



# FACT SHEET

Office of Water Resources / Fall 2007

**WETLANDS # 5**

## FRESHWATER WETLAND APPLICATION TYPES

### **Introduction**

The Department of Environmental Management's (DEM) Freshwater Wetlands Program completes ten different kinds of application reviews. Each of the ten application types is geared to a very specific purpose. The type of application a property owner prepares depends upon what his or her objectives are. This Fact Sheet presents and briefly explains the purposes of each of the application types. Once you determine which application best suits your needs, you can find details about the submittal requirements in the *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act*. DEM recommends that you, as the property owner and applicant, be familiar with the application requirements even if a professional consultant prepares the application package for you. Pre-application assistance is available from the DEM Office of Technical and Customer Assistance at (401) 222-6822.

### **1.) Request to Determine the Presence of Wetlands (Rule 8.02)**

The purpose of the *Request to Determine the Presence of Wetlands* application is to learn from DEM whether there are freshwater wetlands on your property. You, as the property owner, are required to submit an application form, property plan, and fee check. In response, you will receive a "determination" letter from DEM that names the types of wetlands on your property, if any, and their approximate locations. This "determination" is valid for 4 years. It is important to note that DEM will not determine or flag the exact edges of the wetlands for you. Persons who are considering buying property (and who want to know if there are wetlands) also often use this application type, but it is important to note that they have to arrange for the current property owner to sign the application form.

### **2.) Request to Verify Wetland Edges (Rule 8.03)**

The *Request to Verify Wetland Edges* application is used by property owners who already know they have wetlands. The property owner hires a private wetland consultant to determine and flag the exact edges of the wetlands and a surveyor to illustrate the wetland edges on a property plan. The application form, wetland edge plan, and fee check are submitted to DEM. In response, a DEM wetland biologist will visit the property and verify the accuracy of the flagged wetland edges. DEM will issue the applicant (property owner) a "verification" letter describing the types of wetlands on the property and, if necessary, any minor changes that may be required to consider the wetland flagging accurate and verified. If DEM requires major changes to the flagged wetland edges completed by your consultant, a revised plan may be requested before the "verification" letter will be finalized. This verified wetland edge is then illustrated on any subsequent permit application plans submitted to DEM. DEM finds that having a verified wetland edge allows for more effective pre-application meetings, and it also speeds up the permit application review process. A verified wetland edge is valid for 4 years.

### **3.) Request for Regulatory Applicability (Rule 8.04)**

The *Request for Regulatory Applicability* application is intended to facilitate your receiving a decision from the DEM regarding the applicability of the regulations to your proposed project. This application may be useful to you if you require documentation or desire confirmation that your proposed project does not require a wetland permit. As the property owner, you are required to submit an application form, fee check, plan, photographs, and descriptions of the project and wetland impacts. Depending on your project, a verified wetland edge may help facilitate the decision. DEM will determine if 1) your project is exempt or will not alter the character of the wetland; or 2) further application is required.

### **4.) Request for Preliminary Determination (Rule 9.00)**

The most common application, *Request for Preliminary Determination* (PD), is used when a property owner proposes a project in or near a wetland, which may require a freshwater wetlands permit. The applicant is required to complete fieldwork and to illustrate the existing conditions (including wetland edge) and the proposed project on a site plan. There are three possible outcomes from the *Preliminary Determination* application: 1) a determination of “insignificant alteration,” meaning that, despite the fact that a wetland alteration is proposed, it is considered *insignificant* and a permit, with conditions, is issued for the project; 2) a determination of “significant alteration,” meaning the proposed wetland alteration is considered to be *significant*, and a permit must be sought via an *Application to Alter a Freshwater Wetland*; or 3) Determination that a permit is not required, which shall include conditions deemed necessary to ensure that the wetland is not altered now or in the future. Insignificant Alteration Permits are valid for 4 years and can be renewed once for an additional 2-year period.

