

## CHAPTER Env-Wt 100 DEFINITIONS; ACCESS TO RECORDS

Statutory Authority: RSA 482-A:11, I

## PART Env-Wt 101 DEFINITIONS INCORPORATED

Env-Wt 101.01 Definitions Relating to Coastal Lands and Tidal Waters. Terms in subtitle Env-Wt relating directly to coastal lands and tidal waters shall have the meanings specified in Env-Wt 602.

Env-Wt 101.02 Definitions Relating to Stream Crossings. Terms in subtitle Env-Wt relating directly to stream crossings shall have the meanings specified in Env-Wt 902.

Env-Wt 101.03 Terms Defined in Best Management Practices Manuals. Any term defined in a best management practices manual shall have the meaning assigned in the manual for any activity being conducted in accordance with the manual.

## PART Env-Wt 102 DEFINITIONS: A THROUGH E

Env-Wt 102.01 “100-year floodplain” means those areas identified as a 100-year floodplain on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, available at <https://www.nh.gov/osi/planning/programs/fmp/maps.htm>.

Env-Wt 102.02 “Abandoned” means a structure has not been maintained for 5 years or more and is no longer in a functional and intact condition for its original intended use.

Env-Wt 102.03 “Abutter” means any person who holds title to abutting property or who owns flowage rights on abutting property.

Env-Wt 102.04 “Abutting property” means any property immediately contiguous to the property on which a project has occurred or is proposed, provided that:

(a) The term does not include any property that is separated by a public road from the property on which a project has occurred or is proposed, or that is more than ¼-mile from the limits of the work or proposed work;

(b) For any project located on the shoreline of a surface water body, the term includes any property within 100 feet of the shoreline impact in any direction;

(c) For any project that will impact a watercourse, the term includes any property within 100 feet upstream or downstream of the impact area; and

(d) If an abutting property is owned in whole or in part by the person who undertook the work or is proposing to undertake the work, or is necessary to meet a frontage requirement, the term includes the next contiguous property, subject to the ¼-mile limitation.

Env-Wt 102.05 “Accessory docking structure” means a structure that is supplemental to a docking structure that assists in securing watercraft or protecting the docking structure or watercraft, such as, for example, a canopy, dolphin, ice cluster, personal watercraft lift, or watercraft lift.

Env-Wt 102.06 “Administratively complete” means that the application or notification package contains all items and information required by the applicable provisions in Env-Wt 300.

Env-Wt 102.07 “After-the-fact application” means an application for a permit or other approval under RSA 482-A that is filed after work on the project covered by the application has been started or is complete.

Env-Wt 102.08 “After-the-fact permit” means a permit or other approval issued based on an after-the-fact application.

Env-Wt 102.09 “Applicant” means a person having a legally-recognized interest in the land on which work in a jurisdictional area has been undertaken or is proposed to be undertaken that is sufficient for the

person to have, or to obtain, an enforceable proprietary interest in the land and legally proceed with the project if the appropriate approval is issued, who has applied for a permit, permit modification, waiver, or other approval pursuant to subtitle Env-Wt and in whose name the permit will be issued if the application is approved.

Env-Wt 102.10 “Application” means an application for a permit-by-notification (PBN) under Env-Wt 309, an expedited permit (EXP) under Env-Wt 310, or a standard permit under Env-Wt 311.

Env-Wt 102.11 “Authorized agent” means the individual who has been legally authorized by an applicant to represent the applicant’s interests in connection with an application or other request.

Env-Wt 102.12 “Avoidance” means not impacting jurisdictional areas if there is a practicable alternative to the proposed project that would have less impact on the aquatic ecosystem or jurisdictional areas, so long as the alternative does not have other significant adverse environmental consequences and is consistent with 40 CFR 230.10(a). *amended effective 12-24-2019*

Env-Wt 102.13 “Avoidance, minimization, mitigation” means the 3-step sequence an applicant must follow to eliminate adverse impacts to jurisdictional areas to the maximum extent practicable.

Env-Wt 102.14 “Avoid and minimize” means to avoid impacts to the maximum extent practicable and then minimize those impacts that cannot be avoided.

Env-Wt 102.15 “Bank” means the transitional slope adjacent to the edge of a surface water body, the upper limit of which is usually defined by a break in slope, or for a wetland, where a line delineated in accordance with Env-Wt 400 indicates a change from wetland to upland.

Env-Wt 102.16 “Beach” means an area immediately adjacent to a surface water composed primarily of sand, gravel, or cobble.

Env-Wt 102.17 “Best management wetlands practices for agriculture (Agriculture BMWPs)” means “Best Management Wetlands Practices for Agriculture” dated 2019, published by the New Hampshire department of agriculture, markets, and food, available as noted in Appendix B.

Env-Wt 102.18 “Best management practices for avoidance and minimization (A/M BMPs)” means “Wetlands Best Management Practice Techniques For Avoidance and Minimization” dated 2019, published by the New England Interstate Water Pollution Control Commission, available as noted in Appendix B.

Env-Wt 102.19 “Best management practices for forestry operations (Forestry BMPs)” means “New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” dated 2016, published by the university of New Hampshire cooperative extension, available as noted in Appendix B.

Env-Wt 102.20 “Best management practices for control of invasive plants (Invasive Plant BMPs)” means “Best Management Practices For the Control of Invasive and Noxious Plant Species” dated 2018, published by NHDOT, available as noted in Appendix B.

Env-Wt 102.21 “Best management practices for marinas (Marina BMPs)” means “Best Management Practices For New Hampshire Marinas” dated 2001, published by the department’s pollution prevention program, available with other assistance for marinas at <https://www.des.nh.gov/organization/commissioner/p2au/pps/ppmpp/index.htm>.

Env-Wt 102.22 “Best management practices for routine roadway maintenance (Routine Roadway BMPs)” means “Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire” dated 2019, published by NHDOT, available as noted in Appendix B.

Env-Wt 102.23 “Best management practices for trail construction and maintenance (Trail BMPs)” means “New Hampshire Best Management Practices for Erosion Control During Trail Maintenance and Construction” dated 2017, published by NH DNCR, available as noted in Appendix B.

Env-Wt 102.24 “Best management practices for utility maintenance (Utility BMPs)” means “Best Management Practices Manual, Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire” dated 2019, published by NH DNCR, available as noted in Appendix B.

Env-Wt 102.25 “Best management practices for water quality (Water Quality BMPs)” means recommended practices for minimizing or preventing the direct or indirect discharge of sediment or other pollutants into surface waters and wetlands, including those listed in Env-Wt 307 and the Agriculture BMPs, Forestry BMPs, Marina BMPs, Invasive Plant BMPs, Routine Roadway BMPs, Trail BMPs, and Utility BMPs.

Env-Wt 102.26 “Bioengineered bank stabilization” means a design method that uses live vegetation and woody material in combination with natural and synthetic materials for slope stabilization, erosion reduction, and vegetation establishment. The term includes soft vegetative stabilization and bioengineered stabilization.

Env-Wt 102.27 “Boardwalk” means an elevated walkway designed for use by pedestrians or non-motorized vehicles, or both, to allow access over wetlands or surface waters, or both, from upland to upland or from upland to navigable frontage.

Env-Wt 102.28 “Boat slip” means “boat slip” as defined by RSA 482-A:2,VIII, reprinted in Appendix C.

Env-Wt 102.29 “Boathouse” means a docking structure having a permanent roof covering one or more boat slips, that may have permanent or removable sidewalls.

Env-Wt 102.30 “Bog” means a wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, highly acidic soil conditions, highly acidic water conditions, or any combination thereof, as determined using the federal classification method.

Env-Wt 102.31 “Breakwater” means a structure extending from near the shore into a surface water that is designed as a solid structure resting on the bed of the surface water to protect sections of shoreline, docking structures, anchorage areas, or navigational channels from deposition of sediment, erosion, or other damage from waves or currents. The term includes “jetty”.

Env-Wt 102.32 “Bulkhead” means a retaining wall built along a waterfront to contain fill.

Env-Wt 102.33 “Canopy” means a seasonal structure having a roof that is not designed or constructed to withstand an average snow load for the location in which it is installed and that does not have side walls, which is erected to shelter watercraft during the boating season.

Env-Wt 102.34 “Certified professional erosion and sediment control specialist (CPESC specialist)” means an individual certified by EnviroCert International, Inc.® as competent to develop and implement erosion and sediment control practices.

Env-Wt 102.35 “Certified wetland scientist” means “certified wetland scientist” as defined in RSA 310-A:76, II-a, reprinted in Appendix C.

