



Wetlands Rules Workshop

Focus: Buffer Standards

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RIDEM Office of Water Resources

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Presentation Outline

- Quick overview of major changes
- “Jurisdictional Area” vs. “Buffer” vs. “Buffer Zone”
- Designation of Buffer Zones Statewide
- Applicability of Buffer Standards
- Conclusion & Questions





Primary Revisions to Rules

- Revised or added definitions (e.g. “freshwater wetland”, “buffer”, “vernal pool”, “jurisdictional area”)
- Expanded Jurisdictional Area
- Revised & Added to Exemptions
- New Section on Standards
- Application type/name updates
- Municipal Coordination Improvements
- Consolidated Agriculture Section





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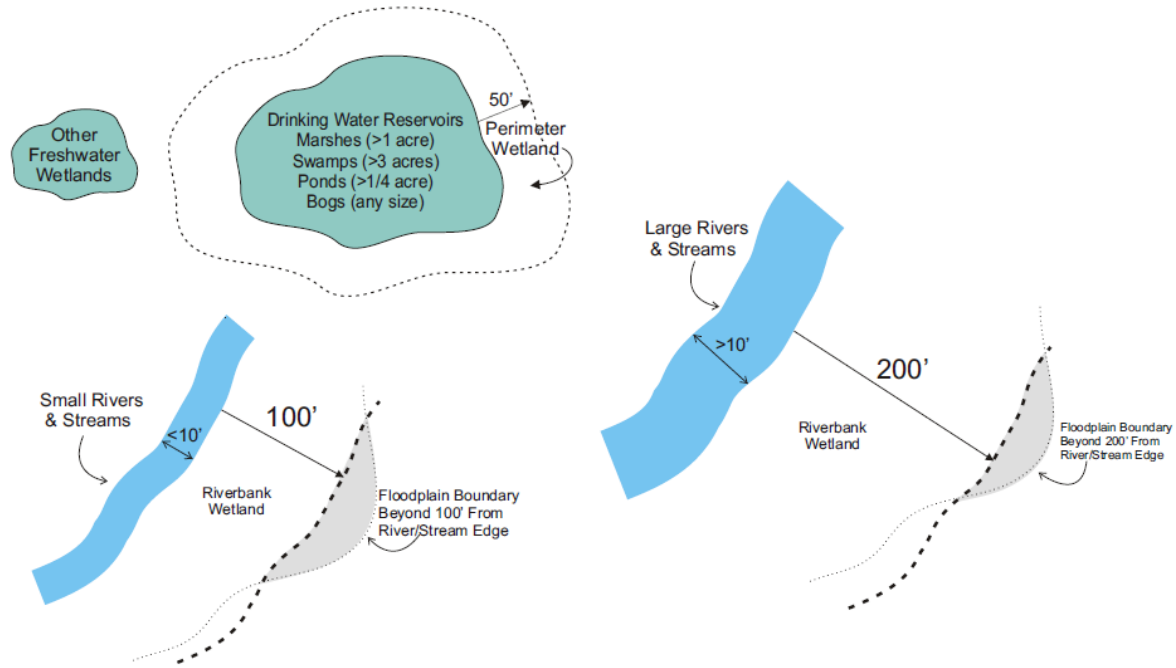


Key New or Revised Definitions

- **Jurisdictional Area** – area to be regulated includes - freshwater wetlands, buffers, floodplains, areas subject to storm flowage, areas subject to flooding, and contiguous areas that extend outward:
 - 1) Two hundred feet (200') from the edge of a river or stream;
 - 2) Two hundred feet (200') from the edge of a drinking water supply reservoir; and
 - 3) One hundred feet (100') from the edge of all other freshwater wetlands (including ponds).
- **Freshwater Wetlands** – Now defined as the resource area **only** (i.e. bog, marsh, swamp, vernal pool, pond, river, etc.). Upland areas previously called perimeter and riverbank wetlands consolidated into “Jurisdictional Areas”
- **Buffer** - An area of undeveloped vegetated land adjacent to a freshwater wetland that is to be retained in its natural undisturbed condition, or land that is to be created to resemble a naturally occurring vegetated area.
- **Buffer Zone** - An area of land within a jurisdictional area that is contiguous to a freshwater wetland and whose distance from the freshwater wetland is designated.



