CHAPTER Env-Wt 500 PROJECT-SPECIFIC REQUIREMENTS

Statutory Authority: RSA 482-A:11, I

PART Env-Wt 509 PURPOSE AND APPLICABILITY

Env-Wt 509.01 Purpose. The purpose of this part is to establish clear project-specific requirements so that persons proposing projects in jurisdictional areas will know in advance what requirements apply.

Env-Wt 509.02 Applicability.

(a) Except as provided for boardwalks and public roadways, this part shall apply to projects in areas that are not coastal areas, which are subject to Env-Wt 600.

(b) Projects not specifically listed are subject to all applicable criteria established in RSA 482-A, RSA 483-B, and Env-Wt 300, Env-Wt 400, Env-Wt 600, Env-Wt 700, and Env-Wt 900.

PART Env-Wt 510 AQUATIC VEGETATION CONTROL

Env-Wt 510.01 Applicability. This part shall apply to projects for the removal of native aquatic vegetation (NAV) and exotic aquatic weeds (EAW), as defined in RSA 487:16 and reprinted in Appendix ?, and Env-Wq 1302.06, that do not qualify for a conditional exemption under Env-Wt 309.01(c).

Env-Wt 510.02 Criteria for Approval of Exotic Aquatic Weed (EAW) Control Projects. In addition to the conditions applicable to all work established in Env-Wt 307 and the criteria for approval in Env-Wt 313.01, and subject to Env-Wt 510.03, the department shall not approve a project to control or eradicate EAW unless the following criteria are met:

(a) The project shall:

(1) Minimize removal of floating or submerged NAV where such vegetation provides:

a. Spawning or nursery fish habitat; or

b. Avian or vertebrate nesting habitat;

(2) Comply with RSA 487:15 through 25, the New Hampshire Clean Lakes Program;

(3) Use a construction sequence that minimizes impacts to any adjacent special resource areas; and

(4) Protect critical habitats, nesting sites, spawning fishery locations, and populations of state's species of conservation management concern as identified in NH Fish and Game's Wildlife Action Plan;

(b) The project shall not:

(1) Jeopardize the continued existence of a threatened or endangered species or species proposed for such designation;

(2) Destroy or adversely modify the critical habitat of a species identified under RSA 212-A, the Endangered Species Act;

(3) Be located in:

a. A special resource area;

b. A shallow lake or pond that naturally supports abundant native aquatic vegetation; or

c. A diverse habitat that provides nesting or foraging habitat for fish or wildlife that would be negatively impacted by vegetation removal; and

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(c) All vegetation removed shall be disposed of outside of jurisdictional areas using an acceptable means of disposal as listed in Env-Wq 1303.06.

Env-Wt 510.03 Hand Removal of Exotic Aquatic Weeds. No permit shall be required for hand removal of EAW or the installation and maintenance of benthic barriers on the bottom of a surface water to control the growth of EAW, as authorized by RSA 487:17, provided:

(a) The work is conducted by divers who have received training in weed control diving from a certified diving instructor;

(b) The project is conducted in accordance with a long-term management plan designed pursuant to Env-Wq 1305.03;

(c) The project is not located in a special resource area or a marsh of any size;

(d) In flowing waters, harvesting will be initiated only at the most upstream location of the infestation; and

(e) The project does not qualify as a CAT3 project under Env-Wt 400.

Env-Wt 510.04 Criteria for Approval of Native Aquatic Vegetation (NAV) Removal Projects. In addition to the conditions applicable to all work established in Env-Wt 307 and the criteria for approval in Env-Wt 313.01, the department shall not approve a project to control or eradicate NAV unless the following criteria are met:

(a) The project shall:

(1) Be necessary to maintain access to a lawful docking facility or public boat ramp because the NAV is:

a. Negatively affecting private or public access to the waterbody;

b. Interfering with the applicant's ability to use watercraft or to engage in other recreational uses; or

c. Interfering with the normal outflow or flushing of the waterbody.

(2) Minimize potential water quality impacts where disturbance to soft bottom substrates could result in turbidity or changes to the cross section of the bottom if aquatic plants are disturbed or removed;

(5) Protect critical habitats, nesting sites, spawning fishery locations, and populations of state's species of conservation management concern as identified in NH Fish and Game's Wildlife Action Plan;

(b) The project shall not:

(1) Jeopardize the continued existence of a threatened or endangered species or species proposed for such designation;

(2) Destroy or adversely modify the critical habitat of a species identified under RSA 212-A, the Endangered Species Act;

(3) Be located in:

a. A special resource area;

b. A shallow lake or pond that naturally supports abundant native aquatic vegetation; or

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c. A diverse habitat that provides nesting or foraging habitat for fish or wildlife that would be negatively impacted by vegetation removal;

(4) Cause removal of NAV that is part of a floating island;

(5) Cause removal of NAV from an area exceeding 1,000 square feet total, with a maximum width of 15 feet;

(6) Extend into areas containing soft benthic substrate that could result in turbidity or alteration of the plant community substrate; or

(7) Destroy or adversely impact public or conservation land adjacent to the water body or otherwise be incompatible with the use of those lands.

Env-Wt 510.05 Application Requirements for NAV Removal and EAW Control Projects.

(a) In addition to the application requirements of Env-Wt 310 or Env-Wt 311, the applicant shall provide the following additional information with an application to remove NAV or to remove or otherwise control EAW:

(1) A brief summary of the proposed project, including:

a. A concise statement of what the project is intended to accomplish;

b. A list of each task to be undertaken as part of the project and for each, who will do it and how it will be done;

c. The location of the proposed project and the name of each owner of property adjacent to the project;

d. A copy or summary of any lake association or town official review and comments;

e. The proposed start date and end date of the project;

f. A description of each target plant species for removal; and

g. An estimate of the total square feet and cubic yards of vegetation to be removed;

(2) For any EAW removal project proposing more than 10,000 square feet in surface area, more than 5% of the surface area of a waterbody, or any impact to a special resource area, an aquatic vegetation management plan for the impacted area of the lake or pond that:

a. Addresses long-term and cumulative impacts from the proposed project; and

b. Identifies:

1. The functional value of the vegetation to be removed;

2. Sources of nutrients that may be causing EAW growth; and

3. Opportunities for reducing the amount of nutrients and sediment that enter the waterbody;

(3) A plan showing the proposed areas for NAV or EAW removal, as applicable, with a listing and annotation showing information on species abundance and coverage including:

a. The name of the plant community to be removed;

b. The extent of areal coverage;

c. The potential impact on native plant communities, if applicable, and the distance of those native plant community from existing docking facilities;

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d. Detailed dimensions showing the existing vegetative cover and the proposed removal area; and

e. The depth of removal;

(4) A description of the proposed control methods, such as hydroraking or mechanical harvesting, and the justification for the method selected, including:

a. Methods to contain and control and minimize water quality impacts;,

b. Methods to transfer vegetation that is removed without dispersing it;

c. Method(s) and location(s) to dewater removed vegetation;

d. Methods to minimize impacts to fishery and wildlife habitats based on the time of year the project will occur;

e. Method of disposal of EAW, consistent with Env-Wq 1303.06 relative to acceptable means of disposal; and

(5) For projects that propose removal or mechanical harvesting of EAW from areas less than two meters deep, equivalent to 6.6 feet deep, or for which an aquatic vegetation management plan is required by (2), above, a wetland delineation, wetland assessment, and characterization of emergent/aquatic bed wetland.

(b) The applicant shall provide copies of the plan required by (a)(2) to the local lake association and conservation commissions.

Env-Wt 510.06 Design Requirements for EAW Control Projects. A proposed project to remove or otherwise control EAW shall be designed to comply with all applicable requirements of RSA 487 and Env-Wq 1300.

Env-Wt 510.07 Construction Requirements for NAV Removal and EAW Control Projects. In addition to all applicable construction standards specified in Env-Wt 307, the following shall apply to projects to remove or otherwise control EAW or NAV:

(a) The project shall be supervised by:

(1) A certified wetland scientist; or

(2) For EAW control projects, a certified wetlands scientist having experience in identifying and controlling EAW;

(b) Where protected species or habitat has been identified, the permittee shall coordinate with the NH fish and game department and the department of natural and cultural resources, natural heritage bureau (NHB) as applicable;

(c) For EAW control projects, all reasonable precautions shall be taken within riparian areas to prevent unnecessary removal of native vegetation during access to and transfer of removed EAW;

(d) Any riparian area in which native vegetation that is not the target vegetation of the project has been damaged or removed shall be revegetated with like native species within 3 days of the completion of the disturbance

(e) Upland and bank areas landward of the project area shall not be disturbed by regrading or filling; and

(f) Within 60 days of final site stabilization, the permittee shall submit a follow-up report to the department that includes a summary of the project and photographs of all stages of construction.

NOTE: All cross-references subject to verification/correction.

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Env-Wt 510.08 Classification of NAV Removal and EAW Control Projects. Except for hand removal of EAW pursuant to Env-Wt 510.03, projects to remove NAV or EAW that do not qualify for an LSA under Env-Wt 309.01(c) shall be classified as follows:

(a) A project shall be classified as a CAT1 if:

(1) All requirements of Env-Wt 510.02 through Env-Wt 510.05 are met

(2) It does not meet the criteria of (b) or (c), below;

(3) EAW will be removed as authorized by RSA 487:17;

(4) It is not located in a marsh of any size or a special resource area; and

(5) Work is conducted under the supervision of the department;

(b) A project shall be classified as a CAT2 if:

(1) All requirements of Env-Wt 510.02 through Env-Wt 510.05 are met,

(2) It does not qualify as a CAT1 under (a), above, or meet the criteria for a CAT3 under (c), below; and

(3) The project either:

a. Is associated with repair of a minor docking facility; or

b. Meets the criteria for a minor dredge permit as specified in Env-Wt 5??;

(c) A project shall be classified as a CAT3 if

(1) It does not qualify as a CAT1 under (a), above, or a CAT2 under (b), above;

(2) It meets the requirements for a major dredge project as specified in Env-Wt 5??; or

(3) It is or is associated with a major project as defined in Env-Wt 400.

PART Env-Wt 511 BEACH CONSTRUCTION AND REPLENISHMENT; DECKS

Env-Wt 511.01 Applicability. This part shall apply to any person who wishes to:

(a) Construct a beach, deck, or combination thereof (B/D structure); or

(b) Replenish a beach.

Env-Wt 511.02 Criteria for Approval of Beach or Deck (B/D) Construction. The department shall not approve an application for construction of a new B/D structure unless the applicant demonstrates that:

(a) All applicable criteria in Env-Wt 300 are met;

(b) For a beach, the beach will not contribute sand to the adjacent surface water, and

(c) The B/D structure will not:

(1) Adversely impact a wetland or water course;

(2) Have a negative impact on shoreline stability; or

(3) Violate the minimum standards of RSA 483-B:9.

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NOTE: All cross-references subject to verification/correction.

Env-Wt 511.03 Project-Specific Application Requirements. The applicant for a new B/D structure shall provide the following information pursuant to Env-Wt 311.03(b)(9), on the plans required by Env-Wt 311.03(b)(3):

(a) The normal high water line;

(b) The top of bank;

(c) The amount of shoreline frontage for the subject property;

(d) For a beach, the volume, in cubic yards, of sand to be used;

(e) All temporary impact areas; and

(f) A cross section showing the following information:

(1) The difference in elevation between the lowest point of the shoreline slope to be impacted by the structure and the highest point of the shoreline slope to be impacted;

(2) The linear distance across the proposed project area as measured along a straight line between the lowest point of the shoreline slope to be impacted by the structure and the highest point of the shoreline slope to be impacted;

(3) If a retaining wall is proposed as part of the project:

a. The proposed height and width of the wall;

b. The type and materials of construction; and

c. Any stormwater diversion methods and drainage associated with the proposed wall.

Env-Wt 511.04 B/D Structure Design Requirements.

(a) A B/D structure shall not extend within 10 feet of the side boundaries of the subject property, unless:

(1) The structure is proposed to serve abutting properties and the property owners agree to have contiguous structures, in which case each application shall include a statement signed by the abutting property owner agreeing to the proposed placement of the structure; or

(2) The abutting property owner does not object, in which case the application shall include a statement signed by the abutting property owner agreeing to the proposed placement of the structure.

(b) A new B/D structure shall be located:

(1) On or in a slope of less than 25%; and

(2) So as to minimize the removal of vegetation;

(c) If the proposed location for the B/D structure is a hardened shoreline, whether from naturally-occurring stone or installed rip-rap or retaining walls, then:

(1) The B/D structure shall be landward of and higher than the hardened shoreline; and

(2) The hardened shoreline shall remain intact except for such material that is to be removed to install steps to access the water;

(d) If the proposed location for the B/D structure is not a hardened shoreline, the surface of the B/D structure shall be at least 12 inches above the full lake elevation;

(e) The surface of a beach shall not slope in the direction of the water

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(f) Steps for access to and from the B/D structure shall:

(1) Not exceed 6 feet in width; and

(2) Be entirely landward of the normal high water line;

(g) Wooden stairs for access to the water shall:

(1) Not exceed 6 feet in width;

(2) Be removed from the lakebed prior to ice in; and

(3) Not be re-installed until ice out;

(h) Because B/D structures are accessory structures as defined in RSA 483-B:4, II, the total area of the B/D structure shall meet the spatial limits allowed for the available frontage as specified in Env-Wq 1400; and

(i) The work shall not alter more than the smaller of 20% of the applicant's contiguous shoreline or 50 feet.

Env-Wt 511.05 B/D Structure Construction Requirements.

(a) The B/D structure shall be constructed as shown in the approved plans and specifications.

(b) Revegetation of trees, shrubs and ground covers representing the density and species diversity of the existing stand of vegetation removed for the project shall begin at a distance no greater than 5 feet landward from the beach area.

(c) Appropriate methods for the diversion of stormwater away from the beach and deck shall be installed immediately upslope of the structure.

(h) Any proposed removal of rocks from the bed of the surface water at the base of access steps shall meet the requirements of Env-Wt 307.

Env-Wt 511.06 B/D Structure Construction Project Classifications.

(a) Construction of a B/D structure shall be a CAT1 project only if all of the following criteria are met:

(1) The B/D structure serves one privately-owned single family residence only;

(2) No filling or dredging occurs below the normal high water line;

(3) No work is done in a marsh or any size or a special resource area; and

(4) Not more than 10 cu.yd. of sand is used.

(b) Construction of a beach shall be a CAT2 project only if the project complies with (a)(1) through (3), above, and either:

(1) The project uses more than 10 cu.yd. of sand but not more than 20 cu.yd. of sand; or

(2) The aggregate area impacted by the B/D structure is 250 sq.ft. or greater but does not exceed 500 sq.ft.

(c) Construction of a deck shall be a CAT2 project only if:

(1) The project complies with (a)(1) through (3), above; and

(2) The aggregate area impacted by the structure is 250 SF or greater but does not exceed 500 SF.

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(d) Construction of a B/D structure shall be a CAT3 project if the project does not meet the criteria for a CAT1 project specified in (a), above, or for a CAT2 project specified in (b), above.

Env-Wt 511.07 Beach Replenishment Project Classifications.

(a) Replenishment of sand on an existing beach shall be a CAT1 project only if all of the following criteria are met:

(1) The beach was originally installed prior to permit jurisdiction or was installed pursuant to a permit and in compliance with all permit terms and conditions;

(2) No sand is placed below the normal high water line;

(3) No work is done in a special resource area;

(4) No more than 10 cu.yd. of sand is used; and

(5) The beach is not replenished more frequently than once in any 6 year period.

(b) Replenishment of a beach shall be a CAT2 project only if the project meets the criteria in (a), above, except that:

(1) The beach is replenished more frequently than once in a 6 year period; or

(2) More than 10 cu.yd. of sand but not more than 20 cu.yd. of sand will be used.

(c) Replenishment of a beach shall be a CAT3 project if the project does not meet the criteria for a CAT1 project specified in (a), above, or for a CAT2 project specified in (b), above.

Env-Wt 511.08 Deck Repair Project Classifications.

