

**PART ONE**  
**NHDES Wetlands Permitting**  
**under RSA 482-A**

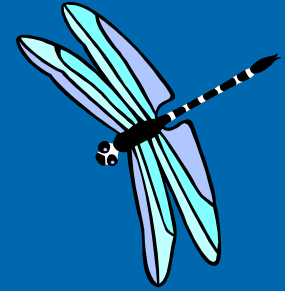
**The Application Process**

**NH Lakes Association**  
**October 19, 2010**  
**Meredith, NH**

**Collis Adams, CWS, CPESC**



# Overview



- Is a permit needed?
- Application types
  - Project-specific requirements
  - Location-specific requirements
- Application filing process
- Application status information



# What types of activities are Regulated?



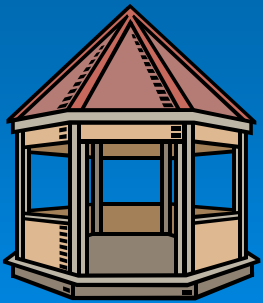
## Dredge

- Disturbance of soils in a wetland or surface water



## Fill

- Deposition of any material gravel, soil, trash, piles of brush, lawn clippings, manure, slash, etc.



## Construction

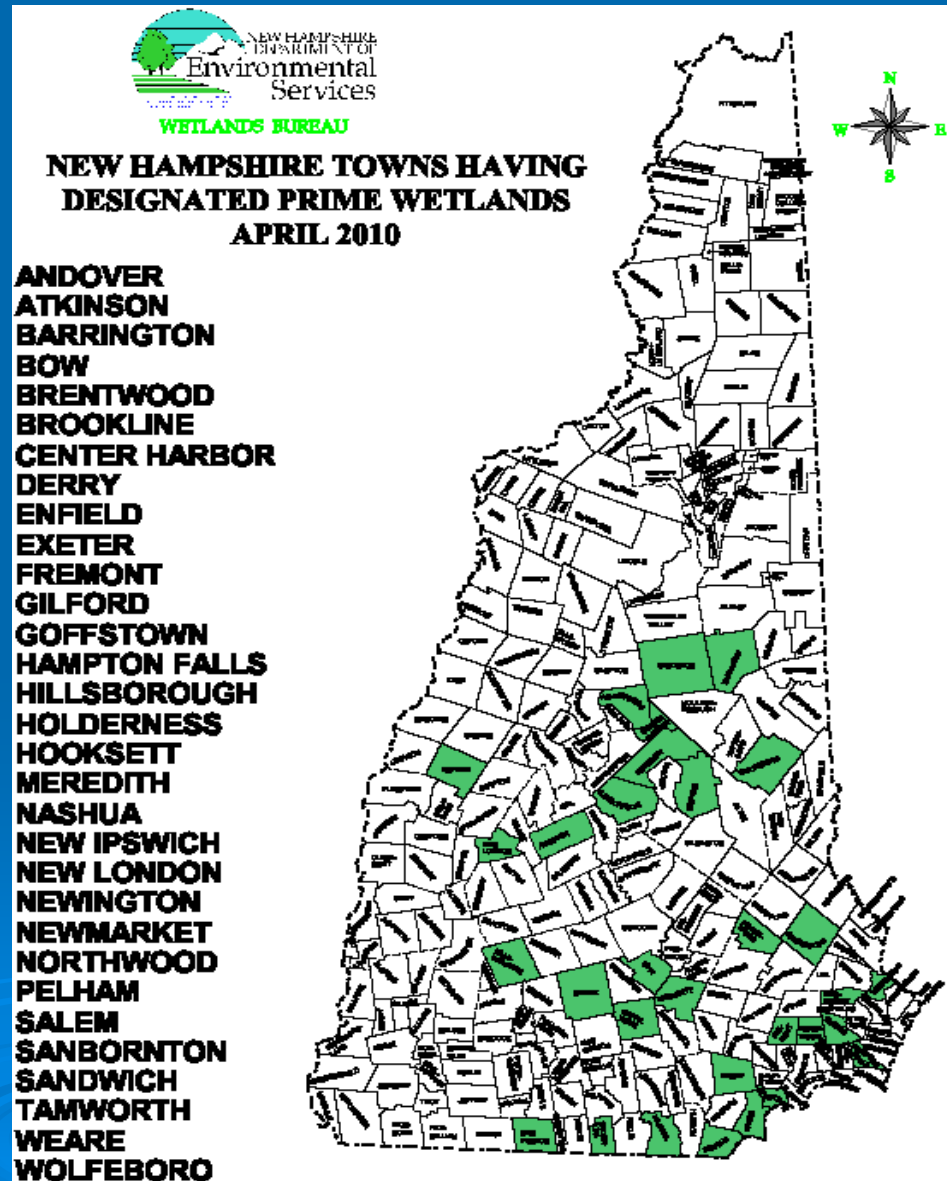
- Any type of structure -- culvert, dock, shed, etc. erected in/over the water or on the bank

