

APPENDIX E:

RESEARCH SUBCOMMITTEE REPORT

HB 1579, Chapter Law 294, Laws of 2008
Commission to Study Land Development Regulations
and the Effects of Land Development Within Upland Areas
That May Affect Wetlands and Surface Waters of the State

Research on New England State Level Planning Programs Subcommittee Report

September 20, 2010

Introduction

The subcommittee was formed in response to Chapter 294:3, III, Laws of 2008 which states that the commission shall study...

The opportunities for integration of land use controls, open space protection techniques, and environmental and public health protection laws to promote land development patterns that maintain ecosystem health and integrity while providing desirable communities in which to live and work. This shall include study of any programs of this kind underway in other states or nations.

Background

New Hampshire's landscape has changed drastically over the past few decades. The State's population grew faster than all other states in the Northeast for four decades (1960-2000), and twice as fast as the rest of New England from 1990 to 2004. New houses, businesses, and roads claimed about 17,500 acres of forestland annually¹, and agricultural lands dwindled rapidly, Rockingham County alone lost a third of its productive cropland from 1997-2002.² However, since 2005 New Hampshire's population growth has significantly slowed, with next to no net in-migration, previously the State's largest contributor to population growth. One theory attributes the recent population growth slow down to the recession.³ The subsequent slowdown in residential, commercial and industrial development presents an opportunity for the State to reshape its landscape and future development patterns.

Development of the natural landscape comes at a cost, as forests and farmlands that support both humans and wildlife are converted to permanent structures, and remaining habitat patches become increasingly smaller, isolated, and degraded. Human activities in uplands impact aquatic and wetland resources as well. Increasing impervious surfaces affect groundwater recharge, water supply, wetland hydrology, and water quality. Studies of streams in urbanized environments, for example, show that watersheds with about 10% impervious cover have aquatic insect communities that are degraded by as much as 33% compared to those in forested watersheds.⁴

¹ This is equivalent to 27.3 square miles per year since 1990. Over 14 years this equals 378 square miles of NH's 9,350 total square miles, or 0.29% per year or an aggregate 4.04% of the total area over 14 years.

² Society for the Protection of New Hampshire Forests, 2005. *New Hampshire's Changing Landscape: Population and Land Use Changes: What They Mean for the Granite State*. Concord, N.H.

³ NH Center for Public Policy Studies, 2009. *What is New Hampshire? A collection of data for those seeking answers*. Concord, NH.

⁴ Cuffney, T.F., R.A. Brightbill, J.T. May, and I.R. Waite, 2010. "Responses of benthic macroinvertebrates to environmental changes associated with urbanization in nine metropolitan areas." *Ecological Applications* 20:1384-1401.

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As New Hampshire continues to grow, the challenges of protecting water quality and ecosystems will increase. In order to address existing environmental issues, and those likely to arise, the State needs programs and regulations that protect the natural landscape.

Process

The subcommittee began by identifying the many laws and state level programs within New Hampshire that already contribute to the goal of environmental protection in balance and harmony with essential growth and development. Through its meetings the subcommittee identified numerous federal and state level programs across New England that would similarly address the commission's obligation to study the many opportunities to improve coordination of land use controls and environmental protection. To facilitate comparisons across states, programs were organized into a matrix, sorted by state and programmatic focus area. Icons identify the various implementation methods for each program. Additionally, each program's title links directly from the matrix to its website.

From the matrix the subcommittee identified numerous programs that were valuable to research further and present in greater detail. The research sheets for these programs follow the matrix and are paginated by matrix's row and column cell numbers. Given the extensive ongoing work of the [Stormwater Commission](#) and the [Water Quality Standards Advisory Committee](#), the subcommittee decided to forgo research beyond the identification of programs related to Water Quality.

The research presented in this document is predominantly the compilation of relevant information as stated on each of the individual program websites. Much of the content within the research sheets is directly excerpted, in part or in whole, from the website listed at the beginning of each research sheet. The decision to use direct excerpts was based on the subcommittee's need to compile detailed and accurate information within a limited amount of time.

Of the programs researched in greater detail, five were selected to present to the full commission. Presentations were made on the following programs or groups of programs:

- Smart Growth and Vermont's Growth Centers Program (November 23, 2009)
- Comprehensive Environmental Policy and Regulation in Vermont, Maine And Massachusetts (December 21, 2009)
- NH DES Coordinated Permitting Program (January 11, 2010)
- Overview of land conservation strategies and financing (February 8, 2010)
- Comparative Review of New England's Wetlands Programs (March 15, 2010)

Findings and Recommendations

Based on knowledge gained from researching other states' programs, and what is known about New Hampshire, the subcommittee developed the following findings and recommendations. Rather than recommend that New Hampshire replicate the work of other states, these recommendations identify opportunities to improve existing programs and systems within New Hampshire, develop new approaches, or supplement programs in areas in which the State was found to have programmatic gaps. Given that the subcommittee's research of other states' initiatives encompassed many programmatic areas, the findings and recommendations were grouped according to the original statutory duties of the commission.

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The subcommittee's three priorities amongst its many recommendations are (in no particular order):

1. Enhance existing education and outreach programs to promote smarter growth and protect natural resources. Possible opportunities and topics include:
 - Increased educational opportunities on the impacts of development on the natural environment;
 - Increased education opportunities for municipal boards relative to implementing the smart growth principles of RSA 9-B; and
 - Assist municipal boards to implement the models included use of the *Innovative Land Use Planning Techniques Handbook*.
2. Consider new legislation to provide for an alternative, integrated land development permit that addresses multiple issues (e.g., wetlands, stormwater, wastewater/septic, habitat, and indirect and cumulative impacts) in coordination. Central to this concept are the key words "alternative" and "integrated," intending one land development permit offered in parallel and as an alternative to the existing multiple independent permits. Running two parallel permit programs would allow additional time to consider the appropriateness and logistical realities of transitioning to such an integrated permitting program for all applicants. As part of this effort, it is expected that the legislature will establish clear statutory definitions of "cumulative" and "indirect" impacts and establish, within statute, the authority for DES, municipalities, and other regulatory agencies to address these impacts. Existing frameworks that may be utilized to assist in implementing this recommendation include the Maine Site Location of Development Act and the New Hampshire Department of Environmental Services' Innovative Permitting Initiative.
3. Establish incentive-based programs to promote smart growth patterns of development. Possibilities include:
 - Enable modification of existing programs' administrative rules to consider smart growth as a program performance or eligibility requirements;
 - Establish new programs such as Massachusetts's Commonwealth Capital program or Vermont's Growth Centers program; and/or
 - Encourage collaboration with other agencies, organizations, and/or political subdivisions to maximize access to resources and effectiveness.

The following table represents all of the findings and recommendations that were considered by the subcommittee.

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The commission shall study:	Findings:	Recommendations:
<p>I. The effects of land development on surface and ground water quality and quantity, and terrestrial and aquatic habitat.</p>	<p>A. DES and other regulatory agencies have a variety of regulatory programs for reviewing the impacts of development.</p> <p>B. New Hampshire has good and reliable data, databases and readily accessible information available about surface water quality (DES) and plant species (Natural Heritage Bureau).</p> <p>C. Essential data on ground water and terrestrial and aquatic wildlife habitat are deficient. However, this is partially due to the difficulties associated with collecting the data.</p> <p>D. Smart growth programs can support the protection of uplands.</p> <p>E. There can be a disconnect between local land use decisions, which often are primarily based on non-environmental factors such as market economics and existing local zoning, and state environmental permitting, which is charged with addressing short- and long-term impacts to natural resources.</p> <p>F. More diffuse land development patterns have a greater overall impact on surface and groundwater quality and quantity and terrestrial and aquatic habitat than more compact patterns of development.</p>	<ol style="list-style-type: none"> 1. Model New Hampshire’s wildlife habitat and groundwater data collection on the existing and exemplary surface water and plant species database systems. Complete data are essential to making informed decisions to minimize the impacts of development on sensitive natural resources. 2. Increase educational opportunities on the impacts of development on the natural environment. 3. Increase educational opportunities for municipal boards relative to implementing “smarter” growth through local regulations.

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The commission shall study:	Findings:	Recommendations:
<p>II. The adequacy and consistency of local, state, and federal programs as they relate to the regulation and management of land development, including regulations of wetland buffers* and setbacks, stormwater management, and cumulative effects of development.</p> <p>*This subcommittee has refrained from developing findings and recommendation in relation to wetland buffers given that the "Definitions" Subcommittee of the Commission addressed this specific topic.</p>	<p>A. New Hampshire is the only state in New England without a comprehensive environmental policy. But for this exception, many programs and programmatic areas are very similar across New England.</p> <p>B. Maine, Massachusetts, and Vermont each take different approaches to comprehensive environmental policy and permitting.</p> <p>C. The Maine Site Location of Development Act is the closest of the three states' comprehensive environmental policy programs to New Hampshire's existing regulatory system.</p> <p>D. Vermont's Act 250 and Massachusetts' MEPA are more comprehensive and complex than the Maine Site Location of Development Act.</p> <p>E. The Site Evaluation Committee (SEC) is New Hampshire's one existing comprehensive review process. However, the SEC only reviews large-scale energy supply, transmission, and generation facility siting.</p> <p>F. There is a need for more consistent data accessibility and electronic access to records.</p> <p>G. New Hampshire's various environmental permit programs individually do not prohibit "good" sustainable development. However, the requirements of each individual program do not always align with the requirements of other programs, creating conflict within the collective layering of programs that may unintentionally inhibit more innovative sustainable development.</p> <p>H. There is no consensus on how "indirect" and "cumulative" impacts should be defined within state statutes; other environmental statutes in New England,</p>	<ol style="list-style-type: none"> 1. Examine the Maine Site Location of Development Act as a possible reference when designing incremental steps towards a comprehensive environmental policy program, as it most nearly resembles NH's existing regulatory framework and could provide a means to better coordinate permit review. 2. Develop clear statutory definitions of "cumulative" and "indirect" impacts and establish within existing statutes the authority for DES to address these impacts; the language of other New England states could provide a model for NH to clarify the definition and implementation of this requirement. 3. Consider new legislation to provide for an alternative, integrated land development permit that addresses multiple issues (e.g., wetlands, stormwater, wastewater/septic, habitat, and indirect and cumulative impacts) in coordination. Central to this concept are the key words "alternative" and "integrated," intending one land development permit offered in parallel and as an alternative to the existing multiple independent permits. Running two parallel permit programs would allow additional time to consider the appropriateness and logistical realities of transitioning to such an integrated permitting programs for all applicants. 4. Establish a task force to continue to review current environmental permitting programs to identify specific points where there may be

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	<p>however, generally explicitly require consideration of indirect and cumulative impacts.</p> <p>I. There are conflicting views regarding the statutory authority of New Hampshire’s various environmental permitting programs to address all of the “indirect” and “cumulative” impacts of development.</p> <p>J. Current permit review procedures in New Hampshire have complex and occasionally conflicting review, notification, and response times specified in statute.</p> <p>K. Using New Hampshire’s wetlands permit as an example, often times there are additional notification requirements placed on DES and dependent on the specific features of an application. While specific agencies or organizations are to be notified, it is unclear what statutory authority DES has to act upon the comments they received in response to the notification.</p> <p>L. There is often overlapping and occasionally conflicting jurisdiction among and between federal, state and local permitting review.</p> <p>M. There can exist a back-and-forth effect that occurs when an applicant navigates between meeting the conditions required for federal, state and local permits and approvals. Often an applicant must resubmit to a different agency after one agency sets differing requirements that modify the project’s originally submitted design.</p> <p>N. There is a desire for greater consistency and predictability in process, timelines, and outcomes from local and state permitting programs.</p>	<p>conflicting, overlapping or duplicative statutes and rules at the federal, state, and local levels and determine the appropriate level at which such issues should be addressed.</p> <p>5. Support and utilize existing organizations, committees, councils, etc. to further the goals and duties of the commission rather than create new or redundant systems.</p> <p>6. Establish a central repository or website that build upon the DES Permit Guidebook assist stakeholders in navigating the permitting process. This central point should also serve to apprise stakeholders of changes in the process or of permit requirements based on legislative or administrative actions.</p> <p>7. Enhance education and outreach for existing programs to maximize understanding of, and ease of navigating, the regulatory system.</p> <p>8. Support current efforts to evaluate and make recommendations for greater integration and streamlining of permitting procedures and interactions between federal, state, and local reviews of development.</p>

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The commission shall study:	Findings:	Recommendations:
<p>III. The opportunities for integration of land use controls, open space protection techniques, and environmental and public health protection laws to promote land development patterns that maintain ecosystem health and integrity while providing desirable communities in which to live and work. This shall include study of any programs of this kind underway in other states or nations.</p>	<p>A. Environmental planning is disjointed within the State, covered in part by at least four different agencies: DES, OEP, DRED, and F&G, and their various partners.</p> <p>B. New Hampshire has fewer incentives for implementation of smart growth compared to neighboring states.</p> <p>C. Incentive based smart growth programs are the best opportunity to positively impact future patterns of development at a larger, regional or watershed based scale.</p> <p>D. New Hampshire already has several tools to promote smart growth and future development patterns that minimize the impacts on natural resources. These include the Innovative Land Use handbook, the Water Primer and the Housing and Conservation Planning Program. However, there is a lack of resources to provide adequate technical support to implement these tools and programs.</p> <p>E. New Hampshire lacks a comprehensive data collection or management system and adequate resources for its development and maintenance. Various components of environmental data required to make an informed land use development decision are located at separate locations – consolidation of all resources would permit one point of access to view all environmental constraints.</p> <p>F. Existing natural resource data, including the Natural Services Network (NSN) maps, agricultural lands and productive soils, water supply lands, flood storage areas, and high-ranking wildlife habitat, are available on GRANIT (online GIS repository and map viewer).</p>	<ol style="list-style-type: none"> 1. Support the existing framework for further integration of planning at the state, regional, and local levels. 2. Establish incentive based programs to promote smart growth patterns of development, such as Massachusetts’s Commonwealth Capital Program or Vermont’s Growth Centers Program. 3. Support programs that aid municipalities in planning for balanced development and natural resource protection. 4. Establish an incentive to encourage property owners that are removing land from Current Use to place a portion of the land under a conservation easement in exchange for a reduced tax levy on the portion that is removed from Current Use and subject to the Land Use Change Tax. 5. Promote protection of the resources identified by the NH Natural Services Network (NSN) data layer. The NSN provides a useful tool for identifying important natural resources at state, regional and municipal scales. 6. State policy should provide incentives to encourage municipalities to protect important natural resources through regulations and/or the acquisition of conservation land through fee ownership or easements. 7. Develop and implement a statewide landscape connectivity plan that would provide a path to maintaining or promoting an unobstructed

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	<p>G. Professionals in state and federal agencies, non-profit organizations, and academic institutions have been involved for some years in research on habitat fragmentation impacts, and have developed a variety of tools for addressing landscape-level connectivity in New Hampshire. However, the State lacks a comprehensive plan for ensuring landscape connectivity in the coming decades.</p> <p>H. Wildlife habitat occurs on a larger scale than that of the development review process, which is on a site-based scale. This makes it difficult to effectively address wildlife impacts on an individual application basis.</p>	<p>landscape in which wildlife can move. The objective of such a plan is to minimize future habitat fragmentation.</p> <p>8. Recommend use of the Innovative Land Use Planning Techniques Handbook by municipal boards; in particular the Habitat Protection, Feature Based Density and Conservation Subdivision chapters.</p>
<p>IV. The potential legal, fiscal, regulatory, and technical obstacles for creating an integrated approach to land development.</p>	<p>A. Lack of funding and resources for grants, incentives, staffing, and educational outreach programs is a substantial obstacle.</p> <p>B. The strong property rights sentiment in New Hampshire presents a significant challenge to further land use and environmental oversight.</p> <p>C. Strong perception of and desire for local control, despite the fact that New Hampshire is not a “home rule” but rather a “Dillon’s rule” state, results in resistance to additional state regulation.</p> <p>D. New regulations are often perceived negatively, while incentives are generally met with a more positive response.</p> <p>E. Municipalities are often reluctant to change zoning or adopt new regulations because of the perceived threat of additional lawsuits.</p>	<p>1. Outreach and education are essential to overcoming any obstacles.</p> <p>2. Maintain an appropriate legal balance between the reasonable expectations of property owners and any new environmental or land use regulations.</p> <p>3. Craft clearer legislation and regulations to minimize the potential for future legal actions.</p> <p>4. Future changes should balance the cost of additional permit requirements with the benefit of greater environmental protection.</p>

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<p>V. Legislation that may be necessary to implement the recommendations of the commission.</p>	<p>1. The following recommendations (from those above) may require legislation to be effectively implemented:</p> <ul style="list-style-type: none"> • II.1. Examine the Maine Site Location of Development Act... • II.2. Develop clear statutory definitions of “cumulative” and “indirect” ... • II.3. Consider new legislation to provide for an alternative, integrated land development permit... • III.2. Establish incentive based programs to promote smart growth patterns of development... • III.4. Establish an incentive to encourage property owners that are removing land from Current Use to place...the land under a conservation easement... • III.6. State policy should provide incentives to encourage municipalities to protect important natural resources... 	

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Programmatic Focus:	1 – Federal	2 – New Hampshire	3 – Connecticut	4 – Maine	5 – Massachusetts	6 – Rhode Island	7 – Vermont
01 – Federal and State Environmental Protection Acts	National Environmental Policy Act [Page 01-1]		Connecticut Environmental Policy Act [Page 01-3]	Maine Site Location of Development Act [Page 01-4]	Massachusetts Environmental Policy [Page 01-5]		Act 250 [Page 01-7]
02 – Coordinated Permitting		Innovative Permitting and Technical Assistance Initiative [Page 02-2]		Permit Coordination [Page 02-4]	Fast Track Permitting [Page 02-5]	Permit Streamlining and Coordination [Page 02-6]	
03 – Land Use Planning		Community Tech. Assistance Program Housing and Conservation Planning Program [Page 03-2-A] Innovative Land Use Planning Techniques Handbook [Page 03-2-B] State Development Plan [Page 03-2-C]	Housing for Economic Growth [Page 03-3] Landscape Stewardship The Municipal Primer – Your Guide to Creating a “Green and Growing” Community	Comprehensive Land Use Plan Land Use Regulation Commission [Page 03-4] Regional Landscape Conservation in Maine: Best Practices for Enhancing Quality of Place		Land Use 2025	Community Planning Toolbox [Page 03-7-A] Municipal Planning Grant Program [Page 03-7-B] Planning Information Center VT Housing and Conservation Board [Page 03-7-C]
04 – Smart Growth	EPA Smart Growth Grants Making Smart Growth Happen	Achieving Smart Growth in New Hampshire NH RSA 9-B - Smart Growth Principles [Page 04-2] 2006 Report to the Governor on Growth Management	Conservation and Development Policies Plan Office of Responsible Growth	Chapter 776 of the 2nd session of the 119th Legislative Session Grow Smart Maine	Commonwealth Capital [Page 04-5] Growth Districts Initiative [Page 04-5] Smart Growth/ Smart Energy Tool Kit Smart Growth Zoning District Act	Grow Smart Rhode Island	Growth Centers Program [Page 04-7] Vermont Neighborhoods
05 – Redevelopment and Historic Preservation	Historic Preservation Tax Incentives	Brownfields Community Revitalization Tax Relief Incentive	Community Investment Act Historic Preservation and Museum Division	Maine Historic Preservation Commission	Community Preservation Act Historic Landscape Preservation Initiative [Page 05-5]	Historic Preservation Tax Credits [Page 05-6] Historical Preservation and Heritage Commission State Preservation Plan	State Historic Preservation Plan Vermont Division for Historic Preservation

Program Implementation Key:

- Incentives
- Grants

- Regulations
- Technical Assistance

- Publications and other Tools
- Permit

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Programmatic Focus:	1 – Federal	2 – New Hampshire	3 – Connecticut	4 – Maine	5 – Massachusetts	6 – Rhode Island	7 – Vermont
06 – Conservation	<ul style="list-style-type: none"> Land and Water Conservation Fund National Association of Conservation Districts USDA Forest Service - Forest Legacy Program [Page 06-1] CDFI Fund - New Markets Tax Credit Program 	<ul style="list-style-type: none"> Connecticut Lakes Headwaters Easement [Page 08-2-A] Conservation Land Stewardship Program Cooperative Extension Community Conservation Assistance Program Current Use Land and Community Heritage Investment Fund Northwood Area Land Management Collaborative [Page 06-2-B] Wetland Mitigation Program [Page 06-2-C] 	<ul style="list-style-type: none"> Community Investment Act [Page 06-3-A] Conservation Districts Recreation and National Heritage Trust [Page 06-3-B] 	<ul style="list-style-type: none"> Department of Conservation Grants Current Use Programs [06-4-A] New Markets Tax Credits [Page 06-4-B] 	<ul style="list-style-type: none"> Areas of Critical Environmental Concern Department of Conservation and Recreation Grants Historic Landscape Preservation Initiative 	<ul style="list-style-type: none"> Land Trust Council Rhode Island Open Space Grants 	
07 – Transportation	<ul style="list-style-type: none"> SAFETEA-LU: Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users 	<ul style="list-style-type: none"> Driveway Permits Highway Bridge Betterment NH Rail Transit Authority 		<ul style="list-style-type: none"> Gateway 1 Sensible Transportation Policy Act [Page 07-4] 			
08 – Water, Sewer, and Infrastructure	<ul style="list-style-type: none"> NPDES – Municipal Separate Storm Sewer System Community Development Block Grants (CDBG) 	<ul style="list-style-type: none"> Dam Maintenance HB 648 Flood Commission Site Evaluation Committee 	<ul style="list-style-type: none"> Clean Water Fund [Page 08-3] 	<ul style="list-style-type: none"> Great American Neighborhoods Sewer Extension Loan Program [Page 08-4] 	<ul style="list-style-type: none"> Massachusetts Water Resources Authority - Water System 	<ul style="list-style-type: none"> Community Septic System Loan Program [Page 08-6-A] Sewer Tie-in Loan Fund [Page 08-6-B] 	<ul style="list-style-type: none"> Municipal Pollution Control Priority System [Page 08-7] Wastewater Solutions for Vermont Communities

(NJ) Garden State Preservation Trust [Page 06-8]

Program Implementation Key:

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<p>09 – Water Quality*</p> <p>*Given the extensive ongoing work of the Stormwater Commission and the Water Quality Standards Advisory Committee, the subcommittee thought it best to simply catalog other related programs and forgo further research within this row of the matrix. Instead, readers are directed to these commissions' work and research.</p>	<ul style="list-style-type: none"> NPDES – Construction General Permit NPDES – Industrial Stormwater Permit NPDES – Road-Related Municipal Separate Storm Sewer Systems (MS4s) NPDES – Stormwater Discharges From Construction Activities NPDES – Wastewater Section 401 Water Quality Certification 	<ul style="list-style-type: none"> Alteration of Terrain Southeast Watershed Alliance HB 1295 Stormwater Commission Land and Water Conservation Fund Stream Crossing Rules Water Quality Standards Advisory Committee 	<ul style="list-style-type: none"> Stormwater Management Program and Permits Water Quality Standards 	<ul style="list-style-type: none"> Erosion & Sedimentation Control Law Stormwater Management Law Stormwater Program 	<ul style="list-style-type: none"> Stormwater Management Surface Water Quality Standards Water Quality Certification 	<ul style="list-style-type: none"> Pollutant Discharge Elimination System Storm Water Discharge Associated with Construction Activity Water Quality Regulations 	<ul style="list-style-type: none"> Construction Stormwater Permit Program Stormwater Discharge Permit Program Stream Alteration Permit Water Quality Certification

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10 – Wetlands	<p> Section 404 – Army Corps of Engineers</p> <p> State Wetland Permitting Programs: Avoidance and Minimization Requirements</p>	<p> Comprehensive Shoreland Protection Act</p> <p> Wetlands Bureau and Permits [Page 10-2]</p> <p> Programmatic General Permit</p>	<p> Inland Wetlands and Watercourses Act [Page 10-3]</p> <p> Programmatic General Permit</p>	<p> Natural Resource Protection Act [Page 10-4]</p> <p> Programmatic General Permit</p>	<p> Wetlands Change Data Layer [Page 10-5-A]</p> <p> Wetlands Protection Act Regulations [Page 10-5-B]</p> <p> Programmatic General Permit</p>	<p> Freshwater Wetlands Program {Page 10-6}</p> <p> Programmatic General Permit</p>	<p> Vermont Wetlands Rules [Page 10-7]</p> <p> Programmatic General Permit</p>
11 – Surface Water	<p> New England Lakes and Ponds Project</p> <p> Safe Drinking Water Act</p>	<p> Lakes Management Protection Program</p> <p> Rivers Management Protection Program</p>	<p> Lakes Management Program</p> <p> Minimum Stream Flow Standards</p> <p> Watershed Management Program (Rivers)</p>	<p> Shoreland Zoning Law</p>	<p> Chapter 91 - The Massachusetts Public Waterfront Act</p> <p> Lakes and Ponds Program</p> <p> Rivers Protection Act</p>	<p> Rhode Island Bays, Rivers, and Watersheds Coordination Team [Page 11-6]</p>	<p> Lakes and Ponds Management and Protection Section</p> <p> Rivers Management Section</p>
12 – Aquifers and Ground Water	<p> Sole Source Aquifer Protection Program</p>	<p> Subsurface Systems Bureau [Page 12-2]</p>	<p> Aquifer Protection Area Program</p>	<p> AQUA INDEX: Risk Assessment of Land Use on High Yield Sand and Gravel Aquifers in Maine [Page 12-4]</p>	<p> Source Water Assessment & Protection Program (SWAP)</p>	<p> Rules and Regulations for Ground Water Quality</p>	<p> Source Water Protection Program</p>
13 – Wildlife	<p> Endangered Species Act [Page 13-1-A]</p> <p> Agricultural Improvement and Reform Act of 1996</p> <p> Keeping it Simple: Easy Ways to Help Wildlife Along Roads [Page 13-1-B]</p>	<p> Natural Heritage Bureau</p> <p> New Hampshire Endangered Species Program</p> <p> NH Wildlife Action Plan [Page 13-2]</p>	<p> Connecticut's Comprehensive Wildlife Conservation Strategy</p> <p> Connecticut Endangered Species Program</p>	<p> Beginning with Habitat [Page 13-4]</p> <p> Maine's Comprehensive Wildlife Conservation Strategy</p> <p> Maine Endangered Species Program</p>	<p> Massachusetts Natural Heritage and Endangered Species Program</p> <p> Massachusetts Wildlife Conservation Strategy</p>	<p> Rhode Island Natural Heritage Program</p> <p> Rhode Island Wildlife Action Plan</p>	<p> Vermont Nongame & Natural Heritage Program</p> <p> Vermont's Wildlife Action Plan</p>

Program Implementation Key:

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Program Title: National Environmental Policy Act (NEPA)

State: Federal

Administering Agency: US EPA

Primary Contact (name, phone, email): US EPA, Region 1, Betsy Higgins, higgins.elizabeth@epa.gov, 617-918-1051

Website: <http://www.epa.gov/compliance/nepa/>

Focus Area: Environmental Protection

Type: Regulation

Status: Active

Description and Scope

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.

