Wetlands of Unusual Importance and NY's New Freshwater Wetlands Regulations

Thursday, February 6, 2025, 12:00 – 1:30 pm

Hudson River Estuary Program
Conservation and Land Use Webinar Series

Note: the recording was begun after the webinar had begun, so introductory information is not captured.

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Great opportunity.

2 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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To introduce you, if you're not familiar with our amphibian migrations and road crossings project. Let's see. Okay, yeah, so the reason why is because the amphibian migrations and road crossings project focuses on a group of frogs and salamanders that rely on vernal pool habitat for breeding, and on this snowy day and in this very cold winter we are having, most pools are frozen in the

3 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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Hudson Valley like the one on the photo, on my slide. But it won't be long before these amphibians will leave their overwintering sites in the forest and migrate in large numbers to vernal pools. And these are known as explosive migrations because many individuals all move in the same concentrated time frame. And so that explains the amphibian migrations part of the project. The other aspect is the road crossing piece, and that is because roads, as you know, if you live in the Hudson valley

4 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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Bisect and fragment many of our natural areas that contain forests and vernal pool habitats. And so as a result many of these migrating amphibians need to move across roads as they go toward their breeding pools. And then later when they leave the breeding pools and go back to the forests. So road mortality is

5 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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One of the significant threats facing Amphibians everywhere, but through projects like AM&RC, there are opportunities available to reduce that threat. And as a side note, I'll just say that along with habitat fragmentation and road mortality, another big threat for amphibians, and other wildlife, is loss of habitat. And so I'm excited that we'll be hearing from Krista.

6 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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Today about how vernal pools are now being added to New York's wetland protection efforts. So next slide Christine. So the AM&RC project is a volunteer project and it occurs in late winter, and early spring. Typically, we used to say March and April, but we've seen February starts now as well, like last year.

7 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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The project focuses on the estuary watershed that Christine just described. And it involves nighttime surveys of roads because the migrations occur when it's dark. It's also rainy and it's after the ground has thawed typically when evening temperatures remain above 40 degrees. So I'd like to think that this is a very special group of volunteers willing to endure those the conditions. And the

8 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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project aims to reduce the amphibian mortality because volunteers carefully move the amphibians in the direction they're going. Volunteers also document the migration so they keep track of the species that are observed, how many individuals are live or dead, the traffic, weather conditions and so forth. And ultimately in addition to

9 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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immediately addressing mortality, in the long run the project can increase our understanding, in addition to helping us understand the migration itself, when it happens, and where the data can be used to also locate good habitat like forests and wetland habitats, and also help us see where mitigation might be

10 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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needed, where there are road crossings with significant mortality. So things like temporary road closures or dedicated crossing guard teams, and in a few places, there's even been, not in the Hudson Valley, recently, but there are a few instances in, in the country where

11 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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Under road passage has been constructed in order to allow for more safe passage. We're also currently exploring how volunteer data can be integrated into the conservation planning and prioritization work that Christine just described that our team does.

12 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

00:03:55.590 --> 00:04:15.590

Next slide, please. So all that said, it's really important for volunteers to be trained, particularly to ensure their safety while out on the roads as well as the safety of the amphibians and to also make sure volunteers understand the data collection protocols so that we have accurate data that can actually be applied to conservation planning, and so.

13 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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This month we have several opportunities, two trainings that are in person in Orange County and Greene County. And those dates are on the slide. And we have a virtual training later in the month, and if you're wondering why go to an in person training.

14 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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When there's a virtual training available, I'll just say look at those smiling participants who were out of in person training in Rensselaer County a couple years ago. So we try to move the training around to a different location or two every year. And so if we go to the next slide, there's a QR code where you can, take a snap of that with your phone and that will lead you

15 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

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To our events list on our conservation planning website, which also has other opportunities, so it and I would encourage you to explore that website as well, as you can search for the Amphibian Migrations and Road Crossings project page on our DEC website. So that's all for now cause I know we have a bigger topic at hand. And Christine, thanks for giving me a little time to talk about this project.

16 "Christine Vanderlan (she, her)" (3062930176)

00:05:14.227 --> 00:05:39.099

Thank you Laura. So for folks who access the recording, which will miss the introductory slides, I'm just going to say that yes, this is the webinar, Wetlands of unusual importance and New York's new freshwater wetlands regulations, and we're just getting into more of the presentation part. So Krista Spohr will be presenting shortly. I'm gonna begin with a

17 "Christine Vanderlan (she, her)" (3062930176)

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A brief introduction and overview of freshwater wetlands in the Hudson River Estuary Watershed, and just really touch briefly on the benefits of wetlands generally for our communities, kind of to set the stage for Krista's talk, which will get really into the details of the new regulations and criteria and all of that. So in this portion, we're, we're spending time looking at.

18 "Christine Vanderlan (she, her)" (3062930176)

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Thinking about, you know, wetlands out in our landscape, the nature of wetlands, and their benefits.

19 "Christine Vanderlan (she, her)" (3062930176)

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Wetlands is a very broad term. It encompasses many different kinds of, systems. And so I wanted to take a moment. I know on this webinar we have folks with varying levels of familiarity with wetlands. So just to start from some basics.

20 "Christine Vanderlan (she, her)" (3062930176)

00:06:34.039 --> 00:06:56.399

What is a wetland? And wetlands are transitional between dry land and between water bodies and lakes, rivers, ponds, that kind of thing, and that transitional nature of having some amount of wetness, is really important to understanding them, understanding their diversity and and their benefits.

21 "Christine Vanderlan (she, her)" (3062930176)

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Wetlands are defined by three basic characteristics involving water, soil, and vegetation, so they need to have an amount of wetness either of flooding or saturated soils for a long enough period of time throughout a year.

22 "Christine Vanderlan (she, her)" (3062930176)

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That hydrology is a key characteristic. And within wetlands, due to that prolonged period of saturation or periods of inundation, you have soils that develop particular characteristics.

23 "Christine Vanderlan (she, her)" (3062930176)

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And those are called hydric soils. And you have vegetation that either can tolerate those specific wet or flooded conditions, periods of wetness and dryness or you also have some vegetation that really requires those particular conditions.

24 "Christine Vanderlan (she, her)" (3062930176)

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So water soil and vegetation are defining characteristics of wetlands, and one point we like to make is wetlands are not always visibly wet, and so the vernal pool habitat here, just to look at a couple images quickly in a springtime, late spring, you can see.

25 "Christine Vanderlan (she, her)" (3062930176)

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Actual ponded water there, and then later that same pool later in the season will be dry at the surface. You can still see evidence that water was there and what conditions were there and you dig into the soils and you'll see conditions that indicate that. But at the surface, it's going to be quite dry.

26 "Christine Vanderlan (she, her)" (3062930176)

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So I want to talk a little bit about benefits of wetlands while we're still thinking about wetlands as a broad category before getting into, different types of wetlands in the Hudson estuary watershed. And.

27 "Christine Vanderlan (she, her)" (3062930176)

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Wetlands, I call this wetlands at work because there's a lot of things going on in wetlands, that make this possible, that lead to cleaner water exiting a wetland than entering a wetland, typically. So this diagram just is to illustrate some of what's going on in a wetland.

28 "Christine Vanderlan (she, her)" (3062930176)

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You have water that enters, that water is gonna spend some time in the wetland, have a chance to interact with the soils, have a chance to interact with the plants and bacteria breakdown contaminants, through that, you have filtration, you have the opportunity for sediments to sink to the bottom, and then all of that.

29 "Christine Vanderlan (she, her)" (3062930176)

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That means water exiting the wetland is going to be cleaner, so wetlands support, water quality in our area.

30 "Christine Vanderlan (she, her)" (3062930176)

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Also if you think about water that may enter a wetland at some speed through runoff during a heavy precipitation event, wetlands can store and hold onto water and then slowly release it out. So they play a role in flood control in our region. And.

31 "Christine Vanderlan (she, her)" (3062930176)

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Because we are experiencing and we know in the future we will experience more frequent, heavier precipitation events through climate change. We know that this benefit is gonna grow in importance in our communities.

32 "Christine Vanderlan (she, her)" (3062930176)

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And for communities who are trying to, striving to enhance their resiliency to climate change, being attentive to wetlands, and this particular benefit is really important. So many communities are starting to look at, if they haven't already, their own wetland protections as well.

33 "Christine Vanderlan (she, her)" (3062930176)

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To enhance their, their climate resiliency in particular. Wetlands, of course, are really important habitat. So if you think about that transitional nature, they have some wetness, they're not entirely dry.

34 "Christine Vanderlan (she, her)" (3062930176)

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That can point to or sort of underpins the fact that wetlands often have really high species diversity because you're going to get species that like both those sets of conditions in wetlands to some extent. They support a whole variety of common species.

35 "Christine Vanderlan (she, her)" (3062930176)

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Wetlands also a critical habitat for, high percentage of threatened and endangered species. So at the national level, thinking about threatening and endangered species on the federal lists, more than a 3rd actually require wetlands. They're a critical habitat for them.