Env-Wt 102.36 “Commercial docking structure” means a docking structure that is allowed by its owner(s) to be used by others with the expectation that compensation or other consideration will be provided to the owner(s) of the structure. The term does not include a docking structure that is used coincidentally with the use of real property to which the structure is appurtenant pursuant to the lease, sale, rental, or other temporary or permanent conveyance of an interest in the real property, and does not include a docking structure serving a private single-family residence where less than half of the slips are rented or leased.

Env-Wt 102.37 “Commissioner” means the commissioner of the department of environmental services.

Env-Wt 102.38 “Compensatory mitigation” means activities or projects designed to offset the unavoidable permanent impacts of a project through the preservation of land or the restoration,

enhancement, or creation of a wetland, by replacing or partially replacing wetlands functions and values lost due to the project.

Env-Wt 102.39 “Conservation area” means an area of land legally protected so as to restrict the future use or development of the property in perpetuity, such as by a conservation easement.

Env-Wt 102.40 “Conservation commission” means a municipal body established under RSA 36-A with statutory authority under RSA 482-A to submit comments on applications to the department.

Env-Wt 102.41 “Conservation project” means a project to access, maintain, improve, or further protect a conservation area.

Env-Wt 102.42 “Construction activity” means any activity that creates, constructs, installs, erects, or otherwise places any structure, as defined by RSA 482-A:2, IX, in a jurisdictional area.

Env-Wt 102.43 “Continued agricultural use” means that a wetland has been managed or otherwise maintained as cropland or pasture for agricultural purposes for a period of 5 years or more, such that the land has not reverted to a scrub-shrub wetland, emergent marsh, or forested wetland.

Env-Wt 102.44 “Corduroy” means logs, limbs, or branches placed perpendicular to the direction of travel to provide support for logging equipment crossing a wet area that has no standing water, no defined channels, and no vernal pools.

Env-Wt 102.45 “Crib” means an enclosure or framework of durable material, such as timber or prefabricated concrete, that is securely fastened together and filled with an inert ballast, such as stone, that typically is used to support a docking structure in the water.

Env-Wt 102.46 “Cropland” means land that is used to grow plant species adapted for harvest, alone or in rotation with grasses and legumes. The term includes areas dedicated to vegetables, grain, hay, pasture, fodder, plant fiber, sod, nursery stock, orchards, and similar products.

Env-Wt 102.47 “DataCheck” means the results of using the DataCheck tool.

Env-Wt 102.48 “DataCheck tool” means an online data screening tool provided by NHB where the public can screen for known locations of rare species and exemplary natural communities, currently available at [https://www2.des.state.nh.us/nhb\\_datacheck](https://www2.des.state.nh.us/nhb_datacheck).

Env-Wt 102.49 “Deck” means, depending on context, either:

- (a) The horizontal component of a docking structure; or
- (b) A structure that does not extend out over the water that is constructed along a shoreline in place of, and serving the same function as, a beach.

Env-Wt 102.50 “Deck area” means the total surface area of a deck that is suitable for supporting the intended activity.

Env-Wt 102.51 “Defined channel” means an area in or on the ground that exhibits clear evidence of the passage of water and fluvial geomorphic processes, including bed scour, sediment transport, formation of bends, riffles, pools, braiding, point bars, and other common channel features. The term includes but is not limited to bedrock channels, gravel beds, sand beds, and silt beds.

Env-Wt 102.52 “Department” means the department of environmental services.

Env-Wt 102.53 “Design fetch” means the average of at least 11 radials evenly distributed across a 30 degree arc.

Env-Wt 102.54 “Designated prime wetlands” means “prime wetlands” as defined in RSA 482-A:15, I-a, reprinted in Appendix C, that have been designated by a municipality pursuant to RSA 482-A:15 and Env-Wt 700. *effective 12-24-2019*

Env-Wt 102.55 “Designated river” means “designated river” as defined in RSA 483:4, VIII, reprinted in Appendix C.

Env-Wt 102.56 “Director” means the director of the division of water within the department.

Env-Wt 102.57 “Docking structure” means any structure or combination of structures that can be used to secure watercraft or to load and unload passengers, freight, or other items, or any combination thereof, whether or not any part of the structure is in or over the water. The term includes “dock” when used as a noun, “pier”, “wharf”, and “finger”.

Env-Wt 102.58 “Dock” as a verb means to secure watercraft adjacent to a structure.

Env-Wt 102.59 “Dolphin” means a permanent rigid structure on the bottom of a surface water or in or on an adjacent beach or bank, in order to assist in securing watercraft or to protect an area from ice damage.

Env-Wt 102.60 “Dredge” means to dig, excavate, or otherwise disturb the contour or integrity of the bank or bed of a wetland, surface water, or other jurisdictional area.

Env-Wt 102.61 “Dredged material” means any organic or inorganic substance, including decaying vegetation, soils, aquatic weeds, sediment, gravel, and rock, that is removed as the result of dredging.

Env-Wt 102.62 “Dredging activity” means any activity that removes or ruts any organic or inorganic substance from or in any jurisdictional area, regardless of whether the material is of natural or human origins.

Env-Wt 102.63 “Duly-established 100-foot buffer” means the buffer recognized in RSA 482-A:11, IV for prime wetlands designated on or after September 11, 2009 but before August 17, 2012.

Env-Wt 102.64 “Ecological integrity” means the health of a wetland or other aquatic resource ecosystem, as determined using a scientifically-recognized method of assessing the condition of the ecosystem, such as “Level 2 Ecological Integrity Assessment Manual for New Hampshire: Wetland Systems”, Nichols and Faber-Langendoen, June 2017, available as noted in Appendix B or Section 3.B.1. of the “Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire” dated 2013 and revised 2015 and 2016, available as noted in Appendix B.

Env-Wt 102.65 “Ephemeral stream” means a watercourse that is located above the water table year-round and is not fed by groundwater, such that runoff from rainfall and snowmelt is the primary source of stream flow and so the stream has flowing water only during, and for a short duration after, precipitation or spring thaw events, but which has less flow than an intermittent stream and no evidence of riffles, meander bends, point bars, or braiding.

Env-Wt 102.66 “Erosion control” means the use of practices such as those specified in Env-Wq 1506 or Env-Wq 1508 to contain soil particles and to prevent them from being displaced or washed down slopes by rainfall or run-off, including construction phasing, surface roughening, soil stockpile practices, temporary and permanent mulching, temporary vegetation, permanent vegetation, temporary erosion control blanket, diversion, and slope drain.

Env-Wt 102.67 “Erosional features caused by proximate human activity” as used in RSA 482-A:3, IV(b) means scouring caused by stormwater runoff from areas developed so as to create an unnatural runoff area. The term includes gullies, rills, and other ephemeral features that do not meet the definition of a watercourse and that are characterized by flows that are infrequent and of short duration.

Env-Wt 102.68 “Excavate” means to dig out and remove material to create or enlarge a cavity in, or to otherwise remove material from, a jurisdictional area.

Env-Wt 102.69 “Existing legal structure” means a structure that:

- (a) Is a grandfathered structure; or
- (b) Was constructed pursuant to a permit or grant in right issued under RSA 482-A or any predecessor statute and conforms to that permit or grant in right, as applicable.

Env-Wt 102.70 “Exotic aquatic weeds” means “exotic aquatic weeds” as defined in RSA 487:16, II, reprinted in Appendix C.

Env-Wt 102.71 “Expedited permit (EXP)” means an authorization to proceed with work in a jurisdictional area that is conferred by the department and that is not a standard permit or a lower scrutiny approval.

#### PART Env-Wt 103 DEFINITIONS: F THROUGH P

Env-Wt 103.01 “Federal classification method” means the method in “Classification of Wetlands and Deepwater Habitats of the United States”, adapted from Cowardin, Carter, Golet and LaRoe (1979), Wetlands Subcommittee, Federal Geographic Data Committee, August 2013, FGDC- STD-004-2013, available as noted in Appendix B.

Env-Wt 103.02 “Federal delineation method” means the method in “Wetlands Delineation Manual”, Technical Report Y-87-1, US ACE, January 1987, and the “Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral and Northeast Region”, Version 2.0, US ACE, January 2012, both available as noted in Appendix B.

Env-Wt 103.03 “Fetch” means the length of uninterrupted water surface over which the wind blows in a constant direction.

Env-Wt 103.04 “Fill” as a noun means any rock, soil, gravel, sand, or other natural or man-made material that has been deposited or caused to be deposited by human activity.

Env-Wt 103.05 “Fill” as a verb means to place or deposit, or cause or allow to be placed or deposited, materials in or on a wetland, surface water, or bank, or otherwise in or on a jurisdictional area.

