

WATER BODY AND WETLAND ALTERATIONS

Supplement S-3

WHO SHOULD SUBMIT THIS FORM?

If your project requires a permit *and* involves disturbing any amount of land area that:

- i) Is within a Wetland Protection (P-WL) subdistrict shown on the Commission's official Land Use Guidance Map;
- ii) Is located below the normal high water mark of a lake, pond, river, stream, or coastal wetland;
- iii) Has been identified as wetland based on a required on-site wetland delineation; or
- iv) Has been identified as wetland by LUPC staff.

WHERE CAN I GET HELP TO COMPLETE THIS FORM?

To save time, please read the attached instructions for completing this form. Depending on the size of the project and the type of wetland involved, different levels (or tiers) of permit review apply. Question #8 (on the second page) of the application form will help you to decide which tier of review applies to your project.



When reviewing General Application Instructions, the tier is indicated at the top right of the page.

If you have questions, please use the General Inquiry Button on the LUPC Contact Us Page

<https://www.maine.gov/dacf/lupc/about/contact.shtml>). This will connect you to the LUPC regional office that serves your area. Also, you can visit our website www.maine.gov/dacf/lupc/ to browse through our laws and rules, brochures, reports, publications, and other valuable information.

APPLICABLE STANDARDS

The Land Use Planning Commission (Commission or LUPC) standards for water body and wetland alterations are primarily found in the Commission's Chapter 10 rules, *Land Use Districts and Standards*, Section 10.25(P). To obtain a copy of these rules, visit the Commission's website or contact the LUPC regional office that serves your area.

OTHER PERMITS YOU MAY NEED

If your activity involves State-owned submerged lands (below mean low water), it may require a lease or easement from the Department of Agriculture, Conservation and Forestry, Bureau of Parks & Lands (BPL) (https://www.maine.gov/dacf/parks/about/submerged_land.shtml). Any questions about submerged lands should be directed to BPL at (207) 287-3861.

Some projects may require a permit from the U.S. Army Corps of Engineers. It is the applicant's responsibility to ensure that all required permits are obtained for the project. If your project affects any wetlands or waterways, use the Regulatory Request System at <https://rrs.usace.army.mil/rrs> or contact the Army Corps of Engineers at (207) 623-8367.

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For office use:

Tracking No.

Permit No.

Supplement S-3

Water Body and Wetland Alterations

PROJECT INFORMATION

1. Applicant Name(s):	2. Project Location (Township, Plantation, or Town):
3. How was the water body or wetland(s) identified on the property? (Check all that apply.) ☐ P-WL subdistrict shown on the Commission's official Land Use Guidance Map ☐ Wetland delineation ☐ LUPC staff (based on National Wetlands Inventory maps) ☐ LUPC staff (based on staff field visit) ☐ Other, please explain _____	
4. Describe the water body or wetland alteration (include the purpose of and need for the project):	
5. Has any water body or wetland area previously been altered on the property? ☐ YES ☐ NO If YES, provide the date, purpose, and amount of previous alteration, and whether permits were obtained.	

TYPE AND AMOUNT OF ALTERATION

6. What type of water body or wetland(s) will be altered? (Check all that apply)
7. Provide the amount of area (in square feet) that will be altered for each category below and calculate the total. If the "other" category is used, please explain.

6. Wetland Type	7. Impact Type in Square Feet						TOTAL
Note: A regulated wetland may be outside of a P-WL subdistrict. See the instructions for Question 6 below for more information.	Structure	Fill	Vegetation Removal	Dredging or Dewatering	Shoreland Stabilization	Other	
Wetland of Special Significance (P-WL1)							
☐ River, Stream or Brook							
☐ Lake or Pond							
☐ Coastal Wetland							
☐ Freshwater Wetland							
☐ Shrub Scrub Wetland (P-WL2)							
☐ Forested Wetland (P-WL3)							
TOTAL							

LEVEL OF REVIEW AND REQUIRED EXHIBITS

8. Determine the level of review required for your project (<i>check only one option</i>) and submit all necessary exhibits with this form (<i>see instructions for each level attached</i>).	Level of Review	Required Exhibits
☐ Altering less than 4,300 sq. ft. of a P-WL2 or P-WL3 wetland.	None	
☐ Altering 4,300 to 14,999 sq. ft. of a P-WL2 or P-WL3 wetland. ☐ Altering a P-WL1 wetland (S1 or S2 natural community only) <i>*See General Instructions, attached.</i>	Tier 1	☐ 1. Plan or drawing ☐ 2. Photos of the area ☐ 3. Statement of avoidance & minimization ☐ 4. Statement of no unreasonable impact
☐ Altering 15,000 to 43,560 sq. ft. of a P-WL2 or P-WL3 wetland.	Tier 2	☐ All Tier 1 exhibits ☐ 5. Wetland delineation report ☐ 6. Additional statement of no unreasonable impacts
☐ Altering 43,560 sq. ft. or more of a P-WL2 or P-WL3 wetland. ☐ Altering a P-WL1 wetland of any size	Tier 3	☐ 7. Alternatives analysis ☐ 8. Functional assessment, if required ☐ 9. Compensation plan, if required

📌 Please read. If you determined that the level of wetland review for your project is Tier 2 or Tier 3, contact the LUPC 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.

