you go back to the questions that we posed that we're looking for input on it lays out the criteria that we have used so far.

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01:26:39.020 --> 01:26:43.260

To identify the areas that are most flood prone. But I can

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01:26:44.140 --> 01:27:04.060

Share with you that we generally use, you know, spatial data. We used national land cover data in, but somewhat indirectly. We actually worked with the EPA's work, they have the Watershed index online and what they did, and they took, they took a look at landscape metrics and all sorts of

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01:27:04.380 --> 01:27:24.860

aspects of land cover such as impervious surface, and they came up with percentages. What we did is we calculated percentages within the HUC twelve sub- watershed level, which is the smallest of the

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01:27:28.060 --> 01:27:45.980

(not number, it's counterintuitive because as Krista said earlier, the higher the HUC number, the smaller, the watershed). So the HUC twelves are the smallest watershed. We decided to look at the landscape

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01:27:46.380 --> 01:28:06.460

through that lens to identify level of impervious surface and the other criteria. We really do want to hear back from folks on what we've put together and the details are laid out and, and what we put out with the advanced proposed rulemaking

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01:28:07.100 --> 01:28:09.860

questions that we've set.

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01:28:17.340 --> 01:28:21.180

Laura Heady: Really great question here too, Given the

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01:28:23.100 --> 01:28:33.980

interest in movement in the last decade, I'd say, especially to think about culverts and I know the division of a wetland from a road and a culvert has always been an interesting

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01:28:35.660 --> 01:28:43.580

conundrum, so the question is how will the culvert crossings of roads impact hydrologic connectivity play into determining overall acreage.

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01:28:44.220 --> 01:28:50.460

Will two complexes on different sides of the road be considered as one wetland if there are culvert connections?

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01:28:51.980 --> 01:28:52.540

Matt Walter: Yes.

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01:29:01.580 --> 01:29:03.420

Let me, yeah, let me, let me fill that out.

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01:29:03.500 --> 01:29:04.060

A little bit.

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01:29:06.100 --> 01:29:14.340

Folks that work in the wetlands world in, you know, regulatory and, and development, whatever your angle you're looking at them from.

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01:29:16.340 --> 01:29:36.060

We are looking at overall landscape hydrology and what is, and what is not a wetland and we are not cutting off our jurisdiction just because back in nineteen fifty, seven, a road was put right through a big fat juicy beautiful wetland. Those wetlands are connected the hydrology is connected that is considered one

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01:29:36.700 --> 01:29:46.340

Large, functional wetland with connected hydrology. If the hydrology is connected, the ecology is connected and, and that is our position.

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01:29:50.780 --> 01:30:11.260

Christine Vanderlan: So we have a couple of questions from folks who serve on local municipal boards like a Conservation Advisory Council or a planning board asking about what they can use, if these DEC

maps are going away in two thousand twenty- five, you know, what can they be using as they're looking to identify wetlands and, you know, carrying

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01:30:11.540 --> 01:30:16.380

out their role at the local level and I'm guessing these maps do not totally just disappear overnight, but.

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01:30:17.300 --> 01:30:18.940

You can talk about, you know, what, what happens...

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01:30:20.220 --> 01:30:32.020

Krista Spohr: It is in the, in the legislation that we do have to have informational maps on our website. So there's the environmental resource mapper and

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01:30:33.660 --> 01:30:53.500

so there is gonna be something that they can go to as a starting point to say, Okay, what's here, and if it looks like they're parcel or what they're looking at is, does have wetlands, then it goes to the next step, and then we do our jurisdictional determination on our end.

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01:30:55.640 --> 01:31:15.080

Like Matt said, the maps aren't....I'm gonna take that word "gone" out of this presentation. They're not going away. They're just not regulatory anymore, and I think it's important to note like the maps that everybody that are on the environmental resource mapper, the ones that are online now. Those, you know.

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01:31:19.040 --> 01:31:39.400

The ones that come from are paper maps, the ones where Matt was talking about how the grease pen depending on the day, how hard he pushed, how thick of the line. So moving forward, we also have to update these maps when we are doing these jurisdictional determinations and we're, we're finding.

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01:31:40.040 --> 01:31:48.400

where the new lines are of things, the maps online will also be updated, so it's gonna be a better point to start from.

Christine Vanderlan: I think it's related to that. It's also worth mentioning that there are, there's a layer in the Hudson Valley Natural resources mapper for folks who are in that region of the state that includes soil-based mapping of possible and probable wetlands, which is also

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01:32:19.960 --> 01:32:20.360

another..

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01:32:21.040 --> 01:32:31.760

resource local officials can be using to try to understand where there may be wetlands and may find ones that weren't on the DEC jurisdictional maps.

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01:32:33.800 --> 01:32:36.360

So Laura, do you have a question? You want to pose?

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01:32:36.760 --> 01:32:56.840

Laura Heady: Yeah, well, getting back to some of the unusual importance criteria, one of which was urban wetlands, we had a question about that, which we haven't talked about yet today. For urban wetlands to be considered of unusual importance, do they need to fall within the boundaries of the map of urban areas that you showed? Is any freshwater wetland that falls in those areas regulated

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01:32:57.000 --> 01:33:03.240

regardless of size? So maybe we could talk a little bit about the, what's proposed anyway for the criteria for urban areas.