Env-Wt 103.06 “Filling activity” means any activity that places any fill into any jurisdictional area.

Env-Wt 103.07 “Finger” means a docking structure that is attached to another docking structure rather than directly to the shore.

Env-Wt 103.08 “Flats” means “tidal flats” as defined in Env-Wt 602.

Env-Wt 103.09 “Float” means a component of a docking structure that is supported by buoyancy devices. The term includes jet-ski floats.

Env-Wt 103.10 “Floodplain wetland” means a wetland located within a 100-year floodplain.

Env-Wt 103.11 “Forest management activities” means activities necessary for forest management as defined in RSA 227-G:2, IX, including but not limited to extracting timber, planting and replanting of various species, and cutting roads and pathways through forests, provided such activities are undertaken in compliance with applicable statutes and rules, including RSA 227-J, and best management practices.

Env-Wt 103.12 “Forester” means “forester” as defined in RSA 310-A:99, I-a, reprinted in Appendix C.

Env-Wt 103.13 “Functional assessment” means an evaluation of a wetland or other aquatic resource to determine its functions and values in accordance with RSA 482-A:1, RSA 482-A:2, XI, and best available scientific methods.

Env-Wt 103.14 “Grandfathered structure” means a docking structure that:

- (a) Was in place before permit jurisdiction, as defined in Env-Wt 103, took effect;
- (b) Has either remained unaltered in location, size, and configuration or is a replacement structure as defined in Env-Wt 104;
- (c) Has not been abandoned as defined in Env-Wt 102;
- (d) Is consistent with the public’s right to reasonable use of public waters, as established in New Hampshire case law; and
- (e) Is not built on land created by the unauthorized filling of public waters.

Env-Wt 103.15 “Hardened shoreline” means a shoreline that is covered with materials such as rocks or walls, so as to deflect rather than absorb wave and current energy.

Env-Wt 103.16 “Hydric soil” means soil that is saturated or flooded during a sufficient portion of the growing season to develop anaerobic conditions in the upper soil layers.

Env-Wt 103.17 “Hydrologic integrity” means groundwater recharge, surface water retention, flood storage, streamflow maintenance, coastal storm surge detention, bank stabilization, and shoreline stabilization, or any combination thereof.

Env-Wt 103.18 “Ice cluster” means 2 or more pilings installed closely together near the lakeward end of a docking structure to protect the structure against damage from ice.

Env-Wt 103.19 “Impact analysis” means an analysis of the likely impacts of a proposed project on the functions and values of each jurisdictional area likely to be affected by the proposed project.

Env-Wt 103.20 “In the dry” means not in standing or flowing water.

Env-Wt 103.21 “Intermittent stream” means a watercourse that is fed by groundwater but is not in the groundwater table throughout the year, where runoff from rainfall and snowmelt is a supplemental source of water for flow, such that the stream typically does not have flowing water during dry portions of the year.

Env-Wt 103.22 “Invasive species” means any species on the New Hampshire prohibited invasive species list prepared pursuant to RSA 430:53, III, and any exotic aquatic weeds.

Env-Wt 103.23 “Jetty” means a breakwater, commonly used when referring to tidal waters.

Env-Wt 103.24 “Jurisdiction” means the regulatory authority conferred by RSA 482-A.

Env-Wt 103.25 “Jurisdictional area” means an area that is subject to regulation under RSA 482-A, including but not limited to surface waters, streams, lakes, rivers, ponds, wetlands, banks, flats, shores, sand dunes, upland tidal buffer zones, and duly-established 100-foot buffers.

Env-Wt 103.26 “Light detection and ranging (LiDAR)” means a surveying method that measures distance to a target by illuminating the target with pulsed laser light and measuring the reflected pulses with a sensor, with the differences in laser return times then being used to make digital 3-D representations of the target.

Env-Wt 103.27 “LAC jurisdiction” means the authority conferred by RSA 483:8-a, III upon a local river management advisory committee relative to activities within a designated river or river corridor, provided that for purpose of routine roadway maintenance activities conducted under an SPN, registration, PBN, or EXP, LAC jurisdiction shall be limited to activities in or within 250 feet of a Tier 2 or Tier 3 designated river that have a direct surface water connection to the designated river.

Env-Wt 103.28 “Local advisory committee (LAC)” means a local river management advisory committee established pursuant to RSA 483:8-a.

Env-Wt 103.29 “Local governing body” means “local governing body” as defined in RSA 672:6, reprinted in Appendix C.

Env-Wt 103.30 “Located adjacent to a structure to which a watercraft may be secured” means, for purposes of the definition of boat slip, that 50% or more of the length of the slip is along the length of the structure that causes the water volume to be a boat slip.

Env-Wt 103.31 “Lower scrutiny approval (LSA)” means an authorization to proceed with work in a jurisdictional area that is conferred by the department and is not a standard permit or an expedited permit. The term includes permits-by-notification authorized by RSA 482-A:11, VI-a and registrations authorized by RSA 482-A:11, VII.

Env-Wt 103.32 “Maintenance” means routine activities undertaken at a sufficient frequency that the structure being maintained remains intact and functional for its intended purpose.

Env-Wt 103.33 “Major docking system” means a docking structure that:

- (a) Is a commercial docking structure, a public docking structure, or a docking structure at a marina;
- (b) Covers a surface area of more than 900 square feet excluding canopies and lifts;
- (c) Provides 5 or more boatslips;
- (d) Is located in a priority resource area as defined in Env-Wt 103; or
- (e) Requires a waiver of one or more requirements in order to be approved.

Env-Wt 103.34 “Major project” means a project that, by virtue of its size and nature as described in Env-Wt 400 through Env-Wt 600 and Env-Wt 900, as applicable, has the potential to significantly impact jurisdictional areas unless adequate measures are employed to protect the environment. The term includes “major impact project”.

Env-Wt 103.35 “Man-made drainage ditch” means, for purposes of RSA 482-A:3, IV(b), a narrow channel dug in the ground for drainage, located in uplands above the permanent water table.

Env-Wt 103.36 “Marina” means a waterfront facility whose principal function is to provide watercraft-related services such as the securing, launching, storing, fueling, servicing, or repairing of watercraft, or any combination thereof, whether such services are available to the public or only to members of an organization or association.

Env-Wt 103.37 “Marsh” means a wetland that is distinguished by soft-stemmed herbaceous plants such as grasses, rushes, and sedges, where the water table is at or above the surface throughout the year but can fluctuate seasonally, as determined using the federal classification method. The term includes freshwater marshes and tidal marshes.

Env-Wt 103.38 “Minimization” means the reduction of adverse impacts using minimization measures that remain after all practicable measures have been taken to avoid adverse impacts to jurisdictional areas.

Env-Wt 103.39 “Minimization measures” means design techniques, construction techniques, and project timing adjustments, together or in any combination, that relocate or reduce unavoidable adverse impacts, taking into account the purpose of the proposed project, the functions and values of the impacted resources, and practicability.

Env-Wt 103.40 “Minimum impact project” means a project that, by virtue of its size and nature as described in Env-Wt 400 through Env-Wt 600 and Env-Wt 900, as applicable, has the potential to have a negligible impact on jurisdictional areas provided adequate measures are employed to protect the environment. The term includes minimum project.

Env-Wt 103.41 “Minor project” means a project that, by virtue of its size and nature as described in Env-Wt 400 through Env-Wt 600 and Env-Wt 900, as applicable, has the potential to cause more than a negligible impact on jurisdictional areas unless adequate measures are employed to protect the environment. The term includes minor impact project.

Env-Wt 103.42 “Mooring” as a noun means “mooring” as defined in RSA 270:59, III, reprinted in Appendix C.

Env-Wt 103.43 “Municipality” means “municipality” as defined in RSA 482-A:2, V, reprinted in Appendix C.

Env-Wt 103.44 “Natural heritage bureau (NHB)” means the natural heritage bureau of the department of natural and cultural resources (DNCR).

Env-Wt 103.45 “Navigable frontage” means, for non-tidal waters, the frontage that can be accessed by a boat having at least a 6-foot beam and 2-foot draft at normal high water.

Env-Wt 103.46 “NH Method” means the “Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire” dated 2013 and revised 2015 and 2016, available at <https://nhmethod.org/> and as noted in Appendix B.

Env-Wt 103.47 “Non-tidal wetland” means a wetland that is not subject to periodic inundation by tidal waters.

Env-Wt 103.48 “Normal agricultural operations” for purposes of subtitle Env-Wt means those activities that are customary to, and necessary to sustain, an agricultural operation as described in RSA 21:34-a, II.

