

Freshwater Wetland Regulation and Protection

Year End Report 2001

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Prepared for the Wetland Task Force

January 28, 2002

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EXECUTIVE SUMMARY

The Department of Environmental Management (DEM) Wetland Task Force Final Report was completed on March 21, 2001. Implementation of the Task Force recommendations was a high priority for DEM in 2001. Two wetland rule amendments were completed: the first amendment effective January 2001 established uniform appeal periods; the second amendment effective in September clarified DEM and Coastal Resources Management Council (CRMC) regulation of freshwater wetlands among other things. Phase 2 rules under development include a revised fee schedule and a reorganized rule structure.

Wetland permitting and compliance statistics for 1999 and 2000 were compiled in 2001. DEM granted 593 permits during the 2-year period with the majority of the permits being for residential development. A net loss of 2.6 acres of biological wetland was permitted. DEM stepped up permit compliance inspections in 2001 and found that ~17% of permittees were in noncompliance of some sort. In the year 2000, the Office of Compliance (OCI) received 551 wetland-related complaints and issued 99 enforcement actions. OCI determined that there were 17.4 acres of unauthorized wetland, river, and stream alteration, and 10.8 acres of unauthorized alteration of the perimeter, riverbank and floodplain wetlands.

DEM and EPA Region 1 supported and worked closely with scientists at the University of Rhode Island, Department of Natural Resources Science who completed a survey of wetland map users and experts, developed a proactive freshwater wetland restoration method, and developed a vernal pool website. DEM also worked with partners to acquire valuable wetlands such as those at the Toste Farm in Tiverton and Little Compton. In response to the Wetland Task Force recommendations, the Office of Water Resources expanded its wetland outreach efforts in 2001. New guidance materials were developed and several successful training workshops were conducted. DEM and EPA Region 1 also supported several local wetland protection projects.

INTRODUCTION

This report provides a summary of freshwater wetland regulatory and protection activities performed or completed by the Department of Environmental Management (DEM) in partnership with others during the year 2001.

REGULATORY PROGRAM

Wetland Task Force

In January 2000, the DEM Director formed a Wetland Task Force which began a Department-wide effort to streamline the regulatory programs. The Wetland Task Force met throughout calendar year 2000 and concluded its work with the completion of the Final Report on March 21, 2001.

The Task Force investigated statutory, regulatory, policy, and administrative changes in order to streamline program operations, increase customer satisfaction and meet the mandates of the law. Task Force members represented a wide range of interests including federal, state and local government, the Governor's Office, the Legislature, builders, realtors, consultants, nonprofit organizations, and scientists. Based on issues raised by the members, 10 working groups were formed who subsequently brought recommendations back to the full Task Force. The Department analyzed the recommendations and committed to moving forward with many program changes as described in the Final Report's executive summary.

No statutory changes were recommended. However, it was agreed that if the Wetlands Act were to be revisited in the future, the Statement of Intent should be clarified; permit life spans should be considered relative to project timelines; and the posting of performance bonds for mitigation work should be considered. Final regulatory recommendations include 4 phases of *Rule* revisions. Phase 1 is complete and phase 2 is nearing completion. Phase 2 will incorporate a simplified fee schedule, rule reorganization, and removal of barriers for pre-application meetings. As proposed, Phase 3 will include a new determination of applicability and an abbreviated *Request for Preliminary Determination* application. The fourth phase will further facilitate water quality improvement and habitat restoration projects. The policy, administrative, and outreach recommendations aim to clarify program operations, increase program efficiency, and improve the quality of applications.

Implementation of Task Force Recommendations

Implementation of the Wetland Task Force recommendations was a high priority for DEM in 2001. Many of the recommendations and deadlines were met and others were not. With EPA Region 1 support and through the New England Interstate Water Pollution Control Commission (NEIWPC), DEM obtained contractual assistance to implement both outreach and regulatory recommendations in a multi-year plan. A wetland outreach specialist, Susan Ely, was hired in July 2001 for a 1-year period. An environmental attorney, Cynthia Giles, Esq., was contracted for 2 months in June-July, and a replacement, Robert Russell, Esq., was contracted in October through the present. With EPA support, DEM proposes to

continue working through NEIWPC in 2002, thus implementing additional Task Force recommendations and program improvements. The current status of the Department's work is summarized in Appendix A and described throughout this report.

At DEM's request, C. Giles completed an independent review of the Wetlands Program and was asked to offer additional recommendations to those in the Task Force Final Report. She recommended actions for DEM to consider which could further streamline the permitting process and others to increase protection (Appendix B). DEM is analyzing these recommendations and will include them in future work plans as appropriate.

Permit Streamlining Initiatives

In March 2001, the Permitting Program developed a multi-step plan to reduce the application backlog, and to respond to applicants and make decisions more quickly. Overtime was authorized, additional engineering assistance was obtained from other units, more preapplication meetings were conducted, and Program supervisors were encouraged to reject bad applications. A full description of the performance goals, action steps, and results are in Appendix C.

Regulatory Revisions

Rule amendments became effective Department-wide on January 1, 2001 in response to the uniform appeal statute (R.I.G.L. 42-17.7-9). The wetland revisions advise the regulated community that newly enacted times must be followed for appeals of permits, applications, and enforcement actions.

