

Vernal Pool Regulations: What do we need to know?

March, 2008

Maine Department of Environmental Protection



What is a vernal pool and why are they important?

Vernal pools are temporary to semi-permanent pools occurring in shallow depressions that typically fill during the spring or fall and may dry during the summer or in drought years). They provide the primary breeding habitat for wood frogs, spotted and blue-spotted salamanders and numerous insects/spiders adapted to temporary, fishless waters. They also provide important feeding and resting areas for other animals, including several of the Region's rare and endangered species, moose, bear, deer, mink, and migrating spring birds and waterfowl.

Significant Vernal Pools (SVPs) are now regulated

In general, a vernal pool habitat is considered significant wildlife habitat if it has high habitat value. A vernal pool is *Significant* if it meets *one* of the following criteria:

1. supports a state-listed threatened or endangered species;
2. supports abundant egg masses of any one of the following amphibian indicator species: spotted salamanders, blue-spotted salamanders, and wood frogs (egg mass numbers vary with species and were based on extensive surveys of pools throughout Maine);
3. supports fairy shrimp.

Please note: More than half of all Maine vernal pools are NOT considered "significant."

As of September 1, 2007, the Maine Department of Environmental Protection began to regulate disturbances around significant vernal pools under the Natural Resources Protection Act (NRPA). Development within 250 ft of a Significant Vernal Pool now requires a DEP permit.

Who is responsible for identifying SVPs?

The new State law puts the burden of proof on developers and individual landowners to show that their development will not impact vernal pools – there is no State map or list of vernal pools. Unless vernal pools are proactively identified and mapped, the DEP rules state that significant vernal pools can only be identified by trained individuals during the peak spring breeding season. Under this rule, development will have to be postponed until a spring assessment can be made or the landowner may begin development at any time if they proceed as if the pool were Significant thereby adhering to the regulatory limits on development within the 250 foot zone.

I have questions, need hard copies of materials, or would like to request a field determination.

Contact your nearest DEP regional office, and ask to speak to the "on-call" person in the Land & Water Bureau, Division of Land Resource Regulation. **Central ME Regional Office**, 17 StateHouse Station, Augusta, ME 04333-0017; Phone: 207-287-3901 (bureau) or 1-800-452-1942 (department).

Towns Currently Engaged in or who have completed Vernal Pool Mapping Projects

Falmouth (2004), Brunswick, Kennebunk, Orono, Scarborough, Veazie

Natural Resource Planner, Brunswick

With this new law in effect, it will be important to know where vernal pools exist in Brunswick. This knowledge would help landowners and the Town plan development around the pools so as to make it as easy as possible to meet State regulations. Most recently, for example, I was asked if any vernal pools exist at the possible business park sites. Without a GIS map layer of significant vernal pools, I cannot provide guidance in this matter. The new State law puts the burden of proof on developers to show that they will not impact vernal pools – there is no State map or list of vernal pools. Unless vernal pools are proactively identified and mapped, the DEP rules state that significant vernal pools can only be identified by trained individuals during the short spring breeding season. This requirement has the potential to cause delays in project approval. Therefore, I propose that the Town of Brunswick expedite the development process by completing a survey of potential vernal pools and developing a map layer that that could be used during project planning and assessment.

Conservation Commission Member, Falmouth (Pools mapped by citizen scientists in 2005)

Since completing its town-wide vernal pool survey in 2005, Falmouth has been working to identify and survey additional pools, to improve protection, and to increase public awareness of their importance in the ecosystem. Falmouth has recently begun a comprehensive review of the natural resource regulations in its Zoning Ordinance. Building on the recently enacted State vernal pool protections, the present goal is to update town ordinances in order to provide the appropriate level of protection for vernal pools and build in flexibility to minimize the inappropriate impact on landowners. Falmouth is evaluating ordinance language for vernal pools based on scientific principles as well as established Best Management Practices.

Town Planner, Orono

Most citizens and taxpayers of our community want to preserve wildlife habitat and water quality. But in preserving these things, most also do not want to see landowners whose lands happen to contain important habitat financially injured or their property rights unduly restricted. Vernal pools are just beginning to be understood by many average citizens and could affect many landowners who were unaware of their existence when they bought their land, and so the chance that they may be caught off guard, especially if they may wish to subdivide or develop their property in the future, is high. The best defense against surprise is good information. Now that vernal pools are regulated under the Natural Resources Protection Act, the Town of Orono believes it is providing a valuable service to its citizens and landowners by offering the opportunity for identifying and receiving a free assessment of vernal pools. This way, if there is a significant vernal pool on a landowner's property, the landowner can plan accordingly, before investing time, money and expectations in a development idea that will need to be changed because it did not take into account this habitat.

Conservation Commission Member, Scarborough

Though vernal pool documentation is the responsibility of a landowner or developer, the Conservation Commission feels that there is a clear benefit to the Town. We feel the a town-wide survey by an experienced evaluator will provide a consistent study, protect the resource, allow future monitoring of the pools as desired, and be a benefit to land owners.