Env-Wt 103.49 “Normal high water line” for lakes or ponds means the full lake elevation.

Env-Wt 103.50 “Ordinary high water mark” means “ordinary high water mark” as defined in RSA 483-B:4, XI-e, reprinted in Appendix C.

Env-Wt 103.51 “Perched beach” means a man-made beach that is designed to prevent the beach material from reaching the water.

Env-Wt 103.52 “Person” means “person” as defined in RSA 482-A:2, VI, reprinted in Appendix C.

Env-Wt 103.53 “Perennial stream” means a watercourse that is in the groundwater table for most of the year and so has groundwater as its primary source of water for stream flow, with runoff from rainfall and snowmelt as a supplemental source of water, so that it contains flowing water year-round during a typical year.

Env-Wt 103.54 “Permanent dock” means a docking structure in which the docking structure or its supports, or both, are designed to remain in place throughout the year.

Env-Wt 103.55 “Permanent impacts” means impacts resulting from activities in jurisdictional areas that are intended to remain, or that do remain, after the activities have ceased.

Env-Wt 103.56 “Permit action” means an action initiated by the department to suspend, revoke, or modify a permit or other approval issued under RSA 482-A.

Env-Wt 103.57 “Permit-by-notification (PBN)” means a lower scrutiny approval obtained pursuant to Env-Wt 309.05.

Env-Wt 103.58 “Permit jurisdiction” means the regulatory authority conferred on the department or its predecessor agencies under RSA 482-A or any predecessor statutes, as applied to specific activities, as follows:

- (a) For projects in or adjacent to tidal wetlands, any project occurring after June 22, 1967;
- (b) For projects in or adjacent to non-tidal wetlands, any project occurring after July 2, 1969;

(c) For seasonal structures in tidal or non-tidal waters, any project occurring after September 4, 1978; and

(d) For projects in a duly-established 100-foot buffer, the date of designation of the associated designated prime wetlands. ***amended effective 12-24-2019***

Env-Wt 103.59 “Pier” means a docking structure.

Env-Wt 103.60 “Pile” means a long, heavy column of timber, steel, concrete, stone, or other rigid material driven or jetted into a beach or bank or into the bottom of a surface water to serve as a support or protection.

Env-Wt 103.61 “Poorly drained soils” means hydric soils that have aquic conditions in the upper part and one or more characteristics identified in Env-Wq 1014.02.

Env-Wt 103.62 “Practicable” means “practicable” as defined at 40 CFR 230.3(l), reprinted in Appendix D.

Env-Wt 103.63 “Preservation” means the permanent protection of wetland and upland areas using legal and physical mechanisms so that the resource remains in a natural or undeveloped condition.

Env-Wt 103.64 “Primary vernal pool indicators” means the presence or physical evidence of breeding by marbled salamander, wood frog, spotted salamander, jefferson-blue spotted salamander complex, or fairy shrimp.

Env-Wt 103.65 “Prime wetlands” means “prime wetlands” as defined in RSA 482-A:15, I-a, reprinted in Appendix C. ***effective 12-24-2019***

Env-Wt 103.66 “Priority resource area (PRA)” means a jurisdictional area that:

- (a) Has documented occurrences of protected species or habitat;
- (b) Is a bog;
- (c) Is a floodplain wetland contiguous to a tier 3 or higher watercourse;
- (d) Is a designated prime wetlands;
- (e) Is a duly-established 100-foot buffer of a designated prime wetlands;
- (f) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or
- (g) Is any combination of (a) through (f), above. ***amended effective 12-24-2019***

Env-Wt 103.67 “Private docking structure” means a docking structure that is not a commercial docking structure, a public docking structure, or a docking structure at a marina, and is:

- (a) Maintained by the owner for the personal use of the owner of the single-family residence to which the docking structure is legally tied and the owner’s invitees; or
- (b) Maintained by a homeowners’ or condominium owners’ association for the personal use of the home or condominium owners and the owners’ invitees.

Env-Wt 103.68 “Professional engineer” means “professional engineer” as defined in RSA 310-A:2, II, reprinted in Appendix C.

Env-Wt 103.69 “Protected species or habitat” means:

- (a) Any threatened wildlife species as defined in RSA 212-A:2, V, endangered wildlife species as defined in RSA 212-A:2, IV, the federal endangered species act, eagles protected under RSA 209:9 and the federal Protection of Bald and Golden Eagles Act, 16 U.S.C. Subchapter II, or any habitat of such species that is determined to be critical by the executive director of NHF&G under RSA 212-A:9, III; and

(b) Any federally-designated threatened or endangered plant species, any threatened species of plant as defined in RSA 217-A:3, XX, any endangered species of plant as defined in RSA 217-A:3, IV, or any exemplary natural community as identified by NHB.

Env-Wt 103.70 “Public docking structure” means a docking structure that is owned by a political subdivision or a state or federal agency and is available for use by the general public. The term includes docking structures that are allowed to be used only by residents of the governmental unit that owns the structure as well as docking structures that are allowed to be used by any individual or group, with or without compensation or other consideration to the owner.

Env-Wt 103.71 “Public hearing” means a public non-adjudicative proceeding conducted for the purpose of receiving input from the public on a proposed project.

Env-Wt 103.72 “Public infrastructure” means public roads, facilities, and constructed landscape that is open to and maintained for the use of the general public.

Env-Wt 103.73 “Public project” means a project undertaken by or in partnership with a federal, state, or local authority for the purpose of constructing public infrastructure or a public docking structure.

Env-Wt 103.74 “Public trust surface waters” means surface waters of the state as defined in RSA 485-A:2, XIV that are held in trust by the state of New Hampshire for the public.

#### PART Env-Wt 104 DEFINITIONS: Q THROUGH Z

Env-Wt 104.01 “Qualifying criteria” means the total of all criteria to be met in order for a project to be eligible for a particular type of approval.

Env-Wt 104.02 “Reconfiguration” means the redesign of an existing legal structure within the same overall outside dimensions and without increasing the square footage of the surface area of the structure, such as moving a finger or “L” from one end of a dock walkway to another.

Env-Wt 104.03 “Reconstruction” when applied to any structure except a stream crossing that is subject to Env-Wt 900 means the replacement of all components of an existing legal docking structure.

Env-Wt 104.04 “Reference line” means:

(a) For a surface water that is subject to RSA 483-B, the reference line as established under RSA 483-B:4, XVII; or

(b) For a surface water that is not subject to RSA 483-B, the line that would have constituted the reference line as established under RSA 483-B:4, XVII, if RSA 483-B applied.

Env-Wt 104.05 “Repair” when applied to any structure except a stream crossing that is subject to Env-Wt 900 means to fix or replace only those components of an existing legal structure that are worn, broken, or unsound so as to restore the structure to its original purpose.

Env-Wt 104.06 “Replacement structure” when applied to any structure except a stream crossing that is subject to Env-Wt 900 means a new structure that takes the place of an existing legal structure, that is the same kind of structure in the same or a more conforming location, having the same or smaller surface area and, if a docking structure, the same number or fewer boatslips, such that in all material aspects, the new structure is no more impacting to the environment or abutting properties than the original structure.

Env-Wt 104.07 “Retaining wall” means a structure constructed to support a bank, contain fill, or prevent erosion.

Env-Wt 104.08 “Revetment” means a sloped facing of hard material, such as layered stone or concrete, that is constructed to protect a bank or embankments by dissipating wave energy.

Env-Wt 104.09 “Rip-rap” means a layer of angular stones placed on a slope to prevent erosion, scour, or sloughing of the slope.

Env-Wt 104.10 “Roadway” means a legally existing structure that is designed, constructed, or improved to provide and support safe passage for public or private vehicular traffic.

Env-Wt 104.11 “Rocker box” means a mechanical device used to separate gold and other minerals from lighter sediments.

Env-Wt 104.12 “Routine roadway maintenance activities” means activities that are designed and intended to maintain existing roadways and are included in the Routine Roadway BMPs.

Env-Wt 104.13 “Scrub-shrub wetland” means a wetland dominated by woody vegetation less than 20 feet tall, such as true shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions, as determined using the federal classification method.

Env-Wt 104.14 “Seasonal dock” means a docking structure that is designed and constructed such that the structure and all associated supports can be completely removed from the surface water and its bed during the non-boating season. The term includes but is not limited to pipe docks and floating docks.