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01:33:03.880 --> 01:33:13.600

Krista Spohr: Yeah, that map is if they fall within that US Census Bureau map, then that's considered urban and they will be regulated.

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01:33:17.960 --> 01:33:37.800

Matt Walter: That, of course generates, you know, the question, how small and, and how will they regulate ed? So Kristen mentioned this part of her presentation earlier that one of the things that we still need to develop is some general permitting, and when we're talking about urban wetlands,

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01:33:37.880 --> 01:33:39.360

talking about

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01:33:41.640 --> 01:33:51.560

you have a very small phragmites patch that, yes, my team in Central Office is able to see it was captured by the Cornell Wetland modeling,

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01:33:53.160 --> 01:34:13.640

However, it's surrounded by, you know, heavily impacted area, you know, DEC needs to apply, you know, our professional discretion and deciding how are we going to regulate it because the part Q-Q unusual importance criteria is written in, and it is quite explicit. It's saying that wetlands with an urban area

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01:34:13.720 --> 01:34:33.360

are jurisdictional. The question that remains is how will be DEC regulate those wetlands? And so we will look at when, when we're faced with a wetland patch, we will be looking at the functions and benefits and, and deciding

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01:34:34.160 --> 01:34:42.440

how it's going to be regulated. And we are, there's just been a lot of discussion of developing general permits to more clearly

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01:34:43.800 --> 01:35:03.560

layout, how are we going regulate wetlands of various types and sizes that are found within urban areas as defined by the Census Bureau. And I want to point out one thing too. Well, for folks that are familiar with the Census Bureaus, definition of urban.

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01:35:03.560 --> 01:35:24.040

The reason in our criteria that, you know, it states outright within or adjacent to an urban area is that the twenty- twenty census was the most recent. In two thousand twenty- two, march of two thousand twenty- two coming up on two years ago, they

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01:35:25.160 --> 01:35:28.520

went into the definitions and more clearly outlined

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01:35:29.800 --> 01:35:36.200

what is considered an urban area. And within their definition, they do

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01:35:37.040 --> 01:35:57.320

outright state that they are not including open waters and wetlands that are adjacent to developed, you know, otherwise urban areas. Whereas our distinction is, yes, we're using the census block data to identify urban areas based on population densities,

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01:35:57.600 --> 01:36:17.800

in relation to the census blocks and overall landscape metrics, but the thing that we're doing differently that does fall somewhat outside. Well, it does directly fall outside of the, of that distinction that they make within their March two thousand twenty- two clarification on the definition for urban area is that we are regulating wetlands

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01:36:18.080 --> 01:36:31.200

that are adjacent to urban areas. We're considering them as being within the, you know, either within or adjacent to the urban area. They, if they share a margin with an urban area, they are jurisdictional for DEC.

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01:36:35.720 --> 01:36:56.200

Christine Vanderlan: And I just want to make sure I understood that. So the Census Bureau defines and draws boundaries around urbanized areas, urban areas based on population density in those areas, and some number means it's urban density, below that- not urban density.

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01:36:56.840 --> 01:37:07.960

And where those urban areas have wetlands, at the margins they would actually not pull the wetland into that map of urbanized area. They would chop it out?

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01:37:08.400 --> 01:37:28.840

Matt Walter: Yeah, and I think it stems from the different lens. I mean, they're looking at. They're looking at population centers and level of development, you know, we're, we're looking at the resources on the landscape in relation to areas that are potentially flood prone, that's the real kicker for this urban areas piece in our, in our regulatory updates. We're looking to

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01:37:29.200 --> 01:37:49.320

people from flooding and of course, urban areas is, you know, comes with very high levels of impervious surfaces very low level. I mean, very short lag time, the rain comes down it gathers and it, it flows, and so we, I just, it's just for folks that are.

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01:37:49.960 --> 01:38:08.520

It's just something that could be confusing to folks that are knowledgeable of the finer details of the census bureau's definition and clarification as to what they're calling an urban area, but.

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01:38:09.160 --> 01:38:28.680

And it stems from the different use. They're looking at it just through how many people of what concentration live where, and the level of development and we're looking at the, we're looking at it through an ecological lens and a flood risk lens.

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01:38:30.920 --> 01:38:37.320

Christine Vanderlan: Right. So we're creeping up on our two thirty wrap up times, but Laura, do you have a question, ready to go?

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01:38:37.440 --> 01:38:57.800

So many, I have so many ready to go, but one I just wanted because we, we, so we just talked about urban areas in the unusual importance. I wanted to also bring in a question regarding the habitat criteria for protection of wetlands below seven point four acres. This person was asking about the

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01:38:58.760 --> 01:39:18.280

term essential behavior, and how essential behavior, that criteria will be used for determining if a wetland can be regulated below seven point four acres. So the example they gave was if it protected bat feeds on insects over a wetland smaller than seven point four acres, would that wetland be regulated based solely on that activity? And thank you

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01:39:18.400 --> 01:39:19.760

for the program.