**Current Regulated Area: All Freshwater Wetlands(As Defined Below)
Certain Upland Areas
All Floodplain Areas**

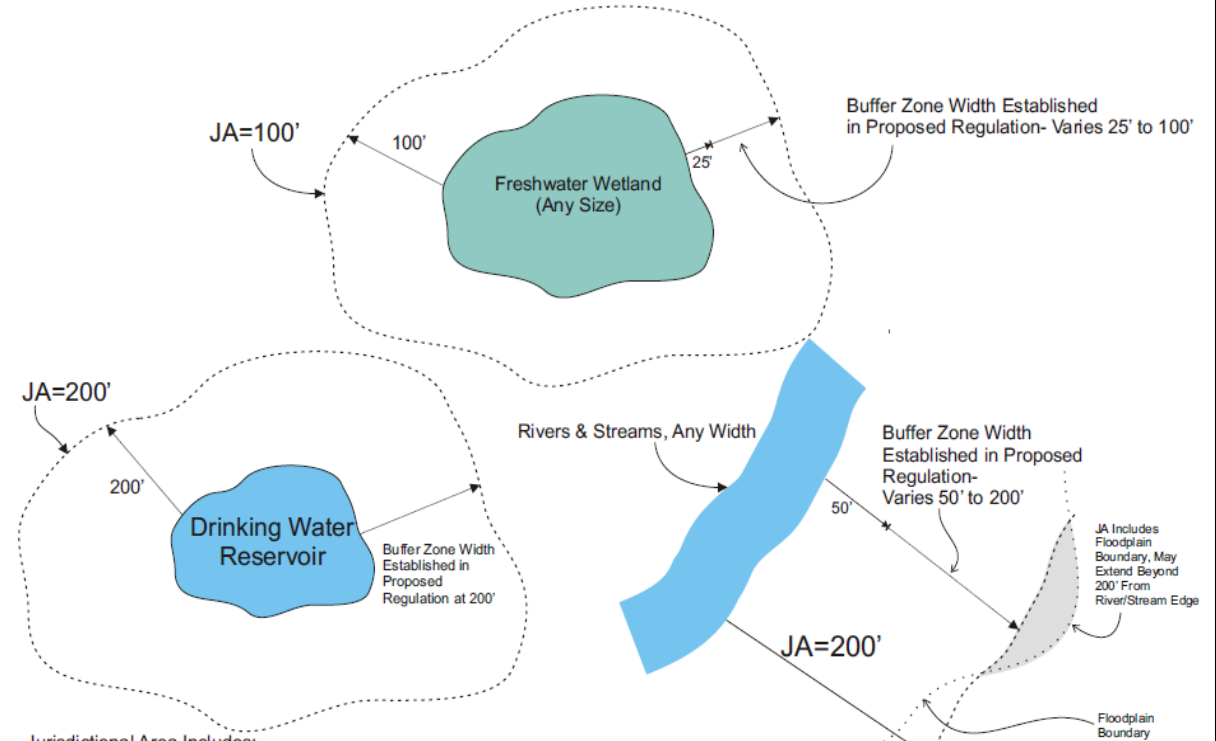


Law defines "Freshwater Wetlands" inclusively as marshes >1acre, swamps >3 acres, ponds >1/4 acre or bogs of any size and 50' landward from the resource edge; rivers <10' wide and 100' landward from river edge; rivers >10' wide and 200' landward from the river edge; all other wetland resources regardless of size, Floodplains, and Areas Subject to Flooding or Storm Flowage.

Note: All resource areas above are targeted for protection

11/4/16

**New Regulated Area: Jurisdictional Area (JA) Designated in Law
As Defined Below**



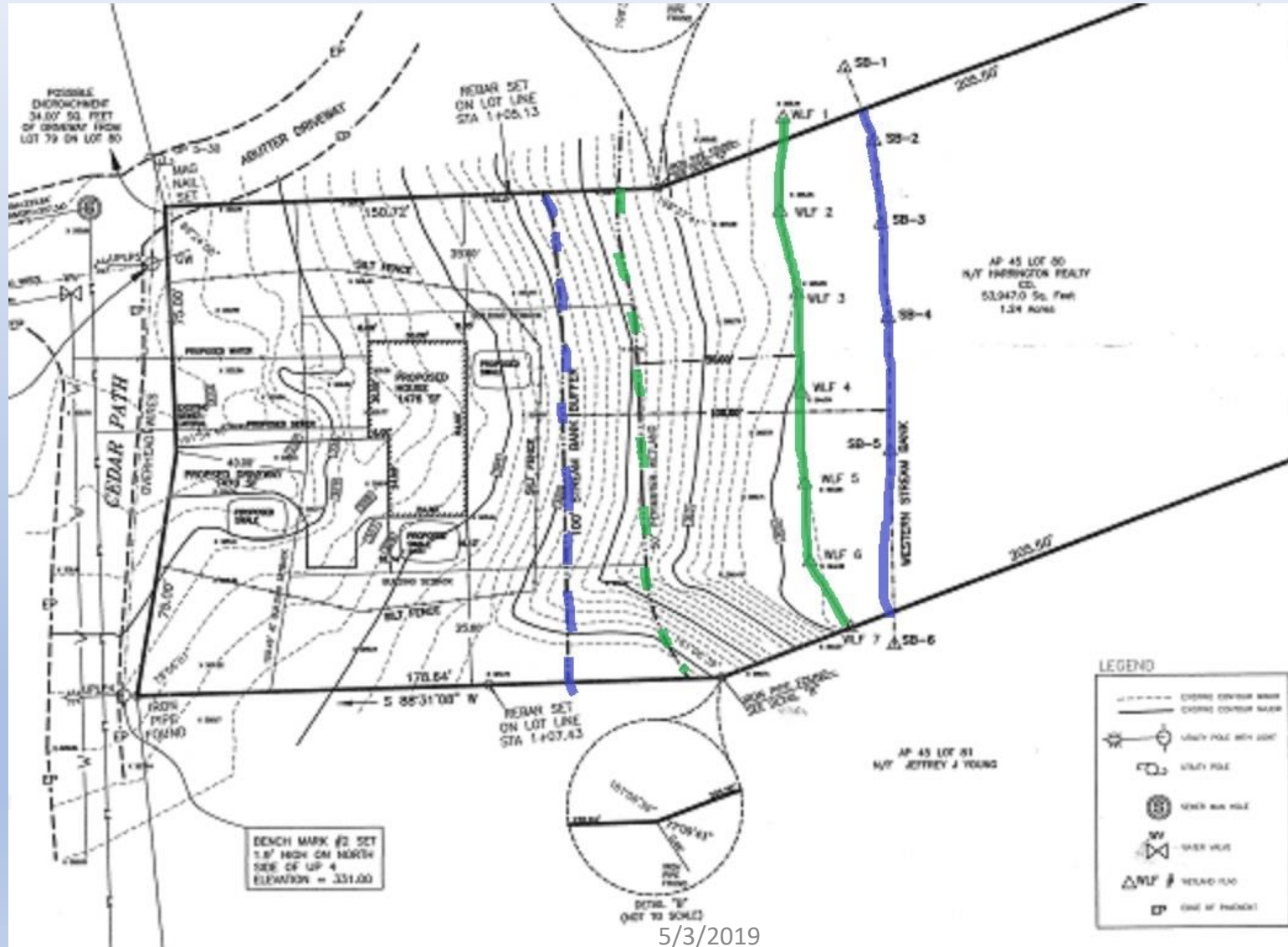
Jurisdictional Area Includes:
Freshwater Wetland (Includes all marshes, swamps, bogs, ponds, streams, rivers, vernal pools)
Buffers (Law requires Agency to establish standards in regulation, may be equal to or less than JA)
Floodplains and Areas Subject to Flooding and Storm Flowage
200' Contiguous areas to rivers/streams and drinking water reservoirs
100' Contiguous areas from edge of all Freshwater Wetlands

Note: Freshwater Wetlands, Buffers, Floodplains are to be protected as directed by Law.

