

## Final Proposed Filing - Coversheet

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT  
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

### **Vermont Wetland Rules**

\_\_\_\_\_, on \_\_\_\_\_  
(signature) (date)

### **Printed Name and Title:**

Julie Moore, Secretary  
Agency of Natural Resources

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Vermont Wetland Rules**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P024

3. ADOPTING AGENCY:

Agency of Natural Resources

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Laura Lapierre, DEC Wetlands Program Manager

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Davis 3,  
Montpelier, VT 05620-3522

Telephone: (802) 490-6177 Fax: (802) 828-1544

E-Mail: laura.lapierre@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

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

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Hannah Smith, DEC Associate General Counsel

Agency: Agency of Natural Resources

Mailing Address: 1 National Life Drive, Davis 2,  
Montpelier, VT 05620-3522

Telephone: (802) 461-8187 Fax: (802) 828-1544

E-Mail: hannah.smith@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

None.

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

None.

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

10 V.S.A. 905b(18); 10 V.S.A. 905b(17)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Department of Environmental Conservation, within the Agency of Natural Resources, is granted explicit authority in 10 V.S.A. 905b(18) to adopt rules to address the identification, classification, and protection of wetlands in the state.

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The proposed amendments are intended to clarify the Agency's authority to reclassify wetlands in general, and clarify the Agency's jurisdiction over certain significant wetland types. The proposed amendments rearticulate the Agency's statutory authority to reclassify categories of wetlands in general, and list wetland types that have been categorically determined to be Class II based on an evaluation of their functions and values. Proposed amendments to Section 8 clarify how public notice is provided for categorical wetland determinations. Appendix A is also amended to reclassify Ward's Marsh and Eshqua Bog as Class I wetlands.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

Pursuant to 10 V.S.A. 905b(18), the Agency has clear authority to determine that a wetland is a significant Class II wetland pursuant to an evaluation of its functions and values, and reclassify wetlands as Class II or III either in general, or on a case by case basis. The current Rule language identifies wetland types that are presumed to be Class II. There has been confusion over whether these wetland types have been formally determined to be Class II, and whether the Agency has permitting jurisdiction over these "presumptive" wetlands. This confusion has resulted in wetland violations.

The proposed amendments strike the "presumptive wetland" language and replace it with categories of wetlands that have been formally determined by the Secretary to be Class II, and are therefore subject to the Agency's wetland permitting jurisdiction. This amendment is necessary to clarify the Agency's jurisdiction over significant wetlands that provide critical habitat and water quality protection.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The proposed Rule amendments are not arbitrary because they are supported by both the Agency's enabling authority, and data collected by Agency staff and wetland professionals. 10 V.S.A. 905b(18)(B) authorizes the Agency to reclassify wetlands in general, and the proposed amendments emphasize this authority and clarify the process for issuing "general" reclassification determinations. The wetland types that have been included as Categorical Class II Wetlands were determined to be Class II based on an assessment of the significant functions and values identified in over 400 individual wetland determinations. The proposed rule updates reflect the Agency's clear authority to reclassify wetlands in general, in order to protect significant wetland types.

Additionally, the designation of Class I wetlands is a statutorily-authorized function of the Agency of Natural Resources. Ward's Marsh and Eshqua Bog are

determined to be irreplaceable in their contributions to Vermont's natural heritage.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Landowners, including individuals, organizations, and state agencies, with wetlands on their property that have been determined to be Class II, or with property adjacent to the proposed Class I wetlands.

Engineers, consultants, designers, developers, and contractors hired to evaluate develop, construct on, or otherwise conduct activities on properties with wetlands, or properties adjacent to the proposed Class I wetlands.

Wetland consultants working in Vermont.

The public at large, with an interest in wetland integrity, water quality, Vermont natural communities, and outdoor educational and recreational opportunities.

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

The proposed rule amendments are intended to clarify existing jurisdiction, and are not anticipated to have a significant economic impact. Under the current rule, landowners must seek permit coverage to impact significant wetlands, regardless of whether those wetlands appear on the VSWI map. The proposed rule does not change the standards used to determine significance, rather it more clearly defines the wetland types that have been determined to be significant, so that those wetlands can more easily be added to the VSWI. Developers and landowners with Class II wetlands on their property will still be required to seek wetland permit coverage, and pay associated permit fees as defined in 3 V.S.A. 2822. The clarification of jurisdiction and clear determination of categories of Class II wetlands is intended to reduce instances of accidental Wetland Rule violations, and reduce related costs including costly project removals and after-the-fact permit fees, which are twice the standard permit fee cost.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 10/31/2022

Time: 05:00 PM

Street Address: St. Johnsbury Welcome Center, St. Johnsbury, Vermont

Zip Code: 05819

Date: 11/1/2022

Time: 05:00 PM

Street Address: 1 Quechee Road, Hartland, Vermont

Zip Code: 05048

Date: 11/2/2022

Time: 05:30 PM

Street Address: 67 Merchant's Row, Rutland, Vermont

Zip Code:

Date: 11/4/2022

Time: 5:00 PM

Street Address: 120 1st Street, Swanton, Vermont

Zip Code: 05488

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

11/24/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Wetlands

Wetland rules

Presumptive wetlands

Class I wetlands

Wetland determinations

Vermont Significant Wetland Inventory

Class II wetlands

Flood control

Water quality

## Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Vermont Wetland Rules**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Log #: 10-027

The Vermont Wetland Rules were adopted on February 7, 1990, and amendments were most recently adopted on January 6, 2020.



## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Vermont Wetland Rules**

#### 2. ADOPTING AGENCY:

Agency of Natural Resources

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Landowners, including individuals, organizations, and state agencies, with wetlands on their property that have been determined to be Class II, or with property adjacent to the proposed Class I wetlands. The estimated costs to landowners is not expected to change as a result of the proposed rule; these landowners will continue to be required to seek permit coverage for any

impacts to Class II wetlands and their buffers. The proposed rule language does not change the wetlands over which the Agency exercises permitting jurisdiction; Class II wetlands are still determined based on an evaluation of the functions and values listed in 10 V.S.A. 905b(18) (A). The proposed language is intended to clarify which wetland types have been determined by the Secretary to be Class II, so that those wetlands can ultimately be added to the VSWI, making them easy to identify for landowners and potential landowners. The fees associated with wetland permits are determined in statute, and remain at \$0.75 per square foot of impact to Class I and II wetlands, and \$0.25 per square foot of impact to wetland buffers. Permit fees associated with certain project types may be lower, pursuant to 3 V.S.A. 2822(j) (26). The proposed clarification of the wetland types determined to be Class II, and associated VSWI map updates, will likely benefit landowners by helping them avoid unintentional violations of the Wetland Rules, resulting in required after-the-fact permitting. Fees associated with after-the-fact wetland permits are set at \$1.50 per square foot of impact.

Engineers, consultants, designers, developers, and contractors hired to evaluate develop, construct on, or otherwise conduct activities on properties with wetlands, or properties adjacent to the proposed Class I wetlands. As described above, the costs to these groups associated with the proposed rule language is estimated to be nominal, but these wetland professionals are likely to benefit from the clearer articulation of significant wetland types, and the updated VSWI maps.

Wetland consultants working in Vermont.

The public at large, with an interest in wetland integrity, water quality, Vermont natural communities, and outdoor educational and recreational opportunities.

The public stands to benefit from the proposed rule language in that it will make it easier to identify significant wetlands on the landscape. The identification and protection of significant wetlands and wetland floodplains provides water quality benefits and flood control benefits that prevent costly property damage as a result of flooding. For example, it is estimated that wetlands and floodplains protected Middlebury from \$1.8 million in property damage resulting from Tropical Storm Irene (<https://www.uvm.edu/news/gund/floodplains-saved-middlebury-18m-damage>).

#### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

The proposed rule amendments are not expected to have an economic impact on public schools or school districts. Public schools are currently subject to Wetland permitting requirements should they conduct construction activities within Class II wetlands or their buffers. Updated wetland mapping is intended to help the public more easily identify significant wetlands on the landscape. There are currently no public schools with property adjacent to the proposed Class I wetlands.

#### 5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

The proposed rule change is not expected to have an economic impact on local school districts. The proposed amendments were narrowly tailored to increase clarity regarding the type and location of significant wetlands without modifying the Agency's jurisdiction in a way that would impose hardship on landowners. Alternatives, including not amending the Rule, would make it more difficult for the Agency to update the VSWI maps, creating uncertainty for the regulated community.

#### 6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

The proposed rule amendments are not expected to have an economic impact on small businesses. Small businesses are currently subject to Wetland permitting requirements should they conduct construction activities within Class II wetlands or their buffers. Updated wetland mapping is intended to help landowners and developers more easily identify significant wetlands on or near their properties.

**7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.***

Small businesses can reduce costs associated with wetland permitting and compliance with the Wetland Rules by reviewing the VSWI maps as part of the project-planning process to identify Class II wetlands, and consulting with ecologists with the Vermont Wetlands Program early in the process to determine how to avoid and minimize impacts to wetlands and buffers that may require permitting.