(a) Repair of an existing deck shall be a CAT1 project only if all of the following criteria are met:

(1) The deck was originally installed prior to permit jurisdiction or was installed pursuant to a permit and in compliance with all permit terms and conditions; and

(2) No work is done in a special resource area;

(b) Repair of an existing deck shall be a CAT2 project if:

(1) [more stakeholder input needed]

(2)

(c) Repair of an existing deck shall be a CAT3 project if the project does not meet the criteria for a CAT1 project specified in (a), above, or for a CAT2 project specified in (b), above.

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PART Env-Wt 512 BREAKWATERS AND WAVE ATTENUATORS

Env-Wt 512.01 Applicability. This part shall apply to any person who wishes to construct or maintain a breakwater or wave attenuator.

Env-Wt 512.02 Criteria for Approval of Breakwaters and Wave Attenuators.

(a) The department shall not approve a breakwater or wave attenuator unless the applicant establishes that:

(1) The structure is proposed to be located in Lake Winnipesaukee;

(2) The proposed site for the structure meets one of the criteria specified in (b), below;

(3) The structure is located in an area that:

a. Does not have accumulations of sand, such as deltas or sand bars; and

b. Is not between 2 or more areas where sand migrates from one to the other;

(4) The property associated with the structure has 100 feet or more of shoreline frontage;

(5) The design of the structure meets all design criteria specified in Env-Wt 512.04;

(6) The application for the structure contains the additional information specified in Env-Wt 512.03; and

(7) The structure will be constructed as specified in Env-Wt 512.05.

(b) To qualify for a breakwater or wave attenuator, the applicant shall demonstrate, as specified in (c) or (d), below, as applicable, that the site for the proposed structure is exposed to:

(1) A single radial fetch of at least 4 miles between compass headings 300 and 330 degrees as measured from true north; or

(2) Waves that are at least 2 feet high, measured from trough to crest, in water at least 3 feet deep, on at least 4 separate occasions, lasting at least 4 hours each, between May 15 and October 15.

(c) To demonstrate that the site meets the criterion specified in (b)(1), above, the applicant shall provide a copy of the map of Lake Winnipesaukee in Appendix ?, which shows areas that meet the location requirements, with the location of the proposed structure marked clearly. In lieu of a copy of the map in Appendix ?, the applicant may provide a portion of a larger copy of the map obtained from the department's wetlands bureau or on the department's website.

(d) To demonstrate that the site meets the criterion specified in (b)(2), above, the applicant shall provide either:

(1) Dated photographs or video recording and a summary of the wave heights measured, the dates measured, and the frequency of measurement during each 4-hour period, which frequency shall be sufficient to show, in conjunction with the photographs, that the wave activity is essentially continuous throughout each 4-hour period; or

(2) Written site measurements completed during the relevant period and verified as accurate by department staff.

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Env-Wt 512.03 Application Requirements for Breakwaters and Wave Attenuators.

(a) The applicant for a breakwater or wave attenuator shall provide the information specified in (b) and (c), below, with the application.

(b) The following information shall be shown on the plan required by Env-Wt 311.03(b)(4):

(1) Dimensions of the structure, including, for breakwaters, dimensions at the toe of slope;

(2) The dimensions visible at normal high water level;

(3) The direction of prevailing wave activity;

(4) The 50-foot width of the waterfront buffer established pursuant to RSA 483-B:9, V(a);

(5) All docking structures on the subject property or otherwise associated with the subject property; and

(6) The construction sequence that will be followed.

(b) The applicant also shall provide:

(1) Cross-sections showing the height and slope of the structure and the normal high water line; and

(2) A complete list of all construction materials.

Env-Wt 512.04 Breakwater Design Requirements.

(a) The height of the breakwater~~s~~ shall not exceed 3 feet above the normal high water line.

(b) The width of the breakwater at its highest point shall not exceed 3 feet.

(c) The side slopes of the breakwater shall be 1:1.5, rise to run, or steeper.

(d) The sides and top of the breakwater shall have irregular surfaces to diffuse wave activity.

(e) The breakwater, when measured from the normal full lake elevation, shall have:

(1) No point more than 50 feet from the natural shoreline;

(2) A total length of no more than 70 feet; and

(3) A gap of 6 feet or more between the breakwater and shoreline.

(f) The proposed configuration for the breakwater shall be the least impacting option available for breakwater construction for that site.

(g) No portion of the breakwater, including any portion underwater, shall be placed within 20 feet of an abutting property line or its imaginary extension into the water.

(h) The design specifications shall call for the breakwater to be constructed of stone, concrete, wood, or other inert materials, consistent with the individual conditions of each site.

Env-Wt 512.05 Breakwater Construction Requirements.

(a) The breakwater shall be constructed as shown in the approved plans and specifications.

(b) No rocks shall be stockpiled in any jurisdictional area unless the applicant:

(1) Specifically requests authorization for such stockpiling in the application; and

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(2) Documents in the application that the limited and difficult access to the site precludes stockpiling outside of jurisdictional areas.

(c) Any rocks stockpiled in jurisdictional areas shall be removed:

(1) As soon as practicable; and

(2) In every case, by the conclusion of construction on the breakwater.

(d) Rocks from the frontage of the subject property shall be used as a source of breakwater material only if:

(1) The applicant specifically requests authorization for such use in the application; and

(2) The rocks are removed from another structure on the frontage for the purpose of constructing the breakwater and are not dug or blasted out of the ground.

Env-Wt 512.06 Breakwater Construction Project Classification.

(a) Breakwater construction shall be a CAT3 project, regardless of the size of the breakwater.

(b) Classification as a CAT3 project pursuant to (a), above, shall:

(1) Take precedence over any lower classification; and

(2) Not be subject to a waiver.

Env-Wt 512.07 Breakwater Maintenance and Repair Project Classification.

(a) A breakwater may be maintained or repaired without obtaining a permit only if all of the following conditions are met:

(1) The breakwater was originally constructed prior to permit jurisdiction or was installed pursuant to a permit and in compliance with all permit terms and conditions;

(2) The work consists only of placing materials that have been dislodged from the breakwater back into their original location; and

(3) All work is done without the use of machinery.

(b) Breakwater maintenance and repair shall be a CAT1 project only if both of the following conditions are met:

(1) The breakwater was originally constructed prior to permit jurisdiction or was installed pursuant to a permit and in compliance with all permit terms and conditions; and

(2) The work consists of:

a. Replacement of original materials which have been dislodged; or

b. Placing materials that have been dislodged from the breakwater into their original location using machinery that will be operated from a barge or from a land area outside of any jurisdictional areas.

(c) Breakwater maintenance and repair shall be a CAT2 project only if both of the following conditions are met:

(1) The breakwater was originally constructed prior to permit jurisdiction or was installed pursuant to a permit and in compliance with all permit terms and conditions; and

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(2) The work consists of placing new materials into locations from which original materials have been dislodged using machinery that will be operated from a barge or from a land area outside of any jurisdictional area.

(d) Breakwater maintenance and repair shall be a CAT3 project if the project does not meet the criteria for a permit-exempt project as specified in (a), above, a CAT1 project as specified in (b), above, or a CAT2 project as specified in (c), above.

Env-Wt 512.08 Required Modification or Removal of Breakwaters.

(a) Subject to (b), below, the owner of a breakwater that causes significant adverse effects on abutting property owners or on public use of the water, such as by creating or contributing to the formation of sand bars or other navigation hazards, shall modify the breakwater so as to eliminate such adverse effects.

(b) The owner of the breakwater shall remove the breakwater if:

(1) Modification is not practicable; or

(2) The modification is ineffective in eliminating the adverse effects.

(c) No modification or removal shall be performed without first obtaining a permit for the modification or removal under Env-Wt 311.

(d) The removal of a breakwater shall be classified as a CAT#? project.

Env-Wt 512.09 Design Requirements for Wave Attenuators. A wave attenuator shall:

(a) Float or be suspended from underside of docking structure; and

(b) Extend downward into the water, leaving enough space between the bottom of the structure and the bed of the surface water to not disturb the natural underwater current.

Env-Wt 512.10 Construction Requirements for Wave Attenuators. [more stakeholder input needed]

Env-Wt 512.11 Construction Classification for Wave Attenuators. [more stakeholder input needed]

Env-Wt 512.12 Maintenance and Repair of Wave Attenuators. [more stakeholder input needed]

Env-Wt 512.13 … [other - e.g., Removal]. [more stakeholder input needed]

PART Env-Wt 513 PRIVATE DOCKING STRUCTURES

Env-Wt 513.01 Purpose and Applicability.

(a) The purpose of this part is to establish standards for private docking structures that do not qualify for the statutory permit by notification (SPN) established in RSA 482-A:3, IV-a, in order to minimize congestion, improve public safety and navigation, protect neighboring property values, provide sufficient area for construction of docking structures, ensure adequate area for boat maneuvering, and protect health, safety, and general welfare by minimizing construction surface area, encouraging the clustering or merging of docking structures, and minimizing impacts to the bank associated with docking facilities,

(b) Subject to (c), below, this part shall apply to any person who wishes to construct, modify, repair, or replace a private docking structure.

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(c) This part shall not apply to:

(1) Maintenance and repairs undertaken pursuant to the statutory exemption described in Env-Wt 308.01;

(2) Temporary seasonal docks installed pursuant to the SPN described in Env-Wt 308.04; or

(3) Boathouses as covered by Env-Wt 519.

Env-Wt 513.02 Approval of Private Docking Structures.

(a) The department shall not approve an application for a private docking structure unless the applicant demonstrates that the following criteria are met:

(1) The docking structure will not have an unreasonable adverse impact on:

a. The ability of abutting owners to use and enjoy their properties; or

b. The public's right to navigation, passage, and use of the resource for commerce and recreation;

(2) The docking structure has been designed, located, and configured to avoid impacts to water quality, aquatic vegetation, and wildlife and finfish habitat;

(3) The docking structure will not adversely affect shoreline stability; and

(4) The type of construction proposed is the least intrusive upon the public trust necessary to provide safe docking on the frontage.

(b) A seasonal dock installed under the statutory permit by notification or as permitted under Env-Wt 300 shall require no further permitting unless there is a change in size, location, or configuration of the dock.

Env-Wt 513.03 Application Requirements for Private Docking Structures. The applicant for a single family residential docking structure shall provide the following information pursuant to Env-Wt 311.03(b)(10):

(a) On the plan required by Env-Wt 311.03(b)(4), the following:

(1) The normal high water line;

(2) The top of bank;

(3) The amount of shoreline frontage for the subject property;

(4) The general shape of the shoreline including the length of frontage and either:

a. The full water body elevation for lakes and ponds; or

b. The ordinary high water line for rivers and streams;

(5) The footprint of all existing and proposed structures on the property;

(6) The intended use of each proposed structure;

(7) The distance from existing and proposed work to abutting property lines; and

(8) A cross section showing the proposed height, width, and location of any concrete pad associated with the docking structure construction relative to either:

a. The full water body elevation for lakes and ponds; or

b. The ordinary high water line for rivers and streams.

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(b) Any applicant who wants a longer dock than is standard pursuant shall submit all information needed to show that project meets one of the criteria in Env-Wt 513.05(b).

Env-Wt 513.04 Design Requirements for Private Docking Structures. All private docking structures shall:

(a) Be seasonal structures, unless the criteria of Env-Wt 513.12 relative to the criteria for permanent docking structures are met; and

(b) Meet the applicable requirements specified in Env-Wt 513.05 through Env-Wt 513.09.

Env-Wt 513.05 Setback Requirements for Private Docking Structures.

(a) As required by RSA 482-A:3, XIII(a), and subject to (b) and (c), below, all private docking structures shall be located at least 20 feet from any abutting property line. In cases where the property line is not perpendicular to the shoreline, the 20-foot set-back shall also apply to the imaginary extension of the property line over the surface water.

(b) As specified in RSA 482-A:3, XIII(c), if an applicant wishes to locate a docking structure closer than 20 feet from an abutter's property line, the applicant shall:

(1) Obtain the written consent of the abutting property owner; and

(2) Submit the written consent that has been signed by all parties and notarized with the application.

(c) As specified in RSA 482-A:3, XIII(d), if abutters wish to apply for a common dock on or near their common property line, then:

(1) The application for the common dock shall include a notarized written agreement signed by all property owners; and

(2) If a permit is issued, the permittee shall record the agreement submitted pursuant to (1), above, at the registry of deeds so as to be in the change of title of each property owner.

(d) Pursuant to RSA 482-A:3, XIII(b), and as clarified by (e), below:

(1) Docking structures may be perpendicular or parallel to the shoreline or extend at some other angle into a water body, depending on the needs of the landowners, factors related to safe navigation, and the difficulty of construction; and

(2) Any boat secured to such a dock shall not extend beyond the extension of the abutter's property line.

(e) The standard configuration for a docking structure in a river or stream shall be parallel to the shoreline. If the applicant wishes to have other than the standard configuration, the application shall include documentation of the need for the proposed alternative based on the factors listed in (d)(1), above.

Env-Wt 513.06 Dimensions of Private Docking Structures; Frontage.

(a) Subject to (b), below, no portion of a private docking structure on a lake or pond shall extend more than 40 feet from the normal high water line.

(b) A private docking structure on a lake or pond may extend an additional 10 feet from the normal high water line, for an overall total of not more than 50 feet, only if:

(1) Conforming to the specified size would represent a safety hazard due to wind or other typical weather conditions;

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(2) The property has a physical configuration, such as insufficient water depth, that requires a longer dock that is not shared generally by nearby properties; or

(3) The additional lakeward extension will allow the clustering or configuring of docking structures in a manner that would result in less environmental impact to the shoreline and water body than would otherwise occur.

(c) For a private docking structure on a water course:

(1) No portion shall extend into the public navigation pathway; and

(2) In no case shall any point of the structure be more than 10 feet into the channel from the waterline.

(d) No portion of any dock shall be less than 4 feet or greater than 8 feet in width.

(e) If the subject property has 50 linear feet (LF) or more of contiguous frontage, the deck area, exclusive of accessory docking structures such as boat lifts or canopies, shall be:

(1) Not more than 200 SF for the first 50 linear feet of contiguous shoreline frontage; and

(2) Not more than an additional 100 SF for each additional 25 linear feet of contiguous shoreline frontage, to a maximum of 900 sq.ft. regardless of how much frontage is available.

(f) If the subject property has less than 50 feet of contiguous shoreline frontage, the deck area, exclusive of accessory docking structures such as boat lifts or canopies, shall be not more than 200 SF.

Env-Wt 513.07 Concrete Pads for Seasonal Private Docking Structures. Any concrete pad installed to anchor a seasonal pier shall:

(a) Be not more than 7 feet wide as measured along the shoreline;

(b) Be not more than 3 feet deep as measured from the shoreline back;

(c) Not be in prime wetlands or a duly-established 100-foot buffer;

(d) Designed such that any adjacent bank stabilization, such as gravel or rip-rap, will not cause the total impact of the pad to exceed 10 LF along the bank;

(e) For a concrete pad on a pond or lake, be constructed landward of the normal high water line; and

(f) For a concrete pad on a watercourse, installed completely landward of the ordinary high water line.

Env-Wt 513.08 Navigation Space for Private Docking Structures. The design and construction of docking structures shall allow for a maximum of 2 feet of navigation space between a boat slip and any other boat slip or structure.

Env-Wt 513.09 Construction and Maintenance of Private Docking Structures.

(a) A private docking structure shall be constructed as documented by the approved plans and specifications.

(b) A seasonal dock shall be:

(1) Installed after ice-out and removed prior to ice-in if on a lake or pond;

(2) Installed after May 15 and removed prior to November 15 if on a river or stream;

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(3) Placed in the water in a way that does not obstruct navigation; and

(4) Removed from the water prior to applying any paint, stain, or other preservative coating, and not returned to the water until after such coating is dry.

Env-Wt 513.10 Private Docking Structure Construction Project Classification.

(a) The construction of a private docking structure shall be a CAT1 project only if all of the following criteria are met:

(1) The structure is a seasonal dock meeting all applicable design criteria with no waivers; and

(2) The total deck area does not exceed 300 SF.

