



PERMIT
Under the Environmental Conservation Law (ECL)

GENERAL PERMIT GP-0-21-005
NYSDOT & NYSTA GP

Permittee and Facility Information

Permit Issued To:

New York State Department of Transportation
and
New York State Thruway Authority

Facility:

NYS Highways, NYS Thruway,
and auxiliary structures Statewide

Applicable DEC Region(s): ALL

General Permit Authorized Activity: This General Permit authorizes the New York State Department of Transportation (NYSDOT) and New York State Thruway Authority (NYSTA) to conduct the following activities within the limits of NYSDEC- regulated freshwater wetlands and their regulated adjacent areas -

1) Bank and channel stabilization activities for transportation related construction activities. Bank and channel stabilization activities include:

- rehabilitation or new installation of stone fill (riprap) or other suitable non-erodible material;
- rehabilitation or new installation of erosion control fabrics, mats, nettings, geotextiles or similar materials; and
- the planting of grasses and other vegetation.

Bank and channel stabilization activities shall be allowed on embankment slopes, within 200 linear feet of bridge or culvert inlets and outlets, at structure foundations, or at similar locations.

2) Permanent and temporary placement of earth fill when such fill is related to the rehabilitation or replacement of an existing transportation facility. Placement of earth fill is allowed when it is associated with any of the following activities:

- highway and bridge replacement or rehabilitation on essentially the same alignment;
- culvert rehabilitation, repair, replacement, or extension;
- installation of temporary non-erodible water control structures (cofferdams);
- installation of temporary non-erodible construction access facilities; and
- installation of temporary non-erodible detour facilities.

3) Installation or repair of utility lines when associated with transportation related construction activities.

Installation activities include the placement of material for backfill or bedding of underground utility lines and utility poles and towers. Authorized utility lines include: pipes or pipelines for the transportation of gaseous, liquid or slurry substances; or cables or wires for electricity or telecommunications.

4) Rehabilitation or in-kind and in-place replacement of existing transportation facilities. Authorized activities include rehabilitation or replacement (essentially replicating existing facility in configuration, alignment and dimension that match or exceed the existing size and invert elevations for culverts/bridges) of: highway and shoulder pavement; bridge superstructure elements (deck, sidewalk, girders, etc.); bridge substructure elements (piers, footings, abutments, wingwalls, etc.); drainage culverts; culvert end sections and aprons; fencing;



headwalls; guiderails; traffic signs; traffic signals; and the removal of vegetation associated with the authorized activity.

5) Survey and exploratory activities for highway related construction activities. Authorized activities include: instrument surveys, archaeological and paleontological surveys; seismic operations; drilling of test wells or bore holes; excavation of test pits; core sampling; soil sampling; and other similar exploratory-type activities.

6) Slip-lining, invert paving, cured-in-place, or similar treatments to existing wetland crossing culverts. Authorization is limited to wetland crossings only and does not include crossings of DEC mapped and classified streams.

7) Herbicide application along state highway rights of way within the adjacent areas of state-regulated freshwater wetlands for control of vegetation around guide rails (including beyond edge of pavement as necessary to achieve safety or operational goals), signs, and other traffic control structures, or for control of non-native, invasive species.

8) Projects under construction on the effective date of this permit that were previously covered under GP-0-11-002 shall be authorized to continue the activity in accordance with GP-0-21-005 until December 31, 2021, unless otherwise notified by the Department. Projects for which construction is not active or will not be completed by December 31, 2021 must apply for and obtain coverage under GP-0-21-005 or an individual permit (see Special Condition No. 2).

Permit Authorizations

Freshwater Wetlands - Under Article 24

Effective Date: 08/02/2021 Expiration Date: 08/01/2031

Water Quality Certification - Under Section 401 - Clean Water Act

Effective Date: 08/02/2021 Expiration Date: 08/01/2031

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

General Permit Authorized by

Permit Administrator: SCOTT E SHEELEY, Chief Permit Administrator

Address: NYSDEC Headquarters
625 Broadway
Albany, NY 12233

Authorized Signature: _____

Date: 08/02/2021



Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

ATTACHMENT A - VEGETATION MANAGEMENT SUMMARY

ATTACHMENT B - TYPICAL HERBICIDE APPLICATIONS

ATTACHMENT C - WATER QUALITY CERTIFICATION CONDITION EXPLANATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: WATER QUALITY CERTIFICATION; FRESHWATER WETLANDS

1. Request for Authorization / Notification of Intent

- a. For Projects described in the Authorized Activity of this General Permit as (1) Bank and channel stabilization activities, (2) Permanent and temporary placement of earth fill, and (6) Slip-lining, invert paving, cured-in-place, or similar treatments to existing culverts:

Prior to the use of this General Permit for a project, the applicant must submit a Request for Authorization (RFA) Form and one (1) set of project plans to the Regional Supervisor of Natural Resources at the appropriate NYSDEC Regional Office.