Phase 1 *Rule* amendments (dated August 2001) went into effect on September 19, 2001. Included are definitions and reduced fees for wildlife habitat and water quality improvement projects, as well as reduced fees for land reuse and redevelopment projects. In addition, private property owners are now eligible to apply for permits for emergency alterations. The amendments allow a permit to be modified if the proposed project change involves increased disturbance into already disturbed wetland. Conversely, a permit modification will not be approved if there is a proposed increase in disturbance into areas that were not previously evaluated by DEM as part of the initial application.

More notably, the amendments clarify whether DEM or the Coastal Resources Management Council (CRMC) will review freshwater wetland projects that are on, or that straddle, the jurisdictional boundary. In conjunction with the *Rule* amendments, DEM and CRMC revised the freshwater wetland boundary to further reduce jurisdictional overlap at 3 tidal rivers so that the freshwater boundary coincides with the

coastal program boundary. In cooperation with CRMC, DEM made corresponding changes to the maps and reissued them in September. These agencies also finalized and executed a Memorandum of Agreement detailing interagency coordination and operations.

Rules Department-wide were filed electronically with the Secretary of State's Office on December 19, 2001 and refiled physically on December 31, 2001. The wetland regulations and amendments were not merged for this refiling, but will be merged as part of the Phase 2 amendments. The refiled rules can be found at the DEM website at <http://www.state.ri.us/dem/pubs/regs/index.htm#WR> under Water Resources and Legal Services.

The Phase 2 *Rule* amendments are well underway. A draft revised fee schedule is undergoing internal review. The draft simplifies the way fees are calculated by eliminating the fee additives and introducing more flat fees. The presentation of the fees is also simplified by table format. An outline of a 'reorganized' rule was completed and a first draft is nearing completion and will undergo internal review in February 2002. This reorganization is primarily intended for clarity and structure. Its does not include substantive technical or programmatic changes. Phase 2 amendments are scheduled for June 2002 completion.

Other Regulatory Issues

DEM and CRMC renegotiated the Programmatic General Permit (PGP) with the Army Corps of Engineers, New England District and with other federal agencies in 2001. The PGP facilitates a coordinated federal and state review of applications involving deposition of dredged or fill material in wetlands. The PGP enables applicants to submit a single application to the State agency to obtain both State and federal wetland permits. The new 5-year agreement becomes effective in February of 2002. No substantive changes were made to the freshwater aspect of the PGP.

The Wetlands Program was confronted with other wetland policy and permitting questions during 2001. An "in lieu fee" wetland mitigation bill was introduced to the legislature and DEM offered comment. The legislature and watershed groups questioned how DEM permits aquatic weed control projects. Policy staff completed a white paper and recommendations in September 2001 and application guidance is now being drafted for permitting these projects. In response to concerns raised by the Dam Safety Task Force, policy staff researched all dam projects permitted during the past 10 years and rule revisions are being drafted as part of Phase 2, which will tailor application requirements.

STATISTICS

The following statistics were compiled in 2001 for the years 1999-2000.

Permits granted

In the calendar years 1999 and 2000 the OWR Wetlands Program issued 318 and 287 new permits respectively (Table 1). In both years, over 90% of the new permits were for projects involving insignificant alterations to wetlands. A total of 21 permits to alter and one emergency permit were granted during this time period. Eleven applications were denied in 1999 and 2000.

The greatest number of new permits was issued for residential development, including new residential lots, modifications to already developed lots, residential subdivisions, and apartments or condominiums. Permits for residential development represented 54% of the permits issued in 1999 and 53% of the permits issued in 2000. There were 119 and 100 permits granted for new residential lots alone in these years. This represents 37% and 35% of the total permits granted in each of those years.

Table 1			
Freshwater wetland permits granted by DEM 1999 and 2000 (Foxpro, 2001).			
PERMIT & PROJECT TYPE			
Insignificant Alterations			
	1999	2000	Total
Apartments/condos	12	12	24
Residential lots	116	96	212
Residential subdivisions	43	44	87
Office/commercial	68	38	106
School/church	5	14	19
Parks/recreation	5	12	17
Golf courses	4	2	6
Road and bridge reconstruction	11	4	15
Driveways/access roads	6	1	7
Trails, paths, footbridges, sidewalks, bike paths	2	3	5
Drainage and subdrains	7	9	16
Utilities and wells	12	6	18
Railways	1	0	1
Dam repair project	0	4	4
New pond/pond excavation	1	1	2
Shoreline stabilization	4	1	5
River relocation	1	0	1
Dry hydrant	1	1	2
Docks and floats	3	2	5
Land clearing	0	1	1
Irrigation/water diversion	0	2	2
Unclassified projects	<u>7</u>	<u>21</u>	<u>28</u>
Subtotal	309	274	583

Table 1 continued Freshwater wetland permits granted by DEM 1999 and 2000 (Foxpro, 2001).			
PERMIT & PROJECT TYPE			
Permits to Alter			
	1999	2000	Total
Residential lots	3	4	7
Residential subdivisions	0	1	1
Office/commercial	2	2	4
Road and bridge reconstruct.	0	1	1
Utilities/wells	0	1	1
Golf course construction	1	1	2
Docks/floats	0	1	1
Unclassified projects	<u>2</u>	<u>2</u>	<u>4</u>
Subtotal	8	13	21
Emergency Permits			
	1	0	1
Total	318	287	605

Permitted losses and gains

Three and eight tenths (3.8) acres of wetland loss were permitted by DEM in 1999 and 2000 through 25 permit decisions (Table 2). During the same period, there were 1.2 acres of wetland gain authorized through one permit. Note that permitted loss of perimeter wetland, riverbank wetland and floodplain is not recorded.