11/4/16



Existing Rules



5/3/2019



Buffer

“An area of undeveloped vegetated land adjacent to a freshwater wetland that is to be retained in its natural undisturbed condition, or is to be created to resemble a naturally occurring vegetated area.”





Buffer

“An area of undeveloped vegetated land adjacent to a freshwater wetland that is 1) to be retained in its natural undisturbed condition, **or** 2) is to be created to resemble a naturally occurring vegetated area.”



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Undeveloped Vegetated Land

- It was determined that it is far easier to define this based on what it is **not** rather than what it is
- In the “definitions” portion of the Rules, “undeveloped vegetated land” means “an area of land that does **not** consist of buildings, impervious areas, bare gravel, lawn or landscaped areas”





Buffer

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For the purpose of defining buffer in the revised Rules, “adjacent to” means land area within the “buffer zone”. This is true even if the “buffer zone” extends across a developed feature such as a roadway.





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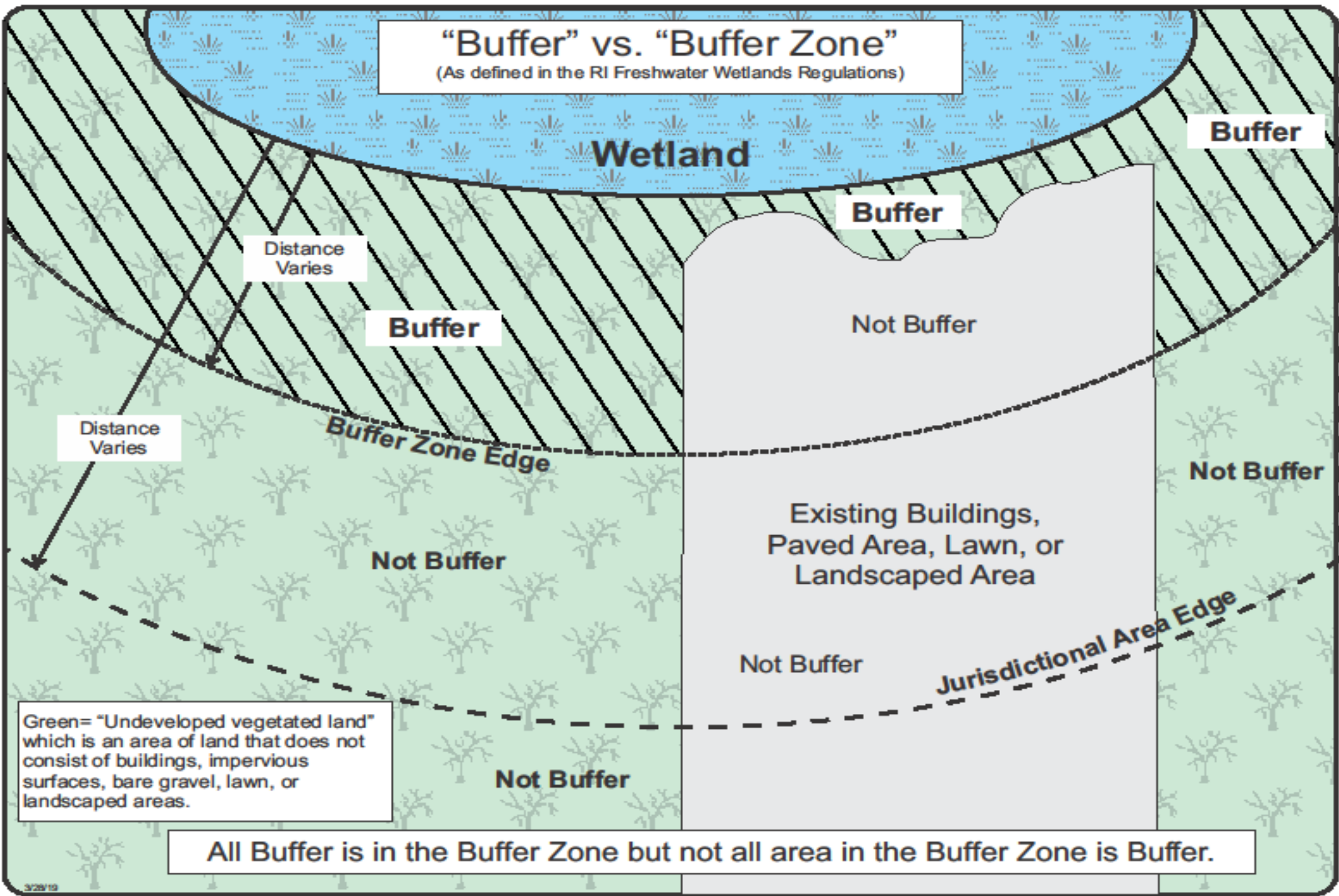


Buffer Zone

- “means an area of land within a jurisdictional area that is contiguous to a freshwater wetland and the width of which is designated in § 3.23 of this Part.”
- Variable width that may include all of, but cannot extend further than, the “**Jurisdictional Area**” limit
- Does not always consist entirely of “**buffer**”



“Buffer” vs. “Buffer Zone” (As defined in the RI Freshwater Wetlands Regulations)



Green= “Undeveloped vegetated land” which is an area of land that does not consist of buildings, impervious surfaces, bare gravel, lawn, or landscaped areas.

All Buffer is in the Buffer Zone but not all area in the Buffer Zone is Buffer.



Questions Just on Terminology?





