

**RESPONSE SUMMARY FOR  
REVISIONS TO THE VERMONT WETLAND RULES: ADDITION OF ONE NEW CLASS I WETLAND –  
BEAVER MEADOWS, RIPTON**

The Vermont Agency of Natural Resources (“Agency”), in accordance with § 7 of the 201 Vermont Wetland Rules held a public comment period for the above petition from October 26, 2017 until December 11, 2017. One public meeting was held by the Vermont Wetlands Program of VT DEC during the public comment period. The meeting was held on November 29, 2017 at Ripton Community Building in Ripton, Vermont. In attendance was Tim Johnson, Barbara Nelson, Mark Nelson, Warren King, Barry King, Aaron Coburn, Amson Dickenson, Norm Jossen, Julie Follensbee and Zapata Courage. The following is a summary of comments received during the public comment period and the Department’s responses to those comments. Where appropriate, comments have been paraphrased, consolidated, and categorized for clarity.

**Comment 1:** What is a buffer?

**Response 1:** A wetland buffer zone is the area contiguous with a significant wetland that serves to protect the functions and values of the wetland by mitigating pollutant runoff and erosion into the wetland and providing critical habitat, among other functions. Studies have shown that buffer zones of varying widths are important to maintain or enhance wetland function. This is especially true for wildlife habitat. The proposed 400-foot buffer zone for Beaver Meadows will protect and maintain the interconnectedness of the wetlands to the undisturbed upland habitat, which provides important infiltration for water quality protection and supports wildlife functions, in particular.

Class I wetlands have larger buffers than Class II wetlands; the buffer of the Class I wetland will fall under Vermont Wetland Rule jurisdiction. Activities within Class I *buffer zones* may be permitted in the same fashion as Class II buffer permitting. Just like Class II wetlands, Class I wetland buffer permits will only be issued if the applicant demonstrates that the activity will cause no undue adverse impacts. However, activities in Class I wetland buffers are more likely to reduce the exceptional and irreplaceable functions and values of the wetland, and adverse impacts to those irreplaceable functions are not compensable.

**Comment 2:** Can an existing travel way or trail continue to be used after designation?

**Response 2:** Certain activities in Class I or II wetlands are exempt from the Vermont Wetland Rules, or are allowed without a permit provided they follow certain guidelines. This includes the repair and maintenance of existing structures including roadways or utility lines, low-impact recreation including snowmobiling on VAST trails and maintaining lawns, and silviculture activities. This means that regular day-to-day activities involving existing structures will still be allowed. For non-exempt uses or uses not constituting an “allowed” use under the Rules within Class I wetlands, permits will only be granted to meet a compelling public need to protect public health or safety.

**Comment 3:** Isn’t the forest service exempt from state permitting? How does a Class I determination protect the land?

**Response 3:** Certain federal regulations preempt state permitting requirements, as is the case with the US Forest Service. If the land was sold in the future to a non-exempt entity, it would be protected. Additionally, our experience is that our Federal partners typically try to either acquire permits or at least align their review standards with local/state permitting guidelines.

**Comment 4:** How many Class I petitions have received approval and how long does this process take?

**Response 4:** Until 2017 there were three Class I wetlands established through a different rulemaking process at the Water Resources Board. The Agency received authority to initiate rulemaking after the Water Resources Board dissolved in 2012. The State recently petitioned four wetlands, with three successfully approved in 2017. Two more were petitioned and approved in 2018. A final decision on the Beaver Meadows petition will most likely take until the 2019 legislative session.

**Comment 5:** What is the process moving forward?

**Response 5:** Comments received during the public comment period and the public meeting will be summarized and responded to in this response summary and packaged with a recommendation of petition action to the Commissioner of the Department of Environmental Conservation. If the Commissioner of the Department of Environmental Conservation (DEC) is in support, then a proposed rule to add the Beaver Meadows wetland as Class I will be filed with the Interagency Committee on Administrative Rules (ICAR). There will be a public hearing with ICAR where the committee will evaluate whether the proposed rule conforms with statute, legislative intent, and the policies of the Governor. If approved by ICAR, the petition would then be filed with the Secretary of State, and an official public notice period will begin. The Program will solicit additional comments and will hold at least one more public meeting. Public comments received during the public comment period will be compiled and responded to in a second response summary and filed with the Legislative Committee on Administrative Rules (LCAR) and reviewed by the Committee at a public hearing. The Committee may or may not make a final decision at the public hearing. If the final rule is approved by LCAR, the Agency will adopt the rule and file the adopted rule with the Secretary of State.

**Comment 6:** The Ripton Selectboard voted in favor of supporting the Petition.

**Response 6:** The Agency makes note of the Town's support in the reclassification.

**Comment 7:** A resident commenter supports protecting this valuable and ecologically significant area. Protection of the wetland will positively impact the New Haven and Middlebury Rivers for water quality and flood attenuation.

**Response 7:** The Agency makes note of the commenter's support in the reclassification.