

# How to Review and Comment on Wetland Permit Applications



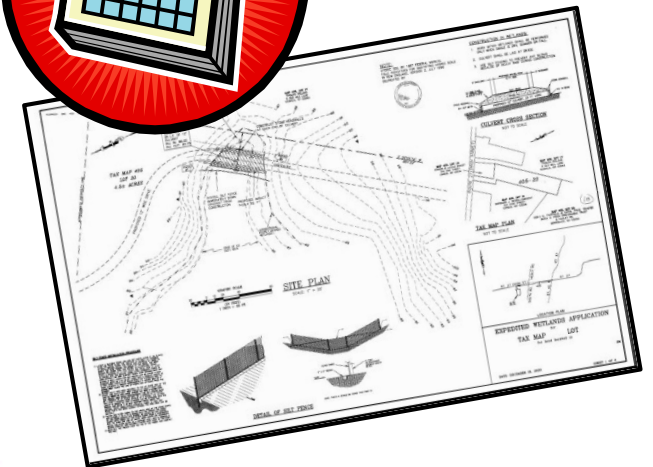
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Bow Conservation Commission  
[conservation@bownh.gov](mailto:conservation@bownh.gov)



NHACC Annual Meeting & Conference  
November 2022

# Overview

- Statutory authorization
- Process and timeframes
- What to comment on?
- Site walks



# RSA 482-A:11, III Intervention

- Conservation Commission (Also LAC or NH Rivers Council)
- Upon written notification ... that it intends to investigate any notice received by it pursuant to RSA 482-A:3, NHDES shall not make its decision on the application that is the subject of the notice until it has received and acknowledged receipt of a written report ... or until 40 days from the date of filing with the municipal clerk of such notice, whichever occurs earlier, subject to an extension of up to 40 days, as permitted by the commissioner, for good cause shown.
- Relative to any expedited permit .... the notification by a municipal conservation commission of intended investigation shall be assumed unless the application filed under RSA 482-A:3 was signed by the conservation commission.

# Timing of Intervention Notice and Comments on Standard Dredge and Fill Applications



Municipal Clerk signs  
Standard Dredge & Fill  
application

**Day 0**

Notice of  
intervention  
to NHDES



**NHDES must  
receive comments  
by Day 14**

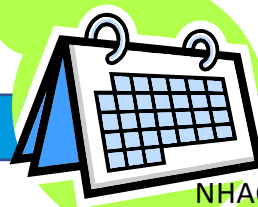


- Conduct site walk
- Prepare & submit  
comments

Email/Submit  
comments to  
NHDES



**NHDES must  
receive comments  
by Day 40**





For expedited applications, intervention is assumed *if* the application is *not* signed.



Municipal Clerk signs  
Expedited application

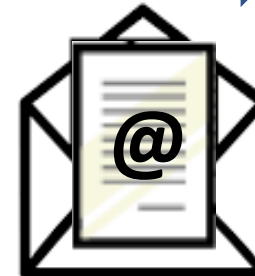
**Day 0**



- Meet
- Conduct site walk
- Prepare comments



Email/Submit  
comments to  
NHDES



**NHDES must receive  
comments by Day 21**

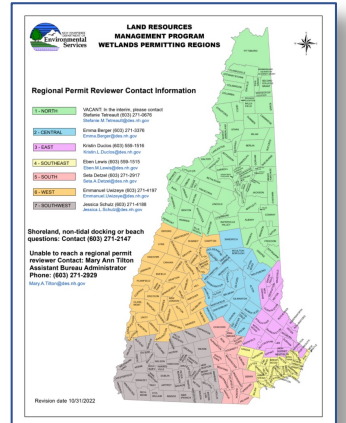
# How to make the intervention timing work?

- Pre-approve the chairperson or another (back-up) member to file an intervention notice ahead of a scheduled commission meeting, as needed.
  - Based on certain criteria (or not)
    - Such as, impact category, resources in your community, etc.
- Consider extra meeting as necessary.



# What to write to intervene...

- Subject: Landowner name /Town/ Tax map - Lot # (street)  
OR File # 2022-0000 (landowner/ town name)



“The **XXX** Conservation Commission (BCC) is providing notification herein, in accordance with RSA 482-A:11, that it intends to investigate the project that is the subject of the **Minimum/Minor/Major** impact wetlands permit application described above. The Standard Dredge and Fill application was received by the municipal clerk's office on **00/00/00.**”

- Who to send it to?
  - Permitting inspector listed on OneStop Wetland Permits Query, on permitting inspectors map, [lrn@des.nh.gov](mailto:lrn@des.nh.gov), or call (603) 271-2147 to get inspector info.

# What to comment on?

- Anything within NHDES “Wetlands jurisdiction.”
  - RSA 482-A
  - Administrative Rules Env-Wt 100-1000
- **Avoid** commenting on resources and local zoning or site plan regulations not covered by RSA 482-A and the Env-Wt rules.