36 "Christine Vanderlan (she, her)" (3062930176)

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And then half of the species on are endangered and threatened lists will use and and spend some time in wetlands. So they're really important for supporting those species that are imperiled. And these pictures are just some of the species, either threatened endangered or special concern in our region that either spend some time in wetlands or really require wetlands. So e.g., the red shouldered hawk.

37 "Christine Vanderlan (she, her)" (3062930176)

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Tends to nest in areas that are close to water, including swamps. So, areas with extensive forests and and swamp for them are, are going to be really important for that Species to thrive and persist in our region. And I

38 "Christine Vanderlan (she, her)" (3062930176)

00:12:24.239 --> 00:12:44.239

Could tell little stories about other examples on this slide, but in the interest of time I'm going to move on. So now we're gonna turn to Wetland Diversity in the Hutson River Estuary Watershed. And because thinking back to the beginning, we are in.

39 "Christine Vanderlan (she, her)" (3062930176)

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In estuary, which means we have tidal influence along the Hudson River in this region and we have some tidal influence even extending into some of the creeks, the mouths of creeks, and tributaries that flow into the Hudson. We have a whole diversity of tidal wetlands. Some of these more south in the river are in areas where the water is a mix of salt and fresh, so they're brackish.

40 "Christine Vanderlan (she, her)" (3062930176)

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So we're kind of focusing here on fresh water wetlands today. And thinking about statewide, that title influence and these fresh wetlands, we really don't find those in other parts of the state. So these are really special habitats to our region.

41 "Christine Vanderlan (she, her)" (3062930176)

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And special wetland types. So we have freshwater wetland swamps which are dominated by woody vegetation. These tend to be a little bit, you know, higher up from river level. You have fresh water tidal marshes that are dominated by non woody vegetation.

42 "Christine Vanderlan (she, her)" (3062930176)

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They're a bit lower level lower elevation, getting closer to river and creeks, getting a little bit lower elevation, you have areas that are totally covered by the tides, these mud flat areas will be covered by water with the tidal fluctuation.

43 "Christine Vanderlan (she, her)" (3062930176)

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Some of the mud flat areas have a lot less vegetation than is shown in this picture. And then getting into the river and into creeks, you have areas of submerged aquatic vegetation, so vegetation that's rooted to the channel bottom, and then flowing here, if you focus on this area of the picture, you know, kind of.

44 "Christine Vanderlan (she, her)" (3062930176)

00:14:32.029 --> 00:14:52.819

submerged under the water there. Moving away from our shoreline communities, into other parts of the watershed, we have a whole diversity of non tidal wetlands as well. I'm not gonna talk about all of these types either, but touch on some of the more broad categories.

45 "Christine Vanderlan (she, her)" (3062930176)

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Of wetlands and then take a little more time talking about vernal pools because those are specifically listed as a type in the unusual importance criteria. So we have marshes. Again, these are dominated by non woody vegetations, sedges, and rushes, those types of plants. These can be shallower or deeper, often they occur near water bodies like streams or ponds or lakes. There's a great variety in marshes in our region.

46 "Christine Vanderlan (she, her)" (3062930176)

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And swamps again woody vegetation.

47 "Christine Vanderlan (she, her)" (3062930176)

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In our region, we tend to have, quite a lot of swamps. It's not that they're uncommon. However, connfer swamps are really uncommon in our region, and it's kind of important to recognize that. There's diversity amongst these swamps and some types are more common than others.

48 "Christine Vanderlan (she, her)" (3062930176)

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Okay.

49 "Christine Vanderlan (she, her)" (3062930176)

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In areas where you have ground water, seeping out of the ground discharging from the ground, you have, seep type wetlands, and in areas of clayey soils, you can have these wet meadows, and these tend to be really difficult to identify, but they can be really.

50 "Christine Vanderlan (she, her)" (3062930176)

00:16:10.309 --> 00:16:14.609

Be widespread in certain areas.

51 "Christine Vanderlan (she, her)" (3062930176)

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And then I'm gonna take a little more time on this specific wetland type, vernal or intermittent woodland pools, because amongst the unusual importance criteria, these are specifically listed. Other criteria you will hear about, talk about wetlands in certain areas that.

52 "Christine Vanderlan (she, her)" (3062930176)

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Are now gonna be regulated, but this one in particular is just straight listed, productive vernal pools. So they're also very particular, and they have their own defining characteristics. So as you saw at the beginning, they have this cycle of wetness and dryness, so they can fill up because of snow melt and rainfall, but they will dry at certain times. They tend not to be connected to streams, not to have flowing water moving through.

53 "Christine Vanderlan (she, her)" (3062930176)

00:17:05.029 --> 00:17:37.009

To them and that isolation from streams and moving water is really important to support those amphibians that Laura was talking about that move to these pools to breed. The absence of fish enables those species to breed and be productive. So these habitats are really critical for those amphibians, frogs, salamanders that really rely on this habitat. And these, because of their

54 "Christine Vanderlan (she, her)" (3062930176)

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isolation, they and their size, they tend to be small small, much smaller than the acreage that has been the threshold for state regulation for a long time. They haven't been captured by regulations, either the federal, the state or federal level prior to what's new and what Krista will be sharing in the, the new state unusual importance criteria. So before turning it over to Krista, because I,

55 "Christine Vanderlan (she, her)" (3062930176)

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We've really just skimmed the surface here in talking about wetland types in the Hudson Valley. I wanted to just point to some sources of information that you can consult and learn more. We have the Hudson River Estuary Wildlife and Habitat Conservation Framework report, which is really useful in giving a regional context for thinking about the importance of wetlands, and also briefly describes the diversity of wetlands, specific wetland types that are found in our region.

56 "Christine Vanderlan (she, her)" (3062930176)

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It also talks about how common or uncommon they are and where you maybe more likely to find them and where they've been documented.

57 "Christine Vanderlan (she, her)" (3062930176)

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The New York Natural Heritage Program offers conservation guides that describe particular types of habitats including wetlands. And a tip is if you go into search their conservation guides to search the specific type of wetland you're looking for, like bog, because if you put in “wetlands”

58 "Christine Vanderlan (she, her)" (3062930176)

00:19:13.669 --> 00:19:42.329

but it's not gonna turn up anything. They're more detailed than that in how they think about and list their wetlands. But you can search “titdal” and you'll come up with a whole list of different types of “tidal” wetlands and links to conservation guides for those. Habitat fact sheets in our region - Hudsonia has published a series of habitat fact sheets describing typical plants and species that maybe found in these wetlands and other habitats, so that's a great resource.

59 "Christine Vanderlan (she, her)" (3062930176)

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You may have local sources of information, either habitat mapping that's been done, natural resource inventories, watershed plans often will pull in and describe wetlands. So you want to consult and see if you have those in your area.

60 "Christine Vanderlan (she, her)" (3062930176)

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And then turning to mapped resources, Krista will talk about the new informational maps from DEC and I just want to make the point that it's always, you're always going to be well served to consult multiple sources of information when you're trying to understand wetlands. So the Hudson Valley Natural Resources Mapper has layers.

61 "Christine Vanderlan (she, her)" (3062930176)

00:20:18.469 --> 00:20:34.049

Both under Estuary layers and Wetlands layers that you can access and refer to and use in addition to what Krista will be talking about that's now available. And, I think with that, I wanted to just wrap up.

62 "Christine Vanderlan (she, her)" (3062930176)

00:20:34.049 --> 00:20:50.849

Stepping back from thinking about individual types of wetlands to think about the bigger picture, and I'm using this water cycle kind of watershed image to, help us kind of zoom out and think about the big picture of wetlands. So we know that over

63 "Christine Vanderlan (she, her)" (3062930176)

00:20:50.849 --> 00:21:10.849

time New York has lost half of the wetlands had historically through many different kinds of activities and changes and land uses and, and processes of development in our region and statewide. We also know through a study done some time ago looking at the Hudson Valley and

64 "Christine Vanderlan (she, her)" (3062930176)

00:21:10.849 --> 00:21:29.459

trying to understand, of all of the wetlands we have in the Hudson Valley, what percentage of them are small, smaller than 12.4 acres, which has been that threshold for state regulation for so long. And we know that we had more than half of the wetlands in our valley

65 "Christine Vanderlan (she, her)" (3062930176)

00:21:29.459 --> 00:21:49.459

of sizes that are below that threshold. So recognizing that smaller wetlands, and even thinking about the interaction in the federal level regulations that isolated wetlands, that together, smaller and isolated wetlands tend to have had the least protection at the state and federal level, these were.

66 "Christine Vanderlan (she, her)" (3062930176)

00:21:49.459 --> 00:22:10.249

Wetland changes with the new criteria for protecting wetlands of any size if they they meet some criteria for unusual importance, that's really significant for our region. It's significant for our state. So I want to take a moment and just kind of think about that big picture before turning it over to Krista

67 "Christine Vanderlan (she, her)" (3062930176)

00:22:10.249 --> 00:22:27.935

Whose going to get into the details of the new fresh water wetland regulations. And Krista Spohr is outreach coordinator for freshwater wetlands for the division of Fish and wildlife in the Bureau of Ecosystem Health. So Krista

68 "Krista Spohr" (3366980096)

00:22:27.935 --> 00:22:45.891

I'm gonna invite you to share your slides. I'll stop sharing mine. Let's do some sharing. Oh, wrong share. Did that not, here we go.