**8. COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The proposed rule change is not expected to have an economic impact on the regulated public. The proposed amendments were narrowly tailored to increase clarity regarding the type and location of significant wetlands without modifying the Agency's jurisdiction in a way that would impose hardship on landowners.

Alternatives, including not amending the Rule, would make it more difficult for the Agency to update the VSWI maps, creating uncertainty for the regulated community. With regard to the proposed Class I wetlands, both are currently identified as Class II wetlands and are thus subject to the Agency's wetlands permitting jurisdiction. Without a rule change, future development may be allowed in these wetlands, but both

wetland complexes are currently located primarily on land owned either by the State, or the Nature Conservancy, reducing the likelihood that development would be permitted in these areas. Additionally, the proposed rule providing Class I protection to the two wetlands will guarantee that the wetlands continue to provide their irreplaceable functions and values into the future, including water storage for flood protection, surface and groundwater protection, critical wildlife habitat, and educational opportunities.

9. **SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.**

This economic impact analysis compared the language in the current rule, requiring review of all presumptive Class II wetland types for significance on a project-by-project basis, with the proposed narrowly tailored rule amendments that clearly identify significant wetland types in rule, and allow the Agency to update the VSWI maps to identify the location of significant wetlands statewide. The significant wetland types identified in the proposed rule have been determined by the Secretary to be significant based on analysis of more than 400 site-specific wetland determinations. The increased clarity provided by the proposed amendments should reduce the risk of Wetland Rule violations and related costs associated with site-remediation and after-the-fact permitting.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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#### 1. TITLE OF RULE FILING:

**Vermont Wetland Rules**

#### 2. ADOPTING AGENCY:

Agency of Natural Resources

#### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

The proposed rule changes are not expected to impact the emission of greenhouse gasses in the State. The designation of Eshqua Bog and Ward's Marsh as Class I wetlands will protect them in perpetuity from development, including the construction of new transportation infrastructure not otherwise necessary to meet a compelling need to protect public health and safety.

#### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

The ongoing protection and preservation of significant wetlands in Vermont provides substantial public benefit through surface and groundwater protection. The wetland types identified as Class II in Section 4.6 of the proposed rule have been found to be significant for flood storage and water quality protection (in addition to their other functions) at least 86% of the time. The proposed rule changes will increase clarity around the type and location of those significant wetlands, insuring that impacts to those wetlands will be evaluated before adverse impacts are permitted. Additionally, the designation of Eshqua Bog and Ward's Marsh as Class I wetlands will insure that the flood storage and water-quality protection provided by those wetlands will be protected into the future. Both of the proposed Class I wetlands were found to provide water storage for flood water and stormwater runoff, and surface and groundwater protection.

5. **LAND: EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):**

The proposed rule amendments are not expected to impact land use outside of the areas being designated as Class I wetlands. Wetlands with significant function and value are currently subject to the Agency's permitting jurisdiction; the proposed rule changes are intended to clarify the location and characteristics of significant wetlands. Forestry and agricultural activities may still be allowed in Class II wetlands as long as they comply with the existing requirements in the Wetland Rules. Regarding the proposed Class I wetlands, the proposed rule will maintain and protect those existing functional wetland complexes, and promote the ecological systems those wetlands support. The proposed reclassification will prevent additional development in the Class I wetlands. The Class I designation will allow all existing structures to remain in place, and to be maintained. Forestry and silviculture activities may occur in the Class I wetlands as long as they are conducted in accordance with a plan approved by the Commissioner of Forests, Parks, and Recreation. The Rule will prevent the conversion of any protected wetland into farmland. The

protected wetland complexes both also provide carbon sequestration in their deep organic soils.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

Both proposed Class I wetlands provide significant recreational opportunities. Ward's Marsh is owned and managed as a State Wildlife Management Area (WMA) with surrounding land owned by The Nature Conservancy (TNC). The wetland is significant for the fish and wildlife habitat it provides and the species it supports. This includes multiple furbearers which can be trapped, waterfowl for hunting, and numerous species of fish which are sought by fishermen. Both the State and TNC allow for public access to the wetland. As the VTFWD states in the WMA Factsheet, "Recreation within the WMA is dominated by dispersed fish and wildlife-based pursuits including hunting, fishing, trapping, wildlife viewing, walking and hiking" Eshqua Bog is available all year for various outdoor pursuits including botanizing, birding (69 bird species have been documented), wildlife viewing (deer and bear have been observed), photography, hiking the half mile trail as well as the boardwalk, hunting, snowshoeing and cross-country skiing creating great economic value for the area year-round.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

