



Illustration by Libby Walker Davidson

# WETLANDS FACT SHEET

Department of Environmental Conservation  
Water Quality Division, Wetland Office  
103 South Main St., Waterbury, VT 05671-0408  
(802) 241-3770

6

## **Topic: Allowed Uses in a Wetland**

**April 2003**

### **BACKGROUND**

The Legislature adopted an act in 1986 (10 V.S.A., Chapter 37, Section(a)(7-9)) mandating that the Water Resources Board (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. The rules were amended in 2001, and these amendments became effective on January 1, 2002.

In the rules, the Board established a three-tier classification system of wetlands. Class One and Class Two wetlands are considered "significant wetlands" and are, therefore, protected by the rules. Class Three wetlands are not protected under the Wetland Rules, but may be protected by other federal, state, or local regulations.

The rules contain a list of activities that are allowed within significant wetlands and their adjacent buffer zones without review under the rules, provided that they meet certain conditions. All uses which are not listed as allowed uses are conditional uses. Conditional uses may be allowed within a significant wetland or the 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 impacts on the significant functions of the wetland.

### **ALLOWED USES**

The uses listed below are allowed uses under the Vermont Wetland Rules and do not require any review *provided that there is no draining, dredging, filling, grading, or alteration of the configuration of the wetland's outlet or the flow of water into or out of the wetland*, except where specifically mentioned in the Rules.

Recreation: Hunting, birdwatching, hiking, boating, trapping, fishing, horseback riding, swimming, snowshoeing, skiing, snowmobiling on existing VAST trails, and similar outdoor recreational activities.

Routine Repair and Maintenance: The routine repair, maintenance, reconstruction, or additions of structures and facilities that were in existence as of February 23, 1990 which do not involve substantial expansion or modification. Minor wetland or buffer zone alterations are allowed where necessary. The Wetlands Office should be contacted regarding any of these projects that involve wetland or buffer zone impacts to ensure the project qualifies for this allowed use.

Pond Maintenance: The routine maintenance and upkeep, including the removal of vegetation or maintenance dredging, from manmade ponds less than two acres in size.

Docks and Fences: The placement, maintenance, or removal of duck blinds, ice fishing shanties, fences, catwalks, footbridges, observation decks, docks exempt from the Lakes & Ponds Permit (29 V.S.A. Section 403(b)), and similar structures.

Residential Related Activities: Within a wetland buffer zone, but not the wetland itself, the mowing of existing lawns, the placement of small non-intrusive structures such as barbecue pits, sand boxes, and bird houses, and other similar activities incidental to ordinary residential use.

Logging: Logging that complies with the Acceptable Management Practices (AMPs) and the silvicultural standards for deer wintering yards. Equipment maintenance including the changing or storage of oil, grease, or other petroleum products is restricted to log landings. Log landings may not be located within wetlands unless the ground is frozen and no fill is required. The restoration or upgrading of existing logging roads is allowed only for logging purposes and only if they are not increased in width by more than 20%. New logging roads are allowed in buffer zones, but not within wetlands. The removal of beaver dams is allowed to the extent necessary to prevent damage to existing logging roads or to ongoing logging operations. Logging in Class One wetlands, or wetlands with threatened or endangered species, requires a written plan approved by the Commissioner of Forests, Parks, and Recreation. Minor wetland or buffer zone alterations are allowed where necessary.

Farming: The growing of food or crops in connection with farming activities, provided that threatened and endangered species are protected, no vegetation removal occurs in deer wintering yards, and the activities are in compliance with the Acceptable Agricultural Practices. Note that the definition of wetlands in the statute exempts those areas that are used to grow food or crops in connection with farming activities or in ordinary rotation as of February 23, 1990. Therefore, the Wetland Rules do not apply to these areas if they were used to grow food or crops when the rules were adopted and if they are in ordinary rotation. For further information on farming see Fact Sheet 11, Agricultural Activities in Wetlands.

Nuisance Plant Control: The control of non-native species of nuisance plants including Eurasian milfoil, water chestnut, purple loosestrife, and reed grass (*Phragmites communis*) by handpulling or according to a written plan approved by the Secretary and under any applicable state law.

Mosquito Control: The use of pesticides or other biological control agents to control mosquitoes provided that the pesticide is applied according to all applicable state law.

Other Allowed Uses: The operation of existing hydroelectric facilities, scientific research and educational activities, wildlife or fisheries management conducted in accordance with an approved written plan, and harvesting of wildfoods and scientific specimens that are not threatened or endangered species for noncommercial purposes (a license or permit may be required such as a fishing license).

**CAUTION: The allowed uses described above are those in the Vermont Wetland Rules. Federal or local regulations may significantly differ. You should contact the Army Corps of Engineers (802-872-2893) and the town clerk to ensure that you are in compliance with all applicable regulations. To determine whether your proposal is an allowed use please call the Vermont Wetlands Office at 802-241-3770.**