(b) The construction of private docking structure shall be a CAT2 project if the project does not meet the criteria specified in (a), above, for CAT1 projects and:

(1) The total area of dock surface does not exceed 700 SF; and

(2) The proposed docking structure will impact no more than 100 LF of waterfront.

(c) The construction of a docking structure shall be a CAT3 project if:

(1) Any other impacts associated with the completion of the project would otherwise be classified as major;

(2) The project does not meet the criteria for CAT1 projects specified in (a), above, or for CAT2 projects specified in (b), above;

(3) The docking structure is a major docking system; or

(4) The dock is proposed to be adjacent to or attached to a breakwater or wave attenuator.

Env-Wt 513.11 Private Docking Structure Maintenance and Repair Project Classification.

(a) The modification or repair of a private docking structure shall be a CAT1 project only if all of the following criteria are met:

(1) The dock is a seasonal existing legal structure;

(2) All work is done over dry land; and

(3) The structure is not returned to the water until all coatings are dry.

(b) The construction or modification of private docking structure shall be a CAT2 project if the project does not meet the criteria specified in (c), below for CAT3 projects, and:

(1) [more stakeholder input needed]
(2)

(c) The construction of a docking structure shall be a CAT3 project if:

(1) Any other impacts associated with the project would otherwise be classified as major;

(2) The project does not meet the criteria for CAT1 projects specified in (a), above, or for CAT2 projects specified in (b), above;

(3) The docking structure is a major docking system; or

(4) The dock is adjacent to or attached to a breakwater or wave attenuator.

NOTE: All cross-references subject to verification/correction.

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Env-Wt 513.12 Criteria for Approval of Permanent Docking Structures.

(a) The department shall approve an application for a permanent docking structure only if the applicant establishes that:

(1) The proposed permanent dock will be located on a lake of over 1,000 acres;

(2) A permanent dock is authorized by (b), below; or

(3) The applicant demonstrates that either:

a. The only available location for the dock is exposed to waves or currents that render use of a moving dock hazardous; or

b. The dock will be used on a regular basis by persons with physical or mental limitations.

(b) A permanent dock shall be approved when at least one of the following requirements is met:

(1) The dock will be located on an island that is not accessible by land;

(2) The dock will be subjected to unusually heavy loading where a permanent dock is needed for safety, such as a dock at a commercial facility that is used to convey heavy equipment or freight; or

(3) The dock will provide a significant public benefit, such as a docking structure that is open to the general public for transient use.

Env-Wt 513.13 Design Requirements for Permanent Docking Structures.

(a) A permanent docking structure shall be designed to meet the requirements in this part relative to setbacks, navigation space, and frontage, and the requirements of this section.

(b) The deck area and linear extension from the normal high water line for a private permanent dock shall be as shown in Table 408-1, as follows:

Table 513-1 Deck Area and Linear Extension from NHWL for Permanent Docking Structures
↓[these are based on current requirements but can be changed based on stakeholder input]

Type and Size of Surface Water	Total Deck Area	Linear Extension from NHWL
Lake of 1,000 acres or more	based on frontage	40
Lake or Pond of less than 1,000 acres	based on frontage	30
Watercourse X feet wide or wider at dock location	??	??
Watercourse less than X feet wide at dock location	??	??

(c) The standard design for a permanent dock shall be open pile construction.

(d) Pilings shall be spaced at least 12 feet apart, as measured from the center of each piling.

(e) The department shall approve a design other than open pile construction only if the applicant demonstrates that:

(1) Pilings cannot be driven; and

(2) The alternate design proposed is the least impacting design for that location.

(f) The demonstration that pilings cannot be driven shall include documentation of trial driving by commercial equipment, probings, or experience in construction of immediately adjacent docks, or any combination thereof.

(g) If an applicant demonstrates that pilings cannot be driven, an alternate design may be submitted.

NOTE: All cross-references subject to verification/correction.

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(h) If the alternate design is a crib dock, the crib shall be designed in accordance with the following:

(1) The maximum size of the crib in water up to 6 feet deep shall not exceed 6 feet long by 6 feet wide, and of such height as is necessary to support the deck above the water level;

(2) The side dimensions of the crib shall be increased by not more than one foot for every additional foot of water depth above 6 feet;

(3) The minimum clear spacing between cribs shall be 12 feet; and

(4) The crib itself shall be of timber, prefabricated concrete, or other approved materials securely fastened together and of such size and spacing necessary to completely contain the stone ballast or other fill material.

(i) If the alternate design is other than a crib dock, such as caissons, concrete supports, or prefabricated cofferdams, the dock shall be designed in accordance with standard engineering practices for the design proposed.

PART Env-Wt 514 COMMERCIAL DOCKING STRUCTURES; PUBLIC DOCKING STRUCTURES; DOCKING STRUCTURES AT MARINAS

Env-Wt 514.01 Applicability.

(a) Subject to (b) and (c), below, this part shall apply to any person who wishes to construct, modify, repair, or replace a commercial docking structure, a public docking structure, or a docking structure at a marina.

(b) The rules in this part shall not apply to:

(1) Maintenance and repairs undertaken pursuant to the statutory exemption as described in Env-Wt 308.01; or

(2) Temporary seasonal docks installed pursuant to the statutory permit by notification as described in Env-Wt 308.04.

Env-Wt 514.02 Municipal Review of Public or Commercial Docking Structures or Marinas.

(a) An application to construct a new public or commercial docking structure or marina or to expand an existing legal public or commercial docking structure or marina shall include documentation demonstrating that the proposed new or expanded structure, as applicable, complies with all applicable local requirements.

(b) Subject to (c) and (d), below, the documentation required by (a), above, shall be:

(1) A copy of the local permit or approval; or

(2) A letter from the applicable local land use board or local governing body indicating that a permit or approval is not required under local regulations.

(c) If local approval is required but has not been issued at the time the application is filed with the department, the applicant shall certify that the local application has been filed but a decision has not yet been issued.

(d) Local regulations shall not restrict the sole and exclusive authority of the state to authorize construction over, or dredge and fill in, great ponds or public-owned water bodies. If a municipality denies the local application or does not act on the application in a timely manner, the applicant may request a public hearing to waive the requirement of (b), above.

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Env-Wt 514.03 Additional Design Standards and Application Requirements for Marinas.

(a) In addition to meeting all other applicable requirements, a marina shall be designed to:

(1) Minimize its visual impact on abutters and users of the surface water;

(2) Contain any leakage or spills of fuels, lubricants, waste products, or other pollutants from all marina operations;

(3) Not represent a hazard to navigation;

(4) Have designated areas for washing or other cleaning of watercraft;

(5) Control and treat storm water;

(6) Include at least one pump-out facility for the removal of wastes from on-board receptacles that receive and retain wastes from toilets, sinks, showers, and other on-board sources of sewage or graywater; and

(7) Include at least one bulletin board or kiosk-type structure where public service announcements, such as information on milfoil or other invasive species, can be posted so as to be reasonably protected from weather and readily visible to users of the marina.

(b) On the plans submitted with the application, the applicant shall show:

(1) The location and specifications of any abrasive blasting, painting, or hull sanding operations;

(2) The locations and specifications of (a)(4) through (7), above; and

(3) The location and method for disposing of used oil and other waste products.

Env-Wt 514.04 Frontage Requirements for Public or Commercial Docking Structures.

(a) The frontage standards established in this section for public and commercial docking structures and marinas shall be for the purpose of minimizing congestion, improving public safety and navigation, protecting neighboring property values, providing sufficient area for construction of docking structures, providing adequate area for boat maneuvering, and protecting health, safety, and general welfare.

(b) Subject to (b) and (c), below, to support a public or commercial docking structure or a marina~~s~~, the subject property shall have 25 feet of contiguous shoreline per boat slip.

(c) If the applicant wishes to have more than one boat slip per 25 feet of frontage, the applicant shall request a waiver in accordance with Env-Wt 203. The waiver request shall include documentation that the additional slips will not be contrary to the purpose of the frontage requirement as specified in (a), above, and that allowing additional slips is in the public interest. High demand for boat slips shall be insufficient by itself to establish a public interest.

(d) If the department determines that allowing one slip per 25 feet of contiguous frontage would pose a navigational hazard, based on the configuration of the shoreline or the proximity of other waterfront uses, or both, the department shall authorize fewer slips.

Env-Wt 514.05 Design Requirements for Public or Commercial Docking Structures and Marinas.

(a) A public or commercial docking structure shall be designed to comply with all applicable requirements of Env-Wt 513.04 for seasonal structures unless the criteria of Env-Wt 513.12 relative to permanent structures are met.

(b) If the criteria of Env-Wt 513.12 relative to permanent structures are met, the design shall comply with Env-Wt 513.13(a), Env-Wt 513.13(c)-(i), and (c), below.

NOTE: All cross-references subject to verification/correction.

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(c) The deck area and extension from the NHWL for a public or commercial permanent dock shall be as shown in Table 513-3, as follows:

Table 513-3 Deck Area and Linear Extension from NHWL for Public or Commercial Permanent Docking Structures
[more stakeholder input needed]

Type and Size of Surface Water	Total Deck Area	Linear Extension from NHWL
Lake of 1,000 acres or more	??	??
Lake or Pond of less than 1,000 acres	??	??
Watercourse X feet wide or wider at dock location	??	??
Watercourse less than X feet wide at dock location	??	??

Env-Wt 514.06 Docking Structure Construction Project Classifications.

(a) The construction of a dock shall be a CAT1 project only if all of the following criteria are met:

(1) The proposed dock is a seasonal dock meeting all applicable criteria specified in Env-Wt 513.05 through Env-Wt 513.09; and

(2) No more than 2 slips, including previously existing slips, are proposed;

(b) The construction of a docking structure shall be a CAT2 project if the project does not meet the criteria specified in (a), above, for minimum impact projects and:

(1) No more than 4 boat slips, including previously existing boat slips, are proposed; and

(2) The proposed docking structure will use no more than 100 feet of waterfront.

(c) The construction of a docking structure shall be a CAT3 project if:

(1) The project does not meet the criteria for CAT1 projects specified in (a), above, or for CAT2 projects specified in (b), above;

(2) The docking structure is a major docking system as defined in Env-Wt 100; or

(3) The dock is proposed to be adjacent to or attached to a breakwater or wave attenuator.

Env-Wt 514.07 Docking Structure Modification Project Classifications.

(a) The modification of a dock shall be a CAT1 project only if all of the following criteria are met:

(1) The dock is a seasonal dock meeting all applicable criteria specified in Env-Wt 513.??;

(2) The dock is an existing legal structure; and

(3) The project will result in no more than 2 slips, including previously existing slips;

(b) The modification of a docking structure shall be a CAT2 project if the project does not meet the criteria specified in (a), above, for minimum impact projects and:

(1) The dock is an existing legal structure; and

(2) The project will result in no more than 4 boat slips, including previously existing boat slips; and

(3) The docking structure uses no more than 100 feet of waterfront.

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NOTE: All cross-references subject to verification/correction.

(c) The modification of a docking structure shall be a major project if:

(1) The project does not meet the criteria for minimum impact projects specified in (a), above, or for minor projects specified in (b), above;

(2) The docking structure is a major docking system; or

(3) The dock is or is proposed to be adjacent to or attached to a breakwater or wave attenuator.

Env-Wt 514.08 Information Required for Requests for Waivers to Size Requirements. If an applicant wants a docking structure having dimensions greater than those specified in Env-Wt 513.??, the applicant shall provide information demonstrating that one or more of the following is true:

(a) Conforming to the specified size would represent a safety hazard due to wind or other typical weather conditions;

(b) The property has a unique physical hardship that requires a larger deck area and that is not shared generally by nearby properties, such as insufficient water depth;

(c) If the application is for a public docking structure, the number of people or volume of cargo, or both, that is anticipated for the docking structure necessitates larger dimensions; or

(d) Clustering or merging the docking structures in one location would result in less environmental impact to the shoreline and water body than would standard dimensions and installation.

PART Env-Wt 515 ACCESSORY DOCKING STRUCTURES

Env-Wt 515.01 Applicability.

(a) Subject to (b) below, this part shall apply to any person who wishes to install, construct, modify, repair, or replace any accessory docking structure, whether for a private, public, commercial, or marina docking structure.

(b) This part shall not apply to:

(1) Maintenance and repairs undertaken pursuant to the statutory exemption as described in Env-Wt 308.01;

(2) Swim rafts or moorings installed in accordance with applicable requirements of state law and rules adopted by the New Hampshire department of safety;

(3) Aquatherms, circulators, and similar devices for the prevention of ice formation around structures installed in accordance with the requirements of state law and rules adopted by the New Hampshire department of safety;

(4) Devices attached to solely to the sides or surfaces of a docking structure for the purpose of securing lines such as cleats, whips, or tie-posts;

(5) Diving boards, slides, and ladders that are not a navigational hazard;

(6) [anything else?]

Env-Wt 515.02 Criteria for Approval of Accessory Docking Structures. The department shall approve an application for an accessory docking structure, whether an anchoring pad for a seasonal dock, canopy, dolphin, ice cluster, or tie-off piling, personal watercraft lift, or watercraft lift, only if the proposed accessory docking structure is designed and installed so as to comply with:

(a) Env-Wt 513.05 relative to setbacks;

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(b) Env-Wt 513.06 relative to dimensions;

(c) Env-Wt 513.08 relative to navigation space; and

(d) The applicable provisions of this part relative to design and construction standards for specific types of accessory docking structures.

Env-Wt 515.03 Application Requirements. An applicant for an accessory docking structure shall provide the information required in Env-Wt 513.03.

Env-Wt 515.04 Design and Construction Requirements for Canopies. A canopy shall be designed and constructed in accordance with the following:

(a) The supporting frame for the canopy shall be affixed to a legal docking structure;

(b) Any side walls shall not extend more than 12 inches from the canopy roof;

(c) The total area of canopy surface associated with a private docking structure shall be limited to:

(1) Not more than 600 sq.ft. for the first 75 feet of contiguous shoreline frontage; and

(2) Not more than an additional 300 sq.ft. for each additional 75 linear feet of contiguous shoreline frontage, to a maximum of 1,200 sq.ft. regardless of how much frontage is available;

(c) The canopy shall not interfere with boating safety by obstructing lines of sight necessary to navigation; and

(d) On a lake or pond the canopy shall be installed after ice-out and removed prior to ice in.

Env-Wt 515.05 Design and Construction Requirements for Dolphins, Ice Clusters, and Tie-Off Piles. A dolphin, ice cluster, or tie-off pile shall be designed and constructed in accordance with the following:

(a) The structure shall not, by its presence alone or in combination with similar proposed structures, add boat slips to an existing docking system;

(b) Structures installed to protect a docking structure from ice damage shall be installed no more than 6 feet from the docking structure to be protected; and

(c) Pilings installed to assist in the navigation of commercial vessels shall be marked with reflective material visible from 360 degrees.

(d) [need size/water depth/construction requirements]

Env-Wt 515.06 Design and Construction of Watercraft Lifts. A watercraft lift shall be designed and constructed in accordance with the following:

(a) Subject to (e), below, the lift shall be installed in an existing legal boat slip;

(b) No additional boat slip shall be created by installation of the lift;

(c) Any lift proposed to be permanent shall be installed inside a boathouse;

(d) Any seasonal lift shall be installed and removed the same as a seasonal dock;

(e) If a lift is the only structure on the frontage, it shall:

(1) Be installed along the shoreline of the subject property; and

(2) Meet all requirements for a seasonal private docking structure specified in Env-Wt 513.

NOTE: All cross-references subject to verification/correction.

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Env-Wt 515.07 Accessory Docking Structure Construction or Modification Project Classifications.

(a) The installation of a new accessory docking structure or the modification of an existing accessory docking structure shall be a CAT1 project if:

(1) The project meets all of the criteria for approval of the application as stated in Env-Wt 515.03; and

(2) If any modification to the associated docking structure is needed, the modification is either permit-exempt or qualifies as a CAT1 project.

