



NEW JERSEY FRESHWATER WETLANDS PROTECTION ACT AND CULTURAL RESOURCES

The Regulations

Project sponsors applying for general and/or individual Freshwater Wetlands (FW) permits to the Land Use Regulation Program of the New Jersey Department of Environmental Protection (NJDEP) are required to consider the effects of their projects on historic resources. Historic resources are defined as buildings, structures, objects, sites and districts with potential significance in history, architecture, archaeology, engineering or culture.

In February of 2006, the NJDEP released an Enforcement Alert requiring the disclosure of potentially historic resources/ruins with each FW permit application. Freshwater wetlands permit applicants must provide information regarding the presence or absence of such resources within areas proposed for development. The purpose of the disclosure is to minimize negative impacts on historic properties by projects requiring FW permits, and to allow the interested public to comment on possible impacts to such resources.

Recent changes to the FW Protection Act Rules under New Jersey Administrative Code (N.J.A.C.) 7:7A were enacted on October 6, 2008. Under the changes, Phase IA historical and archaeological surveys and/or architectural surveys are required under the following conditions (N.J.A.C. 7:7A-12.2):

- Project area contains known historic or archaeological resources
- Project area exceeds 20 acres and includes a permanent water body or is within 250 feet of one
- Project area contains buildings, structures, or ruins over 50 years old
- Project includes new, replacement, reconstructed, or rehabilitated bridges or culverts
- Projects where the public has indicated by letter to the NJDEP the presence of historic resources in or near the project area

If your project area meets one of these conditions, the application will be deemed by the NJDEP to have a high probability for historic and/or archaeological resources and will require an assessment of potential impacts on such

resources. Based on the results of the Phase IA historical and archaeological survey and/or architectural survey, the New Jersey State Historic Preservation Office (HPO) will determine whether further survey work is necessary to complete the cultural resource requirements of the FW permit.



The Surveys

A Phase IA historical and archaeological survey includes an assessment of the potential for significant archaeological resources in a project area. This includes background research on known sites at the New Jersey State Museum, historic properties (resources listed or eligible for listing on the National and State Register of Historic Places) and a review of previous archaeological surveys at the HPO, a review of historic maps and atlases and local histories, and a site visit to record existing conditions via field notes and photography. This work must be completed by an archaeologist meeting the Federal Standards of 36 CFR 61.

An architectural survey includes an intensive-level historic architectural survey to determine whether National Register listed or eligible structures will be affected by a project.

This work is generally required if a structure, or structures, over 50 years old are on the property, or if a property is adjacent to an existing, or potential, historic district. This work is documented on the HPO's architectural survey forms and must be completed by an architectural historian meeting the Federal Standards of 36 CFR 61.



If the referenced conditions do not apply to your project, a due diligence submission with the FW application is required by the NJDEP. A due diligence submission identifies known historic sites, or areas with potential for historic resources and provides information to the NJDEP on such resources.



In accordance with the requirements of N.J.A.C. 7:7A-12.2 (m), applicants are to submit the following with each FW permit application:

- Color photographs of all buildings, structures, ruins of buildings and structures, and burial grounds within a project site
- A key map of the site showing photograph locations
- Copies of correspondence regarding historic districts, buildings, structures, ruins, burial grounds, and archaeological sites on or near the project site

The Benefits

Completing cultural resource requirements early in the permitting process is strongly advised. An initial submission, either for due diligence or with a Phase IA historical and archaeological and architectural survey report, will permit the HPO to comment on the project and determine if any further cultural resource surveys will be required. If a property has a low potential for impacts to significant historic resources, the HPO may waive cultural resource requirements. If potential constraints are identified, project plans may be modified to avoid or minimize impacts to resources. In cases where impacts cannot be avoided, further studies may be required by the HPO.

Should an applicant encounter a probable historic property during construction of a FW permitted project, the applicant must contact the HPO immediately and proceed as directed. Often, this involves archaeological fieldwork to document, record and evaluate the significance of the resource. This can cause costly delays that can impact the project schedule. The submission of proper FW documentation for historic resources minimizes the chances that a significant resource is encountered during construction.

Author, Paul J. McEachen is a Principal Senior Archaeologist at RGA. If you would like to learn more about the New Jersey Freshwater Wetlands Protection Act and cultural resources, please call Paul at 609-655-0692, extension 309 or e-mail him at pjmceachen@richardgrubb.com.



Richard Grubb & Associates (RGA) is an archaeological and historical consulting firm. Established in 1988, RGA has become one of the largest independent firms in the Mid-Atlantic and Northeast regions. The firm provides consulting services for the following project types: municipalities, transportation; private development; schools; superfund, brownfields & hazardous waste sites; water, sewer & wastewater; energy infrastructure; telecommunication; zooarchaeology; historic cemeteries and burial grounds; and historic tax credits among others. RGA's staff consists of 31 full-time professionals in history, archaeology, and architectural history who possess the collective experience to undertake all types of projects. RGA's corporate headquarters are located in Cranbury, New Jersey with locations in Allentown, Pennsylvania; Bel Air, Maryland; and Plainfield, Illinois. Over the past 21 years, the firm has successfully completed more than 3000 projects in every New Jersey county and in Pennsylvania, Delaware, New York, Maryland, Washington DC, Iowa, Illinois, Massachusetts, Connecticut, Rhode Island, and the Territory of Puerto Rico. Clients include federal, state, county, and municipal governments; consulting engineering firms; environmental firms; architects; planners; commercial and residential property developers; builders; and local historic preservation commissions, among others.

For more information, please visit our website: www.richardgrubb.com, or contact us at any of our locations:

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