69 "Christine Vanderlan (she, her)" (3062930176)

00:22:45.891 --> 00:23:08.250

And I don't think I've mentioned, we have a full hour from right now, so we are hopeful to get to a bunch of questions following Krista's talk. We have built in some time for that. So please do take use or make use of the Q and A function to share your questions with us.

70 "Krista Spohr" (3366980096)

00:23:08.250 --> 00:23:31.829

Okay, thank you. Thanks for that awesome introduction to wetlands. So then that makes this even better to understand why DEC is doing all this and why we are increasing our jurisdiction over wetlands.

71 "Krista Spohr" (3366980096)

00:23:31.829 --> 00:23:51.829

So, today we'll be talking, oh, I can never works, can never use my arrow keys. So today we'll be talking about the freshwater wetland statute, the final regulations, the implementation, and general permits. A bunch of drafted general permits

72 "Krista Spohr" (3366980096)

00:23:51.829 --> 00:24:14.639

came out yesterday. So first of all, the statutory provisions. So the Freshwater Wetlands Act that's article 24. Jurisdiction is NO longer tied to maps. We regulate wetlands and an adjacent area, that adjacent area is the 100 ft buffer zone.

73 "Krista Spohr" (3366980096)

00:24:14.639 --> 00:24:34.639

But there's also an extended adjacent area for nutrient poor wetlands and for vernal pools or woodland pools. So we regulate larger wetlands, anything that's greater than 12.4 acres, and in 2028, that threshold drops down to

74 "Krista Spohr" (3366980096)

00:24:34.639 --> 00:24:51.269

7.4 acres and above we will regulate. And like Christine said, this gives us a chance, these new regulations gives us a chance to regulate smaller wetlands, and that is underneath unusual importance criteria.

75 "Krista Spohr" (3366980096)

00:24:51.269 --> 00:25:11.269

So the wetland classification - we classify wetlands, one through four, it's based on remote characteristics and they're used in permitting decisions, so one being the most restrictive in the permitting process and four being the least restrictive.

76 "Krista Spohr" (3366980096)

00:25:11.269 --> 00:25:31.339

Going back to those old maps, so we created our maps back in 1975 is when the Freshwater Wetland Act was enacted, and these were based on a field visit of each site, taking in consideration the Wetland type, the benefit, and the distribution and the location.

77 "Krista Spohr" (3366980096)

00:25:31.339 --> 00:25:33.119

Okay.

78 "Krista Spohr" (3366980096)

00:25:33.119 --> 00:25:53.119

So just looking at the old maps regulatory maps versus today's technology. So this is an old, one of the regulatory maps, and then when you put it up against what we use today, you can tell that there's a lot of wetlands missed on the landscape, which was the whole.

79 "Krista Spohr" (3366980096)

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reason for this push to change, legislation to change so that we are not beholden to these maps because we were not upstanding our, the statute, the first statute to regulate wetlands 12.4 acres in greater back in 1975, because we had missed so many wetlands on the landscape. And Laura gave a very good, analogy of would you really wanna be driving around

80 "Krista Spohr" (3366980096)

00:26:23.419 --> 00:26:47.929

With your Atlas map, your triple A spirally book, trying to find where you're going or do you like your satellite handheld tells you step by step how to get there. So now, to these informational maps, and that's exactly what they are, they are not the end all be all

81 "Krista Spohr" (3366980096)

00:26:47.929 --> 00:27:09.049

for this is where jurisdiction is on the landscape. So that's why I wanted to make sure you saw this disclaimer, this disclaimer won't pop up unfortunately, right when you come to the informational freshwater wetland mapping layer, it is if you hit the little”I”

82 "Krista Spohr" (3366980096)

00:27:09.049 --> 00:27:36.509

Icon, information icon. But it is stating that these are information use only, and so you need to, if you've, if you're questioning if there's wetlands on your parcel or your project, you will submit a jurisdictional determination request form. And we'll get into that later in the presentation.

83 "Krista Spohr" (3366980096)

00:27:36.509 --> 00:27:53.399

So going on to the wetlands of unusual importance, this is again the way that we can regulate smaller wetlands on the landscape, and there's eleven criteria, and this is a vernal pool or a woodland pool right in the center.

84 "Krista Spohr" (3366980096)

00:27:53.399 --> 00:28:14.539

So, these are the eleven classifications, the urban areas, rare plants, previously designated as a wetland of unusual local importance. There's 13 of those on the landscape. Wetlands and floodways previously mapped wetlands, habitat

85 "Krista Spohr" (3366980096)

00:28:14.539 --> 00:28:33.989

For essential behavior of a endangered threatened special concerns, species of greatest conservation need. Watersheds with significant flooding, productive vernal pools, class one wetland, regional or local significance, and significant for protecting the state's water quality.

86 "Krista Spohr" (3366980096)

00:28:33.989 --> 00:28:38.991

Okay. So these Krista

87 "Christine Vanderlan (she, her)" (3062930176)

00:28:38.991 --> 00:28:47.792

Yes, I'm sorry to interrupt. A couple of people are saying they aren't seeing your slides, so would you mind stopping sharing and.

88 "Krista Spohr" (3366980096)

00:28:47.792 --> 00:28:51.479

Yeah, just if that makes a difference, I'm not sure what the issue is. Most people.

89 "Christine Vanderlan (she, her)" (3062930176)

00:28:51.479 --> 00:28:54.616

People can see just hoping we can bring the.

90 "Krista Spohr" (3366980096)

00:28:54.616 --> 00:29:05.215

Couple other folks on board. Yes, of course. You never know what goes on with a snowstorm, right?

91 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

00:29:05.215 --> 00:29:22.618

Okay, so let's try this again. And while you're doing that I would just add for participants to maybe just go up to the view on the menu at the top also and just see what, you know, maybe they have something selected that perhaps the slides are showing up on a different screen and the speakers, foe example.

92 "Krista Spohr" (3366980096)

00:29:22.618 --> 00:29:43.369

So, thanks Krista. You're welcome. Okay, so let's start again. Share. Maybe if I share.

93 "Krista Spohr" (3366980096)

00:29:43.369 --> 00:29:56.473

Okay Hopefully, fingers crossed.

94 "Christine Vanderlan (she, her)" (3062930176)

00:29:56.473 --> 00:30:04.035

Okay. I can see them, so let's please continue.

95 "Krista Spohr" (3366980096)

00:30:04.035 --> 00:30:05.255

Okay, I'll try to check.

96 "Christine Vanderlan (she, her)" (3062930176)

00:30:05.255 --> 00:30:06.633

And with folks and.

97 "Krista Spohr" (3366980096)

00:30:06.633 --> 00:30:12.149

See if that resolved it for them. Great, thank you. You're welcome.

98 "Krista Spohr" (3366980096)

00:30:12.149 --> 00:30:32.149

So, five, about five and a half of these, they were so explicit in the statute. We did not have to define them any further. That's these five and a half. But then the rest we had to do a lot of thinking about and that's why we did two rounds of public comments so that we could best

99 "Krista Spohr" (3366980096)

00:30:32.149 --> 00:30:56.129

take in everybody's thoughts on how we were the direction we were going and make sure that we were balancing, you know, the economic growth and the environment and both sides of the spectrum. So moving to that first one, just explain, so urban areas, how this one is very cut and dry.

100 "Krista Spohr" (3366980096)

00:30:56.129 --> 00:31:16.129

It's the US census Bureau's urban area layer, and so they made a shape file on exactly where those urban areas are. We are considering, we're figuring out what's the best way to make this information available, on the resource mapper or

101 "Krista Spohr" (3366980096)

00:31:16.129 --> 00:31:34.679

GIS clearinghouse rather than having people to have to go to the US Census Bureau themselves, still figuring that out but yet to come. And then moving on to

102 "Krista Spohr" (3366980096)

00:31:34.679 --> 00:31:54.679

those five that we had to put a lot of thought into. So looking at the watershed with significant flooding, so how we looked at that is we looked at is everything ok? I just heard you breathe Christine, so I was like, Oh NO. Oh I'm sorry. I'll mute. No, that's ok.

103 "Krista Spohr" (3366980096)

00:31:54.679 --> 00:32:18.149

I just thought maybe we couldn't see my slides. So, we looked at HUC twelves and HUC twelves, is the hydrological unit code that, it's kind of counterintuitive. HUC twelves are the smallest actual areas on the landscape. So we looked at HUC twelve watersheds with all of the following.