(b) The installation of a new accessory docking structure or the modification of an existing accessory docking structure shall be a CAT2 project if:

(1) The application includes one or more requests for waivers from the criteria for approval of the application as stated in Env-Wt 515.03; or

(2) The construction or modification of the associated docking structure to which the non-lift accessory structure is accessory is a minor project.

(c) If construction or modification of the associated docking structure is needed and is a CAT3 project, the installation of a new accessory docking structure or the modification of an existing accessory docking structure shall be part of the CAT3 project.

PART Env-Wt 516 BANK/SHORELINE STABILIZATION: ALL PROJECTS

Env-Wt 516.01 Purpose. The purpose of this part is to establish requirements that apply to all types of bank and shoreline stabilization projects, to maintain or restore healthy and vegetated bank and shoreline system functions that will:

(a) Hold soils together, stabilize banks and shorelines, and provide structural erosion control;

(b) Establish stable and sustainable ecosystems to provide high biological diversity and complexity to support fish and wildlife habitats;

(c) Ensure runoff filtering and effective sediment-trapping functions, so that sediments settle out before nutrients and pollutants are carried into surface waters; and

(d) Provide flood abatement functions by trapping sediment during floods and slowing velocity of floodwaters.

Env-Wt 516.02 Approval Criteria for All Bank/Shoreline Stabilization Projects.

(a) The department shall not approve a hard-scape stabilization proposal such as rip-rap or a retaining wall unless the applicant demonstrates by clear and convincing evidence that the bank or shoreline in that location cannot be stabilized by preserving natural vegetation, landscaping, or bioengineering.

(b) Bank/shoreline stabilization shall:

(1) Be by the least intrusive practicable method;

(2) Conform to the natural alignment of the bank/shoreline;

(3) Restore lost or impaired bank/shoreline functions;

(4) Maintain the natural process functions of the shoreline as a critical transition zone between the riverine, lacustrine, and upland areas; and

(5) Minimize impacts to:

a. Wildlife habitat;

b. Private property;

c. Public infrastructure; and

d. Ecosystem processes.

Env-Wt 516.03 Application Requirements for All Bank/Shoreline Stabilization Projects. In addition to providing all information required by Env-Wt 300, the applicant for a project that includes bank/shoreline stabilization shall provide the following:

(a) A narrative that:

(1) Identifies all causes of erosion to the bank/shoreline in that location; and

(2) Explains the design elements that have been incorporated to address erosion, by eliminating or minimizing the causes therefor;

(b) A cross-section plan that shows:

(1) The difference in elevation between the lowest point of the bank/shoreline slope to be impacted by the construction and the highest point of the bank/shoreline slope to be impacted;

(2) The linear distance across the proposed project area as measured along a straight line between the highest and lowest point of the bank/shoreline slope to be impacted;

(3) The existing and proposed slope of the bank/shoreline; and

(c) For streams, the cross-section plan shall include the following channel information for the design reference reach:

(1) Bankfull width;

(2) Bankfull depth;

(3) Entrenchment ratio;

(4) Sinuosity;

(5) Flood prone width;

(6) A long profile that is 7-10 bankfull widths long with grade controls:

(7) Pools and gradients;

(8) An appropriate reference reach cross section with channel details;

(9) A reference reach pebble count; and

(10) A narrative explaining why the cross section is considered representative.

Env-Wt 516.04 Design Requirements for All Bank/Shoreline Stabilization Projects. In addition to meeting all applicable requirements in Env-Wt 300 and Env-Wt 400, bank/shoreline stabilization shall be designed to:

(a) Incorporate stormwater diversion and retention to minimize erosion;

(b) Retain natural vegetation to the maximum extent possible;

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(c) If space and soil conditions allow, cut back unstable banks to a flatter slope and then plant with native, non-invasive trees, shrubs, and groundcover;

(d) Minimize impacts to adjacent properties and infrastructure

(e) Minimize impacts to water quality;

(f) Minimize impacts to special resource areas, avian nesting areas, fish spawning locations, and other animal habitat.

Env-Wt 516.05 Construction Requirements for All Bank/Shoreline Stabilization Projects. In addition to all applicable construction standards specified in Env-Wt 307, the following shall apply to all bank/shoreline stabilization projects:

(a) Materials used to emulate a natural channel bottom shall:

(1) Be consistent with materials identified in the reference reach; and

(2) Not include any angular riprap or gravel unless specifically identified on the approved plan;

(b) Bed restoration shall be constructed, landscaped and monitored in a manner that will create a healthy riparian or lacustrine shoreline system;

(c) The project shall include a native vegetated buffer as shown on the approved plan;

(d) Except as permitted under Env-Wt 517 and Env-Wt 518, bank/shoreline stabilization areas shall:

(1) Have at least 75% successful establishment of wetlands vegetation after two growing seasons; or

(2) Be replanted and re-established until a functional lacustrine, wetland or riparian system has been reestablished in accordance with the approved plans;

(e) The bank/shoreline shall be restored to its original grade and to a stable condition within 3 days of the completion of construction by any of the following methods necessary to create functioning wetland areas similar to any destroyed by the project:

(1) Landscaping

(2) Replanting;

(3) Relocating plantings;

(4) Removal of invasive species;

(5) Changing soil composition and depth;

(6) Changing the elevation of the wetland surface

(7) Changing the hydrologic regime.

(f) Within 3 days of final grading or temporary suspension of work in a bank/shoreline all exposed soil areas shall be stabilized as follows:

(1) During the growing season, by seeding and mulching, or

(2) At any time other than during the growing season, by:

a. Mulching with tackifiers on slopes less than 3:1; or

b. Netting and pinning on slopes steeper than 3:1.

NOTE: All cross-references subject to verification/correction.

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(g) For construction activities that occur between November 30 and May 1:

(1) All exposed soil areas shall be stabilized:

a. Within one day of establishing the final grade; or

b. Immediately upon determining that a soil area will remain exposed for more than 5 days;

(2) All exposed soil areas shall be stabilized by:

a. Placing 3-inches of base course gravels, or

b. For slopes steeper than 3:1, with loam, mulch, tack or netting, and pinning;

(h) Unless otherwise approved, construction shall be performed during annual low flow conditions during the months of May through September.

(i) Within 60 days of completion of construction, the applicant shall submit a post-construction report that:

(1) Has been prepared by a professional engineer, certified wetland scientist, or qualified professional, as applicable, and

(2) Contains a narrative, exhibits, and photographs, as necessary to report the status of the project area and restored jurisdictional area or buffer.

Env-Wt 516.06 On-Going Requirements for All Bank/Shoreline Stabilization Projects. The owner shall monitor the project and take corrective measures if the area is inadequately stabilized or restored.

PART Env-Wt 517 BANK STABILIZATION: VEGETATIVE AND BIOENGINEERING

Env-Wt 517.01 Applicability. This part shall apply to the stabilization of the banks of a surface water using vegetation or bioengineered bank stabilization methods.

Env-Wt 517.02 Criteria for Approval. In addition to the criteria established in Env-Wt 313.01, the following criteria shall apply to stabilization projects using vegetation or bioengineered methods:

(a) The project shall meet all criteria for approval specified in Env-Wt 516.02; and

(b) The project shall not:

(1) Jeopardize the continued existence of a threatened or endangered species or species proposed for such designation;

(2) Destroy or adversely modify the critical habitat of a species identified under RSA 212-A, the Endangered Species Act; or

(3) Be located in:

a. A special resource area;

b. A shallow lake or pond that naturally supports abundant native aquatic vegetation; or

c. A diverse habitat that provides nesting or foraging habitat for fish or wildlife that would be negatively impacted by vegetation removal.

Env-Wt 517.03 Application Requirements. An applicant for a stabilization project using vegetation or bioengineered methods shall provide the application information specified in Env-Wt 516.03.

Env-Wt 517.04 Design Requirements. In addition to the design requirements specified in Env-Wt 516.04, a stabilization project using vegetation or bioengineered methods shall be designed to:

(a) Incorporate stormwater diversion and retention to minimize erosion;

(b) Retain natural vegetation to the maximum extent possible; and

(c) If space and soil conditions allow, cut back unstable banks to a flatter slope and then plant with native, non-invasive trees and shrubs.

Env-Wt 517.05 Construction Requirements. In addition to all applicable construction standards specified in Env-Wt 516.05, the following shall apply to bank/shoreline stabilization projects using vegetation or bioengineered methods:

(a) Construction shall be performed in accordance with the approved plan;

(b) Construction shall be implemented and supervised by a qualified professional;

(c) Native plantings shall be installed by September 15th on previously stabilized banks;

(d) Dormant willows shall be planted in the spring no later than June 1st or in the fall between September 15th and October 30th.

Env-Wt 517.06 Construction Project Classification. Bioengineered bank stabilization shall be classified as a CAT1, CAT2, or CAT3 project based on Env-Wt 407.

Env-Wt 517.07 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 517.08 … [other - e.g., Removal]. [more stakeholder input needed]

PART Env-Wt 518 BANK STABILIZATION: HARD-SCAPE METHODS

Env-Wt 518.01 Applicability. This part shall apply to stabilization of the bank(s) of a lake, pond, river, or stream using hard-scape methods such as rip-rap or a retaining wall.

Env-Wt 518.02 Criteria for Approval. The department shall not approve an application for bank/shoreline stabilization project proposing hard-scape, alone or in combination with other bank stabilization techniques, unless all applicable criteria in Env-Wt 300 and Env-Wt 516 are met and the applicant demonstrates by clear and convincing evidence that:

(a) The hard-scape is necessary to the bank/shoreline stabilization due to turbulence, flows, restricted space, lack of vegetation on the bank/shoreline and in the water, whether emergent or submerged, or other such factors;

(b) If land lost to erosion is to be reclaimed, then:

(1) The land was lost as a direct result of human activity or an abnormal event such as flooding; and

(2) The area of reclamation does not exceed the area of land lost; and

(c) The hard-scape will not reflect or re-direct currents or wave energy towards adjacent wetlands, banks/shorelines, or structures, or otherwise contribute to erosion.

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Env-Wt 518.03 Application Requirements for Hard-Scape Stabilization. In addition to the application requirements specified in Env-Wt 516.03, the applicant for a bank stabilization project proposing hard-scaping shall provide the following information:

(a) A description of the shear stress or other erosion intensity indicators such as turbulence, flows, restricted space, or similar factors that render vegetative and diversion methods physically impractical;

(b) If the project is proposed on the banks of a great pond or other water body where the state holds fee simple ownership or flowage rights, a stamped surveyed plan showing the location of the normal high water shoreline and the footprint of the proposed project;

(c) For rip-rap:

(1) Minimum and maximum stone sizes;

(2) Gradation;

(3) Minimum rip-rap thickness; and

(4) Type of bedding for stone; and

(d) For any application for rip-rap in excess of 100 linear feet along the bank of a stream or river, stamped engineering plans;

Env-Wt 518.04 Design Requirements: Rip-Rap.

(a) Rip-rap shall be keyed in to prevent under scouring or undermining.

(b) Bedding and geotextile fabric shall be incorporated into the design to prevent loss of soil.

(c) Rip-rap shall be located landward of the normal high water shoreline to the maximum extent practicable.

(d) Rip-rap shall not extend more than 2 feet lakeward of the normal high water line at any point.

(e) Subject to (f), below, rip-rap shall not extend within 5 feet of the side boundaries of the subject property.

(f) Rip-rap may extend closer than 5 feet to a side boundary if the abutter does not object, in which case the application shall include a statement signed by the abutter agreeing to the proposed project.

Env-Wt 518.05 Design Requirements: Retaining Walls.

(a) Any wall on a great pond or water body where the state holds fee simple ownership or flowage rights shall be located on the landward side of the normal high water line.

(b) The face of the wall shall be textured to minimize the reflection of wave energy.

(c) The wall shall use the least possible amount of fill to achieve stability,

(d) The wall shall incorporate weep holes to allow seepage of groundwater and to promote slope stability.

(e) Subject to (f), below, the wall shall not extend within 5 feet of the side boundaries of the subject property.

(f) The wall may extend closer than 5 feet to a side boundary if the abutter does not object, in which case the application shall include a statement signed by the abutter agreeing to the proposed project.

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Env-Wt 518.06 Construction Requirements. The construction requirements specified in Env-Wt 516.05 shall apply to hardscape stabilization projects.

Env-Wt 518.07 Construction Project Classification. Bank stabilization using hard-scape shall be classified in accordance with Env-Wt 407.

Env-Wt 518.08 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 518.09 … [other - e.g., Removal]. [more stakeholder input needed]

PART Env-Wt 519 DUG-IN BASINS AND BOATHOUSES

Env-Wt 519.01 Applicability.

(a) Subject to (b) and (c), below, the rules in this part shall apply to any person who wishes to construct, modify, repair, or replace a dug-in basin or boathouse in, over, or in the bank of non-tidal waters.

(b) The rules in this part shall not apply to maintenance and repairs undertaken pursuant to the statutory exemption as described in Env-Wt 308.04.

Env-Wt 519.02 Definition.

(a) "Dug-in basin" means an area of privately-owned land excavated to allow inundation by adjacent public waters to access a single public water at a single location along that water's shoreline;

(b) "Existing dug-in basin" means a dug-in basin that was legally constructed prior to the 2018 effective date of this part; and

(c) "New dug-in basin" means a dug-in basin for which a permit has not been issued as of the 2018 effective date of this part.

Env-Wt 519.03 Criteria for Approval of Dug-In Basins and Boathouses.

(a) Boathouses located in or over surface waters of the state shall not be approved.

(b) A boathouse located over a dug-in basin within the property of the applicant shall not be approved unless the applicant has shown through data submitted to the department as part of the permit application that:

(1) Alternative docking and storage solutions with less environmental impact are not practicable;

(2) All criteria in Env-Wt 313.01 are met;

(3) All design and construction criteria in this part are met; and

(4) The proposed construction will:

a. Not adversely impact the stability of the shoreline;

b. Be in a sequence and use such techniques so as to prevent water quality degradation;

c. Be performed in such a manner so as to not cause any sedimentation along the shoreline or other adverse impact to the surface water, including existing movements of currents;

d. Not impact wetlands, streams, or other jurisdictional areas;

e. Not result in any violations of applicable requirements in RSA 483-B or Env-Wq 1400; and

f. For any new dug-in basin, the basin and boathouse have been located and designed to be the least intrusive upon the public trust necessary to provide safe access to the surface water.

NOTE: All cross-references subject to verification/correction.

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Env-Wt 519.04 Design Requirements for Dug-In Basins.

(a) No new dug-in basin shall impact a slope that is 25 % or steeper.

(b) No new dug-in basin shall disrupt littoral currents or transport of sediment along the shoreline.

(c) No new dug-in basin shall have a negative impact on shoreline stability.

(d) No new dug-in basin shall result in a violation of the minimum standards of RSA 483-B:9.

(e) No new dug-in basin shall cause or contribute to slope instability, sediment migration, or water quality problems during or after the proposed excavation and dredging.

(f) The dredging for an access channel to a proposed boat basin shall not extend more than 30 feet lakeward of the normal high water line.

(g) The width of the access channel, including side slopes, shall not exceed 35 feet.

(h) The depth of the access channel, including the slip areas within the boathouse, shall not exceed 4 feet measured from the normal high water line.

(i) Excavation within the bank shall not exceed 45 feet in width.

Env-Wt 519.05 Design Requirements for Boathouses.

(a) Any new boathouse shall be located over a dug-in basin, completely with in land of the applicant.

(b) The boathouse shall be a single story structure.

(c) No interior deck surface shall exceed 6 feet in width.

(f) Storage within the boathouse shall not exceed 150 square feet of floor space located at the landward end of the structure.

(f) The maximum roof height of a structure having a flat roof shall be 12 feet above normal high water, provided that railings up to 4 feet high may extend above the roof.

(g) The maximum height of any structure having a pitched roof shall be 16 feet as measured from normal high water to the ridgeline.

(h) With the exception of the use of a flat roof as a sitting area or the use of the interior of a pitched roof as a storage area, no area within, on, or adjacent to a boathouse shall be adopted for non-boating usage including but not limited to changing rooms, day rooms, and bathroom facilities.

