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**Vermont DEC Wetlands Program**  
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**Vermont Wetlands Refresher**



# Vermont Wetlands Program

- Administer Vermont Wetland Rules –protect Class I and Class II wetlands, and their buffer zones.
- Bioassessment
- Voluntary Restoration







# Your Role in Wetland Protection

- Environmental compliance monitoring
- Wetland identification
- Regulatory translator
- Design assistance
- Wetland delineation
- Application preparer
- Negotiator
- Mapper
- Etc.

# Outline

- Why and how we protect wetlands in VT
- Delineations
- Classification
- Wetland Permitting
- Updates



# Wetlands Provide Functions and Values



Historically (settlement to 1980) Vermont has lost 35% of wetland area. Equivalent to the size of Grand Isle County.

Today Vermont is around 4% wetland

<https://dec.vermont.gov/watershed/wetlands/functions>



# VT Wetland Classification

🌀 Based on an evaluation of the extent to which the wetland provides functions and values:



- *Class I Wetland*: Exceptional or irreplaceable. Highest level of protection. 100+ foot buffer.
- ***Class II Wetland*: Merits protection. 50 foot buffer.**
- *Class III Wetland*: Neither Class I or Class II wetland. No buffer, not state regulated.

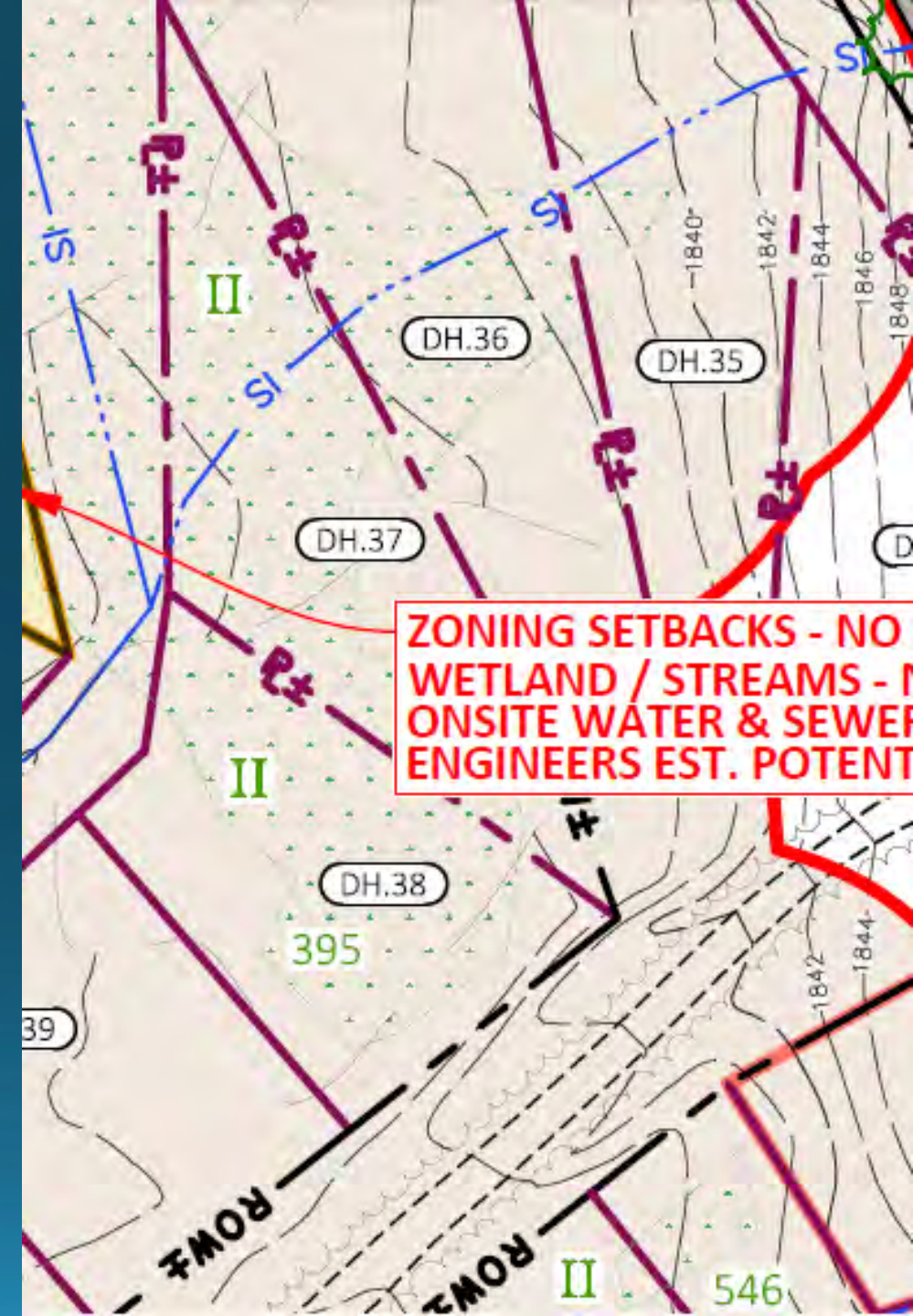
<https://dec.vermont.gov/watershed/wetlands/jurisdictional>

