

New Jersey State Wetland Program Summary



Photo Caption: Cape May, New Jersey Wetlands

Photo credit: Anthony Bley, U.S. Army Corps of Engineers

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Section A. Quick View

Description of New Jersey's Wetlands

New Jersey's wetlands consist largely of emergent estuarine wetlands (salt, brackish, slightly brackish and oligohaline), intertidal flats, and lacustrine wetlands associated with lakes and reservoirs.

State Definition of Wetlands

Wetlands Act of 1970: Land subject to tidal action in specified areas including areas formally connected to tidal waters whose surface is at or below an elevation of one foot above extreme high water upon which may grow or is capable of growing some of the listed plants. Regulation is based on a mapped line. If it is not picked up on a map, a wetland may be picked up by the Freshwater Wetlands Protection Act. Through the FWPA New Jersey has a definition of wetland comparable to the federal definition (1977) adopted by regulation. The 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands with subsequent amendments was adopted by statute. In addition, the Department has authority over transition areas adjacent to wetlands of exceptional resource value (75 - 150 feet) and of intermediate resource value (25 - 50 feet).

Historic Wetland Loss/Gain in New Jersey

Original Wetland Acreage	Remaining Wetland Acreage	Acreage Lost	% Lost
1,500,000	915,960	584,040	39%

Source: US Fish and Wildlife Service (Dahl, 1989)

Note: Rutgers University has conducted an updated analysis and land cover maps with aerial overflights and remote sensing.

Wetland Program Plan

New Jersey has a current State Wetland Program Plan (2014-2018). The plan document can be downloaded from: http://water.epa.gov/type/wetlands/upload/njdep-wpp_2014-2018.pdf.

Primary State Wetland Web Pages

Freshwater Wetlands: http://www.state.nj.us/dep/landuse/fww/fww_main.html

Coastal Wetlands: http://www.state.nj.us/dep/landuse/cp_main.html

State Resources for Wetland Work

Funding Source and Amount	Core Element 1: Regulation	Core Element 2: Monitoring & Assessment	Core Element 3: Wetland Water Quality Standards	Core Element 4: Voluntary Restoration
Agency	DEP	Information unavailable	Information unavailable	Information unavailable
Source(s)				
Amount	Estimated for all: Enforcement \$2,453,000 Permitting \$12,108,000 (unknown % wetlands)			
Staffing	134 FTE Estimated for all permitting (unknown % wetlands)	42 FTE Estimated for all monitoring and assessment (unknown % wetlands M&A)	42 FTE Estimated for all monitoring and assessment (unknown % wetlands WQS-related work)	

Permit Fees

Yes/No	YES
Amount	\$240 - No Cap (base fee + \$96/acre)
State Agency	Goes into the General Fund

Note: A fee table is posted on the NJDEP Webpage:

Innovative Features and New Programs/Initiatives:

New Jersey's program includes:

- Direct and exclusive state permitting for activities in freshwater wetlands and water areas
- An assumed Section 404 program integrated within the state's Flood Hazard Program
- Upland buffer requirements
- A stormwater review component
- Pineland and Highlands statutes
- Additional work in upland

No Net Loss/Net Gain Goal

When the State of New Jersey entered into the Environmental Partnership agreement with the U.S. Environmental Protection Agency to assume the Section 404 program, it adopted a No Net Loss/Net Gain Goal.

REGULATION

New Jersey has a comprehensive state level program for freshwater and tidal wetlands administered pursuant to four statutes. It is one of two states nationally that have assumed the Section 404 program under the Clean Water Act. Assumption was approved in 1993 and went into effect in 1994. The wetland management program is implemented by the Department of Environmental Protection on a regional basis in conjunction with the Coastal Zone Management Program and the Flood Hazard Area Program. Permits are issued jointly for a particular site whenever possible.

