



NHDES  
Wetland Program  
**Public Input Sessions**  
February – March  
2018



## NHDES Website Info:

<https://www.des.nh.gov/organization/divisions/water/wetlands/process-improvement.htm>

### **RULES**

#### draft Rules & Table of Contents

- Rule Summary & Level of Review Process Chart
- PBN draft & corrections & comments

### **OUTREACH**

#### Input Session Powerpoint Presentations

- Outreach Meeting Schedule & Updates
- FAQs

### **BMPs**

#### draft Best Management Practices (BMPs)

- A/M; Agriculture/Routine Roadway/ Utility
- Online Public Comment Collector

# Topics Outline

1. Background on Wetland Rules Process Initiative
2. Rule Change Summary
3. Next steps



# Wetlands Program Rulemaking Anticipated Schedule

## Overall Schedule

February 2018 –  
April 20, 2018

Public Input  
Sessions &  
Receive Public  
Comments on  
draft rules

**We Are Here!**

Spring to early  
summer 2018

NHDES review of  
comments to  
determine next  
steps

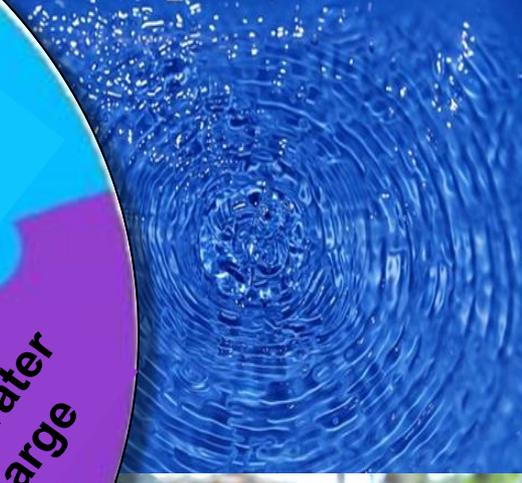
Goal: begin formal  
rulemaking  
process in 2018



# Wetlands Rules *Public Input Sessions*

Location	Address	Date and Time
Concord NHDES Headquarters Auditorium	29 Hazen Drive	February 26 <sup>th</sup> 6-8 pm
NHDES Pease Field Office – Room A	222 International Drive, Suite 175	February 28 <sup>th</sup> 6-8 pm
Laconia City Hall	45 Beacon Street East	March 1 <sup>st</sup> 6:30-8:30 pm
Keene Public Library	60 Winter Street	March 5 <sup>th</sup> 6:30-8:30 pm
 Lancaster, North Country Resource Center	629B Main Street	<b>March 15<sup>th</sup></b> <b>5:30-7:30 pm</b>

# RSA 482-A public purpose Wetland Function



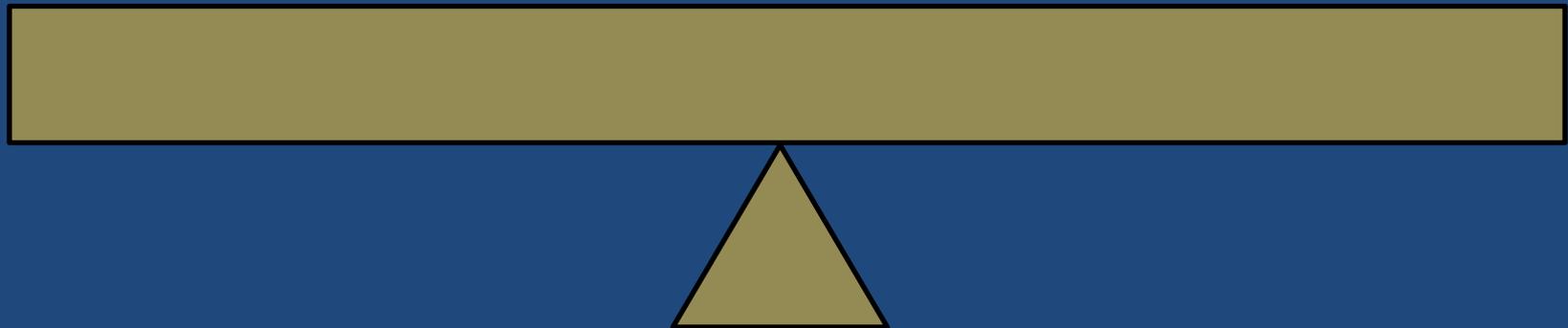
# NHDES Role

- ✓ Over 2,000 applications each year
- ✓ Wide range of applicants & activities
  - ❖ Logger – timber harvesting
  - ❖ Landowner – install a driveway
  - ❖ Road agent – fix a culvert
  - ❖ Hikers – create a new trail
  - ❖ Lake-front owner – install a dock
  - ❖ Developer – create or expand residential or commercial development
  - ❖ NHDOT – widen a public highway