# Delineations



- Boundary valid for 5 years (ACOE std)
- Class III determinations good for 5 years
- The older the project, the more likely it is that data will be inaccurate, esp prior to 2010
- There is no grandfathering for projects with valid Act 250 permits or wastewater permits.

Note these 1/4-acre lots that are entirely wetland and buffer – not buildable. Subdivision is 50 years old.





# ~~Delimitations~~ out of season

Reconnaissance

- Not acceptable for permitting. Must follow ACOE Manual.
- Sometimes used to start planning a project, with the caveat that wetlands may, in reality, be larger or smaller in the growing season.
- Program does not validate boundaries outside of the growing season. Recommend you schedule Program field review in September at the latest.

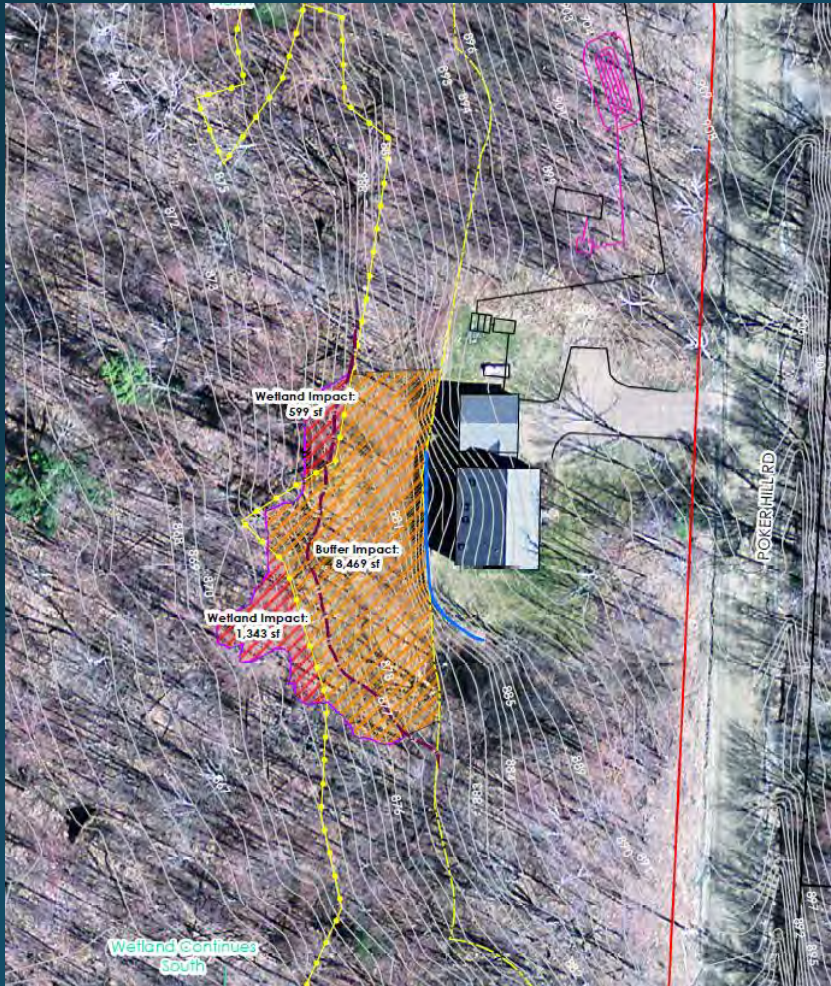


Projects have been delayed due to project managers wanting to keep project site details private until filing, preventing in-season review.





# Wetland Boundary Changes



2005 Delineation



2018 Delineation



# Difficult Wetland Situations

Chapter 5 of ACOE delineation manual, NCNE supplement.

- Lands Used for Agriculture and Silviculture
- Problematic Hydrophytic Vegetation
- Problematic Hydric Soils
- Wetlands that Periodically Lack Indicators of Wetland Hydrology
- Wetland/Non-Wetland Mosaics



Don't forget to record abnormal climate conditions and if normal circumstances are not present on ACOE forms.



# Wetland Study Area

- Best practice: evaluate entire parcel.
- At a minimum, area within 50 feet of the proposed project footprint (which includes the limits of disturbance for construction) must be reviewed for wetlands.
- Any area outside of the property or easement must also be investigated when it is within 50 feet of the project area.



Projects have been delayed by a poorly defined or too small study area.


# Wetland Classifications

- Use 2018 Wetland classification guidance and form to get faster answers.
- Evaluate wetland in study area and beyond (desktop).
- Old Class IIIs can become Class II. Check after 5 years.



Projects have been delayed due to not evaluating the whole wetland – on and off site.

Wetland Classification Form

 VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
**WATERSHED MANAGEMENT DIVISION**  
WETLANDS PROGRAM

**Full Name:**  
**Relationship to Project/Land:**  
**Phone Number:**  
**Mailing Address (optional):**  
**Location Description and Closest E911 Address (please include map):**

Wetland \_\_\_\_ (id) was assessed on \_\_\_\_ (date). Attach a map of the investigation area.

**Check one of the following:**

- The entire wetland was assessed in the field.
- The wetland extends off the property and I have used imagery and mapping to complete my assessment.

**The wetland was found to have the following characteristics (check all that apply):**

- Wetland area assessed was within a Vermont Significant Wetlands Inventory (VSWI) mapping unit;
- Wetland area is contiguous with a VSWI mapping unit;
- §4.6(a) over half an acre in size;
- §4.6(b) contains woody vegetation and is adjacent to a stream, river, or open body of water;
- §4.6(c) contains dense, persistent non-woody vegetation and is adjacent to a stream, river, or open body of water;
- §4.6(d) is a vernal pool that provides amphibian breeding habitat;
- §4.6(e) is a headwater wetland;
- §4.6(f) adjacent to impaired waters and the impairment is related to wetland water quality functions;
- §4.6(g) the wetland contains a species that appears in the NNHP database as rare, threatened, endangered or uncommon; or is a natural community type that is rare or uncommon;
- §4.6(h) has been previously designated as a significant wetland.

**Wetland Characteristic Notes:**



# Contiguous and Presumptive

- Look at contiguous guidance – water over/under/through manmade structure still contig.
- Wetland in disturbed area may be connected to additional undisturbed wetland and be Class II.
- Presumptive wetlands need a formal determination with the permit decision. Additional permit application sections need to be filled out.