Wetland Regulatory Statutes and Administrative Rules

The Freshwater Wetlands Protection Act (FWPA) provides a comprehensive permitting program that regulates all activities in freshwater wetlands, as well as in "transition areas" — upland buffers adjacent to the wetlands. (N.J.S.A. 13:9B-1 et seq.). The FWPA is not based on 401 certification and water quality standards but establishes its own authority. New Jersey has assumed the federal Clean Water Act's Section 404 program and thereby issues State permits that satisfy both State and Federal requirements. The Federal 404 program is suspended throughout most of the State. The Hackensack Meadowlands Development Commission (HMDC) region of the State was not deemed assumable and therefore remains under Federal jurisdiction. The State reviews wetlands activities in the HMDC using 401 certification and rules on Coastal Zone Management (CZM). In general the State standards for the issuance of 401 certification parallel the standards for issuing a permit under the FWPA and the standards for issuance under CZM. The State's wetland permit serves as the 401 certification for all activities regulated under the FWPA.

The Pinelands Protection Act (N.J. S.A. 13:18A-1 to 13:18A-29) provides protections and land use restrictions for areas within the Pinelands National Reserve. This includes wetlands and wetland buffer protection (including wetland buffers) that is separate from, but in addition to the protections provided via the FWPA.

The Wetlands Act of 1970 N.J.S.A.13:9A-1et seq. requires permits for activities proposed within tidal and estuarine wetlands. All wetlands to be protected are shown on regulatory maps. Unmapped wetland areas are regulated by the FWPA.

The Highlands Water Protection and Planning Act (2004), N.J.S.A. 13:20-1 et seq. requires approval for activities in a 400,000 acre region of the state designated for preservation. Within the Preservation Area, the Act regulates "Highlands Open Waters." "Highlands Open Waters" is defined to include springs, perennial and intermittent streams, wetlands and bodies of surface water whether natural or artificial. The Act requires a 300-foot buffer adjacent to all Highlands open waters and limits the activities that may encroach to linear projects and right-of-way therefore, for which there is no alternative.

Wetland Delineation

Delineation Guidance	Yes	No	Detail
Use State's Own Method		X	
Use Corps' 87 Manual and Regional Supplement	X		Use Corp Regional Supplement
Other (Please describe)	X		The state uses the 1987 manual, which is consistent with the 1987 manual and regional supplements

Evaluation Methodology

New Jersey uses best professional judgement to evaluate the success of mitigation sites in New Jersey.

Regulated and Exempted Activities

Same as Exemptions Provided under the Federal 404 Program	Different from the Exemptions Provided under the Federal 404 Program
Yes, the Freshwater Wetlands Protection Act regulates: fills, driving of pilings, excavation, drainage and disturbance of the water table, and destruction of wetland vegetation. Exemptions include activities associated with farming and forestry which do not bring an area of wetlands into a use to which it had not previously been subjected. These exemptions are identical to those provided under the Federal 404 program.	<i>Additionally</i> , The Wetlands Act of 1970 regulates: draining, dredging, excavation, and placement of structures or other obstructions. Production of salt hay and mosquito control activities are exempted.

Special Provisions for Agriculture and Forestry

Forestry activities with an approved forest management plan are exempt from the FWPA. The State law also provides an agricultural exemption that is the same as the current 404 exemption.

Penalties and Enforcement

Penalties of up to \$25,000 per day per violation are possible under the FWPA. The FWPA provides for civil and criminal penalties. The State has two regional enforcement offices that handle all complaints and violations under the State's wetlands program.

Permit Tracking

New Jersey has a comprehensive permit and enforcement tracking database to track all permitting and enforcement actions, including types of activities to be permitted and resulting wetland acreage impacts. The permit tracking system is called the New Jersey Environmental Management System (NJEMS). Upon receipt of a permit application it is assigned an identifying number and entered into the database. Upon completion of the review (and at several steps along the way) the reviewer enters information regarding whether or not the permit was approved or denied, and the approved level of wetlands filled, excavated or cleared. The same database is used to enter enforcement information (if the need arises) and wetland mitigation data.

State General Permit (statewide vs. regional coverage)

Permit Coverage	Yes	No	Detail (Type of Permit)
Regional General Permit	X		In the coastal zone for coastal wetlands; work with the Corps; adapted Nationwide Permits for New Jersey
Statewide General Permit	X		Own adopted permits under assumption

Detail: Blanket general permits are in place for working in man-made lagoons and for docks and piers in coastal waters. The state is pursuing a programmatic general permit for coastal wetland areas. For more information on the state's general permits, go to: http://www.nj.gov/dep/landuse/fww/fww_main.html

Assumption of Section 404 Powers

Assumption of 404 Powers

Assumption Status	Yes	No	Detail
Assumed	X		
Working Toward Assumption	-		
Explored Assumption	-		

Detail: The state assumed the Section 404 Program in 1994. The program functions smoothly and efficiently and has proven beneficial not only for applicants but also for wetland protection in the State.