GENERAL APPLICATION INSTRUCTIONS

(All Projects)

APPLICATION FORMS

Please answer every application question. If additional information is required to fully answer the question, label the question number on a separate sheet and organize the extra information and exhibits in numerical order.

INSUFFICIENT OR MISSING INFORMATION IN THE APPLICATION IS A COMMON CAUSE OF DELAY. APPLICATIONS WITH MISSING INFORMATION OR EXHIBITS CANNOT BE PROCESSED. PLEASE CALL YOUR REGIONAL OFFICE IF YOU HAVE QUESTIONS.

PROJECT INFORMATION (QUESTIONS 1-5)

Questions 1 and 2. Please write in the name of the applicant; and the township, plantation, or town where the proposed project is located.

Question 3. Check all boxes that apply to show how the water body or wetland was identified on the property. If “other” is checked, please explain. Examples of “other” identifiers include LUPC protection subdistricts such as Shoreland Protection (P-SL) or Great Pond Protection (P-GP) subdistricts.

Question 4. Describe the purpose of and need for the project, in detail. What will it be used for and why? Also, describe the type(s) of activity involved in the alteration. Alterations include removing or displacing soil, sand, vegetation or other materials, dredging, bulldozing, draining or dewatering, filling, or any other construction, repair, or alteration of a permanent structure.

Question 5. If any water body or wetland area was altered on the property before this application was submitted, check “YES.” In deciding whether water bodies or 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 water body and 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 near your project. Provide, to the extent known, the date, purpose and size of the previous water body or wetland alteration, and whether state or federal permits were obtained for the activity.

WATER BODY OR WETLAND TYPE, AND AMOUNT OF ALTERATION (QUESTIONS 6 AND 7)

Question 6. Indicate what type of water body or wetland(s) will be altered by checking all boxes that apply. P-WL subdistricts include lakes, ponds, rivers, streams, bogs, marshes, intertidal areas and other types of wetlands. These subdistricts are usually identified on the Commission’s zoning maps as P-WL1, P-WL2, or P-WL3 subdistricts. Map legends will help interpret symbols. However, some wetlands may not be considered P-WL subdistricts but must be categorized and regulated as P-WL1, P-WL2 or P-WL3 wetlands based on descriptions provided in Section 10.23(N)(2)(a) to determine the level of permit review required. Small streams are considered P-WL1 subdistricts, even if they are not shown on the commission’s maps. If a wetlands professional visited your site to identify wetland boundaries, the professional will determine the wetland type(s). Scrub shrub (P-WL2) and forested freshwater wetlands (P-WL3) will be elevated to wetlands of special significance (P-WL1) if they:

- (i) Are within 250 feet of the normal high water mark of a coastal wetland or any body of standing water greater than 10 acres;
- (ii) Contain at least 20,000 square feet in total of the following: aquatic vegetation, emergent marsh vegetation, or open water, unless the wetlands are a result of constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;

- (iii) Are inundated with floodwater during a 100-year flood event;
- (iv) Contain significant wildlife habitat;
- (v) Consist of, or contain, peatlands, except that the Commission may determine that previous mined peatland, or portion thereof, is not a wetland of special significance;
- (vi) Are within 25 feet of the normal high water mark of a flowing water; or
- (vii) Contain a natural community that is critically imperiled (S1) or imperiled (S2).

For each type of wetland that will be altered, write down the area (in square feet) that will be impacted. Reach out to regional staff with questions.

Question 7. Indicate the types of impacts involved with the project by checking all boxes that apply. Enter the amount of water body or wetland that will be altered for each of the impact types checked. For shoreland stabilization projects, such as riprap or retaining walls, the amount is the total square feet altered below the normal high water mark of the water body.

Then, total the amounts in each column for impact amounts. The totals for each of the columns should match.

 Please remember:

1. To include all parts of your project that are within the water body or wetland when you calculate the size of the area to be altered. Also, include any areas below the normal high-water mark of a lake, pond, river, stream, or intertidal area.
2. If your project involves more than one type of impact, please do not double count the area to be altered when you complete the table.

LEVEL OF REVIEW, AND REQUIRED EXHIBITS (QUESTION 8)

Question 8. Using the answers to Questions #6 and #7, determine the level of review required for your project. **Select only one box here!** Based on the level of review required for your project, identify which exhibits must be included with your application form.