Env-Wt 104.15 “Secondary vernal pool indicators” means physical evidence used by wildlife biologists or certified wetland scientists who are familiar with vernal pool habitats as evidence of the presence of a vernal pool, if primary vernal pool indicators are absent and other vernal pool characteristics suggest vernal pool habitat. Secondary vernal pool indicators include but are not limited to caddisfly larvae and cases (Limnephilidae, Phryganeidae, or Polycentropodidae), clam shrimp and their shells (Laevicaudata, Spinicaudata), fingernail clams and their shells (Sphaeriidae), aquatic beetle larvae (Dytiscidae, Gyrinidae, Halipidae, and Hydrophilidae), dragonfly larvae and exuviae (Aeshnidae, Libellulidae), spire-shaped snails and their shells (Physidae, Lymnaeidae), flat spire snails and their shells (Planorbidae), damselfly larvae and exuviae (Coenagrionidae, Lestidae), and truefly larvae and pupae (Culicidae, Chaoboridae, and Chironomidae), and those identified in the third edition of “Identifying and Documenting Vernal Pools in New Hampshire” published by NHF&G, available at <https://wildlife.state.nh.us/nongame/documents/vernal-pool-manual.pdf> and as noted in Appendix B.

Env-Wt 104.16 “Sedimentation” means the creation of water-borne particles that settle on the bottom of a surface water as sediment.

Env-Wt 104.17 “Shoal” means a portion of a water body where the bottom is usually submerged but has insufficient depth to allow for safe navigation for some percentage of watercraft that could reasonably be expected to use the water body.

Env-Wt 104.18 “Shoreline frontage” means the average of the length of a straight line drawn between the points where the side property lines intersect the reference line and the length of the natural frontage between the same points.

Env-Wt 104.19 “Significant environmental impact” means, for the purpose of a public hearing required pursuant to RSA 482-A:8, that a proposed project will:

- (a) Dredge or fill:
  - (1) More than one acre of non-tidal wetlands;
  - (2) More than one-half mile of a watercourse; or
  - (3) One-half acre or more of tidal wetlands; or
- (b) Will drain a public drinking water supply.

*amended effective 12-24-2019*

Env-Wt 104.20 “Significant function wetland” means a wetland:

- (a) Having moderate to high characteristics as determined using a recognized and scientifically-defensible functional wetland assessment method or best available science; or
- (b) Providing significant public benefit due to hydrologic integrity, water quality, or habitat functions, or any combination thereof.

Env-Wt 104.21 “Silt fence” means a sediment barrier consisting of filter fabric attached to supporting posts entrenched into the soil and installed across or at the toe of a slope to intercept and retain small amounts of sediment from disturbed or unprotected areas, which has a useful life of one season and functions primarily to slow and pond the water to allow soil particles to settle.

Env-Wt 104.22 “Sluice” means an inclined trough that conveys water and sediments to a rocker box for separating gold and other minerals from lighter sediments.

Env-Wt 104.23 “Soft bank stabilization components” means deformable materials used in soft vegetative or bioengineered bank stabilization. The term includes but is not limited to coconut fiber rolls, jute mats, live plantings, and logs.

Env-Wt 104.24 “Standard permit” means a permit issued under RSA 482-A based on an application filed pursuant to Env-Wt 311 or equivalent predecessor rules.

Env-Wt 104.25 “State general permits (SGPs)” means the general permits issued by the U.S. Army Corps of Engineers (US ACE) to authorize projects in New Hampshire that:

- (a) Meet the conditions stated therein; and
- (b) Do not meet the US ACE’s criteria for individual permitting.

Env-Wt 104.26 “Statutory permit-by-notification (SPN)” means a permit obtained by complying with the statutory requirements specified in RSA 482-A:3, IV-a, V, XII, XV, or XVI, as applicable, as clarified in Env-Wt 308 and relevant portions of Env-Wt 500.

Env-Wt 104.27 “Stream channel” means a channel that carries the bankfull flow of a watercourse.

Env-Wt 104.28 “Stream crossing” means a structure placed within a watercourse or on its associated upland or wetland approaches, or both, that is intended to provide human, animal, or vehicular passage over the watercourse.

Env-Wt 104.29 “Stream restoration” means the process of converting an unstable, altered, or degraded watercourse, including adjacent riparian zone and flood-prone areas, to a natural condition as previously found at the site or as found in reaches of the watercourse that have not been altered by human disturbances.

Env-Wt 104.30 “Structure” means “structure” as defined in RSA 482-A:2, IX, reprinted in Appendix C.

Env-Wt 104.31 “Subject property” means:

- (a) For projects in surface water for which any kind of permit is required, the parcel(s) of land adjacent to and associated with the area in which the project will occur or has occurred; or
- (b) For all other projects for which any kind of permit is required, the parcel(s) of land on which the project will occur or has occurred.

Env-Wt 104.32 “Substantial public interest” means the department has been contacted by individuals and town or county official(s) in the municipality, government instrumentality, or region where a project is proposed, who have voiced concerns that the project would impact jurisdictional areas having documented flood storage, hydrologic integrity, or habitat from a local, regional, or state perspective and raising issues such as those identified as adverse consequences in RSA 482-A:1.

Env-Wt 104.33 “Surface water” means those portions of waters of the state that have standing or flowing water at or on the surface of the ground. The term includes but is not limited to watercourses, lakes, ponds, marshes, and tidal waters. *amended effective 12-24-2019*

Env-Wt 104.34 “Surface waters of the state” means “surface waters of the state” as defined in RSA 485-A:2, XIV, reprinted in Appendix C.

Env-Wt 104.35 “Swamp” means a forested wetland that is dominated by trees, as determined using the federal classification method.

Env-Wt 104.36 “Temporary impacts” means adverse conditions or effects that will be reversed when the authorized work has been completed and pre-construction conditions have been re-established. The term includes but is not limited to ruts caused by heavy machinery that are smoothed when the work is completed and the installation and subsequent removal of swamp mats, construction mats, geotextile fabric, or other erosion or sediment control practices.

Env-Wt 104.37 “Trail activities” means activities necessary for trail construction and management, as described in Env-Wt 517, including but not limited to cutting roads and pathways through forests.

Env-Wt 104.38 “Turbidity barrier” means a temporary in-water fence consisting of a continuous geotextile fabric curtain suspended from a flotation device on the water surface and held in a vertical position by ballast weight at the bottom, designed to be used to surround a project being undertaken in a surface water in order to prevent sediment from the project from entering the surface water that is outside the enclosure.

Env-Wt 104.39 “Turbidity control” means a water quality control measure, such as a silt fence, coffer dam, or filter strip, used on land or in water to contain silt and sediment so as to prevent water cloudiness.

Env-Wt 104.40 “US ACE Regional Supplement” means the “Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral and Northeast Region”, Version 2.0, US ACE, January 2012, available as noted in Appendix B.

Env-Wt 104.41 “USGS map” means a map published by the United States Geological Survey at a scale of 1:24,000 or a scale that provides greater detail.

Env-Wt 104.42 “Upland” means an area of land that is not a wetland.

Env-Wt 104.43 “Upland buffer” means an area of upland that is contiguous to a jurisdictional area and that contributes to the effectiveness of the functions and values of the jurisdictional area in that location.

Env-Wt 104.44 “Vernal pool” means a surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, that provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and that:

- (a) Is not the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to:
  - (1) Gravel pit operations in a pit that has been mined at least every other year; and
  - (2) Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and
- (b) Typically has the following characteristics:
  - (1) Cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year;
  - (2) Forms in a shallow depression or basin;
  - (3) Has no permanently flowing outlet;

- (4) Holds water for at least 2 continuous months following spring ice-out;
- (5) Lacks a viable fish population; and
- (6) Supports one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.

Env-Wt 104.45 “Very poorly drained soils” means hydric soils that are flooded daily by tides or soils that have aquic conditions in the upper part and have one or more of the characteristics identified in Env-Wq 1014.03.

Env-Wt 104.47 “Water access structure” means a structure without a roof or cover that typically would be an accessory structure under RSA 483-B and that, as a matter of operational necessity, is located adjacent to the shoreline because its purpose is to provide a means of entry to a surface water for swimming and similar water-related recreational activities other than boating or a location for the direct observation of swimmers or other individuals engaged in water-related recreational activities. The term includes decks and patios, but does not include docking structures. *amended effective 12-24-2019*

Env-Wt 104.47 “Water quality control measures” means methods, practices, and devices that are designed and implemented to prevent or minimize erosion, siltation, or turbidity, or any combination thereof. The term includes but is not limited to phased construction, vegetated filter strips, geotextile silt fences, stormwater detention and infiltration systems, sediment detention basins, and any other method, practice, or device identified in Env-Wq 1506 through Env-Wq 1508.

Env-Wt 104.48 “Watercourse” means any surface water that develops and maintains a defined scoured channel, with evidence of sediment transport, or that is a continuous channel that flows to or from a wetland or other surface water. The term includes rivers and streams.