Table 2. Permitted freshwater wetland loss and gain (acres) (Foxpro, 2001).			
Year	Permitted Loss	Permitted Gain	Net Loss/Gain
1999	0.5	0	0.5 net loss
2000	3.3	1.2	2.1 net loss

Compliance and Inspection

In the year 2001, the Office of Water Resources, in coordination with the Office of Compliance and Inspection increased the inspections of properties with wetland permits to make sure property owners were in compliance. Permitting staff conducted 156 compliance inspections and found 27 cases of non-conformance, which means that approximately 17% of inspected sites are in permit violation of some sort.

During calendar year 2000, the Office of Compliance and Inspection (OCI) received 551 wetland-related complaints and issued 99 enforcement actions, including, warning letters, Notices of Intent to Enforce,

and Notices of Violation. The OCI determined that 213 complaints were unfounded, 132 additional complaints needed no further action, and 125 complaints needed further follow-up. A total of 1007 inspections were completed in 2000.

It should be noted that a majority of enforcement actions are resolved without adjudication or court action. The OCI seeks informal resolution of enforcement actions whenever possible. When necessary, cases are referred to the Office of the Attorney General for prosecution: they were involved in 7 cases in the year 2000. OCI also negotiated 2 alternative dispute resolution cases, and filed 2 cases in Superior Court. Fifteen thousand three hundred dollars of penalties were assessed in 2000 and in the same year \$61,725.00 were collected, some of which was assessed in prior years.

Based upon enforcement activities, the OCI determined that in 2000, there were 17.1 acres of unauthorized wetland alteration, 0.3 acres of unauthorized alteration of rivers and streams, and 10.8 acres of unauthorized alteration of the 50-foot perimeter wetland, riverbank wetland or floodplain. A total of 4.2 acres of wetlands, 0.1 acres of rivers and streams, and 8.2 acres of perimeter wetland, riverbank wetland, and floodplain were reported restored during this period.

NON-REGULATORY PROTECTION

Mapping

At the request of DEM, and with EPA support, former University of Rhode Island (URI) Research Associate, Nick Miller, and Dr. Frank Golet and Dr. Peter August completed a survey of wetland map users. Nearly 500 of these surveys were mailed to regulators, planners, municipal officials, builders, and private conservation organizations. One hundred and forty responses were received (~28% return rate). The results indicated that a wide range of professionals use wetlands map data regularly and that users prefer up-to-date, large-scale maps, with a high degree of positional accuracy. The majority of users think that improved maps are needed, while understanding that even the best map will not replace field information. Also as part of this project, 13 regional wetland and mapping experts were interviewed to determine the best methods to improve Rhode Island's wetland maps should funding be available. In a report to DEM the project principals recommend that the State undertake a project to improve wetland maps and that 1:12,000 scale, color-infrared photography be used as the source imagery (Miller, Golet, and August, 2001).

Freshwater Wetland Restoration Planning

In 1999, DEM Office of Water Resources, in coordination with Dr. Frank Golet and Research Associates at the URI Department of Natural Resources Science began a project, funded directly by EPA Region 1, to investigate freshwater restoration opportunities in Rhode Island. Phase 2 was conducted throughout 2001 and is scheduled for completion in March 2002. One hundred and forty six potential wetland restoration opportunities have been identified in the Woonasquatucket River watershed. Land ownership was researched and landowners have been contacted. With landowner permission the University Research Associates are conducting field investigations to confirm the restoration opportunities and to perform functional assessments. Input from the Woonasquatucket Watershed Council has been solicited and the final restoration plan will be available to agencies, municipalities, other watershed associations, and stakeholders. More about this proactive restoration project can be found at <http://www.state.ri.us/dem/programs/benviron/water/wetlands/restfresh.htm>.

Through another project a comprehensive inventory of potential riparian buffer restoration sites along the mainstem of the Woonasquatucket River was completed in 2001. DEM Strategic Planning coordinated this Woonasquatucket Riparian Buffer Project through a U.S. Forest Service grant. Thirty-six potential restoration sites were identified and evaluated, including restoration cost estimates. Five sites were identified and discussed with the Woonasquatucket River Watershed Council. Riverside Mills in Providence was selected as the most practical and preferred site for restoration.

The National Corporate Wetland Restoration project (CWRP) celebrated the start of the Rhode Island chapter in 2001 with the announcement of a \$100,000 grant from Narragansett Electric and Environmental Services. The CWRP, founded by Gillette in Massachusetts, combines corporate contributions with federal and state funds to restore degraded wetlands.

Vernal Pool Protection

The URI's Dr. Peter Paton and students in partnership with EPA Region 1 and DEM developed a vernal pool web site viewable at <http://www.uri.edu/cels/nrs/paton/>. This website includes information on the characteristics of vernal pools, how to identify them, and indicator species. A large portion of the site is dedicated to life history accounts and movement patterns of pond-breeding amphibians, which is information not readily available from other sources. In addition, information is provided on the current efforts to protect vernal pool habitat, including state definitions and regulations.