The NEPA process requires federal agencies to produce an “environmental document” for any “Major federal action” including any project for which they provide funding or a permit. All types of impacts must be considered whether involving natural resources, cultural, or social (socio-economic) resources. Depending on the complexity of the project, a NEPA environmental document can fall into one of three levels: a Categorical Exclusion (CE), an Environmental Assessment (EA), or an Environmental Impact Statement (EIS). (See below.)

NEPA does not require the decision maker to select the environmentally preferable alternative or prohibit adverse environmental effects. Indeed, decision makers in federal agencies often have other concerns and policy considerations to take into account in the decision making process, such as social, economic, technical or national security interests. But NEPA does require that decision makers be informed of the environmental consequences of their decisions.

The national “Council on Environmental Quality” is responsible for developing the regulations that spell out the requirements for the process and content of NEPA documents, each agency is responsible for developing the specific regulations that pertain to their agency.

The Environmental Protection Agency reviews and comments on EISs prepared by other federal agencies, maintain a national filing system for all EISs, and assures that its own actions comply with NEPA.

The NEPA process can also serve to meet other environmental review requirements. For instance, actions that require the NEPA process may have an impact on endangered species, historic properties, or low income communities. The NEPA analysis, which takes into account the potential impacts of the proposed action and investigates alternative actions, may also serve as a framework to meet other environmental review requirements, such as the Endangered Species Act, the National Historic Preservation Act, the Environmental Justice Executive Order, and other Federal, State, Tribal, and local laws and regulations.

Many states have adopted laws similar to NEPA which operate on a state level – requiring state agencies to follow a process modeled on NEPA for state agency actions which don’t have federal involvement. (Massachusetts and Connecticut both have “State Environmental Policy Acts.”)

Jurisdiction and Thresholds

Every agency in the executive branch of the Federal Government has a responsibility to implement NEPA. All major federal actions are subject to NEPA including policy, finding and permitting determinations. There are three levels of review:

- **Categorical Exclusion (CE)** – For simple actions which fit within certain categories, the environmental documentation can be very brief (often times following a simple checklist format) and processed quickly.
- **Environmental Assessment (EA)** – For projects which *might* involve a “significant” impact, a more in depth written document – typically between 15 to 150 pages – is required to document impacts. The EA usually results in the federal agency issuing a “Finding of No Significant Impact” but can also lead to the decision to elevate the analysis to an Environmental Impact Statement.
- **Environmental Impact Statement (EIS)** – For large projects or projects which would obviously involve significant impacts, an EIS must be prepared. An EIS requires very detailed studies and must consider a reasonable range of alternatives. Public hearings must be held after publications of a Draft EIS to allow for formal public comment. An EIS is typically several hundred pages and can take two years or more to prepare. Once a Final EIS is published, the lead federal agency would issue a “Record of Decision” to document their findings.

Decisions regarding the proper environmental classification of a particular project are up to the lead federal agency and are largely based on precedent – very little in the way of formal objective thresholds for this determination exists in the regulations.

Evaluation, Measures of Success and Performance Standards

In 1997, marking the 25th anniversary of NEPA, the Council on Environmental Quality published a comprehensive review of its success. The review indicated that NEPA had been largely effective in fostering interagency coordination and public input, but that more work was needed to integrate NEPA into agency Strategic Planning efforts. (See <http://ceq.hss.doe.gov/nepa/nepa25fn.pdf>.) More recent agency efforts have focused on the time and expense involved in the EIS process, and have led to “Environmental Streamlining” initiatives to try to cut down on the cost and schedule implications of NEPA on federal project. (See, for example, the Federal Highway Administration’s environmental streamlining website <http://www.environment.fhwa.dot.gov/strmlng/index.asp>.)

Establishment: Legislation

The National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et seq.] was signed into law on January 1, 1970. The Act establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and it provides a process for implementing these goals within the federal agencies. The Act also establishes the Council on Environmental Quality (CEQ). The complete text of the law is available for review at NEPA.net.

In 1978, CEQ promulgated regulations [40 CFR Parts 1500-15081] implementing NEPA which are binding on all federal agencies. The regulations address the procedural provisions of NEPA and the administration of the NEPA process, including preparation of EISs. To date, the only change in the NEPA regulations occurred on May 27, 1986, when CEQ amended Section 1502.22 of its regulations to clarify how agencies are to carry out their environmental evaluations in situations where information is incomplete or unavailable. CEQ has also issued guidance on various aspects of the regulations including:

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an information document on "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act", Scoping Guidance, and Guidance Regarding NEPA Regulations. Additionally, most federal agencies have promulgated their own NEPA regulations and guidance which generally follow the CEQ procedures but are tailored for the specific mission and activities of the agency.

Cost and Funding Sources

No comprehensive study of the cost of NEPA was found during this research effort. Informally, the production of a CE typically adds about \$15,000 to \$40,000 to the cost of a federal project, while an EA can cost \$50,000 to \$500,000, depending on the project. An EIS can cost several million dollars. Finding for these studies is incorporated into agency budgets.

Staffing Needs

The Council on Environmental Quality, which is headed by a fulltime Chair, oversees NEPA. A staff assists the Council. The duties and functions of the Council are listed in Title II, Section 204 of NEPA and include: gathering information on the conditions and trends in environmental quality; evaluating federal programs in light of the goals established in Title I of the Act; developing and promoting national policies to improve environmental quality; and conducting studies, surveys, research, and analyses relating to ecosystems and environmental quality.

Each federal agency also employs NEPA specialists who assist other agency personell in complying with NEPA and producing NEPA documents. Again, no database of these staff needs could be found during this research. Informally, smaller agencies may employ only a small staff of a few specialists. The FHWA (perhaps the agency which produces the most NEPA documents) has several hundred staff persons throughout the country whose primary responsibilities are focused on NEPA compliance.

Are the impacts of development on the environment intentionally or inadvertently addressed?

The focus of NEPA is the assessment of development projects on the environment, as well as cultural and social resources. NEPA is very clear that direct, indirect and cumulative must be considered in agency decision making.

Relevance to the HB 1579 (2008) Commission

NEPA already applies to many actions in New Hampshire. For example, nearly all transportation project involve some funding from the FHWA, so NEPA is implemented routinely by the FHWA and the NH Department of Transportation. NEPA has the clearest definitions and procedures for understanding and mitigating indirect effects, one of the key issues the Commission has been attempting to define. The development of a NH-based State Environmental Policy Act is one way that NH could more comprehensively review environmental impacts of development, including indirect effects.

Program Title: Connecticut Environmental Policy Act (CEPA)

State: Connecticut

Administering Agency: Office of Policy and Management

Primary Contact (name, phone, email): Jeff Smith, (860) 418-6395; Jeff.Smith@ct.gov

Website: <http://www.cga.ct.gov/2004/rpt/2004-R-0610.htm>

Focus Area: Environmental Protection

Type: Regulation

Status: Active

Description and Scope

The purpose of the Connecticut Environmental Policy Act, often called “CEPA,” is to identify and evaluate the impacts of proposed State actions that could have the potential to significantly affect the environment. This evaluation enables the State agency proposing or funding a project to judge the appropriateness of proceeding with the action in light of its environmental impacts. The process also provides opportunity for public review and comment through an early public scoping process as well as later review of any Environmental Impact Evaluation (EIE).

A CEPA review is required for each state agency action that could have a major impact on the state's land, water, air or other environmental resources. A CEPA review does not apply to (1) emergency measures undertaken in response to an immediate threat to public health or safety and (2) activities in which state agency participation is administrative in nature, and involves no exercise of discretion.

For each State action covered by CEPA, the sponsoring agency must make a detailed written evaluation of its environmental impact before deciding to undertake or approve the action. The sponsoring agency shall consider any comments received and evaluate any substantive issues raised during the public scoping process in the environmental impact evaluation. The EIE must include: a description of the proposed action; a statement of its purpose and need; a description of the environment of the area which would be affected by the proposed action as it currently exists; a description and analysis of the reasonable alternatives to the proposed action; a discussion of the potential environmental impact of the proposed action and mitigation measures to reduce or eliminate the impact.

Environmental impacts include those involving: air and water quality; ambient noise levels; public water supply systems; groundwater, flooding, and erosion or sedimentation; natural land resources and formations, including coastal and inland wetlands; historic, archeological, cultural, or recreational resources; natural communities, including critical animal or plant species and their habitats; resident or migratory fish or wildlife species; use of pesticides, or toxic or hazardous materials; aesthetic or visual effects; disruption of an established community or neighborhood; displacement or addition of substantial numbers of people; substantial increase in traffic; substantial increase in the type or rate of energy use; or creation of a hazard to human health or safety.

Jurisdiction and Thresholds

Each State department, institution or agency responsible for the primary recommendation or initiation of a State action, as defined by CGS Section 22a-1c, including an individual activity or sequence of planned activities proposed to be undertaken or funded, in whole or in part, by the State, is responsible for conducting an environmental assessment of such action.

Agencies proposing projects covered by CEPA must adopt an “Environmental Classification Document” (ECD) which categorizes the type of actions they normally undertake. The ECD is used to help determine

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whether an environmental study is needed and, if so, the type of study needed for a particular proposed project. If an agency feels that the potential exists for significant impact, it should solicit comments from the public and other state agencies to determine whether there are any special issues or concerns regarding that project.

Any and all joint federal/state actions for which environmental impact documents are prepared pursuant to the National Environmental Policy Act shall be recognized as meeting CEPA requirements provided that such environmental impact documents are circulated in accordance with CEPA regulations.

Evaluation, Measures of Success and Performance Standards

There have not been any studies of measuring program success. However, anecdotal opinions suggest that the CEPA process tends to steer an agency's thinking towards more environmentally benign project plans.

Establishment: Legislation

CEPA was initially established in 1971 through Sections 22a-1a through 22a-1h of the Connecticut General Statutes (CGS). The law was last amended in 2003 through Public Act 03-123. The implementing regulations are contained at Sections 22a-1a-1 through 22a-1a-12 of the Regulations of Connecticut State Agencies (RCSA)

Cost and Funding Sources

Funding for the CEPA program varies as it depends on what is available to the sponsoring agencies. Connecticut DOT takes funding from the project itself, often through the bonding process or by relying on the Federal NEPA process. The Department of Environmental Protection generally does its report in-house, so there are no additional costs. Other agencies, such as the state universities, include the CEP costs process into their capital projects budgets. There is no single fund for CEPA- related projects.

Staffing Needs

The Connecticut Council on Environmental Quality (CCEQ) is a nine-member board that works independently of the Department of Environmental Protection (except for purely administrative functions). The Chairman and four other members are appointed by the Governor, two members by the President Pro Tempore of the Senate and two by the Speaker of the House. Members donate their time and expertise. The CCEQ has a full time Executive Director and a full time Environmental Analyst.

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

The intent of CEPA is to consider impacts to environmental, cultural and social resources when making decisions about state agency projects.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Both direct and indirect impacts are subject to analysis, not just for wetlands but for all environmental, cultural and socio-economic resources.

Relevance to the HB 1579 (2008) Commission

CEPA is an example of how one New England state has chosen to manage environmental impacts and development within their state. It is a comprehensive program modeled on NEPA, but applicable in situations where NEPA would not apply to a particular project.

Program Title: Site Location of Development Act (Site Law)

State: Maine

Administering Agency: Maine Dept of Environmental Protection (DEP), Bureau of Land & Water Quality

Primary Contact (name, phone, email): Augusta: Jim Cassida (207-287-7691); Portland: Linda Kokemuller (207-822-6300); Bangor: Robin Clukey (207-941-4348)

Website: <http://www.maine.gov/dep/blwq/docstand/sitelawpage.htm>

Focus Area: Environmental Protection

Type: Regulation

Status: Active

Description and Scope

The Maine Site Location of Development Act (SLODA) requires Maine DEP to review and issue a permit for *any development of state or regional significance that may substantially affect the environment*. The Site Law is a comprehensive review law. One aspect of the review under this law addresses stormwater and erosion and sedimentation control.

The scope of the review includes the following criteria:

- Financial capacity of applicant
- Effect on the natural environment (also see NRPA)
- Soil types
- Storm water management and erosion and sedimentation control. The proposed
- Ground water
- Infrastructure
- Flooding

Additionally, the applicant must demonstrate compliance with different rules and standards contained in the following regulations:

- Natural Resources Protection Act,
- Solid Waste Management,
- Drinking water rules,
- Hydrology,
- Phosphorus Control in Lake Watersheds,
- Storm water Management Law, Erosion and sedimentation control,
- Blasting, and
- U.S. Department of Interior Rules 30 CFR, Maine Construction General Permit.

The applicant for a new SLODA development is required to attend a pre-application meeting. This meeting is an opportunity for the applicant to determine the requirements that apply to the project. The meeting with licensing staff is intended to help identify issues, processing times, fees, and the types of information and documentation necessary for the DEP to properly assess the project. Pre-application meetings are available on request when they are not required.

Jurisdiction and Thresholds

These types of development have been identified by the Legislature, and include developments such as projects occupying more than 20 acres, metallic mineral and advanced exploration projects, Subdivision of 5 or more lots if more than 20 acres or 15 or more residential lots if more than 30 acres, and oil

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terminal facilities. A permit is issued if the project meets applicable standards addressing areas such as storm water management, groundwater protection, infrastructure, wildlife and fisheries, noise, and unusual natural areas.

Certain exemptions apply. The Site Law applies in organized areas for purposes of all types of development, and in unorganized areas for purposes of oil terminal facilities, and metallic mineral mining and advanced exploration.

Evaluation, Measures of Success and Performance Standards

The state of Maine has not completed a formal evaluation of the program.

Establishment: Legislation

The Site Location of Development Act was established by the Maine Legislature and is codified in Maine Title 38, Chapter 3, §§ 481-490.

Cost and Funding Sources

Applicants bear the cost of development of a SLODA application. Funding for each project can be different; for the most part they are based on the project budget. There is no database of costs for implementation of the SLODA, but applications pursuant to the SLODA can range from \$25,000 to several million dollars, depending on the nature of the project.

Staffing Needs

The staff from various Maine DEP programs are responsible for reviewing portions of the application related to their programs. There are three senior staff members of the Maine DEP that are principally engaged in SLODA reviews.

Are the impacts of development on the environment intentionally or inadvertently addressed?

The impacts of development on the environment are the principal focus of the SLODA.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Applications...shall consider the size, location, and nature of the proposed development in relation to:

- The potential *primary, secondary, and cumulative impacts* of the development on the character, quality, and uses of the land, air, and water on the development site and on the area likely to be affected by the proposed development; and
- The potential effects on the protection and preservation of the public's health, safety, and general welfare.

Relevance to the HB 1579 (2008) Commission

The SLODA is a comprehensive environmental review which is somewhat similar to the existing system in NH. It is more comprehensive and more integrated than existing rules and procedures used by NHDES and therefore may serve as a good example to follow if the General Court wishes to establish a more comprehensive regulatory program in NH. It also provides for review of indirect effects, which has been identified as a possible gap in the NH environmental regulatory system. It represents a less substantial departure from the NH system than a comprehensive State Environmental Policy Act.

Program Title: Massachusetts Environmental Policy Act

State: Massachusetts

Administering Agency: Executive Office of Energy and Environmental Affairs

Primary Contact (name, phone, email): Secretary Ian A. Bowles, (617) 626-1020.

Website: <http://www.mass.gov/envir/mepa/index.htm>

Focus Area: Environmental Protection

Type: Regulation

Status: Active

Description and Scope

The Massachusetts Environmental Policy Act - MEPA - requires that state agencies study the environmental consequences of their actions, including permitting and financial assistance. It also requires them to take all feasible measures to avoid, minimize, and mitigate damage to the environment. MEPA is state environmental policy act modeled on the National Environmental Policy Act, and is similar to the statute in Connecticut and other states.

MEPA further requires that state agencies "use all practicable means and measures to minimize damage to the environment," by studying alternatives to the proposed project, and developing enforceable mitigation commitments, which will become permit conditions for the project if and when it is permitted.

Statutory timeframes govern the entire MEPA process so that project proponents can understand and predict the time required for project reviews. For example, the state has 30 days for review of an "Environmental Notification Form," and 37 days for review of an "Environmental Impact Report."

MEPA review is not a permitting process. MEPA requires public study, disclosure, and development of feasible mitigation for a proposed project. It does not pass judgment on whether a project is environmentally beneficial, or whether a project can or should receive a particular permit.

The scope of review for a project subject to MEPA is as follows:

1. Topography, geology, and soils;
2. Surface and groundwater hydrology and quality;
3. Air quality and noise;
4. Plant and animal species and habitat;
5. Traffic, transit, and pedestrian and bicycle transportation;
6. Scenic qualities, open space and recreational resources;
7. Historic Structures or Districts, and Archaeological Sites;
8. Built environment...including existing infrastructure, zoning districts, etc.
9. Rare or unique features (including environmental and social conditions); and
10. Tidelands.

Jurisdiction and Thresholds

MEPA applies to projects above a certain size that involve some state agency action. That is, they are either proposed by a state agency or are proposed by municipal, nonprofit or private parties and require a permit, financial assistance, or land transfer from state agencies.

The review thresholds are divided by project category- Land, Water, Wastewater, Transportation, Areas of critical concern, Energy, Rare Species, Air, Wetlands, Waterways and Tidelands and Solid and Hazardous Waste.

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Thresholds for review are relatively complex, but generally require the following:

- Environmental Notification Form (ENF) required for a Project subject to MEPA jurisdiction and either it meets or exceeds one or more review thresholds;
- Broad Review for Projects undertaken by an Agency or involving Financial Assistance.
- Limited Review for Projects requiring Permits or involves a Land Transfer but does not involve Financial Assistance.

Examples of project requiring a full EIR:

- Direct alteration of 50 acres of land, unless...agricultural or forestry practices
- Creation of ten acres of impervious area;
- One acre of salt marsh or bordering vegetating wetlands or 10 acres of other wetlands;
- New or expanded withdrawal of 2.5M gpd (surface water) or 1.5M gpd (groundwater);
- New roadway two miles in length.

This list is not exhaustive – many other projects types may also require an EIR.

Evaluation, Measures of Success and Performance Standards

There are no formal performance standards for MEPA, and no comprehensive review of its success was found during this research.

Establishment: Legislation

Massachusetts Environmental Policy Act, M.G.L. c. 30, sections 61 through 62H, inclusive (MEPA). A set of complex regulations are contained at 301 CMR 11.03.

Cost and Funding Sources

Staffing Needs

MEPA is overseen by the Massachusetts Executive Office of Energy and Environmental Affairs. This agency has numerous responsibilities in addition to MEPA, but currently has a staff of more than dozen professionals. Additionally, each various agencies within Massachusetts state government have the responsibility to review MEPA documents for compliance with their program's responsibilities.

Other Implementation Needs

N/A

Are the impacts of development on the environment intentionally or inadvertently addressed?

The impacts of development on environment, cultural and social resources are the focus of this comprehensive regulatory program.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Under MEPA, an EIR shall assess (in quantitative terms, to the maximum extent practicable) the **direct and indirect** potential environmental impacts from all aspects of the Project that are within the Scope. The assessment shall include both **short-term and long-term impacts** for **all phases** (e.g., acquisition, development, and operation) *and* **cumulative impacts**, any other Projects, and other work or activity in the immediate surroundings and region.

Relevance to the HB 1579 (2008) Commission

MEPA is an example of a comprehensive State Environmental Policy Act, which NH currently does not have.

Program Title: Vermont Act 250

State: Vermont

Administering Agency: Natural Resources Board

Primary Contact (name, phone, email): Philip J. Nexon, Chair, (802) 828-3309

Website: <http://www.nrb.state.vt.us/lup/index.htm>

Focus Area: Environmental Protection

Type: Regulation

Status: Active

Description and Scope

Act 250 provides a public, quasi-judicial process for reviewing and managing the environmental, social and fiscal consequences of major subdivisions and development in Vermont through the issuance of land use permits. It is Vermont's development and control law that is administered by nine District Environmental Commissions, overseen by the Natural Resources Board. Activities include review of land use permit applications for conformance with the Act's ten environmental criteria, issuance of opinions concerning the applicability of Act 250 to developments and subdivisions, monitoring for compliance with the Act and with land use permit conditions, and public education.

Before granting a permit, the applicant must address potential effects on the following criteria:

- Criteria 1A - 1B (Air and Water Pollution)
- Criterion 1C (Water Conservation)
- Criterion 1D (Floodways)
- Criteria 1E through 1G (Streams, Shorelines, and Wetlands)
- Criteria 2 and 3 (Water Supplies)
- Criterion 4 (Soil Erosion and Drainage)
- Criterion (Highways)
- Criterion 6 (Educational Services)
- Criterion 7 (Municipal Services)
- Criterion 8 (Scenic Beauty, Historic Sites, and Natural Areas)
- Criterion 8A (Wildlife and Endangered Species Habitat)
- Criterion 9A (Impact of Growth)
- Criterion 9B – 9E (Soils, Earth Resources)
- Criterion 9F (Energy Conservation)
- Criterion 9G through 9L (Utilities, Scattered Development, Public Investments, Rural Growth Areas)
- Criterion 10 (Local and Regional Plans)

Statutory parties are: the applicant; the municipal planning commission; the municipality (represented by the selectmen, aldermen, or trustees), the regional planning commission; and affected State agencies. Adjoining property owners and other persons with a particularized interest that may be affected under any of the 10 Criteria may also be admitted as parties, pursuant to 10 V.S.A. § 6085. Adjoining property owners, individuals, and organizations seeking party status must make their request on or before the first day of the hearing and must state the details of their interest in the proceedings under the 10 criteria of Act 250, including whether their position is in support of or in opposition to the applicant's request, if known. Adjoining property owners and individuals must provide a description of the location of their property in relation to the proposed project. A request by an organization must describe the organization, its purposes, and the nature of its membership.

Jurisdiction and Thresholds

Eleven specific project types are covered:

1. Projects above elevation 2,500 feet;
2. The construction for any commercial or industrial purpose on more than 10 acres of land; or on more than one acre of land if the municipality does not have both permanent zoning and subdivision bylaws.
3. Ten or more housing units;
4. Subdivision of land into 10 or more lots of any size;
5. Subdivision of land into 6 or more lots if no local zoning;
6. Government projects if more than 10 acres or more than 10 acres;
7. A substantial change of an existing pre-1970 development;
8. Communication towers;
9. The exploration for fissionable source materials;
10. The drilling of an oil or gas well;
11. Public auction of five or more lots.

Evaluation, Measures of Success and Performance Standards

Evaluation of the Vermont Act 250 Plan has only been completed by feedback via individual projects. One gap that has been recognized is which criteria to follow based on the projects, seeing there are different standards of local and state permits.

Establishment: Legislation

In the spring of 1970, the Vermont legislature passed Act 250 (VSA Title 10, Chapter 151, Sections 6001 et seq.), known as the Land Use and Development Act. Act 250 permits do not supersede or replace the requirements of other local or state permits.

Cost and Funding Sources

Funding is depending on the qualification of a state or local project.

Staffing Needs

Act 250 is implemented by nine District Environmental Commissions that are appointed by the Governor. In addition, each DEC is supported by a small staff of full time professional environmental managers and attorneys.

Other Implementation Needs

None

Are the impacts of development on the environment intentionally or inadvertently addressed?

The impact of development on environmental, cultural and social resources are the focus of Act 250.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Indirect, secondary and cumulative impacts are not explicitly defined in Act 250 statute or regulations, but are commonly reviewed through the process

Relevance to the HB 1579 (2008) Commission

Act 250 is another example of a comprehensive environmental regulatory system which may serve as an example to the General Court if needed to address some of the gaps in NH's regulatory system.

Program Title: Innovative Permitting and Technical Assistance Initiative

State: New Hampshire

Administering Agency: Department of Environmental Services

Primary Contact (name, phone, email): Carolyn Russell, 271-3010, carolyn.russell@des.nh.gov

Website: <http://des.nh.gov/organization/commissioner/p2au/pis/iptai/index.htm>

Focus Area: Environmental Protection

Type: Incentive

Status: New

Description and Scope

The Innovative Permitting Initiative, currently underdevelopment by DES, is intended to provide an incentive for land development projects to incorporate sustainable design/smart growth principles. Location choice is one issue DES is working to incorporate into the program. Other topics to be addressed in the initial phase include energy efficiency, water conservation, and stormwater management. Wetlands and habitat protection are among the additional topics to be considered in the future.

The idea behind the Innovative Permitting Initiative is to establish a “special” alternative permitting process for development projects that commit to building and site design standards consistent with a higher level of environmental performance (above and beyond current codes and regulatory requirements). This alternative, special permitting process will be designed to streamline the project review and approval process and reduce potential conflicts that could delay project approval – making it easier and faster for these projects to “get through the system” from concept to construction

Examples of the potential benefits we are evaluating to potentially be provided to qualifying projects under the Innovative Permitting Initiative include:

- Greater certainty in the timing, process, and requirements for permitting;
- Faster permit approval from DES;
- A coordinated review by the various DES programs involved;
- Assistance in resolving conflicts between local municipal requirements and DES permit requirements;
- Regulatory relief; and
- Reduced fees.

Jurisdiction and Thresholds

To qualify under the Innovative Permitting Initiative a project must commit to some combination of design elements that improve the environmental performance of the project (more than what is required in the current rules of NHDES), such as:

- Increasing the energy efficiency of the buildings,
- Reducing water consumption,
- Reducing stormwater generation and maintaining or restoring onsite capture and infiltration of rainwater,
- Selecting a location in or near an existing town or city center; and/or
- Reusing already developed land.

Evaluation, Measures of Success and Performance Standards

Program is under development.

Establishment: Agency Initiative

Cost and Funding Sources/ Staffing Needs

Initial development and pilot implementation supported by EPA grant and existing agency staff. Full implementation may require revision of staffing and/or additional supporting funding in some areas.

Other Implementation Needs

Improved coordination in permit reviews within DES and between DES and other agencies and municipalities will require an electronic tracking/document management system. Small scale implementation to be achieved using existing tools; larger scale implementation will require new programming or software.

Are the impacts of development on the environment intentionally or inadvertently addressed?

The goal is to encourage increased utilization of practices that reduce the environmental impact of development. Areas addressed initially include: energy use, water use, stormwater generation and management, and impacts reduced through “better” location choice.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Influence on location choice expected to reduce direct, indirect, and cumulative impacts on wetlands and other high-valued natural resource areas by directing development away from those areas.

Relevance to the HB 1579 (2008) Commission

This is the NH version of similar efforts in MA and RI (with alternative, coordinated permitting paths for qualified projects) that seeks to provide incentives to influence the location choice and design of development to reduce environmental impacts and fulfill state development policies (e.g., Climate Action Plan, Smart Growth RSA 9-B). Full implementation and extension of certain benefits (e.g., regulatory relief, standardized state-local review process) to participants may require legislative authorization.

Program Title: Permit Coordination

State: Maine

Administering Agency: ME Dept of Environmental Protection, Division of Land Resource Regulation

Primary Contact (name, phone, email): James Cassida, 207-287-7691, james.cassida@maine.gov

Website:

Focus Area: Coordinated Permitting

Type: Permit

Status: Active

Description and Scope

A single, coordinated permit is issued for projects requiring any of combination of 3 different permits:

- 1) Natural Resource Protection Act Permit (can have multiple components itself);
- 2) Stormwater Management Permit; and/or
- 3) Site Location Law Permit. Permit writers are trained in multiple programs and consult with technical experts as needed.