# Wetlands Rules Structure

Env-Wt	Content
100	Definitions
200	Hearings, Appeals & Waiver Requests
300	<b>Permit Types &amp; Procedure</b> , Standard Conditions, Criteria for Standard Permits
400*	<b>Delineation</b> & Classification of jurisdictional areas & <b>General Project Classification</b>
500	<b>Project Specific Requirements</b> (e.g. docks, utility, forestry, residential, commercial)
600	Coastal Lands & Tidal Waters/ Wetlands
700	Prime Wetlands
800	Mitigation
900	Stream Crossings
1000	Registration of Docks

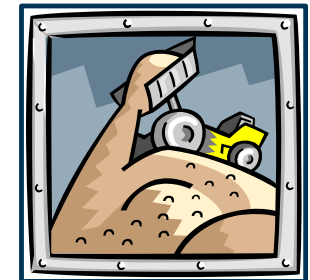
# Impact (Project) Classification

Env-Wt 407

- **Resource.**



- **Size of impact** (Square feet, linear feet).



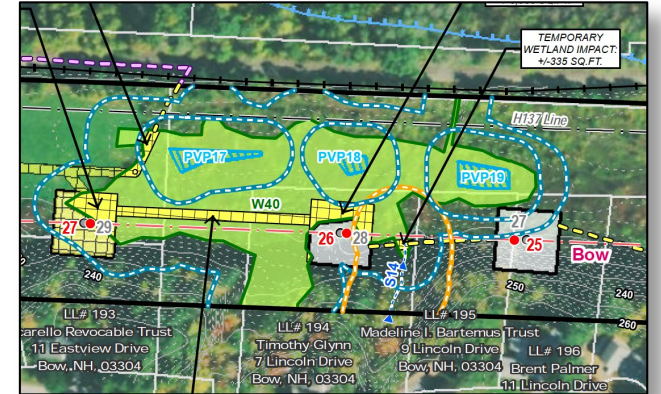
- **Project type.**





# 1. Confirm the Site Resources

- Project classification is affected by the type of resources present/proposed for impacts.
- How are the resources represented on the plans?
- Type & size of proposed impacts?
  - How are they represented in text (wetlands, streams, coastal lands, etc.) ?
  - Are they correct and in agreement between the text and plans?
- Review the application before doing a site walk.

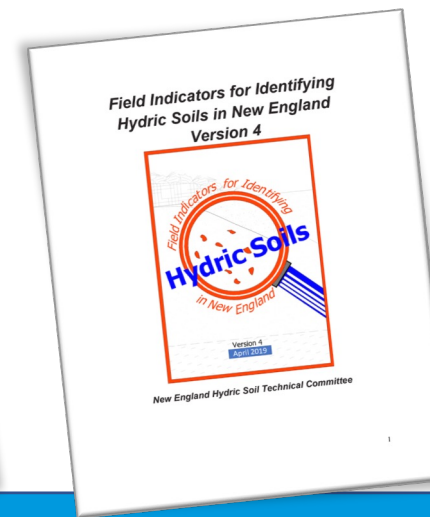
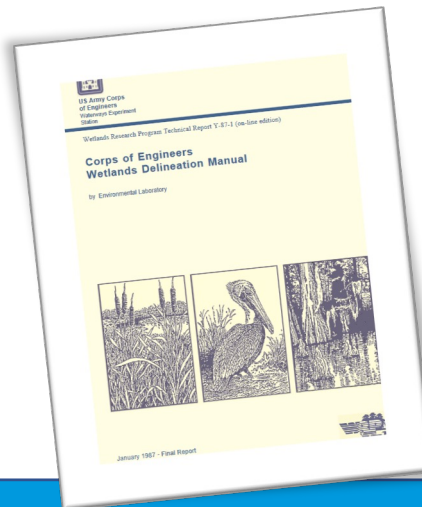


# Impact Area Table – SD&F application (section 11)

JURISDICTIONAL AREA		PERMANENT			TEMPORARY		
		SF	LF	ATF	SF	LF	ATF
Wetlands	Forested Wetland						
	Scrub-shrub Wetland						
	Emergent Wetland						
	Wet Meadow						
	Vernal Pool						
	Designated Prime Wetland						
	Duly-established 100-foot Prime Wetland Buffer						
Surface Water	Intermittent / Ephemeral Stream						
	Perennial Stream or River						
	Lake / Pond						
	Docking - Lake / Pond						
	Docking - River						
Banks	Bank - Intermittent Stream						
	Bank - Perennial Stream / River						
	Bank / Shoreline - Lake / Pond						
Tidal	Tidal Waters						
	Tidal Marsh						
	Sand Dune						
	Undeveloped Tidal Buffer Zone (TBZ)						
	Previously-developed TBZ						
	Docking - Tidal Water						
TOTAL							

# Delineation of Jurisdictional Areas: Wetlands

- Wetlands (Env-Wt 406)
  - 1987 Corps Wetland Delineation Manual
  - 2012 *Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral and Northeast Region*.
    - Hydrology.
  - Hydric Soils – Field Indicators... (v4).
  - Hydrophytic Plants: National Wetland Plant List (2016/2020).