In 2001, the URI Department of Natural Resources Science and DEM also teamed on the development of a database and GIS coverage of amphibians based on nearly 20 years of DEM Fish and Wildlife service field records. This database will initially be used by DEM and then expanded to include other amphibian and vernal pool data.

Wetland Acquisition

DEM acquired 58 new properties totaling 3553 acres during 2000 and 2001. Approximately 35% of the land area is wetland. DEM partners with several agencies to acquire land, most notably the Audubon Society of Rhode Island and The Nature Conservancy, Rhode Island Field Office. With help from these associations, DEM is eligible for grant funds through the North American Wetlands Conservation Act (NAWCA) administered by the U.S. Fish and Wildlife Service. One million dollars was allocated to Rhode Island via NAWCA in 2001 to help purchase land for conservation. The projects for which the grants were approved have been ongoing and overlapping for the past 5 years. Any land purchased with NAWCA funds must contain 50% percent or more wetland.

During 2000 and 2001 there were a number of noteworthy properties acquired by DEM. The Toste Farm in Tiverton and Little Compton, was purchased in 2001 with NAWCA funds. This land includes more than 400 acres with a variety of freshwater wetlands, including swamp and wet meadow. The northern portion of the land is wooded swamp, which provides an excellent buffer to the reservoir that provides Newport’s water supply. The swamp also provides habitat for several less common forest nesting birds. In addition many wintering waterfowl call the nearby reservoir home.

Table 3. Wetland acquisition by DEM in 2001 (Jordan, 2001).	
Wetland type	Area (acres)
Marsh/Wet Meadow	65
Scrub-Shrub Swamp	38
Shrub Fen or Bog	2
Forested Wetland: Coniferous	28
Forested Wetland: Deciduous	352
Palustrine Open Water	17
Estuarine Emergent Wetland	12
Estuarine Open Water	6
Marine/Estuarine Unconsolidated Shore	9

WETLAND OUTREACH

Outreach has been an especially important part of the wetlands program during the past 2 years.

In September 2001, DEM partnered with the Rhode Island Association of Wetland Scientists (RIAWS), the Forest & Wood Products Institute, and the Southern New England Logger Ed program for a Saturday workshop on *Wetlands Regulations for Loggers*. The purpose of the workshop was to provide information on Rhode Islands wetlands such as reasons for their importance, tools for identifying wetlands, and regulatory requirements and best management practices for loggers. DEM OCI also assisted the Rhode Island Forest Conservator's Organization, Inc. with revisions to the forestry *Best Management Practices for Rhode Island* manual.

In November 2001, DEM hosted a *Wetlands Permit Training Workshop* for consultants. RIAWS, along with the City of Cranston and the Department of Administration all helped in planning the event. The purpose of the workshop was to share information with consultants, which would in turn help them to prepare better applications for DEM. The response was excellent. Over 55 consultants came for a morning of training and offered very positive comments to staff on presentations and organization.

As a counterpart to the November consultants' workshop, DEM hosted another Wetlands Permit Training workshop for Municipal Officials in January 2002. This workshop had a similar focus to the November workshop, but also included a Town/City & DEM Coordination panel discussion. Nearly 50 participants from 21 different cities and towns attended this workshop to learn about the wetlands permitting process and how to submit quality applications. Again, DEM received many favorable evaluations on the workshop and presentations.

DEM staff with the assistance of the Wetland Task Force outreach-working group and RIAWS prepared new fact sheets and engineering guidance documents in preparation for the 2001 workshops as follows:

- FS#2 – Examples of Exempt Activities illustrations
- FS#6 – Wetland Application Process flow chart
- FS#7 – Vegetated Wetlands definitions
- FS#8 – Flowing or Standing Water Wetlands definitions
- FS#9 – Perimeter, Riverbank and Flood Plain Wetlands definitions and table
- FS#10 – Wetland Buffer Plantings
- FS#11 – Common Application Mistakes and Deficiencies – Administrative
- FS#12 – Common Application Mistakes and Deficiencies – Technical
- Guidance – Impact Avoidance and Minimization
- Guidance – Floodplain Impacts: Regulatory Provisions Pertaining to Floodplains and Floodways
- Guidance – Preparation of Stormwater Best Management Practices
- Guidance – Hydrologic and Hydraulic Modeling Guidance

An addendum was added to “What’s the Scoop on Wetlands,” along with a new colored brochure on *Rule 2.03* in conjunction with the Phase 1 Rule amendments. Sample application packages for a single house lot and for 2 municipal projects were also prepared. All these materials are presently being added to the DEM wetland permitting website at <http://www.state.ri.us/dem/programs/benviron/water/permits/fresh/index.htm>.

DEM Office of Water Resources unveiled a new wetland web page on Rhode Island freshwater wetlands in 2001, with links to local EPA projects, the URI vernal pools website, wetlands status and trends, and wetlands by watershed. See <http://www.state.ri.us/dem/programs/benviron/water/wetlands/index.htm>. SRM, INC. of Middletown, RI designed the graphics. This page is meant to help the public learn about wetlands in a non-regulatory context. Finally, DEM has partnered with the Roger Williams Park Zoo on a multi-year project to develop a wetland education center at the Zoo.