Joint Permitting

Because the State has assumed the Section 404 program, the Federal Section 404 program has been suspended throughout most of the State. The only areas where the State and the Corps share jurisdiction, and both agencies must review activities for permits, are those areas below the head of tide and wetlands adjacent to those waters up to 1000 feet inland. Also, interstate wetlands and waters (such as the Delaware River, which forms the border between New Jersey and Pennsylvania, Greenwood Lake, on New Jersey's border with New York State) remain under dual jurisdiction. However, the State performs all jurisdictional determinations for wetlands and Corps accepts them. In addition, joint coastal, floodplain and wetland permits are issued whenever possible.

Special Area Management Plans and Advanced Identification Plans

Although the state does not have SAMPs or ADIDs, New Jersey does have a Pinelands Statute and a Highlands Statute that offer other protections, including only requiring 2 rather than 3 of the wetland parameters. The Pinelands Area of the State has unique rules and regulations established to protect the "preservation area" while directing development elsewhere. These regulations include strict prohibitions against wetland disturbance. The state includes highland protected waters (.i.e. they include everything).

Buffer Protection

Buffer Protection	Yes	No
New Jersey	X	

Detail: Everywhere in the state there is some level of buffer protection. Different sources of protection include Surface Water Standards, Special Area Protections, and fish and wildlife requirements. Generally, the state regulates 300 feet of buffer area from a regulated water. In addition to regulating wetlands New Jersey places buffers around certain wetlands to further protect them from degradation. Statewide, wetlands that are classified as intermediate or exceptional resource value have a 50 and 150 foot buffer, respectively. Under the State's Freshwater Wetlands Protection Act, wetlands that discharge to trout-production waters or which are present or documented habitat for threatened or endangered species are considered exceptional resource value wetlands and are therefore have a 150-foot buffer. Most trout production waters are also designated as Category One waters pursuant to the State's Surface Water Quality Standards rules (N.J.A.C. 7:9B) Category One waters are protected from degradation through the implementation of a 300-foot buffer known as the Special Water Resource Protection Area in the State's Stormwater Management rules (N.J.A.C. 7:8). Such waters are also protected through the implementation of the State's Flood Hazard Control Act Regulations, which require a 300-foot riparian zone immediately adjacent to Category One waters and upstream waters within the same HUC14 sub-watershed. These buffers are often coincident with wetlands that are protected in permanent conservation restrictions through the NJDEP's permitting program.

Mitigation Policy

Mitigation is required for all wetland and water impacts permitted under an Individual permit as well as for three general permits: hazardous waste cleanup and remediation, landfill closures and redevelopment of brownfields. State requirements are now consistent with federal requirements. Mitigation is newly required for outfalls and intake structures, as well as above ground utility lines, underground utility lines, filling on non-tribal wetlands, and road crossings. When unavoidable disturbances to Coastal and Freshwater wetlands occur as a result of permitting, these losses are mitigated based upon "equal ecological value."

Mitigation ratios have been developed for the creation of wetlands in place of the Equal Ecological Value standard. The state requires a ratio of 2:1 for creation/restoration and at higher rates for enhancement and preservation of wetlands. For coastal wetlands the ratio may vary between 1:1 and 2:1 depending on the resource impacted. There are requirements for all impacts from hazardous waste and landfill closures. The state is also creating a wetland mitigation data layer.

Mitigation Database

To account for wetland gains, the State has a Geographic Information System (GIS) compatible mitigation database (separate from NJEMS) that includes information such as the amount of mitigation required, status of the mitigation monitoring, quality assessment of the mitigation area, and graphic files showing the extent of wetlands achieved. Specific fields include permit requirements, impacts, acreage, wetland type, mitigation success, donations, geography, source of donation, impacted watershed, reports, monitoring, site visits, and correspondence.

WATER QUALITY STANDARDS

Wetland Water Quality Standards

The State of New Jersey has been a national leader in developing robust state water quality standards. However, the state is still working to develop wetland-specific water quality standards and has not made significant progress over the last decade.