Env-Wt 104.49 “Watercraft” means any type or size of vessel or craft that is moved by any means, including but not limited to wind, motors, oars, or paddles, that is intended to be used or that is actually used to carry one or more individuals or cargo, or a combination thereof, across water, whether such individuals or cargo are atop, on, or in the vessel or craft.

Env-Wt 104.50 “Watershed” means a geographical area in which all water drains to a given stream, river, lake, wetland, pond, estuary, or ocean.

Env-Wt 104.51 “Wave attenuator” means a structure floating near or suspended under a permanent docking structure, such that no component of the structure impacts the bed of the surface water, installed for the purpose of dampening wave action.

Env-Wt 104.52 “Weep hole” means a small opening that allows drainage from or through a retaining structure so as to prevent frost or ice damage to the structure.

Env-Wt 104.53 “Wet meadow” means an herb-dominated jurisdictional area typically with non-woody vegetation less than 3 feet in height, saturated for long periods during the growing season, but seldom flooded, as determined using the federal classification method. Wet meadows develop on predominantly drier, poorly drained soils.

Env-Wt 104.54 “Wetland” means “wetlands” as defined in RSA 482-A:2, X, reprinted in Appendix C.

Env-Wt 104.55 “Wetland creation” means the transformation of upland to wetlands at a site where the upland was not created by human activity such as by filling or water diversion.

Env-Wt 104.56 “Wetland enhancement” means the manipulation of the physical, chemical, or biological characteristics, or any combination thereof, of an aquatic resource to heighten, intensify, or improve one or more specific aquatic resource functions. Wetlands enhancement results in the gain of selected aquatic resource functions, but does not necessarily result in a gain in aquatic resource area.

Env-Wt 104.57 “Wetland functions” means “wetland functions” as defined in RSA 482-A:2, XI, reprinted in Appendix C.

Env-Wt 104.58 “Wetland permit planning tool (WPPT)” means a geographic information systems tool that provides access to data for planning projects near or in jurisdictional areas, available at [http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH\\_DES/viewers/gvh/virtualdirectory/Resources/Config/Default](http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH_DES/viewers/gvh/virtualdirectory/Resources/Config/Default).

Env-Wt 104.59 “Wetland restoration” means the re-establishment of a filled, dredged, drained, or otherwise disturbed or disrupted wetlands to its historic condition, so as to restore lost functions to the greatest extent practicable, by removing fill, restoring hydrology, re-establishing native wetlands vegetation, or such other means as are necessary.

Env-Wt 104.60 “Wetlands council” means the New Hampshire wetlands council established by RSA 21-O:5-a.

Env-Wt 104.61 “Wetlands rules” means all rules in subtitle Env-Wt.

Env-Wt 104.62 “Wharf” means a docking structure.

Env-Wt 104.63 “Wildlife action plan (WAP)” means the wildlife action plan prepared and published by NHF&G, available at <https://www.wildlife.state.nh.us/wildlife/wap.html>.

Env-Wt 104.64 “Wildlife-friendly erosion control materials” means materials used in erosion control practices that do not include any components, such as welded plastic or “biodegradable plastic” netting or thread, that have been documented to entangle and kill snakes, birds, and other wildlife. The term includes mesh made from woven organic material such as coco or jute, such as North American Green BioNet® or similar products.

Env-Wt 104.65 “Working day” means a calendar day that is not a Saturday, Sunday, or state holiday.

#### PART Env-Wt 105 MAINTENANCE OF AND ACCESS TO FILES

##### Env-Wt 105.01 Retention of Files.

(a) The department shall retain files of applications for standard permits under Env-Wt 311 for:

- (1) Not less than 4 years from the date of the final decision on the application if the application is denied, provided that if the denial is appealed, the file shall be maintained for at least 4 years from the final decision on appeal; and
- (2) Not less than 10 years from the date of the final decision on the application if a permit is issued, provided that if the permit is appealed, the file shall be maintained for at least 10 years from the final decision on appeal.

(b) The department shall retain notices filed under Env-Wt 308.05 to activate a statutory permit-by-notification (SPN) for at least 4 years from the date of the SPN.

(c) The department shall retain registrations and notices filed under Env-Wt 309 for LSAs and applications filed under Env-Wt 310 for EXPs for at least 4 years from the date of the registration, notice, or decision on the application, as applicable.

##### Env-Wt 105.02 Access to Files.

(a) Any person may request to review one or more files of the department pertaining to the department’s activities under RSA 482-A during normal working hours.

(b) Upon receipt of a request to review a file pursuant to (a), above, the department shall proceed in accordance with RSA 91-A:4.

**APPENDIX A: STATE AND FEDERAL STATUTES, FEDERAL REGULATIONS IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statutes Implemented</b>	<b>Federal Statutes, Regulations Implemented</b>
Env-Wt 300 (see additional statutes and federal statutes/regulations for specific rules below)	RSA 482-A:1 - 4, 6, 8 - 34	Clean Water Act, 33 U.S.C. Chapter 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 307.03	RSA 485-A:8; RSA 485-C	
Env-Wt 307.05	RSA 487:15 - 16-d	
Env-Wt 307.06	RSA 212-A; RSA 217-A	Endangered Species Act, 16 U.S.C. §1531 <i>et seq.</i>
Env-Wt 307.07	RSA 483-B	
Env-Wt 307.09	RSA 483-B	
Env-Wt 308.08	RSA 483-B	
Env-Wt 310.04	RSA 12-E	
Env-Wt 313.04	RSA 483-B	
Env-Wt 316	RSA 541-A:30	
Env-Wt 316.05	RSA 21-O:14	

**APPENDIX B: INCORPORATED REFERENCES**

<b>Rule</b>	<b>Name (Date)</b>	<b>Available from</b>
Env-Wt 307.03(b)(2)a. Env-Wt 307.10(h)	New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations (2016)	UNH Cooperative Extension Taylor Hall, 59 College Road Durham, NH 03824 Phone: (603)862-1520  Download at no cost from: <a href="https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf">https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf</a>
Env-Wt 307.03(b)(2)b	Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire - Best Management Practices Manual (March 2019)	NH Department of Natural and Cultural Resources Division of Forests and Lands 172 Pembroke Road Concord, NH 03301 Tel: (603) 271-2214 Fax: (603) 271-6488  Download at no cost from: <a href="https://www.nhdf.org/DRED/media/Documents/New_Final_Utility_BMP_Manual_3_8_19.pdf">https://www.nhdf.org/DRED/media/Documents/New_Final_Utility_BMP_Manual_3_8_19.pdf</a>
Env-Wt 307.03(b)(2)c.	Best Management Practices for Erosion Control During NH Trail Maintenance and Construction (2017)	NH Department of Resources & Economic Development, Division of Parks & Recreation; Bureau of Trails 172 Pembroke Road Concord, NH 03301

Rule	Name (Date)	Available from
		<p>Phone: (603) 271-3254            Fax: (603) 271-3553            Email: <a href="mailto:nhtrails@dncr.nh.gov">nhtrails@dncr.nh.gov</a></p> <p>Download at no cost from:  <a href="https://www.nhstateparks.org/getmedia/3c45de00-e174-4df0-b678-4670b254290d/Best-Management-Practices-For-Erosion-Control-During-Trail-Maintenance-and-Construction.pdf">https://www.nhstateparks.org/getmedia/3c45de00-e174-4df0-b678-4670b254290d/Best-Management-Practices-For-Erosion-Control-During-Trail-Maintenance-and-Construction.pdf</a></p>
Env-Wt 307.05(e)	Best Management Practices For the Control of Invasive and Noxious Plant Species (2018)	<p>NH Department of Transportation            PO Box 483   7 Hazen Drive            Concord, New Hampshire 03302-0483            Phone: (603) 271-3734            Fax: (603) 271-3914            Email: <a href="mailto:info@dot.nh.gov">info@dot.nh.gov</a></p> <p>Download at no cost from:  <a href="https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/FINAL-ENV1Manual1-InvasiveSpecies.pdf">https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/FINAL-ENV1Manual1-InvasiveSpecies.pdf</a></p>
Env-Wt 307.13(e)(2)	Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire (2019)	<p>NH Department of Transportation            PO Box 483   7 Hazen Drive            Concord, New Hampshire 03302-0483            Phone: (603) 271-3734            Fax: (603) 271-3914            Email: <a href="mailto:info@dot.nh.gov">info@dot.nh.gov</a></p> <p>Download at no cost from:  <a href="https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf">https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf</a></p>
Env-Wt 311.12(a)(1)	Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, Version 2.0 (January 2012)	<p>U.S. Army Corps of Engineers            New England District            696 Virginia Road            Concord, MA 01742-2751            (978)318-8338</p> <p>Download at no charge from:  <a href="https://www.lrh.usace.army.mil/Portals/38/docs/USACE%2087%20Wetland%20Delineation%20Manual.pdf">https://www.lrh.usace.army.mil/Portals/38/docs/USACE%2087%20Wetland%20Delineation%20Manual.pdf</a>  <a href="https://usace.contentdm.oclc.org/utis/getfile/collecton/p266001coll1/id/7640">https://usace.contentdm.oclc.org/utis/getfile/collecton/p266001coll1/id/7640</a></p>

