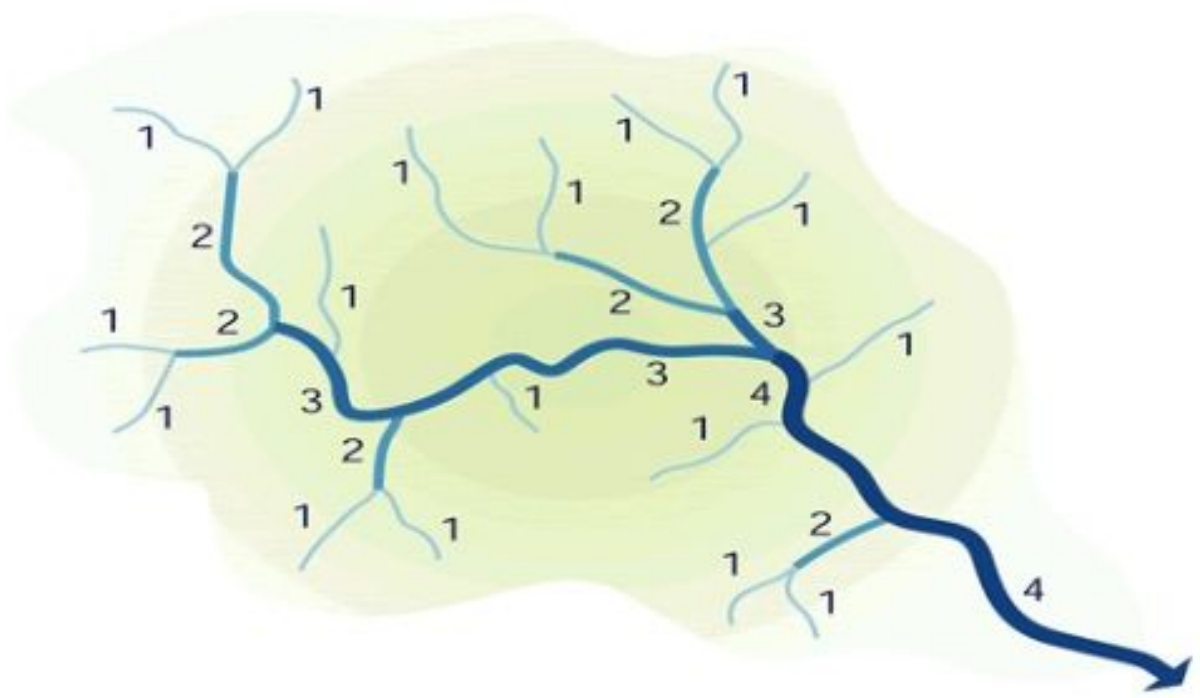


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# Buffer Options *for the* Bay

## NAVIGATING REGULATIONS: WHAT'S PROTECTED? WHAT'S NOT?

In New Hampshire a majority of buffer regulations are determined at the municipal level because 85 percent—or 16,000 miles—of the state's streams are 1st, 2nd or 3rd order and therefore are beyond the reach of the state's [Shoreland Water Quality Protection Act \(SWQPA\)](#) and federal regulations. Towns are able through state statute ([RSA 647:16](#)) to implement stricter regulations than the state standards and many have. ([CLICK HERE](#) to explore the state authority and structure for town board land use planning.) The [Innovative Land Use Planning Techniques Handbook](#) provides model buffer ordinance language for towns in addition to many other sustainable development techniques. [RSA 674:21](#) outlines many of the land use control options municipalities can utilize to regulate buffer zones. Check with your town's Planning Board or Conservation Commission to find out what is regulated in your community. For an overview of how buffers are implemented town-by-town around the Great Bay Estuary explore the [Piscataqua Region Environmental Planning Assessment \(PREPA\)](#).