# Striking the Right Balance

**Protecting  
Natural  
Resources**

**Supporting  
Economic  
Activity**

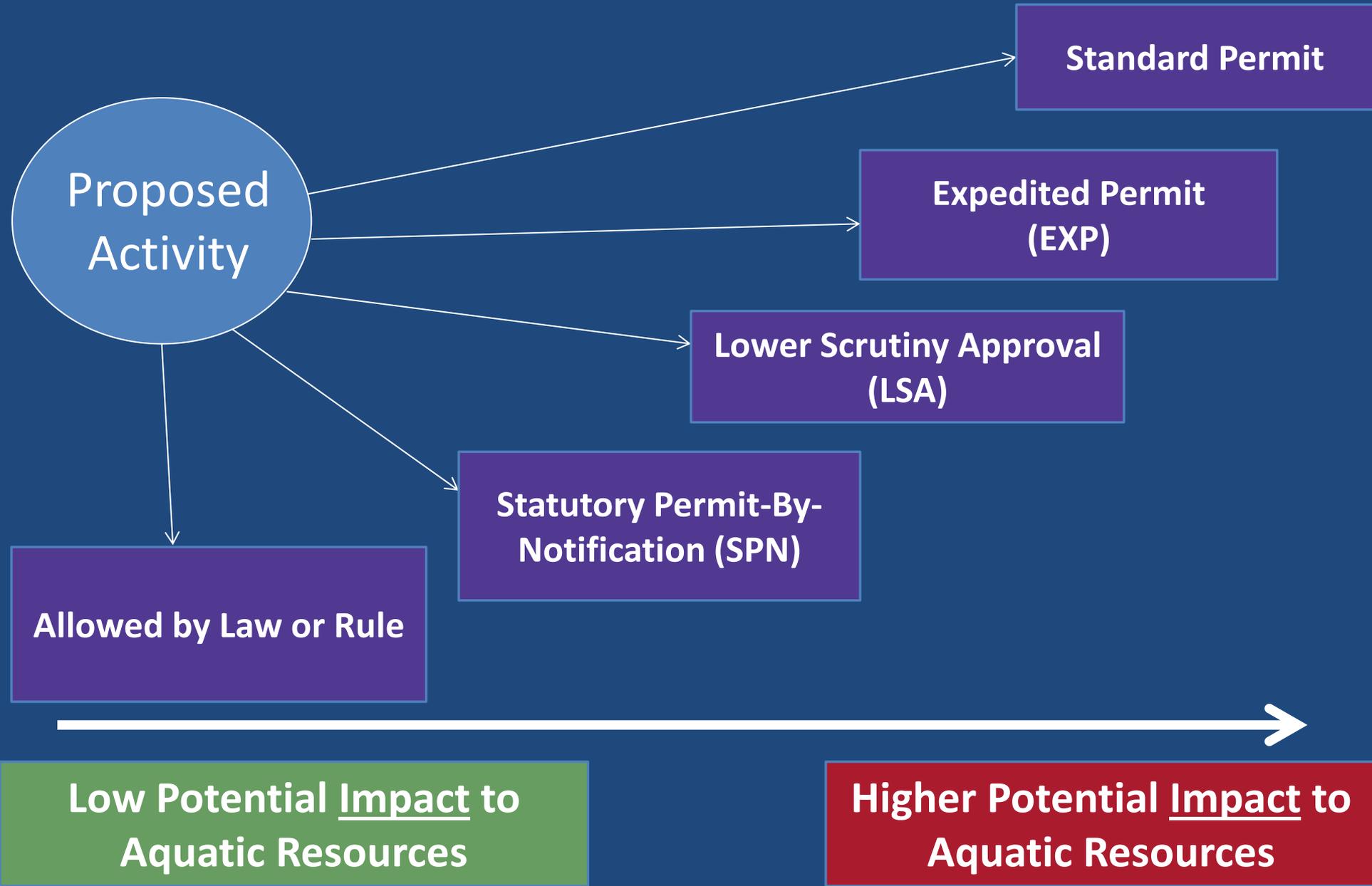


# Wetlands Program Rulemaking & Process Improvement Effort

## GOALS

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

# Approvals & Permits



# NHDES Research & Discussion

Studied  
Process

Mapped  
wetland  
review  
process

Mapped new  
regulatory  
approach

30  
topics

Scientific  
literature/  
current  
practice/other  
states & federal

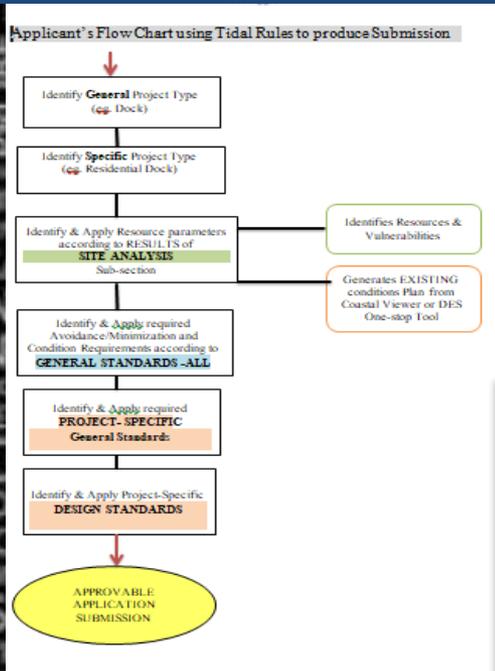
Proposals  
vetted in Confer  
as Bureau

Confer

Proposals  
vetted  
through  
management

Senior Rules  
Team (SRT)  
met monthly  
since 2013

# NHDES Research & Recommendations



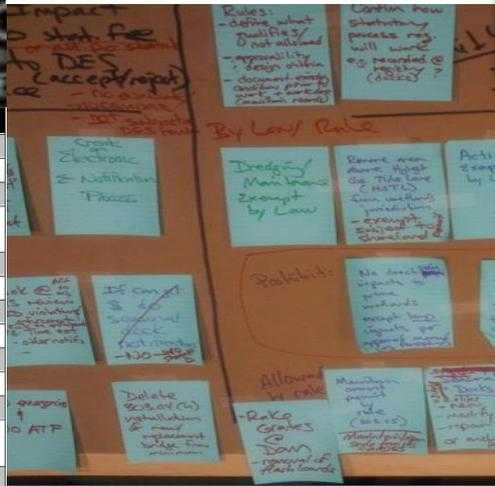
## NH River Stabilization Examples



## Native Aquatic Vegetation



Highway Method	NH Method	Proposed NE ACOE
Groundwater recharge/discharge	Groundwater recharge	Hydrologic Integrity
Sediment/shoreline stabilization	Shoreline anchoring	Hydrologic Integrity
Sediment/toxicant/pathogen retention	Sediment trapping	Water quality maintenance
Nutrient removal/retention/transformation	Nutrient trapping/retention/transformation	Water quality maintenance
Wildlife habitat	Wetland-dependent wildlife habitat	Biota Support
Fish and shellfish habitat	Fish and aquatic life habitat	Biota Support
	Ecological integrity	Biota Support
Visual quality/aesthetics	Scenic quality	Goods and Services
Educational/scientific value	Educational potential	
Recreation	Wetland-based recreation	
Floodflow alteration	Flood storage	Goods and Services
Uniqueness/heritage	Noteworthiness	Goods and Services
Threatened or endangered species habitat		
Production export		



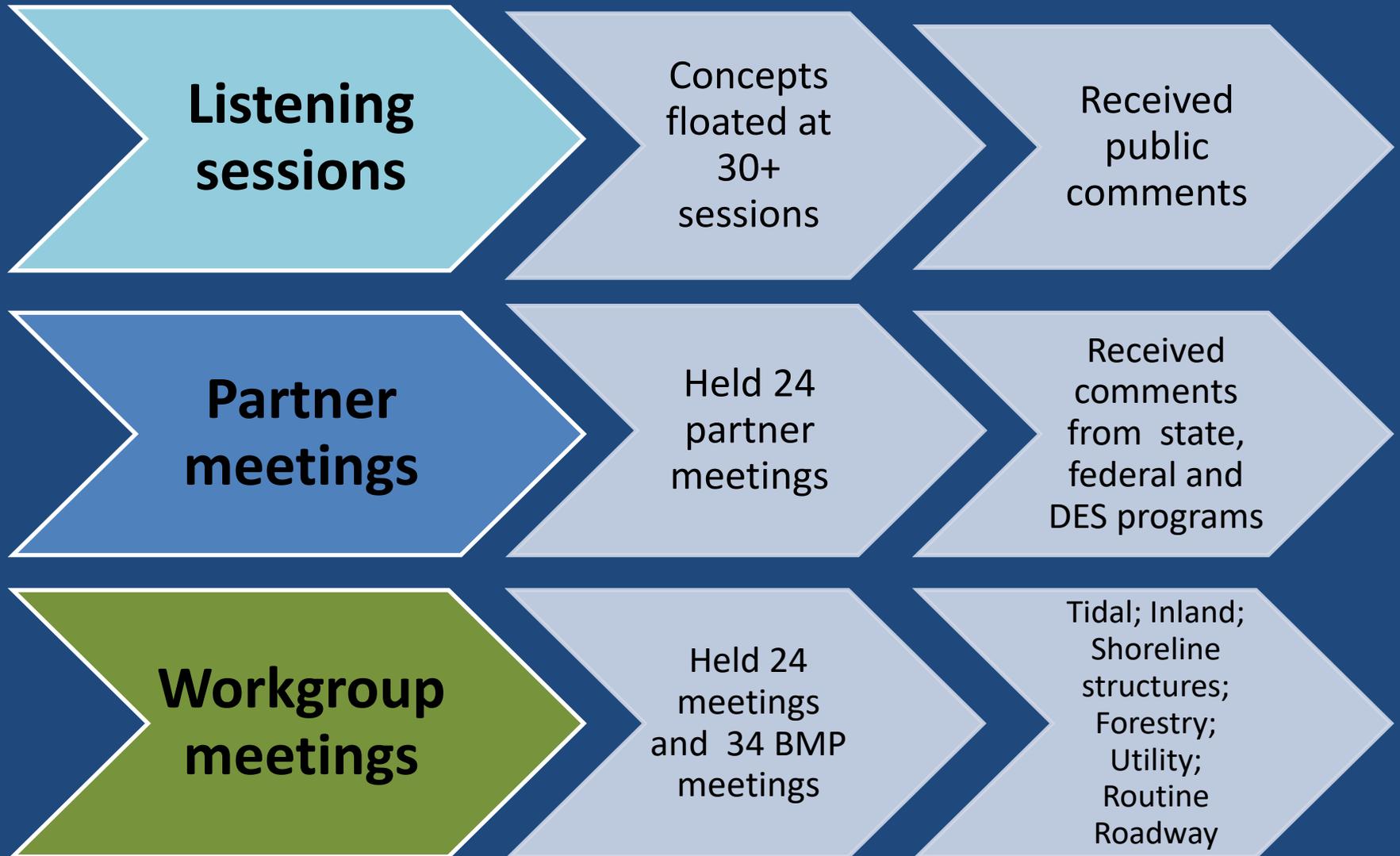
## Wetland Rulemaking Restoration: Dam Removal Projects