Often section 3.1/3.2 of permit application does not match section 21 (presumptive/contiguous/mapped)

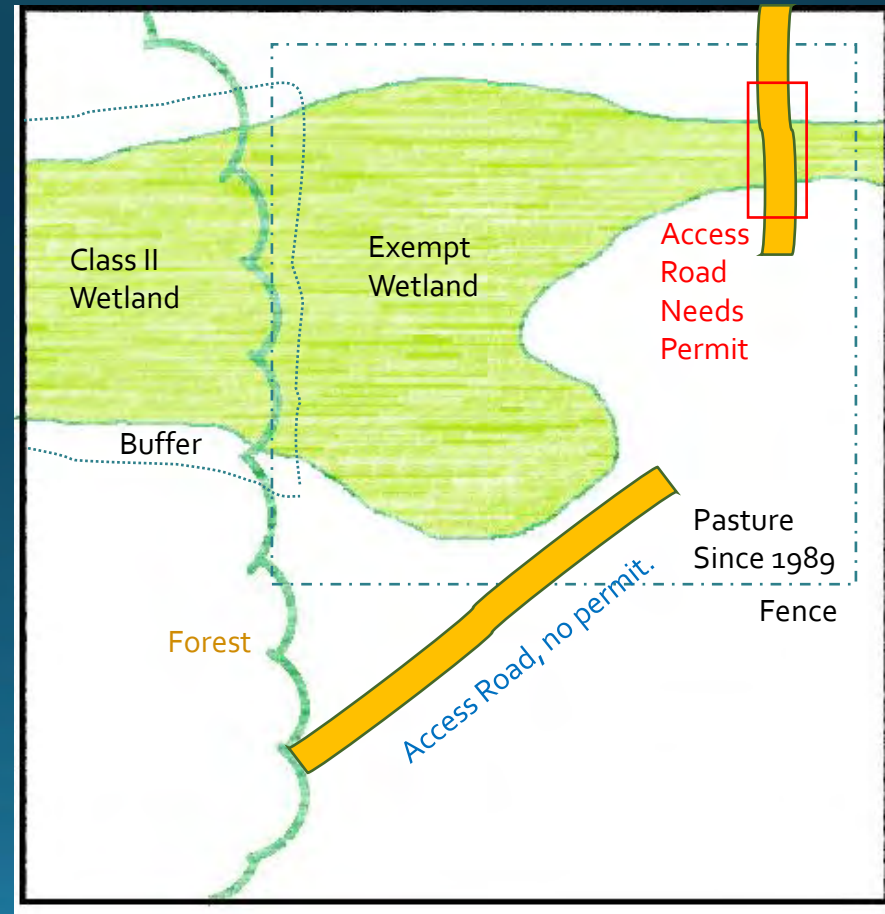
# Wetland Permitting

- Allowed Uses
    - some require approval
  - Non-reporting General Permit (agriculture only)
  - Registration
  - General Permit
  - Individual Permit
- New Water Quality General Permit includes non-reporting, registration, and general permit types.





# Wetland Rule Exemption Limitation



# New Water Quality General Permit



- No application fee, no required program review, simple forms. No forms for agricultural projects.
- Must meet standard of no undue adverse impact to wetland function and value
- For specific **wetland types** (excluding sensitive types)
- For specific **project/practice types**
- Within certain impact **thresholds** (by sqft)
- Following specific **conditions** (silt fence, seeding)

[https://dec.vermont.gov/sites/dec/files/documents/Wetlands\\_NonReportingGeneralPermit\\_3-9026\\_Signed.pdf](https://dec.vermont.gov/sites/dec/files/documents/Wetlands_NonReportingGeneralPermit_3-9026_Signed.pdf)



# Water Quality Improvement Projects Eligible for new GP

- Stream Crossing Structure Replacement
- Stormwater Retrofits
- Failed Septic Replacement
- Conservation Practices on Farms:
  - Trails and Walkways
  - Access Roads
  - Heavy Use Areas
  - Stream Crossings
  - Constructed Wetlands
- All Types Mitigate Known Pollution Sources or Flood Hazards (Stormwater, Stream Instability, Agriculture, Wastewater)