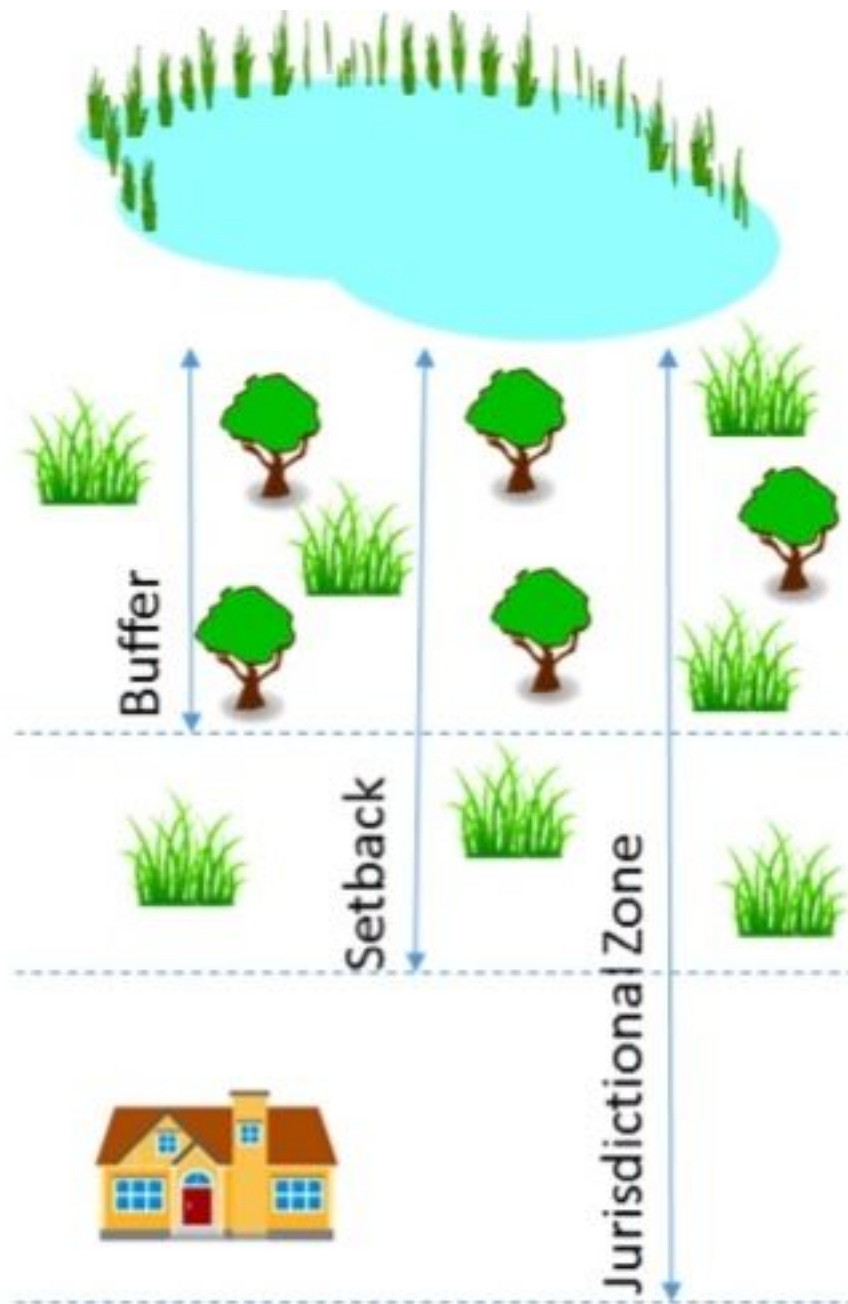
*This graphic shows a stream system and how low order streams converge to form 4th order streams. State and federal protections for freshwater start at 4th order streams. To see a map of all 4th order and higher streams in the state [CLICK HERE](#).*

At the state level, [RSA 482-A: Fill and Dredge in Wetlands](#) creates several zones to protect wetland areas, however, only some encompass buffers. These include prime wetland buffers—defined as a 100-foot upland buffer for wetlands designated as [prime](#) by a municipality—and tidal buffer zones, or the areas extending landward 100 feet from the highest observable tide line.

The [Shoreland Water Quality Protection Act \(SWQPA\)](#) also protects a 150-foot wide vegetated buffer in specific contexts. These include public waters, ponds, and impoundments greater than 10 acres, all lakes, [4th order and greater streams and rivers](#), rivers and river segments designated under the Rivers Management & Protection Act, and all waters subject to the ebb and flow of the tide, including tidal marshes, rivers, and estuaries.

If a stream, river, or wetland is not designated as “prime,” or is less than fourth order, no buffer protection is mandated by the state. However, under [RSA 482-A:15](#) and Administrative Rules [Env-Wt 700](#), a municipality may designate wetlands as

“prime” if they are determined to be of high-quality, i.e, of large size, unspoiled character, and able to sustain populations of rare or threatened plant and animal species.



For more information about buffer regulations at the local, state, and federal level, see BOB's [Relevant Synthesis of Policy Options](#) or refer directly to the following resources:

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- The federal government’s jurisdiction is found under [Section 404 of the Clean Water Act](#). The United States Army Corps of Engineers (USACE) carries this out by issuing a [Programmatic General Permit](#) in New Hampshire.
  - State jurisdiction over these activities can be found in [RSA 482-A: Fill and Dredge in Wetlands](#) and the NHDES [Administrative Rules Env-Wt 100 through Env-Wt 800](#). [RSA 482-A: 2,X](#)
  - The state’s [Shoreland Water Quality Protection Act \(SWQPA\)](#) establishes minimum standards for the subdivision, use, and development of shorelands adjacent to public water bodies. Waterbodies protected under SWQPA are located on the [Consolidated List of Water Bodies](#).
  - Municipalities may designate wetlands under [RSA 482-A:15](#) and Administrative Rules [Env-Wt 700](#), as “prime” if they are determined to be of high-quality, i.e, of large size, unspoiled character, and able to sustain populations of rare or threatened plant and animal species.

[CLICK HERE](#) for a printable summary of the regulatory structure in New Hampshire.