104 "Krista Spohr" (3366980096)

00:32:18.149 --> 00:32:38.149

They had to have an impervious surface greater than 2 %, water storage area less than 5 % and within 4 km of an urban area. So this was our way of looking at runoff, holding water capacity, and human risk. So then to

105 "Krista Spohr" (3366980096)

00:32:38.149 --> 00:33:01.789

Just give you a guide, so these are all the HUC twelves that have that impervious surface factor. These are all the HUC twelves that have the water storage factor, and these are all the HUC twelves with that urban area within 4 km of an urban area. So then when you lay those three layers on top of one another, this is all the watersheds with significant flooding

106 "Krista Spohr" (3366980096)

00:33:01.789 --> 00:33:04.589

in New York State.

107 "Krista Spohr" (3366980096)

00:33:04.589 --> 00:33:24.589

So then moving to the very exciting topic of productive vernal pools. So, or woodland pools. I need to add that to my slide. So we looked at, so in the statute, it says known to be productive to the state, and the natural heritage

108 "Krista Spohr" (3366980096)

00:33:24.589 --> 00:33:50.099

Program already had done a, a survey on all the vernal pools across the state, and so we took that data and we boiled it down to, ok, they have to be productive, in order for them to be productive, they have to have this many egg masses of these species. And they

109 "Krista Spohr" (3366980096)

00:33:50.099 --> 00:34:10.099

broke up the state into five different five different areas. That's the Adirondack, Great Lake, Southern Tier, Hudson Mohawk, and Lower Hudson, New York City, Long Island area. So when we did those rounds of comments, we got a lot of good feedback that our numbers were really high

110 "Krista Spohr" (3366980096)

00:34:10.099 --> 00:34:34.369

For your area for the Hudson Mohawk area, and that it shouldn't be 55 plus egg masses for the spotted Salamander and 30 plus egg masses for the wood frog. So those got dropped down to 25 egg masses for the spotted Salamander and ten for the wood frog. So bottom line, these vernal pools need less egg masses.

111 "Krista Spohr" (3366980096)

00:34:34.369 --> 00:34:58.669

Is to be claimed productive, to be on our list of a regulated vernal pool. And then the path to regulations, so it is a, there's many steps to go through to, to have that vernal pool be regulated. It must have wetland vegetation, it must be surveyed, must be productive.

112 "Krista Spohr" (3366980096)

00:34:58.669 --> 00:35:18.669

So that egg mass count we just talked about, it must be documented, must be submitted to DEC, and it must get on the list, and then posted on our website, and then it's regulated. So there was a couple of questions that came in prior about vernal pools.

113 "Krista Spohr" (3366980096)

00:35:18.669 --> 00:35:46.159

I will, I just remember the one off the top of my head. I will answer the other questions at the end of the slideshow, but I want to address it here that we are working closely with, so Bureau of Ecosystem Health is my bureau that regulates the wetlands and BEH -Bureau of Ecosystem Health is working closely with the Bureau of Wildlife and the Heritage program to create this program. So it's still.

114 "Krista Spohr" (3366980096)

00:35:46.159 --> 00:36:15.239

being created in the works of how those submittal forms are gonna look. It's all gonna be housed on the website right on the Wetlands program page. So at the moment, if you have any questions, you can send an email. There is Vernalpools@DEC.ny.gov, but I wanted to mention that.

115 "Krista Spohr" (3366980096)

00:36:15.239 --> 00:36:32.789

So then, ok, looking at these productive vernal pools and looking at that extending adjacent area cause I did say in the beginning there is a couple of circumstances where we would extend that adjacent area from a hundred feet to.

116 "Krista Spohr" (3366980096)

00:36:32.789 --> 00:36:49.679

distances based on the arrangement, so it's site specific. And so say you have a vernal pool, that little blue dot in the center is the vernal pool and then the forest is on one side and the farm field on the other. Well, the salamanders really aren't gonna go towards the farm field.

117 "Krista Spohr" (3366980096)

00:36:49.679 --> 00:37:09.679

So it's not this perfect beautiful circle, right? We're gonna extend the adjacent area to where, the animals are going to use that habitat. So like I said, it’s an individual analysis, the environmental conditions have to be taken into account. So what.

118 "Krista Spohr" (3366980096)

00:37:09.679 --> 00:37:29.679

This is, is to show that it's a directional vernal pool buffer, so it's not necessarily that circle in the previous slide. The buffer is gonna be or the adjacent area is gonna be extended to where the animals use the habitat. And again, how far out that is going to be

119 "Krista Spohr" (3366980096)

00:37:29.679 --> 00:37:57.379

is gonna be dependent on the site and dependent on what's around it and what the project is, what is being proposed. So looking at something that is important, to most people on the call, the regional or local significance and how we looked at this is if there is a critical environmental area. So in the statute, it's listed under J, the local and regional significance.

120 "Krista Spohr" (3366980096)

00:37:57.379 --> 00:38:25.069

And this is the standard operating procedures form that can be found if you, that QR code is to our jurisdictional determination webpage. And there is a PDF that is how we come to our jurisdictional determinations, and in those jurisdictional determinations SOP, in the appendix F of that SOP is this critical

121 "Krista Spohr" (3366980096)

00:38:25.069 --> 00:38:49.500

environmental areas, so these are all the ones listed in New York State currently, but it will be updated as people, jump on the bandwagon of protecting more wetlands. And it is to be noted that it has to be a CEA with specific reference to wetland protection in that CEA.

122 "Krista Spohr" (3366980096)

00:38:49.500 --> 00:39:12.560

So transition period or grace period, there's proposed regulations include a transition period of three and a half to two years, before, so if before the first of this year, the project meets one of the following: DEC wetlands permit.

123 "Krista Spohr" (3366980096)

00:39:12.560 --> 00:39:35.270

Or complete application, a final environmental impact statement, or a negative declaration for a type one and unlisted actions by the lead agency or by lead agency, or there's site plan approval by the municipality. And we interpret this site plan approval very broadly.

124 "Krista Spohr" (3366980096)

00:39:35.270 --> 00:39:37.230

Okay.

125 "Krista Spohr" (3366980096)

00:39:37.230 --> 00:39:57.230

Extending the adjacent area, we talked a little bit about that for vernal pools, but it's also for these nutrient poor wetlands and vernal pools that are known to be productive for amphibian breeding, and it's to preserve and protect the wetland because if it's a nutrient poor wetland, then the.

126 "Krista Spohr" (3366980096)

00:39:57.230 --> 00:40:15.420

Littlest amount of nutrients that finds its way into the wetlands, say from agriculture or septic tanks, will extremely affect the ecology of that wetland, so they deserve a bigger buffer, they need to be protected more.

127 "Krista Spohr" (3366980096)

00:40:15.420 --> 00:40:35.420

And it's an individual analysis of each nutrient poor wetland or productive vernal pool. So the same rules apply to the nutrient poor that I was talking about to the vernal pool, it's site specific of that wetland and what's going on and also what that project is.

128 "Krista Spohr" (3366980096)

00:40:35.420 --> 00:40:55.610

So the whole JD process, step one, so JD being jurisdictional determination, you know government loves their acronyms, and so you're gonna hear JD a lot. So step one, determine if a parcel or property is within our

129 "Krista Spohr" (3366980096)

00:40:55.610 --> 00:41:23.180

Article 24 jurisdiction. You're gonna look at, you're gonna go to, sorry I get happy with my clicker. You're 1st gonna submit that jurisdictional determination online to central office. And then step two is to determine the extent of the wetlands on the parcel or the property, so that's the delineation, and that's gonna go to the region. So you can have regional staff delineate

130 "Krista Spohr" (3366980096)

00:41:23.180 --> 00:41:57.800

your wetlands or you can get a consultant to do it and then regional staff will validate that delineation. And then step three determine if a project requires an article 24 permit, so that's a project JD. And to try to understand the process a little better, there's this flow chart and it's just the same thing, so if this is a parcel jurisdictional determination, so first the applicant is gonna put in the request form on the website, it's gonna.

131 "Krista Spohr" (3366980096)

00:41:57.800 --> 00:42:16.680

Go to central office, to see if determine if there's any jurisdictional wetlands on the parcel. So does your parcel have jurisdictional wetlands on it? Yes, wetlands that meet 12.4 or above acreage or any unusual importance criteria

132 "Krista Spohr" (3366980096)

00:42:16.680 --> 00:42:36.150

And then therefore it's identified as jurisdictional. So if it's a yes, then you go over to the positive parcel JD and then jurisdictional wetlands are classified. And diamond, I forgot to take that out of this one. It followed me. But.

133 "Krista Spohr" (3366980096)

00:42:36.150 --> 00:42:54.330

If you get a NO, the wetlands do not meet either the acreage threshold or it doesn't have UI criteria. It's deemed as non jurisdictional, then central office will send a non jurisdictional or an NJ acronyms,again, we love them, to the applicant.

134 "Krista Spohr" (3366980096)

00:42:54.330 --> 00:43:13.320

And then you can proceed with your project. But if you had that yes and you're following the arrow, then that will take you to the project jurisdictional determination process. So the applicant either hires a consultant or contacts the region to request that delineation.