Determining Buffer Zone

- **Step 1:** Determine What **Region** the Property or Project is in, as well as whether or not it is within the Watershed of a Drinking Water Supply Reservoir

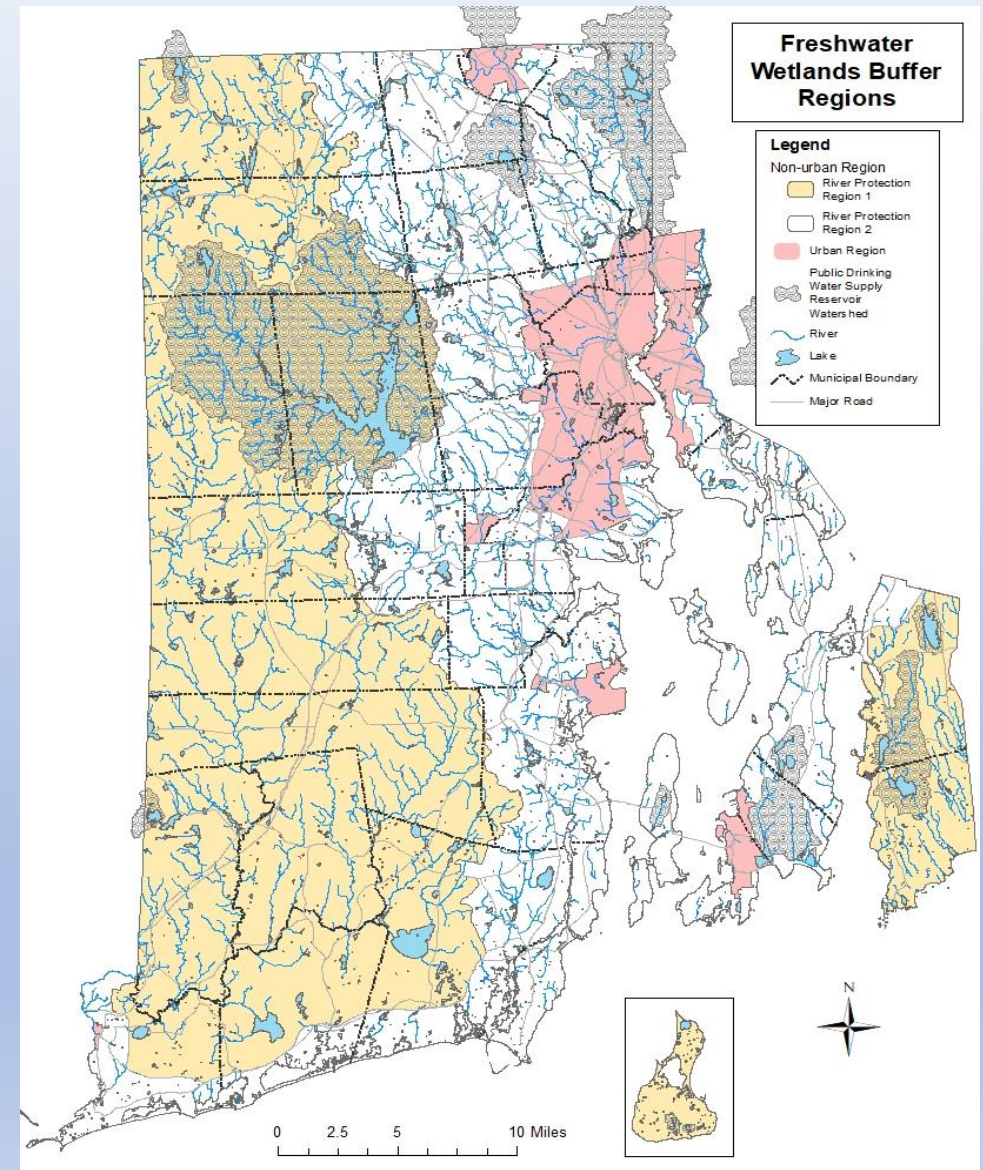
Buffer Zone Regions

- **Urban Region** - includes densely developed areas of state; portions of watersheds with high percent of impervious cover and areas already developed or altered.

Non-Urban Regions

- **River Protection Region 1**- includes watershed areas that are high priorities for conservation of fish and wildlife habitat.
- **River Protection Region 2**- includes areas of the state that exhibit a mix of land uses and watershed characteristics including urban, suburban and rural settings.
- **Water Supply Watershed Overlay**

Mapping tool is available online





Determining Buffer Zone

- **Step 2:** Determine wetland type, and applicable buffer zone – Rule 3.23(H) & (I)
 - May require determining size (for vegetated wetlands and ponds)
 - May require identification of specific segments (for rivers)
 - A mapping tool to assist identification of buffer zones for rivers and ponds is being developed
 - If Designated Buffer Zone = Jurisdictional Area limit, that will be the final Buffer Zone Determination



Buffer Zone Determination Examples



(Fun with Rules and Maps)



Pond in DWSR Watershed (contiguous w/ river) 100' BZ





Pond >10 acres, RP Region #2: 100' or 50'?





Pond in Urban Region: 25' or 50' BZ?