Env-Wt 519.06 Application Requirements for Dug-In Basins. The applicant for a dug-in basin shall provide the following information with the application:

(a) The following information shall be shown on the plan required by Env-Wt 311.??(?):

(1) The normal high water line;

(2) The top of bank;

(3) Where topography is to be permanently altered, existing and proposed grades;

(4) The amount of shoreline frontage for the subject property;

(5) The general shape of the shoreline including the length of frontage and the full water body elevation;

(6) The footprint of all existing and proposed structures on the property;

(7) Footprint and area in square feet (SF) of excavation within the bank;

(8) Footprint, area in SF, and volume of dredge in cubic yards (CY);

(9) Temporary coffer dam, if used;

(10) Bank stabilization methods;

(11) Existing and proposed grades;

(12) The intended use of each proposed structure; and

(13) The distance from existing and proposed work to abutting property lines.

(b) A cross section showing the following information:

(1) The proposed dimensions of the foundation, footings, and all support structures;

(2) Depth of dredge; and

(3) Any stormwater diversion methods and drainage associated with proposed retaining walls.

(c) A revegetation plan showing that all disturbed areas to within 5 feet of the proposed structure shall be revegetated with native non-invasive species in accordance with Env-Wq 1412.04 relative to a planting matrix for restoring the waterfront buffer;

(d) The application shall include a report that provides:

(1) The name of and contact information for the individual who prepared the report;

(2) The results of a test pit or core, dug or drilled to proposed basin depth, and centrally located within the proposed basin;

(3) The results of a test core drilled to the proposed dredge depth, centrally located within the proposed access channel in public waters, which may be conducted under an activity registration as provided in Env-Wt 309.03;

(4) The textural, geologic, and engineering characteristics of all soils, sediments, rock, or other materials that are likely to be encountered if the proposed basin and access channel are constructed;

(5) An assessment of potential the slope stability and water quality problems that could be encountered during dredge and excavation of the proposed basin and access channel; and

(6) An assessment of bottom sediments in the vicinity of the proposed access channel and the potential for problems from the movement of sand or other sediment along the shore.

Env-Wt 519.07 Application Requirements for Boathouses. The applicant shall provide plans showing the following:

(a) Floor plans showing the footprint and dimensions of all dock and walkway surfaces, slip areas, and the location of any designated storage area;

(b) A plan showing the location and dimensions of the foundation, footings, and all support structures; and

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(c) A profile plan of the proposed boathouse showing the dimensions and elevations of the foundation, footings, all support structures, and the proposed roof height.

Env-Wt 519.08 Construction and Maintenance Requirements for Dug-In Basins and Boathouses.

(a) All structures shall be constructed as shown in the approved plans and specifications.

(b) The sides of the dug-in basin shall be stabilized prior to the inundation of the basin.

(c) Construction impacts shall be limited to areas within 15 feet of the proposed structure's foot print.

(d) All disturbed areas shall be revegetated with native non-invasive species in accordance with Env-Wq 1412.04 relative to a planting matrix for restoring the waterfront buffer.

(e) No construction, modification, or maintenance activity that is contrary to RSA 482-A:26 shall be conducted.

Env-Wt 519.09 Dug-In Basins and Boathouse Construction or Modification Project Classification.

(a) The construction or modification of a boathouse over an existing dug-in basin shall be a minimum impact project only if all of the following criteria are met:

(1) The structure does not exceed the design criteria of Env-Wt 519.05;

(2) All existing structures are legal structures;

(3) No portion of any existing boathouse has been made suitable for use as a dwelling contrary to RSA 482-A:26 prior to the effective date of the original prohibition, May 28, 1969;

(4) No additional slips shall be provided as a result of the project; and

(5) No material will be dredged from areas that were flowed over by public waters prior to the dug-in basin being constructed.

(b) The modification of a boathouse over public submerged lands shall be a minimum impact project only if all of the following criteria are met:

(1) There is no increase in the exterior dimensions of the boathouse;

(2) All existing structure are legal structures;

(3) No portion of any existing boathouse has been made suitable for use as a dwelling contrary to RSA 482-A:26 prior to the effective date of the original prohibition, May 28, 1969;

(4) No additional slips will be created as a result of the project; and

(5) No material will be dredged from areas that were flowed over by public waters prior to the boathouse being constructed.

(c) The construction or modification of a boathouse over an existing dug-in basin shall be a minor impact project if all of the criteria of (a), above, are met with any of the following exceptions:

(1) Additional slips will be provided as a result of the project but the total number of existing and proposed slips will not exceed 4; or

(2) Material will be dredged from areas that were flowed over by public waters prior to the boathouse/basin being constructed, but less than 20 CY of material will be dredged.

(d) The modification of a boathouse over public submerged lands shall be a minor impact project if all of the criteria of (b), above, are met with any of the following exceptions:

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(1) Some portion of the existing boathouse was made suitable for use as a dwelling as defined in RSA 482-A:26 prior to the effective date of the original prohibition, May 28, 1969; and

(2) Material will be dredged from areas that were flowed over by public waters prior to the boathouse/basin being constructed, but less than 20 CY of material will be dredged.

(e) The construction or modification of a dug-in basin or boathouse that does not meet any of the classification criteria of (a) through (d), above, shall be a major project.

Env-Wt 519.08 Dug-In Basins and Boathouse Maintenance and Repair Project Classification.

(a) The maintenance and repair of any boathouse or dug-in basin shall be a minimum impact project only if all of the following criteria are met:

(1) There is no change in the height, footprint, location, or configuration of the existing structures;

(2) All existing structures are legal structures;

(3) No portion of any the boathouse has been made suitable for use as a dwelling as defined in RSA 482-A:26; and

(4) No material will be dredged from areas that were flowed over by public waters prior to the dug-in basin being constructed.

(b) The maintenance and repair of any boathouse or dug-in basin shall be a minor impact project only if all of the criteria of (a), above, are met with the exception that some portion of the boathouse was made suitable for use as a dwelling as defined in RSA 482-A:26 prior to the effective date of the prohibition, May 28, 1969.

PART Env-Wt 520 INTAKE AND OUTFLOW STRUCTURES

Env-Wt 520.01 Applicability. This part shall apply to construction of inflow and outflow structures.

Env-Wt 520.02 Criteria for Approval.

(a) The department shall not approve an application for a permit to construct an intake structure unless the applicant also demonstrates that the following criteria are met:

(1) Inflow shall not lower water levels so that the habitat of finfish, crustacean, or shellfish is harmed;

(2) Inflow shall not cause scouring or endanger vegetation, finfish, crustacea, shell fish or wildlife;

(3) The structure shall not endanger navigation, recreation, or commerce; and

(4) All applicable criteria in Env-Wt 307.

(b) The department shall not approve an application for a permit to construct an outflow structure unless the applicant also demonstrates that the following criteria are met:

(1) Outflow shall not cause scouring or endanger vegetation, finfish, crustacea, shellfish or wildlife;

(2) The structure shall not endanger navigation, recreation, or commerce; and

(3) All applicable criteria in Env-Wt 307.

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Env-Wt 520.03 Application Requirements.[more stakeholder input needed]

Env-Wt 520.04 Design and Construction Requirements. [more stakeholder input needed]

Env-Wt 520.05 Construction Project Classification. [more stakeholder input needed]

Env-Wt 520.06 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 520.06 … [other - e.g., Removal]. [more stakeholder input needed]

PART Env-Wt 521 BOARDWALKS[1]

Env-Wt 521.01 Applicability. This part shall apply to boardwalks in non-tidal areas and, via Env-Wt 6??, in coastal areas.

Env-Wt 521.02 Criteria for Approval of Boardwalks. The department shall approve an application for a boardwalk for public access, including educational purposes, only if:

(a) All applicable requirements in Env-Wt 300 and this part are met;

(b) The applicant demonstrates by clear and convincing evidence that the boardwalk will not reduce or otherwise negatively impact the functions, values, or condition of the existing wetlands; and

(c) The entire boardwalk is open to public access through fee simple public ownership or permanent easement.

Env-Wt 521.03 Application Requirements for Boardwalk Projects. [more stakeholder input needed]

Env-Wt 521.04 Design and Construction Requirements for Boardwalks.

(a) A boardwalks shall not be located in or through any special resource area if the use associated with the boardwalk would disrupt wildlife.

(b) To allow for circulation of air and water and penetration of light, boardwalks shall be designed and constructed:

(1) To be elevated not less than 4 feet above the ground surface or normal high water line, as applicable; and

(2) Of slatted construction using boards no wider than 8 inches that are placed not less than 0.75 inch apart.

(c) A boardwalk shall be no wider than 4 feet, unless the applicant demonstrates that more width is needed to comply with ADA requirements.

(d) Boardwalks crossing wetlands shall be designed and located to:

(1) Minimize fragmentation of the wetlands and any adverse impacts on waterfowl nesting areas, fisheries, or other aquatic organisms;

(2) Allow for movement of wildlife and maintain density and vigor of vegetation;

(3) Minimize interference with the natural hydrology of the area; and

(4) Minimize the impact of activities on vegetation.

[1] Should this be combined with trails and pathways?

NOTE: All cross-references subject to verification/correction.

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(e) The boardwalk shall incorporate features designed to educate users about the importance of wetlands, transition areas, and public waters.

(f) A boardwalk shall not be supported by horizontal support timbers, otherwise known as "sleepers" on or in the soil.

(g) The root mat and soil under and around the boardwalk shall not be disturbed except to drive pilings.

Env-Wt 521.05 Construction Requirements for Boardwalk Projects. [more stakeholder input needed]

Env-Wt 521.06 Classification of Boardwalk Construction Projects.

(a) A boardwalk construction project shall be classified as CAT1 if the project:

(1) Will have a total area of not more than 3,000 SF; and

(2) Disturbs not more than 50 LF.

(b) A boardwalk construction project shall be classified as CAT2 if the project:

(1) Construction or modification of a boardwalk more than 3,000 SF but less than 10,000 SF;

(2) Disturbs between 50 LF or more but less than 200 LF, measured along the shoreline or a lake or pond at its bank; or

(3) Disturbs between 50 LF or more but less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks, provided that:

a. For intermittent streams, the distance shall be measured along the thread of the channel; and

b. For perennial streams or rivers, the total disturbance shall be calculated by summing the lengths of disturbances to the channel or banks.

(c) A boardwalk construction project shall be classified as CAT3 if the project:

(1) Will have a total area of 10,000 SF or more;

(2) Disturbs 200 LF or more, measured along the shoreline or a lake or pond at its bank;

(3) Alters the course of or disturbs 200 LF or more of an intermittent or perennial nontidal stream or river channel or its banks, provided that:

a. For intermittent streams, the distance shall be measured along the thread of the channel; and

b. For perennial streams or rivers, the total disturbance shall be calculated by summing the lengths of disturbances to the channel or banks.

Env-Wt 521.07 Maintenance and Repair of Boardwalk.

(a) Out-of-water components of a boardwalk may be repaired or replaced without a permit pursuant to the statutory exemption established by RSA 482-A:3, IV(a).

(b) Any maintenance or repair of a boardwalk that does not qualify under (a), above, shall be:

(1) Performed only after obtaining a permit; and

(2) Classified as specified in Env-Wt 521.06.

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Env-Wt 521.08 Removal of Boardwalks. A project to remove a boardwalk shall be classified as a CAT1 project.

PART Env-Wt 522 OTHER NON-DOCKING STRUCTURES

Env-Wt 522.01 Applicability.

(a) This part shall apply to construction of non-docking structures including dikes, residential utility lines, dry hydrants, and boat launches.

(b) This part shall not apply to any structure covered by Env-Wt 900 relative to stream crossings.

Env-Wt 522.02 Criteria for Approval of Dikes. An applicant for a permit to construct a dike shall demonstrate that a project for a dike, [tide dam, or tide gate] *should be in ch. 600* meets the following criteria:

(a) Flooding, loss of salinity, or de-watering shall not damage or destroy indigenous hydrophytic vegetation or habitat of finfish, crustacea, shellfish, or wildlife;

(b) Adequate passage and rate of flow shall be maintained at appropriate times to allow migration of fish and other marine life;

(c) The conveyance of runoff and flood waters shall not be prevented;

[(d) Projects shall not cause the permanent inundation of tidal wetlands; and
(e) Projects shall not interfere with the normal ebb and flow of waters in tidal wetlands.] *should be in ch. 600*

Env-Wt 522.06 Criteria for Approval of Dry Hydrants. An applicant for a permit to construct a dry hydrant shall demonstrate that the project meets the following criteria:

[more stakeholder input needed]

Env-Wt 522.07 Criteria for Approval of Residential Utility Lines. An applicant for a permit to install a residential utility line shall demonstrate that the project meets the following criteria:

[more stakeholder input needed]

Env-Wt 522.09 Criteria for Approval of Boat Launches. An applicant for a permit to construct or modify a boat launch shall demonstrate that the project: [more stakeholder input needed?]

(a) Meets the criteria in Env-Wt 313; and

(b) Will provide a public benefit in terms of navigation, rights of public passage, and the rights of the general public to use the resource accessed by the boat launch for commerce and recreation.

Env-Wt 522.10 Application Requirements for Boat Launches. The applicant shall provide the following pursuant to Env-Wt 311.??(?):

(a) On the plans required by Env-Wt 311.??, the following:

(1) The normal high water line where the launch will be constructed on a lake, pond, or artificial impoundment;

(2) Both the high water and low water lines if the launch will be constructed on a river;

(3) The top of bank;

(4) Where topography is to be permanently altered, existing and proposed grades;

(5) The amount of shoreline frontage for the subject property;

(6) The general shape of the shoreline including the length of frontage and either:

a. The full water body elevation for lakes and ponds; or

b. The ordinary high water line for rivers and streams;

(7) The footprint of all existing and proposed structures on the property;

(8) The intended use of each proposed structure; and

(9) The distance from existing and proposed work to abutting property lines;

(c) A report explaining the expected use of the launch, including details on the type, sizem and number of watercraft expected to use the launch facility and the impact the increased boat traffic may have on navigation;

(d) A cross-section showing the following information:

(1) The slope of the bank and the lakebed or river bed relative to:

a. The full water body elevation for lakes and ponds; or

b. The ordinary high water line for rivers and streams;

(2) The proposed launch surface including the type and depth of any bedding material placed to receive and support the launch surface;

(3) The proposed height, width, and construction type of any proposed rip rap or retaining wall associated with the stabilization of the bank where it is to be cut or filled to accommodate the launch surface; and

(4) Any stormwater diversion methods and drainage associated with proposed launch.

Env-Wt 522.11 Design Requirements for Boat Launches. [more stakeholder input needed?]

(a) Subject to (b) and (c), below, in order to minimize congestion, improve navigation, protect neighboring property values, provide adequate area for boat maneuvering, and protect public health, safety, and general welfare, the point of access to the surface water shall be located at least 50 feet from an abutting property line.

(b) If the property line is not perpendicular to the shoreline, the set-back shall not apply to the imaginary extension of the property line over the surface water.

(c) If an applicant wishes to locate a boat launch closer than 50 feet from an abutter's property line, the applicant shall:

(1) Obtain the written consent of the abutting property owner; and

(2) Submit the written consent that has been signed by all parties and notarized with the application;

(c) Boat launches shall be designed such that stormwater is diverted away from the ramp surface.

(d) Launch surfaces shall be of durable, erosion-resistant material.

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(e) Launch surfaces used for the launching of trailered, motorized watercraft shall extend a sufficient distance into the waterbody to prevent scouring of the bed of the surface water from power loading of watercraft.

Env-Wt 522.12 Construction Requirements. [more stakeholder input needed]

Env-Wt 522.13 Construction Project Classification for Boat Launches. [more stakeholder input needed for additional structures]

(a) The modification of a boat launch shall be a CAT1/low impact project only if all of the following criteria are met:

(1) The modification will not increase the use of the launch;

(2) The pre-existing launch and all associated pre-existing docking structures are legal structures; and

(3) There is no expansion to the footprint of the structures.