Upon review of the project, NYSDEC will determine if the project can be issued under this General Permit. Written confirmation of authorization must be received prior to any work. This authorization may be issued "in the field."

- b. For Projects described in the Authorized Activity of this General Permit as (3) Installation or repair of utility lines, (4) Rehabilitation or in-kind and in-place replacement, (5) Survey and exploratory activities, and (7) Herbicide application:

Prior to the use of this General Permit for a project, the applicant must submit a Notification of Intent (NOI) Form and one (1) set of project plans, or a list of project locations for herbicide activities, to the Regional Supervisor of Natural Resources at the appropriate NYSDEC Regional Office.

This Form must be received at least 15 days prior to the start of work. If NYSDEC does not contact the applicant regarding any environmental concerns within 15 days of receipt of the Notification of Intent form and enclosures, the applicant is authorized to perform the project activity applied for under this General Permit without further approval. When concerns are identified by NYSDEC during the review period, no work is authorized until all concerns are resolved.

- c. **Expedited Action.** When unforeseen circumstances require work on a more immediate time frame, application and project plan submission shall include a detailed reason for requesting expedited action and shall be made at least 48 hours before the proposed start date. The applicant



shall confirm that NYSDEC received the application information through telephone, fax, or e-mail communication.

If NYSDEC concurs with the request for expedited action and there are no environmental concerns expressed by NYSDEC during the 48 hour review period, the applicant is authorized to perform the project activity applied for under this General Permit without further approval. When concerns are identified by NYSDEC during the review period, no work is authorized until all concerns are resolved.

- d. For projects involving over 100 linear feet of stream disturbance, or a critical bridge or culvert, NYSDOT/NYSTA must address the recommended flood risk management guidelines for critical transportation infrastructure contained in “New York State Flood Risk Management Guidance for Implementation of the Community Risk and Resiliency Act”, August 2020 (p. 35 describes “critical transportation infrastructure”), or the most current/updated New York State Community Risk and Resiliency Act guidance materials, as applicable. In its request for authorization/notice, NYSDOT/NYSTA must demonstrate that the design incorporates the flood risk management guidelines, or that the guidelines were considered and determined infeasible.

NYSDEC retains the right to exclude a proposed activity from authorization under this General Permit, and to require the permittee to obtain an individual permit. Exclusions may be due to situations where the NYSDEC has identified a particular resource concern that may be impacted by the proposed activity, such as, but not limited to, the presence of a state-listed endangered or threatened species or its habitat.

2. Permit Coverage for Activities Previously Authorized under GP-0-11-002 On the effective date of this permit, GP-0-21-005, NYSDOT projects under active construction that were previously covered under GP-0-11-002 shall be authorized to continue the activity in accordance with GP-0-21-005 until December 31, 2021, unless otherwise notified by the Department. Projects for which construction is not active or will not be completed by December 31, 2021 must apply for and obtain coverage under GP-0-21-005 or an individual permit.

3. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by NYSDOT, NYSTA, or its agent.

4. Bank and Channel Stabilization Activities (Refer to the General Permit Authorized Activity #1.) Activities must be the minimum necessary, and must not

- a. be in excess of 200 linear feet in total length in any single wetland. The total length must be measured cumulatively when a project has several individual areas in a single wetland receiving bank or channel stabilization.
- b. exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark.
- c. result in a constriction of the cross-sectional area of any affected stream channel.

Materials must be of the type and size, and must be placed in such a manner, so as to not impair surface or groundwater flow into or out of the wetland or inhibit the natural movements of resident or migratory fish species.



Materials must be placed in such a manner to prevent its dispersion or movement by normal or highwater flows.

Changes to streambeds and the bottom and side slopes of channels should be minimized as much as possible.

5. Minor Fill Activities (Refer to the General Permit Authorized Activity #2.) The placement of earth fill in wetlands and wetland adjacent areas shall be minimized to the extent possible and be the minimum necessary to bring the facility into compliance with current design, safety, and capacity standards. In no case shall fill cause the temporary or permanent conversion of more than one-tenth of one acre of NYSDEC-regulated freshwater wetland fill.

Replacements of existing pipe and box culverts must be within 50 feet of their existing location. The culvert must not require more than 100 feet of flow alignment activities within the wetland, and must not alter the existing flow or water table characteristics of the wetland or inhibit the natural movements of resident or migratory aquatic life.

6. Utility Line Activities (Refer to the General Permit Authorized Activity #3.) The installation or repair of the utility line must not result in significant change in the preconstruction contours, flow or water table characteristics of the wetland.