135 "Krista Spohr" (3366980096)

00:43:13.320 --> 00:43:33.320

Find out where those boundaries are on that wetland. So then the region verifies that delineation or that it was performed by a consultant or they do the delineation themselves. Then the applicant develops the project plans showing the verified delineation lines and showing

136 "Krista Spohr" (3366980096)

00:43:33.320 --> 00:43:57.230

Where that project is going to be, and then regional staff will look at those project plans and decide whether or not, your project overlaps with the jurisdictional wetlands or the adjacent area. If it does, then the applicant will go on to work with the Department of environmental permits and continue with

137 "Krista Spohr" (3366980096)

00:43:57.230 --> 00:44:16.560

The BEH staff of the region. If it doesn't over, if your project doesn't overlap jurisdictional wetlands or the adjacent area, some municipalities require a NJ or a non jurisdictional letter to move forward with their projects and some don't, so depending on your municipality.

138 "Krista Spohr" (3366980096)

00:44:16.560 --> 00:44:33.510

You'll either have to get a letter or not. Okay, so moving to the website and how to put in that jurisdictional request form. So when you come on to this QR code again, it's the same one.

139 "Krista Spohr" (3366980096)

00:44:33.510 --> 00:44:53.510

Same page where the standard operating procedures were. It will bring you to the jurisdictional page and towards the bottom of the page, you will find this green callout box to apply for jurisdictional determination. The one thing I will say.

140 "Krista Spohr" (3366980096)

00:44:53.510 --> 00:44:57.090

Is allow pop ups.

141 "Krista Spohr" (3366980096)

00:44:57.090 --> 00:45:17.090

And it's the same with the environmental resource mapper, allow pop ups to come up. And then what you'll need as a landowner, you'll need a personal ID number and you'll need your physical address, a contact info, whether that's a mailing address or email. We prefer email just cause it's

142 "Krista Spohr" (3366980096)

00:45:17.090 --> 00:45:36.480

It's faster, and then a private company or an NGO, it's you're still gonna need the parcel ID and the physical address and then contact info, but also we love shape files, so if you have any extra information that is also, appreciated.

143 "Krista Spohr" (3366980096)

00:45:36.480 --> 00:45:58.020

So then the form itself is dynamic and so it changes depending on which, answers you give. And so there is a box how I highlight it here. This request is being sent by or on behalf of, and so depending on what you put in, you'll get different questions.

144 "Krista Spohr" (3366980096)

00:45:58.020 --> 00:46:18.020

Okay, and then when it, you put in your address, it will pop up the coordinates for you and this blue tag. So it's important that you can see that blue pin. And if you can see that blue pin and the longitude and latitude, then you're in good

145 "Krista Spohr" (3366980096)

00:46:18.020 --> 00:46:25.650

shape, we have the information we need to give you a determination of that parcel.

146 "Krista Spohr" (3366980096)

00:46:25.650 --> 00:46:45.650

So the timeline for the JDs, 90 days to provide a parcel JD and 90 days to provide a project JD. If the department fails to provide a definite answer in writing or notification of an extension within 90 days of the

147 "Krista Spohr" (3366980096)

00:46:45.650 --> 00:47:15.890

receipt of the parcel jurisdictional determination or the project jurisdictional determination, the requester shall make notice of that failure by means of certified mail. And then if we still don't reply after receiving that certified mail within ten business days, then, the waiver shall be or the parcel shall deem non-jurisdictional for five years. So if we drop the ball on our end.

148 "Krista Spohr" (3366980096)

00:47:15.890 --> 00:47:37.610

After meeting these thresholds, then the parcel stays non jurisdictional, for five years. Okay, so the review of the jurisdictional determinations, there's, if, if a person wants an appeal, first you have to have that initial consultation or delineation.

149 "Krista Spohr" (3366980096)

00:47:37.610 --> 00:47:57.610

So a field meeting on site to discuss, you know, what's going on, why is there a disagreement, and then complete a JD appeal application within a hundred and twenty days of that meeting, that, that initial consultation. It's not within a hundred and twenty days of when you put the JD

150 "Krista Spohr" (3366980096)

00:47:57.610 --> 00:48:00.270

Request in.

151 "Krista Spohr" (3366980096)

00:48:00.270 --> 00:48:19.680

And the acceptable basis of appeal is missing technical information, incorrect application of regulatory criteria or incorrect application guidance. And the department has 60 days to respond.

152 "Krista Spohr" (3366980096)

00:48:19.680 --> 00:48:36.240

So moving on to general permits, so I talked about it briefly in the beginning, there are general permits that we have come up with to ease the regulatory burden, that.

153 "Krista Spohr" (3366980096)

00:48:36.240 --> 00:48:56.240

This mass shift of jurisdiction. So these general permits, so you might be asking yourself, well, what is a general permit, where a general permit under the uniform procedure acts, just its permits for activities that have been determined to have limited impact on the environment.

154 "Krista Spohr" (3366980096)

00:48:56.240 --> 00:49:25.970

And they allow similar types of work, not unique to a particular location. So that's why they can statewide. So we already had one general permit come out, the, it allowed replayer , repair replacement or removal of existing structures and facilities in the adjacent area, construction or a modification of various residential commercial, industrial or public structure.

155 "Krista Spohr" (3366980096)

00:49:25.970 --> 00:49:45.970

Temporary installation of access roads and lay down areas, cutting a trees and vegetation, drilling, test wells, routine beach maintenance, and replenishment in areas under DEC jurisdiction. So this one is unofficially being called typical projects, and this was a

156 "Krista Spohr" (3366980096)

00:49:45.970 --> 00:49:51.270

The first one we got out at the end of December and.

157 "Krista Spohr" (3366980096)

00:49:51.270 --> 00:50:11.270

Moving on to the five that got released yesterday. So there's a community scale solar energy general permit, electric utility right of maintenance and repair, housing development, lake shore, lake

158 "Krista Spohr" (3366980096)

00:50:11.270 --> 00:50:31.270

shorelines and modification of management of invasive species, natural gas utility right of way maintenance, and modification to the stream crossing for timber harvesting general permit. So all of these permits can be found on the proposed general permits

159 "Krista Spohr" (3366980096)

00:50:31.270 --> 00:50:53.540

website, and the comment period since they just went out yesterday, the comment period is open till March 14th. Okay, previously sent in questions. So I'm going to, stop my sharing so that I can.

160 "Krista Spohr" (3366980096)

00:50:53.540 --> 00:51:14.090

Read the previously, shared questions.

161 "Krista Spohr" (3366980096)

00:51:14.090 --> 00:51:35.990

There we go. I'm just gonna circle back. Like I said, there was a couple questions about the vernal pools, and I'm gonna answer those first. What procedures and criteria will be used by the DEC to evaluate how much development disturbance, if any, within the regulated 800

162 "Krista Spohr" (3366980096)

00:51:35.990 --> 00:51:59.880

vernal pool buffer zone might be permitted? So like we talked about, it's not 800 ft anymore. It is site specific, and it's up to the department using discretion of how much adjacent area that particular vernal pool will need. So the disturbance history surrounding

163 "Krista Spohr" (3366980096)

00:51:59.880 --> 00:52:19.880

listed pro productive vernal pools will be taken into account on a case by case basis as permit isssuance standards are considered. So since previously impacted buffer areas may no longer serve as upland habitat for dispersing salamanders, so like I said like there's a farm land, then.

164 "Krista Spohr" (3366980096)

00:52:19.880 --> 00:52:50.270

It's not going to salamanders don't really want to go there, then proposals within such zones maybe permitted. Site specifics are the key. And then, and then the other one was about, how can I find out if a vernal pool is on private land has been recorded? So the specifics of that we have not posted a list of productive vernal pools online

165 "Krista Spohr" (3366980096)

00:52:50.270 --> 00:53:10.270

But we'll be doing so in the coming weeks, whether or not a specific vernal pool is regulated by the department as a productive vernal pool can be determined by consulting the productive vernal pool lists. If the vernal pooling question is not on list, it has not been documented as being productive and subsequently listed by

166 "Krista Spohr" (3366980096)

00:53:10.270 --> 00:53:30.210

DEC. Okay, will DEC jurisdiction extend to any areas within the Adirondack park? So I meant to talk about it when I had the urban layers up because the urban layer one showed that

167 "Krista Spohr" (3366980096)

00:53:30.210 --> 00:53:50.210

Blue outline of the Adirondack park. And, we will, so we will regulate any wetlands that are within the park that cross over the line to the state because wetlands don't really care about our

168 "Krista Spohr" (3366980096)

00:53:50.210 --> 00:54:09.600

arbitrary boundaries and state lines and such, they go where they need to go. So we will continue regulation on our side of the blue line and we will also notify the Adirondack Park if there are places that we will go, if there are places that.

169 "Krista Spohr" (3366980096)

00:54:09.600 --> 00:54:29.600

are wetlands on the outside that go into the blue line. But we do not regulate anything that's in the blue line. The Adirondack Park Agency does. Are existing housing element replacements regulated activities. So replacing a septic water, service.