(b) The construction of a boat launch shall be a CAT2/minor impact project only if:

(1) Use of the launch will be limited to car top or carry-in access; and

(2) The project will not impact any special resource areas.

(c) Any project not covered by (a) or (b), above, shall be a CAT3/major project.

Env-Wt 522.13 Construction Project Classification. [more stakeholder input needed for other structures]

(a) Temporary cofferdams and other water control devices constructed in flowing water or adjacent to dams in conjunction with the repair or maintenance of existing structures shall be CAT1 projects.

Env-Wt 522.14 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 522.15 … [other - e.g., Removal]. [more stakeholder input needed]

PART Env-Wt 523 PONDS

Env-Wt 523.01 Applicability. This part shall apply to the construction of ponds.

Env-Wt 523.02 Criteria for Approval. In addition to the criteria established in Env-Wt 313, the following criteria shall apply to construction of ponds:

(a) No pond shall be constructed in very poorly drained soils;

(b) A pond shall not be created by:

(1) Construction of a dam, berm, or dike within a stream or other surface water in order to create an impoundment;

(2) Repairing or reconstructing an existing dam, berm, or dike in order to recreate or restore an impoundment, unless a permit is obtained for the work under RSA 482; or

(3) Diversion of a stream;

(c) No pond proposed to be used for water quality treatment or pre-treatment shall be constructed in existing wetlands or surface waters;

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(d) No pond proposed to be used for stormwater management shall be constructed in existing wetlands or surface waters; and

(e) No pond shall cause a discharge to existing wetlands or surface waters unless water quality pretreatment is provided.

Env-Wt 523.03 Application Requirements. In addition to the application requirements in Env-Wt 311, an applicant for construction of a pond shall submit the following to the department:

(a) An NRCS soils map, or certified wetland scientist or certified soil scientist hydric soils map, showing the location of any poorly drained soils or very poorly drained soils and their proximity to the location of the proposed project;

(b) A cross section plan showing the:

(1) Existing substrate type;

(2) Existing depth of substrate;

(3) Existing vegetative cover; and

(4) Proposed depth of dredging;

(c) An invasive species control plan including elements for containment, dewatering, and disposal; and

(d) A detailed construction sequence plan identifying:

(1) Methods, timing, and sequence of siltation and erosion control;

(2) Dewatering;

(3) Ingress and egress locations; and

(4) The location where dredge material will be stored temporarily for dewatering.

Env-Wt 523.04 Design Requirements. A pond construction project shall be designed to:

(a) Meet the requirements specified in United States Department of Agriculture, Natural Resources Conservation Service Agriculture Handbook Number 590, "Ponds – Planning, Design, Construction" published on _____

(b) Be located at least 100 feet from very poorly drained soils;

(c) Cause only the minimum impact to wetlands necessary to obtain adequate hydrology for the proposed pond;

(d) To the greatest extent practicable, incorporate multiple wetland types and habitat features including but not limited to deep-water, scrub-shrub, shallow marsh, deep marsh, islands, woody material, and nesting areas;

(e) Stabilize and site pond inlets and outlets to prevent adverse impacts to adjacent wetlands and surface waters; and

(f) Meet the requirements specified in [Agriculture BMPs].

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Env-Wt 523.05 Construction Requirements. In addition to all applicable requirements in Env-Wt 307, the following shall apply to pond construction projects:

(a) All construction activities shall be conducted in compliance with applicable requirements of RSA 483-B and Env-Wq 1400;

(b) The applicant shall notify the New Hampshire fish and game department, in accordance with RSA 211.11, prior to performing a draw down or dewatering a resource; and

(c) Discharges from dewatering shall be to sediment basins that are:

(1) Located in upland areas;

(2) Lined with hay bales or other sediment trapping liners;

(3) Set back as far as practicable from wetlands and surface waters; and

(4) Surrounded by a 50-foot undisturbed vegetated buffer.

Env-Wt 523.06 Construction Project Classification.

(a) Pond construction shall be considered CAT1 if the proposed project will impact less than 3,000 SF of wetlands and all of the following criteria are met:

(1) The project area contains no poorly drained soils;

(2) The proposed pond will not be fed by or cause outflow to any streams; and

(3) The project is not located in and will not impact a special resources area;

(b) Pond construction shall be considered CAT2 if the proposed project will impact 3,000 SF or greater but less than 10,000 SF of wetlands and all of the following criteria are met:

(1) The project area contains no very poorly drained soils;

(2) The proposed pond will not be fed by or cause outflow to any streams; and

(3) The project is not located in and will not impact a special resources area; and

(c) Pond construction shall be considered CAT3 if the proposed project will impact 10,000 SF or more of wetlands or surface waters, and does not meet the criteria of either a CAT1 or CAT2 project.

Env-Wt 523.07 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 523.08 … [other - e.g., Removal]. [more stakeholder input needed]

PART Env-Wt 524 FORESTRY

Env-Wt 524.01 Applicability. This part shall apply to any forestry activities that do not qualify for the SPN established in RSA 482-A:3, V.

Env-Wt 524.02 Criteria for Approval. In addition to the criteria established in Env-Wt 313, the following criteria shall apply to forestry activities:

(a) A forestry project shall be exclusively for the purpose of timber harvesting

(b) Travel ways associated with forestry projects shall be exclusively for the purpose of accessing viable tree stands and conducting approved forestry projects;

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(c) Forestry activities shall be conducted in accordance with RSA 227-J; RSA 482-A, 483-B, 483, RSA 485-A, and RSA 212-A;

(d) Forestry activities shall be conducted in accordance with the design and construction requirements specified in Env-Wt 524.04; and

(e) No activities related to the preparation or construction of residential, commercial, or other activities not directly relating to or arising from forestry and trail activities shall be included in any forestry projects subject to this part.

Env-Wt 524.03 Application Requirements. In addition to the application requirements in Env-Wt 311, an applicant for a forestry project shall submit the following to the department:

(a) A forestry impact plan prepared by a licensed forester showing:

(1) Crossing locations;

(2) Resource types identified within the project area;

(3) Proposed log landing areas; and

(4) Locations in which BMP activities are proposed to be conducted;

(b) A NRCS soils map identifying property boundaries, access points, and proposed crossings; and

(c) For any work proposed to be performed within a designated prime wetland or duly-established 100-foot buffer, a waiver issued in accordance with Env-Wt 706.

Env-Wt 524.04 Design and Construction Requirements. In addition to the design and construction requirements specified in Env-Wt 307 and Env-Wt 313, the following requirements shall apply to forestry activity projects:

(a) Projects shall be designed and constructed to minimize and disperse surface runoff such that runoff does not flow into surface waters or wetlands; and

(b) All forestry activities, including construction of all stream, wetland and surface water crossings, skid trails, haul roads, and log landings shall be performed, located, constructed, and maintained in accordance with "New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations," dated 2016 and published by the New Hampshire Division of Forests and Lands and the University of New Hampshire Cooperative Extension.

Env-Wt 524.05 Forestry Project Classification.

(a) The following forestry projects shall be considered CAT1:

(1) Roadway construction through forested wetlands for the purpose of conducting forest management activities, only if:

a. Activities are conducted only during frozen conditions;

b. Roads are cleared only by felling timber in and adjacent to the roadway;

c. The road base is constructed using no fill other than:

i. Snow pushed on and frozen over the road base; or

ii. Stumps inverted in places where support of the road base is necessary;

d. Only the minimum length and number of ditches necessary to create and maintain adequate drainage are constructed;

NOTE: All cross-references subject to verification/correction.

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e. Each road crossing is no more than 15 feet wide and no more than 200 feet long;

f. Stream crossings incorporate pole fords with no stumping within the stream banks; and

g. Spring retirement of winter roads includes soil stabilization and drainage, including water bars, necessary to prevent the roadway from becoming a channel for surface water runoff;

(2) Installation of a culvert, pole, or rock ford, and associated fill, to permit vehicular access to a parcel for forest management, only if:

a. Access is not used for subdivision, development, or other land conversion not directly related to or necessary to support forestry activities;

b. Roadway width at the crossing does not exceed 20 feet;

c. Fill width, measured at the toe of the roadway side slopes, does not exceed 50 feet;

d. Fill for any single wetland crossing does not exceed 50 feet in length, measured along the proposed access way,

e. No crossings impact any special resource area;

f. No crossings are located in or adjacent to prime wetlands unless a prime wetlands waiver has been obtained in accordance with Env-Wt 700;

g. No crossing is located in the habitat or reproductive area of a threatened or endangered species;

h. For stream crossings, no crossing is greater than 5 feet in width; and

i. No crossings are located in a swamp or wet meadow unless such swamp or wet meadow has no standing water for at least 10 months per year; ~~and~~

(3) Construction of a temporary crossing of a brook, stream, or river for the transportation of forest products, only if no such temporary crossing is:

a. In or adjacent to prime wetlands unless a prime wetlands waiver has been obtained in accordance with Env-Wt 700;

b. Located within the habitat or reproductive area of a threatened or endangered species; and

c. Not used for access to property that has been converted to non-forestry uses.

(b) Forestry projects shall be considered CAT2 if:

(1) The project exceeds the criteria for a CAT1 project and does not meet the criteria for a CAT3 project; or

(2) The project proposes impacts to a non-forested wetland area.

(c) Forestry projects shall be considered CAT3 only if:

(1) The project proposes impacts 10,000 feet or greater of wetlands or 200 feet or greater of streams or surface waters; or

(2) The project proposes impacts to a special resource area.

Env-Wt 524.06 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 524.07 … [other - e.g., Removal]. [more stakeholder input needed]

NOTE: All cross-references subject to verification/correction.

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PART Env-Wt 525 UTILITY PROJECTS; PROJECTS IN PUBLIC RIGHT-OF-WAY

Env-Wt 525.01 Applicability. This part shall apply to any utility projects or projects in a public right-of-way that do not qualify for the SPN established in RSA 482-A:3, ?? or ??, as applicable, and for which the purpose is to provide access to, construct, reconstruct, repair, maintain, or remove a utility facility in or over a wetland or surface water.

Env-Wt 525.02 Criteria for Approval. In addition to the criteria established in Env-Wt 313, the following criteria shall apply to utility projects:

(a) The applicant shall be the owner of the property on which the project is proposed to be completed or holds an easement or other legal interest in property granting to the applicant the legal right to proceed with the proposed project;

(b) A utility project that crosses multiple properties shall be considered a single and complete project and shall not be segmented into multiple proposed projects for the purpose of avoiding eligibility or classification requirements in this part; and

(c) A utility construction project shall, to the greatest extent practicable, be constructed within existing rights-of-way and developed areas and in the least environmentally impactful manner.

Env-Wt 525.03 Application Requirements. In addition to the application requirements in Env-Wt 311, an applicant for a utility project shall submit the following to the department:

(a) A plan showing the following:

(1) The extent and location of all wetlands and streams within the project area;

(2) The extent and location of any poorly drained soils, or very poorly drained soils within the project area:

(3) The location of any existing utility corridors and facilities;

(4) The location of the proposed utility corridors and facilities; and

(5) The location of any proposed impacts, crossings, construction areas, and clearings;

(b) A recent aerial photograph of the project area overlain by the items specified in (a), above;

(c) A description of the methods, techniques, vehicles, and equipment proposed to access and conduct the project;

(d) An invasive species control plan;

(e) A description of measures proposed to minimize and avoid impacts to wetlands and surface waters; and

(f) A construction sequence plan describing measures proposed to minimize impacts to water quality, impacts to nesting and breeding species, and to prevent compaction of wetlands soils.

Env-Wt 525.04 Design and Construction Requirements. In addition to the requirements in Env-Wt 307, the following requirements shall apply to utility projects:

(a) The project shall be designed to avoid or minimize construction access or work in or upon organic soils;

(b) All project activities shall be performed, located, constructed, and maintained in accordance with [Utility BMPs] and published by [??];

NOTE: All cross-references subject to verification/correction.

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(c) Construction of new roads shall occur only between December 1 and March 1 or during very dry weather conditions at other times of the year;

(d) No project shall cause permanent filling of wetlands in excess of 10,000 SF; and

(e) No project shall cause temporary wetland impact in excess of one acre

Env-Wt 525.05 Construction Project Classification.

(a) Utility projects causing temporary impacts associated with inspection, maintenance, or repair of existing utility facilities within existing rights-of-way shall be considered to be CAT1 provided that:

(1) Total jurisdictional wetland impact does not exceed 3 acres;

(2) No change in the location, configuration, dimensions, or type of utility facility is proposed;

(3) There are no proposed impacts to:

a. Any special resource area;

b. Very poorly drained soils; or

c. Tier 2 or Tier 3 streams; and

(4) The project will not require any diversion of streams.

[need more stakeholder input regarding CAT2 and CAT3 classifications]

Env-Wt 525.06 Maintenance and Repair. [need more stakeholder input]

Env-Wt 525.07 … [other - e.g., Removal]. [need more stakeholder input]

PART Env-Wt 526 AGRICULTURAL ACTIVITIES

Env-Wt 526.01 Applicability.

(a) This part shall apply to agriculture activities that are associated with ongoing farming operations, including but not limited to plowing, seeding, cultivating, harvesting, and minor drainage for the production of food or fiber, including the removal of accumulated silt and debris.

(b) This part shall not apply to the following activities, for which no permit shall be required:

(1) Cleaning and maintenance of man-made non-tidal drainage ditches; and

(2) Maintenance, repair, replacement, or modification of lawfully constructed ponds on active farms as necessary to preserve the usefulness of such ponds, provided that such ponds are not extended into any area of wetlands jurisdiction

(c) This part shall not apply to the following activities, for which a separate permit is required:

(1) Construction of drainage ditches;

(2) Widening, deepening, realigning or extending the length of existing drainage ditches or irrigation ditches;

(3) Placement of new fill in wetlands for agricultural purposes, which shall be subject to permitting as a development project in accordance with Env-Wt 529;

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(4) Work in agricultural wetlands that are deemed abandoned as a result of not having been used, managed, or maintained for agricultural purposes for a period of 5 years, which shall be subject to permitting as a development project in accordance with Env-Wt 529.

Env-Wt 526.02 Criteria for Approval of Agricultural Projects. In addition to the criteria established in Env-Wt 313.01, the following criteria shall apply to agriculture projects:

(a) The project shall comply with the design requirements specified in Env-Wt 526.04 and the construction requirements specified in Env-Wt 526.05;

(b) The project shall not include any new non-agricultural uses;

(c) The project shall not involve conversion of a wetland to agricultural production; and

(d) The project shall not involve conversion of an existing agricultural wetland into a non-wetland area.

Env-Wt 526.03 Application Requirements for Agricultural Projects. In addition to the application requirements of Env-Wt 311, the applicant shall provide the following additional information with an application for an agricultural project:

(a) A plan prepared by a county conservation district or certified wetlands scientist;

(b) Aerial photography, showing pre-disturbance conditions;

(c) NRCS soil survey reports on typical vegetation, information on volunteer vegetation, and historic ditching shown on aerial photos and historic Soil Conservation Service maps;

(d) A sediment and erosion control plan;

(e) A construction sequence detailing timing of the work proposed, including dewatering plans, construction of access routes, and temporary impacts; and

(f) For projects proposed as CAT1 projects all of the information and documentation specified in Env-Wt 526.06(a).

Env-Wt 526.04 Design Requirements for Agricultural Projects. In addition to the requirements in Env-Wt 300, the following requirements shall apply to a proposed agricultural project:

(a) The project shall be designed to comply with the requirements of [Agriculture BMPs] dated [??] and published by the New Hampshire department of agriculture, markets, and food (Ag BMPs);

(b) The project shall be designed to minimize the number of stream and wetlands crossings;

(c) The project shall be designed to retain vegetated strips of land between agricultural operations and natural wetlands and surface waters; and

(d) The project shall not impair the flow and circulation of waters in or adjacent to the project area or to reduce the reach of such waters.

Env-Wt 526.05 Construction Requirements for Agricultural Projects. In addition to all applicable construction standards specified in Env-Wt 307, the following shall apply to projects to agricultural projects:

(a) [???]