All material excavated as a result of trenching operations may be temporarily sidecast into the wetland or adjacent area for no more than 30 days, and all sidecast material must be placed and stabilized in such a manner so as to prevent its dispersion by normal or high water flows.

The area of wetland disturbance must be limited to the minimum necessary to construct the utility line. Clearing of existing vegetation must be limited to that material which poses an immediate hazard or hindrance to construction activities.

The top 6 to 12 inches of the trench must be backfilled with topsoil excavated from the trench, and all excess material must be removed to upland areas and stabilized immediately upon completion of construction.

7. Rehabilitation or Replacement of Existing Transportation Facilities Activities (Refer to the General Permit Authorized Activity #4.) Only permanent or temporary placement of earth fill in the wetland or adjacent area associated with rehabilitation or replacement of existing facilities is allowed, if it meets the limits of minor fill cited in condition 5.

Drainage culverts referenced under this activity are those that do not carry stream flows or flows through wetlands, but are typically dry and provide drainage for stormwater or high water table conditions. These drainage culverts must be replaced at their existing location and with structures matching existing invert elevations and matching or exceeding the existing culvert size. No adverse flow alignment activities must be allowed.

Clearing of existing vegetation and removal of accumulated sediment and debris are limited to within 25 feet, unless otherwise authorized, of inlet and outlet to restore original culvert performance.



8. Clearing, Grubbing, Grading and Minor Fills Associated with Survey and/or Exploratory Activities (Refer to the General Permit Authorized Activity #5.) All test wells, test pits and bore holes must be backfilled to the fullest extent possible with soil excavated from the well, pit or hole. All excess material must be immediately removed from the wetland and adjacent area and stabilized immediately upon completion of the activity.

The area of wetland disturbance must be limited to the minimum necessary to perform the survey and exploratory activity. Clearing of existing vegetation must be limited to that material which poses an immediate hazard or hindrance to the necessary activity. Vegetation can be cut and left in place, but if vegetation is piled up it must be immediately removed from the wetland and adjacent area upon completion of the activity, subject to the restrictions contained in special conditions of this general permit pertaining to invasive species.

Any fills required for temporary access facilities must be of non-erodible material up to the ordinary highwater elevation.

Temporary access facilities (including necessary fills) must be located so as to avoid or minimize disturbance of the wetland, and appropriate measures must be taken to maintain preconstruction water flows and water table characteristics.

Temporary access facilities (including necessary fills) must be entirely removed following completion of the necessary activity, and the affected wetland and adjacent area must be graded, seeded and restored to replicate preconstruction conditions (except that the planting of replacement trees and shrubs is not required).

9. Herbicide Application Herbicide application activities (Refer to General Authorized Activity #7.) Herbicide application shall be undertaken in accordance with the conditions of this permit and its Attachment A – Vegetation Management Goals, and Attachment B – Typical Herbicide Applications.

All herbicide applications shall be made by NYS certified pesticide applicators and technicians in conformance with ECL Article 33 and 6NYCRR Part 325, and all product label requirements.

The application of pesticides directly or indirectly (by spray or drift) to standing or flowing water within or near the highway right-of-way or treatment area is strictly prohibited.

10. No Bar to Movement No activity may disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, or deemed beneficial by the DEC, including those species that normally migrate through the area.

New or replacement culverts placed in the stream must be installed to maintain low flow conditions and should maintain water depths and velocities similar to undisturbed upstream and downstream reaches.

11. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.



12. Maintain Water Flow During Work During periods of work activity, flow immediately downstream of the work site shall equal flow immediately upstream of the work site.

13. Water Clarity Stream reaches downstream of construction areas shall always remain as clear (non-turbid) as the reaches upstream of the construction areas.

14. Work in One Continuous Operation Work in wetlands and buffer areas must be done in one continuous operation.

15. Stream Work Prohibition Periods All stream work, as well as any work that may result in the suspension of sediment, is prohibited during the fish spawning and incubation period specified by either:

- the NYSDEC Regional Supervisor of Natural Resources, or their designee, on Part 2 of the RFA/NOI Form (Project Authorization by NYSDEC); OR
- for activities only requiring a NOI, the NYSDOT/NYSTA identification of any dates previously specified by the Supervisor of Natural Resources, or their designee, on Part 1 of the RFA/NOI Form when the RFA/NOI Form is submitted to the NYSDEC and there is no response from NYSDEC within 15 days (see additional notes/requirements provided on the RFA/NOI form).

The time of year restriction periods that apply, when specified, are as follows:

- a. None
- b. Natural spawning brook and brown trout, commencing September 15 and ending May 15
- c. Natural spawning rainbow trout, commencing September 15 and ending May 15
- d. Natural spawning brook, brown, and rainbow trout, commencing September 15 and ending June 15
- e. Walleye fish (bass and sunfish) spawning commencing March 1 and ending June 30
- f. Warmwater fish (bass and sunfish) spawning only commencing May 1 and ending June 30

At the request of the permittee, work windows may be temporarily modified by the Regional Supervisor of Natural Resources, or their designee, to address extenuating circumstances.