Pre-application meetings are required for projects requiring a Site Law or Stormwater permit (with specific preliminary information required to be submitted in advance, e.g., preliminary plan, soils/site information, location map), and strongly encouraged for projects requiring just a Natural Resource Protection Act. Pre-submission meetings are required for projects requiring a stormwater permit (to confirm that all application components are included). Applicants are required to submit all permit applications at the same time (and applications are rejected if all the necessary permits are not requested).

Jurisdiction and Thresholds

See above. Natural Resource Protection Act addresses impacts to streams, wetlands, lakes, coastal areas, fragile mountain areas, and specified protected habitats. See also summary on Maine Site Law.

Evaluation, Measures of Success and Performance Standards

Unknown

Establishment: Agency Initiative

Unsure to what extent permit coordination and pre-application/pre-submission meeting requirements are established by statute versus DEP regulations.

Cost and Funding Sources

Applicants pay variable fees depending on the size and complexity of the project (fee schedule available on-line). Permit fees cover most of the costs of the licensing and enforcement staff (prior to economic downturn).

Staffing Needs

Highly cross-trained permitting staff as well as 2 "Licensing Mentors," who work with permitting staff and review all permits for consistency. Each permit reviewer handles about 40 projects at any time, and writes about 100 permits a year.

Other Implementation Needs

None

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Are the impacts of development on the environment intentionally or inadvertently addressed?

Permit coordination provides for more comprehensive review of a project. Pre-application meetings, in particular, provide a significant opportunity for MEDEP to influence project design or other project aspects to reduce environmental impact. MEDEP staff discuss options with applicants and almost always influence the design (e.g., location, site layout) to reduce impacts.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Site law provides an opportunity for permitting staff to consider broader, cumulative impacts from proposed development (e.g., cumulative effect of multiple new septic systems associated with new subdivision). Uncertain to what extent indirect, secondary or cumulative wetland impacts are addressed (see also summary on Maine Site Law).

Relevance to the HB 1579 (2008) Commission

Value of permit coordination and pre-application/pre-submission meetings to reduce environmental impacts and streamline permitting.

Program Title: Fast Track Permitting

State: Massachusetts

Administering Agency: MA Department of Environmental Protection

Primary Contact (name, phone, email): Philip Weinberg, philip.weinberg@state.ma.us

Website:

Focus Area: Coordinated Permitting

Type: Incentive

Status: Active

Description and Scope

A formal agreement put in place between applicants and the department on the timeframe required for permitting. DEP commits to additional up-front "hand-holding" and technical assistance for applicants, particularly detailed review of draft permit applications. A very small percentage of projects have taken advantage of the program (only 25-30 projects over past few years).

Jurisdiction and Thresholds

Projects must meet one or more of the following criteria: 1) consistent with sustainable development principles or promote smart growth; 2) determined by the Commissioner to be of significant environmental interest; or 3) involve multiple permits. Has been used primarily by larger, more complex projects or those with very tight timeframes. Regional directors accept proposals and, in coordination with Commissioner's Office of Operations and Programs, develop necessary project agreements.

Evaluation, Measures of Success and Performance Standards

Unknown

Establishment: Agency Initiative

Established over 15 years ago by MassDEP.

Cost and Funding Sources

Applicants pay additional permit review fee, with "money-back" guarantee. Funds are managed in a special account under Commissioner's control, providing for additional staff time when necessary to meet commitments. Fees are based on actual hours required by state staff ("consultant basis").

Staffing Needs

Project dependent. A MassDEP project manager is assigned to each project. Applicants follow the same permit review procedures, but are bumped to the head of the line for review.

Other Implementation Needs

Process is managed independently by 4 regional offices. Each office may have guidance or templates, but contact expects the process is more unstructured.

Are the impacts of development on the environment intentionally or inadvertently addressed?

MEPA process has greater influence on project design than this program because MEPA requires an alternatives analysis and consideration of lower-impacting options. Permit approvals, like MEPA, do require certification that the project is minimizing impacts to the maximum extent feasible.

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In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Unknown. Process uses existing permit processes, but accelerates the review timeline for selected projects.

Relevance to the HB 1579 (2008) Commission

An example of an alternative permitting track. This concept might be applicable as an incentive for projects providing superior environmental performance through better design and location choice.

Program Title: Coordinated Permitting

State: Rhode Island

Administering Agency: RI Department of Environmental Management

Primary Contact (name, phone, email): Tony A'Vault, 401 457-1103, tavant@rhodeislandhousing.org ;
Joe Voccio, 401 457-1284, jvoccio@rhodeislandhousing.org

Website: <http://keepspace.org/index.html>

Focus Area: Coordinated Permitting

Type: Permit

Status: New

Description and Scope

A new permit streamlining process with RI Department of Environmental Management is getting underway in support of a new community development initiative called KeepSpace RI. KeepSpace RI, led by Rhode Island Housing, has a goal of creating neighborhoods where a healthy environment is as valued as safe homes and good jobs. By attempting to reuse existing developed land that has been underutilized or abandoned, KeepSpace communities will help preserve open space. RI DEM has committed to streamline its permitting process for the first four KeepSpace projects in Cranston, Providence, Pawtucket/Central Falls, and Westerley.

For the KeepSpace program described above, each of the four communities that is participating in the first phase is being assigned a DEM Project Review Team, rather than each developer having to seek out every permit separately. All permit requests will be handled by the assigned team of DEM technical experts. DEM's permit streamlining is just one element of the collaborative process for KeepSpace that brings together the community, developers, local governments, and state and local regulatory departments.

Jurisdiction and Thresholds

Unknown

Evaluation, Measures of Success and Performance Standards

Unknown

Establishment: Agency Initiative

Cost and Funding Sources

Unknown.

Staffing Needs

Unknown.

Other Implementation Needs

Unknown.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Environmental and open space protection are key objectives of the program to be achieved through compact design and location in close proximity to services and community amenities.

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Inadvertently through focus on compact development and redevelopment.

Relevance to the HB 1579 (2008) Commission

An example of an alternative permitting track. This concept might be applicable as an incentive for projects providing superior environmental performance through better design and location choice.

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Program Title: Housing and Conservation Planning Program

State: New Hampshire

Administering Agency: Office of Energy and Planning

Primary Contact (name, phone, email): Jennifer Czysz, 603.271.8009, jennifer.czysz@nh.gov

Website: <http://www.nh.gov/oep/programs/HCPP/>

Focus Area: Land Use Planning

Type: Grant

Status: Unfunded

Description and Scope

Municipalities often face conflicting pressures for managing growth: protecting the area's natural resources and character, while meeting the housing needs of current and future residents. The Housing and Conservation Planning Program (HCPP) enables municipal leaders to get valuable financial and technical resources to help them develop local plans to make their communities better places to live, and to bring citizens together to help shape the future of their community.

The program recognizes that population growth in New Hampshire is inevitable. But, sprawl, traffic congestion, a shortage of needed workers and destruction of irreplaceable natural resources are not. New Hampshire is growing and developing rapidly and this trend is expected to continue for the foreseeable future. The manner in which the state has grown, particularly with the emphasis on large-lot, high-cost residential development, has resulted in a serious shortage of housing opportunities for working families and young adults. This trend is hurting the economy by limiting the available workforce while increasing destruction of natural resources and traffic congestion.

HCPP is a new and voluntary grant program offered to municipalities through the Office of Energy and Planning. Grant funds will enable municipalities to purchase technical assistance related to planning for future housing growth needs, including the need for affordable and workforce housing, while preserving quality of life, using land efficiently, and identifying key natural and historic areas to conserve.

Jurisdiction and Thresholds

Participation in HCPP is voluntary. Eligible applicants for HCPP grants are limited to New Hampshire municipalities. Municipalities may apply individually or join together to submit a single joint application if they intend to embark on an inter-municipal planning project.

The Program awards technical assistance grants to interested communities within four planning stages, each stage leading up to the implementation of a growth and development strategy that addresses housing and conservation together in an interrelated manner. These include:

1. Study housing, natural, and historic resource values, locations, and economic impacts;
2. Develop and adopt a town-wide Growth and Development Strategy;
3. Amend the master plan to be consistent with that Strategy; and
4. Implement the strategy through audits of and revisions to zoning, subdivision and site plan regulations.

Each grant stage has a maximum grant award and minimum community match specified in the program's administrative rules.

Evaluation, Measures of Success and Performance Standards

All applications are scored based upon their demonstration of compliance with the 10 program principles that are to guide their work under the HCPP. During the first round of applications and funding the Office of Energy and Planning received 24 State 1 applications, 2 Stage 2 applications and 3 Stage 4 applications totaling nearly \$500,000. The available \$100,000 was awarded to the top scoring six applications.

Acworth, Marlow, Nottingham, **and** Seabrook have been awarded funding, under "Stage 1" of the program, to conduct projects that expand the knowledge platform upon which sound planning decisions can be based. Chichester, the Stage 2 awardee, will be conducting a visioning project, where the town's existing knowledge base will be used to cultivate a community-wide discussion about how to best plan for regional housing needs as well as local land conservation and historic preservation. Salisbury, the 4th Stage awardee, will be following through with the research and discussion that went into its Town Master Plan by auditing its land use regulations and developing an open-space zoning provision and related subdivision amendments.

Establishment: Legislation

The Housing and Conservation Planning Program (HCPP) was developed over the course of 18 months by the efforts of the Growth and Development Roundtable, a broad coalition of business, conservation, housing, municipal, and planning interests, convened in 2005 by the New Hampshire Charitable Foundation. The program established through [Senate Bill 217](#), sponsored by Senator Martha Fuller Clark, was passed by the NH Legislature in June and signed by the Governor in July 2007. The program is set forth in [RSAs 4-C:24 through 4-C:30](#) and its administration detailed in the [HCPP Administrative Rules](#).

Cost and Funding Sources

The program was initially appropriated \$400,000 in grants for fiscal years 2008 and 2009. Due to budget reductions this was reduced to \$100,000 for fiscal year 2009 only. The program has been zero funded for fiscal years 2010 and 2011.

Staffing Needs

The program depends on two staff persons, a senior planner and assistant planner, in the Office of Energy and Planning. Each contributes only a portion of their time to the program's administration.

Other Implementation Needs

None.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Directly, as the program requires municipalities who utilize these grant funds to work through their master planning process and rewrites of their local regulations to balance the need for housing and conservation in a sustainable fashion; identifying the most appropriate locations for growth to occur and the most valuable natural and historical resources to conserve.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

The grant program asks municipalities to plan in a manner that is directly consistent with the charge of the commission.

Program Title: Innovative Land Use Planning Techniques

State: New Hampshire

Administering Agency: NH Department of Environmental Services

Primary Contact (name, phone, email): Eric Williams, (603) 271-2358, eric.williams@des.nh.gov

Website:

Focus Area: Land Use Planning

Type: Publication or Other Tool

Status: Active

Description and Scope

To address the need for guidance and technical assistance on Innovative Land Use Controls authorized by [RSA 674:21](#), DES and its partners, the NH Association of Regional Planning Commissions, the NH Office of Energy and Planning, and the NH Local Government Center, produced the Innovative Land Use Planning Techniques: A Handbook for Sustainable Development.

Techniques covered in the handbook fall into three broad categories: *multi-density zoning*; *environmental characteristics zoning*, and *site level design*. Twenty three specific techniques are detailed, including conservation subdivision, density transfer, village plan development, agricultural incentive zoning, inclusionary housing, steep slope and ridgeline protection, habitat protection, groundwater and surface water protection, 'dark skies', access management, energy efficient development and many more.

The Handbook's chapters were written with the same outline to facilitate ease of use. The model ordinances and regulations include explanatory notes and provide guidance where planning boards may wish to consider alternatives for regulatory language. Because planning models are dynamic, it is expected that the model ordinances in this guide will be updated continuously.

Jurisdiction and Thresholds

In 1983, New Hampshire law authorized towns and cities to use innovative land use controls to deal with complex planning issues. While [RSA 674:21](#) listed a number of techniques, little guidance has been available to help planning boards, citizens, and developers figure out how to use them. The law gives municipalities a great deal of power to adopt and administer – and even require – innovative land use controls; the most relevant techniques were selected for this handbook.

Evaluation, Measures of Success and Performance Standards

DES has been tracking those models that each of the RPCs have worked with municipalities to adopt. As of the summer of 2009, eight of the State's nine regional planning commissions have reported that they have worked with 32 municipalities across New Hampshire, on a total of 40 different ordinances using the Innovative Land Use Planning Techniques Handbook.

Establishment: Legislation

The models and handbook are based upon the land use planning tool created by [RSA 674:21](#). However work on the handbook was initiated by the NH Association of Regional Planning Commission in recognition of a need for municipal assistance on how to implement the innovative land use mechanisms found in [RSA 674:21](#).

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Cost and Funding Sources

The handbook was funded through the NH DES Regional Environmental Planning Program grant to the regional planning commissions (total of \$X over Y years) plus additional funds expended by DES for graphic design, layout and printing (\$X from Y source).

Staffing Needs

The guidebook included the involvement of a team of approximately 40 individuals to write the many models and review and edit the document.

Other Implementation Needs

The handbook was followed by 2 years of on the ground technical assistance provided by the RPCs to those municipalities interested in implementing any of the models.

Are the impacts of development on the environment intentionally or inadvertently addressed?

The ILU Handbook provides information on several techniques available to communities that wish to redirect future growth in their communities to enhance existing developed areas, create new areas of focused development in appropriate locations, and reduce development pressures on important natural systems and undeveloped lands. There are broader approaches that can be used to redirect development at the community or regional level, such as village development, transit-oriented development, growth boundaries, infill development, transfer of development, and conservation or open space zoning, as well as site-specific approaches that can minimize the impact of developing an individual parcel, such as conservation subdivision design, minimum impact development standards, access management, and comprehensive water resource protection requirements.

These techniques, used as a whole or individually, can help a community grow in away that is more consistent with its master plan's stated vision and that is more protective of the resources and community character that are so important to every New Hampshire community.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

This is an important planning resource in New Hampshire to create a uniform set of model ordinances to be used statewide with the goal of balancing the need for growth and development with natural resource protection.

Program Title: State Development Plan

State: New Hampshire

Administering Agency: Office of Energy and Planning

Primary Contact (name, phone, email): Jennifer Czysz, 603.271.8009, jennifer.czysz@nh.gov

Website: <http://www.nh.gov/oep/programs/SDP/index.htm>

Focus Area: Land Use Planning

Type: Publication or Other Tool

Status: Active

Description and Scope

The purpose and framework for the State Development Plan have been established by the Legislature in [RSA 9-A](#). The Office of Energy and Planning is directed to assist the Governor in preparing and updating the plan every four years, starting October 1, 2003. Fundamentally, the State Development Plan should include policies in areas related to the orderly physical, social, and economic growth and development of the state, all of which should reflect the principles of smart growth.

The purpose of the State Development Plan is to serve as the State's overall planning document - to act as a guide for all State agencies as they develop plans, programs, and projects; to help State agencies establish priorities and allocate limited resources; to account for the plans of local and regional government and agencies; and to reflect the vision of the State's citizens.

[RSA 9-A](#) also establishes the basic required contents of the State Development Plan relevant to the following topical areas:

1. Overall vision, with special emphasis on smart growth principles
2. Land use
3. Transportation
4. Public facilities
5. Housing
6. Economic development
7. Natural resources
8. Natural hazards
9. Recreation
10. Utility and public service
11. Regional concerns
12. Cultural and historic resources
13. Implementation

Jurisdiction and Thresholds

Chapter 229, Laws of 2002, established a more coordinated process to create state, regional, and local master plans that promote smart growth. The state development plan, in addition to determining state priorities and allocating state resources, must now also take into consideration regional and local land use plans. In turn, regional and local plans are encouraged to be consistent with the state plan. This session law, in conjunction with Chapter 178 of the same year, established a consistent list of required or suggested content for state, regional, and local master plans.

Evaluation, Measures of Success and Performance Standards

N/A

Establishment: Legislation

The State Development Plan is established in RSA 9-A.

Cost and Funding Sources

There is no direct appropriation for the development of the State Development Plan other than general funded staff time.

Staffing Needs

One staff planner is allocated to work on the State Development Plan part time.

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Both. Many of the goals of the State Development Plan are aimed at creating a balance between land use growth and development and natural resource protection. However, being a state level plan, it does not directly impact land use development at the site scale but rather sets a state level policy or objective for an idealistic growth pattern.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

This is the single planning document in the State that is intended to guide all other planning initiatives. It provides direction to state agencies regarding their policy setting and creates a uniform set of goals for how to allocate the states limited resources.

Program Title: Housing for Economic Growth Program

State: Connecticut

Administering Agency: Office of Policy and Management

Primary Contact (name, phone, email): Dimple Desai, (860) 418-6412, dimple.desai@ct.gov

Website: http://www.ct.gov/opm/cwp/view.asp?a=2985&q=413024&opmNav_GID=1807&opmNav=|

Focus Area: Land Use Planning

Type: Incentive

Status: New

Description and Scope

This act provides incentives to municipalities for creating Incentive Housing Zones (IHZ) in eligible locations, such as, near transit facilities, an area of concentrated development or an area that because of existing, planned or proposed infrastructure is suitable for development as an IHZ. Developable land excludes public and privately owned property slated for public uses, parks, recreation areas, dedicated open space land, other land where restrictions prohibit development, wetlands or watercourses and areas exceeding one-half or more acres of contiguous land where steep slopes or other topographic features make it unsuitable for development.

Incentive Housing Development (IHD) means a residential or mixed-use development that meets the following criteria – is located within an approved IHZ, is eligible for financial incentive payments, and sets aside lower cost units for a minimum of 20% of the households earning 80% or less of area median income (AMI) for 30 years. A unit is affordable if it costs no more than 30% of a person's annual income to live there.

The town's zoning commission must establish the IHZ as an overlay zone. The town receives the incentives only for IHDs that are developed in a state-approved IHZ.

Jurisdiction and Thresholds

Incentive Housing Zone Requirements:

1. The zone shall be consistent with the State Plan of Conservation and Development and be located in an eligible location
2. Regulations of the zone shall permit, as of right, incentive housing development
3. Zone must comply with minimum allowable density requirements
 - 6 units/acre for single-family housing
 - 10 units/acre for duplex or townhouse housing
 - 20 units/acre for multifamily housing
 - For smaller communities – lower densities – 4/6/10 – OPM approval requiredOPM may waive density requirements for land "owned or controlled" by a municipality, land trust, housing trust fund, or non-profit housing agency, provided development will be 100% set aside at 80% of AMI
4. Minimum as of right density allowed by the zone must increase the density allowed by the underlying zone by *at least 25%*
5. Zone requirement is subject to site plan or subdivision procedures, but not subject to special permit or special exception procedures/requirements/standards
6. IHZ may consist of one or more sub-zones
7. IHZ land area may not exceed 10% of the total land area or aggregate area comprised of IHZ and sub-zones in a municipality may not exceed 25%

Evaluation, Measures of Success and Performance Standards

33 communities applied for technical assistance grants in 2008. Section 46 (b) of the Act requires OPM to report on the program’s accomplishments for the year. The report identifies the status of communities seeking grants, those approved and their amounts, amount of land zoned under the program and number of building permits issued in those zones, and estimate of applications and zones that may be approved in the next fiscal year.

Establishment: Legislation

[PUBLIC ACT 07-4](#), An act implementing the provisions of the budget concerning general government, Sections 38 to 50 inclusive. (Section 11-4a CT General Statutes)

Cost and Funding Sources

The program has 3 grant types each with caps:

1. Technical Assistance Grants - \$50,000
2. Zone Adoption Grants - \$2,000
3. Building Permit Grants - a one-time building permit payment for each building permit issued for a residential housing unit in an approved IHD in the amount of:
 - \$2,000 for each multifamily housing unit, duplex unit or townhouse unit
 - \$5,000 for each single-family detached unit

Staffing Needs

Unknown

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Inadvertently – program is limited to areas that are pre-designated as eligible locations as determined in the State Plan of Conservation and Development.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

Incentive program to channel needed growth into areas that are suitable for such development.

Program Title: Land Use Regulation Commission

State: Maine

Administering Agency: Maine Department of Conservation

Primary Contact (name, phone, email): Main Office, (207) 287-2631, jeannine.lapointe@maine.gov

Website: <http://www.maine.gov/doc/lurc/index.shtml>

Focus Area: Land Use Planning

Type: Regulation

Status: Active

Description and Scope

The Maine Land Use Regulation Commission (LURC or the Commission) was created by the Maine Legislature in 1971 to serve as the planning and zoning authority for the state's townships, plantations and unorganized areas. The Commission has land use regulatory jurisdiction over these areas because they have no form of local government to administer land use controls, or they have chosen not to administer land use controls at the local level.

The Commission was established primarily in response to a recreational building and land development boom in these areas during the late 1960's. Its purpose is to extend the principles of planning and zoning; to preserve public health, safety, and welfare; to encourage the well-planned, multiple use of natural resources; to promote orderly development; and to protect natural and ecological values.

The responsibility of guiding land use in these areas represents a unique challenge. The jurisdiction stretches over half the state, encompassing more than 10.4 million acres and the largest contiguous undeveloped area in the Northeast. This is a diverse area that includes several coastal islands and stretches from the downeast area across the western mountains and up to the Canadian border. While the area has an extensive private land management road network, it has few public roads and is sparsely populated. Most development is concentrated along the fringe of the jurisdiction, adjacent to more populous areas where services are more accessible.

Much of this area may seem like wilderness compared to most of the rest of the Northeast, but agricultural, forestry, and recreational activities clearly identify the region as a hardworking resource vital to the overall economy of the State. Residents and visitors alike place a premium on the unique natural values they find here.

Jurisdiction and Thresholds

The Land Use Regulation Commission's main office is located in Augusta. LURC also has five regional offices in the jurisdiction: Ashland, Downeast, East Millinocket, Greenville, and Rangeley.

Evaluation, Measures of Success and Performance Standards

The LURC statute requires that the Commission operate under a comprehensive land use plan whose purpose is to guide the Commission in developing specific land use standards, creating zoning boundaries and guiding development. The Commission's plan is entitled: [Comprehensive Land Use Plan for the Plantations and Unorganized Townships of the State of Maine](#).

The Plan was originally adopted in 1976 and subsequently revised in 1983, 1990, and 1997. The Plan was also amended in 2001 in order to create a land use plan developed for a subregion of the jurisdiction (the Rangeley area). The amendment to the Plan is officially entitled: [Prospective Zoning Plan for the](#)

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[Rangeley Lakes Region: An Amendment to the Maine Land Use Regulation Commissions Comprehensive Land Use Plan.](#)

Establishment: Legislation

The LURC statute is the land use law that created the Maine Land Use Regulation and identified the mission of the agency. The LURC statute is entitled: [12 M.R.S.A. §206-A Land Use Regulation.](#)

Cost and Funding Sources

Unknown.

Staffing Needs

The Commission has altogether 25 staff members including; 1 director, 13 individuals within the Permitting and Compliance Division (distributed between the main office and 5 regional offices); and 11 individuals within the Planning and Administration Division.

Other Implementation Needs

The Commission is a seven-member, independent board appointed by the Governor and confirmed by the Legislature. The Commission has ultimate responsibility for rules, adjudications, policies and other agency decisions. The Commission meets monthly to consider business pending before it, and holds public hearings as needed. Commission members hold staggered, four-year terms. Each of four members of the Commission must be knowledgeable in one of the following fields: forestry, fish and wildlife, commerce and industry, and conservation. At least two Commission members must be residents of the Commission's jurisdiction.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Directly, in accordance with its enabling statute, the Commission has established zoning districts to protect important resources and prevent conflicts between incompatible uses. These zoning districts identify what types of activities are appropriate and allowed in each zone.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Compensation is required for certain projects that result in the loss of wetland functions and values. If compensation is required, a compensation plan must be developed which meets certain criteria. The Commission's Wetland Compensation Guidelines outline the requirements for such compensation plans.

Relevance to the HB 1579 (2008) Commission

The program demonstrates a framework for regional or statewide zoning and the scope of staffing entailed.

Program Title: Community Planning Toolbox

State: Vermont

Administering Agency: Smart Growth Vermont

Primary Contact (name, phone, email): Serena Parnau, (802) 864-6310, serena@smartgrowthvermont.org

Website: <http://www.smartgrowthvermont.org/toolbox/>

Focus Area: Land Use Planning

Type: Publication or Other Tool

Status: Active

Description and Scope

The Community Planning Toolbox introduces users to the issues, techniques and resources for smart growth planning. It features case studies and sample tools that demonstrate how other communities have addressed similar challenges to those facing your community. The Toolbox is organized into five main sections:

Land Use Planning in Vermont - provides the background and framework for planning in the state;

Legal Issues in Planning – touches on key legal issues associated with land use regulation;

Issues – summarizes common issues such as preserving farmland or providing housing for residents. These summaries are designed as a general overview to provide a starting point for community discussions. Additional resources are provided for those who would like to delve more deeply into an issue.

Tools - outlines a particular policy, plan, bylaw or technique that can be used to address a particular issue in your community. The summary of each tool describes how it can be used and where to find additional resources. For general information on a variety of smart growth and planning topics, please go to the Resources section of the Smart Growth Vermont web site.

Case Studies – demonstrates how a community has implemented a particular smart growth tool. The Toolbox includes a range of samples from around the state, including rural, suburban and more urban examples.

Related issues, tools and case studies are linked. For example, if your community is interested in ensuring farms remain productive (the issue), you may consider an overlay district (the tool) and look to Warren (the case study) to download their bylaw to see how one community has implemented an overlay district.

Jurisdiction and Thresholds

"The Community Planning Toolbox is an educational guide and reference source for communities who want to translate smart growth principles into action. Whether you are a newcomer to land use planning, a seasoned practitioner, a community-decision maker, a state official or an active citizen interested in land use planning, this Toolbox is for you."

Evaluation, Measures of Success and Performance Standards

Unknown

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Establishment: Other

The Community Planning Toolbox was prepared by the staff of Smart Growth Vermont with assistance from their project partners, municipal officials, organizations, private developers, consultants and citizens who contributed to the Toolbox. Additional support for the Toolbox's development and implementation was provided by the Argosy Foundation, Chittenden Bank, the Davis Conservation Foundation, the Lintilhac Foundation, the Maverick Lloyd Foundation, the Vermont Community Foundation and the Windham Foundation.

Cost and Funding Sources

Unknown

Staffing Needs

Unknown

Other Implementation Needs

The full Toolbox is hosted online at the Smart Growth Vermont website. Establishment of a similar website would require minimal programming and could theoretically be easily hosted on any state agency or other entity's website.

Are the impacts of development on the environment intentionally or inadvertently addressed?

The toolbox includes case studies of existing works such as a forest reserve ordinance and natural resource plan. The Tools section includes information and resources relating to resource conservation, adaptive reuse, subdivision regulations, and conservation and open space plans.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Wetlands are not specifically addressed by the Toolbox, rather it provides resources for municipalities to promote "good" development away from natural features.