# Wetland Application Tips



<https://dec.vermont.gov/watershed/wetlands/jurisdictional/permit-info/individual-wetland-permit-info>

## Application Form

- ALL sections need to be filled out. Every blank space needs an answer even if it is N/A.
- Need a valid project purpose (no roads to nowhere)
- Answer the questions for Functions and Values:
  - First check off functions for the WHOLE wetland complex
  - Then in x.1 describe how the subject wetland area contributes to that function -in some cases it doesn't; but the answer needs to explain. Not just a statement that it doesn't contribute.
  - And lastly in x.2 the statement of No undue Adverse impact speaks to the subject wetland but in the context of the WHOLE wetland.
- Mitigation Section- WHY does the wetland need to be impacted? Burden of Proof.
- Before submitting ask, "Could Grandma understand?" project, location, wetland location, what the wetland does, why project must go there.

## Attachments

- Include ACOE datasheets for all or representative wetland types
- F&V sheets for ALL wetlands
- Site plans showing all wetlands with classifications and include buffers for Class II's
- Site plans showing Limits of Disturbance and having them be realistic (i.e buildings need a 10 ft area around the structure to actually build and maintain it and site plans that include stormwater structures, septics with replacement if applicable, utilities, areas of clearing.)
- **Multi-wetland table:** EACH function and Value identified for a wetland **MUST** be explained for the specific wetland on Table 5 Impact Statement.



Poor quality applications result in delayed review



# Post Permit Responsibility: Reporting Forms

- Permittee must file the permit notice in the town records. Report back to Wetlands Program in 30 days.
- Before starting work, permittee must notify the Wetlands Program of the intended start date.
- Within 30 days of completing the project, permittee must certify to the Wetlands Program that the work was completed in compliance with the permit.
- Forms are all on [ANROnline](#)
- Permittee may receive a reminder from the Program via email. Non-compliance could result in a citation.

<https://dec.vermont.gov/sites/dec/files/wsm/wetlands/docs/WetlandReporting.pdf>

<https://anronline.vermont.gov/>

# Post Permit Responsibility: Transfer of Permit and Permit Extension

- Permits do not run with the land. If the project changes hands before it is built, the program must be notified with a permit transfer request.
- Permits are authorized up to 5 years. If the project was not constructed within the 5-year timeframe, the permit may be extended up to an additional 5 years.
  - Must include verification of wetland boundary
  - Additional wetland impacts due to changes in wetland boundary need to be accounted for in a subsequent permit amendment.



Violations frequently involve expired permits or land transfers with no knowledge of permit conditions.



# Vermont Wetland Updates

- COVID – 19: No staff site visits before April 15, 2020.
- Wetlands Stakeholder Group
- Required Agricultural Practices (RAP) Revisions
- Procedures: Non-substantial expansion or modification



## Rule Procedures

- [Agency Guidance for Applying Allowed Use 6.12 of the Vermont Wetland Rules](#)
- [Vermont Wetlands Section Class II and Class III Determination Procedure](#)
- [Vermont Wetland Rules Contiguous Wetlands Procedure](#)
- [Vermont Wetlands Rules Applicability to Roads Procedure](#)
- [Procedure for Existing Constructed Features](#)

## Below are superseded versions of the Vermont Wetland Rules

- [2018 VWR](#) (superseded as of 01/21/2020)
- [2017 VWR](#)
- [2010 VWR](#)
- [2002 VWR](#)
- [1990 VWR](#)

<https://dec.vermont.gov/watershed/wetlands/jurisdictional/rules>

# Permit Fee Changes – Act 64 of 2019



- No application fee for registrations under the Water Quality Improvement General Permit.
- \$200 cap in wetland application review fees for:
  - Retrofit of sites for the purposes of stormwater management
  - Replacement of stream-crossing structures to improve aquatic organism passage, stream flow, or flood capacity
- \$200 cap in wetland application review fees for farm waste storage facilities, and bunker silos and certain conservation practices.
- Capped wetland application review fee to \$5,000 for construction of a permanent farm structure