16. Tree Removal Prohibition Periods Any activity including tree removal in areas of known occurrence for a NYS listed endangered or threatened bat species is prohibited during the period specified by either:

- the NYSDEC Regional Supervisor of Natural Resources, or their designee, on Part 2 of the RFA/NOI Form (Project Authorization by NYSDEC); OR
- for activities only requiring a NOI, the NYSDOT/NYSTA identification of a tree removal prohibition period on Part 1 of the RFA/NOI Form when the RFA/NOI Form is submitted to the NYSDEC and there is no response from NYSDEC within 15 days (see additional notes/requirements provided on the RFA/NOI form).

The restriction periods that shall apply, when specified, are as follows:

- a. none;
- b. beginning March 1 and ending November 30 in Suffolk County; or
- c. beginning April 1 and ending October 31 in the rest of New York State.

At the written request of the permittee, the work window may be modified by the Regional Supervisor of Natural Resources or their designee to address extenuating circumstances.



17. Work in Wetlands To the extent possible, work which must be in a wetland shall be scheduled to be started and completed in the dry or when the ground is frozen.

18. Install Markers Along Limits of Disturbance Prior to commencement of the activities authorized herein, the permittee shall install markers (e.g., securely anchored silt fencing, continuously staked straw bales, or orange construction fencing) to mark the limits of project disturbance along the freshwater wetland boundary, to demarcate the work area. These markers must be maintained for as long as is necessary during construction and or other potential site disturbance activities, and be removed no later than one year after project completion.

19. Clean Fill Only All fill material utilized for this project shall consist of uncontaminated earthen materials only. Acceptable fill materials include gravel, rock, overburden, topsoil and similar natural mineral resources.

20. Prevent Erosion of Excavated Soils To protect wetlands and aquatic resources, the permittee must take measures to minimize transport of soil particles by water. Soil and excavated materials should be set back a sufficient distance from stream banks, wetlands and wetland adjacent areas to prevent bank collapse or washing of materials into any stream, wetland, wetland adjacent area, or other waterbody.

If exposed for an extended period of time, excavated or temporarily stockpiled soils or other materials shall be covered, vegetated, or contained and protected to reduce runoff of fines which may cause turbidity, and to prevent rainwater from soaking the materials and rendering them unsuitable for backfill.

21. Erosion Control Devices To prevent environmental degradation, practicable measures and devices (such as silt fences, straw bales, check dams, catchment basins, sediment retention basins, water bars, diversion culverts, and other appropriate measures) shall be employed wherever necessary to prevent erodible soils, including those from banks and spoil piles, from entering the wetland or water body.

All erosion control devices must be in place prior to ground disturbance. These devices must be maintained as long as erosion is possible and removed no later than one year after project completion, or until suitable permanent vegetation is established, whichever is later.

All erosion and sediment control practices used shall be designed and implemented in conformance with the most current version of the New York State Standards and Specifications for Erosion and Sediment Control (available at <http://www.dec.ny.gov/chemical/29066.html>). If alternative erosion and sediment control practices are used, the permittee's project plans must demonstrate equivalence to the New York State Standards and Specifications for Erosion and Sediment Control.

22. Seed/Mulch Streambanks Stream banks must be stabilized to prevent erosion immediately after stream bank work is completed. When possible the original grade should be restored.

If bank protection consists of native seeding and mulching, growth of protective cover must be successful. Reseeding shall be accomplished if initial growth is unsatisfactory. Where possible, bed and bank revegetation should be of comparable on-site types (e.g., sedge plugs, willow or dogwood splints), and protected from sun scald or desiccation until cover is reestablished.

Revegetation and soil bio-engineering methods shall be considered as an alternative to stone whenever possible, to stabilize a stream bank. The stone used shall meet the sizing requirements of NYSDOT Light



Stone Filling (or larger), unless it can be demonstrated that the near bank shear stress can allow for a smaller size of rock.

All disturbed stream banks below the normal high-water elevation must be graded no steeper than 1:2 slope and adequately stabilized, preferably with stone filling (rip rap).

Stream and shoreline erosion protection materials shall be of an appropriate type and size; not to interfere with navigation or the flow of water; and not displaced by normal high flow volumes. Natural stream design structures for erosion protection are preferred, reducing the need for rip rap, and can be found in NYSDEC's Shoreline Protection guidance document, http://www.dec.ny.gov/docs/fish_marine_pdf/shoreprotguide.pdf

All other areas of soil disturbance, above the ordinary high-water / active channel elevation or elsewhere, should be seeded with native grasses and mulched, or planted with native shrub seedlings.