- Efforts by wetland ecologists in the NJDEP to provide information for potential use in developing Water Quality Standards for Wetlands (WQSW) for the State are under way
- Standards are evolving as Monitoring and Assessment projects amass data on wetland condition using a reference-based approach along a gradient from high to low ecological integrity.
- New Jersey’s ecological integrity assessment is based on landscape and buffer condition, plus vegetation, soil and hydrology metrics and environmental stressors data.
- The building of wetland condition assessment tools is a long-term endeavor based on research and monitoring, and will serve as a foundation for development of wetland water quality standards in the future.
- To date, the NJ Floristic Quality Assessment Index (FQAI) based on floristic diversity has been a good predictor of wetland condition.
- The State did add the definition of wetlands to the surface water quality standards in anticipation of establishing standards.

Type	None	Use Existing WQ Standards	In Process	Adopted	Future Direction
Wetland-specific Designated Uses		√	√		
Narrative criteria in the standards to protect designated wetland uses		√	√		
Numeric criteria in the standards based on wetland type and location to protect the designated uses		√	√		
Anti-degradation policy includes wetlands		√	√		

Monitoring and Assessment

The NJDEP has been engaged in wetland monitoring and assessment for a long time. Since 1996, EPA Wetland Program Development Grants have been utilized by the NJDEP to conduct inventory, classification, mapping, condition assessment, and baseline monitoring for rare freshwater and coastal wetland types throughout the State.

New Jersey’s wetland monitoring and assessment program has the following characteristics:

Level	None	Level 1	Level 2	Level 3
<i>New Jersey</i>	Information unavailable			

Type	None	IBI	Conditional	Functional
<i>New Jersey</i>	Information unavailable			

Frequency	None	Project Specific	Ongoing
<i>New Jersey</i>		X	X (Out of a different office)

National Wetland Condition Assessment (NWCA) Participation

NWCA Study Type	Yes	No
National Study	X	
State Intensification Study	X	

Mapping /Inventory

Mapping of tidal wetlands was completed for the first time in the 1970's, and freshwater wetlands were first mapped in the 1980's. Since 1986, the State has classified land use/land cover and produced maps based on aerial photography. These map products are available as GIS downloads and interactive mapping online, and have allowed the State to evaluate changes in land use and wetlands over time. Finer scale wetland mapping efforts by the NJDEP Regulatory Program will begin in 2014. Every time there is a flyover, the state redoes their layers.

Public Access Portal for Wetland Maps

The State provides access to interactive mapping for the public through NJ-GeoWeb and The Landscape Project.

Wetland Classification and Assessment

Information not available

Overall Wetland Gain and Loss Tracking System

The State tracks wetland losses and wetland gains via NJEMS. There are other programs within the State Department of Environmental Protection that work to acquire environmentally sensitive land that may include wetlands. They conduct their own tracking.

Voluntary Wetland Restoration

Program Description

The State of New Jersey has active, formal programs in place for ecological restoration and for protection of wetlands through land acquisition and watershed planning. The NJDEP's Division of Fish and Wildlife (DFW) has been involved in the restoration of tidal wetlands for over 50 years. Restoration is accomplished both by the NJDEP and in partnership with local governments, the federal government and non-profits and watershed organizations. NJDEP considers wetlands restoration, creation and enhancement to be voluntary unless it is required to satisfy a regulatory requirement. The legal definitions for wetland creation, enhancement and restoration can be found in the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A.

The authority for addressing injuries to the public's natural resources is derived from the Public Trust Doctrine. This common law provides that public lands, waters and living resources are held in trust by the government for the benefit of its citizens. Examples of recent and on-going wetlands restoration, creation and enhancement efforts by the NJDEP Office of Natural Resource Restoration include the removal of landfill material and recreation of a salt marsh in Hudson County, dam removals that have the effect of increasing water quality and wetlands quality along the Raritan River, and stream restoration work.