# Public Listening Sessions & Stakeholder meetings



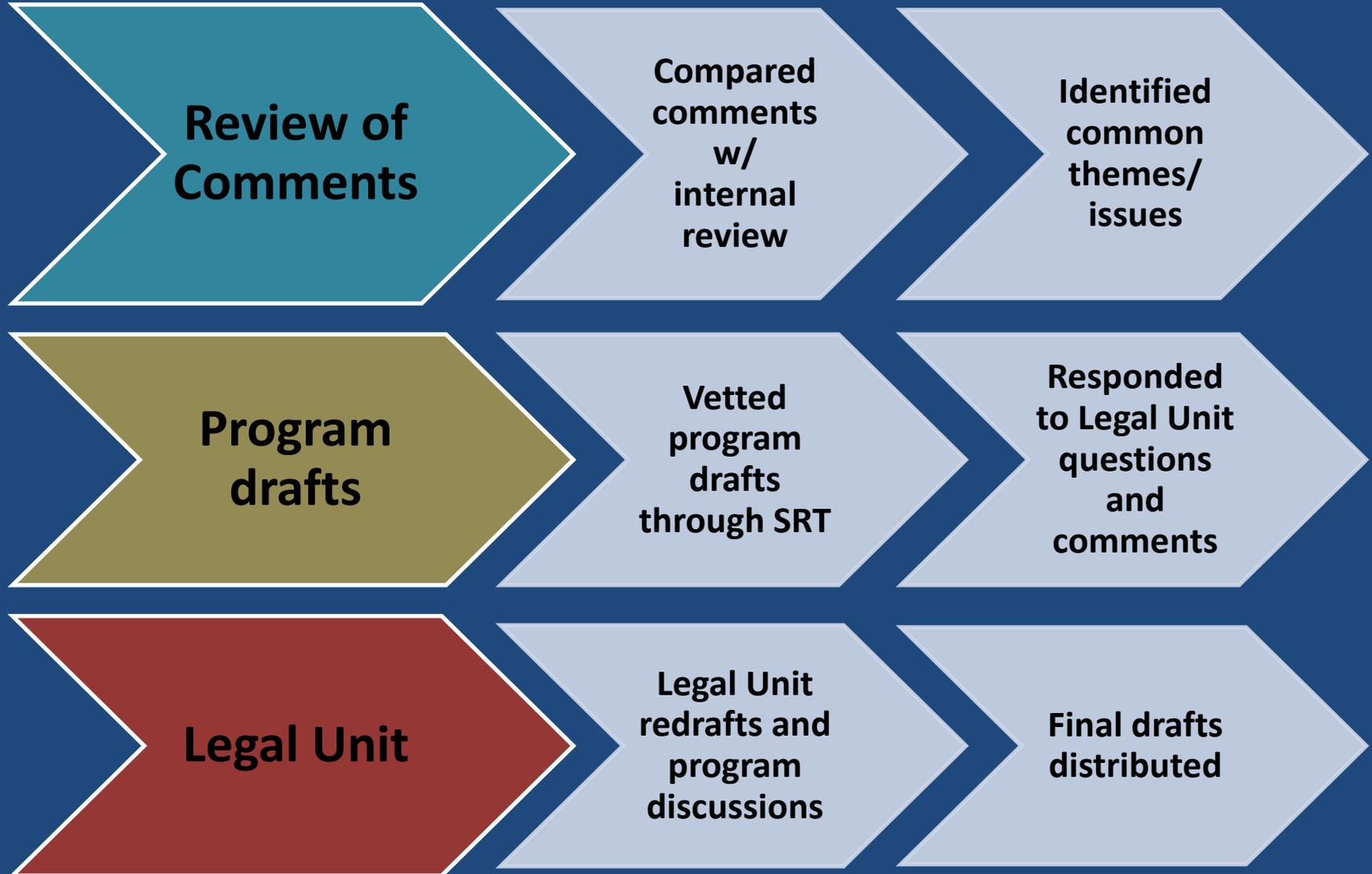
# Stakeholder Input



# Linking Public feedback to NHDES research



# NHDES Review & Rules Drafting



# Navigating the Proposed Rules



# Organization Changes

Env-Wt	Current	Proposed
100	Definitions	Definitions
200	Practice & Procedure	Hearings, Appeals & Waiver requests
300	<b>Delineation</b> , Evaluation, <b>Project Classification</b> , Permit Conditions	<b>Permit Types &amp; Procedure</b> , Standard Conditions, Criteria for Standard Permits
400	Shoreline Structures	<b>Delineation</b> & Classification of jurisdictional areas & <b>Project Classification</b>
500	<b>Permit Procedure</b>	<b>Project Specific Requirements</b> (e.g. docks, utility, forestry, residential, commercial) <b>CATS</b>
600	Tidal Wetlands	Coastal Lands & Tidal Waters/ Wetlands <b>CATS</b>
700	Prime Wetlands	Prime Wetlands
800	Compensatory Mitigation	Compensatory Mitigation
900	Stream Crossings	Stream Crossings <b>CATS</b>