23. Equipment Operation in Water At no time should machinery be operated in flowing water when it can reasonably be avoided or without adequate control measures in place.

24. Equipment Prohibited in Waterbody and Wetland Only equipment necessary for the authorized activity, as indicated on the project plans, may enter the waterbody or wetland.

25. Equipment Cleaning The permittee must not wash equipment or machinery in any watercourse or wetland and must not permit run-off resulting from washing operations to directly enter any watercourses or wetland. Excess concrete must be disposed of properly.

26. Clearing of Vegetation Clearing of existing vegetation must be limited to the minimum required to accomplish the authorized activity. Clearing beyond this limit is allowed solely for the purpose of controlling vegetation that is on the list of prohibited and regulated invasive species, contained within 6NYCRR Part 575 and available at <https://www.dec.ny.gov/animals/99141.html>.

27. Temporary Access Roads Existing access roads must be used whenever possible. New temporary access roads and parking areas used during construction activity shall be graded to direct runoff away from streams, wetlands and adjacent areas. The edge of temporary roads which are located near streams or wetlands shall be marked. Traffic should be minimized to essential vehicles only to reduce displacement of native soils.

Proper erosion and sediment controls (i.e., silt fences, straw bales, etc.) shall be used at all times to prevent the discharge of silt and sediment to surface waters, wetlands and adjacent areas. After completion of the construction activities, all disturbed areas shall be stabilized in accordance with the most current version of the New York Standards and Specifications for Erosion and Sediment Control.

Fill material for temporary stream crossing roads shall consist of nontoxic, non-erodible material such as gravel pit tailings or shot rock.

Temporary roads for stream crossings shall maintain culvert pipes of sufficient sizes to allow passage of seasonal high flows and shall not interfere with the up and downstream passage of fish.

28. Temporary Stream Access Road Temporary stream access roads shall be constructed a sufficient distance from the stream banks so as to avoid destruction of existing stream bank vegetative cover.



Exposed banks shall be stabilized with rip-rap or other suitable materials to protect against erosion and accidental collapse.

29. Cofferdams, Sediment Basins, and Temporary Water Control Structures Any temporary cofferdam shall be constructed of non-erodible materials, so that failure will not occur during a 2-year, 24-hour storm event or lower flow conditions. Where practicable, an upstream or interior membrane shall be installed to control percolation and erosion. Any temporary cofferdam shall be constructed of materials that will not contribute to turbidity or siltation of the waterbody. Fill materials for cofferdams must not come from the waterbody or wetland.

Straw bale sediment control basins are prohibited in the wetland and adjacent area. If used in upland areas, turbid runoff may not enter the wetland or adjacent area.

Any water control structure or cofferdam shall not impair water flow in the waterbody or water flow into and/or out of a wetland.

All temporary water control structures shall be removed in their entirety upon completion of maintenance activity, unless elements of the structure can be converted into habitat enhancement features acceptable to NYSDEC or unless NYSDEC approval is received for retention of the structure.

Water being returned to the waterbody or wetland from the coffered work area or sediment basin or temporary water control structure shall have no discernible difference in water clarity between waters upstream and downstream of the waterbody.

30. Removal of Temporary Water Diversion Structures When the temporary dike, dam or water diversion structure is removed, the erodible material shall be removed first and then the non-erodible structure removed.

31. Concrete Leachate During construction, no wet or fresh concrete or leachate shall be allowed to escape into any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or waters. Only watertight or waterproof forms shall be used. Wet concrete shall not be poured to displace water within the forms.

32. No Turbidity from Dewatering No turbid water resulting from dewatering operations shall be discharged directly to or allowed to enter the stream or wetland. Such water shall be pumped to settling basins or to an upland vegetated area prior to any discharge to stream or wetland. All other necessary measures shall be implemented to prevent any visible increase in turbidity or sedimentation downstream of the work site and adequate scour protection measures are to be employed.

33. Return Fish All fish trapped within the cofferdam during the dewatering process shall be returned, alive and unharmed, to the water outside the confines of the cofferdam.

34. Turbid Discharges Visibly turbid discharges from land clearing, grading or excavation activities, or de-watering operations shall not enter the stream, navigable water, or wetland. Prior to entry into stream, navigable water or wetland, any such discharge shall be:

- a. retained in an appropriately maintained upland settling basin;
- b. filtered through crushed stone, sand, straw bales, silt screening (maximum opening size of U.S.



Sieve Number 20), etc.; or,

- c. directed to a grassy upland area a sufficient distance from the stream to prevent change in turbidity of the receiving water.

