

# REQUIREMENTS FOR WETLAND ALTERATIONS

## Supplement S-3

### WHO MAY SUBMIT THIS SUPPLEMENT?

If your proposed development requires a permit and involves altering any amount of land area that is:

- i) a mapped P-WL Subdistrict
- ii) identified in the field as wetlands, but not mapped as P-WL Subdistrict, or
- iii) below the normal high water mark of a lake, pond, river or stream, you must submit this supplement with your permit application.

### WHAT COMMISSION REQUIREMENTS APPLY TO WETLAND ALTERATIONS?

Commission requirements for wetland alterations are explained in Section 10.25,P of Chapter 10 of the Commission's Rules, *Land Use Districts and Standards*. For guidance, or to obtain a copy of these rules, visit Commission's website [www.maine.gov/dacf/lupc/](http://www.maine.gov/dacf/lupc/) or contact the LUPC office that serves your area.

### WHERE CAN I GET HELP TO COMPLETE THIS SUPPLEMENT?

Call the LUPC regional office that serves your area (see below) and ask to speak to one of our regional representatives. Also, visit our website at [www.maine.gov/dacf/lupc/](http://www.maine.gov/dacf/lupc/) to browse through our rules and regulations, meeting agendas, and other valuable information.

<b><u>AUGUSTA OFFICE</u></b>	<b><u>ASHLAND OFFICE</u></b>
	<i>Serving most of Aroostook County, and portions of northern Penobscot and Piscataquis Counties</i>
18 Elkins Lane - Harlow Bldg. 22 State House Station Augusta, ME 04333-0022	18 Elkins Lane - Harlow Bldg. 22 State House Station Augusta, ME 04333-0022
Tel. (207) 287-2631 TTY (888) 577-6690 FAX (207) 287-7439	Tel. (207) 287-2631 TTY (888) 577-6690 FAX (207) 287-7439
<b><u>BANGOR OFFICE</u></b>	<b><u>EAST MILLINOCKET OFFICE</u></b>
<i>Serving Hancock, Kennebec, Knox, Lincoln, Sagadahoc, and Waldo Counties; most of Washington County; and all coastal islands in the LUPC service area</i>	<i>Serving southern Penobscot and Aroostook Counties, and portions of Piscataquis and northern Washington Counties</i>
106 Hogan Rd, Suite 8 Bangor, ME 04401	106 Hogan Rd, Suite 8 Bangor, ME 04401
Tel. (207) 941-4052 FAX (207) 941-4222	Tel. (207) 746-2244 Tel. (207) 731-4398 FAX (207) 941-4222
<b><u>GREENVILLE OFFICE</u></b>	<b><u>WEST FARMINGTON OFFICE</u></b>
<i>Serving Somerset County and most of Piscataquis County</i>	<i>Serving Franklin and Oxford Counties</i>
43 Lakeview Street P.O. Box 1107 Greenville, ME 04441	43 Lakeview Street P.O. Box 1107 Greenville, ME 04441
Tel. (207) 695-2466 FAX (207) 695-2380	Tel. (207) 695-2466 FAX (207) 695-2380

### OTHER PERMITS YOU MAY NEED

Some projects that do not require a permit from the Commission may require a permit from the U.S. Army Corps of Engineers. It is the applicant's responsibility to be sure that all required permits are obtained for the project. If your project affects any wetlands or waterways, contact the Army Corps of Engineers at (207) 623-8367.

# Supplement S-3

Requirements for Wetland Alterations

For office use:

Tracking No.

Permit No.

Applicant Name(s):	Project Location (Township and County):
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### NATURE OF WETLAND ALTERATION

1. Describe in detail the purpose and need for the proposed wetland alteration and the type of activity involved *(use additional paper if needed)*.

2. Will your proposal alter any amount of land that is a mapped P-WL subdistrict, any wetland identified in the field, or any ground below the normal high water mark of a lake, pond, river, stream, or intertidal area? .....  YES  NO

3. Will your proposal alter an acre or more of any land area, either upland or wetland? .....  YES  NO

3a. **If YES**, are wetlands present within the boundaries of your project area *(as determined by a qualified wetland professional)*?  YES  NO  
**If NO**, stop here and see instructions.

