

PART 3. TIER 3 FRESHWATER WETLAND ALTERATION (OVER 43,560 sq. ft) AND INDIVIDUAL NATURAL RESOURCE PROTECTION ACT PERMIT

ELIGIBILITY CRITERIA & STANDARDS

This application form constitutes a joint application to both the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers for a proposed alteration to a freshwater wetland that qualifies for Tier 3 review. Either of these agencies, or their review agents, may contact you for further information regarding your activity. The square footage of impact is based on the alteration or impact of the whole activity in the wetland.

An individual NRPA review is required for activities in protected natural resources that do not otherwise qualify for reduced review procedures, such as permits by rule or general permits.

NOTE: Single, complete activities that impact less than 4,300 square feet and do NOT occur within: another type of protected natural resource; 25 feet of another protected natural resource and erosion controls are used; a municipal shoreland zone; a wetland normally containing at least 20,000 sq. ft. of open water, aquatic or emergent marsh vegetation; or a peatland are exempt under the Natural Resources Protection Act, 38 M.R.S. Section 480-Q(17).

BASIC ATTACHMENTS FOR TIER 3 AND INDIVIDUAL NRPA PERMIT APPLICATIONS

For Tier 3 and individual NRPA permit applications, follow the general application instructions on pages 4-8 (green) and, in addition, submit Attachments 1-12, Attachments 13-14, if required, and the appropriate appendices with the pink application form and signature page. All projects must complete Appendix A, all coastal wetland projects must also complete Appendix B and all dredging projects must also complete Appendix C.

The scale of all drawings must be no smaller than 1 inch equals 100 feet. Larger scale 1" = 20' or 1"=50' plans are also acceptable. **ALL drawings larger than 8½" x 11" must be folded to 8½" x 11". Please note that for the Corps review at least one set of drawings must be on 8½" by 11" size paper.** They must be clear, reproducible, and legible; and each sheet (including the location map) must have a consistent title block, numbering scheme, and date. PLEASE ALSO NOTE THAT REDUCTIONS OF LARGE SCALE PLANS ARE NOT GENERALLY ACCEPTABLE.

All work performed by a professional engineer or other licensed professional must be dated, stamped and signed by the professional.

THE DEPARTMENT HAS FOUND THAT A MAJOR CAUSE OF APPLICATIONS BEING RETURNED IS THE LACK OF PROPERLY PREPARED PLANS. CLEAR AND ACCURATELY DETAILED PLANS ARE CRITICAL TO EFFICIENT APPLICATION PROCESSING. IF YOU DO NOT POSSESS STRONG SKILLS IN DRAFTING PLANS, THE DEPARTMENT RECOMMENDS THAT YOU OBTAIN THE SERVICES OF SOMEONE WHO IS A QUALIFIED PROFESSIONAL.

Attachment 1, an activity description. Describe the activity in detail. Include the dimensions of all permanent and temporary structures; the dimensions of impact or alteration caused by each portion of the proposed activity; and the type of activity involved. This written information regarding your activity should match the information shown on site plans or drawings.

If any resource area has been altered on the property before this application was submitted, provide information on the size of the previous alteration, the dates when the alteration occurred, and whether state or federal permits were obtained for the activity(ies). If the proposed activity is part of a larger or multi-phased project, describe the larger project including all phases. If the proposed activity will occur in a fragile mountain area, include the name of the mountain and the approximate elevation at which the alteration will occur.

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✘ **Attachment 2**, an alternatives analysis report that analyzes whether a practical alternative to the alteration exists. The report must address the activity purpose and need, and why the activity cannot be completed by:

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

✘ **Attachment 3**, a map with the activity location clearly marked. Acceptable maps are USGS topographical maps or the Maine Atlas and Gazetteer. These may be available in local sporting goods stores or the municipal offices. Clear photocopies of these are also acceptable.