# Key *New* definitions

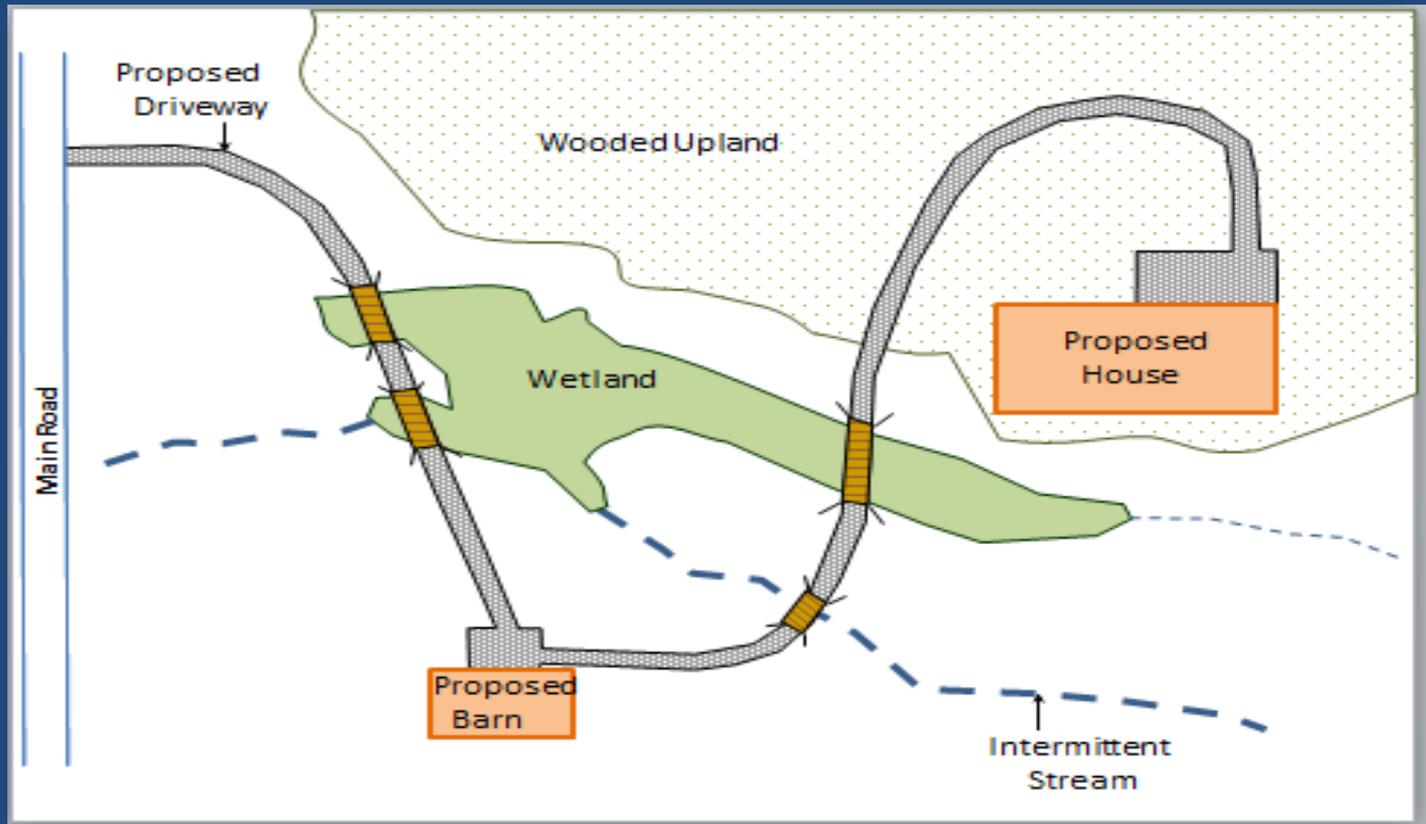
- 102.12 “Avoidance”
- 103.05 “Minimization”
- 103.06 “Minimization measures”
- 103.10 “Need” (Also see Env-Wt 313)
- 103.54 “Special resource area”
- 103.68 “Top of bank”

# Avoidance Defined

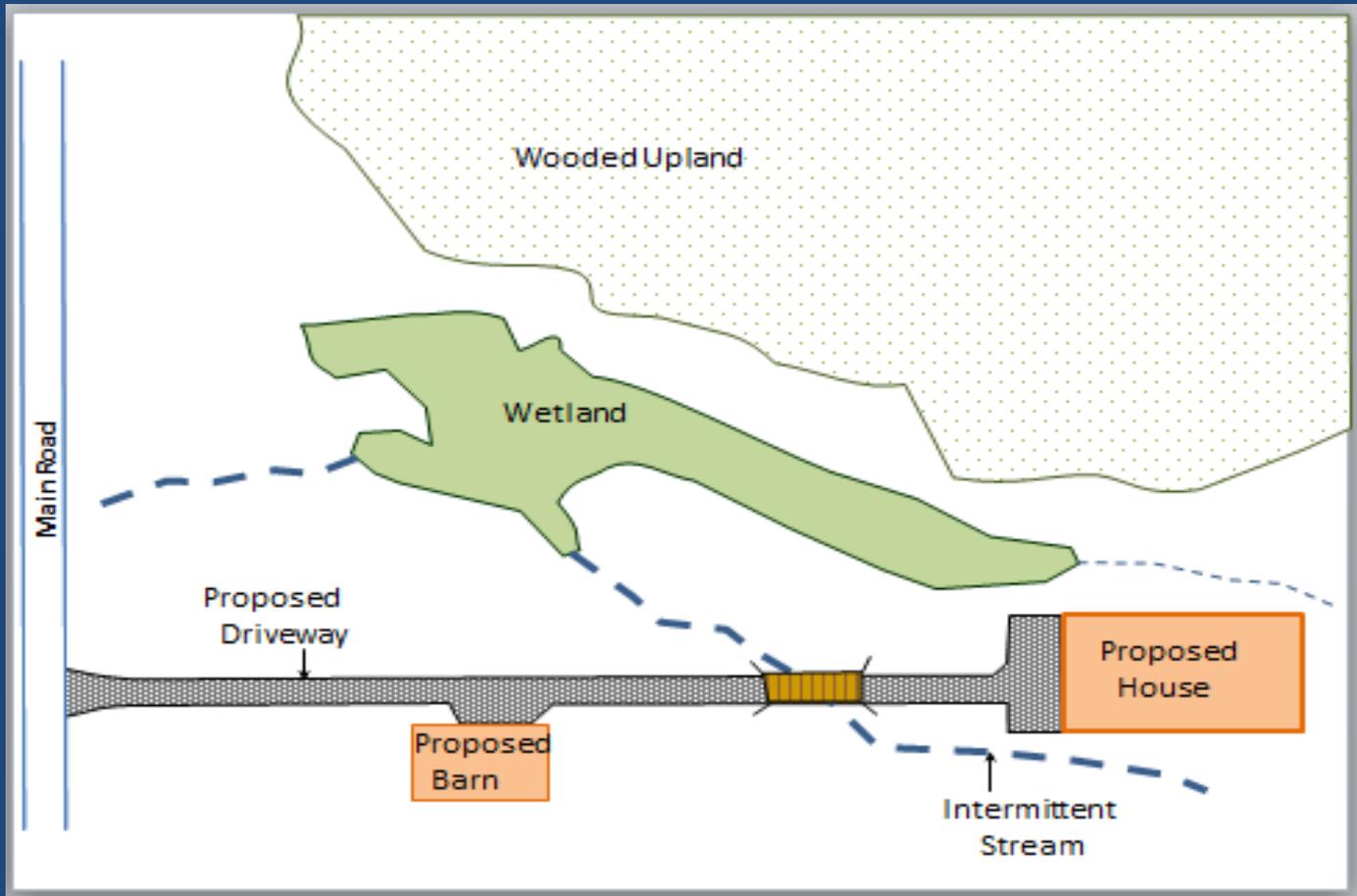
not impacting jurisdictional areas if there is a practicable alternative.