35. Storage of Materials Soil and/or excavated materials may not be stored in streams or wetlands or on top of stream banks, where materials could erode into the stream or cause the bank to collapse, unless the bank has been protected by rip-rap or other suitable materials.

36. Establish Vegetation Permanent vegetation must become successfully established to the Department's satisfaction. If vegetation fails to successfully establish, the area must be replanted and monitored until successful vegetation establishment is achieved.

37. No Construction Debris in Wetland or Adjacent Area Surplus soil and spoil from construction of this project shall be removed to an approved upland area for disposal. No material is permitted in wetlands and/or protected buffer areas or in areas depicted as flood hazard areas on the National Flood Insurance Rate Maps prepared to identify such areas.

38. Prevent the Spread of Invasive Species For purposes of this permit, the list of prohibited and regulated invasive species, contained within 6NYCRR Part 575 and available at <https://www.dec.ny.gov/animals/99141.html>, and as it may be modified in the future, are the focal species that require the conditions specified below:

- a. Prior to site preparation, any cutting of vegetation, soil disturbance, or ground breaking, the work area and its vicinity shall be field-investigated for the presence of invasive species. Any invasive species found shall be identified and the location and approximate extent of the infestation must be documented on the Project Plans and/or the Project Description.
- b. Prior to site clearing, ground-breaking and construction, all activities must be planned to prevent the potential introduction, export, and spread of invasive species.
- c. Avoid disturbing invasive species populations whenever feasible.
- d. Minimize soil disturbance which may include using existing roads, access points, staging areas and/ or alternative construction methods.
- e. During ground disturbance or cutting, no portion of an invasive species, including but not limited to cuttings, roots, stems, leaves, flowers, or seeds of terrestrial plant invasive species, or any life stage of terrestrial insect invasive species, shall be allowed to escape outside of the immediate work area.
- f. To the greatest extent possible, onsite materials, such as excavated soil and other fill, shall be reused onsite, rather than importing new material. Any new soil or aggregate material brought into the site must be free of evidence of invasive species.

For a period of 3 years, invasive species that emerge due to the placement of fill shall be treated, removed, and or disposed of. However, when a project is located in close proximity to areas with an existing wide expanse of invasive species likely to infest the project area, the permittee may seek a waiver of this specific requirement by including a specific request in the Project Description of the Request for Authorization/Notification of Intent form or in other attached project materials. The request will be assumed to be granted by NYSDEC unless (a) NYSDEC's Project Authorization for the Request for Authorization provides an explicit statement to the contrary, or (b) NYSDEC raises the issue as a concern during the 15 day review period of Notification of Intent projects.



- g. Any soils disturbed during work shall be stabilized as soon as possible using erosion control and stormwater management technical standards.
- h. Disturbed soils shall be graded and permanently re-vegetated as soon as possible to prevent the establishment of invasive species.
- i. Only native or non-invasive plants may be used for revegetation and landscaping. Plants selected must not be on the invasive species watchlist as provided by the NYSDEC Office of Invasive Species Coordination.
- j. Right-of-ways shall be monitored during day-to-day and post-management activities.

39. Prevent Transport of Invasive Species Equipment used in areas containing invasive plant species shall be power-washed and cleaned with clean water (no soaps or chemicals) before leaving the invasive-infested area (or immediately adjacent to the wetland and adjacent area if the infestation is in the wetland or adjacent area), to prevent the spread of seeds, roots or other viable plant parts.

Loose plant and soil material that has been removed from clothing, boots and equipment, or generated from cleaning operations shall be rendered incapable of any growth or reproduction, or disposed of off-site. If disposed of off-site, the plant and soil material shall be transported in a secure manner. Any off-site disposal must occur at a State-approved landfill or incinerator.

If upon completion of work, the area remains infested with invasive plant species, the invasive material cleaned from equipment used within the same construction area may remain within the infested area, provided that no filling of a wetland shall occur.

During the notification and review period prior to work under this permit, the DEC Natural Resources staff may make additional site specific requirements for cleaning in areas where protected species or habitats may be affected.

40. Failure to Meet Terms or Conditions Failure of the permittee to meet all the terms or conditions of this general permit may result in an order to immediately cease the permitted activity, conduct remediation and/or civil and/or criminal penalties.

41. Human or Archaeological Remains If any human remains or archaeological remains are encountered during excavation, the permittee must immediately cease, or cause to cease, all work in the area of the remains and notify the Regional Permit Administrator at the appropriate NYSDEC Regional Office. Work shall not resume until written permission to do so has been received from the Department.

42. 401 Water Quality Certification Conditions - Water Quality Requirements & Explanations The conditions included in this certification are necessary to ensure that the project will meet applicable New York State water quality requirements. In accordance with 40 CFR section 121.7, the applicable water quality requirements and explanations for each condition, wherever included in this Section 401 Water Quality Certification, are provided in Attachment C of this permit.

43. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill,



excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

44. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

45. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

2. Water Quality Certification The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.



A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands, Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

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

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

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

Permit Attachment A

NYSDOT/NYSTA Vegetation Management Summary

Transportation agencies strive to meet the following vegetation management goals:

- Provide motorists with adequate sight distances.
- Keep signs and guiderail free of vegetation, so signs and guiderail remain visible and functional.
- Preserve a clear zone off the highway shoulder, in case motorists leave the highway and need time and space to recover control of a vehicle.
- Maintain drainage, to protect pavement and ensure water does not pond in travel lanes.
- Maintain a safer working environment for staff working along the highway.
- Protect infrastructure assets from the detrimental effects of vegetation.
- Limit the introduction or spread of invasive species.

To meet these goals, NYSDOT and NYSTA implement mechanical methods, such as mowers, brush cutters, bucket trucks, weed trimmers and chainsaws in most circumstances. However, due to equipment and staff limitations or safety issues, mechanical methods cannot be used in all locations.

With proper and responsible use of herbicides, the following work may be accomplished:

- Reduction or elimination of resprouting of trees or brush by applying herbicides to cut stumps/stubble after tree/brush removal.
- Clear guiderail: bare ground herbicide treatment from the edge of pavement to as far behind the guiderail as needed to achieve safety and operational goals.
- Clear signs/delineator posts: bare ground treatment approximately three feet around posts.
- Protecting crew safety: bare ground, selective or other treatments to control vegetation in areas where mowers and maintenance equipment could potentially roll over or where health hazards, such as poison ivy or wild parsnip, are present in work areas.
- Controlling invasive species: bare ground, selective or other treatments to control invasive species, such as Japanese knotweed, Phragmites, Purple loosestrife and Giant hogweed.

Herbicide applications are made only by NYSDEC Certified Commercial Pesticide Applicators/Technicians under the appropriate pesticide license category. Herbicide treatments are applied in accordance with product labels and 2(ee) Recommendations, as appropriate. No applications are made to surface waters.

Further discussion is provided in Section 3 – Highway Maintenance and Operations of the [Environmental Handbook for Transportation Operations](https://www.dot.ny.gov/divisions/engineering/environmental-analysis/repository/oprhbook.pdf) (<https://www.dot.ny.gov/divisions/engineering/environmental-analysis/repository/oprhbook.pdf>).

ATTACHMENT B

NYSDOT/NYSTA Freshwater Wetland General Permit (GP-0-21-005)

Typical Herbicide Applications

The following are examples of the types of herbicide active ingredients and mixtures which would generally be used under this permit. Herbicide active ingredients and mixtures may vary if right-of-way conditions or product labeling changes warrant. In all cases application rates will be in accordance with product labeling. No aquatic applications are made in this program.

Typical mixtures for bare ground treatment under rail and around posts:

Glyphosate (e.g. Rodeo, EPA# 62719-324)

Sulfometuron methyl & metsulfuron methyl (e.g. Oust Extra, EPA #432-1557)

-- or --

Indaziflam (e.g. Esplanade 200SC, EPA #432-1516)

Aminocyclopyrachlor, imazapyr & metsulfuron methyl (e.g. Viewpoint, EPA #432-1580)

-- or --

Aminopyralid (e.g. Milestone, EPA #62719-519)

Glyphosate (e.g. Rodeo EPA #62719-324)

Metsulfuron methyl (e.g. Escort XP, EPA# 432-1549)

Indaziflam (e.g. Esplanade 200SC, EPA #432-1516)

Typical mixture for vine type vegetation (Poison Ivy, Virginia Creeper, Wild Grape):

triclopyr (e.g. Garlon 3A, EPA# 62719-37, SLN-NY-110005)

metsulfuron methyl (e.g. Escort XP, EPA# 432-1549)

Typical mixture for foliar application brush control:

ammonium salt of fosamine (e.g. Krenite S, EPA#42750-247)

The above mixtures will also include water, surfactant, drift retardant, defoamer and/or color dye. All mixing will be done in accordance with product labeling.

Typical mixture for cut stubble/stump treatment:

Picloram & 2,4-D (e.g. Pathway, EPA# 62719-31)

water

For invasive species treatment:

Mixtures would be dependent on what invasive species is/are involved and what products are available that are labeled (or have a 2ee approval) for that species.

ATTACHMENT C

NYSDOT/NYSTA Freshwater Wetland General Permit (GP-0-21-005) 401 Water Quality Certification Conditions Water Quality Requirements and Explanations

The conditions included in the Section 401 Water Quality certification for GP-0-21-005 are necessary to ensure that the project will meet applicable New York State water quality requirements. In accordance with 40 CFR §121.7, the applicable water quality requirements and explanations for each condition, wherever included in the Section 401 Water Quality certification, are provided in the table below. Where used in the table, ECL refers to New York State Environmental Conservation Law and 6 NYCRR refers to Title 6 of the Codes, Rules and Regulations of the State of New York.