✘ **Attachment 4**, color photographs that clearly show the area to be altered and generally show vegetation and other landscape features. (Winter photos with snow cover are not acceptable.) Photographs must be mounted on 8½ x 11" sheets and each photo must be labeled to describe each view, location, and the date taken. An original set of photographs or colored photocopies must be attached to the original application. Legible, black and white photocopies of the photos are acceptable for the copies of the application. If photocopies are not clear or legible, duplicate photos must be included. In addition, aerial photographs, if available, are encouraged.

✘ **Attachment 5**, overhead and side view plan drawn to scale, which show the activity and the immediate surroundings in detail. Include the following information:

- The exact location of any lake, pond, river, stream, brook (perennial or intermittent) and/or wetland with the normal high water line, low water line, and/or wetland boundary shown. Show direction of flow for rivers, streams, and brooks.
- The exact location and dimensions of the proposed activity on the lot or parcel, including areas of proposed soil disturbance, fill, and vegetation removal and permanent structures.
- The location and dimensions of all existing structures on the lot. All existing structures on abutting lots must be shown if they are located within 50 feet of any proposed structure.
- The location and dimensions of any proposed seasonal or temporary structures. (If the temporary structure (less than 7 months a year) is part of the larger NRPA activity, they are subject to the NRPA standards.) Note: Seasonal structures in tidal waters (e.g. floats) always need Corps approval.
- The location and type of all proposed erosion control measures.
- For piers, wharves, floats, etc., show the distance to abutting property lines from the proposed structure(s) and the distance to any existing structures (piers, wharves, etc.) on the abutting properties. If property lines are within 100 feet of the proposed structure(s), they should actually be drawn on the plan. An enlarged tax map is often a good reference for this information.
- Clearly identified resource boundaries and resource impact areas.
- The location of all property lines and the names of all abutters.
- For work in tidal waters the mean high and mean low water lines should be shown on all plans.
- The applicant's name, the scale of the drawings or plans, a north arrow, a legend, and the date. If drawings are not to scale they should be clearly dimensioned.

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- Contour lines for significant regrading activities, and large-scale activities that trigger pre-application meetings or that require a Site Location of Development Act permit.

☒ **Attachment 6**, additional plans, if applicable:

- Cross sectional drawings for piers, roadways, stream crossings, dredging activities, retaining walls, riprap, gravel removal, pond construction, fill activities, and dams.
- Profile drawing or plans for activities involving significant amounts of stream culverting or channelization work, roads involving steep embankments or inclines, and boat ramps.

☒ **Attachment 7**, a construction plan. Describe in detail how the activity will be constructed. Be sure to include how the site will be accessed, each step of the construction, timing for each step, materials to be used (including the type of preservative for treated wood and poured or pre-cast concrete, if any) and any activity phasing.

☒ **Attachment 8**, an erosion control plan. If the proposed activity includes grading, bulldozing, digging, scraping the earth, or filling, attach a plan describing in detail the temporary and/or permanent erosion control measures that will be used, when they will be installed, and how they will be maintained. (All erosion control measures must be shown on the activity plans and must conform to the Maine Erosion and Sediment Control Best Management Practices, March 2003.)

☒ **Attachment 9**, a site condition report for activities impacting a freshwater wetland, coastal wetland, great pond, and a river, stream, or brook. Submit a site condition report, containing the following, as appropriate or directed for the resource:

NOTE: Unless you have expertise in delineating wetlands and conducting wetland assessments, the Department requires that you hire a consultant/wetland scientist to provide assistance in completing this attachment.

