



Determining Buffer Zones and Applicability of the Buffer Standards

Freshwater Wetlands Rules (250-RICR-150-15-3)

1. Determine what Region the property and project/activity is in by consulting the interactive map found at <https://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=9a067e507b514a5397cd1ea041f9ba0f>:
 - a. Determine whether the property and project/activity is also within the watershed of a Drinking Water Supply Reservoir (DWSR) using the same interactive map.
2. Determine the freshwater wetland type and, if applicable, the subtype:
 - a. Definitions of freshwater wetlands, including rivers, streams, and ponds are found in Rule 3.4; and
 - b. Descriptions of wetland subtypes are found in Rule 3.23(E).
3. Determine whether the wetland is a rare wetland type or whether rare species are present (consultation with a professional biologist will likely be required):
 - a. Rare wetland types are provided in the definition of "Rare" in Rule 3.4(A)(57), some of which are further described in Rule 3.23(E).
 - b. Recognized rare animals in RI are listed within "Rare Native Animals of Rhode Island" (2006) as noted in Rule 3.3(A).
 - c. Recognized rare plants in RI are listed within "Rhode Island Rare Plants" (2016), prepared by the Rhode Island Natural History Survey as noted in Rule 3.3(B).
 - d. If no rare wetland types or rare species have been identified, the Buffer Zone is as determined in Steps 4 and 5 below.
 - e. If a rare wetland type or rare species are present, the Buffer Zone will be as determined by the Department. There are several options for applicants to proceed in this case, including:
 - Submit a Request to Determine the Presence of Jurisdictional Area (Rule 3.9.2) or a Request to Verify Wetland Edges (Rule 3.9.3), and have the Department determine the applicable Buffer Zones up front.
 - Design any project to remain outside of the Jurisdictional Area limits, since no Buffer Zone can exceed that distance.
 - Design a project with a proposed Buffer Zone based on the needs of any rare species or rare wetland type, with supporting documentation provided by a professional biologist, recognizing that this may be adjusted by RIDEM upon review.

4. Determine the designated Buffer Zone within Rules 3.23(H) and 3.23(I) for each wetland type identified:
 - a. If necessary, determine the size of the wetlands (for ponds and vegetated wetlands) or the specific segment (for rivers).
 - b. For rivers and ponds, Buffer Zone designations will be available as a GIS coverage found at: <https://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=2d0393d182204c1d881dcd9df732804e>
5. In the case of vegetated wetlands, determine whether a different wetland type or subtype is present 50 feet or less inward of the upland/wetland edge. Per Rule 3.23(F)(2):
 - a. If not present, the Buffer Zone is as determined per Rules 3.23(H) and (I) above;
 - b. If present, the Buffer Zone increases by 25 feet at all points where the differing wetland type or subtype is less than 50 feet inward from the wetland edge, unless the Buffer Zone is already at the maximum Jurisdictional Area limit; and
 - c. For purposes of determining whether a differing wetland type or subtype is present less than 50-feet inward from a wetland edge, such types may consist of 1) any stream, river, pond or vernal pool of any width or area, or 2) vegetated freshwater wetland of a differing wetland type or subtype provided that the differing vegetated wetland type or subtype is detectable using acceptable mapping conventions, which generally includes areas that are one quarter (0.25) acre or more in area.

After the above steps, you will have determined the Buffer Zone for each applicable freshwater wetlands you identified. However, for proposed projects, extra steps are necessary to determine the applicability of the Buffer Standards and whether a project will meet those Standards, as follows:

6. Determine if the proposed new construction of an individual residential lot of record meets the definition of an “Infill Lot” development (Rule 3.7.1(B)(5)(A)). An Infill Lot meets all of the following criteria:
 - a. Has frontage on an existing road (no paper streets);
 - b. Has adjacent lots on both sides that are developed;
 - c. Is equal to or less than one acre in size; and
 - d. Is all undeveloped vegetated land.
7. If the proposed new construction of the individual residential lot of record **can** be designed to meet the normal Buffer Standard of 3.7.1(B)(3) by avoiding all work within the Buffer Zone associated with any wetlands on site, it **must be**. If it cannot be, the Residential Infill Lot Buffer Standard description in Rule 3.7.1(B)(5)(b), and the minimum buffer and setback distances specified in the table in Rule 3.7.1(B)(5)(c) (inserted below) are to be used as the Buffer and Setback Standard.

Table 1. Minimum buffer and setback distances

Residential Infill Lot Size	Buffer Width	Setback
Less than 10,000 square feet	15 feet	Buffer plus 15 feet
Equal to or greater than 10,000 square feet and less than 20,000 square feet	25 feet	Buffer plus 15 feet
Equal to or greater than 20,000 square feet (and less than or equal to 43,560 square feet)	50 feet	Buffer plus 15 feet

8. For any lot that is not an Infill Lot as described above, determine if the Buffer Zone consists entirely of Undeveloped Vegetated Land.
 - a. If it is entirely Undeveloped Vegetated Land, the Buffer standard is met if all activity is kept out of the Buffer Zone as determined in Rules 3.23(F), (H) and (I).
 - b. If it is not, continue to #9.

9. Determine if the lot contains one or more “existing” structures.
 - a. If it does contain one or more “existing” structures, continue to #10.
 - b. If not, the applicable Buffer standard is to avoid the existing buffer, **and** to create additional buffer so as to target a total buffer width consisting of the “existing” buffer plus created buffer equal to:
 - 50% of Buffer Zone, not to exceed 50 feet, for lots one acre or greater in size;
 - 15-feet for lots less than 1 acre in size.

10. For lots that have a structure that is **not a single-family residential structure**, determine 1) if the lot is greater than or equal to 3 acres, and 2) if the project proposes disturbance of 10,000 square feet or greater:
 - a. If the lot is greater than or equal to 3 acres and the project proposes disturbance of 10,000 square feet or greater, the minimum target of “existing” buffer plus created buffer area must be 25-feet in River Protection Regions 1 and 2, and 15-feet in the Urban Region.
 - b. If not, there is no buffer creation requirement. The Buffer standard is to avoid work within any portion of the designated Buffer Zone that is considered “buffer.”

A complete copy of the RIDEM Freshwater Wetlands Rules, fully effective on July 1, 2022, can be found at the RIDEM website at <http://www.dem.ri.gov/newwetlandrules>. They may also be obtained from the RIDEM Office of Customer and Technical Assistance located at the Foundry Corporate Office Complex at 235 Promenade Street, Providence (401 222-6822).

Disclaimer: This Fact Sheet is for general information purposes and is not meant to be used as a substitute for the Freshwater Wetlands Act (R.I. Gen. Laws §§ 2-1-18 et. seq.) or the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act (250-RICR-150-15-3).