# Isolated wetland – vernal pool or not?

- Confirm with site walk (best during appropriate season).



# Priority Resource Area

(Env-Wt 103.65)

- Documented occurrences of protected species or habitat for such species, using the **DataCheck Tool**.
- Bog (subset of peatlands).
- Floodplain wetland contiguous to a Tier 3 or higher watercourse.
- **Designated prime wetland** or a duly-established 100-foot buffer.
- Sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone.
- Generally elevates a project to a major impact, except for some PBN, SPN, or EXP projects.

Use the  
Wetland  
Permit  
Planning  
Tool!





## 2. Confirm the Impact Area: Size

Env-Wt 407

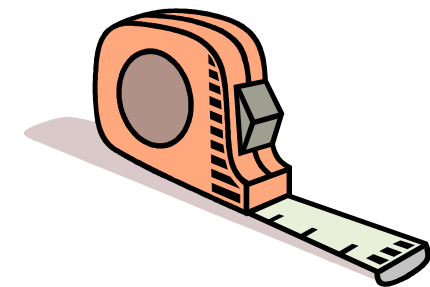


- **Size** of impact (SF, LF).

Table 407-1: Classification Based on Size of Impact

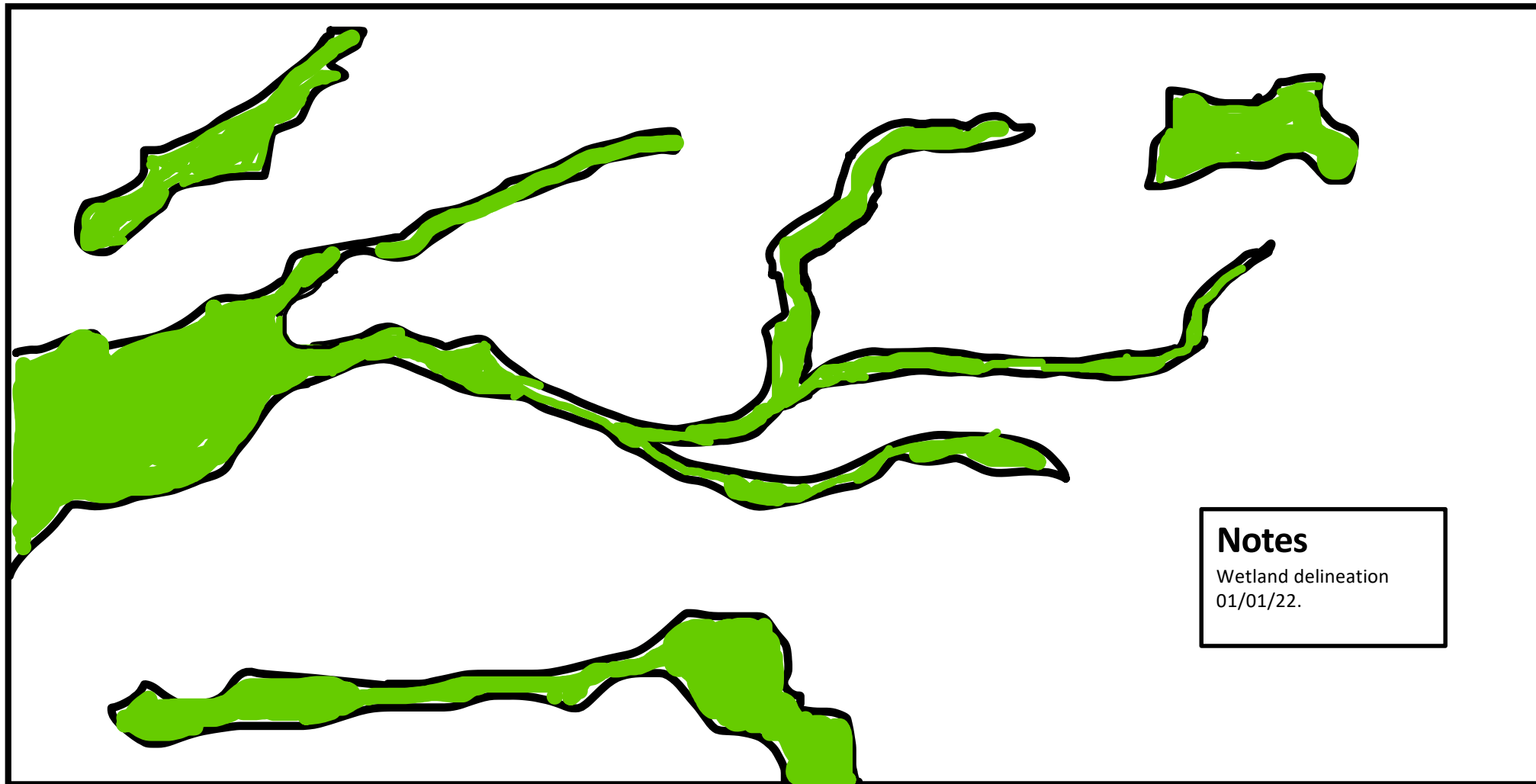
Type of Jurisdictional Area	Minimum	Minor	Major
Other than watercourse	< 3,000 square feet (SF)	$\geq 3,000$ SF to < 10,000 SF	$\geq 10,000$ SF
Watercourse	< 50 linear feet (LF)	$\geq 50$ LF to < 200 LF	$\geq 200$ LF

- Do the impacts indicated on the plans match the narrative (and the observed site resources)?

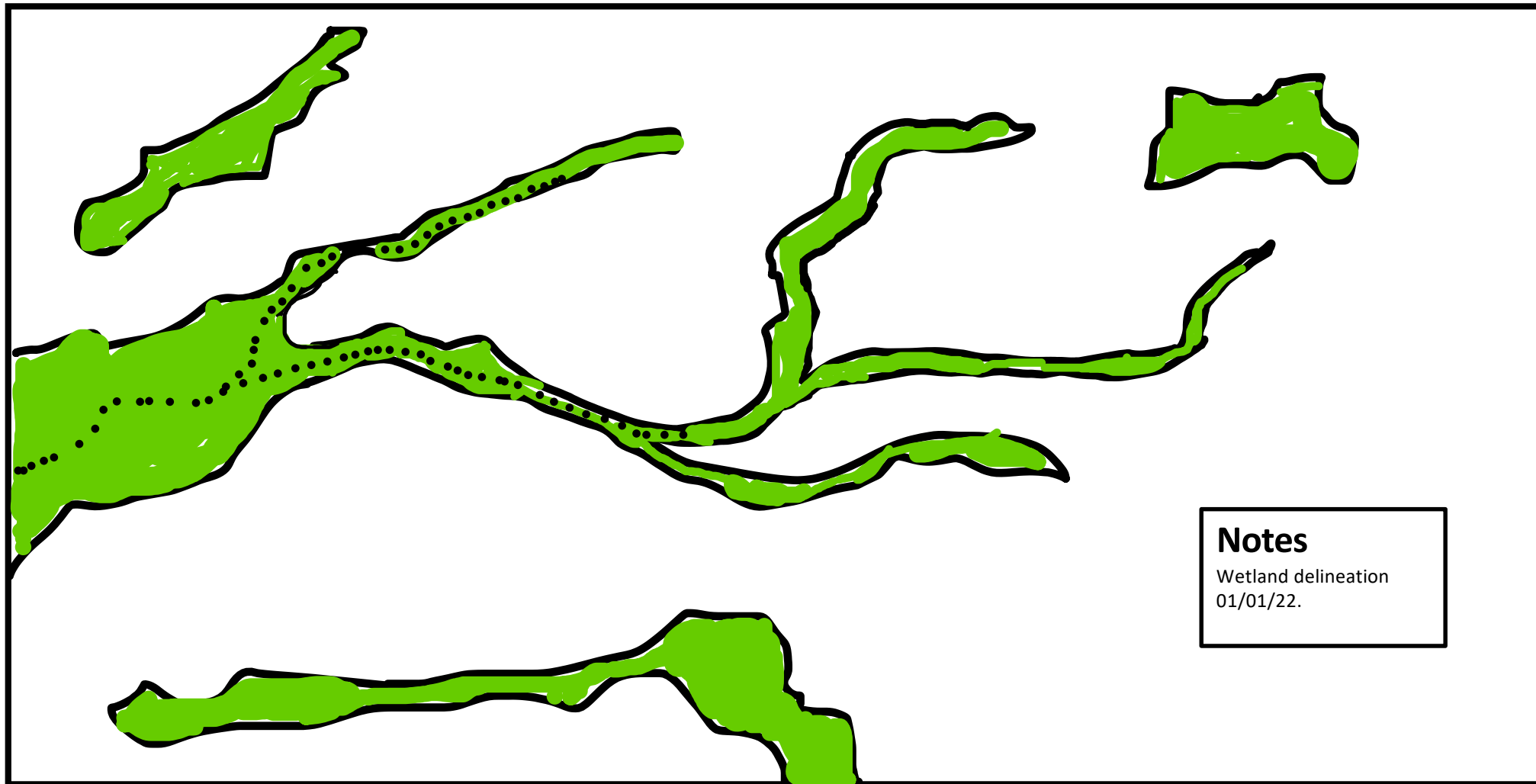




# Example: Existing Conditions Plan...



# Example: Existing Conditions Plan... in Reality...



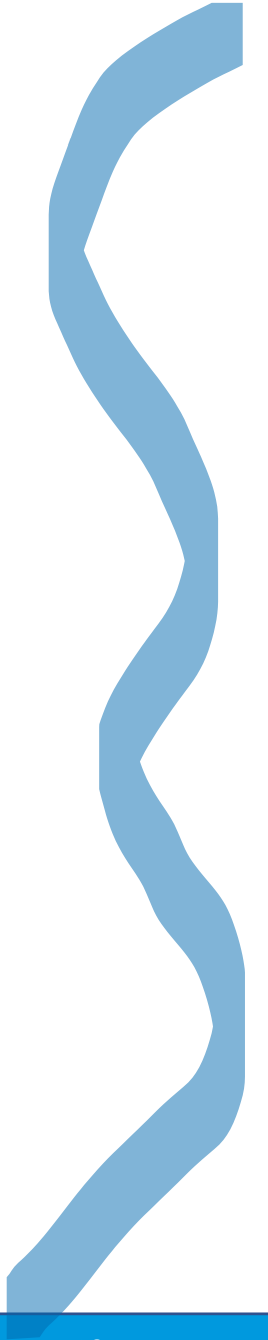
# Watercourse Definition and Types

**Watercourse** - any surface water that develops and maintains a defined scoured channel, with evidence of sediment transport, or that is a continuous channel that flows to or from a wetland or other surface water. The term includes rivers and streams. (Env-Wt 104.48)

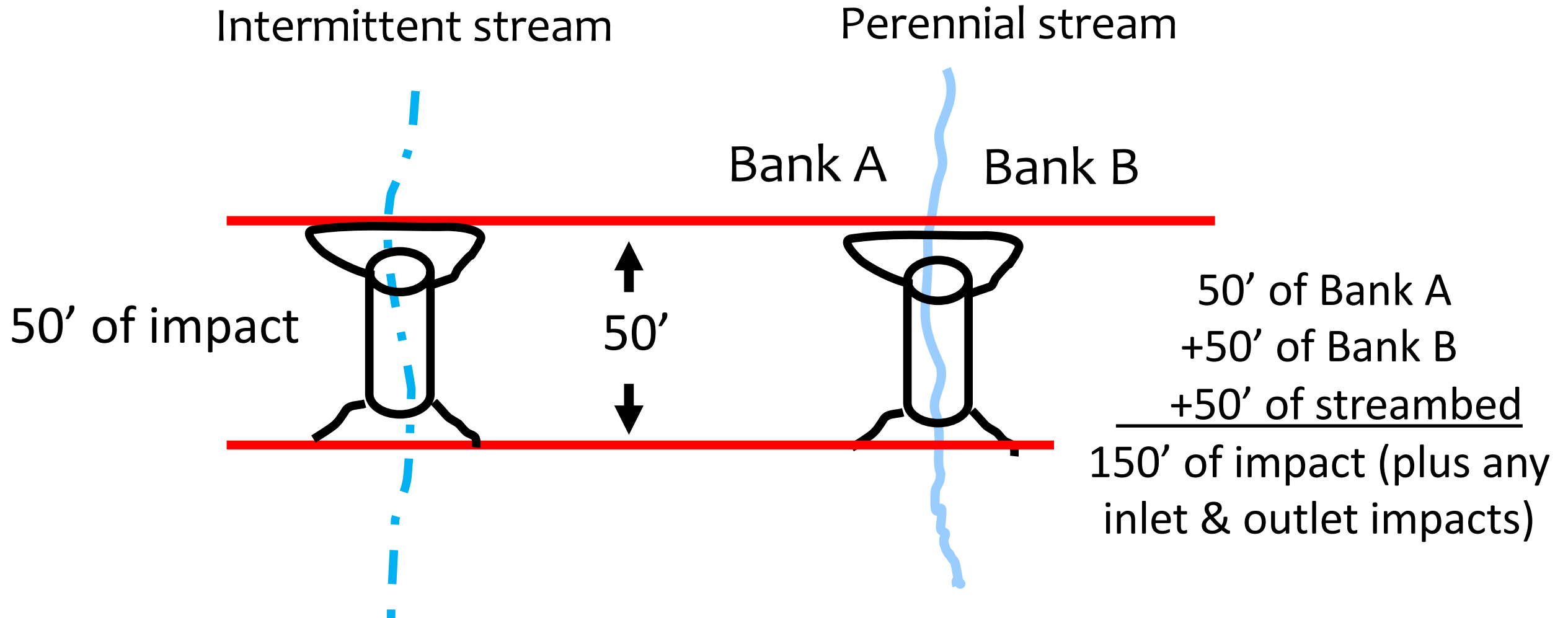
**Ephemeral stream** - a watercourse that is located above the water table year-round and is not fed by groundwater, such that runoff from rainfall and snowmelt is the primary source of stream flow and so the stream has flowing water only during, and for a short duration after, precipitation or spring thaw events, but which has less flow than an intermittent stream and no evidence of riffles, meander bends, point bars, or braiding. (Env-Wt 102.65)

**Intermittent stream** - means a watercourse that is fed by groundwater but is not in the groundwater table throughout the year, where runoff from rainfall and snowmelt is a supplemental source of water for flow, such that the stream typically does not have flowing water during dry portions of the year. (Env-Wt 103.21)

