New Brunswick Wetlands Conservation Policy and Existing Legislation Explained

Most woodlot owners are aware of provincial regulations governing the disturbance or alteration of watercourses in New Brunswick. The Department of Environment and Local Government (DELG) currently requires a landowner to request a permit for any operations that are to occur within the mandated 30 metre buffer zone along designated watercourses. Designated watercourses until recently were defined as those visible of the current 1:10 000 ortho-photos used by DELG. Although permits are not required for watercourses not depicted on these photos, the landowner is still responsible for and legally bound to maintain the quality and quantity of water present before activities began. The Watercourse Alteration Regulation, which falls under the New Brunswick Clean Water Act, has recently been amended to make provisions for the protection and conservation of wetlands. These changes do affect the definition of watercourses requiring Watercourse Alteration Permits (WAP's) and must be clearly understood by anybody planning forestry activities on private land.

A Little Bit about Wetlands in New Brunswick

Wetlands across New Brunswick have been declining steadily since the province was first settled. These low areas were (and still are) targeted for development thanks to their relatively fertile soils and often picturesque location. Over the past 300 years, 65% of New Brunswick's coastal marshes have disappeared, being converted to other uses. At present, only 4% of New Brunswick's total area is comprised of wetlands.

According to the Department of Natural Resources and Energy (DNRE) and DELG, three factors must be present at any one time for a given area to be considered a wetland. These factors are:

Water

- Standing water at least for part of the year

Hydric Soils

- Soils that are wet, water loving and exhibit associated texture and organic content

Water Tolerant Vegetation

- Wetlands must contain vegetation that is associated with water
- These range from alder to cattails, water lilies, sedges, sweet gale etc.

Wetland Classification

Wetlands are divided into two categories, inland and coastal. These two are further subdivided into a range of classes which describes their physical characteristics and ecological functioning.

Inland Wetlands

- **Bogs**
  - Substantial peat accumulation
  - High water table
  - acid-tolerant vegetation
  - Closed system – no inflow/outflow to surrounding groundwater or surface water

- **Fens**
  - Substantial peat accumulation
  - Open drainage systems – receive water from surrounding systems
  - Higher nutrient content/more species than bogs

- **Marshes** (emergent wetlands)
  - Flooded frequently or continually
  - Leafy and grassy vegetation adapted to saturated soil
  - Clumps and islands of vegetation

- **Shallow water** (aquatic beds)
  - Shallow, open water with small bodies of standing or gently flowing water
  - Transitional stage between lakes and marshes
  - Submerged or floating vegetation

- **Shrub Wetlands**
  - Associated with stream and river bottoms, spring seepage areas
  - Flooded for varying periods
  - Dominated by shrubby species such as alder, sweet gale, winterberry, lambkill, bog rosemary etc.

- **Forested wetlands**
  - Still or slowly flowing water around lakes, floodplains and oxbow lakes
  - Flooded for part of the year with water from lakes, rivers, spring runoff or groundwater

Coastal

- **Coastal Marshes**
  - Some of the most productive areas on earth
  - Drain directly into coastal waters
  - Partially inundated with salt or brackish water

Functions and Values

Wetlands, beyond providing critical habitat and wintering areas to a multitude of species, are vital in maintaining water quality and availability.

- Wetlands help to mediate the effects of flooding by holding and slowly discharging runoff
- Transfer water to underground aquifers
- Trap and filter out sediments

- Stabilize sediments
- Nitrogen and phosphorous are major pollutants, originate as fertilizer - Wetlands retain nutrients in vegetation and sub-soils preventing nutrient overloading and improving water quality
- Habitat for all manner of fish and wildlife
- Recreational areas, tourist attraction, multiple use values etc.

New Regulations for Wetlands Conservation and Management

Resource extraction, agriculture, recreational activities and development have been fragmenting, encroaching upon and isolating wetlands for centuries. The new wetland conservation regulations are designed to help protect New Brunswick's remaining wetlands.

DNRE and DELG worked together to develop the new policy beginning in 1993. Since that time, they have mapped and identified all wetland complexes in New Brunswick. Wetlands of exceptional importance have been deemed provincially significant and are ineligible for any alteration or activities which may have negative impacts upon their functioning.

NB Wetlands Conservation Policy

The Government of New Brunswick will:

- Ensure no loss of Provincially Significant Wetland habitat, and no net loss of wetland function for all other wetlands that are larger than 1 hectare (2.5 acres) in size.
- Promote and develop wetlands conservation education, stewardship and securement initiatives.

Provincially Significant Wetlands (PSW) under the new policy are wetlands that may include or contain:

- Remnants of formerly widespread wetland type (e.g. coastal marshes)
- Sites managed or set aside for conservation
- Endangered species or those with special status
- Significant species diversity/assemblages
- Significant hydrologic value
- Significant social or cultural value

NB Clean Water Act

The NB Clean Water act was amended April 11, 2003 to include the term wetland.

- The term wetland was added to the text: "a watercourse or wetland" and "Within 30 m of a wetland or the bank of a watercourse"
- Name changed to "Watercourse and Wetlands Alteration Regulation" (WAWA) as opposed to the original "Watercourse Alteration Regulation"
- Any activity in or within *30m of a wetland greater than 1 hectare (2.5 acres) in size or if it connected to a watercourse, requires a permit from the DELG.

*30 metres is measured form the outer edge of the wetland

To clarify, previous to this amendment only watercourses appearing on the 1:10 000 ortho-photos required a permit to allow any activities within the designated 30m buffer. Since the inclusion of wetlands, any wetland greater than 1 hectare in size also requires a permit. If wetlands smaller than 1 hectare are part of a watercourse, they require a permit, regardless of size. Even if the watercourse associated with a wetland less than 1 hectare in size ***does not appear*** on the 1:10 000 maps, ***a permit is still required***. The size of the watercourse does not matter. If there is any flow into or out of a wetland at some point during the year, a permit is required regardless of size.

Examples

To help minimize confusion over these new regulations, a few examples have been provided below.

1. A 0.2 hectare (0.5 acre) patch of seasonally flooded alders meeting the definition of a wetland with no inflow or outflow – ***Would not require a permit***

2. An intermittent stream not appearing on the 1:10 000 ortho-photos – ***Would not require a permit*** – Although you are still obligated to prevent and liable for any alteration occurring as a result of your actions

3. A 0.2 hectare (0.5 acre) patch of seasonally flooded alder meeting the definition of a wetland with an intermittent stream not appearing on the 1:10 000 ortho-photo flowing out of it ***WOULD REQUIRE A PERMIT*** .

Clean Environment Act

Bill 19 received Royal ascent April 11, 2003. It specifies that DELG and DNRE Ministers can designate Provincially Significant Wetlands as "protected areas" in law, by the Wetland Designation order

The Environmental Impact Assessment Regulation falls under the Clean Environment Act, and requires an Environmental Impact Assessment for any activity affecting a wetland greater than 2 hectares (5 acres) or more in size. This regulation is enforced jointly with the Watercourse and Wetlands Alteration Act

Available Tools

There are several resources available to those with questions pertaining to the Clean Water Act and Clean Environment Act.

- DNRE has developed a GIS wetlands inventory which identifies wetlands that fall under the new regulations.
- Service New Brunswick has a GIS layer of coastal features identifying coastal wetlands

People

There are several sources of information at your disposal should you need help with the new regulations.

- DNR regional and district offices
- DNR fish and wildlife branch
- DELG regional office
- DELG Fredericton office
- Local wood products marketing board
- INFOR Inc.