Relevance to the HB 1579 (2008) Commission

This initiative could serve as a model for how to disseminate information created by the commission or identified by the commission that is vital for municipalities to plan in a way that is consistent with the Commission's findings. This is one of many possible education and outreach mechanisms that have been called for during commission meetings.

Program Title: Municipal Planning Grant Program

State: Vermont

Administering Agency: VT Department of Housing and Community Affairs

Primary Contact (name, phone, email): Wendy Tudor, (802) 828-5249, wendy.tudor@state.vt.us

Website: <http://www.dhca.state.vt.us/Planning/MPG.htm>

Focus Area: Land Use Planning

Type: Grant

Status: Active

Description and Scope

The Department of Housing and Community Affairs (DHCA) annually grants approximately \$800,000 to municipalities to promote community revitalization and development activities that maintain Vermont's land use goal of compact settlements separated by rural lands. The Municipal Planning Grant (MPG) program funds a wide range of municipal planning projects including: the development and implementation of town plans, municipal bylaws, inventories, special studies, outreach and education, and other activities as allowed by 24 V.S.A. §4306 (b). Grant funds are regionally apportioned, based on the percentage of municipalities with confirmed planning processes within each of the 11 Regional Planning Commission (RPC) regions. Eligible communities compete among the municipalities in their region for grant funding. Funding decisions are made by the DHCA Commissioner, based on the competitive criteria.

Jurisdiction and Thresholds

Planning grants for up to \$15,000 are available to municipalities with a confirmed local planning process. Municipal organizations other than the planning commission (such as the conservation commission or the downtown revitalization organization) may apply for funding, but only with prior approval of the planning commission and select board. Each municipality may submit only one application per year. More than one municipality may apply jointly for a Consortium Application (up to \$25,000).

The Municipal Planning Grant program supports a range of projects relating to planning and land use issues and promotes cooperation, collaboration and the exchange of ideas. Eligible projects must have a clear connection to planning and implementation of the local plan.

Funds may be used (but are not limited) to:

- Underwrite expenses for public meetings and hearings, informational workshops, citizen surveys, outreach and notification costs;
- Support research, data collection, capacity studies, inventories and mapping;
- Pay planning and zoning staff for work on grant project if it is beyond their normal duties;
- Pay consultants, administrative staff, interns, regional planning commission staff, or legal fees associated with the project;
- Purchase development rights, easements, and titles of properties for housing and conservation purposes identified in the municipal plan;
- Purchase materials needed to produce a plan, bylaw, or implement or administer the project, like writing supplies, maps and copies.

Evaluation, Measures of Success and Performance Standards

Unknown

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Establishment: Legislation

Title 24: Municipal and County Government

Chapter 117: Municipal and Regional Planning and Development

4306. Municipal and regional planning fund

§ 4306. Municipal and regional planning fund

(a) A municipal and regional planning fund for the purpose of assisting municipal and regional planning commissions to carry out the intent of this chapter is hereby created in the state treasury. The fund shall be comprised of 17 percent of the revenue from the property transfer tax under chapter 231 of Title 32 and any moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public. All balances at the end of any fiscal year shall be carried forward and remain in the fund. Interest earned by the fund shall be deposited in the fund. Of the revenues in the fund, each year 10 percent shall be disbursed to the Vermont center for geographic information; 70 percent shall be disbursed to regional planning commissions and 20 percent shall be disbursed to municipalities.

(b) ... Disbursement to municipalities shall be through a competitive program administered by the department providing the opportunity for any eligible municipality or municipalities to compete regardless of size, provided that to receive funds, a municipality.

Cost and Funding Sources

See 'Establishment' above for funding sources.

Fiscal Year 2009 Grant awards totaled \$437,720.

Staffing Needs

Unknown

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Indirectly, Grant funds are available for a wide range of planning initiatives some of which may promote the protection of the natural environment.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Indirectly, Grant funds are available for a wide range of planning initiatives, some of which may address wetlands impacts.

Relevance to the HB 1579 (2008) Commission

This is one of many possible tools to make the connection between state and local level planning, wherein the state can promote good planning utilizing the grant funds as an incentive to municipalities.

Program Title: Vermont Housing and Conservation Board

State: Vermont

Administering Agency: Vermont Housing and Conservation Board

Primary Contact (name, phone, email): (802) 828-3250, info@vhcb.org

Website: <http://www.vhcb.org/>

Focus Area: Land Use Planning

Type: Grant

Status: Active

Description and Scope

The Vermont Housing and Conservation Board is an independent, state-supported funding agency providing grants, loans and technical assistance to nonprofit organizations, municipalities and state agencies for the development of perpetually affordable housing and for the conservation of important agricultural land, recreational land, natural areas and historic properties in Vermont. The Board is able to respond quickly in assisting municipalities and nonprofits in coping with the adverse impact of development on Vermont's affordable housing stock, its agricultural land, and its environmental quality. The decision-making process is set up to provide significant financial assistance rapidly when a need is identified.

State grants are available through the Housing and Conservation Board for the following:

- Housing Programs
 - Homeownership/Single Family Assistance
 - Mobile Home Parks/Mobile Home Purchase Subsidy
 - Energy Fund
- Conservation Programs
 - Farmland conservation
 - Conservation of Natural Areas, Recreational Lands and Historic Properties
 - Local Conservation (Recreational or Agricultural Land, Natural Areas and Historic Properties)
- Organizational Development Grants
- Feasibility Funds
- Project-Related Capacity Funding

Jurisdiction and Thresholds

Eligible Applicants for VHCB loans and grants are:

- Nonprofit housing and conservation organizations with federal 501(c)(3) status
- Vermont municipalities
- Certain state agencies

Each of the Individual Grant programs has their own unique sets of thresholds (maximum award, prerequisites, and selection criteria).

Evaluation, Measures of Success and Performance Standards

Since its inception, the Board has awarded nearly \$200 million to nonprofit housing and conservation organizations, towns, municipalities and state agencies to develop more than 1200 projects in 220 towns. This investment has directly leveraged approximately \$750 million from other private and public sources and resulted in the creation of 8,500 units of affordable housing, the conservation of more than

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368,500 acres of agricultural and recreational lands and natural areas. Many VHC housing awards have supported housing in buildings eligible, nominated or listed on the State or National Register of Historic Places. Historic barns, farmhouses, or archeological sites are located on many farms conserved with VHC funds.

Establishment: Legislation

The Housing and Conservation Trust Fund Act, enacted in June 1987, and capitalized with \$3 million.

10 V.S.A. Chapter 15 § 301. Vermont Housing and Conservation Trust Fund Act.

§ 302. POLICY, FINDINGS AND PURPOSE (a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural land, historic properties, important natural areas and recreational lands are of primary importance to the economic vitality and quality of life of the state. (b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should encourage and assist in creating affordable housing and in preserving the state's agricultural land, historic properties, important natural areas and recreational lands. (c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and conservation board to further the policies established by subsections (a) and (b) of this section.

Cost and Funding Sources

10 V.S.A. Chapter 15 § 312. CREATION OF VERMONT HOUSING AND CONSERVATION TRUST FUND

There is created a special account in the state general fund to be known as the "Vermont housing and conservation trust fund." The fund shall be administered by the board and expenditures therefrom shall only be made to implement and effectuate the policies and purposes of this chapter. The fund shall be comprised of 50 percent of the revenue from the property transfer tax under chapter 231 of Title 32 and any moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board. Unexpended balances and any earnings shall not revert to the general fund but shall remain in the fund for use in accord with the purposes of this chapter.

Staffing Needs

The Housing and Conservation Board consists of 9 Board members and 27 staff members. Of the staff 6 are devoted to housing, 5 conservation and farms, 7 other programs, and 9 administration and finance.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Indirectly, Grant funds are available for a wide range of planning initiatives some of which may promote the protection of the natural environment.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Indirectly, Grant funds are available for a wide range of planning initiatives, some of which may address wetlands impacts.

Relevance to the HB 1579 (2008) Commission

This is one of many possible tools to make the connection between state and local level planning, wherein the state can promote good planning utilizing the grant funds as an incentive to municipalities.

Program Title: RSA 9-B: NH's "Smart Growth" Policy

State: New Hampshire

Administering Agency: NH Office of Energy and Planning

Primary Contact (name, phone, email): Jennifer Czysz, (603) 271-8009, jennifer.czysz@nh.gov

Website: <http://www.gencourt.state.nh.us/rsa/html/l/9-B/9-B-mrg.htm>

Focus Area: Smart Growth

Type: Regulation

Status: Active

Description and Scope

In 2000 New Hampshire's legislature adopted the State's "Smart Growth" Policy, RSA 9-B. The general findings of the act are:

- The State's natural resources are valuable assets and essential to both the economy and health and welfare of its citizens.
- Economic development while essential to the State's well-being and prosperity is only hampered by haphazard sprawling development.
- The State can encourage development that is consistent with smart growth by regularly reviewing its operating procedures, granting policies, and regulatory framework.
- A comprehensive coordinated planning effort by state agencies on future development can improve our economy and encourage smart growth by locating development in appropriate growth areas while simultaneously retaining open space and natural resources.

The ten principles of Smart Growth delineated in statute (RSA 9-b:2) include, but are not limited to:

1. Vibrant commercial activity within cities and towns.
2. Strong sense of community identity.
3. Adherence to traditional settlement patterns with siting municipal and public buildings and services.
4. Ample alternate transportation modes.
5. Uncongested roads.
6. Decreased water and air pollution.
7. Clean aquifer recharge areas.
8. Viable wildlife habitat.
9. Attractive views of the landscape.
10. Preservation of historic village centers.

Shortly after this legislative initiative was passed, the Office of Energy and Planning produced *Achieving Smart Growth in New Hampshire*. This project documents how New Hampshire is changing and highlights some positive examples of development and conservation throughout the state.

Jurisdiction and Thresholds

At the municipal level, the statute only encourages municipalities to consider smart growth in their local planning initiatives. However, state agencies are required to "give due consideration" to the policies and principals of RSA 9-B:2 when "providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities (RSA 9-B:4)." The intent is to give preference to investments in sites and buildings within existing community centers over the development of outlying areas.

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Evaluation, Measures of Success and Performance Standards

Per RSA 9-b:6, every four years the Council on Resources and Development (CORD) is tasked with reporting to the general court and governor on state agencies progress. Specifically, the report is to delineate:

- Agencies' progress in complying with the expenditure requirements of RSA 9-B:4.
- CORD member agencies' progress in coordinating activities to encourage smart growth.
- Efforts made to encourage smart growth development through the review of state operating procedures, granting policies, and the regulatory framework.
- Suggest policy or legislative changes that CORD believes would strengthen the ability to achieve the goals of RSA 9-B:2.
- Assess how state agencies are complying with the goals and objectives of the State Development Plan.

Establishment: Legislation

The State's "Smart Growth" Policy was passed by the state's legislature in 2000 and set forth as Chapter 9-B: State Economic Growth, Resource Protection and Planning Policy.

Cost and Funding Sources

No direct funding is allocated to the implementation of the State's Smart Growth Policy. Instead, the policy is intended to set recommended parameters for other state funded initiatives.

Staffing Needs

There are two senior planners, two principle planners, and one assistant planner that all in some capacity contribute a portion of their time to either CORD's role in implementing the smart growth policies or providing technical assistance to regional and municipal planning entities and organizations.

Other Implementation Needs

None.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes, see the specific numbered policies outlined above under "Description and Scope."

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

Chapter 9-B represents existing state policy with the same goals intended of Chapter 294:3, III, Laws of 2008 relative to the commission.

Program Title: Commonwealth Capital

State: Massachusetts

Administering Agency: MA Executive Office of Energy and Environmental Affairs

Primary Contact (name, phone, email): Kurt Gaertner, 617-626-4949, commcap@massmail.state.ma.us

Website: <http://www.mass.gov/commcap>

Focus Area: Smart Growth

Type: Incentive

Status: Active

Description and Scope

The Commonwealth Capital Policy coordinates state capital spending programs in order to invest in projects that are consistent with Administration policy and the Commonwealth's Sustainable Development Principles and to partner with municipalities seeking to advance our shared conservation and development interests. Commonwealth Capital explicitly endorses planning and zoning measures, as well as specific actions and investments, which can provide clean energy and produce more livable communities. It also encourages local implementation by linking state spending programs to municipal practices. Municipal smart growth / smart energy consistency is assessed through a Commonwealth Capital application that examines municipal implementation of 32 land use planning and regulatory practices. Resulting scores are part of the proposal evaluation process for each grant or loan program.

Jurisdiction and Thresholds

Municipalities applying for the following state grant or loan programs are required to receive a Commonwealth Capital score:

1. [Public Works Economic Development Program](#)
2. [Transit Oriented Development Bond Program](#)
3. [Water Transportation Capital Funding Program](#)
4. [Small Town Road Assistance Program](#)
5. [Community Development Action Grant Program](#)
6. [Massachusetts Opportunity Relocation and Expansion \(MORE\) Jobs Capital Program](#)
7. [State Revolving Fund](#)
8. [LAND \(formerly Self-Help\) Program](#)
9. [PARC \(formerly Urban Self-Help Program\)](#)
10. [Drinking Water Supply Protection Grant Program](#)
11. [Coastal Pollutant Remediation Grant Program](#)
12. [Alternative Energy Property Program](#)
13. [Municipal Sustainability Grant Program](#)
14. [Off-Street Parking Program](#)

Project proposals to any of the Commonwealth Capital grant and loan programs are evaluated using two sets of criteria:

- **Program-Specific Criteria:** These criteria are related to the purpose of the particular program and evaluate the merits of a proposed project against the housing, environmental, transportation, or other goals of that program. These criteria will account for 70% of the possible points for the grant and loan programs.
- **Commonwealth Capital Criteria:** A community's Commonwealth Capital score is a measure of the consistency of a municipality's land use planning and regulatory practices with the Sustainable Development Principles. The Commonwealth Capital score will account for 30% of

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the possible points for the grant and loan programs. Communities are not required to submit a Commonwealth Capital application to be eligible for funding, but their proposals will be significantly less competitive without one.

Communities receive points on their Commonwealth Capital application for zoning, planning, housing, environmental, energy, transportation, and other measures already in place at the time of application and for measures they commit to implement by December 31, 2010.

Evaluation, Measures of Success and Performance Standards

The state has tracked, mapped and charted participation rates, community scores, commitments and spending since FY 05. All details are archived online for viewing.

Establishment: Other

This program was established as a governor's initiative to best implement the state's [Sustainable Development Principles](#).

Cost and Funding Sources

Costs are dependent upon the various state grant programs incorporated under the Commonwealth Capital umbrella for the given grant cycle or year.

Staffing Needs

The program is housed within the Massachusetts Executive Office of Energy and Environmental Affairs where staff is available to respond to questions and inquiries. Applications are prepared by the municipalities' chief executive officers and submitted online. An interagency team reviews all applications. The initial review is done by an individual, with input from the team as needed. The final review is done by the program manager. Once the final review is completed, the contact person named on the application is notified in writing of the final score. After notification the final score is posted on the Commonwealth Capital web page.

Other Implementation Needs

Program utilizes a robust online system for application submission processing wherein each municipality has a unique log in and account.

Are the impacts of development on the environment intentionally or inadvertently addressed?

As in incentive based program, the ultimate impacts on physical development practices are indirect, however, the program directly impacts the municipal regulatory framework under which development is reviewed and permitted. Some of the broader policies promoted by the program are: concentrate development and mix uses, make efficient decisions, protect land and ecosystems; use natural resources wisely, and increase jobs and business opportunities.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

This is an excellent example of how the state can implement an incentive based system to better channel its limited resources and funds toward initiatives that are consistent with state development policies and/or the state's smart growth statute (RSA 9-B)

Program Title: Growth Districts Initiative

State: Massachusetts

Administering Agency: Executive Office of Housing and Economic Development

Primary Contact (name, phone, email): Permit Regulatory Office, (617) 788-3662

Website: <http://www.mass.gov/?pageID=ehedhomepage&L=1&L0=Home&sid=Ehed>

Focus Area: Smart Growth

Type: Grant

Status: Active

Description and Scope

The general aim of this program is to remediate the failure to plan ahead for new growth and development, at both the State and local levels and that zoning and other land use regulations, as well as investments in public infrastructure, do not reflect adequate planning. The program asks “what should be built”, “where should it be built”, “how it should be built” and “what infrastructure do we need to support it?”

EOHED, under its “Growth Districts Initiative,” partners with municipalities that have identified one or more areas within their communities as being appropriate locations for significant new growth, whether commercial, residential or mixed-use. Within those identified “growth districts”, EOHED will work with the community and property owners to make the district truly “development ready” with respect to local permitting, state permitting, site preparation (including brownfields remediation), infrastructure improvements, and marketing. The objective will be to create a level of “development readiness” within each of these growth districts comparable to that now available at Devens, a location proven to be highly attractive to new development and to be truly competitive at a national and international level.

EOHED will, in partnership with regional planning agencies and local communities, identify promising growth districts on an on-going basis and thereafter work closely with the local communities to make (or keep) the districts development ready. Obviously, not all new development in the Commonwealth will occur within these growth districts, but the development that does occur within these districts does have the potential to shape the overall patterns of our state’s growth in the coming years.

Jurisdiction and Thresholds

Locations targeted for EOHED assistance as “growth districts” will have the following fundamental characteristics:

- Pre-Planned Zoning & Streamlined Permitting
- Market-Based Planning
- Focused & Environmentally Sensitive Land Use
- Adequate Utilities
- Fairness to Neighbors
- Transportation Access

Designated “growth districts” will also have one or more of these additional characteristics:

- Job Opportunities
- Housing Opportunities
- Community Enhancement
- Land Re-Use
- Transit Availability
- Smart Energy
- Green Building/Low-Impact Development
- Good Design

Once a community has an approved Growth District, they are available for grant funding for:

- Construction or improvement of public infrastructure that is ancillary to the overall housing or economic development project and necessary and appropriate to support the project.

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- Site remediation or site preparation activities necessary to advance the public infrastructure project.
- Other capital investment projects, as determined by the Secretary of Housing and Economic Development.
- Eligible infrastructure includes, but is not limited to: sewers, utility extensions, streets, roads, curb-cuts, parking facilities, and water treatment systems and demolition.

Evaluation, Measures of Success and Performance Standards

Growth Districts designated in 2008:

Worcester	Weymouth	Revere	Plymouth
Haverhill	Attleboro	Springfield	Foxborough
Chicopee	New Bedford	Lowell	Somerville
Devens	Pittsfield	Burlington	Lynn

Growth Districts designated in 2009:

Lawrence	Fall River	Rivers Edge
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Establishment: Legislation

Established by the State of Massachusetts, Chapter 303 of the Acts of 2008

Cost and Funding Sources

For the 2008 – 2009 grant cycle, the total funding amount available for eligible applicants was approximately \$6,000,000.00. Individual grant amounts varied for each awarded project.

Staffing Needs

Unknown

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

The program intends to mitigate the impacts of development on natural resources. As a planning program, it cannot guarantee such results but does create a framework that channels development into areas with fewer or no environmental impacts. Some criteria for designating growth centers include promoting focused environmentally sensitive land use patterns, re-use of existing development, and employing low-impact development.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

Represents a comprehensive state level program that serves as both an incentive based and grant program to encourage concentrated growth in pre-designated and appropriate locations that simultaneously avert negative impacts of new development on natural resources.

Program Title: Growth Centers Program

State: Vermont

Administering Agency: Department of Housing and Community Affairs, Planning Division

Primary Contact (name, phone, email): Faith Ingulsrud, (802) 828-5228, faith.ingulsrud@state.vt.us

Website: <http://www.dhca.state.vt.us/Planning/GrowthCenters.htm>

Focus Area: Smart Growth

Type: Regulation

Status: Active

Description and Scope

Growth Center designation is the latest in a 20 year chain of state legislation, study committees and policy aimed at implementing the first state planning goal in Title 24VSA section 4302 – plan development to maintain the historic settlement pattern of compact village and urban development surrounded by rural countryside. The purpose of this program is to promote compact development over sprawl in municipalities that are facing development pressure. This program joins existing designation programs for Downtowns, Village Centers, and New Town Centers.

A growth center should have a core that is similar in form and function to a traditional downtown. Many Vermont municipalities will choose to establish a historic community center as the core of their growth center, while others are or will be planning for a new town center (those municipalities without a traditional downtown or where an existing center either cannot accommodate infill and/or adjacent development). The growth center will likely include lands outside the core. There will almost certainly be residential neighborhoods; there may be commercial or industrial areas. The goals of growth center planning will include integrating existing and future uses within the growth center and increasing connections between currently disconnected areas. A designated growth center must meet statutory criteria and be designed to accommodate a majority of anticipated growth over a 20-year planning period.

A municipality may apply to the Vermont Downtown Board to have its growth center designated through the Growth Center Program, thus making it eligible for additional state benefits. Incentives and benefits to designated growth centers include priority status for municipal planning grants, economic development authority incentives, state grants, infrastructure and transportation funds, affordable housing grants, as well as, status as a tax increment finance district and reduced environmental permitting requirements.

Jurisdiction and Thresholds

Any municipality may engage in growth center planning regardless of current development pressure or rate of anticipated future growth. In order to apply for Growth Center Designation, a municipality must have a designated Downtown, Village Center, or New Town Center.

24 V.S.A. § 2791(12)(A) sets forth requirements regarding where a municipality can locate a growth center. It defines a growth center as an area of land that is in or adjacent to a designated downtown, village center, or new town center. Adjacent is defined as contiguous except in situations where contiguity is precluded by natural or physical constraints. Natural or physical constraints include important natural resources, bodies of water, steep or rough terrain, soils unsuitable for development, or utility or transportation corridors. Where contiguity is precluded by natural or physical constraints, adjacent is defined as lands lying close to and not widely separated from the majority of the lands within

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the designated growth center. The statute requires non-contiguous land included as part of a growth center to exhibit strong land use, economic, infrastructure, and transportation relationships to the designated downtown, village center, or new town center. Such lands must be planned to function as a single, integrated growth center. They must also be essential to accommodate a majority of growth anticipated by the municipality over a 20-year period. The form and configuration of growth centers will vary from municipality to municipality based on local conditions, needs and preferences. The most obvious structure would be a growth center that includes and completely surrounds a designated downtown, village center or new town center where development would expand outward from the core.

Evaluation, Measures of Success and Performance Standards

Designated Growth Centers as of October 2009 **include** Williston, Bennington, and Colchester. Pending Growth Centers applications include Hartford, Montpelier, and St. Albans.

Establishment: Legislation

Vermont state law enables the creation of growth centers and encourages use of smart growth planning principles to accommodate development in a manner that maintains Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside. This program was established during the 2005-2006 legislative session in [Act NO. 183](#): An Act Relating to Creation of Designated Growth Centers and Downtown Tax Credit Program. Such designation implemented one of the key planning goals in Act 200, which called for compact settlements separated by rural lands.

Cost and Funding Sources

Funding to operate the program is unknown. However, approval under the program gives municipalities priority status for funding under several state grant programs.

Staffing Needs

Unknown

Other Implementation Needs

Applications are reviewed by the Board using evaluation criteria set forth in statute (24 V.S.A. § 2793c(e)). To assist municipalities a multi-agency planning coordination group was formed, consultants hired, and a Growth Center Planning Manual developed.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Environmental impacts are directly considered in the designation of growth centers. Both in statute and guidance materials, various environmental characteristics are called out as inappropriate locations for compact community centers and new growth and development. Any proposed impacts to natural resources within the growth center require mitigation. Specific natural resources to be considered include: headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forest lands, and primary agricultural soils.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

An excellent example of how the state can influence where future development occurs and channel its limited resources and funds toward locations and communities that are consistent with state development policies and/or the state's smart growth statute (RSA 9-B).

Program Title: Historic Landscape Preservation Initiative

State: Massachusetts

Administering Agency: Department of Conservation and Recreation

Primary Contact (name, phone, email): Shaun Provencher, (617) 626-1378

Website: www.mass.gov/dcr/stewardship/histland/histland.htm

Focus Area: Redevelopment and Historic Preservation

Type: Technical Assistance

Status: Active

Description and Scope

A twenty year old effort to help communities identify historic landscape sites through an inventory process, publications, technical assistance, and a grant program that is presently unfunded. The Department of Conservation and Recreation's Historic Landscape Preservation Initiative sponsors special initiatives and offers technical assistance and training to support the preservation of historically significant landscapes throughout the Commonwealth.

Currently, the most visible and successful program of the Historic Landscape Preservation Program is the publication of a series of technical bulletins titled [Terra Firma](#). These bulletins are being produced in response to a cultural landscape needs assessment survey of municipalities and other entities. Terra Firma #1: An Introduction to Historic Landscape Preservation, Terra Firma #2: Caring for Mature Trees in Historic Landscapes, and Terra Firma #3: Identifying and Protecting Historic Roads are currently available on our [Publications](#) webpage.

The Heritage Landscape Inventory Program builds upon prior [landscape survey](#) efforts to identify, document and plan for the protection of the heritage landscapes that are vital to the history, character and quality of life of our communities.

In 1999, the DCR launched the Massachusetts Historic Cemeteries Preservation Initiative. The twenty-nine participating communities received preservation planning assistance from a consultant team led by Walker-Kluesing Design Group. At the conclusion of the project, the DCR published *Preservation Guidelines for Municipally-Owned Historic Burial Grounds and Cemeteries*, the first edition of which received awards from the American Society of Landscape Architects and Boston Society of Landscape Architects. The second edition of Preservation Guidelines is now [available for order](#) from the DCR. Click here to see an [excerpt](#) of Preservation Guidelines.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

The Heritage Landscape Inventory [Interim Report](#) summarizes the impacts of the program and its accomplishments since inception. The Heritage Landscape Inventory Program has had an undeniable impact upon the 96 communities and seven regional partners with whom DCR has collaborated. Through the program, over 800 people have identified more than 5000 heritage landscapes that define and enrich their communities. The reach of the program has also extended well beyond participating communities. DCR receives inquiries about the program weekly, from all over the US and abroad. The program publication, *Reading the Land*, was the recipient of the prestigious Public Education Award

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from the American Planning Association in 2004 and is utilized in undergraduate and graduate coursework at seven colleges and universities.

Establishment: Agency Initiative

Establishment is unclear but appears to be an agency initiative

Cost and Funding Sources

Unknown

Staffing Needs

Three preservation planners currently listed on website.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Impacts are directly addressed in 6 publications available on line or through the mail for the cost of postage.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Wetland impacts are considered particularly in the booklet on Historic Roads. Alterations to roads are included in the state's Wetlands Protection Act. River corridors are also considered part of the landscapes to be considered.

Relevance to the HB 1579 (2008) Commission

Program is related to Smart Growth and places an emphasis on enhancement of village areas, urban green spaces, protection of scenic vistas and preventing development from overwhelming historic roads. See above about Wetlands Protection Act inclusion of road alteration.