**Perennial stream** - a watercourse that is in the groundwater table for most of the year and so has groundwater as its primary source of water for stream flow, with runoff from rainfall and snowmelt as a supplemental source of water, so that it contains flowing water year-round during a typical year. (Env-Wt 103.53)



# Stream Crossings: Measuring Impacts to a Stream



### 3. Review Classification Criteria for Specific Project Types

(Env-Wt 500\*)

- Agricultural activities (Env-Wt 522)
- Aquatic vegetation control (Env-Wt 510)
- Bank stabilization (Env-Wt 514)
- Breakwaters (Env-Wt 512)
- Dams (Env-Wt 526)
- Docking structures and accessory docking structures (Env-Wt 513)
- Dug-in basins/boat houses (Env-Wt 515)
- Forestry (Env-Wt 520)
- Intake & Outflow Structures (Env-Wt 516)
- Nontidal dredging (Env-Wt 523)
- Ponds (Env-Wt 519)
- Public highways (Env-Wt 527)
- Residential, Commercial & Industrial Development (Env-Wt 524)
- Restoration/Enhancement Activities (Env-Wt 525)
- Stream crossings (Env-Wt 900)
- Tidal and coastal lands projects (Env-Wt 600)
- Trails, paths, and boardwalks (Env-Wt 517)
- Utility projects (Env-Wt 521)
- Water access structures & beach replenishment (Env-Wt 511)
- Water-related non-docking structure (Env-Wt 518)

\* Except where otherwise noted



# Chapter Env-Wt 500 - Nontidal Project-Specific Requirements (18 project types)



Consistent sub-headings for each project type

- Applicability
- Approval Criteria
- Application Requirements
- Design Requirements
- Construction Requirements
- Project Classification

## Project-Specific Worksheet

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/document/s/wetlands-project-specific-info.pdf>

NHDES-W-06-067

 **RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT PROJECT-SPECIFIC WORKSHEET FOR STANDARD APPLICATION**   
Water Division/Land Resources Management  
Wetlands Bureau  
[Check the Status of your Application](#)

**RSA/Rule:** RSA 482/ Env-Wt 524  
**APPLICANT LAST NAME, FIRST NAME, M.I.:** \_\_\_\_\_

This worksheet summarizes the criteria and requirements for a Standard Permit for "Residential, Commercial, and Industrial Development", one of the 18 specific project types in Chapter Env-Wt 500. In addition to the project-specific criteria and requirements on this worksheet, all Standard Dredge and Fill Applications must meet the criteria and requirements listed in the Standard Dredge and Fill Application form (NHDES-W-06-012).

**SECTION 1 - APPLICABILITY (Env-Wt 509.02(b); Env-Wt 524.01)**

The information in this worksheet applies to residential, commercial, and industrial development projects, including associated roadways, in non-tidal wetlands.  
Do not use this worksheet if the project is located in a coastal (tidal) area.

**SECTION 2 - APPROVAL CRITERIA FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT PROJECTS (Env-Wt 524.02)**

An application for a residential, commercial or industrial development project must meet the following criteria:

- ☒ The project must meet the applicable criteria established in Env-Wt 300;
- ☐ An off-site alternatives analysis is conducted for any project that will result in more than one acre of permanent wetland impacts;
- ☐ The project avoids and minimizes impacts to wetlands, watercourses, and sensitive and valuable wetlands in accordance with Env-Wt 313.03;
- ☐ The project complies with the design criteria specified in Env-Wt 524.04 and the construction criteria specified in Env-Wt 524.05; and
- ☐ Compensatory mitigation is provided for any new residential, commercial, or industrial development in a Priority Resource Area.

**SECTION 3 - APPLICATION REQUIREMENTS FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT PROJECTS (Env-Wt 524.03)**

- ☐ For all projects requiring subdivision approval, a plan prepared and stamped by a land surveyor licensed in the State of New Hampshire pursuant to RSA 310-A showing existing and proposed topography and the location of all proposed lot lines;
- ☐ For all projects requiring subdivision approval, the following clearly delineated on the plan required above: the boundaries of all wetlands and surface waters and the footprint of all proposed impacts;

[irm@des.nh.gov](mailto:irm@des.nh.gov) or (603) 271-2147  
NHDES Wetlands Bureau, 29 Hazen Drive, PO BOX 95, Concord, NH 03302-0095  
[www.des.nh.gov](http://www.des.nh.gov)