170 "Krista Spohr" (3366980096)

00:54:29.600 --> 00:54:53.060

Line deck footers, front step front walk? So this is an in kind replacement and maintenance, and yes, they still need a permit for some of these non exempt activities. You can look at part 663 permit requirements and regulations. Those have not been changed. Only part 664 jurisdiction and classification.

171 "Krista Spohr" (3366980096)

00:54:53.060 --> 00:55:22.620

regulations have been updated. So replacing a septic system in a jurisdictional freshwater wetland is a non exempt regulated activity. You can see the general, so that's the general permit, so the typical projects one that came out, you can look on that one, on the permits page. So just go in the search bar and put in “general freshwater wetlands permit” and that will come up.

172 "Krista Spohr" (3366980096)

00:55:22.620 --> 00:55:38.940

What procedures and criteria will be used by DEC to evaluate how much development disturbance, if any, within the regulated a hundred foot vernal pool buffer zone might be permitted? Okay, so I answered that one already.

173 "Krista Spohr" (3366980096)

00:55:38.940 --> 00:55:57.990

If development disturbance is proposed within a regulated 800 ft vernal pool buffer or the mitigations, options might be undertaken to permit some level of disturbance? And so we talked about that's all site specific.

174 "Krista Spohr" (3366980096)

00:55:57.990 --> 00:56:17.990

Can you speak about a bit about the process for projects that are already under development? For instance, what if a project has signed wetland boundary validation map? Still valid for a few more years? Are the wetlands deemed non jurisdictional under that map still non

175 "Krista Spohr" (3366980096)

00:56:17.990 --> 00:56:48.090

-jurisdictional today? do we need to submit for a parcel or project JD in this case? No, you do not. It is good till the term of that permit that was given to you in the old jurisdictional rules. What happens when the project JD expires if construction is not complete or has not even commenced?

176 "Krista Spohr" (3366980096)

00:56:48.090 --> 00:57:08.090

What will happen with incomplete projects will depend on how far along they are and whether or not they have, there are changes in the wetland field conditions. Such considerations will be addressed by the regional permitting and program staff according to those

177 "Krista Spohr" (3366980096)

00:57:08.090 --> 00:57:15.690

site specifics.

178 "Krista Spohr" (3366980096)

00:57:15.690 --> 00:57:35.690

So, what happens if previously jurisdictional resources or resources not previously but now anticipated to be jurisdictional are to be impacted and an application was submitted under the previous rules? What's the path forward? Does the applicant need to start over with

179 "Krista Spohr" (3366980096)

00:57:35.690 --> 00:57:55.650

the parcel JD and potentially wait? So the applicant needs to review that part 664 .1 C and D to identify the grace period. So that transition period slide that I put up and apply the circumstances. So, basically, where is the application at?

180 "Krista Spohr" (3366980096)

00:57:55.650 --> 00:58:11.880

Was it a complete application? If we are using previous delineated, if we are using previous delineation where we have a DEC signed map

181 "Krista Spohr" (3366980096)

00:58:11.880 --> 00:58:28.290

valid for another few years and are avoiding the resource in adjacent area, do you still need to submit a parcel JD? No, that project meets that part 664 .1 applicability, so you can proceed.

182 "Krista Spohr" (3366980096)

00:58:28.290 --> 00:58:49.470

Once that expires and the project is still not constructed or in construction, do we need to submit a parcel JD? If it's not a construction, then yes.

183 "Krista Spohr" (3366980096)

00:58:49.470 --> 00:59:04.560

But if it's under construction again, the same rules apply to above, it depends on the site specific and if the wetland boundaries, has changed at all.

184 "Krista Spohr" (3366980096)

00:59:04.560 --> 00:59:24.560

So that's something for the regional permitting and BEH staff. We submitted a project for a permit in December 2024. Will this parcel project be reviewed using the 2025 regulation?

185 "Krista Spohr" (3366980096)

00:59:24.560 --> 00:59:47.130

If you submitted a complete application or again, had, the project met those requirements in part 664 .1 applicability, then you go to the old standards. If not, then you do the parcel JD request and you see if there's now new wetlands on that parcel.

186 "Krista Spohr" (3366980096)

00:59:47.130 --> 01:00:08.210

Can you clarify the timeline of the process to obtain these JDs? So, for projects having a validated delineation of jurisdictional wetlands, that's so first 90 days to get that parcel, right? That parcel JD and

187 "Krista Spohr" (3366980096)

01:00:08.210 --> 01:00:26.700

And then, for projects having validated delineation of those jurisdictional wetlands, it's under 90 days to provide a project JD. There's no time limit on DEC's delineations or validations of consultants delineated wetlands.

188 "Krista Spohr" (3366980096)

01:00:26.700 --> 01:00:55.227

Okay, so those are the questions that came in beforehand. We can answer some questions that are coming in, so I'm gonna look to the chat. And I do want to introduce Matt Walter. He is the program manager of New York State. He is here to help with, I'm sure there's, as I've been gabbing along, there’s probably a ton of questions.

189 "Matthew Walter" (928610560)

01:00:55.227 --> 01:01:29.780

Good afternoon, everybody. Sorry, I can't, my, my camera is freaking out on me and Webex generally has been, so sorry to, not have my camera on but I I can tell you you're not missing anything. So yeah, some of these questions in the chat and the Q and A and in the chat, there, some of them are

fairly complex and really difficult to type in answers to them on the fly, but we can try to go through some.

190 "Krista Spohr" (3366980096)

01:01:29.780 --> 01:01:33.357

Did you want to pick any specifics Krista?

191 "Matthew Walter" (928610560)

01:01:33.357 --> 01:01:51.583

Sure. I punched in. Okay I've punched in some answers and and I don't really understand what was going on, but I was punching in other answers and then as slides changed or something, what I had typed in, the field closed and then I tried again and webex

192 "Krista Spohr" (3366980096)

01:01:51.583 --> 01:01:55.004

is not my friend today. I don't know what's going on.

193 "Christine Vanderlan (she, her)" (3062930176)

01:01:55.004 --> 01:01:56.625

It's this lovely snow storm.

194 "Matthew Walter" (928610560)

01:01:56.625 --> 01:02:00.186

Yeah, yeah.

195 "Christine Vanderlan (she, her)" (3062930176)

01:02:00.186 --> 01:02:02.435

So Laura and I can

196 "Matthew Walter" (928610560)

01:02:02.435 --> 01:02:17.640

also kind of scan and and pitch some questions your way too. [Matthew Walter: So there's a couple of questions here regarding stormwater you know storm water detention ponds, and those are a tricky one and really they're gonna be evaluated on a case by case basis.

197 "Matthew Walter" (928610560)

01:02:17.640 --> 01:02:37.640

We've gotten this question a bunch of times and in situations where a storm water detention pond hasn't been maintained, you know, it's filled with sediment, it's become vegetated with hydrophytic vegetation and it really is functioning ecologically as a wetland. It maybe regulated as a wetland especially.

198 "Matthew Walter" (928610560)

01:02:37.640 --> 01:02:51.949

It's in an urban area and you know, there are different degrees of how far along it is and it's it's really a case by case basis reviews that the region you're gonna have to engage with you on. I can't give.

199 "Krista Spohr" (3366980096)

01:02:51.949 --> 01:03:16.160

one solid answer as to how this will be managed. Here's, one that I think I know the answer to, but anybody else can jump in because it's about nutrient poor wetlands or nutrient poor wetlands common in the estuary that, so in my knowledge, there's not that there's not that many in your area. There.

200 "Krista Spohr" (3366980096)

01:03:16.160 --> 01:03:36.715

Is what I'm trying to remember if it was 22. It's a number, all the nutrient poor wetlands are known on the landscape and I can't remember exactly what the number was, but you guys in the Hudson area can verify if I'm correct in stating that there's not that many in your area.

201 "Christine Vanderlan (she, her)" (3062930176)

01:03:36.715 --> 01:03:39.491

Okay.

202 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:03:39.491 --> 01:03:46.850

Laura, do you wanna? Sure, no my understanding is that

203 "Krista Spohr" (3366980096)

01:03:46.850 --> 01:03:55.083

Wetlands considered nutrient poor or generally rare on the landscape. Yeah, they are mostly in the Adirondacks and some out west

204 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:03:55.083 --> 01:04:13.863

Out west, the fens and bogs, there's a few out west. We do, however, in the Estuary, proper, have tidally influenced wetlands, and I do see there's a question about that. If you maybe want to just talk a little bit about the tidally influenced wetlands that might be

205 "Krista Spohr" (3366980096)

01:04:13.863 --> 01:04:40.389

Covered by article 24 changes? Under the unusual local importance? Yes, so there is, It's changed in the statute that now, any tidal wetlands that were not covered by article 25 are now going to be covered by article 24 and so those are those special wetlands that come up the Hudson. Is there more Matt that I am missing?