Interactive Map Example





River at Regional Boundary



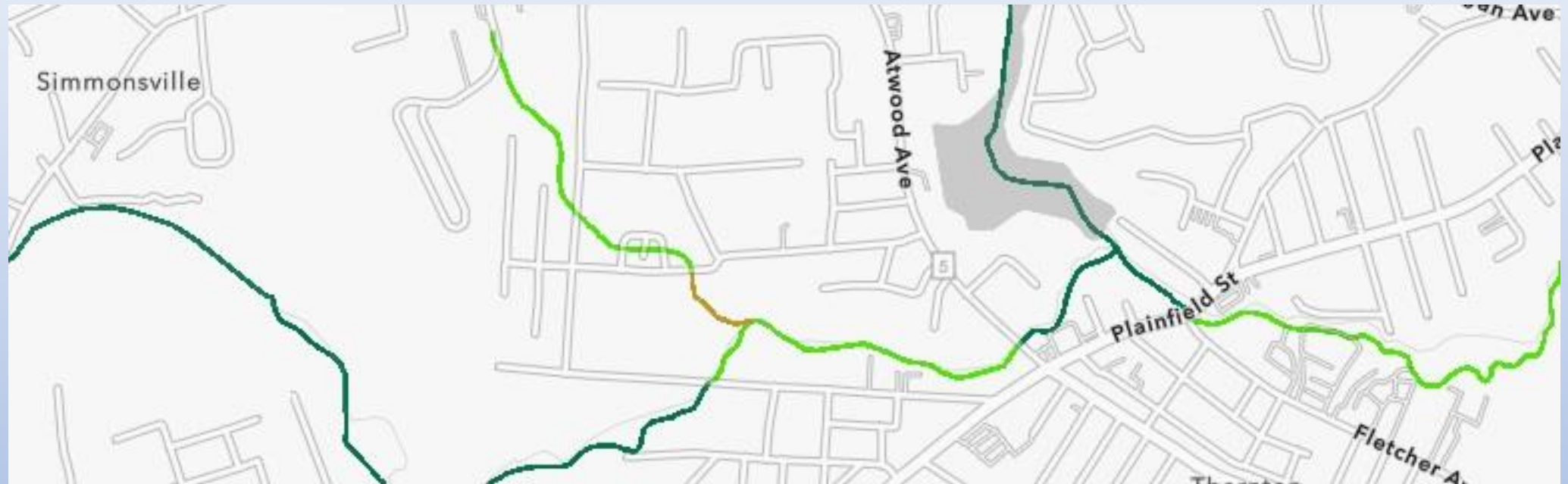


River at Regional Boundary





Interactive Map Example



Legend

Wetland Regulation Waters

Rivers

- 50
- 100
- 150
- 200



Determining Buffer Zone

- **Step 3:** Determine presence of rare animal or plant species, or rare wetland type.
- **Per Rule 3.23(F)(5):** “ In the event of the documented presence of a rare plant, rare animal or rare freshwater wetland type, the Department reserves the right to increase the associated buffer zone width designated in §§ 2.23(H) or (I) of this Part.”*

*Cannot exceed the Jurisdictional Area limit.



Rare Species or Rare Wetland Type

- Submit a “Request to Determine Presence of Jurisdictional Area” or “Request to Verify Freshwater Wetland Edges” – Let DEM make the call up front.
- Propose a Buffer Zone based on the needs of the identified species or wetland type (will require supporting documentation from a consulting biologist)...**this may be adjusted by RIDEM.**
- Design the project to remain outside of Jurisdictional Area limit...or at least outside of all “buffer”.