### **5.) Application to Alter a Freshwater Wetland (Rule 10.00)**

An *Application to Alter a Freshwater Wetland* (“formal” application) is used by a property owner to obtain a permit for a proposed project that includes a significant alteration to wetlands. This is the most involved application type, requiring technical information and reports not required for the *Request for Preliminary Determination* application. In addition, a 45 day public notice period is required. Under most circumstances, DEM recommends that an applicant submit a *Preliminary Determination* application first to determine with certainty whether the proposed wetland alterations are indeed significant. Some applicants are certain that their proposal is significant and begin with the *Application to Alter*. As a result of an *Application to Alter*, DEM will either grant a “Permit to Alter” for the proposed project or may deny the application. A Permit to Alter Freshwater Wetlands is valid for 1 year and can be renewed for three additional, consecutive 1-year periods.

### **6.) Application for Emergency Alterations (Rule 11.01)**

Emergency alterations may be authorized by DEM to protect the public from imminent harm to health or safety. In such cases, an oral or written request for permission to proceed must be made to the DEM Freshwater Wetlands Program by the property owner or an appropriate public official. The request must explain the problem and threat, identify the location, proposed actions, and person responsible and describe follow-up actions. Emergency alterations must be performed within 10 days of initial DEM approval. Once the corrective action has been made, the applicant has 45 days to submit an as-built site plan or a plan of restoration, if required by DEM.

### **7.) Application for Permit Renewal (Rule 11.02)**

An *Application for Permit Renewal* must be submitted to DEM if your project will not be completed before the permit expires. The length of time a permit is valid is specified in the permit letter. The *Application for Permit Renewal* is easy to prepare and should be submitted to DEM 60 days prior to the permit expiration date. If construction work has started on the project, DEM will conduct a field inspection to confirm compliance with the permit conditions and the approved site plans before issuing a permit renewal.

### **8.) Application for Permit Modification (Rule 11.03)**

An *Application for Permit Modification* must be submitted to DEM if you have a valid wetlands permit and you propose minor changes to your project. You may have received a permit for a project only to find that it cannot be built exactly as you proposed. Perhaps the septic system cannot be installed where planned, or you may want your house located in a different area. You would represent the changes on a plan and submit it to DEM for review as an *Application for Permit Modification*. It is important to keep in mind that the project modifications cannot result in an increase in wetland impacts. If there are additional impacts, a new permit will be required through a new *Request for Preliminary Determination* application or an *Application to Alter*.

### **9.) Application for Permit Transfer (Rule 11.04)**

Valid wetland permits recorded in the land evidence records automatically transfer upon the sale of the property to a new owner (Rule 7.09). A new property owner may submit an *Application for Permit Transfer* if he/she desires that the valid permit be transferred to his/her name. Submission of this application type is voluntary and is at the discretion of the new property owner. Any such applicant must submit an application form, fee check, a certified copy of the deed of property transfer, and a notarized statement agreeing to adhere to the permit conditions and approved plans. There is, however, a mandatory requirement established under state law requiring that any new property owner subject to a "Permit to Alter" notify DEM within 10 days of the property sale by providing a certified copy of the deed of transfer (Rule 7.09C). This is for DEM record-keeping purposes and submission of the certified deed by itself does not result in a permit transfer to the new owner's name.

### **10.) Change in Owner During Application Processing (Rule 7.02E)**

When a transfer of property occurs while any type of application is still under DEM's review, the new property owner must submit an application for *Change in Owner During Application Processing*. This application must be filed within 60 days of the change in ownership and must be accompanied by a signed application form, a certified copy of the deed transfer (for *Applications to Alter* only), and a fee check.

### **Application Relating to Farmers (Rule 11.05)**

Any applications relating to wetland alterations by farmers must be submitted directly by the farmer to DEM's Division of Agriculture and Resource Marketing, using the division's prescribed forms. In response, the Division of Agriculture and Resource Marketing will determine whether the proposal is 1) an *insignificant* alteration and issue a permit; or 2) a *significant* alteration, requiring the applicant to submit an *Application to Alter* to the Freshwater Wetlands Program.

## **HOW CAN I OBTAIN A COPY OF DEM'S WETLAND REGULATIONS?**

A complete copy of DEM's *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* can be obtained from DEM's Office of Technical and Customer Assistance located at the Foundry Office Complex at 235 Promenade Street, Providence (401 222-6822). You may also find this information on the DEM website at <http://www.dem.ri.gov>.

Disclaimer: This Fact Sheet is for general information purposes only and is not meant to be used as a substitute for the Freshwater Wetlands Act or the *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act*.