Program Title: Historic Tax Credits and Loan Program

State: Rhode Island

Administering Agency: Rhode Island Historical Preservation and Heritage Commission

Primary Contact (name, phone, email): Roberta Randall, (401)222-4333, rrandall@preservation.ri.gov

Website: <http://www.preservation.ri.gov/credits/>

Focus Area: Redevelopment and Historic Preservation

Type: Incentive

Status: New

Description and Scope

The Rhode Island Historical Preservation & Heritage Commission administers programs to help owners meet the costs of maintaining their historic properties. Among the mechanisms that the Commission uses are tax incentives, preservation easements, and low-interest loans. In addition to these financial incentives, restoration architects on the Commission staff help owners to plan their projects and make sure that the work meets preservation standards.

The most widely-used programs administered by the Commission are the [Homeowner Tax Credit](#) and [Commercial Tax Credits](#). Property owners can earn significant income tax credits when they rehabilitate their properties according to preservation guidelines.

The [Historic Preservation Loan Program](#) provides low-interest loans to public, non-profit, or private owners. Loan money may be used for needed restoration work, or for acquiring and rehabilitating an endangered historic property. The Commission also operates a [Preservation Easement](#) program which protects a historic property from destruction by future owners and may qualify the current property owner for tax benefits.

Jurisdiction and Thresholds

For the State Homeowner Tax Credit the credit equals 20% of the cost of exterior restoration work where for every \$2000 spent, the homeowner gets \$400 back. The maximum credit per year is \$2000, and unused credits can be rolled over to future years. Any applicant who owns and lives in the historic house can qualify. Single-family, two-family, and three-family residences are eligible. If the property has more than three units, restrictions apply. Rental apartments, stores, offices, and other income-producing properties are not eligible for the State Historic Homeowner Tax Credit unless one unit is owner-occupied, but may be eligible for Federal Income Tax Credits and/or State Commercial Tax Credits. Most exterior repairs to the building will qualify for the tax credit as long as the work meets the The Secretary of the Interior's Standards for Rehabilitating Historic Properties. Eligible projects include work on the roof, foundation, structure, exterior walls, porches, trim, windows, doors, and painting.

For the State Commercial Tax Credits there is a tax credit certification the credit equals 30% of the cost of approved rehabilitation work; for \$100,000 spent, \$30,000 is returned. The entire credit may be claimed when the project is completed. Unused portions of the credit may be taken over a 10-year period. Also, the owner does not have to use the credit him/herself, but instead can sell the credit to another individual or to a corporation. Non-profit owners can qualify for the credit and assign or sell it to a tax-paying partner or investor. Most historic buildings that are used to produce income will qualify, such as offices, stores, rental apartments, and factories; development of condominiums may qualify also. Owners must "substantially" rehabilitate their historic building. For the Rhode Island HPITC this generally means the cost of the project must be greater than 50% of the value of the building (not

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including the value of the land the building occupies). See the definition of "Substantial Rehabilitation" in the [State Regulations](#). For federal tax credits, the cost of the project must be greater than 100% of the value of the building. Exterior and interior rehab qualify for the tax credit as long as the work meets the [Secretary of the Interior's Standards for Rehabilitating Historic Properties](#). Eligible projects include work on the roof, exterior walls, windows, foundations, structure, heating, plumbing, electrical system, and interior improvements that are capitalized to the building.

Evaluation, Measures of Success and Performance Standards

See above. For the Commercial Tax Credit program an Economic and Fiscal Impact Analysis found that the RI Historic Preservation Investment Tax Credit is stimulating economic development, creating jobs, rehabilitating housing, and helping to revitalize communities statewide. For more information, refer to the [summary](#) or [download the report](#).

Establishment: Legislation

Operates under the authority of the 1968 RI Historic Preservation Act (RIGL 42-45), and under the National Historic Preservation Act.

Cost and Funding Sources

Unknown

Staffing Needs

There is one full time staff person devoted to the state historic preservation tax credit program. Additionally, within the related programs there's one staff person for federal tax credits and two individuals that administer the grant and loan programs.

Other Implementation Needs

Programs within Rhode Island's state historic preservation office are governed or administered by the Historical Preservation and Heritage Commission. Created in 1968, the Commission consists of fifteen members who serve in a voluntary capacity. Ten public members are appointed by the Governor and include an historian, an archaeologist, an architectural historian or an architect, a landscape historian or landscape architect, a museologist, and an anthropologist. Five members serve ex officio: the director of the Department of Environmental Management, the director of the Economic Development Corporation, the associate director of Administration for planning, the State Building Commissioner, and the State Historic Preservation Officer.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Intentionally addressed: Quote from website: "The vitality of our cities, towns, and neighborhoods is heavily dependent on successful reuse of Rhode Island's inventory of historic houses, factories, and commercial properties".

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

While wetlands are not a primary focus of the Tax Credit and Loan Programs, they are addressed in other departmental activities related to archaeological excavation on state land and under state waters, historic landscape preservation and the Blackstone River Valley National Heritage Corridor. .

Relevance to the HB 1579 (2008) Commission

This commission is foremost among states in its assistance to towns and municipalities in preservation and reuse of existing sites of historic, environmental, and cultural value.

Program Title: Forest Legacy Program

State: Federal

Administering Agency: United States Department of Agriculture Forest Legacy Program

Primary Contact (name, phone, email):

Website: <http://www.fs.fed.us/spf/coop/programs/loa/flp.shtml>

Focus Area: Conservation

Type: Regulation

Status: Active

Description and Scope

The Forest Legacy Program (FLP), a Federal program in partnership with States, supports State efforts to protect environmentally sensitive forest lands. Designed to encourage the protection of privately owned forest lands, FLP is an entirely voluntary program. To maximize the public benefits it achieves, the program focuses on the acquisition of partial interests in privately owned forest lands. FLP helps the States develop and carry out their forest conservation plans. It encourages and supports acquisition of conservation easements, legally binding agreements transferring a negotiated set of property rights from one party to another, without removing the property from private ownership. Most FLP conservation easements restrict development, require sustainable forestry practices, and protect other values.

Jurisdiction and Thresholds

Participation in Forest Legacy is limited to private forest landowners. To qualify, landowners are required to prepare a multiple resource management plan as part of the conservation easement acquisition. The federal government may fund up to 75% of project costs, with at least 25% coming from private, State or local sources. In addition to gains associated with the sale or donation of property rights, many landowners also benefit from reduced taxes associated with limits placed on land use.

Evaluation, Measures of Success and Performance Standards

2010 program funds totaled nearly \$80 million for 36 different conservation projects.

Establishment: Legislation

Cost and Funding Sources

Participation in Forest Legacy is limited to private forest landowners. To qualify, landowners are required to prepare a multiple resource management plan as part of the conservation easement acquisition. The federal government may fund up to 75% of project costs, with at least 25% coming from private, State or local sources. In addition to gains associated with the sale or donation of property rights, many landowners also benefit from reduced taxes associated with limits placed on land use.

Staffing Needs

Other Implementation Needs

The USDA Forest Service administers the Forest Legacy Program in cooperation with State partners. The state grant option allows States a greater role in implementing the program. FLP also encourages partnerships with local governments and land trusts, recognizing the important contributions landowners, communities, and private organizations make to conservation efforts.

Are the impacts of development on the environment intentionally or inadvertently addressed?

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Connecticut Lakes Headwaters Easement

State: New Hampshire

Administering Agency: Department of Resources and Economic Development

Primary Contact (name, phone, email): Johanna Lyons

Website: <http://www.nhstateparks.org/explore/state-parks/connecticut-lakes-headwaters-working-forest.aspx>

Focus Area: Conservation

Type: Incentive

Status: Active

Description and Scope

In 2001 the Trust for Public Lands purchased 171,500 acres of commercial forest land, the single largest contiguous private ownership in New Hampshire from International Paper Company. This area comprises the most northern-most tip of the state, about one fortieth of its total area. Working with other conservation organizations and the State, the Trust for Public Lands developed a long-term conservation strategy for maintaining timber production, natural values, and public use of the property.¹

To realize the collective vision for the property, the Trust:

- Sold 146,400 acres (about 229 sq miles) to the Connecticut Lakes Realty Trust to be managed as a Working Forest and operated under the name of Connecticut Lakes Timber Company, LLC (CLTC) with land use restrictions perpetuating the Working Forest;
- Designated and conveyed to the State of New Hampshire 269 miles of the 424-mile plus network on the Working Forest to be managed for public access and recreation and forest management activities;
- Conveyed 25,000 acres to the State of New Hampshire (through a sale to the Nature Conservancy) to protect highly sensitive Natural Areas;
- Conveyed 100 acres to the State of New Hampshire through fee simple sale to accommodate future expansion of the Deer Mountain Campground which abuts the Working Forest; and
- Obtained a conservation easement on the Working Forest and fee ownership of the other properties through \$13,500,000 in grants from the Forest Legacy Program and Land and Community Heritage Investment Program (LCHIP) and \$10,000,000 from General Fund appropriations.²

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Establishment: Legislation

1 *Connecticut Lakes Headwaters Working Forest Recreation Program: Public Access and Recreation Management and Road Plans, Volume I*, prepared by Thomas Kokx and Associates (Adopted July 5, 2007), p. 3

2 Ibid, p. 4

Cost and Funding Sources

The Division of Parks and Recreation is the public use and recreation managers through the conservation easement and works closely with the private fee owner to allow public access to the property. The Easement has greatly expanded public access to the property by removing the risk (and distraction) of public management from the private landowner. The Division has been able to work with the local community on their tourism goals and has provided a consistent public management framework.

The Division of Forests and Lands is the Easement monitor and review stewardship plans of the private landowner. Endowments for stewardship and monitoring assist the Divisions to pay for their responsibilities, however, at this time low yield in the public investment market has decreased funding available for this program.

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Northwood Area Land Management Collaborative

State: New Hampshire

Administering Agency: NH Fish and Game and DRED are members

Primary Contact (name, phone, email): Johanna Lyons, DRED

Website: <http://NALMC.net>

Focus Area: Conservation

Type: Technical Assistance

Status: Active

Description and Scope

The origins of Northwood Area Land Management Collaborative (NALMC) date back to September 2006 when Carl Wallman, owner of Harmony Hill Farm met the State Lands Biologist for NH Fish & Game, Jim Oehler. In short, Carl wanted to coordinate with Jim to ensure that the wildlife habitat improvements that he was implementing on Harmony Hill Farm complimented the habitats on the adjoining Northwood Meadows State Park and Forest Peters Wildlife Management Area. Carl understood that, as far as the local wildlife was concerned, his land was not an island unto itself, that wildlife travel across property boundaries, and that few species could be fully supported by the habitats provided on his land alone.

Carl, Jim, and UNH Cooperative Extension Forester, Matt Tarr met and decided to try to take the concept of collaborative management further by trying to engage other landowners in the surrounding area to develop a model of collaborative management. Currently, the landowners engaged in NALMC include:

- Harmony Hill Farm
- NH Fish & Game Department (Forest Peters WMA)
- NH Dept. of Resources & Economic Development (Northwood Meadows State Park)
- Northwood Conservation Commission (numerous parcels in the NALMC area)
- UNH Woodlands & Natural Areas Program (Saddleback Mountain)
- Coe-Brown Academy
- Private Landowners including Jeff Lalish and Greg Pitman

This new model of land stewardship has caught the attention of land trusts, non-profits, state agencies and communities as a new conservation tool rather than the usual fee or easement purchase.

The group meets periodically to identify opportunities to collaborate on improving wildlife habitat, outdoor recreational opportunities, and forest and water resources in the NALMC neighborhood. NALMC has established an executive board, holds regular informational pot luck suppers with landowners to discuss cooperative land management and stewardship initiatives, completed an ecological assessment of the NALMC neighborhood and hosted the Northwood Meadows State Park Discovery Day this summer to celebrate the 20th anniversary of the founding of the park. The NALMC neighborhood is now comprised of over 3,000 acres of private and publicly owned land! Additional information about NALMC can be found on their website, www.nalmc.net.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Establishment: Other

Cost and Funding Sources

Volunteer time and grant funding from the NH Charitable Campaign.

Staffing Needs

The organization, through grant funding has hired a part-time outreach coordinator for the past two years.

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Wetland Mitigation Program

State: New Hampshire

Administering Agency: Department of Environmental Services, Water Division, Wetlands Bureau

Primary Contact (name, phone, email): Lori Sommer, Mitigation Coordinator, (603) 271-4059,
lori.sommer@des.nh.gov

Website: <http://des.nh.gov/organization/divisions/water/wetlands/wmp/index.htm>

Focus Area: Conservation

Type: Regulation

Status: Active

Description and Scope

Land development and other human activities that require dredging, filling, and construction in wetland and surface water resources can result in significant impacts on the environment. These impacts affect the functions and values of wetlands and surface waters, such as wildlife habitat, water quality renovation, or flood storage and desynchronization, among others.

The purpose of mitigation is to achieve no net loss of wetland functions and values from development projects. A functional assessment is an evaluation of a wetland to determine the functions and values it performs within the context of the broader landscape needs to be completed by a qualified professional. Once the functions and values to be lost are identified, compensatory mitigation can be provided to achieve the replacement or protection of similar functions and values lost through a project.

When the impacts are significant, the permittee is required to compensate for the loss of the functions and values. DES requires that certain projects mitigate for the impacts by conducting one (or more) of the following activities:

1. Restoring a previously existing wetland
2. Creating a new wetland, or
3. Preserving land (at least 50 % upland) to protect the values of the adjacent wetlands or water resource.

Since 1967, New Hampshire has required permits for such activities. While state law requires that dredging and filling of jurisdictional areas must be avoided and impacts minimized, More than 2,000 permits each year are issued for unavoidable impacts.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Establishment: Legislation

Cost and Funding Sources

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Community Investment Act

State: Connecticut

Administering Agency: Department of Agriculture

Primary Contact (name, phone, email):

Website: <http://www.ct.gov/doag/cwp/view.asp?a=1366&q=320938>

Focus Area: Conservation

Type: Incentive

Status: Active

Description and Scope

"*The Community Investment Act*" (also known as Public Act 05-228) was signed into law on July 11th, 2005. The Act provides increased funding for open space, farmland preservation, historic preservation and affordable housing.

"[The Community Investment Act - Investing in our Home, Heritage and Land](#)" - (347.6 KB, .pdf) this brochure gives a broad overview of the Act.

This Act does the following: prior to passage, current law only allowed the Department of Agriculture to purchase agricultural lands "outright" (on a fee simple basis) prior to July 1, 1995. *Section 1* of the Act eliminates the July 1, 1995 provision thus allowing the Department to purchase such lands in this manner on an on-going basis. This adds another option allowing the DOA greater flexibility and quicker response time in cases where landowners are subject to sales pressures. The DOA plans to then preserve the development rights, and then sell the preserved land to another farmer.

The Act establishes a matching grants program to municipalities to be administered by the DOA. The purpose of this program is to stimulate local agricultural viability through ag-related capital projects and generation of local farmland protection and land-use strategies.

The Farm Transition Program is a matching grants program for farmers, agricultural non-profits organizations, and agricultural cooperatives designed to assist in the "diversification of existing farm operations, transition to value added agricultural production and sales and developing farmers markets and other venues in which a majority of products sold are grown in the state."

The "Connecticut Farm Link Program," administered by the DOA, maintains information on the DOA's website for the purposes of linking those looking to farm but have no land base with those who are looking to sell their farm operations and or farmlands.

Municipalities are enabled to exempt taxes on farm building assessed at value up to \$100,000 (*Effective October 1, 2005 pursuant to Public Act 05-03*).

Jurisdiction and Thresholds

Municipalities can establish a land acquisition and development authority to assist in acquiring or developing agricultural, recreational or open space lands.

Evaluation, Measures of Success and Performance Standards

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Establishment: Legislation

Sec. 6. (NEW) (*Effective July 1, 2005*) There is established, within the General Fund, a separate, nonlapsing account to be known as the "land protection, affordable housing and historic preservation account". The account shall contain any moneys required by law to be deposited in the account. The funds in the account shall be distributed every three months as follows: (1) Twenty-five per cent to the Connecticut Commission on Culture and Tourism to use as follows: (A) Two hundred thousand dollars, annually, to supplement the technical assistance and preservation activities of the Connecticut Trust for Historic Preservation, established pursuant to special act 75-93, and (B) the remainder to supplement historic preservation activities as provided in sections 10-409 to 10-415, inclusive, of the general statutes; (2) twenty-five per cent to the Connecticut Housing Finance Authority to supplement new or existing affordable housing programs; (3) twenty-five per cent to the Department of Environmental Protection for municipal open space grants; and (4) twenty-five per cent to the Department of Agriculture to use as follows: (A) Five hundred thousand dollars annually for the agricultural viability grant program established pursuant to section 2 of this act; (B) five hundred thousand dollars, annually for the Farm Transition Program established pursuant to section 3 of this act; (C) one hundred thousand dollars annually to encourage the sale of Connecticut Grown food to schools, restaurants, retailers, and other institutions and businesses in the state; (D) seventy-five thousand dollars annually for the Connecticut farm link program established pursuant to section 4 of this act; and (E) the remainder for farmland preservation programs pursuant to chapter 422 of the general statutes. Each agency receiving funds under this section may use not more than ten per cent of such funds for administration of the programs for which the funds were provided.

Sec. 7. (NEW) (*Effective July 1, 2005*) Any municipality may, by vote of its legislative body, establish a land acquisition and development authority to assist the municipality to acquire or develop any agricultural, recreational or open space land or to assist the municipality to acquire any easements, interest or rights therein and to enter into covenants and agreements with owners of such land or interests therein to acquire, maintain, improve, protect, limit the future use of or otherwise conserve such land.

See: <http://www.cga.ct.gov/2005/ACT/PA/2005PA-00228-ROOSB-00410-PA.htm> for the full Act's language.

Cost and Funding Sources

The program is funded through a \$30 dollar additional fee for the recording of land records. After the town where the document is filed retains \$4, the town clerk shall remit the remaining \$26 to the State Treasurer for deposit into the "land protection, affordable housing and historic preservation account."

Monies are distributed every three months in the following manner: 25% to the Connecticut Commission on Culture and Tourism to supplement technical and historic preservation activities; 25% to the Connecticut Housing Finance Authority to supplement new or existing affordable housing programs; 25% to the Department of Environmental Protection for municipal open space grants and 25% to the Department of Agriculture. The 25% of the fund for the DOA is to be used as follows: \$500,000 for the "Agriculture Viability Grant Program" as established in Section 2; \$500,000 for the "Farm Transition Grant Program" as established in Section 3; \$100,000 to encourage the sale of "Connecticut Grown" foods to schools, restaurants, retailers and other institutions and businesses in the state; \$75,000 for the "Connecticut Farm Link Program" as established in Section 4; the remainder is to go to the Farmland Preservation Program. Each agency may use not more than 10% for administration of the programs for which funds are provided.

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Recreation and Natural Heritage Trust Program

State: Connecticut

Administering Agency: Department of Environmental Protection

Primary Contact (name, phone, email): Suzanne M. Barkyoumb

Website: http://www.ct.gov/dep/cwp/view.asp?a=2706&q=323840&depNav_GID=1641

Focus Area: Conservation

Type: Incentive

Status: Active

Description and Scope

The Recreation and Natural Heritage Trust program was created by the Legislature in 1986 in order to help preserve Connecticut's natural heritage. It is the Department of Environmental Protection's (DEP) primary program for acquiring land to expand the state's system of parks, forests, wildlife, and other natural open spaces. Through it, the DEP manages the acquisition of land of statewide significance that represents the ecological and cultural diversity of Connecticut, with a focus on unique features such as rivers, mountains, rare natural communities, scenic qualities, historic significance, connections to other protected land, and access to water.

To ensure the property is compatible with the goals of the Recreation and Natural Heritage Trust Program, each potential acquisition is evaluated using a review system. It should possess one or more of the following attributes:

1. It should provide high quality recreation opportunities, either active or passive.
2. It should be a resource offering conservation to a unique, natural area or protection of a species considered threatened, endangered, or of special concern.
3. It should correspond to an example of a prime, natural feature of the Connecticut landscape.

Jurisdiction and Thresholds

This began as a contracted project that was supposed to take 3 years to complete the entire state. The research was taken over by our State Department and has now been in progress for 8 years. It take information that is publicly available in Town Halls and is only a snapshot in time – no update mechanism is built into the project.

Evaluation, Measures of Success and Performance Standards

Criteria for land to be included is attached, as is the pieces of information we collect on each parcel. Success will be completion of all 169 towns in CT.

Establishment: Administrative Order

Established by Agency Request for Proposals (RFP) from GIS contractors, fueled by having a way to measure the Governor's proposal that 21% of CT's land be held in open space by 2023 as well as other Smart Growth initiatives.

Cost and Funding Sources

Funding was from two Agency programs, Open Space and Watershed Grants and our Office of Long Island Sound.

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Staffing Needs

Great need for people skilled in land records research, to date has been staffed by sporadic use of seasonal positions. Much training required. At one point we were able to secure three durational positions for 1-1/2 years at a higher rate of pay. This was the most productive timeframe in the projects 8 year history. We now have no employees and the project is at a standstill due to budgetary problems.

Other Implementation Needs

We still have to research approximately 55 towns, but some of them do not have a GIS base data layer which makes our part of the job about four times as long. We also have a backlog of about 25 towns that require quality assurance by a skilled GIS technician.

If you use ESRI Arc software, the completed information is available for internet download at http://www.ct.gov/dep/cwp/view.asp?a=2698&q=441250&depNav_GID=1707

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Current Use Land Programs

State: Maine

Administering Agency: Maine Revenue Services

Primary Contact (name, phone, email):

Website: <http://www.maine.gov/revenue/propertytax/propertytaxbenefits/CurrentUseLandPrograms.htm>

Focus Area: Conservation

Type: Incentive

Status: Active

Description and Scope

FARMLAND - In the farmland program, the property owner is required to have at least 5 contiguous acres in their tract of land. The land must be used for farming, agriculture, horticulture and can include woodland and wasteland. Additionally, the tract must contribute at least \$2,000 gross income from farming activities, each year.

The Department of Agriculture prepares a valuation guideline for the municipalities, which results from studies based on suggested values using a correlation from income stream and market data attributable to agricultural enterprise.

If the property no longer qualifies as a farmland tract, then a penalty would be assessed. The penalty is an amount equal to the taxes that would have been paid in the last five years if it had not been in the farmland, less the taxes that were originally assessed, plus any interest on that balance.

See Bulletin 20, Title 36, M.R.S.A., Sections 1101 - 1121.

OPEN SPACE - No minimum acreage requirement with this program! However, minimum areas and setbacks must be excluded from classification. The tract must be preserved or restricted in use to provide a public benefit. Benefits recognized include public recreation, scenic resources, game management or wildlife habitat.

The municipal assessor is responsible for determining the valuation placed on Open Space land. In the determination of the value of open space land, the assessor must consider the sale price that a particular open space parcel would command in the open market if it were to remain in the particular category or categories of open space land for which it qualifies.

If an assessor is unable to determine the valuation of a parcel of open space land based on the valuation method above, the assessor may use the Alternate Valuation Method. Using this method, the assessor reduces the fair market value of an open space land parcel by the cumulative percentage reduction for which the land is eligible according to certain categories. Those categories are as follows:

- Ordinary Open Space - 20% reduction
- Permanently Protected - 30% reduction
- Forever Wild - 20% reduction
- Public Access - 25% reduction

In other words, if the property met all of the above requirements, the owner would see a cumulative reduction of up to 95% on the classified land.

If the property no longer qualifies as Open Space, then a penalty would be assessed using the same methodology as is used for removal from Tree Growth classification.

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

TREE GROWTH - This program provides for the land owner with at least 10 acres of forested land used for commercial harvesting. A Forest Management and Harvest Plan must be prepared and a sworn statement to that effect submitted with the application. Applications include a map of the parcel indicating the forest type breakdown as well as all other areas not classified as tree growth.

Each year, the State Tax Assessor determines the 100% valuation per acre for each forest type by county and by year. Click on the following link to see the most current rates. For a list of current Tree Growth Rates click [here \(PDF\) / HTML](#).

If the forestland no longer meets the criteria of eligibility or the landowner opts to withdraw from tree growth classification, then a penalty would be determined. Depending upon the length of time that the parcel has been enrolled, the penalty would be an amount between 20 and 30% of the difference between the 100% tree growth value and the fair market value.

WORKING WATERFRONT- is a parcel or portion of a parcel of land abutting tidal waters or is located in the intertidal zone (located between the high and low water mark) the use of which is more than 50% related to *providing access* to or in support of the conduct of *commercial fishing (including commercial aquaculture) activities*.

Working waterfront land used *predominantly* (more than 90%) as working waterfront is eligible for a 20% reduction from just value. Working waterfront land used *primarily* (more than 50%) as working waterfront is eligible for a 10% reduction from just value. Working waterfront land that is permanently protected from a change in use through deeded restriction is eligible for the aforementioned reduction plus an additional 30% reduction.

If the property no longer qualifies as Working Waterfront, then a penalty would be assessed using the same methodology as is used for removal from Tree Growth classification.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Establishment: Legislation

Cost and Funding Sources

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: New Markets Tax Credits

State: Maine

Administering Agency: Community Development Financial Institutions Fund

Primary Contact (name, phone, email):

Website: http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5

Focus Area: Conservation

Type: Incentive

Status: Active

Description and Scope

The New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against Federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs). Substantially all of the qualified equity investment must in turn be used by the CDE to provide investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year credit allowance period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period.

Throughout the life of the NMTC Program, the Fund is authorized to allocate to CDEs the authority to issue to their investors up to the aggregate amount of \$23 billion in equity as to which NMTCs can be claimed, including \$1 billion of special allocation authority to be used for the recovery and redevelopment of the Gulf Opportunity Zone.

An example of New Market Tax Credits applied to conservation: Coastal Enterprises, Inc. (CEI) has been awarded \$481 million of investment capacity under Rounds I, II, IV, V and VI of the U.S. Treasury Department's New Markets Tax Credit (NMTC) program. CEI has utilized \$235.5 million of this capacity in 23 projects triggering total private capital investment in low-income communities of over \$771 million that directly supports CEI's triple bottom-line or "3E" measures for Economic progress, social Equity, and Environmental sustainability. CEI has a national service area under the NMTC program with an emphasis on rural areas and a core market of Maine, New Hampshire, Vermont, upstate New York and western Massachusetts.

CEI's Investment Themes:

- Rural Natural Resource-Based Business Investments. Loans to operating companies utilizing sustainably-managed natural resources as key assets in their businesses, often in rural areas, creating value-added products (e.g. working forests, pulp and paper companies, wood products companies, agricultural processors, marine businesses, and recreational tourism ventures).
- High Community-Impact Business and Real Estate Investments. Loans to operating companies and real estate developments with compelling triple bottom-line ("3E") features, including use of renewable energy, energy conservation, and "green building" design.
- In the final stage of underwriting a Small & Medium Enterprise Revolving Loan Fund. Smaller loans from \$100,000 to \$2 million for small and medium-sized businesses of all types, which provide the majority of employment in rural areas, with an emphasis of 3E benefits. Program roll-out anticipated in late-2008.

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

For more information: <http://www.ceimaine.org/content/view/220/245/>

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

To date, the Fund has made 396 awards totaling \$21 billion in allocation authority. An organization wishing to receive awards under the NMTC Program must be certified as a CDE by the Fund.