LOCAL EPA-SPONSORED PROTECTION PROJECTS

The EPA Region 1 Wetlands Coordinator, Peter Holmes, and DEM managed several EPA-sponsored local protection grant projects during 2000 and 2001. The completion date for most projects was December 31, 2001 with final reports due to the respective agencies within 30 to 90 days.

- *City of Warwick and Save the Bay - Wetland Outreach*
The grant-funded project was used to educate coastal homeowners in the city of Warwick. This was a collaborative project to address the protection, management and enhancement of Warwick's coastal marshes and tidal waters through direct education of coastal property owners.
- *City of Providence - Riparian Buffer*
The grant-funded project was used to develop a plan for wetland buffer restoration along the banks of the Woonasquatucket River at the Riverside Mills and Lincoln Lace & Braid Mills Brownfield sites. The plan will provide a low maintenance, natural vegetative buffer that will improve water quality and create habitat for wildlife.
- *Town of North Kingstown Wetlands Action Plan*
The Town is developing an action plan to protect wetlands and wetland resources in the community. The Action Plan will identify protection measures, establish new and increase existing buffer zone requirements for resource protection, document and map wetland resources, and provide educational tools to inform residents of the importance of wetlands. One of the key goals of the Action Plan is achieving a no net loss of wetlands in an effort to embrace sustainable economic development, healthy environment, and a more livable community.

- *DEM, the Southern Rhode Island Conservation District, the Audubon Society of Rhode Island, and Wood Pawcatuck Watershed Association - The Queens River*

In partnership with the Pawcatuck Watershed Water Use Stakeholders Group critical habitat features in the Queens River were identified and assessed through a well-trained group of volunteers. The project improved understanding of water use and wetlands protection issues in the Queens River sub-basin by involvement of community decision-makers, major water users and residents. The project focused on the connection between water use and associated wetlands habitat.

- *The Nature Conservancy, Audubon Society of Rhode Island, and DEM - Conservation Plan for Tiverton and Little Compton*

The grant partnered The Nature Conservancy, the Audubon Society of Rhode Island, DEM, and local partners in the development of a Conservation Plan for wetland and other natural resource areas in Little Compton and Tiverton. The plan identifies priority conservation areas based on examination of all the natural resource values in the area and includes a GIS-based map with the highest priority tracts highlighted. The project resulted in the development of a very practical tool that is available to all the participating conservation practitioners.

- *Town of Coventry - Wetland Restoration and Enhancement Demonstration Project at Sandy Bottom Road*

The grant partnered the Town of Coventry with the Rhode Island Association of Wetland Scientists (RIAWS) in the development of conceptual wetland restoration plans on a 20 acre property on Sandy Bottom Road that was recently acquired through a Natural Heritage Preservation Commission Open Space grant. Through this grant the partners formed a stakeholder team and conducted several review meetings. The DEM Division of Fish and Wildlife will fund development of parking, fishing and landscaping enhancements on this property. Wetland restoration and other property enhancement will enable visitors to enjoy a quality outdoor experience in an urban setting.

In addition EPA and DEM assisted the Pawtuxet River Authority in the development of a wetland bioassessment project in the watershed.

FOR MORE INFORMATION

For more information about wetland regulation, protection, and outreach please see the Rhode Island DEM websites at <http://www.state.ri.us/dem/programs/benviron/water/permits/fresh/index.htm> and <http://www.state.ri.us/dem/programs/benviron/water/wetlands/index.htm> or contact:

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APPENDIX A

Status of Wetland Task Force Final Recommendations (Tables modified from Final Report dated March 21, 2001)

Table 2. Projects Common to the Wetlands Task Force Recommendations and the DEM Work Plan		
Project Description	Issue Originator	Status - January 2002
Continue development of proactive freshwater wetland restoration strategy with URI and stakeholders. Phase 2 is restoration plan for Woonasquatucket River watershed. (EPA 104(b)3 wetland grant)	EPA, DEM WW-5d, WVO-2a	Phase 2 complete by March or June 2002.
Participate in RI Habitat Restoration Team. Provide some technical assistance for freshwater restoration projects.	DEM	Ongoing
Manage URI project to determine wetland mapping needs and to assess mapping alternatives and costs (EPA 104(b)3 grant funded)	WTF O&E3b; DEM	Complete 03/01 with results mailed to respondents 12/01
Administer grants for local projects: 1) TNC Wetland Conservation Plan for Tiverton & Little Compton; 2) Town of Coventry restoration demonstration project; assist 3) EPA other FY99 grants	EPA, DEM WW-5e WVO-2aiii	Projects complete 12/31/01 with final products due within 30 to 90 days
Write wetlands status & trends report	EPA, WW-5d	Internal draft 12/01
Complete background research and outline issues for statewide Wetland Conservation Plan. Coordinate planning with other Office of Water Resources plans.	EPA, DEM WW-5d	No work completed, pending intern assistance
Participate in N.E. Wetlands Workgroup through NEIWPC	DEM	Ongoing - next 2/02
Participate in N.E. Wetland Bioassessment Workgroup through EPA, Region 1	EPA, DEM	Ongoing - next 2/02
Participate in RI Invasive Species Forum	DEM	Attended workshop