<b>Rule</b>	<b>Name (Date)</b>	<b>Available from</b>
Env-Wt 311.07(b)(3) Env-Wt 313.03(a)	Wetlands Best Management Practice Techniques for Avoidance, Minimization (2019)	New England Interstate Water Pollution Control Commission Wannalancit Mills 650 Suffolk Street, Suite 410 Lowell, MA 01854 Phone: (978) 323-7929 Fax: (978) 323-7919 General Email: <a href="mailto:mail@neiwpsc.org">mail@neiwpsc.org</a>  Download at no cost from: <a href="http://neiwpsc.org/wp-content/uploads/2019/03/Wetlands-BMP-Manual-2019.pdf">http://neiwpsc.org/wp-content/uploads/2019/03/Wetlands-BMP-Manual-2019.pdf</a>
Env-Wt 311.10(a)(2)b.	The Highway Methodology Workbook (1993)  New England District Highway Methodology Workbook Supplement (1999)	US Army Corps of Engineers New England District 696 Virginia Road Concord, MA 01742-2751 (978) 318-8338  Download at no charge from: <a href="http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Forms/HighwayMethodBook.pdf">http://www.nae.usace.army.mil/Portals/74/docs/regulatory/Forms/HighwayMethodBook.pdf</a>  <a href="https://www.nae.usace.army.mil/Portals/74/docs/regulatory/Forms/HighwaySupplement6Apr2015.pdf">https://www.nae.usace.army.mil/Portals/74/docs/regulatory/Forms/HighwaySupplement6Apr2015.pdf</a>

### APPENDIX C: OTHER STATUTORY PROVISIONS

#### **RSA 482-A:3:**

I. ...

(d) At the time the applicant files the application with the department, the applicant shall provide written notice of the proposed project to:

(1) All abutters, as defined in the rules of the department, unless exempted in such rules, which shall be provided by certified mail or other delivery method that provides proof of receipt. The applicant shall retain such receipts and provide copies to the department upon request. The department shall have no obligation to verify the identity of abutters or their receipt of notice. Any abutter who has actual notice of the filing of an application shall have no cause to challenge the application based on failure to receive written notice. Nothing in this subparagraph shall prevent the department from taking appropriate action in the event an applicant fails to provide the required notice or provides false information.

(2) The local river management advisory committee if the project is within a river corridor as defined in RSA 483:4, XVIII, or a river segment designated in RSA 483:15. Such notice shall be sent by certified mail or other delivery method that provides proof of receipt. The applicant shall retain such receipts and provide copies to the department upon request. The local river management advisory committee shall, under RSA 483:8-a, III(a)-(b), advise the commissioner and consider and comment on the permit application.

...

XIV. (a) In processing an application for permits under this chapter, except for a permit by notification, the department shall:

(1) Within 14 days of receipt by the department, issue a notice of administrative completeness or send notice to the applicant, at the address provided on the application, identifying any additional information required to make the application administratively complete and providing the applicant with the name and telephone number of the department employee to whom all correspondence shall be directed by

the designated department employee regarding incompleteness of the application. Each receipt of additional information in response to any notice shall re-commence the 14-day period until the department issues a notice of administrative completeness. Any notice of incompleteness sent under this subparagraph shall specify that the applicant or authorized agent shall submit such information as soon as practicable and shall notify the applicant or authorized agent that if the requested information is not received within 60 days of the notice, the department shall deny the application.

(2) Within 75 days of the issuance of a notice of administrative completeness for projects where the applicant proposes under one acre of jurisdictional impact and 105 days for all other projects, request any additional information that the department is permitted by law to require to complete its evaluation of the application, together with any written technical comments the department deems necessary. Such request and technical comments may be sent by electronic means if the applicant or authorized agent has indicated an agreement to accept communications by electronic means, either by so indicating on the application or by a signed statement from the applicant or authorized agent that communicating by electronic means is acceptable. Any request for additional information under this subparagraph shall specify that the applicant submit such information as soon as practicable and shall notify the applicant that if the requested information is not received within 60 days of the request, the department shall deny the application. The department may grant an extension of this 60-day time period upon request of the applicant.

(3) Where the department requests additional information pursuant to subparagraph (a)(2), within 30 days of the department's receipt of a complete response to the department's information request:

- (A) Approve the application, in whole or in part, and issue a permit; or
- (B) Deny the application and issue written findings in support of the denial; or
- (C) Schedule a public hearing in accordance with this chapter and rules adopted by the commissioner; or
- (D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant; or

(4) Where no request for additional information is made pursuant to subparagraph (a)(2), within 75 days from the issuance of the notice of administrative completeness for proposed projects under one acre of jurisdictional impact, or 105 days for all others:

- (A) Approve the application, in whole or in part, and issue a permit; or
- (B) Deny the application and issue written findings in support of the denial; or
- (C) Schedule a public hearing in accordance with this chapter and rules adopted by the commissioner; or
- (D) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(5) Where the department has held a public hearing on an application filed under this chapter, within 60 days following the closure of the hearing record, approve the application in whole or in part, and issue a permit or deny the application and issue written findings in support of the denial.

...

(e) Any request for a significant amendment to a pending application or an existing permit which changes the footprint of the permitted fill or dredge area shall be deemed a new application subject to the provisions of RSA 482-A:3, I and the time limits prescribed by this paragraph. "Significant amendment" means an amendment which changes the proposed or previously approved acreage of the permitted fill or dredge area by 20 percent or more, relocates the proposed footprint of the permitted fill or dredge area, includes a prime wetland or surface waters of the state, includes a wetland of a different classification as classified by the department, or includes non-wetland areas requiring permits for filling and dredging. This meaning of "significant amendment" shall not apply to an application amendment that is in response to a request from the department.

**APPENDIX D: STATUTORY PERMITS-BY-NOTIFICATION CONDITIONS****RSA 482-A:3:**

IV-a. Temporary seasonal docks installed on any lake or pond shall be exempt from the permitting requirements of this section, provided that a notification is sent to the department by the owner of property that includes the name and address of the property owner, the municipality, the waterbody, and tax map and lot number on which the proposed dock will be located. To qualify for an exemption under this paragraph, a temporary seasonal dock shall be:

- (a) The only docking structure on the frontage;
- (b) Constructed to be removed during the non-boating season;
- (c) Removed from the lake bed for a minimum of 5 months of each year;
- (d) Configured to be narrow, rectangular, and erected perpendicular to the shoreline;
- (e) No more than 6 feet wide and no more than 40 feet long if the water body is 1,000 acres or larger, or no more than 30 feet long if the water body is less than 1,000 acres;
- (f) Located on a parcel of land that has 75 feet or more of shoreline frontage;
- (g) Located at least 20 feet from an abutting property line or the imaginary extension of the property line over the water;
- (h) Installed in a manner which requires no modification, regrading, or recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged dock;
- (i) Installed in a manner which complies with RSA 483-B; and
- (j) Installed in a location that is not in, or adjacent to, an area that has been designated as a prime wetland in accordance with RSA 482-A:15.

V. (a) Persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notice of intent with the department and the department of natural and cultural resources, shall have satisfied the permitting requirements of this section for minimum impact activities only as defined by rules adopted by the commissioner. Minimum impact notifications issued by the department shall be valid for 2 years.

(b) Appropriate notice to the department and the department of natural and cultural resources shall include the following information:

- (1) Name and address of property owner;
  - (2) Name and address of logger or forester;
  - (3) Town, tax map, number and lot number of job site; and
  - (4) A copy of the appropriate United States Geological Survey topographic map, or a copy of the appropriate United States Natural Resources Conservation Service soils map, with the type and location of all wetland and waterbody crossings clearly indicated.
- (c) A \$25 filing fee shall accompany the notice to the department. Such fees shall be held in accordance with paragraph III.
- (d) The filing of an intent to cut form under RSA 79:10 shall be considered as permission to the department or the department of natural and cultural resources, or their agents, to enter the property for determining compliance with this chapter.
- (e) The certificate issued under RSA 79:10 shall be posted upon receipt. Prior to receipt of such certificate, a copy of the intent to cut form, signed by the appropriate municipal official, shall be available on the job site, and shall be shown to any person who asks to see it.