To qualify as a CDE, an organization must:

- be a domestic corporation or partnership at the time of the certification application;
- demonstrate a primary a mission of serving, or providing investment capital for, low-income communities or low-income persons; and
- maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

Establishment: Legislation

Cost and Funding Sources

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Garden State Preservation Trust

State: New Jersey

Administering Agency: NJ Preservation Trust

Primary Contact (name, phone, email): Ralph Siegel, Executive Director, 609-984-4600,
Ralph.Siegel@treas.state.nj.us

Website: <http://www.state.nj.us/gspt/>

Focus Area: Conservation

Type: Incentive

Status: Active

Description and Scope

The Garden State Preservation Trust is the financing authority that provides the funds to preserve forests and meadows, watersheds and wildlife habitats, parks and sports fields, working farms, agricultural landscapes and historic structures. Since the 1960s, New Jersey voters approved nine bond issues to preserve land. In 1998, voters did something better by approving an annual dedication of \$98 million from the sales tax.

The Garden State Preservation Trust leverages this \$98 million in constitutionally dedicated funds to issue bonds and to make the maximum dollars available:

\$500 million bond issue – March 2003

\$500 million forward delivery bond issue – May 2004

\$150 million forward delivery bond issue – September 2004

Prudent planning and ambitious financing will provide \$2 billion for land preservation and \$60 million for historic sites over 10 years – more than in the previous four decades combined.

Today, New Jersey has the largest preservation program in the nation for a geographic area of this size. It is financed with Garden State Preservation Trust funds through three partnering agencies:

The Green Acres Program, a division of the Department of Environmental Protection to preserve natural lands and recreational parks.

The Farmland Preservation Program, administered by the independent State Agriculture Development Committee to acquire the development rights on privately owned farmland.

Historic Preservation, administered by the independent New Jersey Historic Trust to provide matching grants to save important historic buildings.

In partnership with county governments, municipalities and non-profit preservation trusts, these agencies are using GSPT funds to preserve acreage two or three times faster than land is being lost to development. To keep this momentum going, the GSPT in the past three years has approved a record \$770 million for Green Acres and Farmland Preservation.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Establishment: Legislation

**New England State Level Planning Programs
In Correspondence with HB 1579, Chapter 294:3, III, Laws of 2008**

Cost and Funding Sources

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Prudent planning and ambitious financing will provide \$2 billion for land preservation and \$60 million for historic sites over 10 years – more than in the previous four decades combined.

In an additional sign of voter support and generosity, the November 2007 referendum was approved to provide an additional \$200 million to fund land conservation and historic preservation programs for the 2009 fiscal year.

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Sensible Transportation Policy Act

State: Maine

Administering Agency: Department of Transportation

Primary Contact (name, phone, email): Bureau of Planning, (207) 624-3300

Website: <http://maine.gov/mdot/planning-documents/stpa/index.htm>

Focus Area: Transportation

Type: Regulation

Status: Active

Description and Scope

In 2003, the 121st Legislature directed the Maine Department of Transportation (MaineDOT) to work in collaboration with the State Planning Office (SPO) to draft a rule to link the transportation planning processes of the Sensible Transportation Policy Act (STPA) with those of the Comprehensive Planning and Land Use Regulation Act. This change was based on the belief that land use and transportation planning must work hand-in-hand to protect highway safety and mobility and also enhance economic opportunity, community livability, and environmental quality. The Law also directs MaineDOT to develop incentives for communities that adopt plans that reduce reliance on the state highway system.

MaineDOT, the Maine Turnpike Authority and the State Planning Office collaborated on the Transportation Chapter of both the STPA rule and the Growth Management Act; the goal being for the Transportation Chapters of these Rules to be the same. MaineDOT also developed a [Municipal Handbook](#) to guide local planning efforts in meeting the STPA policy objectives.

One of the goals of the Sensible Transportation Policy Act is to ensure that demand management and alternative transportation modes are considered before a decision is made to construct a new road. It's also intended to provide incentives for towns to do better planning in terms of coordinating land use and transportation.

[Gateway 1](#) is a planning effort in the Route 1 corridor in which the Maine Department of Transportation, State Planning Office and other agencies are partnering with 21 corridor towns to better integrate transportation and land use regionally, and to engage land use decision-makers in planning for the future. Among the issues being discussed with the towns is the importance of locating growth in areas that can best be served by transportation improvements.

Jurisdiction and Thresholds

The Maine STPA and its [program rules](#) coordinates transportation planning between the Maine Department of Transportation, Maine Turnpike Authority, Regional Planning Councils, and Municipalities.

Municipalities or groups of municipalities that develop plans using the new STPA rule will be eligible for transportation planning assistance and other investment incentives including:

- Bonus prioritization points that increase access to funding in MaineDOT's competitive programs;
- Incremental reductions in any local match requirements; and
- Bonus prioritization points for MaineDOT funded highway reconstruction and transportation mobility projects.

Evaluation, Measures of Success and Performance Standards

The following policy objectives shall be used by MaineDOT, MPOs, RCs and municipalities in making transportation planning, capital investment and project development decisions:

1. Minimize the harmful effects of transportation on public health, air and water quality, land use and natural resources.
2. Coordinate the efficient use of all available and potential future modes of transportation.
3. Give preference to non-highway new capacity projects before building new highway capacity when such non-highway new capacity projects are cost effective, feasible and meet the identified purpose and need for the transportation investment.
4. Repair, maintain and improve Maine's transportation system to provide a safe, efficient, and adequate transportation network.
5. Reduce the state's reliance on foreign oil and promote reliance on energy efficient forms of transportation.
6. Meet the diverse transportation needs of the people of the State, including rural and urban populations and the unique mobility needs of the elderly and disabled.
7. Be consistent with the purposes, goals and policies of the Comprehensive Planning and Land Use Regulation Act.
8. Incorporate a public participation process in which state, regional and local governmental bodies and the public have timely notice and opportunity to identify and comment on concerns related to transportation planning decisions, capital investment decisions and project decisions.
9. Promote investment incentives for communities that adopt and implement land use plans that minimize over-reliance on the state highway network.
10. Be cost effective and operate within fiscal constraints.

Establishment: Legislation

The Act has been established through a series of legislative initiatives and is further defined within its [Rules](#). The 121st Legislature amended the Sensible Transportation Policy Act by enacting PL 2002, Ch. 22 (23 M.R.S.A. §73), "An Act to Enhance Integration of Transportation and Land Use Planning." The amendment required MaineDOT to develop a rule that would establish a linkage between the comprehensive planning considerations of the Community Planning and Land Use Regulation Act (30-A MRSA, section 187, subchapter 2) and the transportation planning and decision-making processes required under the Sensible Transportation Policy Act. The 123rd Legislature enacted Title 23 §73-A which promotes coordinated land use and transportation decisions and offers funding preferences to those communities that enact plans, policies, ordinances, etc. that preserve transportation functionalities.

Cost and Funding Sources/ Staffing Needs

Unknown

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

The program recognizes there are benefits and costs (social, financial, energy, and environmental quality) to transportation decisions. As part of the statewide planning process MaineDOT, in cooperation with the MTA, MPOs and the RCs, is to develop and maintain an inventory of the existing transportation systems. This inventory is intended to be comprehensive and include an analysis of trends and projections for system usage, system characteristics and system condition as well as

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environmental quality impacts. Municipal plans are required to consider “known locations with opportunities to restore habitat connections disrupted by a transportation facility owned and maintained by the municipality.”

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

They are not directly or inadvertently addressed but rather simply within consideration of **“Environmental Quality” defined as:** for purposes of transportation and land use planning, environmental quality means avoiding, minimizing or mitigating impacts to the physical, cultural, social, scenic, aesthetic, and natural environment .

Relevance to the HB 1579 (2008) Commission

Represents an integrated planning approach that considers the land use implications associated with transportation enhancements.

Program Title: Clean Water Fund

State: Connecticut

Administering Agency: Department of Environmental Protection

Primary Contact (name, phone, email): Bureau of Water Protection and Land Reuse, Clean Water Fund Management Office: (860) 424-3704

Website: http://www.ct.gov/dep/cwp/view.asp?a=2719&q=325578&depNav_GID=1654

Focus Area: Water, Sewer and Other Infrastructure

Type: Grant

Status: Active

Description and Scope

The Connecticut Clean Water Fund (CWF) is the state's environmental infrastructure assistance program. The fund was established in 1986 to provide financial assistance to municipalities for planning, design and construction of wastewater collection and treatment projects. The fund was modified in 1996 to include the Drinking Water State Revolving Fund (DWSRF) to assist water companies in complying with the Safe Drinking Water Act by providing low cost financing.

The fund consists of five accounts:

- the Water Pollution Control State account;
- the Federal Revolving Loan account;
- the Long Island Sound Clean-up account;
- the River Restoration account; and,
- the Drinking Water Revolving Fund account.

The CWF is one of the most aggressive in the country. While many states have met only the minimum match to receive the federal funds, Connecticut has met the match 10 times over. Municipalities receive a grant of 20% of the total project costs and a loan for the remainder of the project costs, excluding projects that correct combined sewer overflows (CSO). Combined sewers are old sewer systems that receive both sewage and stormwater runoff. These systems exist in Hartford, New Haven, Bridgeport, Waterbury and eight smaller cities. These projects receive grants of 50% and loans for the remainder of the cost. Because of the high cost of CSO projects, the cities involved, and their statewide significance, especially to Long Island Sound, these projects are given special consideration. The loans are repaid over 20 years, from scheduled completion of construction, at 2% interest. In 1999 the Legislature modified the CWF to provide a 30% grant for project costs associated with nitrogen removal.

Jurisdiction and Thresholds

See above.

Evaluation, Measures of Success and Performance Standards

Since the passage of Connecticut's Clean Water Act in 1967, all sewage treatment plants have been brought up to the level of secondary treatment. Secondary treatment removes approximately 85% of the organic matter in sewage and the treated waste is disinfected to protect public health. For some rivers, however, additional treatment, as much as 95-97% removal, is necessary to meet water quality standards. Currently (1997), 35 treatment plants have been identified as needing advanced treatment. Thirteen of those plants have been completed and are fully operational. Finally, the CWF has created hundreds of jobs; DEP estimates it has the potential to create up to 1800 jobs per year.

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The Quinnipiac, Pequabuck, Still, and upper Naugatuck Rivers are examples of rivers that were severely degraded by sewage in 1965. These Rivers now meet dissolved oxygen standards as a result of advanced treatment. In 1967, the discharge from Stafford Springs was untreated and the Willimantic River was severely polluted. With secondary treatment and industrial wastewater pretreatment, the Cole Wilde Trout Management Area on the Willimantic River below Stafford is one of the best fishing areas in CT.

Establishment: Legislation

The federal account is designated as the qualifying State Revolving Fund (SRF) under Title VI of the federal Clean Water Act amendments of 1987 and is subject to EPA regulation. Federal assistance is deposited into the SRF.

Cost and Funding Sources

As of March 2001, the SRF has received \$277.8 million of federal assistance and \$717.8 million in state general obligation bonds. The DWSRF received federal drinking water capitalization grants totaling \$43.8 million for FY's 97-00. The federal drinking water capitalization grant in 2001 will be \$7.8 million.

When the CWF was created, it was designed to provide an equivalent level of financial aid as had been provided under the previous 55% Federal Construction Grants Program. The CWF provides a combination of grants and loans to municipalities that undertake water pollution control projects at the direction of the Department of Environmental Protection (DEP). The CWF is one of the most aggressive in the country. While many states have met only the minimum match to receive the federal funds, Connecticut has met the match 10 times over. With \$995.6 million in state general obligation bonds and federal funds, this has become the third largest public works program in Connecticut. Revenue bonds are backed by the municipality's pledge of repayment, and, state and federal funds deposited in the debt service reserve accounts to leverage the state and federal funding. For the most part, only interest earned from these deposits will be used to support the bonds. This innovative financing mechanism allows more funds to be available earlier for municipal water pollution projects. The revenue bonds are rated AAA by two of the three rating services, documenting the strength of the financial program.

Staffing Needs

There are four division directors in the Bureau of Water Protection and Land Reuse operating under a Bureau Chief. The website does not give the number of employees within each division.

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Inadvertently addressed.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Directly: Virtually all of Connecticut and even portions of Massachusetts, Vermont and New Hampshire drain to the Sound. With this runoff comes nutrients, heavy metals, organics and many other contaminants. The Long Island Sound Account of the CWF provides grants for special purposes including, in part: research toward protection of Long Island Sound; ambient monitoring of Long Island Sound; restoration and preservation of tidal coves and embayments; and, nonpoint source pollution control projects.

Relevance to the HB 1579 (2008) Commission

This fund addresses the serious water-related infrastructure needs of the state and the effect failing systems have had and will have on the environment and wetlands.

Program Title: Great American Neighborhoods Sewer Extension Program

State: Maine

Administering Agency: State Planning Office, Municipal Bond Bank, Dept. Environmental Protection

Primary Contact (name, phone, email): Design Application, John DeVecchio, State Planning Office 287-8058; Loan Application, Karen Asselin, Maine Municipal Bond Bank, 622-9386; Sewer Construction, Bill Brown, Department of Environmental Protection, 287-2111

Website: <http://www.maine.gov/spo/landuse/financeassist/sewer.htm>

Focus Area: Water, Sewer and Other Infrastructure

Type: Incentive

Status: Active

Description and Scope

Great American Neighborhoods is a pilot program to assist Maine cities and towns that wish to encourage neighborhood development in residential growth areas. It is part of the "Hometown Maine" initiative, a cooperative effort of the Maine Municipal Bond Bank, the Maine Departments of Environmental Protection and Economic and Community Development, the State Planning Office, and the U.S. Environmental Protection Agency. The purpose of this program is to provide low-interest rate loans covering the cost of sewer or sewer extensions to eligible areas with a graduated or "patient" payback provision that keeps payments low at the start of the project. Interest rates and loan terms are intended to be attractive enough that the program represents a significant incentive for communities and developers to create new or add to existing "Great American Neighborhoods."

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Great American Neighborhoods can be found in many older Maine villages, town centers and cities. They are the compact neighborhoods where the homes keep their value year after year and they have six, nearly universal, features:

- They are walkable from end to end
- They have a civic core and a mix of neighborhood uses
- They have a street network that is interconnected
- They have recognizable boundaries that separate one neighborhood from another
- They have a human scale
- They provide for both chance meetings and personal privacy through their street, sidewalk, and lot design

Recent studies in Maine indicate that there is a pent up demand among homebuyers to purchase new homes located in "traditional" or Great American Neighborhood settings; that communities have identified areas in their comprehensive plans where residential growth is desired and encouraged; and that a key factor holding up development in such areas is the need for sewer extensions and the high upfront costs associated with providing them. The Sewer Extension Loan Program addresses this need and aids cities and towns to encourage new neighborhoods in growth areas, thus relieving development pressure in rural areas.

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Jurisdiction and Thresholds

Eligible applicants include municipalities and sewer districts. Money can be used for extension of sewer line to site; construction of sewer lines on site; and limited upgrade to downstream infrastructure to accommodate expansion. For example, an additional pumping station would be allowed but overhaul of treatment facility to increase capacity would not.

Evaluation, Measures of Success and Performance Standards

Projects are evaluated based on the criteria for Great Neighborhoods and includes aspects such as number of units per acre, accessibility to services, walkability, meeting places, protection from traffic and traffic noise, operative master plan, etc.

Establishment: Legislation

Cost and Funding Sources

\$3,000,000 available for this pilot project.

Staffing Needs

Different phases of a project are implemented by one of the three entities listed above under contacts.

Other Implementation Needs

Applicants must fill out many forms, all of which are available on line.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Directly, encourages restoration and re-creation of traditional New England villages through incentives for sewer extension assistance.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Inadvertently addressed, as the aim is to reduce the pressure to develop rural acreages.

Relevance to the HB 1579 (2008) Commission

Relevant in regard to overall commission charge of looking at the totality of NH land development regulations since all development ultimately impacts wetlands and surface waters to some extent.

Program Title: Community Septic System Loan Program

State: Rhode Island

Administering Agency: Rhode Island Clean Water Finance Agency

Primary Contact (name, phone, email): (401) 453-4430, info@ricwfa.com

Website: <http://www.ricwfa.com/CommunitySepticSystemLoanProgram.html>

Focus Area: Water, Sewer and Other Infrastructure

Type: Grant

Status: Active

Description and Scope

“The Agency, in cooperation with DEM and the Rhode Island Housing & Mortgage Finance Corporation (RIHMFC), successfully launched its CSSLP as part of the CWSRF in the spring of 1999. The Agency has engaged RIHMFC to be the homeowner loan administrator for the CSSLP. The Agency uses federal dollars recycled from previous CWSRF loans to provide the source of funds for the CSSLP. The CSSLP allows communities without wastewater treatment facilities to access low-interest cost SRF funds. Communities are able to access these funds after completing an On-Site Wastewater Management Plan approved by DEM. Once the plan appears on DEM’s PPL and the CA is obtained, the community will negotiate a loan with the Agency. The amount requested should be sufficient to repair or replace failing, failed or sub-standard septic systems. Once the loan is negotiated, the community may then allow residents to access the funds. The borrowing cost for the homeowner will be 2%(Note: as part of the Governor's Initiative to clean up Narragansett Bay the Agency lowered its rate to the homeowner from 4% to 2% as of February, 2004) for a term up to ten years. The community may not raise or lower the current homeowner CSSLP rate of 2% but may combine the CSSLP with other sources of money so as to provide a greater dollar amount available for loans or to provide a greater economic incentive for homeowners to repair or replace the failed septic systems.

Jurisdiction and Thresholds

In order for a project to be eligible for funding, the project must be on DEM's Project Priority List (PPL) and have a Certificate of Approval (CA) from DEM.

Evaluation, Measures of Success and Performance Standards

Recipients of loans must comply with all applicable state laws and regulations. Recipients of loans from the Water Pollution Control Revolving Loan Fund must also comply with all requirements of Title VI of the Federal Clean Water Act and regulations issued thereunder in addition to any other applicable federal laws and regulations.

Establishment: Legislation

Cost and Funding Sources

Operating expenses for RI Clean Water Finance Agency are funded solely from loan service fees generated from managing its programs. Funding for the CSSLP program comes from federal dollars.

Staffing Needs

RICWFA Agency staff consists of an Executive Director, Accounting Manager, Clean Water SRF Program Manager, Drinking Water SRF Program Manager, Accountant, Administrative Assistant.

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Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Sewer Tie-In Loan Fund

State: Rhode Island

Administering Agency: Rhode Island Clean Water Finance Agency

Primary Contact (name, phone, email): info@ricwfa.com

Website: <http://www.ricwfa.com/>

Focus Area: Water, Sewer and Other Infrastructure

Type: Grants

Status: Active

Description and Scope

Sewer Tie-In Loan Fund (STILF) - In addition to the CSSLP program, the Agency has implemented a new program, the STILF. Modeled after the CSSLP, the STILF will provide below market rate loans to homeowners to connect their residences into the local sewer system and abandon their individual septic systems.

EPA's clarification of its regulations regarding the funding of water pollution control infrastructure on private property does not clear all the barriers towards funding sewer tie-ins. The enabling legislation of the Agency limits the Agency's lending to governmental entities. In order to fund the replacement of failing septic systems, the Agency and DEM created the CSSLP where the Agency loans a sum of money to a community, who in turn, through an intermediary, loans qualified residents the funds to replace the failed septic system. The STILF will follow this same procedure to deliver funds to those wanting to connect to the local sewer system. The owner of the public wastewater treatment facility or sewerage system will first submit a project titled "Community Sewer Tie-In Program" to be included on DEM's Project Priority List. The sewer system owner's next step is to prepare a document describing the local sewer tie-in program and any qualifications it may have, the environmental impacts associated with the program, and how the owner will advertise the program. Since the anticipated work is to occur in previously disturbed areas (e.g. yards, driveways, parking lots), DEM expects to issue a Categorical Exclusion for the local tie-in program.

Jurisdiction and Thresholds

The Agency, established in 1989 by the Rhode Island General Assembly, was created as a body politic and corporate; a public instrumentality of the State to administer certain federal and state programs relating to municipal or community wastewater and drinking water financial assistance. The Agency administers the Water Pollution Control and the Rhode Island Water Pollution Control revolving loan funds created under Title VI of the Federal Clean Water Act and its State counterpart which is known as the Clean Water State Revolving Fund (CWSRF). The Agency also administers the Drinking Water Revolving Loan Fund (DWSRF) created under the Federal Safe Drinking Water Act amendments of 1996. The Agency has established a Community Septic System Loan Program (CSSLP) as part of the Federal Clean Water State Revolving Fund. The Agency also provides conduit loans and a Sewer Tie-In Loan Fund (STILF) to municipalities for various water and wastewater systems improvements.

Evaluation, Measures of Success and Performance Standards

Unknown

Establishment: Legislation

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Cost and Funding Sources

Approx. \$6,000,000 in funds provided to communities in 2008

Staffing Needs

As of 2008, eight staff members comprised the RICWFA

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

They are intentionally addressed. Loans are available only to already existing systems and do not appear to create additional demand for growth.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

These are indirectly addressed through recognition of the non-point pollution resulting from inadequate septic systems and cesspools. Connections will be made through already disturbed land such as yards, driveways and parking lots.

Relevance to the HB 1579 (2008) Commission

An aggressive approach to encouraging improved disposal of sewage in already developed areas, particularly environmentally sensitive ones near Narragansett Bay.

Program Title: Vermont Municipal Pollution Control Priority System

State: Vermont

Administering Agency: Department of Environmental Conservation, Facilities Engineering Division

Primary Contact (name, phone, email): Winslow Ladue, Financial Mgmt. Section Chief, (802) 241-3404, winslow.ladue@state.vt.us

Website: <http://www.anr.state.vt.us/dec/fed/fms.htm>

Focus Area: Water, Sewer and Other Infrastructure

Type: Incentive

Status: Active

Description and Scope

Purpose of the Program:

- (1) to obtain and maintain state water quality standards;
- (2) to make efficient use of scarce public funds by providing financial assistance, with limited exceptions, only to Publicly Owned Treatment Works (POTW) and Municipally Sponsored Privately-Owned Wastewater System (MSPOWS) projects that: abate existing public health and/or environmental problems, and serve locally designated growth centers, unless there are health and/or environmental problems outside of growth centers and;
- (3) to assure there are appropriate controls on the use of the Agency of Natural Resources (ANR) funded treatment facilities in order to: minimize polluted runoff from unplanned land development, the state's fastest growing source of water contaminants; and to prevent scattered development and its negative impacts on surface and ground waters, wetlands, air quality, wildlife habitats, natural areas, threatened and endangered species, and land use patterns within the host and adjacent communities.
- (4) to establish the priority system to be used by the ANR Department of Environmental Conservation (the Department) for awarding grants and loans from federal and state funds for POTW and MSPOWS projects. These rules set forth a two-tier system for determining a project's eligibility for receipt of a grant or loan from the Department.
- (5) The Secretary will issue and update, as needed, a guidance document that includes a detailed explanation of growth centers and examples of local land use planning and regulatory strategies that may be used in making the demonstrations set forth above. Such guidance will offer towns a range of options. The guidance will also take into account that there is no single approach applicable to all towns. The guidance will recognize that in order to promote compatibility with existing programs and development conditions and to account for differences in the desires of their citizenry, towns must have latitude in fashioning their approaches to designating and managing growth centers and to limiting scattered development.

Jurisdiction and Thresholds

See www.anr.state.vt.us/dec/fed/financial/docs/finalprioritysystem.pdf

Evaluation, Measures of Success and Performance Standards

Each year, prior to the beginning of the state fiscal year, the Department will prepare a project priority list. This document will list all projects potentially fundable from grant programs or the revolving loan program over the next five (5) year period. In addition, this list will separately identify those projects expected to be funded in the upcoming fiscal year.

Category I Grant Eligible Projects - 1 point
Category II Public Health Hazards - 5 points

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Category IIIA	Water Quality Limited Discharges – Removal of Dissolved Oxygen Consuming Pollutants or Phosphorous - 6 points
Category IIIB	Water Quality Limited Discharges - Abatement of Existing Dissolved Oxygen or Removal of Phosphorous - 3 points
Category IVA	Combined Sewer Overflows Lakes and Ponds - 6 points
Category IVB	Combined Sewer Overflows – Streams - 4 points
Category VA	Raw Sewage Discharges - Treatment Plants - 7 points
Category VB	Raw Sewage Discharges – Sewer Extensions - 3 points
Category VI	Primary Treated Discharges or Improvement to Meet Effluent Limits - 6 points
Category VII	Health and Welfare - 2 points
Category VIII	Population Affected - the Log (Base 10) of the population of the municipality sponsoring the project. For regional projects the total population in the participating municipalities will be used.
Category IX	Cost of Comparable Credit - Projects will receive priority points equal to the total project cost divided by the population and expressed as a percentage of the median household income.
Category X	Benefit - Cost Ratio - Projects will be granted priority points in this category equal to the sum of the project's priority points from Categories II through VII, divided by the estimated total cost of the proposed project (in hundreds of thousands of dollars).

Establishment: Legislation

10 V.S.A. Chapter 55 and 24 V.S.A. Chapter 120 authorize grants and loans for POTW and MSPOWS projects, require the Secretary to establish priorities, authorize the Secretary to adopt rules, and require that pollution abatement projects conform with state planning requirements.

3 V.S.A. §2825(a) requires the Secretary to ensure the effective application of statutory planning policies in the administration of all ANR programs including the award of grants and loans for POTW and MSPOWS projects.

3 V.S.A. §2293 sets out policies for the state's development cabinet and all state agencies that have programs or take actions affecting land use.

23 V.S.A. Chapter 67 and 24 V.S.A. Chapter 117 require state agencies to engage in a continuing planning process to assure that programs and actions affecting land use are consistent with the State's comprehensive planning goals.

24 V.S.A. 10 V.S.A. Chapter 151 sets out state policies for use and development of the State's air, water, wildlife, mineral and land resources. These policies guide Act 250 proceedings. These policies are also cross-referenced in both 10 V.S.A. Chapter 55 and 24 V.S.A. Chapter 117.

24 V.S.A. Chapter 76A sets out state policy regarding funding of infrastructure in historic and emerging downtown centers.

Cost and Funding Sources

State and Federal funding. Funds are used for both planning and implementation.

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Staffing Needs

There are 7 full time staff members in the Financial Management Section that administers this program. Staff persons include the section manager, project coordinator, three accountants, auditor, and administrative assistant.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Impacts are directly addressed and controlled. See (3.) under description of program above.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

See (3.) under description of program above

Relevance to the HB 1579 (2008) Commission

Smart growth is essential to controlling impacts, direct and indirect, on surface waters and wetlands. This program is an important component of Vermont's approach to controlling unplanned development.

Program Title: NH DES Wetlands Bureau

State: New Hampshire

Administering Agency: N.H. Dept. of Environmental Services

Primary Contact (name, phone, email): Collis Adams, collis.adams@des.nh.gov, (603) 271-2147

Website: <http://des.nh.gov/organization/divisions/water/wetlands/index.htm>

Focus Area: Wetlands

Type: Regulation

Status: Active

Description and Scope

The mission of the N.H. Department of Environmental Services (DES) Wetlands Bureau is "to protect, maintain and enhance the environmental quality in New Hampshire through the powers set forth in RSA 482-A to regulate impacts to those areas "wherever the tide ebbs and flows" or "freshwater flows or stands."