Table 3.		
Proposed Freshwater Wetland Rules Development		
Rule	Proposed Revisions #1	Status Effective 09/19/01
2.03 A-F	New rules for “freshwater wetlands in the vicinity of the coast”	Complete
5.00	New definitions: <ul style="list-style-type: none"> • Freshwater wetlands in vicinity of the coast; • Water quality improvement project; and • Wildlife habitat project. 	Complete
7.04 B	The rule was deleted to allow for entities other than government and public utilities to pursue emergency permits.	Complete
Rule	Table 3 continued. Proposed Revisions #1	Status
9.01 A	The rule has been revised to allow private landowners to pursue permits for emergency alterations that represent threats to health and safety.	Complete
8.02 C	The rule has been revised to clarify that if an applicant proposes alterations on property owned by other(s), a notarized signature of the other landowner(s) is required, but the other landowner(s) does not become an applicant.	Complete
8.04 E6	This rule includes new reduced fee categories for wildlife habitat projects, water quality improvement projects, and land redevelopment/reuse projects in recognition of their potential environmental benefits. Also based on this revised rule, the fees for airport projects will be calculated by the Estimated Construction Costs (ECC) method.	Complete
8.05 C	The rule was reviewed and it was determined that the first sentence provided enough flexibility to allow applications to be processed out of sequence. The rule has been revised to specifically state that Critical Economic Concern applications will be processed out of sequence.	Complete
9.02	The rule has been revised to state that application files for wetland edge verification will be considered closed after 2 years if an applicant hasn’t responded to a request from the Wetland Program for more information.	Complete
9.05 E4a	The rule has been revised to extend the appeal period, after an <i>Application to Alter</i> decision, from 10 days to 30 days.	Complete
9.05 G2	The rule has been revised to allow an <i>Application to Alter</i> file to stay open for 30 days after a decision is made.	Complete
9.09 A	The rule has been revised to allow a permit to be modified if the proposed change involves increased disturbance into already disturbed wetland.	Complete
9.09 D	The rule has been revised to explain that a permit modification will not be approved if there is a proposed increase in disturbance into land areas not evaluated by the Program as part of the initial application.	Complete
15.10 A1)	The rule has been revised to extend the length of the appeal period during which an adjudicatory enforcement hearing can be requested from 10 days to 30 days.	Complete

Table 3 continued

Proposed Freshwater Wetland Rules Development

Rule	Proposed Revisions #2	Status Completion June 2002
8.04	Revise the fee schedule to simplify both the presentation and the way the fees are calculated. Eliminate the fee additives (per sq. ft. of alteration, etc.). Eliminate fees for municipalities. Otherwise strive for revenue neutral fees.	Draft under internal review. Fees for municipalities will not be eliminated.
6.00 through 14.00	Reorganize the rules for readability and clarity: improve application requirements and process descriptions, improve table of contents, and add an index. These revisions will be more presentation than content.	First draft for internal review by 02/01
6.00 through 14.00	Remove rules that address internal administrative operating procedures and create a new management procedure document as appropriate.	Analyzed with reorganized rule
3.00	Expand administrative findings section to discuss the significance of the bordering areas (perimeter wetland and riverbank wetland) in scientific terms	No action yet.
Rule	Table 3 continued. Proposed Revisions #2	Status
8.07 B. 8.07 C.	Delete these rules and develop a policy whereby meetings with the Program (as opposed to w/ OTCA) will be scheduled and conducted.	Rules deleted as part of draft reorganized rule. Policy due with Rules 2.
Rule	Proposed Revisions #3	Status
----	Develop new <i>Determination of Applicability</i> application for those ~75 applicants per year who file a <i>Request for Preliminary Determination</i> and receive determination of non-jurisdiction. Roll applicant into the Preliminary Determination process if it is determined that an alteration is proposed.	All targeted for completion March 2003
----	Develop new <i>Abbreviated Request for Preliminary Determination</i> application (PD1) with reduced requirements for specific projects including planting projects and alterations to already developed residential lots.	
	Develop new regulatory timelines to approve complete applications, by application type. Investigate refunding permit fees, if review times are not met.	
14.00 & App. 5	Evaluate site plan requirements, particularly for small projects such as single family residential.	
6.13	Consider revising exemption to allow others beside DEM FWS to undertake conservation projects as exempt activities or as a "FONSI"	
7.01 B	Develop guidelines, BMPs, and/or performance standards for major projects outside of wetland jurisdictional areas that have the potential for significant wetland impacts.	
6.03L	Clarify the exemption on replacement of shoreline structures as to "in-kind" materials.	
-----	Evaluate the CRMC fact sheet on program differences and revise rules as agreed upon. For example, the length of time permits are valid differs.	