Types of Wetland Restoration Work Funded by the State:

Type of Work	YES	NO	Description
Fund Wetland Restoration (may include easement agreements)	X		
Private Land Restoration	X		
Public Land Restoration	X		
Technical Assistance	X		KWO, KDHE, DoC, KDWPT. The FWPA provides for the Department to perform a jurisdictional determination to determine the presence and extent of wetlands, waters and buffers on a property. For a fee, the State delineates wetlands on properties that are less than one acre in size.
Tax Incentives		X	The State of New Jersey provides tax incentives for the preservation of open space, but does not specifically target wetlands. In addition, the FWPA provides for a reduction of taxes on properties that are deemed by the State to be comprised of freshwater wetlands.
Other – Acquisition Program	X		Acquisition Program: FWPA allows tax reduction for unbuildable wetlands. The State's Environmental Infrastructure Trust Program provides low interest grant funding for the purchase of land that will improve or protect water quality. Wetlands are eligible purchases with this funding. The State's Natural Resources Damages program takes funding received from environmental damage cases and uses it to purchase and/or restore wetlands and other land valuable for environmental protection. The State's Natural Lands Trust has some funding for the purchase of environmentally important properties. The State's Green Acres program also provides funding to towns, counties and non-profits for the purchase of land for open space, which may include environmentally sensitive lands.
Other	X		There are several other programs in New Jersey that

			tangentially affect the wetland resource. These include the State Watershed program (a state program using federal funds), the State's Division of Fish and Wildlife (that provides a landowner incentive program for endangered species protection)
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Voluntary Wetland Restoration Program Components

Effort	Nothing in the Works	Planning	In Progress	Complete
Program has a set of restoration goals				X
Coordinate with relevant agencies that outline restoration/protection goals and strategies and timeframes				X
Develop multi-agency body to coordinate restoration/ protection efforts	X			
Set restoration goals based on agency objectives and available information				X

Goals for Restoration Projects

Goal	Yes	No	Description
No Net Loss	X		
Reverse Loss/Net Gain	X		
Nonpoint Source Pollution (NPS)	X		
Total Maximum Daily Load (TMDLs)	X		
Habitat	X		
Coastal Protection	Unknown		
Floodwater Protection		X	
Groundwater		X	
Other (please describe)		X	

New Jersey landowner guides/handbooks to assist with voluntary restoration efforts:

None.

Innovative Public Outreach/Education Activities

The NJDEP has developed several innovative education and learning tools:

- NJ Watershed Ambassador Program
- Interactive mapping (e.g. NJ-GeoWeb, Landscape Project)
- Guidance documents (e.g. wetland mitigation, vernal pool certification)
- Reports (e.g. New Jersey Integrated Water Quality Monitoring and Assessment Reports)

- The State also participates with the Rutgers Office of Continuing Education to provide wetlands training and information for a wide range of audiences.

Climate Change and Wetlands Work in New Jersey

Climate Change History

There is some wetland work being done on climate change in New Jersey. Most of this climate change work is going through the Coastal Program; Some coastal climate change work. Additionally, there state has some climate change grants at a higher administrative level. Most pertinent to this state summary, New Jersey will approval/not approve a mitigation bank based on the likelihood that might be affected by climate change in order to protect species habitat – seeking to approve sites far enough inland to protect species.

In 2009, the New Jersey Department of Environmental Protection produced, “Meeting New Jersey’s 2020 Greenhouse Gas Limit: New Jersey’s Global Warming Response Act Recommendations Report,” (http://www.nj.gov/dep/oce/njgrwa_final_report_and_appendices_dec2009.pdf) pursuant to statutory language in the New Jersey Global Warming Response Act of 2007. The act commits New Jersey to reduce its greenhouse gas emissions to 1990 levels by 2020. While largely focused on greenhouse gas reductions (mitigation), the report does include a section on adaptation to climate change effects generally. As part of the State’s commitment to the Regional Greenhouse Gas Initiative (RGGI), New Jersey committed 10% of its carbon credit auction proceeds to stewardship and restoration of forests and tidal marshes.

The NJDEP Coastal Management Office has developed a draft vulnerability mapping index that integrates the various biophysical and socioeconomic factors that contribute toward aggregate natural hazard risk along the state's wetlands-dominated Delaware Bay region. The vulnerability assessment is currently being evaluated in various pilot communities throughout the Delaware Bay in order to enhance its effective application at the regional scale in Delaware Bay, as well as its applicability to other portions of New Jersey's coastal area in the future. New Jersey maintains a climate change website at: <http://nj.gov/globalwarming/initiatives/> Contact Marjorie Kaplan, Manager, NJDEP Office of Climate & Energy (OCE) at Marjorie.Kaplan@dep.state.nj.us.