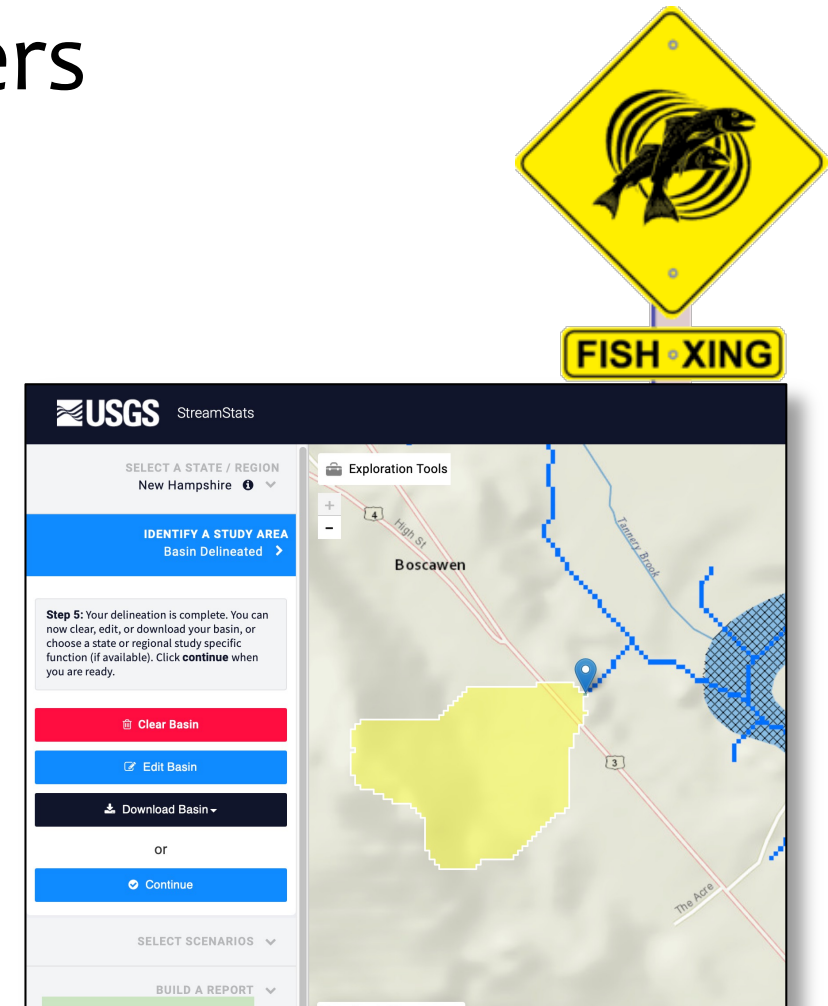
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(Env-Wt 904)

- Based on contributing watershed size or waterbody type (tidal) AND other factors...

Tier 1	Tier 2	Tier 3	Tier 4
≤ 200 acres	> 200 - < 640 acres	≥ 640 acres	Tidal Watercourse




Use USGS StreamStats to define watershed size for stream.

# Demonstration of Avoidance and Minimization

## Env-Wt 313.03

From local site knowledge, have the impacts to jurisdictional areas been avoided and minimized?


NHDES-W-06-050



NEW HAMPSHIRE  
DEPARTMENT OF  
Environmental  
Services

**AVOIDANCE AND MINIMIZATION CHECKLIST**  
Water Division/Land Resources Management  
Wetlands Bureau

[Check the Status of your Application](#)



**RSA/Rule:** RSA 482-A/ Env-Wt 311.07(c)

This checklist can be used in lieu of the written narrative required by Env-Wt 311.07(a) to demonstrate compliance with requirements for Avoidance and Minimization (A/M), pursuant to RSA 482-A:1 and Env-Wt 311.07(c).

For the construction or modification of non-tidal shoreline structures over areas of surface waters without wetland vegetation, complete only Sections 1, 2, and 4 (or the applicable sections in [Attachment A: Minor and Major Projects \(NHDES-W-06-013\)](#)).

The following definitions and abbreviations apply to this worksheet:

- “A/M BMPs” stands for [Wetlands Best Management Practice Techniques for Avoidance and Minimization](#) dated 2019, published by the New England Interstate Water Pollution Control Commission (Env-Wt 102.18).
- “Practicable” means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes (Env-Wt 103.62).



### Wetlands Best Management Practice Techniques For Avoidance and Minimization



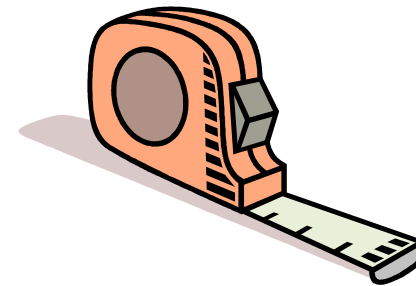
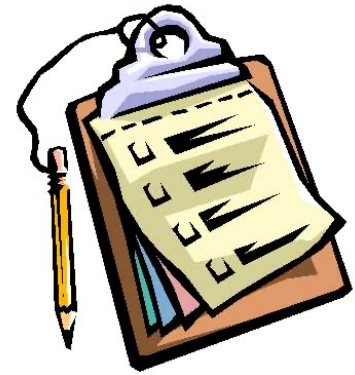
# Site Walks

- Invaluable to ensure plans reflect the existing landscape and resources on the site.
- Confirm information on plans/ in text.
  - For development w/ new road, have center lines staked.
- Conduct one for every wetland permit application, if possible.
  - Provides a “before” view.
  - Confirm that resources are accurately represented on plans and in application narrative.
  - Document with photos! Requires public notice if quorum of Commission; Take “minutes.”