R. Enser, RIDEM

QUESTIONS? Visit dem.ri.gov/newwetlandrules



R. Enser, RIDEM



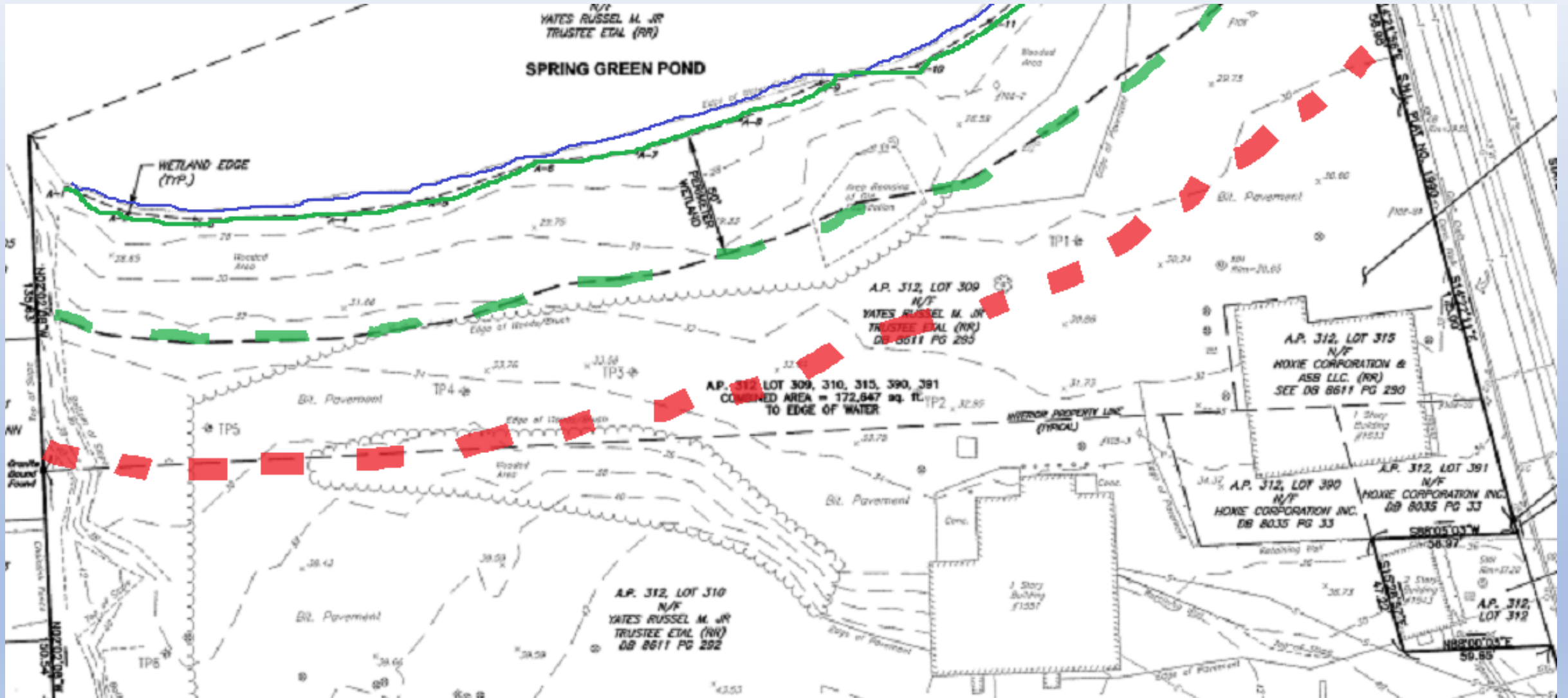
Determining Buffer Zone

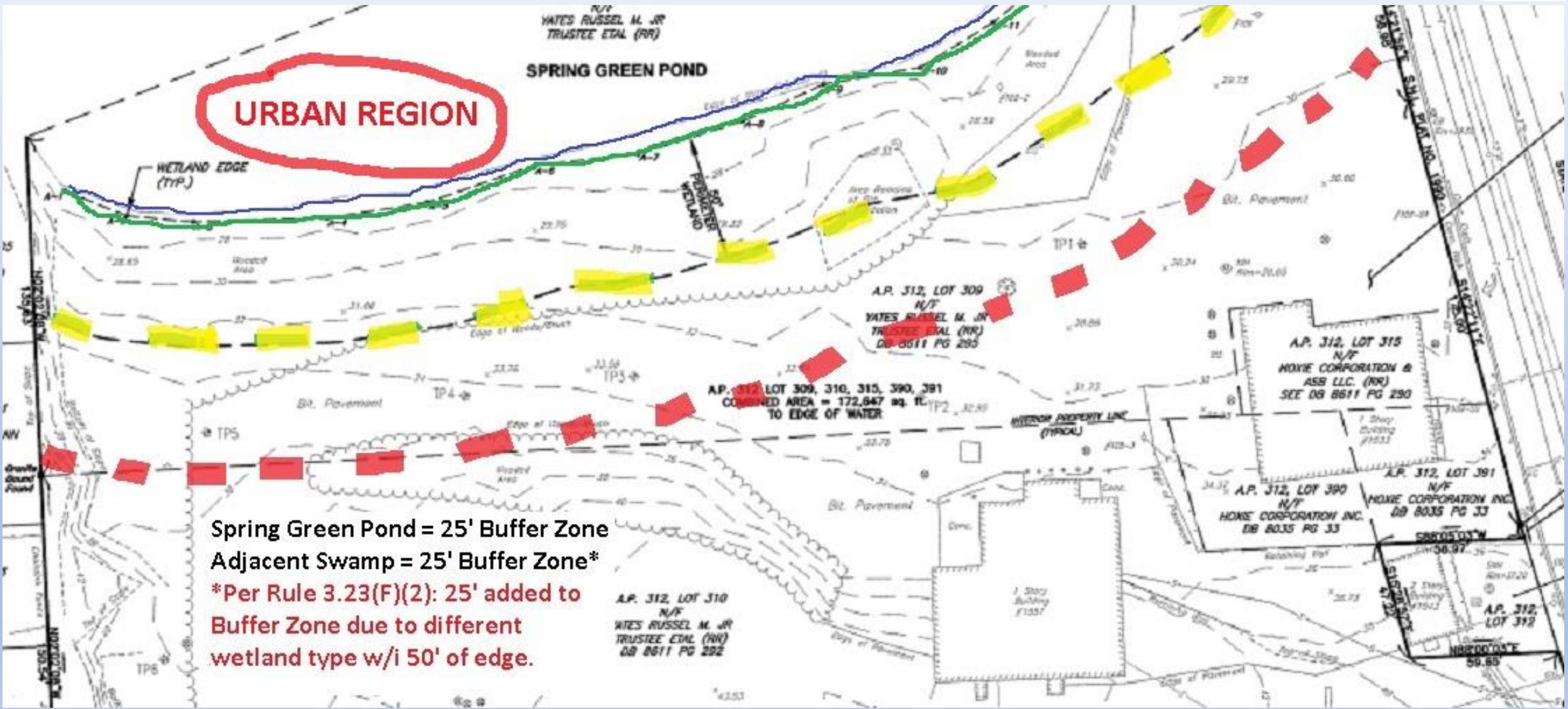
- **Step 4:** (applicable to vegetated wetland types only) Determine if a different wetland type or sub-type is present 50 feet or less inward of the upland/wetland edge.
- **Per Rule 3.23 (F)(2):** “An additional twenty-five feet (25’) will be added to the buffer zone width when one (1) or more differing freshwater wetland types or subtypes are present within fifty feet (50’) inward of the freshwater wetland edge, but in no case will a buffer zone exceed the limit of a jurisdictional area.”