# What areas are jurisdictional

- Wetlands: Tidal and Nontidal
- Surface waters
  - Lakes, ponds, vernal pools, rivers, streams
- Other resource areas:
  - Upland Tidal Buffer zone (100 feet HOTL)
  - Banks of surface waters
  - Designated prime wetland buffer (100 feet)

# Municipally Designated Prime Wetlands

- Currently 31 municipalities have designated prime wetlands as recognized by DES
- Designation & permitting process: Env-Wt 700



# Wetland Delineation

“under normal circumstances”

- Hydrology = Water at or near the surface
  - Hydric soils = Wet soils
  - Prevalence of hydrophytic vegetation = They need water
- 1987 Corps of Engineers *Wetlands Delineation Manual, Technical Report Y-87-1*, January 1987
  - Corps of Engineers - Interim Regional Supplement (October 2009)
  - 2004 v3 *Field Indicators for Identifying Hydric Soils in New England*
  - USFWS *National List of Plant Species That Occur in Wetlands: Northeast Region* (1988)



## Guiding Principals – found in law and rule

- What is the need for the impact/project?
- Avoidance and minimization
  - Least impacting practicable alternative
- Mitigation

# Generalized Project Classification Scheme

	<b>Minimum</b>	<b>Minor</b>	<b>Major</b>
<b>Area (sq. ft.)</b>	< 3,000	3,000 – 20,000	> 20,000
<b>Bank Length</b>	< 50 linear feet	50 – <200 lf	≥200 linear ft
<b>Natural Heritage Bureau</b>			T & E species; Exemplary natural comm.
<b>Type of Work</b>	Repair in-kind, seasonal dock	Permanent dock; work in the water	
<b>Protected Resource</b>	Repair in-kind, in the dry, for all but prime wetlands		Tidal wetlands, TBZ, prime wetlands and adjacent upland, bog, marsh

# Permit Applications and Notifications

## *Through Municipal Clerk*

- Standard Dredge & Fill
- Minimum Impact Expedited
- Minimum Impact Agriculture
- Permit By Notification

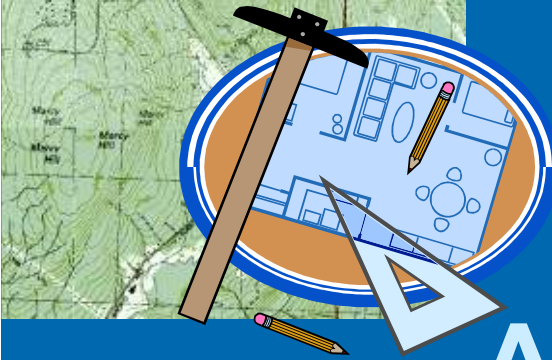
## *Directly to DES*

- Notification of Routine Roadway & Railway Maintenance Activities
- Notification of Minimum Impact Forestry
- Notification of Minimum Impact Trails
- Seasonal Dock Notification for Lakes & Ponds
- Recreational Mineral Dredging



# Conservation Commission Review Timeframes

- Standard Application:
  - 14 days from Town Clerk signature to request intervention
  - 40 days from Town Clerk signature to provide report to DES
- Minimum Impact Expedited Applications:
  - Conservation Commission signature required before Bureau can review as expedited (otherwise reviewed as standard)
  - DES review within 30 days of **receipt by DES**
- Permit By Notification
  - Permittee can start work within 25 days of TC signature if no CC signature or, within 10 days if signed by CC



# Application Processing

## STEP ONE – Administrative Completeness Review \* ARC team (in the works)

- Fee
- USGS map
- Tax map
- Abutters list
- Photographs
- Plans
- NHB check

***DES required to make  
determination and issue  
letter to applicant within  
14 days of receipt of  
application***

## STEP TWO – Conformance with Wetlands Rules

[http://des.nh.gov/rules/desadmin\\_list.htm#wetlands](http://des.nh.gov/rules/desadmin_list.htm#wetlands)

- Env-Wt 101 Definitions
- Env-Wt 200 Rules of Practice and Procedure
- Env-Wt 303 Classification of Projects
- Env-Wt 304 Approval Conditions
- Env-Wt 400 Shoreline Structures
- Env-Wt 500 Permit Procedure
- Env-Wt 600 Tidal Wetland
- Env-Wt 700 Prime Wetlands
- Env-Wt 800 Compensatory Mitigation

