



**NH Department of Environmental Services**

**Wetlands Program  
Rulemaking and Process Improvement**



**Rules update  
Spring 2015**

# Wetlands Program Rulemaking & Process Improvement Effort

## Overall Schedule

Oct 2014 –  
Feb 2015

**Phase 2A**

**DES Review of  
Comments &  
Develop Rule  
Concepts**



March 2015 –  
Oct 2015

**Phase 2B**

**Stakeholder Review  
Incorporate  
suggestions &  
Draft Rules and  
New process**



Nov 2015 – Dec  
2016

**Phase 3**

**Prepare Initial  
Proposal &  
Commence Formal  
Rulemaking**

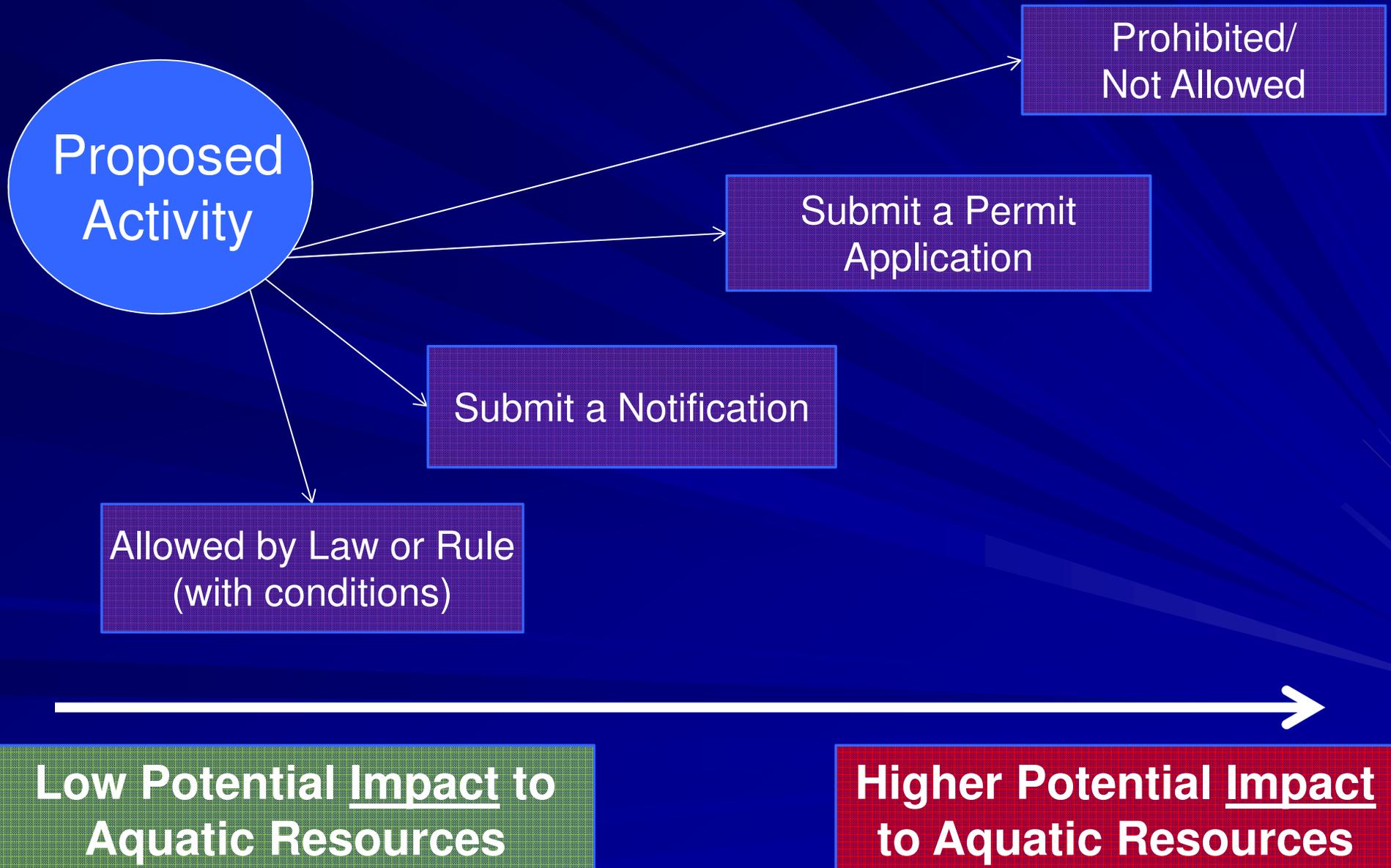
**We Are Here!**

# Wetlands Program Rulemaking & Process Improvement Effort

## GOALS

- Enhance predictability and transparency
- Increase consistency and standardization
- Ensure scientifically-based decisions that are protective of New Hampshire's important natural resources

# Wetlands Permitting Processes



# Listening Sessions

## ❖ 30 sessions:

### □ Community Sessions:

Littleton, Concord, Peterboro, Keene, Nashua,  
Manchester, Portsmouth

### □ Private Sector Sessions:

Wetland scientists, Agriculture, Timberland  
owners, Lakes, AGC, NH Home Builders,  
Regional Planning Commissions, NH Farm  
Bureau, NHSPE.

# Partner Meetings

## ❖ 15 Initial Meetings:

### State Agencies:

DRED, DOT, Fish and Game, Dept of Safety,  