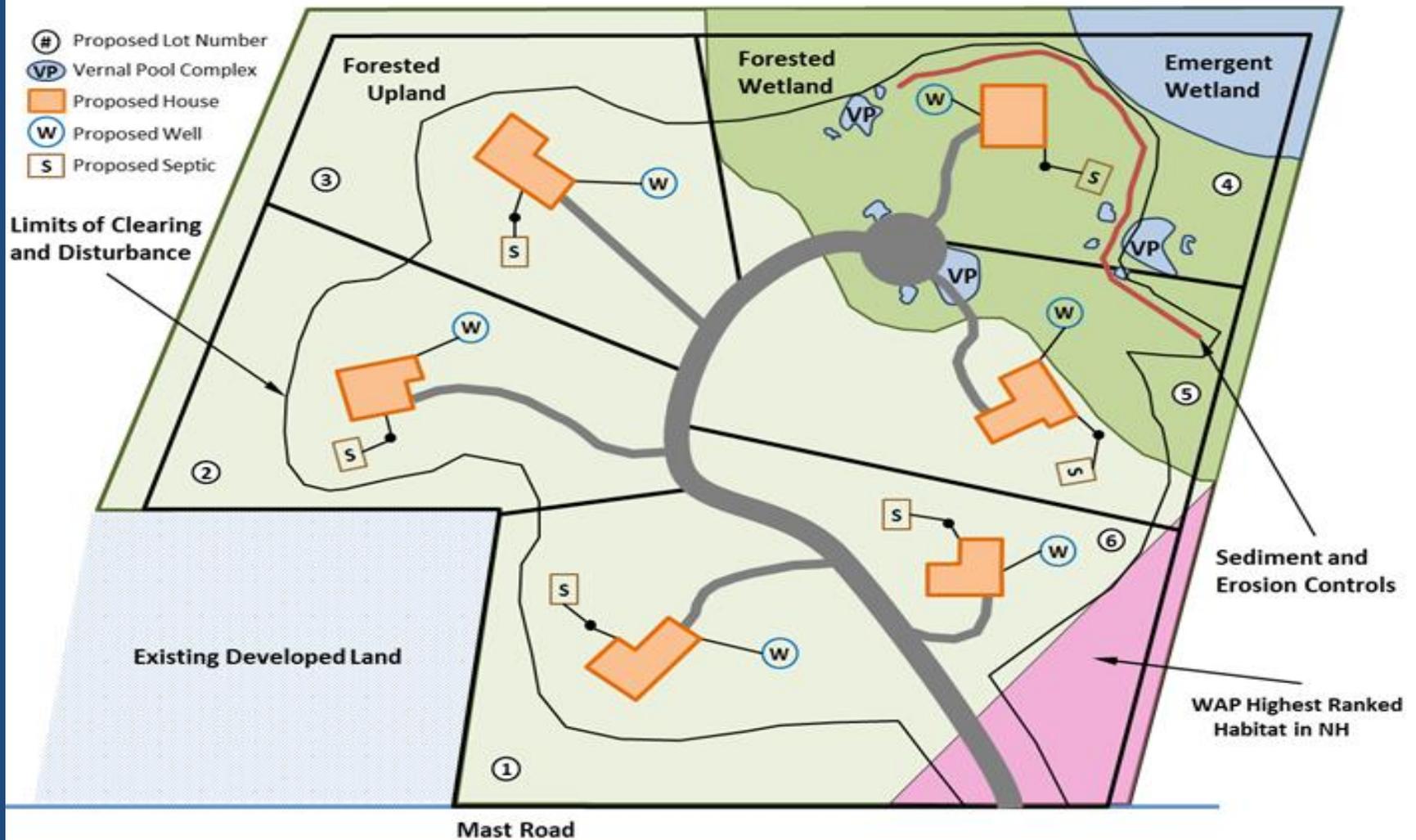
# Original Plan – Single Family Driveway



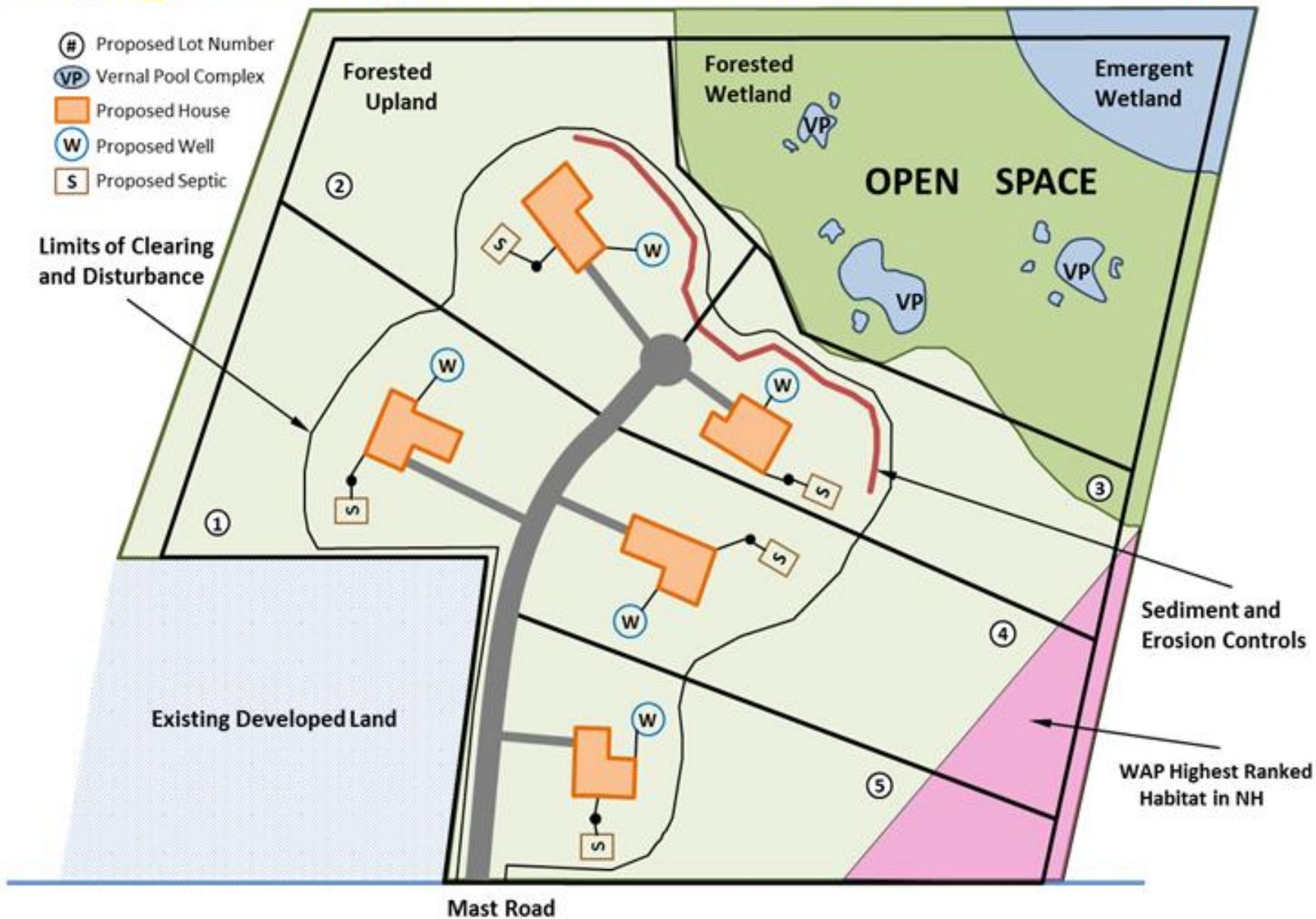
# Revised Plan – Single Family Driveway



# Original Subdivision plan



# Example #a: Revised Subdivision Plan with Avoidance & Minimization



# “Special Resource Area” 103.58

## New Special Resources proposed:

- ❖ Marsh with one acre or larger
- ❖ Scrub-shrub wetland
- ❖ Floodplain wetlands
- ❖ 10 acre FW/½ VPD
- ❖ Tier 3 stream

w/ cold water fishery



# *new* Stream Crossing Definitions

“Design Storm”