### WETLAND TYPE AND AMOUNT OF ALTERATION

4. What type of wetland(s) will be altered? *(check all that apply)* Provide the amount of wetland area *(in square feet)* that is proposed to be altered within each category that is checked off, then calculate the total area of wetland alteration.

<input type="checkbox"/> P-WL1: Wetland of special significance _____ sq. ft. <input type="checkbox"/> P-WL2: Scrub shrub wetland _____ sq. ft. <input type="checkbox"/> P-WL3: Forested wetland _____ sq. ft.	TOTAL AREA OF WETLAND ALTERATION: _____ sq. ft.
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5. Indicate the amount of wetland area *(in square feet)* that is proposed to be altered within each of the following categories:

<input type="checkbox"/> Coastal wetland _____ sq. ft.	<input type="checkbox"/> River, stream or brook bottom _____ sq. ft.
<input type="checkbox"/> Freshwater wetland _____ sq. ft.	<input type="checkbox"/> Lake or pond bottom _____ sq. ft.

6. Do the wetlands to be altered contain any critically imperiled (S1) or imperiled (S2) natural communities? .....  YES  NO

### PREVIOUS ALTERATION, AVOIDANCE, EROSION/SEDIMENTATION CONTROL

7. Has any wetland area been previously altered on the property? .....  YES  NO  
 7a. **If YES**, provide the date, purpose, and amount of previous alteration, and whether permits were obtained.

8. Is there a reasonable way for you to conduct your project that avoids alteration of wetland areas? .....  YES  NO  
 8a. **If NO**, explain why not and describe how you propose to minimize the amount of wetland to be altered.

9. How will you keep disturbed soils from eroding into nearby lakes, ponds, rivers, streams, intertidal areas, or other wetlands?

### LEVEL OF WETLAND REVIEW AND REQUIRED EXHIBITS

10. Determine the level of wetland review required for your project <i>(check only one option)</i> and submit all necessary exhibits with this supplement <i>(see instructions for details)</i> .	Level of Review	Required Exhibits
<input type="checkbox"/> Altering less than 4,300 sq. ft. of a P-WL2 or P-WL3.	None	S-3A
<input type="checkbox"/> Altering 4,300 – 14,999 sq. ft. of a P-WL2 or P-WL3, or a P-WL1 wetlands where the wetland is included as a P-WL1 wetland of special significance solely on the basis of its containing an S1 or S2 natural community.	Tier 1	
<input type="checkbox"/> Altering 15,000 – 43,560 sq. ft. of a P-WL2 or P-WL3.	Tier 2	S-3A, S-3B, S-3C, S-3D
<input type="checkbox"/> Altering a P-WL1 of any size (except as otherwise provided above for Tier 1 review). <input type="checkbox"/> Altering 43,560 sq. ft. or more of a P-WL2 or P-WL3.	Tier 3	

## NATURE OF WETLAND ALTERATION

1. Describe the purpose and need for the proposed activity. What will it be used for and why? Describe the type of activity involved (e.g., dredging, filling, constructing a structure, etc.).
- 2-3. Alteration means removing or displacing soil, sand, vegetation or other materials; dredging; bulldozing; draining or dewatering; filling; or any other construction, repair or alteration of any permanent structure.

P-WL subdistricts include lakes, ponds, rivers, streams, bogs, marshes, intertidal areas and other types of wetlands. Mapped wetlands usually show on the Commission's maps as P-WL1, P-WL2 or P-WL3 subdistricts. However, small streams are also considered P-WL subdistricts, even if they are not shown on the Commission's maps. The legend on the maps will help you interpret the symbols.

If you answer "YES" to Question 3, you must hire a knowledgeable professional experienced in wetland science to determine whether and what kinds of wetlands are present within the boundaries of your project area.

- 3a. If you answer "NO" to Question 3a, you do not need to answer any of the remaining questions in this supplement. Submit a signed statement from a wetlands professional confirming that no wetlands exist within the boundaries of your project area. Mail this supplement and the signed statement with your permit application to the LUPC office that serves your area.

If you answer "YES" to Question 2 or Question 3a, proceed to Question 4.

Note: Wetlands not shown on the Commission's maps, but identified in the field, are also subject to the Commission's wetland alteration requirements.

