



Wetland Protection

Wetlands are among the most biologically diverse, productive, and unique habitats on earth. No part of our landscape provides so many benefits at so little cost to the public. Wetlands play a role in flood control, water quality maintenance and improvement, groundwater discharge and recharge, shoreline stabilization, fish and wildlife habitat, recreation, and education.

NH Wetlands Bureau permits

Wetlands Bureau rules classify projects as major, minor, or minimum impact. The three most commonly used permit applications by the State of New Hampshire, Department of Environmental Services (DES) are the **Permit-By-Notification (PBN) Application**, the **Minimum Impact Expedited Application** and the **Standard Dredge and Fill Application**, each with its own filing process and timetable.

Standard Dredge and Fill Application

For major and minor projects, and currently for some minimum impact projects as defined in Wetlands Bureau rules, an applicant completes 5 copies of the Bureau's standard application form, all of which must be signed and dated by the town or city clerk of the municipality in which the project is proposed. The date of signing by the clerk is the "**filing date**". The applicant also submits to the clerk postal receipts or copies thereof to show that abutters have been notified.

Only a conservation commission has the power to "**intervene**", or provide comments on an application to the Wetlands Bureau to allow for local review of the proposal. To obtain additional time, a commission must notify the Bureau in writing that it wishes to investigate an application. The Bureau must receive this notification (also called an "intervention") **within 14 days of the filing date**.

Some commissions vote to designate a member of the commission to correspond with DES; notifying them if they plan to review a permit.

If a commission intervenes, the Wetlands Bureau must delay action on an application until the Bureau receives a written report from the commission or until 40 days after the filing date, whichever comes first. Then the Bureau reviews the application and conservation commission report and comments.

After review, with or without a public hearing, the Bureau issues a permit with conditions or denies the application. If a decision is contrary to recommendations of a conservation commission, it must be supported by findings of fact.



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Minimum impact permit applications

The minimum impact classification is intended to cover those projects that, provided they are done properly, ought to be permitted with minimal oversight. The concern is to ensure that what the applicant calls minimum impact complies with the Bureau definition and that work is conducted properly so that environmental degradation is avoided. In the last decade, various arrangements to permit minimum impact projects without, or with less, individual scrutiny have been adopted, some in statute and some in rules.

Permits by notification in rules

For many minimum impact projects, an applicant can fill out a PBN form, attach the additional information required, and file it with DES. The PBN will require the commission's signature to waive the right to intervene in order to put a PBN project through in 5 days. Wetland Bureau staff may deny an application if it is incomplete or fails to meet the minimum impact criteria. If denied, the applicant shall submit a new application for a PBN or may submit a Standard Permit application.

Expedited applications

In order to use an expedited application form, the applicant must obtain the signature of the conservation commission on the application prior to filing it. Signing the permit indicates that the commission (1) believes the plans and application are accurate, (2) has no objections to the proposed project, and (3) waives its right to intervene, or investigate, the proposal. Should a commission refuse to sign an application, an applicant can still apply for a permit but must file either the standard application form described above or resubmit the EXP permit application with complete information.

Statutory Permit by Notification (SPN)

The following minimum impact activities may be undertaken under an SPN in any jurisdictional area without obtaining a permit, provided the conditions and the requirements of Env-Wt 308.05 -Env-Wt 308.08 are met:

- Temporary seasonal dock installations (RSA 482-A:3, IV-a).
- Timber harvesting (RSA 482-A:3, V).
- Construction/maintenance of recreational trails (RSA 482-A:3, XII).
- Maintenance and repair of existing utility services within existing rights-of-way by utility providers (RSA 482-A:3, XV).
- Repair or replacement of culverts or stream crossing structures, including culverts up to and including 48 inches in diameter (RSA 482-A:3, XVI).



Conservation commission participation

A conservation commission should, but is not required to, participate in the fill and dredge permit process. Bear in mind that Wetlands Bureau staff is familiar with many, but not all, NH wetlands. If a commission does not look at the site of a proposed project, it may not be inspected.

To be effective in the fill and dredge permit process, a conservation commission must establish a reliable system with the town or city clerk to ensure that the commission is informed *at once* when an application is filed. Each application should be reviewed immediately. If a commission foresees no problems with a proposed project, it should write and tell the Wetlands Bureau.

If a commission needs more time to assess a proposal filed on a standard application form, a letter should be sent to the Bureau as soon as possible in order to reach the Bureau within 14 days of the filing date. A commission vote is not needed; any member may write expressing the commission's desire to investigate. To ensure that commission processes applications consistently, the procedure to be followed should be in a commission's by-laws.

The commission should investigate and report its findings and recommendations on standard applications without delay. However, the Bureau will not act on a standard application until it receives a report from the commission or until 40 days from the filing date, whichever occurs first.

A commission's report need not be elaborate; the Wetlands Bureau wants to know if the application and plan accurately describe the proposed project and its impacts. A commission should report on:

- **the application, plan and photographs:** Does the information appear accurate? Are all wetlands on the parcel delineated? Are all impacts shown?
- **the wetland:** Is the type of wetland correctly identified (e.g. bog, marsh, forested, wet meadow, vernal pool)? Is it isolated, adjacent to open water, contiguous to wetlands on abutting parcels, part of a wetland complex? Does the wetland have a special value or function?
- **the project:** Are there alternatives to achieving the project's objective with reduced wetland impact? Will the project impact abutters?
- **the application:** Were there questions about the information supplied in the application that were answered by site inspection?
- **other information:** Is there anything unusual about the parcel, such as ownership, previous violations or permits for work on the lot or in the same wetland?

Commission recommendation to the Bureau can specify:

- Not opposed if conditions are met
- Recommend to deny or approve

Be sure to mention any concerns or questions the commission has about the proposed project.



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