“Geomorphic compatibility”

“Hydraulic capacity”

“Rehabilitation”

“Repair

“Replacement”

“Self-mitigating”



# Goal: Standardize Conditions to Protect ...



**Water Quality 307.03**

**Fisheries & Breeding  
areas 307.04**

**Threatened/endangered  
species, critical habitat 307.06**

**Designated Prime Wetlands  
307.08**

# Protect Water Quality 307.03

## Surface Water Quality Standards

RSA 485-A, & A:8,- C

Env-Wq 1700



## Shoreland Water Quality Protection Act

RSA 483-B

Env-Wq 1400



## NH Stormwater Manual, Vol 3 (2008)

Silt controls Env-Wq 1506

Env-Wq 1508

# Protect Fisheries & Breeding Areas

307.04

**Avoid discharge in spawning or nursery areas**

Time construction

To avoid spawning/ breeding impacts



**Maintain cold water fisheries**

Dissolved Oxygen  
Concentrations

Env-Wq 1703.07



**Maintain temperatures – Env-Wq 1703.11**

Protect high quality waters

Env-Wq 1708.06

# Protect Rare, Threatened, Endangered Species & Critical Habitat 307.06

No impact to a threatened or endangered species, a proposed listing or proposed critical habitat

Federal Endangered Species Act

16 USC Sec 1531



## State Endangered Species Conservation Act

RSA 212-A



## See data-check screening planning tool

NHB & Fish & Game & DES

for protected species & habitat

# Goal: Streamline Processes



**Statutory Permit by  
Notification (SPN) 308.04**

**Lower Scrutiny  
Approval (LSA) 309**

**Expedited Permit  
(EXP) 310**

**Standard Permit 311**

# CATs & Process pathways

Category	SPN	PBN	EXPEDITED	Standard
<b>CAT 1 = Minimum</b>	✓ YES	✓ YES	✓ YES	X
<b>CAT 2 = Minor</b>	X	X	X	✓ YES
<b>CAT 3 = Major</b>	X	X	X	✓ may require mitigation & or G & C

# Statutory Permit by Notification (SPN)

SPN

- Temporary Seasonal Dock
- Timber Harvesting (CAT1/low impact)

SPN

- Panning for gold or minerals
- Recreational Trails (CAT1/low impact)

SPN

- Utility maintenance & repair (CAT1)
- Routine Roadway up to 48" culvert

# Lower Scrutiny Approvals (LSA)

LSA

- Work Authorized by Rule or Registration
- **Routine Roadways beyond SPN**

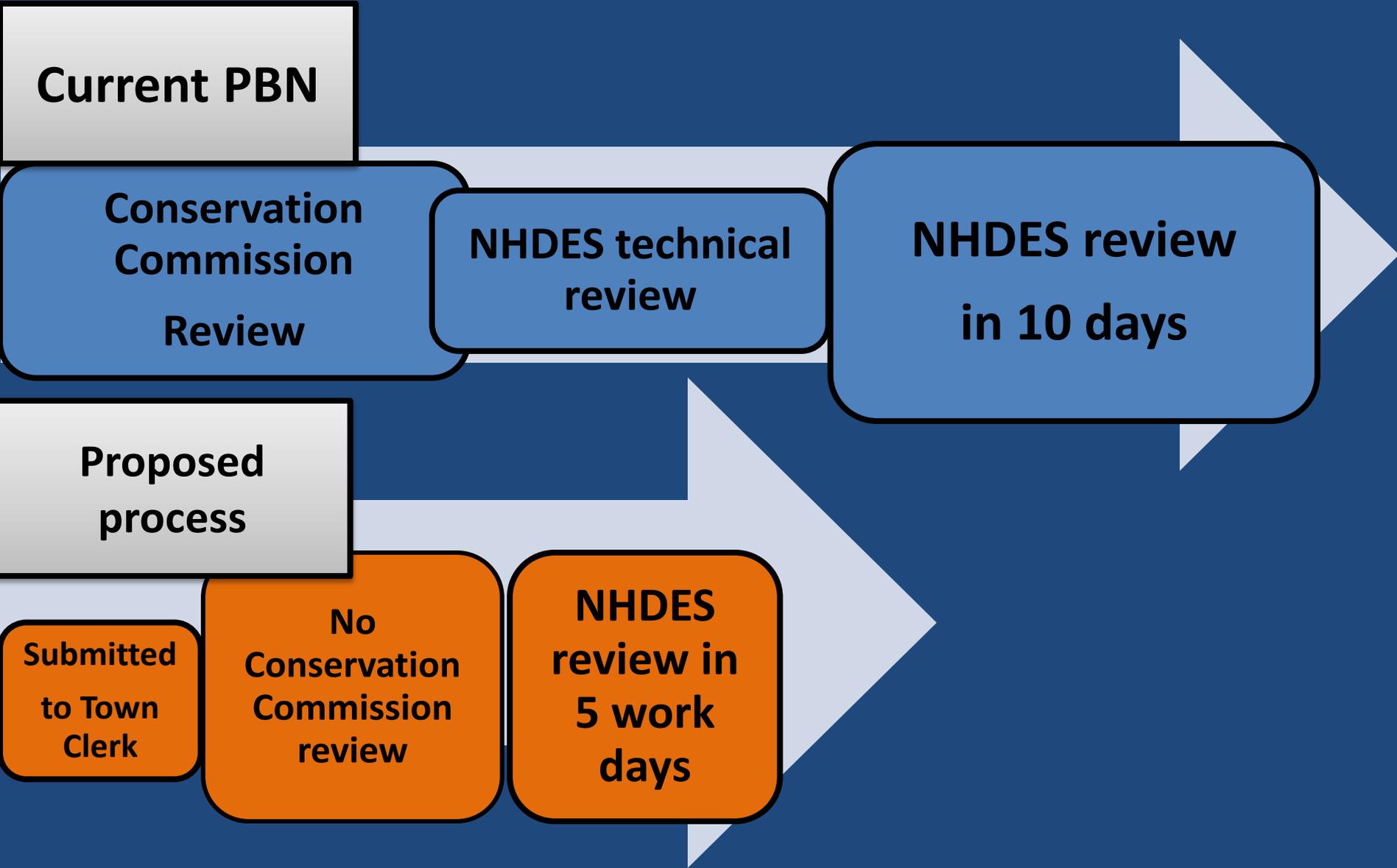
LSA

- **CAT 1 projects – low/minimum impact**
- **PERMIT BY NOTICES (PBN)**

LSA

- **NHDES to process within 5 business days**
- **NHDES to post permit to One-Stop**

# Goal – Streamline Review



# *New Streamlined projects (CAT1)*

LSA

- **Agriculture ( $\leq 3$  acres)**

LSA

- **< 3,000 SF driveway access**

LSA

- **Pond construction < 3 K SF**

# *New Streamlined projects (CAT1)*

LSA

- **Tier 3 stream crossing *repairs***

RR-5

- **In-kind headwall *repair***

RR-8

- **Culvert inlet/outlet *Maintenance***

# Goal: Streamline Review

## Data Screening – 311, Standard Permit



Silver maple floodplain forest near the New Hampshire Technical Institute along the Merrimack River in Concord (photo by Ben Kimball)