The state regulates impacts to wetlands primarily under RSA 482-A (Fill and dredge in Wetlands Act), but also regulates impacts to shorelands adjacent to public waters and fourth-order and higher streams under the Comprehensive Shoreland Protection Act. Although permitting is centralized at the State level, municipal conservation commissions are given a statutory intervention authority. Municipal conservation commissions have an advisory role in the state permitting process and can provide comments to the NHDES before a permitting decision is made. Some local governments have adopted wetland protection regulations, including the requirements for buffers to wetlands. State permits require as a condition that local permits be obtained.

Under RSA 482-A, the state requires a permit for dredge, fill, or construction in wetlands or other waters of the state. The law also protects sand dunes and tidal buffer zones up to 100 ft. above the highest observable tide lines. Originally established in 1967 to protect tidal waters and wetlands, it was amended in 1969 to regulate activities in freshwater resources. There is no minimum threshold of size for wetlands or wetland impacts under the Act.

Jurisdiction and Thresholds

NH DES has jurisdiction over tidal and nontidal wetlands, sand dunes and tidal buffer zones up to 100 ft. above the highest observable tide lines, protected shorelands (all land within 250 ft. of public waters and fourth-order and higher streams), and, in municipalities that have adopted prime wetlands, areas within 100 ft. of designated prime wetlands.

The state defines "surface waters of the state" as perennial and seasonal streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all streams, lakes or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial." Regulations state that the term includes wetlands and "waters of the United States" as defined in the Clean Water Act (CWA).

All projects that involve dredge or fill of wetlands or surface waters are subject to review by the New Hampshire Department of Environmental Services under RSA 482-A and NH Administrative Rules Wt 100 - 800. These regulations provide for three levels of project classification and review: minimum impact (generally up to 3,000 sq ft of impact), minor impact (generally 3,000 to 20,000 sq ft) and major impact (greater than 20,000 sq ft or about a ½ acre). Project classification and the related permitting standards are dependent on the type and quantity of wetland that will be altered.

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DES rules require a demonstration of need and an analysis of alternatives for minor and major impact projects in addition to an analysis of project environmental impacts. DES issues a permit only where they find that the proposed action is the least environmentally damaging practicable alternative. (A similar standard is used during the federal review of individual permits.) Additionally, DES typically requires applicants for minor and major projects to mitigate project impacts. DES recognizes three forms of compensatory mitigation: construction of new wetlands, restoration of existing habitat, and preservation of upland buffers adjacent to existing wetlands.

Evaluation, Measures of Success and Performance Standards

NH DES established a mapping and inventory system for tracking wetlands changes. In the early 1990's, LANDSAT telemetry data was converted to a statewide GIS-based resource map and was extensively ground-proofed. Since then, new USDA Natural Resources Conservation Service (NRCS) soils mapping has been digitized, as have National Wetland Inventory (NWI) maps. No single source is considered particularly reliable, but in combination they give good landscape scale estimates.

New Hampshire has lost approximately 20,000 acres (9%) of its 220,000 historic wetlands. Currently, the wetlands permit program receives about 2600 applications per year, of which approximately 95% are approved, and about 5% are denied. As a result of approved wetlands applications, approximately 100 acres of wetlands are filled each year.

NH DES maintains a database of permitting, enforcement, and mitigation information. This database also produces weekly reports of permitting activity which are posted on the Wetlands Bureau's web site (<http://des.nh.gov/organization/divisions/water/wetlands/decisions/index.htm>). The Wetlands Bureau also has GIS data layers with locations of permits and enforcement actions, municipally designated prime wetlands, rivers designated under the state program, and buffered layers of threatened and endangered species and exemplary plant communities. Every incoming permit application is checked against the GIS layers so potential impacts to these resources may be evaluated during the permit review process.

NH has not adopted water quality standards for wetlands, but relies on surface water quality standards in issuing 401 certifications for impacts to wetlands. NH regulations state that "whenever the naturally occurring conditions of the wetlands are different from the criteria listed in state water quality rules, the naturally occurring conditions shall be the applicable water quality criteria." However, this condition has never been incorporated in to the 401 certification process. The DES is developing a *Wetlands Classification, Assessment, and Monitoring Strategy* that will partly inform the 305b/303d assessments.

Establishment: Legislation

The Fill and Dredge in Wetlands Act was passed in 1967 to give the state authority to regulate tidal wetlands and surface waters. It was amended in 1969 to include freshwater wetlands and surface waters.

Cost and Funding Sources

Annual funding of about \$1.8 million comes mainly from state appropriations, permit fees, and enforcement fines. DES also receives a small amount of funding from federal grants.

Staffing Needs

Currently employs about 33 fulltime staff that work on permitting, compliance, enforcement, and outreach related to wetlands.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes, the Wetlands Bureau reviews applications for dredge and fill of wetland resources related to development.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

This is unclear. Based on testimony by DES officials, indirect impacts have been assessed and regulated all along. However, a recent ruling by the NH Supreme Court states that the NH wetlands statute (RSA 482-A) does not currently support the state's authority to assess and regulate indirect impacts to wetland resources. Therefore, it seems that, although indirect and cumulative impacts have been intentionally addressed during application reviews, the state does not have the legal authority to regulate indirect or cumulative impacts.

Relevance to the HB 1579 (2008) Commission

The inconsistency between the probable intent and the actual legal authority of RSA 482-A was the impetus behind the establishment of this Commission. Although the Commission has a very broad scope of work, the question of how the state will address indirect impacts to wetlands is central to the Commission's work.

Program Title: Inland Wetland and Watercourses Program & Bureau of Water Protection and Land Reuse's Office of Long Island Sound Programs

State: Connecticut

Administering Agency: Connecticut Department of Environmental Protection

Primary Contact (name, phone, email): Wetlands Management Section at (860) 424-3019

Website: <http://www.cga.ct.gov/2007/pub/Chap440.htm>

Focus Area: Wetlands

Type: Regulation

Status: Active

Description and Scope

Wetlands in Connecticut are regulated under separate programs. Inland wetlands are regulated primarily at the municipal level under Municipal Inland Wetlands Agencies (MIWA). The Wetlands Management Section of the Connecticut DEP provides training, regulatory, and technical assistance to Connecticut's 170 Municipal Inland Wetlands Agencies. The CTDEP Wetlands Management Section regulates the actions of state agencies and departments only.

The Inland Wetlands and Watercourses Act (IWWA) defines wetlands by soil type, classifying them as poorly drained, very poorly drained, alluvial, and floodplain.

The CTDEP's Inland Water Resources Division (IWRD) administers the state's 401 certification program for inland wetlands.

Tidal wetlands are regulated exclusively by the CT DEP's Office of Long Island Sound Programs under the Tidal Wetlands Act (TWA) and Coastal Management Act. Tidal wetlands are identified by their current or former tidal connection, and their capacity to support certain wetland vegetation.

Jurisdiction and Thresholds

Unknown

Evaluation, Measures of Success and Performance Standards

The IWWCA maintains a database of all permits and enforcement actions by the MIWA's. A similar system is maintained for the tidal wetlands program.

The OLISP tidal wetlands program tracks acres of wetlands that have been restored or enhanced.

Connecticut's Water Quality Standards (WQS) do not identify criteria specific to wetlands. However, the WQS do identify narrative, chemical and biological standards for the state's surface waters, which include wetlands.

CT DEP plans to implement a wetlands monitoring program based on National and New England Biological Assessment of Wetlands Workgroups.

Establishment: Legislation

In 1972, the state legislature enacted the Inland Wetlands and Watercourses Act (IWWA) sec. 22a-36 through 22a-45 of the Connecticut General Statutes, which requires the regulation of activities affecting the wetlands and watercourses of the state.

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Cost and Funding Sources

The CTDEP's Inland Water Resources Division (IWRD) operates on an annual budget of about \$200,000, derived from federal and state grants.

The OLSIP funding is from federal grants and, to some extent, fees and penalties.

Staffing Needs

The Inland Water Resources Division has two full-time staff equivalents to provide assistance, training, and oversight to the Municipal Inland Wetland Agencies. There is one staff person dedicated to the administration of state agency inland wetlands and watercourses permitting. There is one staff person dedicated to the administration of 401 Water Quality Certifications.

The OLSIP has eleven full and part-time staff working on wetland-related enforcement, permitting, monitoring, and 401 certification.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Relevance to the HB 1579 (2008) Commission

Program Title: Natural Resource Protection Act

State: Maine

Administering Agency: Maine Dept. of Environmental Protection, Bureau of Land and Water Quality

Primary Contact (name, phone, email): Andrew Fisk, Director, 287-7671, Augusta: [Jim Cassida](#) (287-7691). Bangor: [Robin Clukey](#): 941-4348. Presque Isle: [Eric Hitchcock](#) (764-0477). The area code for Maine is 207.

Website: <http://www.maine.gov/dep/blwq/docstand/nrpapage.htm>

Focus Area: Wetlands

Type: Regulation

Status: Active

Description and Scope

The Bureau of Land and Water Quality is one of three bureaus within the Maine Department of Environmental Protection, the other two being Air Quality and Remediation and Waste Management. The Bureau of Land and Water Quality has programs that focus on coastal waters, ground water, lakes, streams, and wetlands, as well as waste treatment and watershed planning and management.

The state regulates these resources through the Natural Resources Protection Act (NRPA), which was adopted to prevent unreasonable degradation or destruction of the state's natural resources and to encourage their protection or enhancement. The NRPA applies to the following protected natural resources: coastal wetlands and sand dunes, freshwater wetlands, great ponds, rivers, streams and brooks, fragile mountain areas, and significant wildlife habitat. The NRPA also applies to lands adjacent to any freshwater or tidal wetland, great pond, river, stream or brook.

Jurisdiction and Thresholds

The state of Maine regulates coastal wetlands and sand dunes, freshwater wetlands, great ponds, rivers, streams and brooks, fragile mountain areas, and significant wildlife habitat under the Natural Resources Protection Act (NRPA), which was enacted in 1988.

The NRPA requires a permit for activities that may impact "protected natural resources." A permit is required when an "activity" will be located in, on or over any protected natural resource, or located adjacent to: (A) a coastal wetland, great pond, river, stream or brook or significant wildlife habitat contained within a freshwater wetland, or (B) certain freshwater wetlands.

An "activity" is (A) dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials; (B) draining or otherwise dewatering; (C) filling, including adding sand or other material to a sand dune; or (D) any construction, repair or alteration of any permanent structure.

Evaluation, Measures of Success and Performance Standards

Each program within the Bureau of Land and Water Quality has an assessment and monitoring program that provides data on water quality and other parameters. The Bureau conducts monitoring and assessments through the Lakes Assessment Program, the Estuary and Coastal Assessment Program, and the Biological Monitoring program for rivers, streams, and wetlands.

Every other year, the bureau publishes the "Integrated Water Quality Monitoring and Assessment Report" or "Integrated Report," which summarizes water quality data collected by the DEP as well as numerous other state, federal and tribal government agencies, volunteer water monitoring

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organizations, and other sources. The Integrated Report is also known as the 305(b) report and 303(d) list because it is required by Section 305(b) of the Clean Water Act. The 303d list is a list of impaired waters that do not meet one or more of their designated uses.

Establishment: Legislation

The Natural Resources Protection Act (NRPA) became effective on August 4, 1988.

Cost and Funding Sources

Annual funding for the entire agency is about \$1.8 million, most of which comes from the state's general funds.

Staffing Needs

The Maine DEP employs about 500 staff, with about 35 full-time equivalents dedicated to wetland regulation and 5 dedicated to wetlands classification, biomonitoring, and watershed management. Primary activities focus on permitting, enforcement, monitoring and assessment, 401 water quality certification, outreach and technical support, and mitigation.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes. Chapter 310 of the NRPA addresses cumulative effects of frequent minor alterations to wetlands. Any proposed activity is assessed in terms of how direct and cumulative impacts on the resource. Indirect (secondary) impacts are what make up cumulative impacts.

Relevance to the HB 1579 (2008) Commission

The NRPA provides a well tested example of how a state can address impacts to wetlands and other natural resources in a comprehensive manner. Chapter 310 on wetlands clearly considers both direct and cumulative impacts, and may provide an approach that would work in New Hampshire.

Program Title: Wetlands Change Data Layer

State: Massachusetts

Administering Agency: MA Dept. of Environmental Protection (DEP)

Primary Contact (name, phone, email): DEP Wetlands Conservancy Program (617-292-5907)

Website: <http://www.mass.gov/mgis/wetchange.htm>

Focus Area: Wetlands

Type: Publication or Other Tool

Status: Active

Description and Scope

In the fall of 2002, the [Massachusetts Department of Environmental Protection](#) (MA DEP) launched an innovative project (the Wetlands Change Project) to evaluate its wetlands protection efforts over the previous decade by utilizing remote sensing and new computer technology. The Wetlands Conservancy (WC) Program within the MA DEP's Office of Watershed Management used the 1:12000 DEP Wetlands datalayer, which covered 70% of the state by 2002, to develop a digital database of areas of apparent wetlands alteration occurring from about 1990 to April of 2001. Wetland change was determined by using a GIS-based analysis methodology developed in conjunction with the National Oceanic and Atmospheric Administration (NOAA) Center for Coastal Fisheries and Habitat Research. This methodology involved superimposing images of recent aerial flyovers on the original wetlands maps produced by the WC Program to highlight changes over time. Differences detected in areas previously mapped as wetlands on these maps, such as clearing, building, or filling, indicated that some wetlands alteration had occurred.

Jurisdiction and Thresholds

Thresholds determined by methodology

Evaluation, Measures of Success and Performance Standards

The DEP Wetlands Change Datalayer has been developed and is made available for distribution for the purpose of serving as a tool to monitor changes within the wetland areas which DEP has included in its statewide wetlands datalayer.

The DEP Wetlands Change datalayer is based on the interpretation of aerial photographs and digital aerial imagery. Because the changes represented on these maps have been determined solely through photo-interpretation, they do not represent, and should not be used as, wetlands delineation under the Wetlands Protection Act (M.G.L. c. 131, sec. 40) and the implementing regulations (310 CMR 10.00 et seq.).

While aerial photography can be a useful and reliable tool for ascertaining the existence, past or present, of wetland resource areas, it is not a substitute for and should be used in conjunction with appropriate ground survey observation (vegetation; history of hydrology; soil profiles, etc.).

Establishment: Agency Initiative

Cost and Funding Sources

MA DEP

Staffing Needs

This datalayer was developed by the DEP Wetlands Conservancy Program with GIS support and data management assistance provided by the DEP GIS Group. Questions may be directed to DEP Wetlands Conservancy Program at 617-292-5907.

Other Implementation Needs

None

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes. The goal of the datalayer is to show wetlands loss and alteration due to development over a limited timeframe.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Inadvertently, in that aerial imagery can show land use changes in uplands surrounding wetlands.

Relevance to the HB 1579 (2008) Commission

This type of datalayer can illustrate not only direct impacts to wetlands over time, but also indirect and cumulative impacts of development by showing land use changes over large areas, such as watersheds.

Program Title: Wetlands Protection Act

State: Massachusetts

Administering Agency: Massachusetts Department of Environmental Protection

Primary Contact (name, phone, email): Michael Stroman, Program Chief, (617) 292-5526,
Michael.Stroman@state.ma.us

Website: <http://www.mass.gov/dep/water/resources/wetlands.htm>

Focus Area: Wetlands

Type: Regulation

Status: Active

Description and Scope

The Massachusetts Dept. of Environmental Protection (Mass DEP) Wetlands Program ensures the protection of Massachusetts' inland and coastal wetlands, tidelands, great ponds, rivers and floodplains. It regulates activities in coastal and inland wetlands areas, and contributes to the protection of ground and surface water quality, the prevention of flooding and storm damage and the protection of wildlife and aquatic habitat. The Program administers and enforces the Wetlands Protection Act; M.G.L. Chapter 91; the Inland and Coastal Wetlands Restrictions Acts; and the 401 Water Quality Certification Program.

Jurisdiction and Thresholds

The Wetlands Protection Act affects any person proposing to “remove, dredge, fill, or alter any bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow, or swamp bordering on the ocean or on any estuary (a broad mouth of a river into which the tide flows.), creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding”. Any person proposing activities within wetland resource areas (including the 200-foot Riverfront Area) or within 100 feet of banks or bordering vegetated wetlands must file with the local conservation commission.

In order to legally work in any wetland, a person must obtain a permit known as an Order of Conditions from the local conservation commission. Mass DEP implements policies and regulations of the Wetlands Protection Act, but permits are actually issued by the 351 municipal conservation commissions. The conservation commissions decide whether to approve any applications that will affect wetlands, and may set certain conditions that the applicant must follow in order to protect wetlands, or minimize the impact on wetland functions. DEP acts in an oversight capacity, providing comments on applications and acts as the hearing body for appeals of Conservation Commission decisions.

Different types of wetlands have different degrees of protection under the Act. The greatest protection is provided to wetland areas that border a water body. The water body may be a river or stream (including intermittent streams), the ocean, a lake, or a permanent pond (greater than 10,000 ft²).

A “bordering vegetated wetland” must border a water body or waterway, exhibit saturated or inundated conditions, and at least 50 percent of its vegetation must consist of wetland plant species, that are specifically named in the Wetlands Protection Act (e.g. buttonbush, red maple, cattail, highbush blueberry, red maple, etc.) or be recognized by wetland professionals as wetland indicator species.

Flood areas are determined by flood elevation, frequency, and magnitude, rather than by vegetation, and may either border a water body or be isolated. To be protected as “bordering land subject to

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flooding,” an area must border the ocean or other water body and be inundated by the 100-year flood (the flood that has a 1 percent statistical probability of occurring in a given year.), as determined by the Federal Emergency Management Agency for most communities or by a registered professional engineer. An area is protected as “isolated land subject to flooding” if it is an isolated depression that contains a quarter acre-foot of water with an average depth of six or more inches at least once a year. (An acre-foot is 43,560 cubic feet, the amount of water that would flood an area of one acre to a depth of one foot.)

Temporary ponds are protected only if they fall within the 100-year floodplain or if they meet the criteria for isolated land subject to flooding. Temporary ponds that meet these criteria can receive additional protection if they are certified by the Massachusetts Division of Fisheries and Wildlife as vernal pools.

Evaluation, Measures of Success and Performance Standards

Massachusetts has lost about 20% of its historic wetlands. Of the 48,000 acres of remaining saltmarsh, about 8,000 (17%) are considered degraded by human activity. Between 1991 and 2001, more than 800 acres of the state's 48,000 acres of remaining inland wetlands were lost or altered (Mass DEP 2007).

Conservation commissions review 8,000 – 10,000 applications per year for work in and near wetlands.

The Wetland Program has multiple tracking systems in place to track permitting, compliance, enforcement, and mitigation efforts. The state is also pioneering a new method for tracking wetland changes, called the Wetlands Loss Initiative, based on aerial photography.

Establishment: Legislation

Cost and Funding Sources

Most filings require a filing fee. The fees for applications under the MWPA are shared between the local town and the DEP. DEP is a state-funded agency; local Conservation Commission may or may not be funded by their municipality. Many towns have established local home-rule bylaws that allow them to charge fees in addition to those established by the state.

Staffing Needs

DEP maintains staff (analysts) to review all filings made under the MWPA. Local Conservation Commissions are volunteer boards appointed by the local government. Many towns have at least one staff person to assist the Conservation Commission in their duties. These may be full or part-time positions.

Other Implementation Needs

MassDEP is currently undertaking a long-term assessment of data needs and redesign as part of a three-year EPA Demonstration Pilot Program.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes, the Wetlands Protection Act was adopted to protect wetlands and water bodies from the impacts of development.

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Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes. The Wetlands Protection Act regulates buffer zones adjacent to certain wetlands and waterways in order to address indirect impacts. Recently, the MWPA regulations have also been expanded to include a greater emphasis on the analysis and mitigation of stormwater runoff.

Relevance to the HB 1579 (2008) Commission

Massachusetts has adopted the use of buffers to address concerns about impacts beyond the footprint of dredge and fill (ie, indirect impacts). This approach provides a potential way for NH to handle indirect impacts.

References

Massachusetts Dept. of Environmental Protection, Wetlands Loss Map Q&A, at <http://www.mass.gov/dep/water/resources/wlossmap.htm>.

Program Title: Freshwater Wetlands Program

State: Rhode Island

Administering Agency: Rhode Island Department of Environmental Management

Primary Contact (name, phone, email): Russell Chateauneuf, Chief, Groundwater and Wetlands Protection, (401) 222-4700 ext. 7700, russ.chateauneuf@dem.ri.gov

Website: <http://www.dem.ri.gov/programs/benviron/water/index.htm>

Focus Area: Wetlands

Type: Regulation

Status: Active

Description and Scope

The mission of the RI Dept. of Environmental Management (DEM) Office of Water Resources is to ensure that: rivers, lakes, and coastal waters will support healthy communities of fish, plants, and other aquatic life, and will support uses such as fishing, swimming, and drinking water quality; groundwater will be uncontaminated; wetlands will be protected and rehabilitated to provide wildlife habitat, reduce floods, and to improve water quality; and public health will be protected from the adverse impacts of water pollution.

The Office, through the Freshwater Wetlands Program, is responsible for regulating alterations of Rhode Island's freshwater wetlands through an orderly application process that verifies delineated wetland edges, determines the presence of wetlands, and reviews proposed projects in and adjacent to freshwater wetlands. The program's biologists and engineers carry out site inspections, develop protective terms and conditions for permit approvals or acceptable mitigation strategies, provide expert testimony at hearings, and render recommendations through the collection of scientific data to program supervisors who then make final decisions. The responsibilities and duties of the permitting program are supported through fees supplemented by general revenues. Annually, the program reviews 500-600 applications.

Jurisdiction and Thresholds

Previous to August 1999, freshwater wetlands near Rhode Island's coast were under the regulatory jurisdiction of both the DEM and the Coastal Resources Management Council (CRMC). In order to eliminate duplicative permitting, the state enacted a law that allowed DEM and CRMC to jointly establish a line that clearly delineates areas of freshwater wetlands regulatory jurisdiction. The jurisdictional line was revised in 2001 and 2007. The jurisdictional line generally coincides with state and local roads, rights-of-ways or property boundaries. Since August 18, 1999, all freshwater wetlands activities that are seaward of the line, or, *in the vicinity of the coast*, have been under the jurisdiction of the CRMC. All freshwater wetlands activities that are landward of the line remain under the authority of the DEM.

In Rhode Island, lakes, ponds, rivers, and streams are considered wetlands as well. The state also regulates land within 50 feet of swamps, marshes, bogs, and ponds (as Perimeter Wetlands) and land within 100 or 200 feet of rivers and streams (as Riverbank Wetlands). Perimeter and Riverbank Wetlands are presumed to provide the same functions and values as palustrine (or *vegetated*) wetlands and are afforded the same level of protection given to palustrine wetlands. 100-year frequency Floodplains are also regulated as Freshwater Wetlands in Rhode Island.

Evaluation, Measures of Success and Performance Standards

The DEM has a tracking system for all 401 water quality certifications, as well as coordinated enforcement and compliance efforts. The CRMC is proposing to add a loss/gain tracking function to their permit database. RI DEM has narrative water quality standards for "waters of the state" which include wetlands. The New England Interstate Water Pollution Control Commission (NEIWPC) is working with EPA to help RI DEM develop a draft plan for systematic monitoring of freshwater wetlands.

The state's monitoring for all "waters of the state" includes stream monitoring, which includes biological sampling and water chemistry sampling. Data is used in compiling the state's 303d and 305 b listing of impaired waters.

Establishment: Legislation

Rhode Island adopted legislation in 1971 to regulate freshwater wetlands (under the Freshwater Wetlands Act) and coastal wetlands (under the RI Coastal Resources Management Program). Inland freshwater wetlands are regulated under the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act. Freshwater wetlands in the vicinity of the coast have been regulated by the CRMC, which adopted a separate set of rules: Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast.

Cost and Funding Sources

The program is supported mainly by the state's General Fund, with additional support from EPA for monitoring and outreach.

Staffing Needs

The RI DEM has about 17 full-time equivalents (FTE's) devoted to wetland permitting, and two FTE's working on water quality certification. Five staff in the Office of Compliance and Inspection focus on wetland enforcement.

The RI CRMC has two biologists, one coastal policy analyst, and one coastal geologist that oversee wetland-related activities for the agency. Several additional staff review coastal applications.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

The Rhode Island wetlands rules were adopted to ensure that proposed projects are designed to avoid and minimize impacts to wetlands as much as possible. The rules do not allow a project to receive a permit if in accordance with Section 2-1-21 of the *Act*, the *project* as proposed does not satisfy the specific review criteria or would result in a *random, unnecessary, or undesirable alteration* of a Freshwater Wetland¹.

¹ A *random alteration* is any *alteration* to *freshwater wetlands* for which the applicant does not specify in the application the entire *project* proposed or contemplated by the applicant or in which the purpose of the *alteration* cannot be determined. An *alteration* is unnecessary unless it is essential, vital, or indispensable to the *project* and cannot be avoided by exhausting all other non-wetland alternatives. An *undesirable alteration* is any *alteration* to *freshwater wetlands* that individually or cumulatively may reduce or degrade any *freshwater wetland* functions and values as set forth herein, which does not avoid and minimize to the maximum extent possible any damaging effects on wetland functions and values, or does not satisfy the review criteria.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes. The wetlands rules require that applicants demonstrate that they have avoided, minimized, or mitigated for all probable impacts to wetlands:

Avoidance: All *persons* must satisfactorily demonstrate to the *Department* in the form of a written narrative that all probable impacts to *freshwater wetlands* functions and values have been avoided to the maximum extent possible.

Minimization: For any impact to *freshwater wetlands* that cannot be avoided, the applicant must satisfactorily demonstrate to the *Department* in the written narrative that the impact to wetland functions and values have been reduced to the maximum extent possible.

Mitigation Measures. Measures, methods, or *best management practices* to avoid *alterations* of and minimize impacts to wetlands include, but are not limited to:²

- a) Preserving natural areas in and around wetlands;
- b) Minimizing the extent of disturbed areas and encouraging the preservation of land in its natural state;
- c) Designing dense plantings of shrubs and trees between the developed areas and the remaining natural areas (i) to "buffer" impacts from loss of *wildlife habitat* and loss of natural areas and (ii) to reduce the impacts of noise, lighting and other disturbances upon *wildlife* and the remaining natural areas; and
- d) Maintaining unrestricted fish and *wildlife* passage.

Applicants must describe functions and values of all wetlands, and all probable individual and cumulative impacts of the proposed project on every function and value. The *DEM* must review the entire project and consider all project impacts on freshwater wetlands. The rules provide a definition of cumulative impacts, which must be considered when determining whether a project represents a significant or insignificant alteration:

Cumulative Impact: The combined impact on the wetland environment and its functions and values which may result from past, present and future alterations to the same wetland system, regardless of what agency or person undertakes such alterations.

The cumulative impact of incremental alterations to freshwater wetlands that occur at different times or in different locations within the same wetland system, or both, may constitute a significant alteration, even if a single proposed alteration may not in and of itself constitute a significant alteration.