NH Port Authority, UNH T2, Dept of  
Agriculture, DES Water Div. administrators

### Federal Agencies:

NRCS, NOAA, USF&WS, ACOE, EPA

## ❖ Summary of Comments- Process

- ❑ Provide more streamlined process for maintenance projects
- ❑ Make Emergency process more flexible
- ❑ Like Current Forestry Notice process
- ❑ Create incentives for quick PBNs & with certification and training to do work

# Clarify Terms

- “Need”
- “Project”
- “Minimization”
- “Avoidance”
- “Maintenance”
- “Rehabilitation”
- “Self-Mitigating”



- ❑ Improve Coordination between State and Federal agencies to provide clarity and consistency



# Updating BMPs

- ❑ DRED      Forestry
- ❑ DOT      Roadway Maintenance
- ❑ NRCS      Agriculture
- ❑ Eversource Utilities
  
- ❑ Other as identified and needed

## Research & concepts developed

- ❑ Purpose adapted for wetland function
- ❑ Avoidance & Minimization
- ❑ Bank Stabilization (Bio-Engineering)
- ❑ Self-mitigating defined (function improved)
- ❑ Dock permitting strategy (sq ft envelope)
- ❑ Minimum impact process proposal

## Avoidance Definition 1

**“Avoidance”** shall mean the applicant’s design strategy for the proposed project on the applicant’s preferred site where all on-site wetlands, surface waters or regulated areas were not impacted or “avoided”.