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01:39:22.120 --> 01:39:42.600

Matt Walter: The definition for essential behavior is actually found in part one eighty two, but what essential behaviors are, we do have it defined in our draft part, six, six, four and essential behaviors are those behaviors... I'm reading above the screen here...associated with breeding,

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01:39:42.680 --> 01:39:51.480

Hibernation, reproduction, feeding, sheltering, migration, and overwintering. And so

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01:39:54.320 --> 01:40:13.320

because our jurisdictional determinations and the first step is going to be a remote desktop assessment, we're going to be working with data sets. So in order for us to identify an area as being important for a species as wetland habitat

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01:40:13.360 --> 01:40:33.800

where we are going to be looking at data that the department or, you know, natural heritage program have collected and an essential behavior has been documented for that species in that area. And when that's the case that will be what we will be

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01:40:34.440 --> 01:40:40.040

looking at, as far as assigning protections and, you know, the classification of the wetland.

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01:40:44.040 --> 01:40:49.160

Laura Heady: Thank you. Christine. Do you mind if I ask something else here or

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01:40:49.240 --> 01:40:51.720

Did you have something?

And one question was after the final regs are in place, could we have another webinar perhaps that explains what that looks like? And I think that's a good idea and, and hopefully...I'll put you all in the spot and say, Can we make that happen?

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01:41:13.040 --> 01:41:25.200

Matt Walter: Yeah, we can. Point taken. I mean, we have a great deal of work to do, we've been for the last two years, especially, we've been so incredibly focused on developing

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01:41:26.680 --> 01:41:43.120

the regulatory structure and language, that we haven't put a great deal of time into developing our standard operating procedure, other than knowing that it has to be a remote process where we're going to be using geographic information systems and spatial

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01:41:44.040 --> 01:41:54.000

data that's available to, you know, inform our identification of the location and extent of wetlands and then looking at all data sets that

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01:41:54.840 --> 01:42:15.120

we have that enable us to identify whether or not the wetlands that we are seeing, on screen in relation to the Cornell mapping, have various all the characteristics that are laid out in the draft regulatory language. So we have a lot to do in the way of

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01:42:15.760 --> 01:42:24.720

the standard operating procedure, our protocol. And we are beginning that work now really, it's, it's begun this month.

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01:42:25.360 --> 01:42:26.640

Laura Heady: Yeah, well on that relates to several

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01:42:27.400 --> 01:42:38.800

other questions asking basically, how is the DEC going to do this? Are you getting your staff? And, and maybe just to point out you did invite some other members of your new members of your team, so maybe you can just talk about.

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01:42:39.600 --> 01:42:41.360

Is maybe addressing this.

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01:42:41.360 --> 01:42:42.000

So.

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01:42:43.280 --> 01:43:03.120

Krista Spohr: So I'll take the first part. Matt, you can. So in the legislation in twenty- twenty- two, we were allowed to hire five new staff, so three new biologists that work here and they're on the call today. Jessie Gardner Lewis, Jesse Kelts and Melissa Calabria.

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01:43:03.280 --> 01:43:23.600

They're the biologists, they are working at the central office and doing those remote determinations. DEC was also allowed to hire a lawyer so that specifically for wetlands to make sure JR and Matt don't go to jail and they were allowed to hire

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01:43:23.640 --> 01:43:36.480

me, I'm the outreach person. So we were, we do have staffing, but it's still, we've got a long way to go still in a short amount of time.

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01:43:39.600 --> 01:43:44.080

Laura Heady: Well, we appreciate everything you're doing so much so including being here today.

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01:43:45.480 --> 01:43:47.280

Yeah, Christine, we're winding down.

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01:43:47.920 --> 01:43:54.800

Christine: Yes, yes, thank you. We really appreciate your taking the time to present this today.

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01:43:56.240 --> 01:44:16.720

Thank you, for the folks who participated. I know we left a lot of questions there that we couldn't get to, and so do reach out to Krista after this for those unanswered questions. Do check out the material on DEC's, fresh water wetlands webpage that talks about all of this

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01:44:16.840 --> 01:44:18.240

as well.

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01:44:19.280 --> 01:44:20.400

And.

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01:44:21.840 --> 01:44:34.000

As soon as you exit the webinar, you'll get that little four question survey. So just a plug to reply to that let us know how we did, let us know what we can improve in the future and thank you all again, we appreciate your taking the time.

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01:44:34.040 --> 01:44:35.280

Thank you, so.

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01:44:35.560 --> 01:44:36.560

Thank you everyone.

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01:44:36.880 --> 01:44:38.480

Matt Walter: Keep your questions coming. We, you.

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01:44:40.040 --> 01:44:56.400

We want your input, we want to answer your questions and I'm sorry, we did not have time to get to all of them today or that some are a little more complex than, you know, we could feasibly feel in such a short discussion so send them in, we will respond. Thank you.