**Designated Rivers**

**Floodplains**

**Hydric Soils**

**Impaired Waters**

**Peatlands & marsh/scrub**

**NHB data-check/ WAP**

**Watershed size**

# Streamline Review

**Current  
Standard  
Process**

**Application filed w/  
Town Clerk & DES**

**NHDES- ARC**

**CC 14 day**

**LAC review**

**NHDES  
Technical  
review**

**NHDES  
issues  
decision**

**Proposed Process- CC & LAC  
Up-front review to streamline**

**30 days  
prior to  
filing**

**Application  
filed w/ Town  
Clerk &  
NHDES**

**NHDES  
technical  
review**

**NHDES  
issues  
decision**

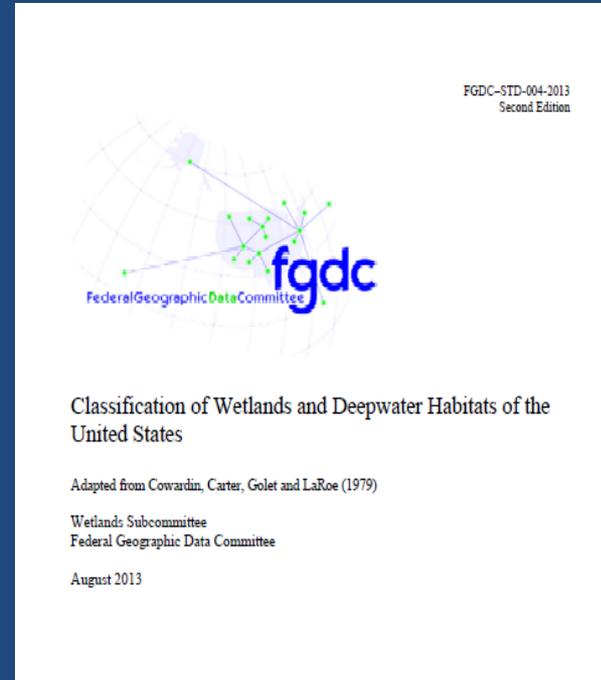
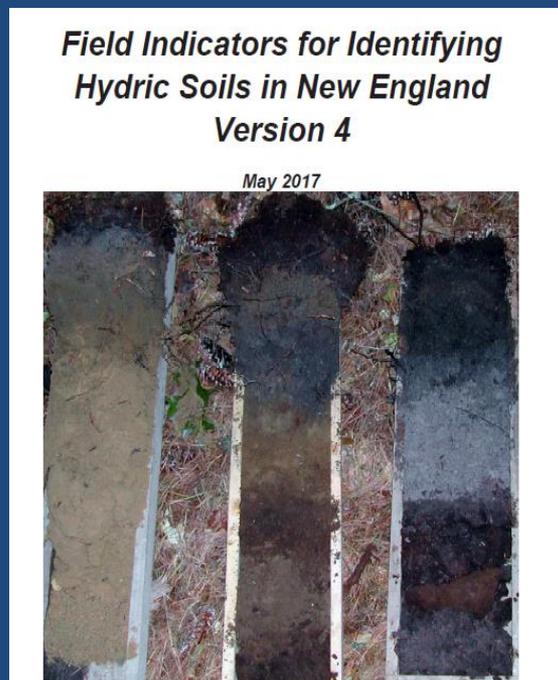
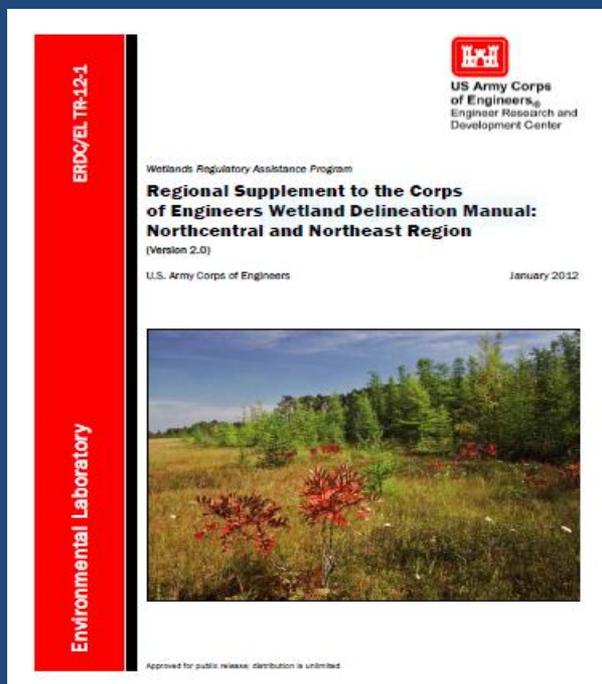
# Avoidance/Minimization/Mitigation

