



Illustration by Libby Walker Davidson

# WETLANDS FACT SHEET

Department of Environmental Conservation  
Water Quality Division, Wetland Office  
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## **Topic: Agricultural Activities in Wetlands**

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Wetlands provide some of the most diverse and productive habitat for fish and wildlife. They also serve many functions beneficial to the health, safety, and welfare of the general public, including flood control, water quality protection, recreation, and economic benefits.

Some wetlands were modified in the past for farming, and are currently used for cropland, hayland, pastureland, or production of other agricultural products. Some of these wetlands are protected from further alteration by state or federal wetland regulations.

There are three main sets of regulations that apply to agricultural activities in wetlands in Vermont. The purpose of this fact sheet is to summarize these regulations and to provide contacts for further information.

### **I. VERMONT WETLAND RULES**

The Vermont Wetland Rules protect those wetlands shown on the Vermont Significant Wetland Inventory maps and their adjacent buffer zones. Most buffer zones are 50 feet wide. Wetlands are defined as those areas that are inundated by surface or ground water with a frequency sufficient to support vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction.

Areas used to grow food or crops in connection with farming activities or in ordinary rotation as of February 23, 1990 are exempt from these rules. This exemption expires whenever the area is no longer used to grow food or crops or is no longer in ordinary rotation.

This exemption refers specifically to for-profit farming activities. Farming activities include cultivating food, fiber, Christmas trees, maple sap, and horticultural and orchard crops. It also includes raising, feeding, or management of livestock, poultry, equines, fish farms, and bees. The rules do not exempt construction of farm roads or farm buildings. They also do not exempt areas that were not part of an active farm when the rules were adopted.

Wetlands that were not actively farmed as of February 23, 1990 may still be used to grow food or crops as an allowed use providing the following:

1. there is no draining, dredging, filling, grading or alteration of the flow of water into or out of the wetland,
2. threatened and endangered species are protected,
3. there is no clearing of vegetation in deer wintering yards, and
4. the farming is done in compliance with the most recent Acceptable Agricultural Practices.

For more information, call Carl Pagel at the DEC Wetlands Office (1-802-241-3770)

## **II. SECTION 404 PERMIT PROCESS OF THE CLEAN WATER ACT**

The Federal Clean Water Act regulates the discharge of dredged or fill material in wetlands, streams, rivers, lakes and ponds. The Army Corps of Engineers is the federal agency which is authorized to issue permits (known as Section 404 permits) for activities conducted in wetlands and other surface waters.

Certain activities conducted by farmers in agricultural wetlands are exempt from Section 404 requirements, and do not require notification or application to the Corps for a Section 404 permit. In order to be exempt, the activities must be part of an on-going farming operation, and cannot be associated with bringing a wetland into agricultural production or converting an agricultural wetland to a non-wetland area.

You do not need a Section 404 permit for normal farming practices on wetlands which are currently used for cropland, pastureland, hayland, or production of other agricultural products.

Normal farming practices include the following activities: plowing, seeding, cultivating, harvesting, cropping pastured/hayed wetlands, maintenance of drainage systems so that the drainage system continues to function as it was originally designed, construction of off-stream ponds required for farming, maintenance, but not expansion, of ponds in farm operations, and construction of farm roads.

For farming and non-farming activities in wetlands not listed above, you may need a Section 404 permit. For more information contact:

Army Corps of Engineers Vermont Field Office  
8 Carmichael Street Suite 205  
Essex Junction, VT 05452  
Tel: (802) 872-2893  
Fax: (802) 879-7638

## **III. SWAMPBUSTER**

The swampbuster provision of the Federal Food Security Act of 1985 is aimed at discouraging the conversion of wetlands for agricultural purposes. If you convert wetlands to cropland use, you may lose your eligibility for certain U.S. Department of Agriculture (USDA) program benefits, not just on the converted wetland area, but on all the land you farm.

You are not subject to the swampbuster provision if the wetlands were converted before December 23, 1985 and a commodity crop (annually tilled crop) was planted at least once prior to that date, or if the Natural Resources Conservation Service of USDA has determined that the conversion has minimal effect on wetland uses.

In any year that you produce an agricultural commodity on a converted wetland, you are ineligible for USDA farm program benefits.

### **FOR MORE INFORMATION CONTACT:**

Natural Resource Conservation Service  
356 Mountain View Drive, Suite 105  
Colchester, VT 05446  
Tel: (802) 951-6795, Fax: (802) 951-6327