Table 3 continued		
Proposed Freshwater Wetland Rules Development		
Rule	Proposed Revisions #3 continued	Status Completion March 2003
6.00	Revisit rule 6.00 and consider expanding the list of exempt activities.	
App. 1	Revisit appendix 1 and consider expanding the list of activities considered insignificant alterations.	
5.00 ++	Develop and add buffer zone and setback rules.	
Rule	Proposed Revisions #4	Status
Several	Revisions to facilitate water quality improvement and wildlife habitat projects (phase 2)	After Rules 3

Table 4.		
Final Policy Recommendations		
Policy Changes Description	Project Originator	Status
Develop protocols that clarify responsibilities between DEM's compliance and permitting programs.	DEM	Complete
Complete DEM-CRMC Memorandum of Understanding for regulation of freshwater wetlands. (Phase 1 regulations)	CRMC-1a,b,c; DEM	Complete 09/01
Table 4 continued. Final Policy Recommendations Policy Changes Description	Project originator	Status
Develop policy that encourages water quality and wildlife habitat projects. (Phase 1 regulations)	BPE-4; DEM	No action yet
Revise and make public the internal memo on "insignificant alteration versus non-jurisdiction" decisions.	DEM	Program decision to omit this work item and focus on standards for 7.01B with Rules 2
Develop trial policy for pre-application field meetings for problem wetland edges.	C-3	Spring 2002
Develop policy for pre-application meetings with Program	IM-1	Due with Phase 2 Rules
Establish ISDS / Wetlands coordinated field review for projects that are near but outside regulated wetland.	Alt. C-2	Spring 2002
Develop policy that promotes planting projects with recommended species and Best Management Practices	DEM, BPE-2	Due with Phase 3 Rules
Develop buffer zone and setback concept: a) Develop permit condition that identifies area to remain undisturbed as a buffer zone; b) Buffer zone mitigation and setbacks especially for residential lots.	CRMC-	a) Complete and in limited use b) To be analyzed with Phase 3 Rules

Table 5.**Final Administrative Recommendations**

Administrative Changes Description	Project Originator	Project Completion Date
Send deficiency notices to applicant, consultant, and/or attorney when requested.	S01	Complete
Revise the application form to encourage applicant's address to improve service to applicant; also add checkoff for CEC projects.	DEM	Draft under internal review
Authorize signature authority to lower staff level where appropriate.	DEM	Complete
Assign existing staff intermediate supervisory responsibilities.	DEM	Complete
Provide staff expanded access to FoxPro to update status.	DEM	Complete
Define overall processing sequence.	DEM	Complete
Redesign (simplify) existing application package (w/ Rules 3).	DEM	Due with Rules 3
<p>An accelerated review process was suggested for the following:</p> <ul style="list-style-type: none"> i. Applications for Renewal where it has been established that work has not yet commenced. ii. Applications for projects that have been previously approved and need to be minimally modified, but do not qualify for review under an Application for Permit Modification (e.g. involve additional alteration or impacts to freshwater wetlands). (A-1f) 	<p>A-1e</p> <p>ii. A-1f</p>	Complete
DEM should notify the public, if requested, regarding the findings of wetland complaints upon completion of the complaint investigation.	FE -3	Complete
CRMC and DEM will develop a coordinated review process for applications for projects on the DEM side of the jurisdictional boundary and are located in CRMC's Special Management Plans.	CRMC-1c	Draft for single application under review by agencies

Table 6.**Final Outreach Recommendations**

Project Description	Issue Originator	Project Completion Date
Distribute permit guide and fact sheets to municipalities, consultants, RIBA, and realtors.	BPE6; DEM	Complete
Work with OTCA and continue the development of additional fact sheets on application types through the Phase 3 rules.	DEM	Ongoing
Write fact sheet of common deficiencies and solutions, and distribute to consultants.	DEM	Complete
Write fact sheet for regulated areas.	DEM	Completed
Convert application flow chart to fact sheet.	DEM O&E-1&5b	Completed
Develop sample standard site plans and applications for illustration purposes, display and put on DEM Web page. Include with this information examples of good and bad applications.	DEM O&E-1& 5g;	Completed for house lot and 2 municipal projects. Web posting 02/02.
Develop Wetlands Program Web page (contingent upon staffing after 2/01) (EPA 104(b)3 funds)	DEM O&E-3c BPE-2, WW-5b	Completed 08/01
Make list and location of pending applications available on the DEM Website and update frequently, especially for municipalities.	O&E-1&5c	Ongoing discussions
Update 1990 brochure for realtors.	DEM	By 05/02
Develop recommended drainage methodology for consultants to facilitate faster and consistent reviews.	DEM	Partially complete. Web posting 02/02.
Develop format for engineering calculations and computations to facilitate faster / consistent reviews.	DEM	Partially complete. Web posting 02/02.
Develop and conduct workshop for consultants with / OTCA. Coordinate with Board of Professional Engineers & RI Association of Wetland Scientists.	S-02; DEM	Completed 11/01
Conduct Wetlands open house for public with OTCA	DEM	Will be conducted 05/02
Develop and conduct workshop for municipal officials with OTCA coordinate with the Department of Administration, URI – Cooperative Extension and League of Cities & Towns.	DEM	Completed 01/17/02
Update wetlands permit questions & answers guide after Phase 3 Rules have been promulgated.	DEM; O&E	Due with Phase 3 Rules
Review of web-based vernal pool manual with URI and DEM Office of Strategic Planning & Policy. (EPA 104(b)3 grant)	DEM WWO-2aiv	Completed 12/01
Create guidebook with photos and field descriptions of RI wetland types for property owners (pending funding)	DEM	Pending funding
Create wetland Best Management Practices manual with avoidance and minimization techniques; sample designs, etc. (pending funding).	BPE-3 WW-6B	Request for funding to EPA 12/31/01