- A plan at the scale of a minimum of 1 inch equals 100 feet, that shows two-foot contour intervals, existing resource boundaries, the area of the resource or adjacent area to be altered, activity location and dimensions, and wetland or waterbody classification(s). All components of the activity impacting the protected natural resource must be included;
- A description of existing resource characteristics including water depths, vegetation, and fauna;
- A description of the methods used to delineate the resource boundaries, and a copy of data sheets completed during the delineation. Please note that freshwater wetland delineations must be performed using the 1987 Corps of Engineers Wetland Delineation Manual or its successor, unless otherwise approved by the DEP and the Corps.
- For activities impacting a **river, stream or brook**, also submit the following:
 - A scale drawing of the project location showing 2-foot contour intervals and including the location of all protected natural resources, roads, structures, bedrock outcroppings, area of extraction (if applicable), point gravel bars (if applicable), cross-section locations, and the location of the 100-year floodplain as estimated using the most recent Flood Insurance Rate Map (FIRM);
 - A description of the stability of the stream banks directly upstream, through, and directly downstream of the project area, including riparian vegetation;
- **If new applicant is a registered corporation, provide either a *Certificate of Good Standing* (available from the Secretary of State) or a statement signed by a corporate officer affirming that the corporation is in good standing.**

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- A description of the floodplain. Does the stream access the floodplain? During what type of flood event (e.g. 10-year, 25-year, or 100-year flood event)?
 - A description of the threatened or perceived threatened facility or infrastructure. Under what environmental circumstance is the facility or infrastructure threatened (e.g. 100-year flood)? How will the proposed project protect this facility or infrastructure?
 - For projects involving extraction from a river, stream or brook, include a description of the river, stream or brook channel through the reach, including bankfull width and depth, channel slope, cross-sectional area, radius of curvature, and meander wavelength, all measured in multiple locations along the reach;
 - For projects involving extraction from a river, stream or brook, include an estimation of the amount of material proposed to be extracted, the timing for the extraction, a description of the disposal area for any material extracted, and a description of how this extraction will change any of the above referenced information;
 - For projects involving extraction from a river, stream or brook, include a description of the sediment regime. If possible, determine sediment input based on sediment traps, sediment sorting and travel rates. Has this regime changed due to an upstream disturbance or event? Is there sediment transport discontinuity being influenced by downstream constrictions or grade controls?
- For activities impacting **coastal wetlands**, submit the coastal wetland characterization checklist described and provided in Appendix B of this application.
- For activities impacting a **great pond**, also submit the following:
- A description of the stability of the banks of the great pond in and adjacent to the project area, including riparian vegetation;
 - A description of the substrate in the project location (e.g. mud, silt, gravel, boulders);
 - For projects involving extraction from a great pond, include an estimate of the amount of material proposed to be extracted, the timing for the extraction, a description of the disposal area for any material extracted, and a description of how this extraction will change any of the above referenced information;
 - A description of the threatened or perceived threatened facility or infrastructure. Under what environmental circumstance is the facility or infrastructure threatened (e.g. 100-year flood)? How will the proposed project protect this facility or infrastructure?
- ☒ **Attachment 10**, the Notice of Intent to File. Fill out the Notice of Intent to File included in the application (Page 16). Submit the original with the application. **Distribute copies as outlined in the "Public Notice and Certification"(after the notice form).**
- ☒ **Attachment 11, for Corps review only.** Applicants must submit a copy of this application and plans to the Maine Historic Preservation Commission (MHPC) at the same time or before they submit this application for review. The MHPC address is: MHPC, 65 State House Station, Augusta, ME 04333-0065. Attach in this submittal evidence that the MHPC was provided a copy of the application. Submit any correspondence from the MHPC to the Corps upon receipt.

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ADDITIONAL ATTACHMENTS FOR TIER 3 AND INDIVIDUAL NRPA PERMITS

This part of the application is required for activities impacting a freshwater wetland, great pond, coastal wetland, or river, stream or brook that require compensation. IF YOU ARE NOT PROPOSING SUCH AN ACTIVITY, PLEASE STOP HERE AND DISREGARD THE REMAINDER OF THE APPLICATION.

To complete this portion of the application, you must refer to the Wetland and Waterbodies Protection Rules, Chapter 310, available from the Department. As noted in the General Instructions, a pre-application meeting is required for many of the projects that must submit the following attachments, unless waived in writing by the Department. For other individual projects taking place in a great pond, coastal wetland, or river, stream or brook, a pre-application meeting is strongly recommended to determine which of the following attachments is required.