XI. (b) ... Any person who engages in panning only shall not be required to obtain a permit but shall be subject to rules of the department. Panning shall include those activities associated with the manual search for minerals in a river bed without the use of motorized equipment.

XII. (a) Persons who construct and maintain recreational trails in accordance with the Best Management Practices for Erosion Control During Trail Maintenance and Construction published by the department of resources and economic development and who have filed an appropriate notice, as described in subparagraph (b), to construct or maintain such trails with the department and the department of resources and economic

development shall have satisfied the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the commissioner.

(b) Appropriate notice to the department and the department of resources and economic development shall include the following information:

- (1) Name and address of organization constructing or maintaining the recreational trail.
- (2) Name and address of property owner.
- (3) Town, tax map number, and lot number of property.
- (4) A copy of the appropriate United States Geological Survey topographic map with the type and location of all wetland and waterbody crossings clearly indicated.

(c) A \$25 filing fee shall accompany the notice to the department. Such fees shall be held in accordance with paragraph III.

XV. (a) Utility providers who maintain and repair existing utility services within existing rights of way under the Best Management Practices Manual for Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire published by the department of resources and economic development, and who have complied with subparagraphs (b)-(e) shall satisfy the permitting requirements of this section, including any portion located in or adjacent to a prime wetland, for minimum impact activities as defined by rules adopted by the commissioner.

(b) Appropriate notice to the department shall include the following information:

- (1) The name and address of the person, employed by the utility provider responsible for overseeing the maintenance.
- (2) A brief written description of the nature of the work to be conducted.
- (3) A copy of the appropriate United States Geological Survey topographic map with the locations of the projects indicated.

(c) Appropriate notice to the town clerk of each municipality in which work will occur shall include the name of a utility provider contact and a brief description of the work to be conducted.

(d) A one-time annual filing fee of \$200 per town, not to exceed a maximum of \$10,000, shall accompany the notice to the department. Such fees shall be held in accordance with paragraph III.

(e) No additional fee shall be required for amendments to the notification as long as additional towns are not included in the amendment. Additional towns included in the amendment shall be subject to an additional fee of \$200 per town, not to exceed the annual maximum under subparagraph (d).

XVI. (a) Except as provided in paragraph XVII, any person or political subdivision that repairs or replaces culverts or stream crossing structures in accordance with the best management practices for routine roadway maintenance in New Hampshire published by the department of transportation, including culverts up to and including 48 inches in diameter or the functional hydraulic equivalent, and files an appropriate notice under subparagraph (b), shall satisfy the permitting requirements of this section for minimum impact activities, as defined by rules adopted by the commissioner.

(b) Appropriate notice to the department shall include a completed routine roadway notification form as outlined in rules adopted by the commissioner pursuant to RSA 541-A including, at a minimum, the following information:

- (1) Name and mailing address of the applicant or authorized person.
- (2) Name and mailing address of the applicant or authorized agent, if any, representing the political subdivision.
- (3) Telephone number, and e-mail address and fax number if available.
- (4) A copy of the appropriate United States Geological Survey topographic map at its original scale on 8 1/2 x 11 sheets with the project locations clearly labeled.
- (5) Town tax map, number, and lot number, if any, of the project sites.
- (6) Project location including street name and address or distance from the nearest intersection to the project.

(7) Information regarding the existing and proposed structure shown on plan sheets or equivalent plans as shown in the best management practices for routine roadway manual and a listing of the best management practices to be used during construction.

(8) Color photographs depicting the proposed work sites showing existing structures, surrounding land, and jurisdictional areas in and adjacent to the work location.

(9) A signed certification that information is accurate and correct and that work will conform to the best management practices for routine roadway maintenance.

(c) Appropriate notice to the department under subparagraphs (a) and (b) shall be mailed and received by department at least 5 days prior to the start of construction.

#### APPENDIX E: SUMMARY OF ABBREVIATIONS AND ACRONYMS

<b>Term</b>	<b>Meaning</b>
Agriculture BMWPs	“Best Management Wetlands Practices for Agriculture” dated 2019, published by the NH Department of Agriculture, Markets, and Food
A/M BMPs	“Wetlands Best Management Practice Techniques For Avoidance and Minimization” dated 2019, published by the New England Interstate Water Pollution Control Commission
CPESC specialist	Certified Professional Erosion and Sediment Control specialist - an individual certified by EnviroCert International, Inc.® as competent to develop and implement erosion and sediment control practices
CY	Cubic Yard
Federal classification method	Method established in “Classification of Wetlands and Deepwater Habitats of the United States”, adapted from Cowardin, Carter, Golet and LaRoe (1979), August 2013, FGDC- STD-004-2013
Federal delineation method	Method established in “Wetlands Delineation Manual”, Technical Report Y-87-1, Corps of Engineers, January 1987, and “Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral and Northeast Region”, Version 2.0, U.S. Army Corps of Engineers, January 2012
Forestry BMPs	“New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” dated 2016, published by the University of New Hampshire Cooperative Extension
HOTL	Highest Observable Tide Line
Invasive Plant BMPs	“Best Management Practices For the Control of Invasive and Noxious Plant Species” dated 2018, published by the NHDOT
Marina BMPs	“Best Management Practices For New Hampshire Marinas” dated 2001, published by the NHDES Pollution Prevention Program
LAC	Local [River] Advisory Committee
LiDAR	Light Detection and Ranging - A surveying method that measures distance to a target by illuminating the target with pulsed laser light and measuring the reflected pulses with a sensor, with the differences in laser return times and wavelengths then being used to make digital 3-D representations of the target.
LF	Linear Foot
NH Method	“Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire” dated 2013 and revised 2015 and 2016, available at <a href="https://nhmethod.org/">https://nhmethod.org/</a>
NHB	Natural Heritage Bureau of the NH DNCR
NH DNCR	NH Department of Natural and Cultural Resources
NHF&G	NH Fish and Game Department
NHDOT	NH Department of Transportation

<b>Term</b>	<b>Meaning</b>
NRCS	Natural Resources Conservation Service of the U.S. Department of Agriculture
PBN	Permit-by-Notification (created in the rules)
PRA	Priority Resource Area - a jurisdictional area that: <ul style="list-style-type: none"> <li>(a) Has documented occurrences of protected species or habitat;</li> <li>(b) Is a bog;</li> <li>(c) Is a floodplain wetlands contiguous to a tier 3 or higher watercourse;</li> <li>(d) Is a designated prime wetland or a duly-established 100-foot buffer zone;</li> <li>(e) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or</li> <li>(f) Is any combination of (a) through (e), above.</li> </ul>
Professional engineer	RSA 310-A:2, II. "Professional engineer" means a person who by reason of advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice engineering, <b>and who is licensed by the board or otherwise authorized by this subdivision to engage in the practice of engineering.</b>
Routine Roadway BMPs	"Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire" dated 2019, published by the NHDOT
SF	Square Foot
SPN	Statutory Permit-by-Notification (established in RSA 482-A)
Subject property	<ul style="list-style-type: none"> <li>(a) For projects in surface water for which any kind of permit is required, the parcel(s) of land adjacent to and associated with the area in which the project will occur or has occurred; or</li> <li>(b) For all other projects for which any kind of permit is required, the parcel(s) of land on which the project will occur or has occurred.</li> </ul>
Trail BMPs	"New Hampshire Best Management Practices for Erosion Control During Trail Maintenance and Construction" dated 2017, published by the NH DNCR
US ACE	U.S. Army Corps of Engineers
USGS	United States Geological Survey
Utility BMPs	"Best Management Practices Manual, Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire" dated 2019, published by the NH DNCR
WAP	Wildlife Action Plan prepared and published by NHF&G
Water Quality BMPs	Recommended practices for minimizing or preventing the direct or indirect discharge of sediment or other pollutants into surface waters and wetlands, including those listed in Env-Wt 307 and the Agriculture BMPs, Forestry BMPs, Marina BMPs, Invasive Plant BMPs, Roadway Maintenance BMPs, Trail BMPs, and Utility BMPs, as applicable
WPPT	Wetlands Permit Planning Tool - a GIS tool that provides access to data for planning projects near or in jurisdictional areas, available at <a href="http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH_DES/viewers/gvh/virtual_directory/Resources/Config/Default">http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH_DES/viewers/gvh/virtual_directory/Resources/Config/Default</a>