Condition Title(s)	Water Quality Requirements	Explanation
Conformance with Plans	6 NYCRR 608.9, Discharges Prohibited without certification.	This condition is necessary to identify what discharges are authorized by the certification. Any discharge not identified on the referenced plans is prohibited.
Precautions Against Contamination of Waters	6 NYCRR 703.2, Narrative Water Quality Standards related to turbidity, suspended solids, toxic substances, color, and other deleterious substances.	This condition is necessary to ensure that the permittee undertakes whatever additional measures are necessary, and not otherwise specified in the conditions of this permit, to prevent the contravention of water quality standards during the implementation of the project.
Water Clarity	6 NYCRR 703.2 – as above	This condition is necessary to ensure that the project does not violate water quality standards related to turbidity.
Stream Work Period	6 NYCRR 703.2 – as above. 6 NYCRR 701, Classification of surface waters and identification of best usages	This condition is necessary to ensure that the discharge does not adversely impact water quality during sensitive fish spawning periods and contravene water quality standards or impair the waters best usages for fish propagation or fish survival.
Erosion Control devices; Prevent Erosion of Excavated Soils	6 NYCRR 703.2 – as above	These conditions are necessary to ensure that upland erosion is minimized and contained during project construction, preventing contravention of the water quality standards.

Temporary Access Roads; Temporary Stream Access Roads;	6 NYCRR 703.2 – as above 6 NYCRR 608.9 – as above. 6 NYCRR 703.2 – as above.	These conditions are necessary to ensure that the operation of construction equipment does not result in long-term or permanent alteration of waters, creating a discharge beyond the scope of the authorized discharge. These conditions are necessary to ensure that the construction of temporary work pads and staging areas do not result in long-term or permanent alteration of waters, creating a discharge beyond the scope of the authorized discharge, or result in a contravention of the water quality standards.
Clean Fill Only	6 NYCRR 703.2 – as above	This condition is necessary to ensure that there no unauthorized materials discharged, and that those authorized materials do not contain any other materials that are toxic to aquatic life and, thereby, contravene water quality standards.

Equipment Operation in Water; Equipment Prohibited in Waterbody and Wetland	6 NYCRR 608.9 – as above. 6 NYCRR 703.2 – as above.	These conditions are necessary to ensure that the operation of construction equipment does not result in unauthorized discharges. It is also necessary to ensure that construction of the project within flowing water is minimized to the extent practicable, avoiding contravention of the water quality standards.
Equipment Cleaning; Prevent Transport of Invasive Species	6 NYCRR 703.2 – as above	This condition is necessary to ensure that equipment used will not contribute to a contravention of water quality standards.
Cofferdams, Sediment Basins, and Temporary Water Control Structures; Removal of temporary water Diversion Structures; Return Fish	6 NYCRR 703.2 – as above. ECL 11-1301(4) – Requires fish unintentionally taken to be returned to water without unnecessary injury. 6 NYCRR 608.9 – as above. 6 NYCRR 703.2 – as above.	These conditions are necessary to ensure that dewatering discharges from the work area do not result in erosion, fish kills, and contravention of the water quality standards. These conditions are necessary to separate the work area from other waters around the site, preventing a contravention of the water quality standards. It is also necessary to ensure that the cofferdam itself does not erode into the waters of the state or result in an unauthorized discharge.

Turbid Discharges; No Turbidity from Dewatering; Maintain water Clarity	6 NYCRR 703.2 – as above	These conditions are necessary to ensure that dewatering discharges are directed away from waters, or only reenter waters after adequate settling or filtering, and do not contravene the water quality standards.
Maintain Water Flow During Work; No Bar to Movement	6 NYCRR 701, Classification of surface waters and identification of best usages	These conditions are necessary to ensure that the flow of water is maintained during construction, to sustain downstream aquatic life and maintain the waters' best usages for fish survival.
Storage of Materials; Prevent Erosion of Excavated Soils	6 NYCRR 703.2 – as above	This condition is necessary to ensure that erosion from stockpiled materials is minimized and contained during project construction, preventing contravention of the water quality standards.
Concrete Leachate	6 NYCRR 703.2 – as above	This condition is necessary to ensure that concrete, concrete leachate and other materials contaminated by concrete, which are all toxic to aquatic life, are contained during project construction, preventing the contravention of the water quality standards.
Seed/Mulch Streambanks; Establish Vegetation	6 NYCRR 703.2 – as above	This condition is necessary to ensure that upland erosion is minimized after construction is completed, preventing a contravention of the water quality standards.