206 "Matthew Walter" (928610560)

01:04:40.389 --> 01:05:13.110

Okay, so it's between the Troy Dam and above the Tappan Zee bridge. Those are the titdally influenced wetlands, yeah, that will be. So tidally influenced wetland not regulated under article 25 as Krista just stated, and then contiguous to tidally influence wetlands that are regulated under article 25. So what that means.

207 "Matthew Walter" (928610560)

01:05:13.110 --> 01:05:29.790

Under article 24, we're regulating wetlands that fall outside of the mapped extent of tidally influenced wetlands that are regulated under article 25. So where those wetlands continue and are not mapped.

208 "Matthew Walter" (928610560)

01:05:29.790 --> 01:05:45.167

With the tidal wetland mapping, article 24 will pick up jurisdiction of those wetlands and regulate them. And that was developed in recognition of climate change and the changes that will.

209 "Krista Spohr" (3366980096)

01:05:45.167 --> 01:05:47.945

Be coming. And have already ensued.

210 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:05:47.945 --> 01:06:05.452

Too so thank you. Thank you. And related to climate resilience, I know that's part of why now urban areas, right, are, are receiving some focus and there was a question about whether or not there's a minimum size to the wetlands that will be protected

211 "Matthew Walter" (928610560)

01:06:05.452 --> 01:06:12.780

in Urban areas or are all wetlands in an urban area considered jurisdictional? Yeah, so, really what, what.

212 "Matthew Walter" (928610560)

01:06:12.780 --> 01:06:32.780

It hinges upon is our definition for a wetland. We can't, we can't arbitrarily assign a lower acreage threshold or size, and it's it's also not necessarily tied to ecological function. I mean, one of the main functions of wetlands is flood water buffering capacity.

213 "Matthew Walter" (928610560)

01:06:32.780 --> 01:06:53.240

Which in urbanized areas with all the development, even even an assemblage of small patches of wetland can serve in flood water buffering. And so this is a difficult one. We haven't sorted out the ins and the outs, but, you know, a lot of people have proposed, you know, why don't you just go down to

214 "Matthew Walter" (928610560)

01:06:53.240 --> 01:07:13.240

You know, such and such size on the small scale, and we can't do that because if it is a wetland patch, it has hydrophytic vegetation, regardless of its size, we can't turn our back on regulating it because right in the statutory language it states quote unquote “regardless of size”

215 "Matthew Walter" (928610560)

01:07:13.240 --> 01:07:33.240

So we we can't just rule out that statement from the statute and have at it. However, we see fit. So it's a difficult question and you know, there is a ridiculousness factor here and there, because a lot of our jurisdiction

216 "Matthew Walter" (928610560)

01:07:33.240 --> 01:07:59.750

determinations, the initial work is going to be done remotely by my team in central office. There is a question of, you know, what can we see with the imagery that we have and all the other wetland indicators. This whole process with these remote, there's another question and I'm fielding somewhat here. This whole process where we're doing remote jurisdictional determinations, the thing to remember is that it's all

217 "Matthew Walter" (928610560)

01:07:59.750 --> 01:08:15.660

It's all data driven and the the objective is to do it as efficiently as possible and as accurately as we can, and GIS is continually developing, we're getting our hands on, you know, better and more precise data sets over time.

218 "Matthew Walter" (928610560)

01:08:15.660 --> 01:08:35.660

So, as the outlandish as it may sound to some folks that we're making jurisdictional determinations remotely, I can tell you right now that my team's been doing it quite successfully for over four years now. We've been working with the office for renewable energy siting, reviewing large scale energy project proposals and

219 "Matthew Walter" (928610560)

01:08:35.660 --> 01:08:53.073

looking at wetlands remotely identifying acreage thresholds and you name it. And we're doing this with desktop assessments using geographic information systems data. Over.

220 "Krista Spohr" (3366980096)

01:08:53.073 --> 01:09:08.165

I think that is I know these answers are so long cause it's very variable depending on the questions so we have taken to saying over when we're done answering cause, yeah, otherwise you would never

221 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:09:08.165 --> 01:09:12.811

When we're done.

222 "Christine Vanderlan (she, her)" (3062930176)

01:09:12.811 --> 01:09:16.271

I'll jump in Christine unless you had something.

223 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:09:16.271 --> 01:09:33.932

Go ahead. Okay, no, I'm just seeing maybe this will be an easier question to answer, but I imagine other people have it. Somebody questioned or asked, what if jurisdictional wetlands are not on a parcel that's I guess being considered for project but the proposed activity would be within a wetland buffer?

224 "Matthew Walter" (928610560)

01:09:33.932 --> 01:10:07.340

And that is part of what we're identifying when we're doing jurisdictional determinations. So if somebody suspects that there maybe they've looked at wetland mapping, we've looked at our informational mapping, our, you know, previously mapped wetlands, national wetlands inventory, national land cover data set, soils, high resolution satellite imagery, you name it, anything that, that, you know, seems to indicate or based on standing on site

225 "Matthew Walter" (928610560)

01:10:07.340 --> 01:10:27.572

and looking off, you know, 50 ft off the parcel, you see a wet area that's vegetated, you should be putting in for a parcel jurisdictional determination to address the, the possibility that a wetland off site may have an adjacent area that extends into the parcel boundaries

226 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:10:27.572 --> 01:10:32.070

where the project is going to occur.

227 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:10:32.070 --> 01:10:52.070

Okay, thanks Matt. And somebody, I guess related to that, a similar type question, it says what happens if, I mean this is getting again to your point about you're using the best available data, right? And remote sensing information and somebody did ask about what does remote mean? It basically is referring to this desktop

228 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:10:52.070 --> 01:11:17.487

jurisdictional determination from all of these imagery sources. But somebody asked what happens if a parcel JD comes back as non jurisdictional, but there are wetlands in fact, present, they're just not showing up on the informational maps. So I think the answer to that question, you just kind of got to that idea of reviewing all of the available imagery. But I’m assuming in that case, someone could contact the department.

229 "Matthew Walter" (928610560)

01:11:17.487 --> 01:11:37.340

Well, in, in the interest of trying to do these as efficiently as possible, we've already, we already recognized the fact that we're not always gonna be right. We're gonna make mistakes. And when we give a jurisdictional determination, the determination

230 "Matthew Walter" (928610560)

01:11:37.340 --> 01:11:53.250

is only good for five years, so we're all, we only screwed up for a period of five years. So if that helps I, you know, with, with the project, probably if we missed it,

231 "Matthew Walter" (928610560)

01:11:53.250 --> 01:12:13.250

there aren't gonna be dire consequences to wetlands because we've gotten pretty good at what we do, but there are gonna be times when there's gonna be some kind of wetland patch somewhere that we could not see in GIS, and it wasn't otherwise, you know, we couldn't see in satellite imagery or other aerial imagery and it wasn't otherwise well represented

232 "Matthew Walter" (928610560)

01:12:13.250 --> 01:12:32.073

in the Cornell modeled informational maps or nwis or any other data set, soils, whatever. So we are gonna miss somewhere and we're, you know, that's, we're aware that that's gonna happen. And in those cases, you know, we

233 "Krista Spohr" (3366980096)

01:12:32.073 --> 01:12:48.770

give a jurisdictional determination, it's good for five years. It's also, like Matt said, we've been doing this or him and his team have been doing this for four years with a large energy projects, but we also have the regions and those are

234 "Krista Spohr" (3366980096)

01:12:48.770 --> 01:13:11.251

Boots on the ground. So there are times when you're looking at remote data and you're like, I, this doesn't make sense, it doesn't add up. And then we can always reach out to our region and boots

on the ground and say, can you go to this site and tell me what you see? So there is a way of looking at things on the ground as well.

235 "Christine Vanderlan (she, her)" (3062930176)

01:13:11.251 --> 01:13:18.060

Okay, I see a question

236 "Christine Vanderlan (she, her)" (3062930176)

01:13:18.060 --> 01:13:33.120

Asking about which this around the transitional period and which types of municipal site plan approval or municipal approvals other than site plan, would count.

237 "Christine Vanderlan (she, her)" (3062930176)

01:13:33.120 --> 01:13:41.181

I think, Krista you spoke about that term being interpreted broadly, maybe there's a specific place people could refer to to find more about that.

238 "Matthew Walter" (928610560)

01:13:41.181 --> 01:14:09.510

Okay, I I'll put this in the chat, but really what folks, what you really want to look at is the very beginning of the express terms. You want to look at part 664 .1 “applicability,” and you want to look at whether or not the scenario in mind is addressed under 664 .1 C or 664 .1 D.