Integration

Entity/Program Area	Yes/No	Description of the Connection
NPDES/Stormwater	YES	<ul style="list-style-type: none"> • Stormwater requirements are built into wetland permits. • Mitigation example: When a mitigation bank alters hydrology, they have to demonstrate that there is no stormwater impact to neighboring parcels or downstream, providing evidence hen proposing a project. • Stormwater review comes under flood hazard regulation (blanket permits under NPDES. This creates less of a link back to wetlands. • The State wetlands program has incorporated the State’s stormwater provisions within its permitting program. Also in regulations. • In the permit application, an engineering assessment is required, including how much impervious surface etc.

		<ul style="list-style-type: none"> The Department has been making new efforts to coordinate its stormwater, water allocation and water quality management planning efforts with wetland protection. In addition, the State's water allocation program considers wetland impacts through a coordination process with the wetland program, before approving new or increased ground or surface water withdrawals.
303(d)	Unknown	
TMDL	YES	When look at stormwater component, also include TMDL concentrations
Climate Change/ Climate Resiliency	Some	<ul style="list-style-type: none"> Most climate change work is going through the Coastal Program; Some coastal climate change work Grants at higher administrative level Approval/non-approval of mitigation banks that might be affected by climate change to protect species habitat – approve far enough inland to protect species.
Land Use Planning/watershed planning	YES	<ul style="list-style-type: none"> Barnaget Bay Initiative to improve that watershed Lots of stormwater initiatives Infrastructure restoration grants focus on Barnaget Bay Blue Acres Program buys out people in high risk flood areas
Flood/Hazard Mitigation	Unknown	Redoing regulations for several years to discourage development in floodprone areas
Coastal Work	YES	Work with the Coastal Program
Other (Specify)	Unknown	

Program Continuum

Continuum Stage		Core Element 1: Regulation	Core Element 2: Monitoring & Assessment	Core Element 3: Wetland Water Quality Standards	Core Element 4: Voluntary Restoration
Mature Stage	High	X	Unknown	X	X
Implementation Stage	↑				
Development Stage	↓				
Early Stage	Low				

Contact Person(s)

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Additional Useful Websites

State Government Programs

1. Department of Environmental Protection
 - a) Division of Land Use Regulation
 - i. Freshwater Wetlands
http://www.nj.gov/dep/landuse/fww/fww_main.html
 - ii. Streams and Rivers
The New Jersey Flood Hazard Area Control Act
http://www.nj.gov/dep/landuse/fha_main.html
 - iii. Coastal Areas
http://www.nj.gov/dep/landuse/cp_main.html
 - iv. Tidelands
http://www.nj.gov/dep/landuse/tl_main.html
 - v. Mitigation
<http://www.nj.gov/dep/landuse/mitigate.html>
 - vi. New Jersey Highlands Water Protection and Planning Act Rules
<http://www.nj.gov/dep/landuse/highlands.html>
 - b) Office of Science
Wetlands Research
<http://www.state.nj.us/dep/dsr/wetlands/>

Federal Government Programs

1. USDA Natural Resource Conservation Service
Wetlands Reserve Program
 - a) <http://www.nrcs.usda.gov/wps/portal/nrcs/main/nj/programs/easements/wetlands/>
 - b) https://prod.nrcs.usda.gov/wps/portal/nrcs/detail/nj/newsroom/stories/?cid=nrcs141p2_018978

Other Organization Wetland Programs

1. Association of New Jersey Environmental Commissions
<http://www.anjec.org/>
<http://www.anjec.org/html/EasementCD-IntroductionNJAct.htm>
2. New Jersey Sea Grant Consortium
http://www.njseagrant.org/jersey-shoreline/vol27_no2/articles/close-watch-nj-wetlands.html
3. Rutgers: New Jersey Agricultural Experiment Station
Wetland Delineation Training Courses
<http://www.cpe.rutgers.edu/programs/wetlands.html>

4. Barnegat Bay Partnership
Wetlands Monitoring & Assessment Program
<http://bbp.ocean.edu/pages/299.asp>
5. The Wetlands Institute
<http://wetlandsinstitute.org/>
6. Stony Brook-Millstone Watershed Association
<http://thewatershed.org/>