In cases where LUPC staff has identified the wetland on your property, please request the applicable level of review from your LUPC Regional Representative.

*** Note:** Alterations of 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 are reviewed under a Tier 1 level of review. All other alterations of P-WL1 wetlands are reviewed under a Tier 3 level of review, unless otherwise determined by the Commission.

 If you determined that the level of wetland review for your project is Tier 2 or Tier 3, contact the LUPC 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.

INSTRUCTIONS FOR TIER 1 EXHIBITS

(Tier 1 Projects)

1. PLAN OR DRAWING

For projects requiring Tier 1 wetland review, submit a plan, drawn to scale, that indicates the types and locations of wetlands within the project area; the proposed wetland alterations; and locations of streams and other natural features. Also, show the distance between the proposed structure or disturbed area, and any nearby lakes, ponds, streams, rivers, intertidal areas, or wetlands.

2. PHOTOS OF AREA

Include color photos showing the wetland in the activity area. Label each photo with the applicant's name, the township where the activity is located, and the date taken. Photographs may be taken from the air or the ground but should be taken during the growing season, if possible. Try to include landmarks in the photos, such as existing structures, large rocks or trees, lakes, etc.

3. STATEMENT OF AVOIDANCE & MINIMIZATION

Avoidance: Each applicant must provide a statement that indicates the alteration of wetlands on the property has been avoided to the extent possible based on the overall purpose of the project. In determining whether an alternative exists consider: use of other sites; reducing the size, scope, design, or density of activity; developing alternative activity designs; and demonstrating the need for the proposed project.

Minimization: The applicant must demonstrate that the area of wetland to be altered will be limited to the minimum amount necessary to complete the project. Include in the statement a discussion about how the project was designed to reduce wetland impacts (e.g., 2:1 side slopes for fill instead of 3:1; or orienting a structure to minimize wetland impacts).

4. STATEMENT OF NO UNREASONABLE IMPACT

The statement of no unreasonable impact should demonstrate:

1. No unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the marine or freshwater environment.
2. No unreasonable harm to any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life. The commission may consider proposed mitigation measures outlined in 10.25(P)(1)(c)(1) through (5).
3. No violation of any state water quality law, including those governing the classification of the State's waters.

INSTRUCTIONS FOR TIER 2 & 3 EXHIBITS

(Tier 2 and 3 Projects)

ALL TIER 1 EXHIBITS:

Provide all the exhibits required for a Tier 1 level of review. See the required exhibits list and the Tier 1 Instructions.

5. ADDITIONAL STATEMENT OF NO UNREASONABLE IMPACT

When considering whether a single activity is reasonable in relation to the direct and cumulative impacts on the resource, the Commission shall consider factors such as the degree of harm or benefit to the resource; the frequency of similar impacts; the duration of the activity and ability of the resource to recover; the proximity of the activity to protected or highly developed areas; traditional uses; the ability of the activity to perform as intended; public health or safety concerns addressed by the activity; and the type and degree of benefit from the activity (public, commercial or personal).

In addition to the no unreasonable impact review criteria for Tier 1 projects, the statement of no unreasonable impacts for Tier 2 and 3 projects must also consider:

1. The area of wetland that will be affected by the alteration and the degree to which the wetland is altered, including wetland beyond the physical boundaries of the project.
2. The functions and values provided by the wetland.
3. Any proposed compensation and the level of uncertainty regarding it.
4. Cumulative effects of frequent minor alterations on the wetland, if applicable.

Additionally, activities on or over a wetland of special significance containing threatened or endangered species are prohibited unless an applicant can demonstrate that the activity will not disturb the threatened or endangered species and that the overall project will not affect the continued use or habitation of the site by the species.

6. WETLANDS DELINEATION REPORT

Submit a wetland delineation, conducted by a qualified wetland 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 sheets) do not have to be submitted with this supplement (the LUPC may request field sheets to be submitted on some projects, depending upon the types 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 sheets) must be submitted with this form.

7. 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 also need to 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. Do not 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, layout, 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, a project 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.

8. 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) of the Commission's rules and be sufficient to allow the Commission to evaluate whether the proposed wetland alteration will cause a loss or degradation of wetland functions.

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

9. 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.

Unless the compensation plan includes use of an existing wetland mitigation bank or in lieu fee, a compensation plan must 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 also should identify the criteria that will be used to measure success of the compensation project.
- If the project includes wetland restoration or creation, include:
 - A narrative describing the available literature or experience to date (if any) for carrying out the compensation work;
 - Proposed implementation and management procedures;
 - A description of the short-term and long-term sources of water for the wetland;
 - 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;
 - Proposed buffers or protective measures such as sediment control methods;

- o Plans for monitoring the compensation work, identifying criteria which require mid-course corrections and possible remediation measures; and
 - o 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, also must be included.