# Site Walks; Suggested gear

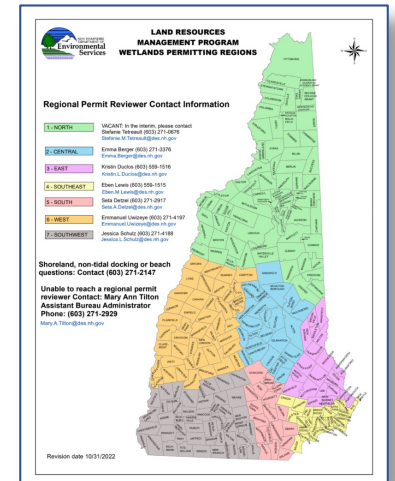
- 100-foot measuring tape
- Camera/ smartphone camera
- Wetland application and site plans that accompanied the application – in hard copy or on a tablet.





# Your Commission's comments...

- Send/ Email them to the NHDES permitting inspector in the required timeframe
  - Refer to the file number, now available.
- Commission's comments are addressed in decision findings.
  - “If a conservation commission ... makes a recommendation to the department in its report, [NHDES] shall specifically consider such recommendation and shall make written findings with respect to each issue raised in such report which is contrary to the decision of the department. ”





## In Summary

- Establish process with municipal clerk to enable the Commission to intervene in a timely manner, when needed.
- Check the NHDES Wetland Permits Query *weekly* for new applications, until process is established.
- Conduct site walks to confirm information and identify issues to address in your comment letters.

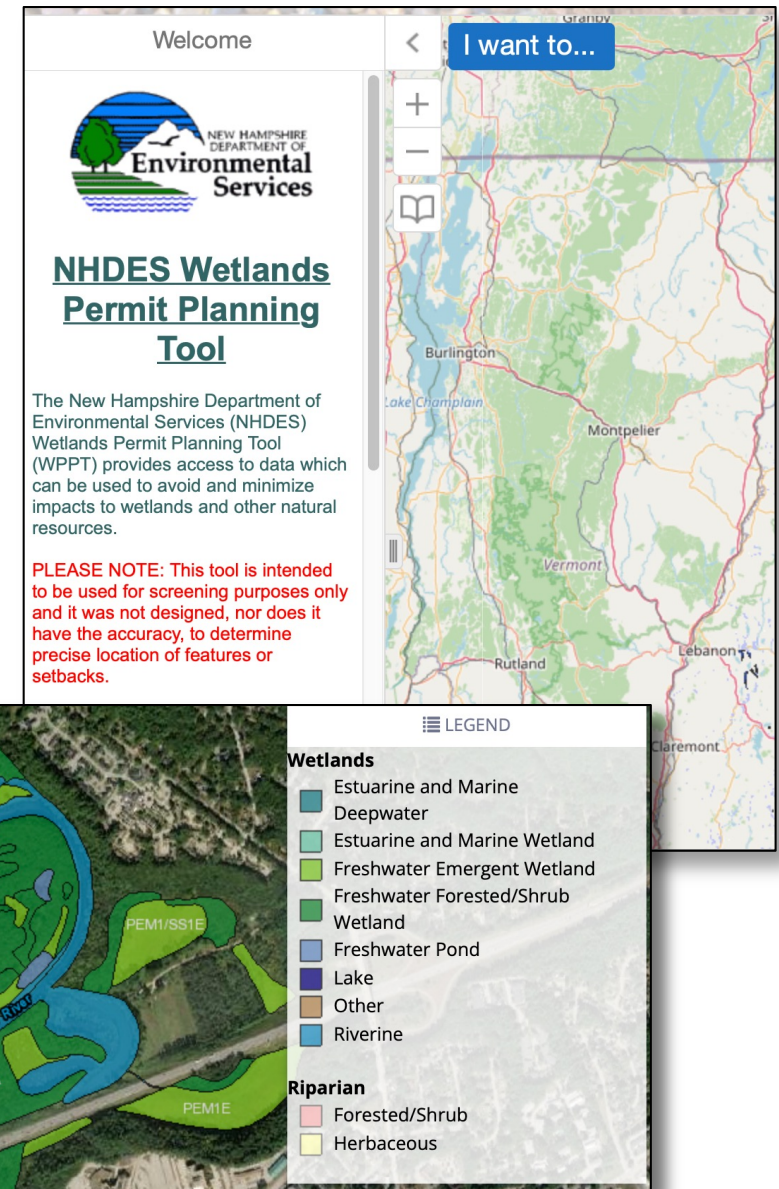
### For information:

- Review copies of NHDES RFMI letters for what applicants omit and need to provide or address.
  - Access the letters on the NHDES One Stop Wetlands Permit Query.



# More Wetlands Presentations

- After lunch:
  - Wetland Permit Planning Tool (WPPT)  
Mary Ann Tilton (for Stephanie Tetreault)
  - New National Wetland Inventory (NWI) maps  
Mary Ann Tilton



# Questions?



Image by Freepik