Proponent: Susan Gitlin, US Environmental Protection Agency, representing US Environmental Protection Agency (gitlin.susan@epa.gov)

Revise as follows:

402.4 Wetland protection. Building and building site improvements shall not be located within a wetland or within a buffer buffer as established by the jurisdiction around the wetland. The width of the buffer shall be not less than the minimum buffer width shown in Table 402.4 or otherwise established by the jurisdiction.

Exception: Buildings and associated site improvements specifically related to the use of the wetland including, but not limited to, piers, docks, fish hatcheries, and habitat restoration facilities, shall be permitted where the impacts of the construction and location adjacent to or over the wetland on the habitat are mitigated.

<table>
<thead>
<tr>
<th>Wetland area (Acres)</th>
<th>Minimum buffer width (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; 5</td>
<td>50</td>
</tr>
<tr>
<td>5 to 30</td>
<td>75</td>
</tr>
<tr>
<td>&gt; 30</td>
<td>100</td>
</tr>
</tbody>
</table>

*For wetlands with surrounding slopes equal or greater to 10 percent but less than 15 percent, an additional 10 feet of buffer shall be added. For surface waters with surrounding slopes equal or greater than 15 percent but less than 20 percent, an additional 15 feet shall be added. For areas with surrounding slopes equal to or greater than 20 percent, an additional 30 feet shall be added.

Reason: Buffer” is defined in Chapter 2, but is not italicized in Chapter 4, so we recommend that this editorial correction be made. Section 402.4 requires that buildings and site improvements stay outside of a buffer area. The width (distance) of the buffer is left to be determined by the jurisdiction, which many jurisdictions could find burdensome. The default for the buffer distance is therefore effectively zero, which would be at odds with the intent of the section. This proposal presents a set of buffer distances that would serve as the default set of distances should the jurisdiction not be prepared to set the distances, or serve as guidance for a jurisdiction in its decision-making.

The distances provided in this table are based on scientific studies of the contributions of various-sized buffers to the protection of wetlands, as well as on studies of the approaches to setting buffer distances adopted in ordinances.

The proposed table calls for increased distances for wetlands located next to slopes of 10% or greater, as slopes are prone to increased erosion and runoff, both of which can damage water quality through increased loading of sediment and various pollutants. This reduces the ability of the water body to effectively filter pollutants and hurts its ecological productivity.

Bibliography:


Cost Impact: Will not increase the cost of construction