## WETLAND TYPE AND AMOUNT OF ALTERATION

4. Refer to the LUPC Land Use Guidance Map for the township, town or plantation of your project area to determine the type of wetland (P-WL1, P-WL2 or P-WL3) proposed to be altered. If a wetlands professional visited your site to identify wetland boundaries, he or she will determine the wetland type(s). For each type of wetland that will be altered, write down the area (in square feet). Then calculate and write down the total amount of wetland area to be altered.

 Remember to include all parts of your project that are within the wetland when you calculate the size of the wetland to be altered. Also include any areas below the normal high water mark of a lake, pond, river, stream or intertidal area.

5. Write down the size of wetland area (in square feet) that will be altered within each of the listed categories.
6. An imperiled (S2) or critically imperiled (S1) natural community is an assemblage of plants that is rare or extremely rare in Maine. Contact the Maine Natural Areas Program at (207) 287-8044 or a wetlands professional for help in determining whether your project area contains any S1 or S2 communities.

## PREVIOUS ALTERATION, AVOIDANCE AND MINIMIZATION, EROSION CONTROL

7. If any wetland area was altered on the property before this application was submitted, check "YES". In deciding whether wetlands have been previously altered, consider all known alterations that occurred in your project area or in its general vicinity. There are many different types of wetland alterations. For example, consider whether there is an old dock, boat house, boat launch, area of disturbed or filled soils, drainage ditches, or impoundments in the vicinity of your project. Provide the date, purpose and extent of the previous wetland alteration, and whether state or federal permits were obtained for the activity.
8. To determine whether an alternative exists to altering wetland areas, consider the possibility of using other sites; reducing the size, scope, configuration or density of the project; developing alternative designs; etc. If it is not feasible to carry out your project without altering a wetland, you must explain why the project cannot be located wholly in the non-wetland portions of your property and what provisions you will make to ensure that your proposal will alter the least amount of wetland feasible and necessary to complete your project. Attach additional paper if more space is needed.
9. Describe in detail what you will do before, during and after construction activities to ensure that any disturbed soils will not erode into any nearby water bodies. Make sure that the locations of all erosion control measures are shown on the site plan included with your application.

## LEVEL OF WETLAND REVIEW, REQUIRED EXHIBITS

10. Using the answers to the above questions, determine the level of wetland review required for your project. **Select only one box!** Based on the level of review required for your project, identify which exhibits must be included with your supplement (see page ii of the instructions for details). Submit this supplement and the required exhibits with your permit application to the office that serves your area.

 If you determined that the level of wetland review for your project is Tier 2 or Tier 3, contact the Commission for guidance on how to proceed. Some projects may qualify for a lower tier of review if certain criteria are met. For large projects affecting wetlands, or projects of any size affecting P-WL1 wetlands, a pre-application meeting with the LUPC staff is strongly encouraged. Contact the LUPC office that serves your area to set up an appointment.

## S3-A. WETLAND MAP OR DELINEATION.

Submit a sketch drawing or a map that identifies the location and type of wetlands within the project area, as follows:

- **For projects that will alter less than 4,300 sq. ft. of a P-WL2 or P-WL3**, show the location of the wetland in relation to your project area. You may include this information on your permit application site plan (Exhibit D) instead.
- **For projects that will impact only a water body** (such as a lake, pond, stream, river, or intertidal area), submit a map, drawn to scale, that shows the normal high and low water marks of the water body and the proposed wetland impact area. If you are submitting a LUPC permit application, you may include this information on your site plan (Exhibit D) instead.
- **For projects requiring Tier 1 wetland review**, submit a map, drawn to scale, that indicates the types and locations of wetlands within the project area; the proposed wetland impact area; locations of streams and other natural features; and distances of lakes, ponds, streams, rivers, intertidal areas, and wetlands from the nearest proposed structure or disturbed area.
- **For projects requiring Tier 2 or 3 wetland review**, submit a wetland delineation, conducted by a qualified wetlands professional, along with a report describing the physical characteristics of the wetland. The wetland delineation must be conducted using the methods described in the "Corps of Engineers Wetlands Delineation Manual." U.S. Army Corps of Engineers. (1987) and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region." U.S. Army Corps of Engineers. (Version 2.0, January 2012)). For a Tier 2 review, a map must show the wetland boundaries, but the associated field sheets (sample plot logs) do not need to be submitted with this supplement (the LUPC may request field sheets to be submitted on some projects, depending upon the type of resources to be impacted, the amount of proposed impact, or the nature of the proposal). For a Tier 3 review, a map and field sheets (sample plot logs) must be submitted with this supplement.