***DES must complete technical review within  
75 days (105 days for impacts > 1 acre)  
from issuance of Administrative  
Completeness notice***

**STEP THREE** — Applicant response (if necessary)

***Applicant must provide complete response to Administratively Incomplete notice or Request for More Information letter within 60 days of the notice or request. Extension of time to respond to RFMI may be granted if requested by applicant.***

**STEP FOUR – DES Action (if necessary)**

***Approve or deny permit within 30 days of  
response to RFMI***

## Env-Wt 204 Waivers

- Rules may be waived, but not provisions of the law.
- (b) No waiver shall be granted if the effect of the waiver would be to waive or modify a statutory requirement.
- Waivers to rules are to accommodate those situations where strict adherence to the rules would not be in the best interest of the public or the environment.

# Corps' Appendix B Secondary Impacts Checklist

Required for:

- Standard Dredge & Fill
- Minimum Impact Expedited
- PBN
- Agriculture

U.S. Army Corps of Engineers Programmatic General Permit (PGP) Appendix B Corps Secondary Impact Checklist (for inland wetland/waterway fill projects in New Hampshire)		
1. Attach any explanations to this checklist. Lack of information could delay a Corps permit determination.		
2. All references to "work" include all work associated with the project construction and operation. Work includes filling, clearing, flooding, draining, excavation, diking, stamping, etc.		
3. See POP, OC 5 regarding single and complete projects.		
4. Contact the Corps at (938) 318-8832 with any questions.		
<b>1. Impaired Waters:</b>	Yes	No
1.1 Will any work occur upstream within 1 mile upstream in the watershed of an impaired water? See <a href="http://www.des.state.nh.us/wmb/Section40/">www.des.state.nh.us/wmb/Section40/</a> to determine if there is an impaired water in the vicinity of your work area.*		
<b>2. Wetlands:</b>		
2.1 Are there any streams, brooks, rivers, ponds, or lakes within 200' of any proposed work?		
2.2 Are there proposed impacts to SAS, shellfish beds, special wetlands and vernal pools (see POP, OC 26)? Applicants may obtain information from the NH Department of Resources and Economic Development Natural Heritage Bureau (NHB) website, <a href="http://www.des.state.nh.us/divisions/forestsandlands/bureauofnaturalheritage">www.des.state.nh.us/divisions/forestsandlands/bureauofnaturalheritage</a> , specifically the book <a href="#">Natural Community Systems of New Hampshire</a> .		
2.3 If wetland crossings are proposed, they are not adequately designed to maintain hydrology, sediment transport & wildlife passage.		
2.4 Would the project remove part or all of a riparian buffer? (Riparian buffers are lands adjacent to streams where vegetation is strongly influenced by the presence of water. They are often thin lines of vegetation containing native grasses, flowers, shrubs and/or trees that line the stream banks. They are also called vegetated buffer areas.)		
2.5 The overall project site is more than 40 acres.		
2.6 What is the size of the existing impervious surface area?		
2.7 What is the size of the proposed impervious surface area?		
2.8 What is the % of the impervious area (new and existing) to the overall project site?		
<b>3. Wildlife:</b>	Yes	No
3.1 Has the NHB determined that there are known occurrences of rare species, exemplary natural communities, Federal and State threatened and endangered species and habitat, in the vicinity of the proposed project? (All projects require a NHB determination.)		
3.2 Would work occur in an area identified by NH Fish and Game Department as "Highest Ranked Habitat by Ecological Condition in NH" (magenta areas on maps) or "Highest Ranked Habitat by Ecological Condition in biological region" (green areas on maps)? <a href="http://www.wildlife.state.nh.us/Wildlife/Wildlife_Plan/highest_ranking_habitat.htm">www.wildlife.state.nh.us/Wildlife/Wildlife_Plan/highest_ranking_habitat.htm</a> . The map is currently available as a PDF for download that can be zoomed in on.*		
3.3 Would work occur in an area identified as a "Conservation Focus Area" (purple areas). <a href="http://www.wildlife.state.nh.us/Wildlife/Wildlife_Plan/conservation_focus.htm">www.wildlife.state.nh.us/Wildlife/Wildlife_Plan/conservation_focus.htm</a> . The map is currently available as a PDF for download that can be zoomed in on.*		
3.4 Would the project impact more than 20 acres of an undeveloped land block (upland, wetland/waterway) on the entire project site and/or on an adjoining property?		
3.5 Does the project propose more than a 10-lot residential subdivision, or a commercial or industrial development?		
3.6 If stream crossings are proposed, will they impede hydrology, sediment transport & wildlife passage. (Note: Stream crossings should be designed in accordance with the POP, OC 21.)		
NH PGP - Appendix B		
1		
June 2007		