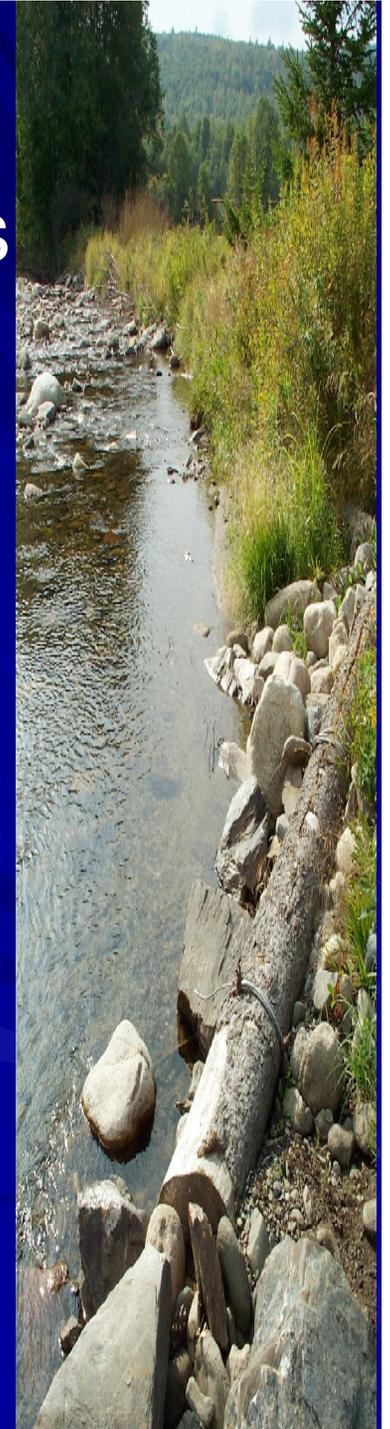
# Avoidance Considerations

- ❖ Whether alternative designs,
- ❖ layouts or
- ❖ technologies
- ❖ could be used to avoid wetlands or streams or impacts or functions



## DES Process Concept – Create *New Expedited* process

- Allow streamlining using minimum impact fee & short turn-around time
- For public- funded restoration projects where purpose is for environmental improvement/ benefit



## DES Coordination

- ❑ NHDES coordinates with outside entities in at least 10 steps in the wetlands review process.
- ❑ DES has been brainstorming with partners on ways to streamline coordination.



## Pre- Application Discussions

- ❖ Formalize State-federal Joint Processing meeting for major projects
- ❖ Applicant and agent could present proposal so all design suggestions received at one time.
- ❖ Pre- Submission Review process under consideration (for remote access)
- ❖ Required review items established



# Bank Stabilization



- ❖ Looking to codify existing accepted practices for Bio-engineering
- ❖ Reviewing Vermont recent definitions for natural design
- ❖ Bill Thomas, point of contact 271-4197

# Workgroups Established

- Mitigation
- Docks and Shoreline Structures
- Coastal Resources
- Non-tidal Wetlands
- Streams and Rivers



# Mitigation Workgroup

POC: Lori Sommer  
271-4059

- January 20, 2015 ❖ Invitations sent
- February 13, 2015 ❖ 1st meeting
- February 20, 2015 ❖ Draft rules
- February 25, 2015 ❖ 2<sup>nd</sup> meeting
- March 11, 2015 ❖ 3<sup>rd</sup> meeting

## Mitigation - Proposed Changes

### New Definitions:

- ❑ “Wetlands enhancement” (such as removal of invasive species)
- ❑ “Self-Mitigating” (such as with stream crossings)
- ❑ “Service Area” (grouping of watersheds for funding)

## Mitigation - Proposed Changes

- Mitigation Payment procedures clarified for Stream impacts
- Ratios & Evaluation criteria set for enhancement project
- Impact evaluation that require mitigation may use NH Method or Corps Highway Method

## Mitigation - proposed changes

- ❖ Pre-Proposal process proposed
- ❖ Pre- application meeting required for mitigation
- ❖ Draft under review by Mitigation Workgroup
- ❖ Lori Sommer, point of contact, 271-4059

# Non-tidal Shoreline Structures

POC: Darlene Forst; 271-4067

February 23, 2015 Initial Meeting

- ❖ Reviewing Lakes Association survey results
- ❖ Seeking municipal input



# Freshwater Docks

- ❖ Dock construction envelope
- ❖ Private v. commercial docks

POC: Darlene Forst; 271-4067



# Coastal Resources

Focus: Tidal Docks &  
dredging

March 25, 2015- 1<sup>st</sup>  
meeting

Next meetings;  
May 7 & May 28

Dori Wiggin, chair

South East  
Supervisor

559-1507

TBZ rules to wait for  
Legislative Coastal  
Risks & Hazards  
report

# Final Thoughts?



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