*For all projects, include a current photograph of the wetland to be altered that shows its characteristics during the growing season.*

## S3-B. ALTERNATIVES ANALYSIS.

The alternatives analysis is a narrative that explains how your project has been designed to have the least amount of impact on the wetland. In addition to explaining how your project will alter the least amount of wetland possible, you must also explain why other alternatives to the project are not feasible, including the "no action" alternative (that is, not doing the project at all). As you plan your project, remember to lay it out and use construction techniques that will have the least amount of effect on the wetland. Don't fill or disturb any area of wetland if there is a way to do your project that will avoid it. For example, do not plan to place a structure in a wetland if it can be placed on upland, or plan to drive heavy machinery on the wetland if it can be avoided.

In discussing whether a practicable alternative exists include information on the feasibility of:

- Utilizing, managing or expanding one or more other sites that would avoid the wetland impact;
- Reducing the size, scope, configuration or density of the project as proposed, thereby avoiding or reducing the wetland impact; and
- Developing alternative project designs, such as cluster development, that avoid or lessen the wetland impact.

 Under the Commission's standards for wetland alterations, projects requiring certain types of wetland review must either avoid alteration of wetland areas to the extent feasible, considering natural features, cost, existing technology and logistics based on the overall purpose of the project (Tier 1); or must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment (Tier 2 or 3). Contact the LUPC office that serves your area for additional guidance or to obtain a copy of the Commission's standards for wetland alterations.

## S3-C. FUNCTIONAL ASSESSMENT.

A functional assessment is an evaluation of the functions and values of a wetland that is prepared by a qualified wetland professional. The functional assessment must be conducted in accordance with Section 10.25,P,2,f,(2) and be sufficient to allow the Commission to evaluate whether the proposed wetland alteration will cause a loss or degradation of wetland functions. Contact the LUPC office that serves your area for more information.

 Certain projects are exempt from the functional assessment and compensation plan requirements. See Sections 10.25,P,2,b,(3),(f) and (g). Contact the LUPC office that serves your area for guidance on which projects are exempt from these requirements.

## S3-D. COMPENSATION PLAN.

Wetland compensation is required for certain projects where the functional assessment has shown that the wetland alteration will cause wetland functions and values to be lost or degraded. Because the compensation plan is tied to the results of the functional assessment, the need for a compensation plan is determined either during a pre-application meeting with the LUPC, or in consultation with the LUPC once the functional assessment has been submitted. If compensation is required, the compensation plan must meet the standards found in the Commission's Chapter 10 rules. See Section 10.25,P,2,b,(3) for more information on compensation and Section 10.25,P,2,c for wetland compensation standards.. Contact the LUPC office that serves your area to obtain a copy of this document.

...continued on next page...

**...S3-D. Compensation Plan... continued...**

Unless the compensation plan includes use of an existing wetland mitigation bank or in lieu fee, a compensation plan has to include the following:

- A plan of the proposed compensation area showing proposed boundaries and characteristics of the compensation site, including boundaries of any existing and proposed wetland areas.
- A narrative describing the specific goals of the compensation project in terms of particular wetland functions and values as related to those of the lost or degraded wetland. The narrative should also identify the criteria by which to measure success of the compensation project.
- If the project includes wetland restoration or creation, include:
  - a. A narrative describing the available literature or experience to date (if any) for carrying out the compensation work;
  - b. Proposed implementation and management procedures;
  - c. A description of the short-term and long-term sources of water for the wetland;
  - d. Plans for re-planting, including a description of plant species, sizes and sources of plant material, numbers of each species/size, proposed spacing, and an explanation of how, when, and where seeding or planting will take place;
  - e. Proposed buffers or protective measures such as sediment control methods;
  - f. Plans for monitoring the compensation work, identifying criteria which require mid-course corrections and possible remediation measures; and
  - g. Plans for control of non-indigenous plant species.
- Provisions for long-term protection of the compensation site. For projects involving a covenant and restriction or conservation easement, the proposed deed or easement language must be submitted. Also, any agreements or terms necessary to execute the restriction or easement, such as an agreement for the holder of the easement, must also be included.