The proposed rule is not expected to impact climate in the State, although the preservation of intact wetland complexes, including the two proposed Class I wetlands, provides significant carbon sequestration.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

In addition to the functions described above, Eshqua Bog also provides exemplary or irreplaceable: exemplary wetland natural community; rare, threatened and endangered species habitat; education and research in natural science; and open space and aesthetics. Ward's Marsh provides exemplary or irreplaceable: fisheries habitat; wildlife and migratory bird habitat; exemplary wetland natural community; rare, threatened, and endangered species habitat; and open space and aesthetics.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The environmental analysis is based on all available materials related to identification of significant wetlands in the state, as well as review of the Class I Determination documents for both Ward's Marsh and Eshqua Bog, and the petition materials on which those determinations are based. The analysis is also based on an analysis of over 400 wetland determinations of significance conducted over the last decade.

## Public Input Maximization Plan

### **Instructions:**

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Vermont Wetland Rules**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The proposed rule changes, as well as accompanying VSWI map updates, have been posted publicly on the Agency's website since May of 2022. Notice of the proposed changes were explicitly sent to a group of stakeholders who have been working with the Wetlands Program on revisions to the Wetland Rules. The Agency created and implemented an outreach plan to encourage public engagement with the proposed rule amendments, which included targeted mailings, a website, factsheets, and an interactive map. The Program has been accepting public comment on the proposed rule changes since May of 2022. Additionally, public meetings were held to discuss the proposed Class I wetland determinations. A virtual public meeting was held on January 20, 2021 to discuss reclassification of Eshqua Bog, and a hybrid virtual/in-person public meeting was held on November 1, 2021 in West Haven, Vermont, to discuss the reclassification of Ward's Marsh.

Public Input

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Hartland Conservation Commission

Town of West Haven

Members of the Wetlands Stakeholder Group, including:

Art Gilman, Wetland Consultant;

Beth Alafat, USEPA;

Brian Trembeck, Wetland Consultant;

Charlie Baker, Chittenden County Regional Planning Commission;

David White, White & Burke Real Estate Advisors;

Derek Moretz, Encore Renewables;

Dori Barton, Wetland Consultant;

David Wilcox, Department of Forests, Parks, and Recreation;

Eric Sorenson & John Austin, Department of Fish and Wildlife;

Glenn Gingras, Department of Transportation;

Phil Huffman, The Nature Conservancy;

Jeff Nelson & Tim Upton, VHB Consultant;

Ryan Patch & Laura Dipietro, Agency of Agriculture, Foods and Markets;

Jon Groveman, VNRC;

Karen Horn, League of Cities and Towns;

Mark Delany, Smugglers Notch;

Mike Adams, ACOE;

Paul O'Leary, Engineer;

Zack Porter, Conservation Law Foundation;

Seth Clifford, Burlington Electric;

Tim Follensbee, VELCO;

Tom DiPietro, South Burlington;

**Public Input**

Brian Kemp, Farmer;

Jared Carpenter, Lake Champlain Committee;

Jennifer Hollar, AAFM;

Joe Tisbert, Vermont Farm Bureau;

Liz Thompson, The Land Trust;

Molly Mahar, Vermont Ski Areas Association;

Larry Gervais, Farmer.

## Scientific Information Statement

**THIS FORM IS ONLY REQUIRED IF THE RULE RELIES ON SCIENTIFIC INFORMATION FOR ITS VALIDITY.**

**PLEASE REMOVE THIS FORM PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the Scientific Information Statement, an agency shall provide a summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

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1. TITLE OF RULE FILING:

**Vermont Wetland Rules**

2. ADOPTING AGENCY:

Agency of Natural Resources

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

The scientific information that supports the proposed rule change is primarily data related to the identification of significant Class II wetlands compiled into a Categorical Class II Determination, as well as data supporting the findings that Ward's Marsh and Eshqua Bog are exceptional or irreplaceable in their contribution to Vermont's natural heritage.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

<https://anrweb.vt.gov/ANR/vtANR/DocBrowser.aspx?Directory=DEC%2fWSMD%2fWetlands%2f2022VWR>

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:

Copies of scientific information can be accessed at the link above, or by contacting the Vermont Wetlands Program. Wetlands Program contact information can be

found at  
[https://dec.vermont.gov/watershed/wetlands/contact.](https://dec.vermont.gov/watershed/wetlands/contact)