(b) [???]

NOTE: All cross-references subject to verification/correction.

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Env-Wt 526.06 Classification of Agricultural Construction Projects. Agricultural projects that do not qualify for an LSA under Env-Wt 309.01(c) shall be classified as follows:

(a) An agriculture project shall be a CAT1 project only if:

(1) The application includes:

a. A complete and executed copy of [the county conservation district's cooperator agreement;]???

b. A conservation plan prepared by an applicant's county conservation district or a certified wetland scientist with an accompanying map showing ?????

c. A USDA Natural Resources Conservation Services soils map indicating the project location and the location of poorly drained soils and very poorly drained soils; and

d. Aerial photographs showing all existing structures and indicating the location of wetlands, shoreline areas, and surface waters to which impacts are proposed;

(2) The applicant provides a written certification from either a certified wetlands scientist or the county conservation district in which the work is proposed that the project:

a. Meets the requirements of and does not exceed the scope of the Ag BMPs; and

b. Is necessary for or incidental to a preexisting and ongoing *bona fide* agricultural operation as defined in RSA 21:34-a;

(3) The applicant accepts a permit condition stating that no change in use to a non-agricultural purpose shall occur without obtaining any applicable permits for such use from the department;

(4) The project is not in or adjacent to a special resource area;

(5) The project will cause alteration only to a wet meadow except as specifically described in the Ag BMPs;

(6) The improvement portion of the project area does not impact more than 3 acres of wetland area and includes no more than 15% poorly drained soils; and

(7) The project does not impact greater than 3,000 SF of wetlands directly adjacent to the improvement are for access only;

(b) An agricultural project shall be a CAT2 project only if:

(1) The project access impacts greater than 3,000 SF but no more than 5 acres of wet meadow improvement impacts; or

(2) If the project involves maintenance of a farm pond with a surface area greater than 3,000 SF but no more than 10,000 SF; and

(c) An agricultural project shall be a CAT3 project if:

(1) The project requires a waiver of any applicable approval, design, or construction criteria;

(2) The project requires an individual permit from the Army Corps of Engineers under the Clean Water Act, [citation]; or

(3) The project exceeds the CAT2 criteria.

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PART Env-Wt 527 TRAILS AND PATHS [2]

Env-Wt 527.01 Applicability. This part shall apply to construction and maintenance of trails and paths used to provide access to outdoor recreational pursuits including, but not limited to, hunting, fishing, trapping, camping, horseback riding, bicycling, water spots, winter sports, and snowmobiling as defined in RSA 215-C:1, XV.

Env-Wt 527.02 Criteria for Approval of Trail and Path Projects. In addition to the criteria established in Env-Wt 307 and Env-Wt 313.01, the following criteria shall apply to trail and path projects:

(a) The project shall comply with the design and construction requirements specified in Env-Wt 527.04;

(b) The project shall provide access for one or more outdoor recreational activities;

(c) The project shall, to the greatest extent practicable, be constructed within travel corridors and developed areas and in the least environmentally impactful manner;

(d) The project shall not reduce or otherwise negatively impact the function, value, or condition of an existing wetland;

(e) The project shall not unreasonably interfere with movement of wildlife; and

(f) The project shall maintain the density and vigor of vegetation in the project area.

Env-Wt 527.03 Application Requirements for Trail and Path Projects. In addition to the application requirements of Env-Wt 311, the applicant shall provide the following additional information with an application for a trail or path project:

(a) A report including the following information for each corridor considered:

(1) Existing land use;

(2) Location and drainage class of soils;

(3) Habitat information from the WAP identifying critical habitats and populations of any species within or adjacent to the project area raising conservation or management concerns;

Env-Wt 527.04 Design and Construction Requirements for Trail and Path Projects. A proposed trail or path project shall be designed and constructed to comply with the [Trail BMPs];

Env-Wt 527.06 Classification of Trail and Path Projects. Trail and path projects that do not qualify for an LSA under Env-Wt 309.01(c) shall be classified as follows:

(a) A new trail or path project shall be a CAT1 project only if:

(1) Fill width for any single wetland crossing, measured at the top of trail side slopes, does not exceed 50 feet;

(2) Fill for any single wetland crossing does not exceed 60 feet in length, measured along the centerline of the proposed access way;

(3) No impacts to cedar swamps or special resource areas are proposed;

(4) Any swamps or wet meadows crossed have no standing water for 10 months of the year.

[2] Incorporate Boardwalks here?

NOTE: All cross-references subject to verification/correction.

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(5) For projects crossing a perennial stream or intermittent stream, the streams crossed have a scoured channel no more than 8 feet wide; and

(6) The project does not meet the requirements for CAT2 or CAT3 projects.

(b) A new trail or path project shall be a CAT2 project if:

(1) The requirements for CAT1 crossings in (a) above are not met; or

(2) The total crossing impact to wetlands is greater than 3,000 SF but does not exceed 10,000 SF.

(c) A new trail or path project shall be a CAT3 project if:

(1) The project proposes any crossing of a special resource area, marsh of any size, or cedar swamp;

(2) The total crossing impact to wetlands is greater than 10,000 SF; or

(3) The project would require a waiver of any approval, design, or construction criteria;

(d) A project to maintain or repair an existing trail or path shall be a CAT1 project only if:

(1) No change in location, configuration, dimensions, or construction type is proposed; and

(2) All work is proposed to be done in the dry.

(e) A project to maintain or repair of an existing trail or path shall be a CAT 2 project if it does not meet the criteria for either a CAT1 or a CAT3 project.

(f) A project to maintain or repair an existing trail or path shall be a CAT3 project if the project:

(1) Would require a waiver of any approval, design, or construction criteria; or

(2) Is located in a special resource area.

PART Env-Wt 528 DREDGING

Env-Wt 528.01 Applicability. This part shall apply to dredging projects.

Env-Wt 528.02 Criteria for Approval of Dredging Projects. The department shall approve a dredging project only if:

(a) The applicable requirements of Env-Wt 307 and Env-Wt 313.01 are met;

(b) Dredging is necessary to maintain an existing navigable passageway or infrastructure facility; or

(c) The project is part of a previously constructed maintenance dredge project that is on an active dredge cycle.

Env-Wt 528.03 Application Requirements for Dredging Projects. In addition to the application requirements of Env-Wt 311, the applicant shall provide the following additional information with an application to dredge:

(a) A description of the material and area to be dredged, including:

(1) The volume of material to be dredged, in cubic yards;

(2) The square footage of the area to be dredged; and

(3) The type of material to be dredged;

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(b) The erosion and sediment control measures proposed to be used;

(c) The methods proposed to dewater the dredge spoils;

(d) The location at which dewatering will occur;

(e) The equipment proposed to perform the dredging;

(f) The proposed disposal site;

(g) Identification of all known potential sources of soil or water contamination;

(h) The method of sampling for contaminants and a plan to manage contaminated materials;

(i) A description of how dredged material will be contained during the dredging process;

(j) Identification of model assumptions for determining the location and dispersal method of dredged material and the likely impact on jurisdictional areas; and

(k) An explanation of the timing of the project and how such timing helps minimize impacts on aquatic resources.

Env-Wt 528.06 Classification of Dredging Projects. Dredging projects that do not qualify for an LSA under Env-Wt 309.01(c) shall be classified as follows:

(a) Maintenance dredging associated with existing infrastructure or part of a previously constructed maintenance dredge project which is on an active dredge cycle shall be a CAT1 project provided the proposed dredging does not exceed 20 cubic yards (CY);

(b) A dredging project shall be a CAT2 project if it otherwise meets the CAT1 criteria but:

(1) The area to be dredged will exceed the previously-permitted dredge area;

(2) The timing of the dredge is sooner than the previously-permitted dredge cycle; or

(3) The proposed dredging will be greater than 20 CY but no more than 30 CY.

(c) A dredging project shall be a CAT3 project if it:

(1) Is a new non-maintenance dredging project;

(2) Is any project for which the proposed dredging will be greater than 30 cubic yards.

PART Env-Wt 529 RESIDENTIAL AND COMMERCIAL DEVELOPMENT

Env-Wt 529.01 Applicability. This part shall apply to residential and commercial development projects, including associated roadways, in non-tidal wetlands.

Env-Wt 529.02 Criteria for Approval of Residential and Commercial Development Projects. In addition to the criteria established in Env-Wt 307 and Env-Wt 313.01, Env-Wt, 700, Env-Wt 800, and Env-Wt 900, the following criteria shall apply to residential and commercial development projects in non-tidal wetlands:

(a) The project shall not involve conversion of a wetland to an upland in order to create one or more buildable lots for residential development;

(b) The proposed impacts to wetlands, surface waters, and associated natural resource features shall cause no net loss of significant wetland functions; and

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(c) The project shall comply with the design criteria specified in Env-Wt 529.04 and the construction criteria specified in Env-Wt 529.05.

Env-Wt 529.03 Application Requirements for Residential and Commercial Development Projects. In addition to the application requirements of Env-Wt 311 and other applicable project-specific application requirements in this chapter, the applicant for a residential or commercial development project in non-tidal wetlands shall provide the following information and documentation with an application:

(a) If the project includes components that are subject to multiple project-specific requirements in this chapter, a narrative statement and plan that describes:

(1) How each project-specific component meets the requirements of the applicable part in this chapter; and

(2) How the project as a whole impacts jurisdictional areas;

(b) For a CAT3 project, located in a 100 year flood plain, a regulatory floodway, or where known drainage or flooding conditions are evident, a certification and supporting documentation prepared by a professional engineer licensed to practice in New Hampshire pursuant to RSA 310-A stating that the project will not:

(1) Increase flood stages by more than one foot;

(2) Impact the 100-year flood elevations, floodway elevations, or floodway widths on the any water bodies in the project area as published in the most recent Flood Insurance Study applicable to the project area; and

(3) Or impact the 100 year flood elevations, floodway elevations, or floodway widths at unpublished cross-sections in the vicinity of the proposed development;

(c) For a project in a community that has a flood insurance rate map with base flood elevations along rivers or streams, but no mapped floodway, a certification and supporting documentation prepared by a professional engineer licensed to practice in New Hampshire pursuant to RSA 310-A stating that the project

(1) Will not increase flood stages within the entire riverine flood plain by more than one foot; and

(2) Is consistent with the technical criteria contained in Chapter 5 (Hydraulic Analysis) of the Flood Insurance Study: Guidelines and Specifications for Study Contactors, FEMA-37, 1995.

(d) For all projects requiring subdivision approval, a plan prepared by a land surveyor or a professional engineer licensed in the state of New Hampshire pursuant to RSA 310-A showing:

(1) The boundaries of all wetlands and surface waters;

(2) The footprint of all proposed impacts;

(3) Existing and proposed topography; and

(4) The location of all proposed lot lines;

(e) For CAT2 and CAT3 projects requiring subdivision approval, the plan required by (d), above, shall have wetlands classifications clearly indicated in accordance with Env-Wt 311.??, and

(f) For a project that is associated with one or more phases of a multiphase subdivision, the applicant shall provide a master plan showing the conceptual layout for future phases of development

Env-Wt 529.04 Design Requirements for Residential and Commercial Development Projects. A residential or commercial development project in non-tidal wetlands shall be designed to meet the following criteria:

NOTE: All cross-references subject to verification/correction.

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(a) The project shall comply with all applicable requirements of Env-Wt 307 and Env-Wt 313.01, Env-Wt, 700, Env-Wt 800, Env-Wt 900, and other applicable project specific criteria in this chapter;

(b) The project shall avoid impacts to floodplain wetlands, special resources, and riparian wetlands that attenuate peak flood flows;

(c) For a CAT3 project located in a 100 year floodplain, the project shall not increase flood stages off site;

(d) The project shall not use wetlands or surface waters to serve as water quality stormwater or water quality treatment to mitigate impacts;

(e) The project shall provide transition zones, water quality protection zones, and filter strips between the area of disturbance and all wetlands, streams, and vernal pools;

(f) The project shall provide setbacks and water quality protection measures sufficient to protect private and public drinking water supplies, source water protection areas, and fisheries;

(g) The project shall not increase pollutant loading to impaired waters;

(h) The project shall maintain wetland functions that reduce the level of contaminants in surface waters that recharge underlying or adjacent groundwater or contribute to the protection or improvement of water quality;

(i) The project shall maintain or restores hydrologic connections to maintain flows necessary to preserve adjacent wetland and riparian functions;

(j) The project shall maintain the geomorphic stability of important habitat for aquatic organisms by attenuating peak flood flows or stormwater runoff or by reducing the scouring and erosion of stream banks, or both;

(k) The project shall maintain or restore fishery spawning, feeding or cover habitat and fish passage necessary to maintain fishery or habitat or populations; and

(*l*) The project shall maintain or restore wildlife habitat and its associated migratory pathways, reproductive sites, and associated wetland complex or natural community system.

Env-Wt 529.05 Construction Requirements for Residential and Commercial Development Projects. In addition to all applicable construction standards specified in Env-Wt 307 and other applicable project specific standards in this chapter, the following shall apply to residential and commercial development projects in non-tidal wetlands:

(a) A construction notice shall be filed with the department at least 48 hours prior to commencing work; and

(b) All work shall be conducted in accordance with the approved plan.

Env-Wt 529.06 Classification of Residential and Commercial Development Projects. Residential and commercial development projects that do not qualify for an LSA under Env-Wt 309.01(c) shall be classified as follows:

(a) A project shall be a CAT1 project only if:

(1) All stream-crossing components of the project meet the requirements for CAT1 classification specified in Env-Wt 903; and

(2) All other components of the project meet the requirements for CAT1 classification specified in Env-Wt 407 and this chapter;

(b) A project shall be a CAT2 project if:

(1) Either of the following apply:

a. Any single stream-crossing component of the project meets the requirements for CAT2 classification specified in Env-Wt 903; or

b. Any single other component of the project meets the requirements for CAT2 classification specified in Env-Wt 407 or this chapter; and

(2) No component of the project meets the requirements for CAT3 classification specified in Env-Wt 903, Env-Wt 407, or this chapter; and

(c) Any single component of the project meets the requirements for CAT3 classification specified in Env-Wt 903, Env-Wt 407, or this chapter.

PART Env-Wt 530 RESTORATION AND ENHANCEMENT ACTIVITIES

Env-Wt 530.01 Applicability. This part shall apply to projects to restore or enhance altered or degraded wetlands, aquatic resources, or other jurisdictional areas.

Env-Wt 530.02 Criteria for Approval. In addition to the criteria established in Env-Wt ???, a restoration or enhancement project shall:

(a) Meet the design and construction requirements specified in Env-Wt 530.04; and

(b) Not include stream channelization or conversion of wetlands to uplands.

Env-Wt 530.03 Application Requirements. In addition to the application requirements in Env-Wt 311, an applicant for a restoration or enhancement project shall submit the following to the department:

(a) A description of the project goals explaining how the project will functionally benefit aquatic resources;

(b) For wetland restoration or enhancement projects, all the information or documents specified in Env-Wt 805.03;

(c) For stream restoration or enhancement projects, the applicable information or documents specified in Env-Wt 806.04;

(d) A restoration/enhancement monitoring plan that identifies:

(1) The metrics by which project success will be measured; and

(2) A schedule showing anticipated construction phases, timing of plantings, dates of submission of monitoring reports, and a final date of completion;

(e) Contingency plans for delays or interruptions that may occur during the process including notification and adjustment processes consistent with Env-Wt 807.03 and Env-Wt 807.04;

(f) A description of any conservation easement or buffer protection plan, extent of proposal and location relation to the proposed restoration or enhancement;

(g) An evaluation and assessment of potential positive and negative impacts to aquatic resources and jurisdictional areas;

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(h) A description of any stakeholder engagement conducted to determine any potential impacts to upstream and downstream property owners;

(i) A description of any on-site features, conditions or past work that might restrict excavation or access; and

(j) Identification of the source of any hydric soils and plantings to be used.