Diverse Wetland Types



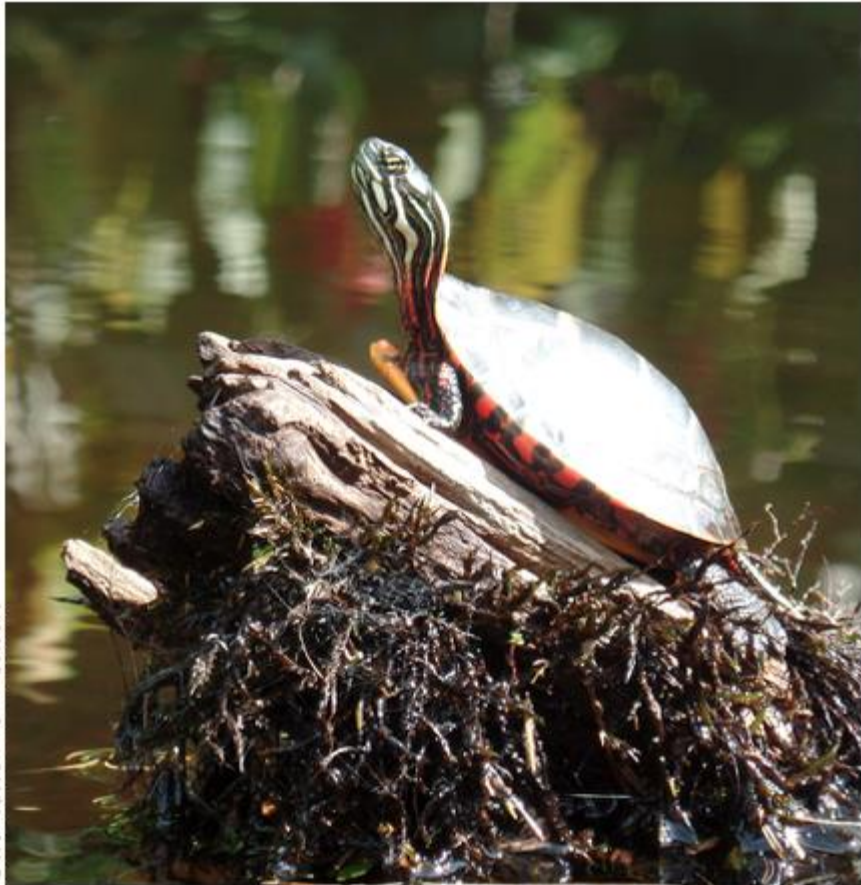




Spring Green Pond = 25' Buffer Zone
Adjacent Swamp = 25' Buffer Zone*
*Per Rule 3.23(F)(2): 25' added to
Buffer Zone due to different
wetland type w/i 50' of edge.



Questions on Determining Buffer Zone?



Gabrielle De Meillon



Buffer Standard – Rule 3.7.1(B)(3)

All projects and activities shall be designed and carried out to avoid alteration of buffers within buffer zones, except as provided for in § 2.7.1(B)(5) of this Part, Residential Infill Lot Buffer Standard. The buffer within a designated buffer zone shall consist of:

- a. All undeveloped vegetated land; and
- b. Any area to be newly created to resemble buffer pursuant to § 2.7.1(B)(4) of this Part.



Meeting Buffer Standard-Step 1

Determine if Project is a Residential Infill Lot Development

Infill Lots must meet **all four** of following criteria:

- (1) Has frontage on an existing road;
- (2) Has adjacent lots on both sides that are developed;
- (3) Is less than or equal to one (1) acre in size; and
- (4) Is undeveloped vegetated land.



Infill Lot Buffer Standard

- If project can be designed to meet normal Buffer Standard, and Setback Standard **it must.**
- if normal Standards cannot be met, the following applies:
 - Dwelling cannot be placed any closer than the adjacent building which is furthest from wetland edge
 - Project to be designed to avoid alteration to remaining buffer, and in no case shall remaining buffer be less than
 - 15 feet for lots <10,000 sq. ft. in area
 - 25 feet for lots 10,000 sq. ft. to <20,000 sq. ft.
 - 50 feet for lots 20,000 sq. ft. up to an acre (43, 560 sq. ft.)

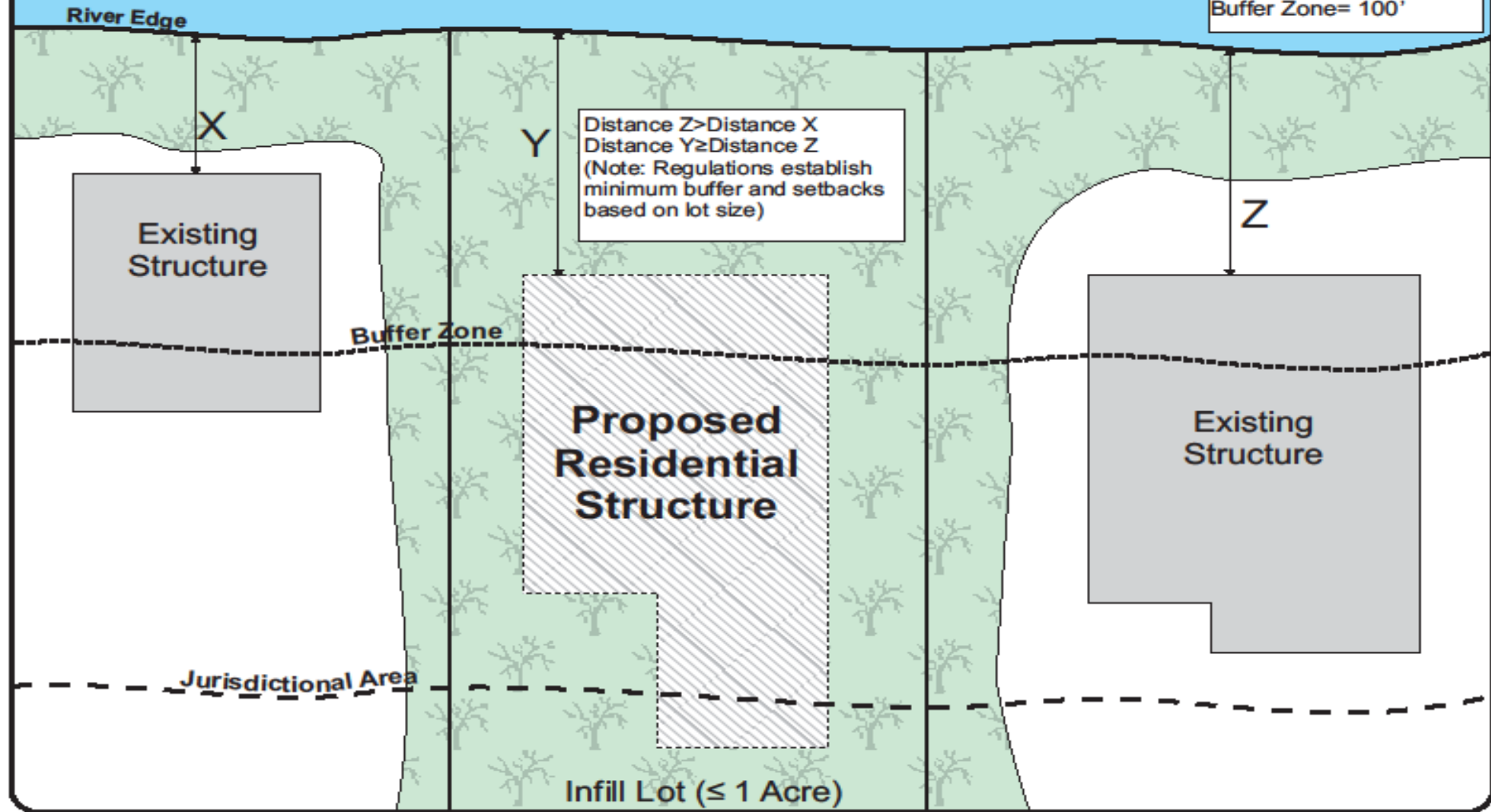
In all instances, setback will be buffer plus 15 feet.