Sequencing clarified

Special resource area impacts require mitigation



# Goal: Standardize Delineation & Classification Manuals updated



# Project Classification



**Resource  
Disqualifications**

**Size Thresholds**

**Project Type  
Exceptions**

# Goal – Standardize plans & Review Project-oriented Criteria

## Standardize plan requirements

Delineation  
methods

Assessment  
methods

### Resource specific analysis

Non-tidal  
wetlands &  
streams

Coastal  
resources

### Project specific criteria

Information required  
Approval Criteria

Design Criteria &  
project classification

# Goal: Standardize Criteria

## Project-Specific Criteria



**Beach/Deck 511**

**Breakwaters 512**

**Docks 513; 514; 515**

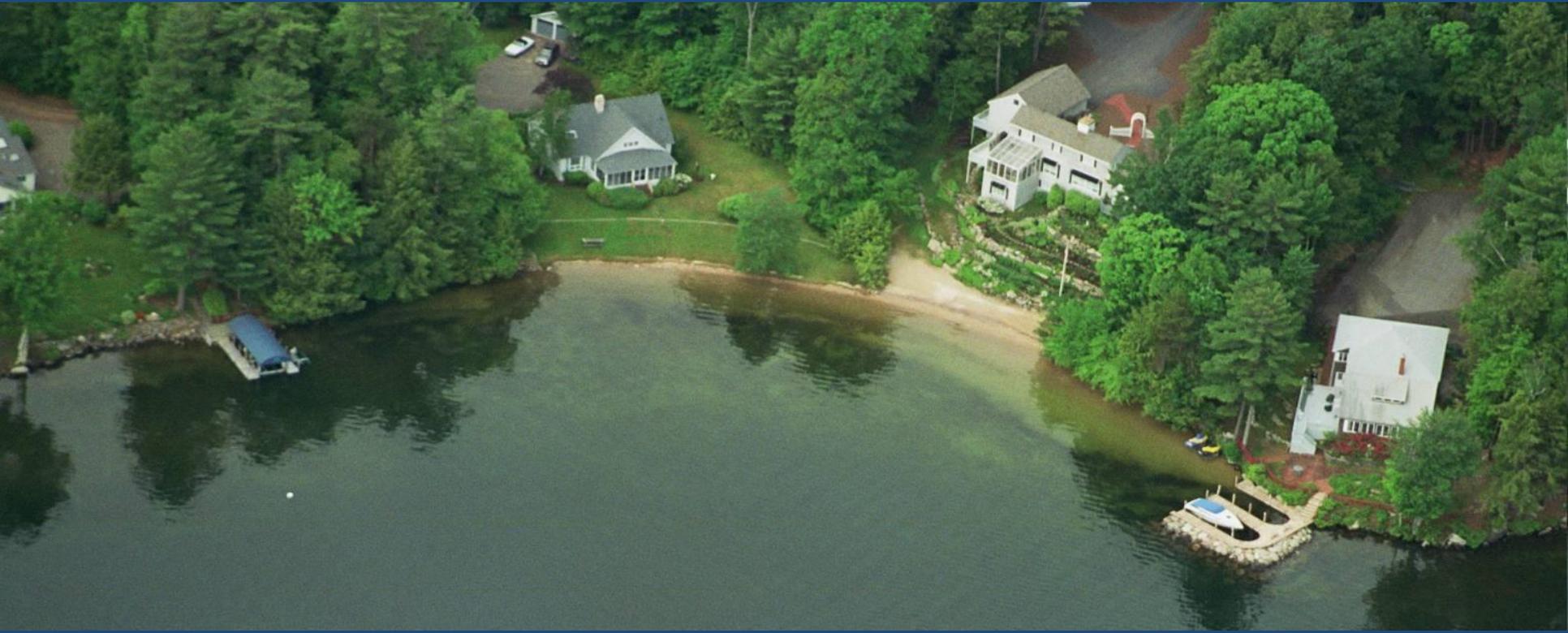
**Bank Stabilization 516-518**

**Boathouses 519**

**Boat Launches 522**

## Significant Changes to Shoreline Structures

- Dock rules are no longer one size fits all (SF approach).
- Deck construction allowed as alternative to beach construction (lower cost and impact).
- **Baseline Frontage reduced from 75' to 50'.**
- Shoreland Accessory structure Rulemaking needed.



# Goal: Standardize Project Criteria



**Ponds 523**

**Forestry 524**

**Utility 525**

**Agriculture 526**

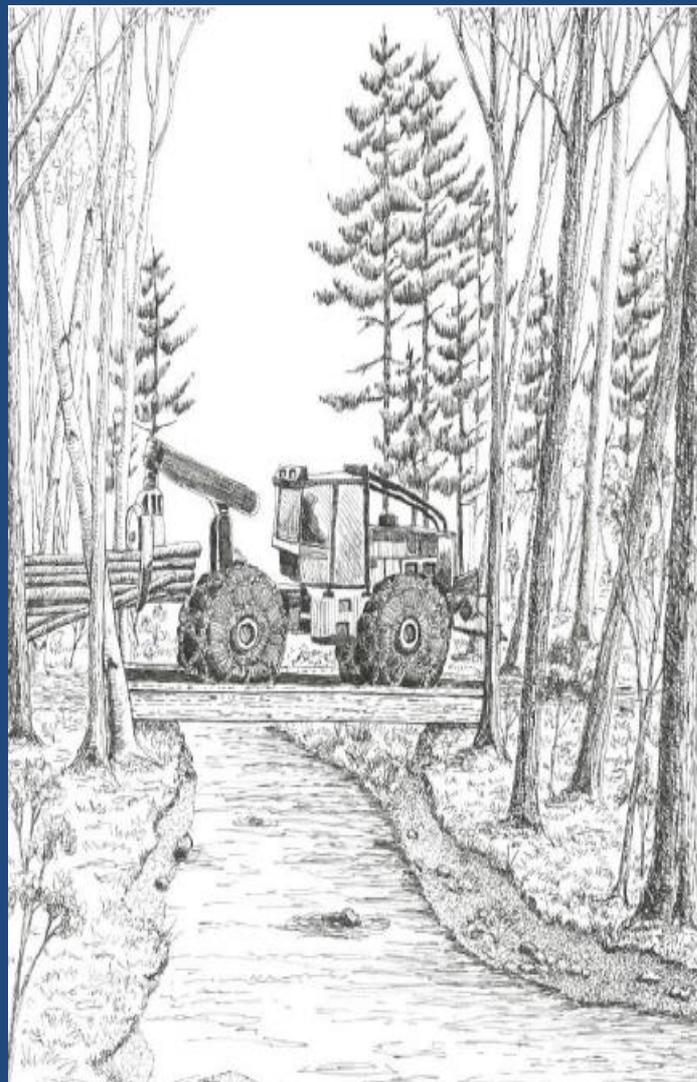
**Trails & Paths 527**

**Residential /Commercial 529**

**Restoration/Enhancement 530**



# Forestry Clarification/ Goals



- ❖ SPN = current CAT1 projects
- ❖ Forestry BMP Outcomes
- ❖ NHB = current process
- ❖ NHDES/ Ranger inspections
- ❖ Consolidate forestry sections

# Forestry BMP for Erosion Control (2016)

New Hampshire  
Best Management Practices for Erosion  
Control on Timber Harvesting  
Operations



2016

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# Goal: Consolidate Tidal Requirements



**Data screen/assessment/plan 603**

**Demonstrated Need 604**

**Avoid/Minimization/Mitigation 605**

**Overwater Structures 607**

**Dredge 608      Tidal beach 609**

**Tidal buffer zone/Shoreland 611**

# Goal: Reflect Statutory Changes Env-Wt 700 Prime Wetlands



**Definitions**

**Maps & documents**

**Notice & Appeal**

**Criteria/ Procedures**

**Criteria for Approval**

**Prime Wetland Waivers**

# Goal: Clarify & Streamline Env-Wt 900 Stream Crossing rules

**Project classification**

**Info Required**

**Repair, Rehabilitation,  
Replacement**

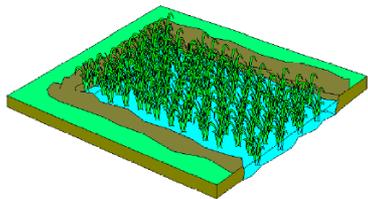
**Tier 4 - Tidal crossings**

**Alternative Design**



# draft BMPs need your comments

- Agriculture – Dept of Agriculture (*new planning*)
- Utility – NHDES w/ Utility Workgroup (*photos & plans*)
- Routine Roadway – DOT (new activities/forms)
- Avoidance & Minimization Techniques (*all new*)



DRAFT BEST MANAGEMENT  
WETLANDS PRACTICES  
FOR AGRICULTURE

JANUARY 22, 2016  
MARCH 2, 2016  
MARCH 14, 2016  
JANUARY 31, 2018

DRAFT

## Best Management Practices Manual

Utility Maintenance in and Adjacent to  
Wetlands and Waterbodies in New Hampshire



New Hampshire Department of Natural and Cultural Resources

January 2018



Best Management Practices for  
Routine Roadway Maintenance  
Activities in New Hampshire



New Hampshire  
DOT  
Department of Transportation



2018

Wetlands  
Best Management  
Practice Techniques  
For Avoidance and Minimization



# Where do we go from here?

NHDES needs your feedback

Comment deadline – April 20, 2018

Written comments are encouraged

Next steps – to be determined based on comments



# Thank you

To all who assisted in the development of the draft rules, outreach, provided technical assistance, facilitated and/or participated in workgroups, lead BMP workgroup, drafting, review and revisions

# Any Comments?

Submit anonymously at:

[https://www.surveymonkey.com/  
r/draft-wetlands-rules](https://www.surveymonkey.com/r/draft-wetlands-rules)

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