Env-Wt 530.04 Design and Construction Requirements. In addition to the design and construction requirements specified in Env-Wt 307 and Env-Wt 313, a restoration and enhancement project shall be designed and constructed to:

(a) Restore or increase wetland function, stream function, water quality, or other functions of resources within jurisdictional areas;

(b) Create hydrologic conditions, organism passage, or land connections that will produce beneficial wetland functions and values of the resources proposed to be restored or enhanced;

(c) For stream restoration and enhancement projects, meet the goals specified in Env-Wt 806.02; and

(d) Where applicable, preserve access to the restoration or enhancement areas.

Env-Wt 530.05 Construction Project Classification.

(a) A restoration and enhancement project shall be a CAT1 project only if:

(1) The project is conducted with financial support from and the direct supervision of:

a. An agency of the State of New Hampshire;

b. The United States Environmental Protection Agency;

c. The United States Army Corps of Engineers;

d. The United States Natural Resources Conservation Service; or

e. The United States Fish and Wildlife Service;

(2) The project is not proposed to be used to fulfill the requirements of an administrative order, court order, settlement, or other enforcement proceeding obligating the applicant or another person to perform such restoration or enhancement activities;

(3) The project is not located in or next to a special resource area; and

(4) The project does not cause impacts to more than 300 LF of a stream or more than 2 acres of wetlands.

(b) A restoration and enhancement project shall be a CAT2 project only if it meets the requirements in (a)(1), above, but does not meet the requirements in (a)(2)-(4), above.

(c) A restoration and enhancement project shall be a CAT3 project if it fails to meet the CAT1 and CAT2 or otherwise requires a waiver of any of the approval criteria.

Env-Wt 530.06 Maintenance and Repair. [more stakeholder input needed]

Env-Wt 530.07 … [other - e.g., Removal]. [more stakeholder input needed]

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PART Env-Wt 531 DAMS

Env-Wt 531.01 Applicability; Definitions.

(a) This part shall apply to the construction, modification, removal, repair, or replacement of a dam.

(b) For purposes of this part, the following definitions shall apply:

(1) "C/M/R project" means a project to construct, modify, remove, repair, or replace a dam, or any combination thereof; and

(2) "Dam" means "dam" as defined in RSA 482:2, II, as reprinted in Appendix B.

Env-Wt 531.02 Approval Criteria. In addition to meeting all applicable criteria established elsewhere in subtitle Env-Wt, the applicant for a permit under RSA 482-A for a C/M/R project shall demonstrate that the project meets the following criteria:

(a) For a project to repair, replace in kind, or maintain a dam:

(1) The dam is an existing legal structure; and

(2) There will be no expansion or change in use as a result of the project;

(b) No flooding or de-watering associated with the C/M/R project will damage or destroy indigenous hydrophytic vegetation or habitat of finfish, crustacea, or wildlife;

(c) Adequate passage and rate of flow will be maintained at appropriate times to allow migration of fish and passage of other aquatic organisms;

(d) Runoff and flood waters will not be impeded or enhanced during or as a result of the C/M/R project;

(e) For a project to construct a dam where no functional dam currently exists:

(1) If a permit under RSA 482 and Env-Wr 100 et seq. has not been issued, the application for such permit has been filed;

(2) The dam has been designed to minimize downstream impacts that would infringe on property owners contrary to RSA 482-A:11, II; and

(4) If the ecological benefit of the new dam will not offset the loss of wetland or stream functions from the proposed impoundment, compensatory mitigation will be provided; and

(d) The C/M/R project will not impound, convert, or drain any special resource area;

Env-Wt 531.03 Application Requirements. In addition to the information, maps, and plans required by Env-Wt 313, the applicant for a C/M project shall provide the following:

(a) A description of the status of the existing dam structure, such as whether it currently functions as intended or is an historic dam;

(b) Copies of any correspondence from the department's dam bureau relative to the dam;

(c) A narrative description of the project that explains the reason for the proposed project;

(d) The extent of the existing footprint of resource impact;

(e) A description of the structure's design or proposed design, or both if different, and the rational for the design;

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(f) A description of the methods that will be used to complete the project, including a construction sequence and methods to control in-stream turbidity during the work;

(g) For any C/M/R project that will result in a low, significant, or high hazard dam as those terms are defined in Env-Wr 100, plans prepared by a NH-licensed professional engineer showing the design, existing site conditions, and proposed site modifications in an overhead view and a cross-section of the dam;

(h) Narrative descriptions of:

(1) Direct impacts to the river and its adjacent banks and wetlands from dredging or filling, or both, associated with the C/M/R project, including the work on the dam itself, including whether the impacts are temporary or permanent and why each impact is necessary to complete the project;

(2) Indirect impacts to wetlands and streams associated with the drawdown of the impoundment created by the dam, including the location and type of wetland and stream that may be affected by the drawdown of the impoundment; and

(3) Overall project impacts on:

a. Wetlands, including whether existing wetlands could be drained or flooded;

b. Plants, fish, and wildlife and associated critical habitat or migratory pathways;

c. Public commerce, navigation, and recreation;

d. The availability and quality of surface and ground water, including potential impacts to surface water withdrawals and nearby public and private water supply wells;

e. Abutting property owners, including those abutting the impoundment;

f. Local fire suppression systems, and whether local fire officials have been contacted to learn if dry hydrants or other fire-fighting supplies may be affected by the project; and

g. The health, safety, and welfare of the general public, including how the project will alter the aesthetics of the site for the general public.

(i) A sediment report that includes:

(1) An explanation of the known potential for current and historic sources of sediment pollution from upstream sources, including but not limited to wastewater discharges, hazardous waste sites, and existing and former manufacturing facilities and tanneries;

(2) An estimate of the volume of sediment that has accumulated above the dam;

(3) If the dam is to be removed, the estimated volume of impounded sediment that could be transported downstream due to dam removal;

(4) A description of the physical characteristics of impounded sediment, including grain size distribution and organic content; and

(5) An assessment of whether the C/M/R project might cause or increase erosion or sedimentation, including whether downstream or upstream banks could erode as a result of the C/M/R project and what measures will be taken to stabilize exposed sediments;

(j) An assessment of whether the C/M/R project will reflect or redirect current or wave energy that might cause damage or hazards;

(k) If an existing dam is to be removed, an explanation of whether the dam provides any flood control benefits and, if so, an explanation of how removing the dam might affect flooding upstream and downstream of the project site; and

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(*l*) For an existing dam, a description of any historical assets associated with the dam and how the assets were identified, such as a consultation with the department of natural and cultural resources or a local historical society.

Env-Wt 531.04 Design Requirements.

(a) The dam shall meet all applicable standards established in Env-Wr 100 et seq.

(b) If the purpose of the C/M/R project is to provide fire protection to adjacent structures, the dam has been designed and will be constructed in an area with sufficient base flows to keep the pond filled even during dry periods.

Env-Wt 531.05 Construction Requirements.

(a) All work shall comply with the applicable standards in Env-Wt 307.

(b) The permittee shall develop and implement a water quality monitoring program.

(c) Not less than 5 state business days prior to starting work authorized by this permit, the permittee shall notify the DES Wetlands Program and the local conservation commission in writing of the date on which work under this permit is expected to start.

(d) At least 48 hours prior to commencing work, the permittee shall meet with the department to review the conditions of the permits issued by the department, including but not limited to those issued under RSA 482-A, RSA 483-B, and RSA 485-A:17. The permittee may request that the meeting be held on-site or at the DES offices in Concord or the Pease International Tradeport. The meeting shall be attended by the permitted, his/her professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.

(e) Prior to commencing construction, the permittee shall:

(1) Clearly mark all wetland and surface water boundaries adjacent to the construction areas to prevent unintentional encroachment on adjacent jurisdictional areas;

(2) Place orange construction fencing at the limits of construction to prevent unintentional encroachment on adjacent jurisdictional areas;

(3) Coordinate with the NH fish and game department, nongame and endangered species program, regarding the need for any additional species monitoring required before and during construction;

(g) A certified wetlands scientist or qualified professional, as applicable, shall monitor the project during construction to verify that all work is done in accordance with the approved plans and narratives, adequate siltation and erosion controls are properly implemented, and no water quality violations occur. A follow-up report including photographs of all stages of construction shall be submitted to the DES Wetlands Program within 60 days of final site stabilization.

(g) Upland and bank areas landward of the work area shall not be disturbed by regrading or filling.

Env-Wt 531.06 Construction Classification.

(a) Construction or modification of dam shall be a CAT3 project.

(b) Temporary cofferdams and other water control devices constructed in flowing water or adjacent to dams in conjunction with the repair or maintenance of existing structures shall be CAT1 projects.

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(c) Projects that involve impact a special resource area; impact 200 linear feet or more of a surface water or 10,000 square feet or greater of a wetland are a CAT3 project.

Env-Wt 531.07 Maintenance and Repair Classification.

(a) Repair, patching or maintenance that involves less than 20 % surface area of the dam structure, shall be considered a CAT1 project

(g) Maintenance projects that involve 20 % or greater surface area of the dam structure, shall be classified as a CAT2 project unless the project involves removal, modification, or constitutes a total replacement of the dam.

Env-Wt 531.08 … [other?].

PART Env-Wt 532 PUBLIC HIGHWAYS

Env-Wt 532.01 Applicability. This part shall apply to construction and maintenance projects for public highways that are not stream-related.

Env-Wt 532.02 Criteria for Approval. In addition to applicable standards established in other chapters of subtitle Env-Wt, the following criteria shall be met before the department approves an application for a public highway construction or maintenance (C/M) project:

(a) The project meets the design criteria specified in Env-Wt 532.04;

(b) The project is consistent with RSA 482-A:1, RSA 483-B, RSA 483, RSA 485-A, and RSA 212-A;

(c) The purpose of the project is to improve or maintain public safety, consistent with federal and state safety standards;

(d) The project will not cause displacement of flood storage wetlands or diversion of stream flow onto abutting or downstream landowners contrary to RSA 482-A:11;

(e) For a CAT3 project in the 100-year floodplain, the project will not increase flood stages off-site; and

(f) The project will not jeopardize the continued existence of a threatened or endangered species or species proposed for such designation or which is likely to destroy or adversely modify the critical habitat of a species identified under the Endangered Species Act of RSA 212-A, and will avoid impacts and project minimization measures to protect critical habitats and populations of state's species of conservation management concern as identified in NH Fish and Game's Wildlife Action Plan;

Env-Wt 532.03 Application Requirements and Attachments. In addition to the information, maps, and plans required by Env-Wt 300, an application for a C/M project shall:

(a) Include a NHDOT inter-department cover memo that describes the scope of the project, the size of the impacts to aquatic resources, and the purpose of the project.

(b) Include an accurate drawing with existing and proposed structure dimensions clearly annotated to:

(1) Document existing site conditions;

(2) Detail the precise location of the project and show the impact of the proposed activity on jurisdictional areas; and

(3) Show existing and proposed contours at 1-foot intervals, provided that if the topography is to be permanently altered, show the existing and proposed contours at 2-foot intervals'

(4) Show structure invert elevations on the plans; and

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(5) Use a scale based on standard measures of whole units, such as an engineering rule of 1 to 10, provided that if plans are not printed at full scale, a secondary scale shall be noted on the plans that identifies the half scale unit of measurement;

(c) Show all easements and right-of-way acquisition area outlines in relation to the project;

(d) Provide the name of the NH-licensed professional engineer who developed the plans, whether an employee of the applicant or at a consulting firm;

(e) Include an erosion control plan that shows:

(1) Existing and proposed contours at 2-foot intervals, with existing contours shown with a lighter line weight and proposed contours shown with a heavier line weight such as a bold font;

(2) The outermost limit of all work areas, including temporary phasing work, with perimeter controls; and

(3) A strategies sheet (latest revised version December 2015);

(f) For any projects in coastal areas or impacting tidal surface waters or tidal wetlands, or both, a tidal resources plan that shows the boundaries of the tidal buffer zone, edge of salt marsh vegetation, and sand dunes in the project vicinity;

(f) For a major impact/CAT3 project, where known drainage or flooding conditions are evident or the project is located in a 100 year flood plain or in a regulatory floodway, certification by a that the project will not increase flood stages by more than one foot, in the following format:

"I, ____[insert name]__, a professional engineer licensed to practice in New Hampshire, hereby certify based on supporting technical data that the proposed development will not impact the 100-year flood elevations, floodway elevations, or floodway widths on the [name of watercourse] as published in the Flood Insurance Study for [name of community] dated [date] and will not impact the 100 year flood elevations, floodway elevations, or floodway widths at unpublished cross-sections in the vicinity of the proposed development by more than one foot.

(g) For a project proposed in a community that has a Flood Insurance Rate Map (FIRM) with base flood elevations along rivers or streams, but no mapped floodway, the professional engineer shall evaluate the proposed project to ensure that it will not increase flood stages by more than one foot. In this case the entire riverine flood plain is treated as a "floodway". The engineer shall certify that the proposed project is consistent with the technical criteria contained in Chapter 5 (Hydraulic Analysis) of the Flood Insurance Study: Guidelines and Specifications for Study Contactors, FEMA-37, 1995;

(h) An on-site alternatives analysis for all projects; and

(i) An off-site alternatives analysis for any project that:

(1) Proposes wetland impacts of more than one acre;

(2) Proposes to impact protected species or habitat;

(3) Proposes alignments that impact high value wetlands; or

(4) Is required under NEPA.

Env-Wt 532.04 Design Requirements. In addition to meeting all applicable criteria established elsewhere in subtitle Env-Wt, all projects shall:

(a) Protect high value wetlands, streams, and special resource areas; and

(b) Reduce impacts to wetland and riparian function;

(c) Provide transition zones and maintain water quality protection zones and filter strips between the area of disturbance and wetlands, streams, and vernal pools;

(d) Maintain wetland and stream hydrology and function to remaining aquatic resources;

(e) Use on-site measures to compensate for any loss of flood storage where the project proposes filling and or placement of structures in a 100 year floodplain where required in the approval criteria or where the project proposes greater than 0.5 acre feet of fill volume or a road crossing that affects floodplain conveyance;

(f) Use on-site minimization and water quality protection measures to prevent direct discharge to surface waters and wetlands including retention of vegetated filter strips between the construction area and the aquatic resource areas and to disperse runoff with no direct discharge to natural wetlands or surface waters and runoff shall sheet flow into vegetated filter strips; and

(g) Where temporary impacts will occur, include re-establishment of a similar ecosystem using the same vegetative species and spacing unless the applicant shows that the proposed vegetative composition will be more beneficial.

Env-Wt 532.05 Construction Requirements. In addition to complying with all applicable conditions in Env-Wt 307, the following shall apply:

(a) The permit is contingent on review and approval by the department of final stream diversion/ erosion control plans that detail the timing and method of stream flow diversion during construction and show temporary siltation/erosion/turbidity control measures to be implemented; and

(b) The contractor responsible for completion of the work shall use techniques described in the New Hampshire Stormwater Manual, Volume 3, Erosion and Sediment Controls During Construction (December 2008).

Env-Wt 533.06 Maintenance and Repair.

[xref CAT 1 projects that qualify for Routine Roadway and Railway maintenance Stream Crossing Maintenance projects and CAT 1 repair projects]

Env-Wt 533.07 Project Classification. Projects shall be classified based on the dimensions established in Env- Wt 400, subject to resource disqualification and project exceptions.

[Appendices to be inserted]

APPENDIX B: STATUTORY DEFINITION

RSA 482:2

II. (a) "Dam" means any artificial barrier, including appurtenant works, which impounds or diverts water and which has a height of 6 feet or more, or is located at the outlet of a great pond. A roadway culvert shall not be considered a dam if its invert is at the natural bed of the water course, it has adequate discharge capacity, and it does not impound water under normal circumstances. Artificial barriers which create surface impoundments for liquid industrial or liquid commercial wastes, septage, or sewage, regardless of height or storage capacity, shall be considered dams.

(b) An artificial barrier at a storm water detention basin, which impounds 0.5 acre-foot or less of water during normal conditions, shall not be considered a dam unless its height is 10 feet or greater or its maximum storage is 6 acre-feet or greater.

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