APPENDIX B

Additional Actions to Consider to Streamline Wetland Permitting and to Improve Protection Recommended by Cynthia Giles, Esq. July 2001

Noncompliance

- Make sure that permits clearly specify compliance requirements.
- Include permanent markers of limits of disturbance as a routine permit condition in all residential development.
- Target repeat violators for inspection and enforcement.
- Track names of applicants and contractors in the database on permits and violations.
- Publicize names of repeat violators.
- Solicit an EPA grant to assess compliance and evaluate intervention strategies.
- Include compliance improvement activities in the work plan of the outreach person.
- Include alterations of perimeter and riverbank wetlands in the permitting statistics.
- Continue to increase field presence through permit compliance inspections.
- Revisit the Department's approach to after the fact permitting.

Cumulative Impacts

- Define the limits on the Director's discretion to consider cumulative impacts under the current law.
- Consider changing the standard used in evaluating permit applications.
- Track approved alterations of perimeter and riverbank wetlands.
- Continue to address cumulative impacts in watershed and statewide resource planning.
- Include education on cumulative impacts in the wetlands outreach work.
- Conduct research on the effects of recently enacted exemptions.

Permit Processing

- Continue with changes to fee calculation rules.
- Clarify the application requirements.
- Create application forms and information focussed on home construction.
- Increase opportunities for informal discussion on permit applications.
- Create more categories of permit applications, with reduced requirements where appropriate (a.k.a. tiering).
- Set priorities for permit processing.

- Give the staff more discretion.
- Publicize contractor errors.
- Evaluate adoption of performance standards for projects outside of jurisdictional wetlands.
- Survey applicants.
- Revise regulations in concert with CRMC.

APPENDIX C

Permit Streamlining Initiatives January 2002 update

Introduction:

Five objectives from the Wetland Permit Streamlining Task Force report were identified for implementation by permitting staff:

- Reduce overall permit time frames where possible;
- Make private professionals more accountable for quality submittals;
- Provide incentives for timely responses from applicants/consultants on deficiencies;
- Add predictability to the process; and
- Improve compliance oversight.

As a beginning benchmark, overall permit decision time frames during the year 2000 were as follows: – Preliminary Determination applications (PDs) - 121 days; and Applications to Alter - 543 days. Compliance inspections numbered 50 in the year 2000.

Performance Goals:

The following permitting and compliance goals for 2001 were established.

- 45% of Preliminary Determination applications will be decided upon within 30 days. These generally will be applications that involve no deficiencies.
- An additional 35% of Preliminary Determination applications will have no more than one deficiency letter and will be decided upon within 65 days (30 days initial review, 21 days for applicant to respond, 14 days for final decision).
- Applications to Alter will be handled similarly, as follows:
 - 30 days for completeness determination
 - 30 days response time for deficiencies
 - 21 days to review for final completeness
 - 7 days to receive copies of plans
 - 7 days to issue the notice to abutters
 - 45 days notice period during which time the project evaluation will continue
 - 21 days for final determination, including review of any commentsFor a total of between 110 days and 161 days (4 to 5 1/2 months); 80 % will meet these targets; DEM will reconsider the approach if we do not achieve the 80% target and take measures to improve processing accordingly.
- Conduct at least 10 compliance inspections per month (one per biologist per month).

Action steps:

The following is listing of the major actions, methods and strategies that were employed to achieve these goals:

- Reduce backlog to levels that will enable an initial review of each Preliminary Determination application within 3 weeks;
- Obtain engineering assistance from other units;
- Authorize additional overtime to reduce the backlog;
- Reject grossly deficient applications outright;
- Streamline review procedures and written documentation where possible;
- Encourage applicant to return applications quickly (within 21 days) with the incentive that the application will be reviewed within 14 days;
- Require consultants to reply in writing to all comments;
- Delegate signature authority to lower staff level to enable more decisions to be made by experienced staff and free supervisors from having to conduct additional reviews; and
- Assign more responsibility to one or more staff persons to enable quicker decision making and issuance of decision letters.

Target for achieving new goals:

- End of May 2001 for backlog reduction
- December 2001 for all performance goals

Results:

The results of the performance on Preliminary Determination applications over the past year are graphically illustrated on the chart below. In summary, by the end of 2001, approximately 40% of PDs were being processed within 30 days and more than 71% were being processed within 65 days. The average PD decision time for year 2001 was 77 days (versus 121 days in year 2000). This represents a 36% improvement.

For Application to Alter decisions, the following statistics are offered:

Last Quarter 2001 (excluding two projects submitted before the goals were set):

- One decision with 1 deficiency - 265 days
- Two decisions with 2 deficiencies - Range 148 to 149 days; Ave= 149 days
- Four decisions with 3 deficiencies - Range 164 to 209 days; Ave= 191 days

Only two of these decisions were within the target range of 110 – 161 days. However, the average of these seven decisions in this quarter was 232 days. The average decision time for all Applications to Alter in the year 2001 was 369 days. This represents a 32% improvement over the prior year (543 days).

Compliance checks increased to 176 in 2001 as compared to 50 in 2000.

See Chart on Page 24 for a graphical representation of the Preliminary Determination Decision Statistics.

Preliminary Determination Decision Statistics

