

**VERMONT AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**PETITION TO THE VERMONT NATURAL RESOURCES BOARD
TO UPDATE THE VERMONT SIGNIFICANT INVENTORY MAPS**

Nature and Purpose of Petition:

Pursuant to §7.1 of the Vermont Wetland Rules (VWR), the Vermont Agency of Natural Resources (ANR) submits this petition to the Vermont Natural Resources Board (NRB) to adopt revisions to the Vermont Significant Wetland Inventory (VSWI) Maps. The proposed revisions include significant wetlands that have been identified by the US Fish and Wildlife Service National Wetlands Inventory (NWI) since the original maps were adopted in 1990.

Reason for Petition:

The original VSWI maps were adopted from the NWI maps in existence as of 1990. A study done by ANR in 1988 demonstrated that, based on a small sample of mapped wetlands, most wetlands (95%) shown on the NWI are wetlands and 94% of those are significant wetlands (have a suite of wetland functions or serve a high level of one wetland function).

The proposed map updates cover the entire state, including all towns in the state. For areas of the state where no new mapping has been undertaken, there will be few changes from the existing maps. In some areas of the state, as listed below, the NWI has used more recent imagery along with the original data to update the maps; and the entire state has been digitized.

Consistency of Proposed Petition with Applicable State and Federal Law:

This Petition is being submitted to the NRB in accordance with Section 7.1 of the VWR. This Petition is consistent with 10 V.S.A. Chapter 37, Section 905b, the VWR and federal law.

Description of Affected Wetlands and Buffer Zones:

The wetlands shown on the updated VSWI maps are of the same types as shown on the original maps:

Palustrine forested, scrub-shrub, emergent, aquatic bed and open water wetlands generally greater than 0.5 acres in size. The buffer zones range from highly developed to 100% forested. The affected wetlands are state-wide and are primarily in areas where newer imagery has been used to refine the original maps

People, Enterprises, and Governmental Entities Potentially Affected by Map Updates and Associated Costs and Benefits

Owners of property with wetlands and buffers affected by this Petition will be impacted. Potential affected property owners include private individuals, businesses and governmental entities. The anticipated impact is that additional landowners with projects that impact wetlands or buffers will need to apply for a conditional use determination (CUD) and may need to hire a wetland consultant.

Property owners of a buffer or wetland that were previously not reflected on the VSWI maps will be impacted. These property owners will now be potentially subject to wetlands regulation. This impact is somewhat mitigated by the fact that their property is already potentially subject to regulation through the concept of “contiguous wetlands.” Contiguous wetlands are currently regulated, although they may not be on the VSWI maps and the property owner has no notice of such contiguity. Given the reality of “contiguity,” property owners of wetlands and buffers that will be included for the first time on the VSWI maps through the proposed update will actually be on better notice that they are subject to wetlands regulation.

There will be real benefits to wetlands protection through this map update. The current VSWI maps underestimate the resource and protection of significant wetlands is negatively impacted. This inaccuracy also puts property owners at risk of inadvertently impacting wetlands that are currently subject to regulation through the concept of “contiguity.” This makes puts property owners at risk for potential enforcement actions by regulatory agencies, as well as private litigation as a result of property transfers.

Contact Persons:

Questions regarding this petition and the maps should be directed to:
Alan Quackenbush, State Wetlands Coordinator at 802-241-3761 or
alan.quackenbush@state.vt.us.

Questions regarding the petition process and rulemaking should be directed to the Natural Resources Panel:

John Hasen, Esq. General Counsel: 802-828-5444

Melanie Kehne, Esq. Assoc. General Counsel: 802-828-3305

Counties with Updated NWI Maps & Counties with Older NWI Maps
(An individual County may include NWI maps updated in different years)

Recent NWI Mapping (2000 to Present)

Addison County
Bennington County
Chittenden County (North & West)
Franklin County
Grand Isle County
Rutland County
Windham County
Windsor County

NWI Mapping 1990 – 1999 (or Older)

Addison County
Caledonia County
Chittenden County (East only)
Essex County
Lamoille County
Orange County
Orleans County
Washington County
Windham County
Windsor County

Links to this petition and the proposed maps may be found at:
<http://www.vtwaterquality.org/wetlands/htm/VSWIPetition.htm>

AFFIDAVIT

I, Alan Quackenbush, being duly sworn, hereby certify that:

1. My name is Alan Quackenbush, and I am the Wetlands Section Chief in the Water Quality Division, Department of Environmental Conservation (Department), Vermont Agency of Natural Resources (ANR).
2. A copy of the “Petition to the Vermont Natural Resources Board to Update the Vermont Significant Inventory Maps” (Petition) has been provided to the clerk and planning commission of each Vermont municipality (city, town or village) in which the wetlands or buffer zones that are subject to this petition are located, and with each regional planning commission serving the geographical area in which the wetlands or buffer zones are located.
3. The Petition has been posted on the Department’s website at <http://www.vtwaterquality.org/wetlands/htm/VSWIPetition.htm>
4. The maps that accompany the Petition, in digital form, a description of the Petition, including a description of the proposed map updates, and a listing of where complete copies of the Petition and accompanying maps have been provided, by publication on the Department’s website, to all persons owning property within or adjacent to the wetlands and buffer zones in question.

Alan Quackenbush

Subscribed and sworn to before me this ____ day of _____, 2009

Notary Public

My commission expires: