



U.S. Fish & Wildlife Service

# Protecting New Jersey's Wetlands

## *Decision Making Responsibilities*

U.S. Fish & Wildlife Service  
Ecological Services  
New Jersey Field Office  
927 N. Main St., Bldg. D  
Pleasantville, NJ 08232

njfieldoffice@fws.gov e-mail  
609/646 9310  
609/646 0352 Fax  
December 2000



Long Savanna, Batsto Natural Area, Wharton State Forest

Photos: USFWS / Gene Nieminen

### *Overview of Laws Protecting Wetlands In New Jersey*

New Jersey currently has approximately 613,500 acres of freshwater wetlands and 289,500 acres of saltwater wetlands, about half of its original wetland area. The Clean Water Act was passed in 1972 with the primary goal of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters. Section 404 of the Clean Water Act is specifically directed toward regulating discharge of dredged or fill material into waters of the United States, including wetlands. The U.S. Army Corps of Engineers (Corps) is the federal agency responsible for regulating activities in wetlands under the Clean Water Act. Corps districts are defined by watershed boundaries. New Jersey is within two Corps districts: the Philadelphia District (southern New Jersey and the Delaware River watershed) and the New York District (northern New Jersey within the Hudson River watershed).

In 1994, under provisions of the Clean Water Act, the New Jersey Department of Environmental Protection (NJDEP) assumed responsibility for regulating all activities in New Jersey's freshwater, non-tidal wetlands. As a result, the Corps and the NJDEP have joint jurisdiction over tidal wetlands and wetlands adjacent to

the Delaware River, and the NJDEP has sole jurisdiction over most freshwater, non-tidal wetlands. In New Jersey, the U.S. Environmental Protection Agency (EPA) oversees both the federal and State regulatory programs.

### *Why Is the U.S. Fish & Wildlife Service Involved In Wetlands Regulation?*

Our emphasis is on federal trust resources, which include: federally listed threatened and endangered species; migratory birds; interjurisdictional fisheries; certain marine mammals; and federal lands, including

National Wildlife Refuges. Additionally, the U.S. Fish & Wildlife Service (Service) places an emphasis on protecting areas identified as "priority wetlands" under the Emergency Wetlands Resources Act and areas identified as "focus areas" under the North American Waterfowl Management Plan. One reason wetlands are valuable is because most federal trust fish and wildlife resources are wetland dependent or use wetlands at some stage of their life cycle. Unfortunately, wetlands are also becoming increasingly scarce. With half of its historic wetlands lost, New Jersey's remaining wetlands are under intense development pressure.



Hackensack Meadowlands

## *How Does the U.S. Fish & Wildlife Service Assist the U.S. Army Corps of Engineers?*

The Fish and Wildlife Coordination Act provides the Service an opportunity to review and comment on projects requiring Corps permits. Specifically, the Service reviews Corps wetland permit applications to determine potential impacts to fish and wildlife from the proposed activities. The Service typically provides comments and recommendations directly to the Corps, but also coordinates with the National Marine Fisheries Service, the EPA, and the project applicant. The Service encourages project planners to coordinate with the Service and other federal agencies as early as possible to identify and minimize potential impacts to fish and wildlife.

## *How Does The U.S. Fish & Wildlife Service Assist the New Jersey Department of Environmental Protection?*

Activities in freshwater, non-tidal wetlands in New Jersey are regulated by the NJDEP under the New Jersey Freshwater Wetlands Protection Act. The Service reviews State permit applications and determines potential effects on federally listed threatened and endangered species under an interagency Memorandum of Agreement (MOA) with the NJDEP and EPA. The Service also reviews State permit applications that qualify as “major discharges” and provides comments to the EPA on potential impacts to fish and wildlife resources. The EPA compiles and generates the official federal comments, which are then sent to the NJDEP.

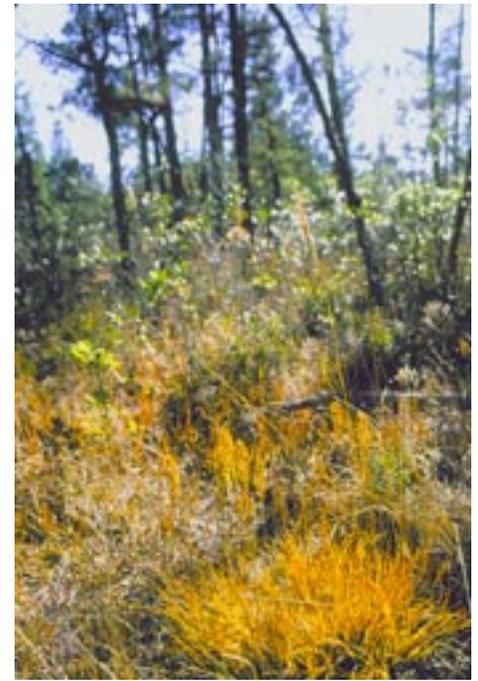
Under the MOA, the NJDEP also forwards State wetland enforcement actions involving federally listed species to the Service for review. Working with the State, we identify any impacts to federally listed threatened and endangered species before the NJDEP issues its order to remediate the unauthorized work in wetlands. The Service follows its Mitigation Policy in evaluating the impacts of development projects on fish and wildlife resources.

## *What Guides the U.S. Fish & Wildlife Service’s Decision Making?*

Our Mitigation Policy is based on the principle that the most effective method to protect sensitive fish and wildlife habitats is to avoid adverse impacts through sound project planning. Once demonstrated that all possible means to avoid adverse impacts have been proposed, the Service provides recommendations to further minimize adverse impacts to fish and wildlife. For example, recommendations may include reducing the project size, changing the project configuration, or avoiding construction during periods of high biological activity. Once planning has included all possible means to avoid and minimize adverse impacts to fish and wildlife, the Service then considers measures to compensate for any remaining loss of fish and wildlife habitats. Compensation generally requires the replacement of fish and wildlife habitats through the creation or restoration of wetlands similar to those lost due to the project. For example, the Service generally recommends offsetting adverse impacts to forested wetlands through in-kind restoration or creation of forested wetlands, to include similar species composition.



**Swamp Pink (*Helonias bullata*)**  
Photo/USFWS Gene Nieminen



**Bog Asphodel in Wooded Wetland**  
Pine Barrens, New Jersey

To achieve the greatest resource benefits, the Service focuses its efforts on projects that affect the most valuable fish and wildlife habitats. By following the sequential steps of the Service’s Mitigation Policy (i.e., avoidance, minimization, then compensation), we ensure that our recommendations are consistent, predictable, specific, and implementable.

## *Outlook*

New Jersey has lost considerable wetlands since our Nation’s birth. Our remaining wetlands are vital to water quality, flood control, and fish and wildlife. New Jersey’s wetlands also contribute to the local economy that relies on coastal tourism and fishing. Through the federal and State wetland regulatory programs we can work together toward economic development while protecting New Jersey’s wetland heritage.

*Our Mission: To work with others to conserve, protect and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people.*