Relevance to the HB 1579 (2008) Commission

The Rhode Island Freshwater Wetlands rules address all impacts to wetlands, and require applicants to describe all probable impacts to wetland functions and values, including those impacts that occur beyond the actual footprint of dredge and fill. Rhode Island also regulates "buffers" (Perimeter and Riverbank Wetlands) adjacent to certain wetland classes (Rivers, streams, Ponds, Swamps, Marshes and Bogs) in an effort to minimize "indirect" impacts.

² The Rules (except for Floodplain) do not include compensatory wetland enhancement, restoration, or creation as mitigation measures. When we have projects that require wetland mitigation under Section the Section 404 permit, the compensatory activities (whether enhancement, restoration, or creation) are required to be permitted as alterations to Freshwater Wetlands

Program Title: Wetlands Section

State: Vermont

Administering Agency: Vermont Department of Environmental Conservation

Primary Contact (name, phone, email): Alan Quackenbush, Section Chief, State Wetlands Coordinator
(802) 241-3761, alan.quackenbush@state.vt.us

Website: <http://www.vtwaterquality.org/wetlands.htm>

Focus Area: Wetlands

Type: Regulation

Status: Active

Description and Scope

The goal of the Vermont Dept. of Environmental Conservation Wetlands Section is to identify and protect wetlands and the functions and values they provide. Activities to achieve these goals include education, project review, and enforcement. The Vermont Wetlands Section is responsible for the administration, implementation and informal interpretation of the Vermont Wetland Rules; for providing advisory recommendations on Act 250 projects with potential wetland impacts to the District Environmental Commissions; and for the review of wetland projects which fall under federal jurisdiction (Section 404 of the Clean Water Act) to ensure that State water quality standards are met.

Jurisdiction and Thresholds

Vermont Wetland Rules apply to "significant" wetlands, which are identified as Class One or Class Two in a three-tiered wetland classification system. Class Three wetlands are those not identified on National Wetland Inventory (NWI) maps, and those that have been determined by the Water Resources Board to not provide functions and values at a significant level. The Rules outline a reclassification process for wetlands that allows for a change in classification and protection.

Wetlands are defined as those areas of the state that are inundated by surface or ground water with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction.

The Rules define Class One wetlands as those that are exceptional or irreplaceable in their contribution to Vermont's natural heritage, and are so significant that they have the highest level of protection. The Water Resources Board must specifically designate Class One wetlands, and also designates a 100-foot buffer zone adjacent to these wetlands to protect functions and values.

Class Two wetlands are most palustrine wetlands shown on NWI maps, and those wetlands contiguous to wetlands mapped as Class Two wetlands. The Board designates a 50-foot buffer zone adjacent to all Class Two wetlands.

Class Three wetlands are those that are either not mapped on NWI maps, or that have been evaluated and determined to have insignificant functions. These wetlands are not protected under Vermont Wetland Rules, but may be protected by other federal, state, or local regulations.

Evaluation, Measures of Success and Performance Standards

Vermont has lost approximately 35% of the states historic wetland resources. Fewer than 100 Conditional Use (wetlands) permits are issued each year. Most applications are approved, with only 2%

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being denied. The Wetlands Office reviews about 650 Act 250 permit applications each year, about 30% of which involve wetlands.

The VTDEC Wetlands Section maintains a tracking system for all wetland projects that have come under staff review. Vermont has not developed water quality standards specific to wetlands, but standards do apply to all "waters of the state," which include wetlands. The VTDEC Water Quality Division includes the Biomonitoring and Aquatic Studies Section, which conducts monitoring of aquatic resources. Information is used for many purposes, including regulation and permitting.

Establishment: Legislation

The Vermont State Legislature enacted the Act Relating to the Regulation of Wetlands in 1986, directing the Water Resources Board to adopt rules to identify and protect wetlands. The Water Resources Board adopted the Vermont Wetland Rules in 1990, and updated them in 2002.

Cost and Funding Sources

The program's annual budget ranges from \$350,000 to \$400,000, which is derived from federal grants (EPA Performance Partnership Grant) and state matching funds. In 1998, federal grants comprised approximately 70% of the total budget.

Staffing Needs

The central office and two regional offices have six full-time equivalents conducting various wetland-related activities, including permitting, enforcement and compliance, monitoring and assessment, outreach and technical assistance, and restoration. Two additional staff hired each summer work on issues associated with Purple Loosestrife.

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes, the Wetlands Section is responsible for protecting wetlands from the impacts of development.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes, indirect (secondary) and cumulative impacts are addressed in the designation of buffer zones, as well as the avoidance and minimization requirements for all Conditional Use Determinations (CUD's).

Relevance to the HB 1579 (2008) Commission

Vermont Wetland Rules regulate upland areas adjacent to significant wetlands, in order to minimize indirect impacts (beyond the footprint of dredge and fill) to wetlands.

Program Title: Rhode Island Bays, Rivers, and Watersheds Coordination Team

State: Rhode Island

Administering Agency: Office of the Governor

Primary Contact (name, phone, email): Ames B. Colt, Ph.D. Coordination Team Chair, (401) 222-4700 x7273, ames.colt@dem.ri.gov

Website: <http://www.coordinationteam.ri.gov/index.htm>

Focus Area: Surface Water

Type: Technical Assistance

Status: Active

Description and Scope

A state interagency commission dedicated to the protection, management, restoration, and sustainable development of Rhode Island's fresh and marine waters and watersheds. No single state agency possesses the authority or capacity required to address fully the complex, interlocking issues pertaining to the protection, management, restoration, and sustainable development of Rhode Island's waters and watersheds. Through strategic coordination of government programs, the Rhode Island Bays, Rivers, and Watersheds Coordination Team ensures the well being and sustainable use of Rhode Island's waters and watersheds, increases the vitality of our marine economy and water intensive industrial sectors, and prepares Rhode Island for future environmental and socio economic imperatives.

Jurisdiction and Thresholds

The RI Coordination Team develops and implements a “[Systems-Level Plan](#)” (SLP). The SLP shall “establish overall goals and priorities for the management, preservation, and restoration of the state's bays, rivers, and watersheds, and the promotion of sustainable economic development of the water cluster. The SLP shall include a strategy for attaining goals, delineate specific responsibilities among agencies, and identify funding sources and a timetable for attaining goals. The SLP shall include but not be limited to, planning for:

- Reduction of pollution from point source discharges, including, but not limited to, municipal and industrial discharges, and storm water and combined sewer overflows.
- Reduction of pollution from non-point sources, including, but not limited to, on-site individual sewage disposal systems, residential and agricultural fertilizing practices, animal wastes, recreational boating, and land use practices.
- Protection and restoration of shellfish and finfish.
- Protection and restoration of aquatic and terrestrial habitat.
- Conservation of open space and promotion of smart growth practices.
- Management of aquatic nuisance species.
- Management of dredging and dredged material disposal.
- Identification of research needs and priorities.
- Promotion of education and outreach.
- Promotion of equitable public access.
- Promotion of sustainable economic development of the water cluster.

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The SLP shall also propose integrated economic and environmental monitoring strategies building upon the accomplishments to date of the Coordination Team's Economic and Environmental Monitoring Collaboratives.

Evaluation, Measures of Success and Performance Standards

The first [Systems Level Plan](#) was completed in July of 2008 and establishes goals and priorities for implementation through 2009-2013.

Establishment: Legislation

The Rhode Island Bays, Rivers, and Watersheds Coordination Team was established in 2004 by RI State Statutes' [Chapter 46-31](#).

Cost and Funding Sources

Actual annual budget unknown. Per state statute ([46-31-12](#)) the "coordination team may employ staff and make such expenditures as may be authorized by the general assembly from time to time. The coordination team shall annually prepare an operating budget for inclusion in the governor's annual budget as submitted to the general assembly and for submittal to the speaker of the house of representatives and the president of the senate."

Staffing Needs

The Coordination Team is staffed by a full time chair (RI State Statute [46-31-12](#)). Member agencies contribute staff and time as is needed (RI State Statute [46-31-13](#))

Other Implementation Needs

To assist the Coordination Team in the development and implementation of the System's Level Plan, RI State Statute's ([46-31-9](#)) created the following subcommittees:

- Economic Monitoring Collaborative
- Environmental Monitoring Collaborative
- Public Advisory Committee
- Science Advisory Committee

Are the impacts of development on the environment intentionally or inadvertently addressed?

Intentionally. See the various points upon which the Systems Level Plan is to directly respond to (above) including point and non-point pollution, land use, on-site sewage systems, fertilizer use, and others and their impacts on water quality and habitat.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Unknown.

Relevance to the HB 1579 (2008) Commission

RI Bays, Rivers, and Watersheds Coordination Team is an interagency commission established to develop and implement a "systems-level plan" for the management, preservation, and restoration of the state's bays, rivers and watersheds. The SLP (dated June 2008) is to address "promotion of smart growth practices" among many other pollution control and resource protection topics.

Program Title: Subdivision and Septic Rules and Permitting

State: New Hampshire

Administering Agency: Subsurface Systems Bureau

Primary Contact (name, phone, email): Jo-Ann McKenney, 606-271-3501, jo-ann.mckenney@des.nh.gov

Website: <http://des.nh.gov/organization/divisions/water/ssb/index.htm>

Focus Area: Aquifers and Ground Water

Type: Regulation

Status: Active

Description and Scope

The Subsurface Systems Bureau is responsible for the review and issuance or denial of permits that govern approximately 80-85% of all development that occurs within the state of New Hampshire. In particular, the bureau is responsible for the following activities:

- Reviews applications for the subdivision of land and the design of individual septic systems.
- Performs on-site inspections of all septic systems installed in order to ensure strict compliance with the approved plans.
- Implements and administers the program for licensing both designers and installers of septic systems. No individual may submit an application nor install a septic system without first obtaining a license from this bureau.
- Investigates written complaints received by the Department of Environmental Services relative to situations which are or may be causing degradation of the state's waters.
- Coordinates other necessary permits involved in a particular project or development.

The program's purpose as defined in statute and administrative rules reads:

- The purpose of this chapter is to protect water supplies, to prevent pollution in the surface and groundwaters of the state and to prevent nuisances and potential health hazards. In exercising any and all powers conferred upon the department of environmental services under this chapter, the department shall be governed solely by criteria relevant to the declaration of purpose set forth in this section. (RSA 485-A:1)
- In addition to the purposes stated in RSA 485-A:1, the purpose of [the] rules shall be to prevent pollution of all public or private water supplies, whether underground or surface sources. (Env-Wq 1001.01)

DES must review all applications and plans for subdivisions, and issue an "Approval for Subdivision" before any structures from which wastewater will be discharged are built or before other site alteration activity specific to the proposed subdivision commences. In addition, subdivided lots or units may not be sold, leased or rented until DES issues an Approval. The subdivision of real property requires a review by DES to ensure that each resulting parcel or unit supports the long-term wastewater absorption requirements without causing environmental damage, overload, or a public health risk.

The DES Subsurface Systems Bureau must review the design plans and specifications for proposed septic systems to ensure the proper siting, construction and operation of the systems. Once design plans have been approved by DES and, if required, the municipality, DES will issue an Approval for Septic System Construction. Prior to using a septic system, both an Approval for Construction and an Approval for Operation must be obtained. Plans for proposed septic systems must be designed, prepared and submitted by an individual authorized by DES, except if an individual homeowner does the work for his/her own home. To prevent pollution of all public or private water supplies, whether underground or

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surface sources. Subsurface sewage disposal (septic systems) must be designed, installed, operated, and maintained properly to ensure adequate protection of public health and the environment.

Once an approved septic system is installed, DES will inspect the newly-constructed system. The septic system must be installed by an individual permitted to do so by DES, unless an individual homeowner does the work for his/her own home. Prior to using a septic system, both an Approval for Construction and an Approval for Operation must be obtained.

DES issues permits to septic system designers and installers to ensure that effluent disposal systems are properly designed and installed. DES will issue a permit to any person who demonstrates a sound working knowledge of the procedures and practices required in site evaluation and the ability to read approved waste disposal plans.

Jurisdiction and Thresholds

Pursuant to RSA 485-A:29, I, Water Pollution and Waste Disposal/Submission and Approval of Plans and Specifications, DES regulates the subdivision of land into two or more lots if the proposed lots will not be served by municipal sewers and one (or more) of the proposed lots is less than five acres, or if one or more of the proposed lots lie within the 250-foot shoreland protection zone. Subdivision approval is required for lots located within the Protected Shoreland, leased land, condominium creation and lots under 5 acres; for both residential and commercial developments where septic systems are, or will be used.

A sewage or wastewater disposal system is required for any structure from which wastewater will be discharged and to which a water supply is or will be connected. An Approval must also be obtained prior to increasing the load on the existing septic system and/or commencing any additions to the structure; replacement, expansion or relocation of the structure (unless the footprint, ridgeline, interior space and use remain the same) ([WD-SSB-5 Clarification of Regulation Requirements for New Construction & Expansion of Existing Buildings](#)) and prior to converting a structure from seasonal to full-time occupancy.

A DES inspector will inspect the newly-constructed septic system and evaluate the system to ensure that it has been installed in accordance with the intent of the approved plan. Once the inspector has determined that the system meets all applicable requirements, a written Approval for Septic System Operation will be completed, with a copy provided to the owner, municipality, and DES. Please see [WD-SSB-8 "Approval for Operation" Requirements for Subsurface Disposal System](#).

DES administers examinations four times a year, with the major testing taking place in the spring and fall and reexaminations in the summer and winter. An installer or designer permit is issued upon successful completion of the appropriate examination. The designer's exam consists of three written portions and a field test for soil interpretation. Installers must pass a two-part written examination only. The examinations are intended to ensure that designers and installers can design and install appropriate systems for a variety of site and use conditions. See [Permitting of Installers and Designers of Subsurface Sewage Disposal Systems](#) (Fact Sheet WD-SSB-4).

Evaluation, Measures of Success and Performance Standards

See above. Additionally, specific development standards are delineated within both the statute and administrative rules.

Establishment: Legislation

Chapter 485-A Water Pollution and Waste Disposal

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[RSA-A:29-44](#) Water Pollution And Waste Disposal/Sewage Disposal Systems
Env-Wq 1000 Subdivision and Individual Sewage Disposal System Design

Cost and Funding Sources

Application fees are assessed as follows:

- Subdivision applications - \$300 per lot
- \$300 per individual sewage disposal system
- There is no fee for an Approval for Operation
- For both designers and installers, the fee is \$80 per Septic System Designer and Installer Permitting exam
- \$80 per biennial renewal for Septic System Designer and Installer Permitting

Staffing Needs

In addition to maintaining staff at DES' main Concord offices, the Subsurface Bureau maintains 9 regional offices across the State (http://des.nh.gov/organization/divisions/water/ssb/documents/regions_contacts.pdf).

Other Implementation Needs

Unknown.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Directly. Program's objectives are to mitigate the potential for groundwater contamination caused by individual sewage disposal systems.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

Existing regulatory program in NH.

Program Title: AQUA Index

State: Maine

Administering Agency: Bureau of Land and Water Quality

Primary Contact (name, phone, email): Mark Holden, Mark.K.Holden@maine.gov, (207) 287-7779 or John Hopeck, john.t.hopeck@maine.gov, (207) 287-7733.

Website: http://www.maine.gov/dep/blwq/docgw/aqua_index/

Focus Area: Aquifers and Ground Water

Type: Publication or Other Tool

Status: Active

Description and Scope

The AQUA Index was developed to assess the relative risk due to human activities on high-yield sand and gravel aquifers. The Index is a decimal number between 0 and 1 where 0 represents significant risk and 1 indicates minimal risk. AQUA stands for Aquifer Quantitative Use Assessment.

The purpose of the AQUA Index is to allow water districts, municipalities, planners, consultants, organizations, and private citizens to have a tool to measure the potential risk from development to these unique and valuable resources. Increased awareness of the possible impacts will improve efforts to conserve and to protect these drinking water resources.

Jurisdiction and Thresholds

Land-use activities are put into two categories: point sources and non-point sources. The former have specific locations, while the latter generally occur over a wide area. Point sources are the potential or actual sources of contamination to groundwater categorized in the [Environmental Geographic Analysis Database \(EGAD\) database](#), including gasoline tanks, landfills, junkyards, and floor drains (that presently drain or formerly drained to the ground or to a septic system). Each of the 38 site types defined for the EGAD database is assigned a risk value, based on the nature of the potential contaminants associated with the site. If a site identified in the EGAD database is located on a mapped high yield sand and gravel aquifer, the risk value for that site type is added to a term used to calculate the Index for that aquifer.

Non-point sources of contamination to groundwater (and surface water as well) would include road salt, and oil, grease, and gasoline from roads, driveways, and parking lots. Non-point sources are hard to locate specifically, so it is assumed that the non-point risk was proportional to the area of roads on the aquifer. Since roads allow access to and development of the aquifer, the density of the road network should reflect the potential for impact from that development.

The area of roads over sand and gravel aquifers is expanded (electronically) with a 150 foot buffer, or 75 feet to each side of the road (to account for the influence of spills, drips, and storm runoff from the roads, and development of the adjacent land). The actual acreage of roads and buffer areas over a mapped high-yield sand and gravel aquifer is then calculated, using ArcMap tools. The resulting acreage is then subtracted from the overall aquifer acreage in the [AQUA Index formula](#).

Evaluation, Measures of Success and Performance Standards

See also the [summary diagram](#) for this information.

- 49 high yield aquifer locations (16%) show minimal risk (AQUA Index of 1.0) from land uses (1,168 acres or 4% of total acres)

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- 160 (53%) have indexes greater than .50 (moderate to low risk) (11,812 acres or 40% of total acres)
- 91 (30%) have indexes less than .50 (moderate to significant risk) (17,933 acres or 60% of total acres (29,745))
- 18% of the high yield sand and gravel aquifers at minimal risk (AQUA Index = 1) have public water supply wells.
- 33% of the aquifers with AQUA values between 1.0 and 0.5 have public water supply wells
- 39% of the aquifers with AQUA values less than 0.5 have public water supply wells.

Establishment: Agency Initiative

Cost and Funding Sources

Unknown

Staffing Needs

2+ staff persons

Other Implementation Needs

Unknown.

Are the impacts of development on the environment intentionally or inadvertently addressed?

Intentionally, the program is a tool for performing a risk analysis of land use on high yield sand and gravel aquifers.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

No.

Relevance to the HB 1579 (2008) Commission

A simple system of analysis that could be replicated in New Hampshire with existing Geographic Information System data.

Program Title: Endangered Species Act

State: Federal

Administering Agency: U.S. Fish & Wildlife Service (FWS) and National Oceanic and Atmospheric Administration (NOAA)

Primary Contact (name, phone, email): for Northeast Region: Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035-9589

Website: <http://www.fws.gov/endangered>

Focus Area: Wildlife

Type: Regulation

Status: Active

Description and Scope

The purpose of the Endangered Species Act (ESA) is to protect and recover imperiled species and the ecosystems on which they depend. Under the ESA, species may be listed as either endangered or threatened. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range. "Threatened" means a species is likely to become endangered within the foreseeable future. Species may be listed as endangered or threatened strictly on the basis of their biological status and threats to their existence.

All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened. For the purposes of the ESA, Congress defined species to include subspecies, varieties, and, for vertebrates, distinct population segments.

Jurisdiction and Thresholds

The 1973 Endangered Species Act provided for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend. The Act:

- authorizes the determination and listing of species as endangered and threatened;
- prohibits unauthorized taking, possession, sale, and transport of endangered species;
- provides authority to acquire land for the conservation of listed species, using land and water conservation funds;
- authorizes establishment of cooperative agreements and grants-in-aid to States that establish and maintain active and adequate programs for endangered and threatened wildlife and plants;
- authorizes the assessment of civil and criminal penalties for violating the Act or regulations; and
- authorizes the payment of rewards to anyone furnishing information leading to arrest and conviction for any violation of the Act or any regulation issued thereunder.

Evaluation, Measures of Success and Performance Standards

As of March, 2008, the FWS has listed 1,925 species worldwide as endangered or threatened, of which 1,351 occur in the U.S. Because the ESA's ultimate goal is to "recover" species so they no longer need protection, the FWS develops strategies to rebuild and protect populations of listed species through recovery plans, review of activities by federal agencies, designating critical habitat, and working with states and private landowners.

Since 1973, hundreds of species populations have been restored. A recent study of all endangered species in the Northeastern United States evaluated the success of the ESA based on population trend data, recovery plan reviews, and narrative accounts for all endangered species that historically or

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currently occur in eight northeastern states: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, and New Jersey. The results indicated that the ESA was:

- 100% successful in preventing extinction
- 93% successful in stabilizing and moving species toward recovery
- approximately 82% successful in meeting recovery timelines

Establishment: Legislation

The 93rd United States Congress passed the Endangered Species Act in 1973. This law was preceded by several other measures to address extinction or decline of native species, including:

- the Lacey Act of 1900, the first federal law to regulate commercial animal markets;
- the Migratory Bird Conservation Act of 1929;
- the Bald Eagle Protection Act of 1940;
- the Endangered Species Preservation Act of 1966;
- the amended Endangered Species Preservation Act of 1969.

Cost and Funding Sources

Costs for species' listing and recovery vary. Federal funds are directed to states through Section 6 of the ESA.

Staffing Needs

Unknown

Other Implementation Needs

Unknown

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes, under several programs of the ESA. Habitat Conservation Plans, Section 7 (minimizing impacts on listed species and critical habitats)

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

In Biological Assessments, required for all Federal actions that involve major construction activities.

Relevance to the HB 1579 (2008) Commission

Indirect impacts on wildlife and wildlife habitat are considered at the federal level, at least for major projects.

Program Title: Keeping it Simple: Easy Ways to Help Wildlife along Roads

State: Federal

Administering Agency: U. S. Dept. of Transportation

Primary Contact (name, phone, email): Federal Highway Administration's Natural and Human Environment Office, 400 7th Street N.W., Washington D.C. 20590.

Website: <http://www.fhwa.dot.gov/environment/wildlifeprotection/index.cfm>

Focus Area: Wildlife

Type: Publication or Other Tool

Status: Active

Description and Scope

The Keep It Simple program is designed to encourage transportation planners to incorporate wildlife needs into transportation projects. The program highlights highway construction projects in different states that use various strategies to minimize impacts to wildlife and habitats. Projects range from bat roosts and fish-friendly culverts to elk-proof fencing and modified mowing cycles that accommodate bird nesting.

Jurisdiction and Thresholds

This program provides examples from all 50 states of transportation projects that have successfully minimized impacts on sensitive species and habitats for state transportation agencies to use in their planning process. Many projects were completed only once to protect specific species in specific environmental conditions, whereas others are undertaken regularly because research has proven them effective. Some are new innovations, "best practices," or state-of-the-art strategies, and a few, such as modifying mowing cycles and installing oversized culverts in streams, are common practices in many states. Most are low- or no-cost, and all benefit wildlife, fish, or their habitats.

Evaluation, Measures of Success and Performance Standards

Unknown

Establishment: Agency Initiative

The Office of Natural and Human Environment within the Federal Highway Administration focuses on environmental programs associated with air quality, noise, water quality, and programs associated with the built environment, including transportation enhancements, bicycle and pedestrian facilities and scenic byways. The Keeping It Simple program is one of several initiatives that serve to educate planners and transportation users about efforts to avoid and minimize impacts to wildlife and habitats.

Cost and Funding Sources

There is no funding source for this program. It is intended as a central source of information for states to find successful strategies for protecting wildlife and habitats.

Staffing Needs

Unknown

Other Implementation Needs

None

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes. All projects are developed to address impacts of development

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Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes. Essentially all projects are aimed at avoiding or minimizing indirect impacts.

Relevance to the HB 1579 (2008) Commission

The projects highlighted on the website provide concrete examples of how various states approach indirect impacts resulting from transportation activities.

Program Title: New Hampshire Wildlife Action Plan

State: New Hampshire

Administering Agency: New Hampshire Fish and Game Department

Primary Contact (name, phone, email):

Website: <http://www.wildlife.state.nh.us>

Focus Area: Wildlife

Type: Publication or Other Tool

Status: New

Description and Scope

The plan, which was mandated and funded by the federal government through the State Wildlife Grants program, provides New Hampshire decision-makers with important tools for restoring and maintaining critical habitats and populations of the state's species of conservation and management concern. It is a pro-active effort to define and implement a strategy that will help keep species off of rare species lists, in the process saving taxpayers millions of dollars.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Establishment: Legislation

Cost and Funding Sources

Annual appropriations to states under the [Wildlife Conservation and Restoration Program](#) (WCRP) and [State Wildlife Grant program](#) (SWG).

Staffing Needs

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes, throughout the plan.

Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes, but they are not identified as indirect, secondary, or cumulative.

Relevance to the HB 1579 (2008) Commission

The plan addresses human impacts on the environment throughout, in risk assessments for both species profiles and habitat profiles, in the chapter on Conservation Strategies, and many other areas. A primary risk for wildlife and habitats is fragmentation and degradation due to development and associated human activity.

Program Title: Beginning with Habitat

State: Maine

Administering Agency: Maine Department of Inland Fisheries & Wildlife

Primary Contact (name, phone, email): Steve Walker, Beginning with Habitat Program Manager,
(207) 287-5254, steve.walker@maine.gov

Website: http://www.beginningwithhabitat.org/about_bwh/index.html

Focus Area: Wildlife

Type: Technical Assistance

Status: Active

Description and Scope

Beginning with Habitat (BwH), a collaborative program of [federal, state and local agencies and non-governmental organizations](#), is a habitat-based approach to conserving wildlife and plant habitat on a landscape scale. The goal of the program is to maintain sufficient habitat to support all native plant and animal species currently breeding in Maine. BwH compiles habitat information from multiple sources, integrates it into one package, and makes it accessible to towns, land trusts, conservation organizations and others to use proactively. Each Maine town is provided with a collection of maps, accompanying information depicting and describing various habitats of statewide and national significance found in the town, and with tools to implement habitat conservation in local land use planning efforts. BwH is designed to help local decision makers create a vision for their community, to design a landscape, and to develop a plan that provides habitat for all species and balances future development with conservation.

Jurisdiction and Thresholds

Evaluation, Measures of Success and Performance Standards

Since its inception in 2000, BwH has met with and provided information to more than 140 cities and towns and 35 land trusts and regional planning commissions within the state. Many towns and land trusts have incorporated the information they received from BwH into their comprehensive plans and strategic approaches to conservation.

Establishment: Agency Initiative

Cost and Funding Sources

Unknown

Staffing Needs

Unknown

Other Implementation Needs

Are the impacts of development on the environment intentionally or inadvertently addressed?

Yes. The goal of the project is to help towns maintain an ecologically functional landscape while planning for future development. The focus is on identifying and protecting linkages between riparian areas, high value animal habitats, and large habitat blocks.

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Are indirect, secondary, or cumulative wetlands impacts intentionally or inadvertently addressed?

Yes. The landscape approach to habitat conservation is aimed at minimizing indirect, secondary, and cumulative impacts to wetlands and other important habitats.

Relevance to the HB 1579 (2008) Commission

This proactive approach to helping towns identify and protect areas of high wildlife value would be an effective way of minimizing impacts of development.

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Respectfully submitted by:

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