Infill Lot Example

(For Individual Residential Lots of Record)

Jurisdictional Area= 200'
Buffer Zone= 100'





Meeting Buffer Standard-Step 2

Determine if entirety of designated “Buffer Zone” consists entirely of “undeveloped vegetated land” (and is thus “buffer”)

- If it’s all UVL, the Buffer Standard is simply avoiding disturbance within the Buffer Zone.
- If not all UVL, will need to determine if the project will trigger the need to create new buffer where it is not currently buffer (Step 3).
- From the standard: “When a project or activity is proposed within a buffer zone that does not consist entirely of undeveloped vegetated land, new buffer area may be required to be created within a portion of the buffer zone to resemble a naturally occurring vegetated area.”



Buffer

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Meeting Buffer Standard-Step 3

Determine if the project triggers the requirement for creation of new buffer.

- Applies to any lot that has no structures
- If structures are present, applies to lots 3 acres or greater in size
- Does not apply to single-family lots of record
- Provides allowances for existing shoreline access, utilities, drainage easements and structures



Meeting Buffer Standard-Step 4

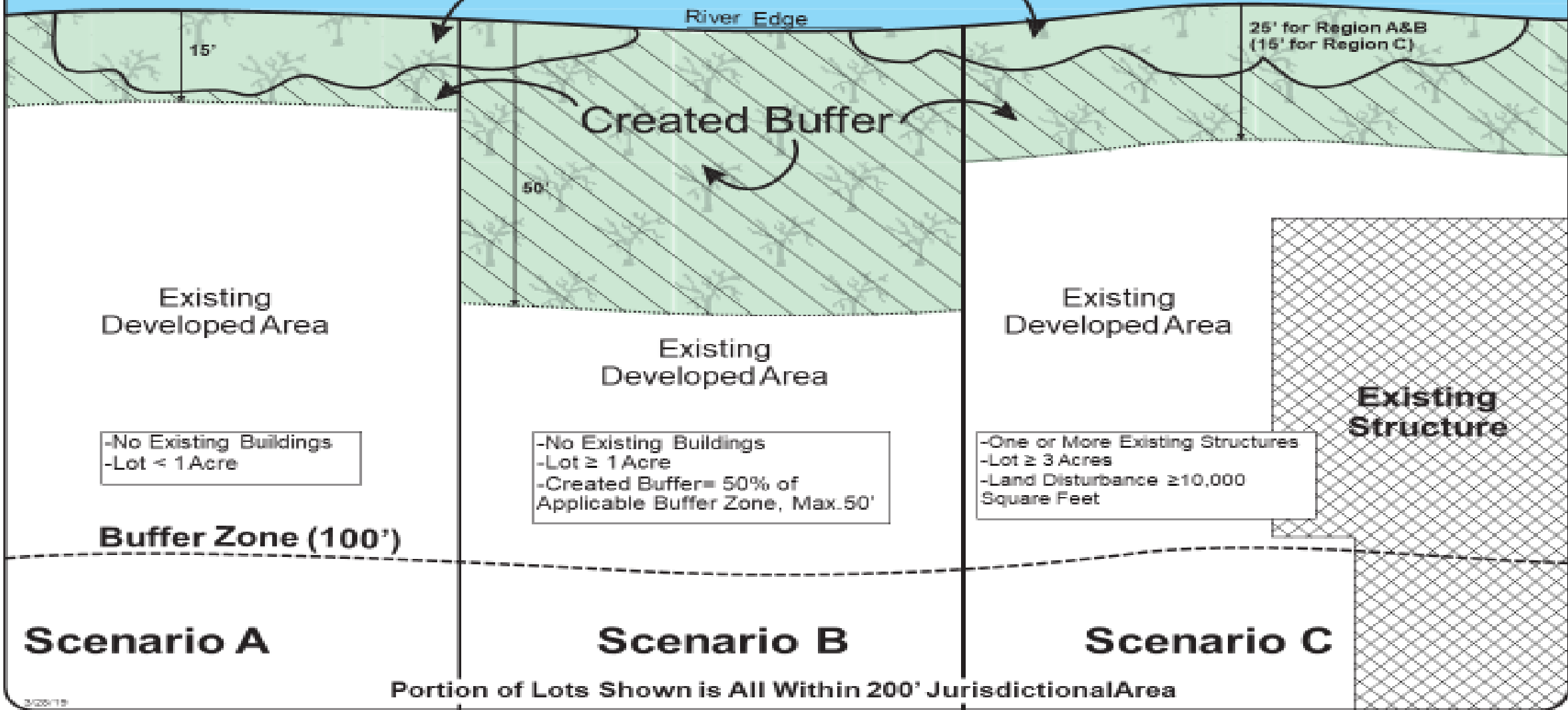
Determine how much of the buffer zone, if any, must be restored to create new buffer, and design project to avoid disturbance of any existing buffer and any areas that are to be created as buffer.



Examples of Creation of New Buffer Associated with Proposed Projects on Existing Developed Property

Buffer is created by plantings, natural revegetation, or combination of both.

Jurisdictional Area=200'
Buffer Zone=100'
LOD= Limit of Disturbance





RP Region 2
Lot <1 acre



Pond in DWSR Watershed (with river)-100' BZ





- <http://www.dem.ri.gov/programs/water/permits/pn-wetland.php>
- Please see the chat for a link to submit a question on the Rules, and also a link to a short survey for feedback on this presentation