



Illustration by Libby Walker Davidson

WETLANDS FACT SHEET

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Topic: Vermont Wetland Rules Summary

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BACKGROUND

The Legislature adopted an act in 1986 (10 V.S.A., Chapter 37, Section(a)(7-9)) mandating that the Water Resources Board (the Board) adopt rules to identify and protect Vermont's "significant wetlands". These rules, known as the Vermont Wetland Rules, became effective on February 23, 1990, and were updated on January 1, 2002. A full copy of the updated rules can be obtained by requesting a copy from the Wetland Office or the Water Resource Board, or by viewing it online at <http://www.state.vt.us/wtrboard/wet/wetrule2002.pdf>. The determination of whether any specific wetland is "significant" is based on an evaluation of the extent that it serves one or more of the 10 functions listed in the act.

SUMMARY OF KEY PROVISIONS OF THE VERMONT WETLAND RULES

Identifying Wetlands- Section 3

Wetlands are defined in the rules as those areas of the state that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands are identified in the field by three parameters: vegetation, soils, and hydrology. The wetland/upland boundary is determined using the methodology described in the 1987 version of the *Corps of Engineers Wetlands Delineation Manual*.

Classification of Wetlands- Section 4

Wetlands are classified into three categories by the Vermont Wetland Rules. The first two classes (Class One and Class Two) are considered "significant" and are protected by the Vermont Wetland Rules.

Class One Class One wetlands are those wetlands which the Board determines are exceptional or irreplaceable in their contribution to Vermont's natural heritage and are therefore so significant that they merit the highest level of protection under the rules. Class One wetlands must be specifically designated by the Board. A 100-foot protected buffer zone is designated adjacent to Class One wetlands which helps protect the functions and values of the wetland.

Class Two The rules designate most palustrine wetlands shown on the National Wetland Inventory (NWI) maps and those wetlands contiguous to mapped wetlands as Class Two wetlands. A contiguous wetland is a wetland which shares a boundary with or touches a mapped wetland. A 50-foot protected buffer zone is designated adjacent to all Class Two wetlands.

Class Three Class Three wetlands are those wetlands either considered not significant for providing any wetland functions when last evaluated or that have not been mapped on the NWI maps. Class Three wetlands are not protected under the Vermont Wetland Rules. They may, however, be protected by other federal, state, or local regulations.

Evaluation of Functional Significance- Section 5

The Department of Environmental Conservation may issue an informal opinion as to which, if any, of the ten listed functions are served by wetlands. The Board, upon request, is authorized to make a formal determination of which functions make a wetland significant.

WETLAND FUNCTIONS AND VALUES

- water storage for flood water and storm runoff
- surface and groundwater protection
- fisheries habitat
- wildlife and migratory bird habitat
- hydrophytic vegetation habitat
- threatened and endangered species habitat
- education and research in natural sciences
- recreational value and economic benefits
- open space and aesthetics
- erosion control

Allowed and Conditional Uses- Sections 6 and 8

The rules contain a list of activities that are allowed within significant wetlands and their adjacent buffer zones without review under the rules, provided there is no draining, dredging, filling, grading or alteration of the water flow into or out of the wetland. All uses which are not allowed are conditional uses.

Conditional uses may be allowed within a significant wetland or its adjacent buffer zone if the Secretary of the Agency of Natural Resources grants a Conditional Use Determination (CUD). A CUD may only be granted when it is shown that the proposed conditional use will not have undue adverse effects on the significant functions of the wetland. The Secretary may impose any conditions deemed necessary to achieve the objectives of the rules. The rules also contain a provision for requesting reconsideration of a CUD decision to the Secretary.

Petitions- Section 7

The Board can be petitioned, or may act on its own motion, to change the classification of a wetland, or the width of a buffer zone, on the basis of an evaluation of the functions of a wetland. A *Citizen's Guide to the Wetland Classification Process under the Vermont Wetland Rules* can be obtained by requesting a copy from the Wetlands Office or the Water Resources Board, or viewed online at:

<http://www.state.vt.us/wtrboard/wet/handbook/wetland2002.pdf>.

Appeals- Section 9

Any decision made by the Secretary may be appealed to the Board within 30 days of the decision. Any decision made by the Board may be appealed within 30 days to the Superior Court in the county in which the wetland is located.

Violations and Enforcement- Section 1.2

Violations of these rules are subject to enforcement under applicable Vermont law including, but not limited to, the provisions of 10 V.S.A. Sections 1272, 1274, and 1275 and 3 V.S.A. Sections 2822.