Tuesday, Jul. 15, 2008



New Hampshire Department of Environmental Services

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### Wetlands Bureau

*The mission of the Wetlands Bureau is to protect, maintain and enhance the environmental quality in New Hampshire through the powers set forth in RSA 482-A to regulate impacts to those areas "wherever the tide ebbs and flows" or "freshwater flows or stands."*



Moose (Alces alces)

### Wetland Permits Query

#### What's New?

- [Southern NH Planning Commission's Conservation Commission Institute – Merrimack River Watershed Wetland Restoration Plan](#) - July 30, 2008
- [Fetch; Dock Design; Aquatic Exotic Plant Control](#) (and related definitions)
- [Vernal Pool definitions and rules have been adopted-see the adopted text at \[www.des.nh.gov/RuleMaking/index.html#awetlands\]\(http://www.des.nh.gov/RuleMaking/index.html#awetlands\)](#)
- [Flooding Announcement](#)
- [Obtaining Authorization for Emergency Wetlands Impacts](#)
- [RFP: Developing a Watershed Strategy for the Restoration and Protection of Wetlands in the Merrimack River Watershed](#)
- [Appendix B - Corps Secondary Impacts Checklist](#) (now required for inland wetland/waterway fill projects in New Hampshire)
- [PUBLIC NOTICE](#) Stream Rule Workgroup Formation

#### About NH Wetlands...

- [Application Decision Report](#)
- [Application Files Received](#)
- [Current Policies](#)
- [Fact Sheets](#)
- [Forms and Applications](#)
- [Helpful Documents](#)
- [Links to Related Sites](#)
- [NHDES Shoreland Protection Program](#)
- [RSA/Administrative Rules](#)
- [Wetlands Studies](#)

#### More Information...

- [DES Enforcement Actions](#)
- [Guidebook for Wetlands Permits](#)
- [Lists of Certified Wetland and Soil Scientists](#)
- [Off-road Vehicles and Wetlands](#) [PDF]
- [Prime Wetlands](#)
- [US Army Corps of Engineers – NH Programmatic General Permit](#)

PO Box 95  
Concord NH 03302  
(603) 271-2147  
[wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us)

### Wetland Permits Query Parameters

[Questions/Comments: Wetlands Contact](#)   [Query Instructions](#)

*For faster query results, provide the town where the site is located.*

This website was last updated on:

File Number YYYY-09999

Site Town

Owner Last Name

County

Waterbody

Application Type

Status

Received Date From (MM/DD/YYYY)  To (MM/DD/YYYY)

Tax Map

#### Wetland Permits Query Results

[Questions/Comments: Wetlands Contact](#)   [Query Instructions](#)

This website was last updated on: 07/14/2008 09:07

File Number	Action Taken	Action Date	Description
2008-01200	COMPLETE NOTIFICATION	02-JUL-08	Acworth, NH Tax Map 201 Lot 76 Crescent Lake

1

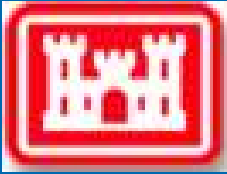
**Total Records Returned: 1**

### Wetlands Permit History Query Results

[Questions/Comments: Wetlands Contact](#)

File Number	Action Taken	Action Date	Description
2008-01200	COMPLETE NOTIFICATION	02-JUL-08	Acworth, NH Tax Map 201 Lot 76 Crescent Lake

**Total Records Returned: 1**



# Review by the US Army Corps of Engineers and Federal Resource Agencies

Corps' NHPGP:

[www.nae.usace.army.mil/reg/NH%20PGP%20-%20Final%20PN%20&%20PGP%20for%20Website.pdf](http://www.nae.usace.army.mil/reg/NH%20PGP%20-%20Final%20PN%20&%20PGP%20for%20Website.pdf)

After DES issues wetlands permit:

- **Minimum project:** Work may start.
- **Minor project:** Maximum 30-day waiting period before work may start.
- **Major project:** Must be notified by the Corps before work may start.



# Appeals Process

- Appeal to DES Wetlands Bureau  
“Request reconsideration” within 30 days of decision If DES reaffirms initial decision, appeal decision to Wetlands Council
  - Evidentiary hearing; SB 480 – Hearings Officer
- Final appeal option is to Superior Court



## NHDES Wetlands Bureau

[www.des.nh.gov/wetlands](http://www.des.nh.gov/wetlands)

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