239 "Matthew Walter" (928610560)

01:14:09.510 --> 01:14:27.480

And that lays out, you know, we in our advanced notice of proposed rule making where we less formally reached out to get input, we got a lot of input on, the need for us to honor

240 "Matthew Walter" (928610560)

01:14:27.480 --> 01:14:47.480

the hard work, capital investment, time, energy, what have you that people have put into some of the medium scale or large scale projects. And so we worked in, what is not a grandfathering clause. It it we we we informally refer to it as as grace periods, and so we've got it

241 "Matthew Walter" (928610560)

01:14:47.480 --> 01:15:06.540

broken down based on when the new regulations will be applied to a certain scenario, but it depends on what stage a project is at, whether or not there's been any engagement with the department or with the lead agency, whether or not an applicant has a final environmental impact statement

242 "Matthew Walter" (928610560)

01:15:06.540 --> 01:15:23.490

for the project, you know, accepted by the lead agency, written site plan approval from local government, and then it gets into what period, you know, if requirements are met, how long will a

243 "Matthew Walter" (928610560)

01:15:23.490 --> 01:15:41.370

proposal for a minor project have a grace period, that's period of two years from minor projects, so 1 January 2027. Tthe new regulations for a site where there is, where you've met applicability under 664 .1

244 "Matthew Walter" (928610560)

01:15:41.370 --> 01:16:01.370

You'll have a couple of years before the new regulations take effect and then major projects we give a little more in recognition of all the, you know, larger scale, more planning and time and energy and money that have gone in. It's a period of three and a half years, so new regs won't be applied to that site until July first of 2028.

245 "Matthew Walter" (928610560)

01:16:01.370 --> 01:16:13.960

But I'll put this, I'll put that reference in the chat and I will quickly find a hyperlink directly to the express term so people have it that that they're ready for them.

246 "Christine Vanderlan (she, her)" (3062930176)

01:16:13.960 --> 01:16:19.621

Oh, I'll do that right now. Thank you for that.

247 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:16:19.621 --> 01:16:34.080

Laura, do you have another question ready to go? well, no, I just I actually just posted as somebody asked to get the link to the fresh water general permits, public comment information. So I just put the link to the environmental notice bulletin

248 "Krista Spohr" (3366980096)

01:16:34.080 --> 01:16:58.490

In the Q and A but I also just pasted it to the chat. Thanks. Sure. I just read, I'm sorry, I was in the chat answering questions so then I saw this one pop up, there's a probable vernal pool of significance on a parcel that is soon to go on the market and maybe at risk of development.

249 "Krista Spohr" (3366980096)

01:16:58.490 --> 01:17:14.730

If this is not jurisdictional, do you have advice to concerned community members to protect it? If the current owner doesn't want to do an environmental assessment, what is the next possible course of action? So.

250 "Krista Spohr" (3366980096)

01:17:14.730 --> 01:17:31.410

If it's the current owner doesn't want to do an assessment, you do need the landowner's permission because you have to take, egg mass counts and all of that, and if it's on the market, I would say just.

251 "Krista Spohr" (3366980096)

01:17:31.410 --> 01:18:01.675

Keep an eye on it, keep in contact with the people that might want to be buying it. And then there is a, email you can reach out to and I mentioned it before vernal pool at DEC and I'll put it in the chat,

and just keep in contact with us cause maybe, you know, things don't look so great now, but maybe things will shift in the future. I know it's not the greatest advice, but.

252 "Christine Vanderlan (she, her)" (3062930176)

01:18:01.675 --> 01:18:14.701

I see a question about state and local wetland regulations, so how do the state regulations interact.

253 "Krista Spohr" (3366980096)

01:18:14.701 --> 01:18:46.660

with local wetland regulations. So, where those meet is that critical environmental areas so that local significance, basically if you get a critical environmental area stating that the wetlands are, you're, is in that impact, in that statement, then you have more power behind the state to help you protect those wetlands.

254 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:18:46.660 --> 01:18:52.076

Yeah, there's a

255 "Krista Spohr" (3366980096)

01:18:52.076 --> 01:18:54.217

Couple of questions about the use of

256 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:18:54.217 --> 01:19:03.677

consultants for delineation and if there's specific credentials required and is there.

257 "Krista Spohr" (3366980096)

01:19:03.677 --> 01:19:04.478

There's another.

258 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:19:04.478 --> 01:19:07.137

question to about if there's like a list available of qualified consultants

259 "Krista Spohr" (3366980096)

01:19:07.137 --> 01:19:37.050

So we can't qualified. Yeah, if there's a qualified consultant list. Yeah, we can't put out a list because then it seems like we're, backing...preferential treatment. Yes, there's the word. But, you reach out to any consultants in your area and they, they will know, like, they will be a, they will know whether or not they are

260 "Krista Spohr" (3366980096)

01:19:37.050 --> 01:19:52.559

certified and that's why, again, you can also, wait, Matt I'm stumbling over words, but basically reach out to a consultant and consultants know that they know that they have the certification to do that delineation.

261 "Matthew Walter" (928610560)

01:19:52.559 --> 01:20:20.158

Yeah, and, and just one thing to add is that the other piece is gonna be a regional validation, so they have to be pretty good at doing delineations in order for the region to accept what they've done. So the region is gonna go out and walk the line, you know, may bump out some flags, but it is going to be reviewed by the department before it's cleared and goes on into

262 "Krista Spohr" (3366980096)

01:20:20.158 --> 01:20:33.362

a project jurisdictional determination phase. and consultants know that, so they will be able to tell you if they feel comfortable doing that delineation that they know is gonna be checked by the state.

263 "Christine Vanderlan (she, her)" (3062930176)

01:20:33.362 --> 01:20:37.980

Okay.

264 "Christine Vanderlan (she, her)" (3062930176)

01:20:37.980 --> 01:20:57.980

So we are in our final 2 minutes and we've gotten many, many, many questions and I know we will not get to all the questions people have submitted, so just to acknowledge that for folks who submitted questions and if you're not hearing an answer, it's the quantity and time constraints that we're running into here. I did want to

265 "Christine Vanderlan (she, her)" (3062930176)

01:20:57.980 --> 01:21:27.487

go back cause I didn't fully ask that question about the local regulations. Another aspect of that question was about, does the state regulation, like supersede local wetland regulation that a community might have? And my understanding is that local regulations that are in local law, as long as they're stricter than New York State, you know, locally those continue to be in effect and of course the state does not kind of take

266 "Krista Spohr" (3366980096)

01:21:27.487 --> 01:21:31.500

back that authority just because they're regulating wetlands as well.

267 "Krista Spohr" (3366980096)

01:21:31.500 --> 01:21:47.610

Yes, it's just like federal and state, right? So the state regulations, supersede the federal, and so then it funnels down even further so that the local supersedes the state.

268 "Krista Spohr" (3366980096)

01:21:47.610 --> 01:21:59.121

Which is good because the state, right? The state is boots on the ground and then local is even more, you're actually in it. So you want to have control over what you're regulating.

269 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:21:59.121 --> 01:22:13.456

Okay. So we've had over a hundred questions in the Q and A which have been challenging enough to monitor. I know there's even more in the chat, which we're not monitoring for questions as much as the Q and A. Krista, I.

270 "Krista Spohr" (3366980096)

01:22:13.456 --> 01:22:16.121

And I believe the department is planning on

271 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:22:16.121 --> 01:22:25.314

getting some kind of FAQ out at some point. Yeah, so there, so some of these questions might be incorporated into something that's available online that, attendees here can

272 "Krista Spohr" (3366980096)

01:22:25.314 --> 01:22:29.820

potentially look at in the future. Is that right? Because we can distribute that when we do a follow up of this webinar.

273 "Krista Spohr" (3366980096)

01:22:29.820 --> 01:22:45.880

Yep, and so just to let you know, I have ten pages already of a Q and A from the past two webinars that I've done, so it is a monster of a document, so if your question is not answered in some way shape or form

274 "Laura Heady, Hudson River Estuary Program (she/her)" (202347008)

01:22:45.880 --> 01:22:54.159

Here, it will be answered on that Q and A. That's great. Thank you so much. I don't know if folks realize that there's been like

275 "Krista Spohr" (3366980096)

01:22:54.159 --> 01:23:05.184

More than 2000 people attending these various webinars and lots of questions are coming in. Yeah, ok. So thank you. I love all the interests about wetlands, and we just had World Wetlands Day.

276 "Christine Vanderlan (she, her)" (3062930176)

01:23:05.184 --> 01:23:19.283

even though groundhogs days kind of steals the light, yeah yeah thank you so much Krista and Matt and Laura for joining us and, and being part of this

277 "Krista Spohr" (3366980096)

01:23:19.283 --> 01:23:21.564

Webinar, making it happen today and spending so much time.

278 "Matthew Walter" (928610560)

01:23:21.564 --> 01:23:40.860

Thank you so much. Thank you. Folks can continue to send in questions and you know, we are repeatedly going in and updating, adding to our Q and A documents that we're posting online, just trying to continually field questions

279 "Matthew Walter" (928610560)

01:23:40.860 --> 01:24:01.742

Yeah, even, you know, outside of these Webex meetings that we're hosting. So, thanks everybody for your time and yeah, apologies for not being able to field some of the more complex questions, you know, the devils on the details, site specifics and all that, but we will do the best we can in providing you with good thorough answers for

280 "Krista Spohr" (3366980096)

01:24:01.742 --> 01:24:17.028

questions that you submit. So thank you for your time. We really appreciate it. Thank you.