NOTE: Unless you have expertise in delineating wetlands and conducting wetland assessments, the Department requires that you hire a consultant/wetland scientist to provide assistance in completing these attachments.

1. FUNCTIONAL ASSESSMENT

Submit as **Attachment 12**, when required by the Wetland and Waterbodies Protection Rules, a functional assessment conducted by a qualified professional on the resource area to be altered which analyzes the area based on the functions and values it serves and how these will be affected by the proposed alteration.

NOTE: The functional assessment must be conducted by a qualified professional(s) using the Highway Methodology approved by the Department and the Corps. If another methodology is proposed, the applicant must submit documentation describing how the methodology was developed, how the wetland functions and values are determined using the methodology, and how much field testing the technique has undergone. In cases where the size of the wetland alteration or other factors make use of an established assessment methodology impractical or inappropriate, the Department and the Corps may instead accept the best professional judgment of a qualified professional. The applicant must notify the Department if he or she intends to use best professional judgment. Contact the Department for further information.

2. COMPENSATION

NOTE: Applicants and their agents are strongly recommended to contact the DEP and the Corps prior to developing a compensation plan.

For applications which include compensation, activities will be held to the Standards For Compensation (Section 6) of the Wetland and Waterbodies Protection Rules.

A. For applications which propose resource restoration, creation, or enhancement,

- Submit as **Attachment 13**, a plan for the proposed compensation work including:
 - A drawing at a scale of one inch equals 100 feet showing proposed boundaries and characteristics of the compensation site, including existing and proposed two-foot contour intervals, wetland boundaries, vegetation types, and sources of water;
 - A narrative describing the specific goals of the compensation work in terms of particular resource functions and values. These goals must be related to the lost or degraded functions of the resource to be impacted by the activity. This narrative must also identify the criteria by which to measure success of the compensation work;

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- Proposed implementation and management procedures for the compensation work;
- A description of the short-term and long-term sources of water for a wetland, including the water quality of these sources;
- A narrative and drawing showing the planting plan, if applicable, including a description of plant species, sizes and sources of plant material, numbers of each species/size, proposed spacing of plants and an explanation of how, when and where seeding and/or planting will take place;
- A narrative and drawing of proposed buffers and other protection measures, such as sediment control measures;
- A description of the plans for monitoring the compensation work, including identifying criteria which will be used to determine if mid-course corrections are required, a description of proposed remediation measures, and a schedule for implementation;
- A narrative describing plans, if any, for control of non-indigenous plant species;
- A schedule for implementing the compensation plan;
- A demonstration of sufficient scientific expertise to carry out the proposed compensation work and; if experimental techniques are proposed, a description of available literature on methods;
- A demonstration of sufficient financial resources to complete the proposed compensation work, including subsequent monitoring and corrective actions; and
- Documentation of a deed restriction or conservation easement to be conveyed to a qualified holder for protection of the compensation area. This documentation must:
 - a) Provide for maintenance of the area as a wetland and/or buffer in perpetuity;
 - b) Authorize the Department to act as an enforcing agent; and
 - c) Include the requirement that any future alterations in, on or over the compensation area be approved by the Department.

B. For applications which propose preservation of resources or adjacent uplands,

Submit as part of **Attachment 13**, the following information:

- A location map of the preservation site;
- A legal description of the property to be preserved;
- A description of the preservation site including existing vegetation, sources of water, functions and values, existing uses, and potential threats to the functions and values of the site; and
- Documentation of a conservation easement or deed restriction which protects the property as a conservation area in perpetuity, and authorizes the Department to act as an enforcement agent. These areas may be deeded to local or state conservation groups or agencies, but the Department must approve any land management practices.

C. For applications which propose in lieu fee

Project is proposing to use the Maine Natural Resources Conservation Program In Lieu Fee Program (pink)