



FRESHWATER WETLAND RESTORATION

Rhode Island Department of Environmental Management



DEM PERMITTING FOR WETLAND RESTORATION PROJECTS

DO I NEED A WETLAND PERMIT TO COMPLETE MY RESTORATION PROJECT?

Some restoration activities may not require a permit if they meet the conditions for exempt activities outlined in *Rule 6.00* of DEM's *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act*. If your project does not fall under one of these exemptions, then you will need to obtain a wetland permit.

Note that if your wetland restoration project falls under the jurisdiction of the Coastal Resources Management Council (CRMC), you may need to obtain a CRMC wetland permit for your project. Policies between the agencies may differ, so be sure to check with the appropriate agency early in your restoration planning. Maps illustrating the freshwater wetland jurisdictional boundary are available at <http://www.dem.ri.gov/maps/wetjuris.htm>.

WHICH WETLAND RESTORATION ACTIVITIES ARE EXEMPT?

There are several exempt activities related to restoration projects that may be completed without obtaining a wetlands permit. *Rule 6.00* of DEM's *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* lists specific exempt activities, as well as conditions and restrictions related to those activities.

To fully qualify as an exempt activity, a project must be conducted in accordance with all the general conditions described in *Rule 6.01*, as well as all the specific conditions and restrictions described throughout the *Rule*.

The *Rules* outline conditions that apply to certain freshwater wetland restoration activities and also set out the varying degrees of DEM involvement. For example, ***if the conditions in the rules apply and are followed:***

- ✓ **Removal of manmade trash (Rule 6.03J)** can be completed without a DEM Wetland permit;
- ✓ **Limited planting in perimeter wetland or riverbank wetland (Rule 6.18)** can be completed without a DEM Wetland permit, but requires that DEM's Water Quality and Wetland Restoration Team be notified of the project;
- ✓ **Cutting for invasive species control in wetlands (Rule 6.02K)**, while classified as an exempt activity, requires review and approval of DEM's Water Quality and Wetland Restoration Team before proceeding.

WILL I NEED ANY OTHER DEM PERMITS?

Depending on the scope of your project, you may need additional permits or endorsements from DEM to complete your wetland restoration project.

Certain projects may require a *Water Quality Certificate (WQC)* under Section 401 of the Clean Water Act, such as those involving dredging, filling, water withdrawals and site disturbances.

If the entire proposed land disturbance for your project involves an area equal to or greater than one acre, and causes a point source discharge to “waters of the state,” then a *Rhode Island Pollution Discharge Elimination System (RIPDES)* permit is required. If you are proposing any subsurface disposal of commercial and industrial wastewater and stormwater, you will need an *Underground Injection Control (UIC)* permit. If your project involves site remediation or disposal of sediments, you may need to have your project reviewed by DEM’s Office of Waste Management for approval.

If you plan to apply any herbicides during your project work, you will need to obtain a permit from DEM’s Department of Agriculture and have a licensed Rhode Island Pesticide Applicator complete the work. Additionally, in some circumstances, you may need to have your project reviewed by DEM’s Division of Fish and Wildlife.

CAN I OBTAIN ASSISTANCE IN DETERMINING WHICH PERMITS I NEED?

Yes. If you are unsure whether or not you need a wetland permit, you may seek assistance from the DEM Water Quality and Wetland Restoration (WQ/WR) Team or you may file a *Request for Regulatory Applicability* application for an official response from DEM. (You may also use this application if you require documentation that you are exempt.)

The Water Quality and Wetland Restoration Team can also assist you in identifying what other permits may be necessary to complete your project and can offer enhanced preapplication assistance during project planning and design to help advance your restoration project to the application stage. Be sure to plan ahead and meet with the team well in advance. The WQ/WR Team usually meets only once per month, and team approval is required prior to proceeding with certain projects.

For more information about the team, refer to the WQ/WR Team Fact Sheet (<http://www.dem.ri.gov/programs/benviron/water/wetlands/pdfs/wqwrteam.pdf>) or contact DEM’s Office of Water Resources at (401) 222-3961.

ARE THERE SPECIAL REGULATORY CONSIDERATIONS FOR INVASIVE PLANT PROJECTS?

Yes, there are several additional factors to consider if you are planning an invasive plant management project, some of which may include:

- Invasive vs Native non-invasive *Phragmites*: It is important to distinguish invasive non-native *Phragmites* from the native variety. Native *Phragmites* is a non-invasive variety, the removal of which would not be exempt from DEM Freshwater Wetlands Regulations.
- Verify if scope of project falls within Rule exemption: Is the scope of project limited enough to fall within the exemption? If not, you will need to submit either a Preliminary Determination Application or an Application to Alter Freshwater Wetlands to the DEM Wetlands Program. If the project is exempt, the WQ/WR team evaluates whether the project contains the necessary *expertise, controls*, and follow-up *monitoring* to ensure success of the invasive control project per Rule 6.02K.

- Control Method: Projects that involve *mechanical or physical control* of brush or invasive species are reviewed and permitted by the Wetlands Program. The DEM Division of Agriculture administers the permitting of *chemical control* projects (in the aquatic/water environment).
- Herbicide Application Concerns: The WQ/WR Team usually includes plans for re-application of herbicides in their initial review and authorization letter; however the DEM/Ag permit process requires the resubmittal of an application for Permit for each re-application event.
- What to submit to the WQ/WR Team: When you submit an invasive plant project to the team, be sure to include the following (in addition to the other requirements outlined on the application form).
 - ✓ Depict on plans the approximate area where the plants will be removed;
 - ✓ Note on plans which plants are to remain, state that these plants will be flagged with tape clearly labeled “save”, and landowners will be present during clearing to guide the tree cutter.
 - ✓ Note on plans the areas where wildlife conservation seed mix and native plant species will be planted.
- Notification to the Department: The WQ/WR Team will be notified of the date the project will begin and be allowed access to inspect the site.

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*.

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