

TABLE OF CONTENTS

CHAPTER Env-Wq 1800 RIVERS MANAGEMENT AND PROTECTION PROGRAM

PART Env-Wq 1801 PURPOSE AND APPLICABILITY

- Env-Wq 1801.01 Purpose
- Env-Wq 1801.02 Applicability

PART Env-Wq 1802 DEFINITIONS

- Env-Wq 1802.01 Commissioner
- Env-Wq 1802.02 Committee
- Env-Wq 1802.03 Community Resource
- Env-Wq 1802.04 Department
- Env-Wq 1802.05 Diadromous
- Env-Wq 1802.06 Endangered animal
- Env-Wq 1802.07 Endangered plants
- Env-Wq 1802.08 Exemplary Natural Communities
- Env-Wq 1802.09 Mouth
- Env-Wq 1802.10 NH Natural Heritage Inventory
- Env-Wq 1802.11 Nomination
- Env-Wq 1802.12 Public access
- Env-Wq 1802.13 Recognized by Local Residents
- Env-Wq 1802.14 River
- Env-Wq 1802.15 Rivers coordinator
- Env-Wq 1802.16 River corridor
- Env-Wq 1802.17 Significant aquatic habitat
- Env-Wq 1802.18 Significant wildlife habitat
- Env-Wq 1802.19 Sponsor
- Env-Wq 1802.20 Threatened animal
- Env-Wq 1802.21 Threatened plant
- Env-Wq 1802.22 Tidal River

PART Env-Wq 1803 NOMINATIONS

- Env-Wq 1803.01 Nomination Requirements
- Env-Wq 1803.02 Information Required for Nomination
- Env-Wq 1803.03 Review for Completeness
- Env-Wq 1803.04 Review Procedures

PART Env-Wq 1804 NOMINATION APPROVAL

- Env-Wq 1804.01 Nomination Criteria
- Env-Wq 1804.02 Legislative Review and Approval

PART Env-Wq 1805 POINT SYSTEM EVALUATION

- Env-Wq 1805.01 - Env-Wq 1805.06 Reserved

REVISION NOTE:

Document #8326, effective 4-21-05, readopted with amendments and renumbered former Chapter Env-C 700 titled Rivers Management and Protection Program as Env-Ws 1800. This chapter was subsequently redesignated editorially as Env-Wq 1800 pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

The prior filings for former Env-C 700 include the following documents:

- | | |
|--|--|
| #4726, INTERIM, eff 12-21-89, EXPIRED: 4-20-90 | #6374, eff 11-16-96 |
| #4963, eff 10-29-90; EXPIRED: 10-29-96 | #8204, INTERIM, eff 11-16-04, EXPIRES: 5-15-05 |

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-Wq 1800 RIVERS MANAGEMENT AND PROTECTION PROGRAM

Statutory Authority: RSA 483:11

PART Env-Wq 1801 PURPOSE AND APPLICABILITY

Env-Wq 1801.01 Purpose. The purpose of these rules is to explain:

- (a) The process for nominating a perennial river or river segment for protection under RSA 483; and
- (b) The criteria to be used to evaluate such nominations.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1801.02 Applicability. These rules shall apply to all nominations of perennial rivers or river segments for protection under RSA 483.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

PART Env-Wq 1802 DEFINITIONS

Env-Wq 1802.01 “Commissioner” means the commissioner of the department of environmental services.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.02 “Committee” means the rivers management advisory committee established in RSA 483:8.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.03 “Community resource” means the river has been identified or recognized by local residents or referenced in a municipal document accepted by the municipality, such as a master plan or a water resource management plan, as being important to the community.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.04 “Department” means the department of environmental services.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.05 “Diadromous” means regularly migrating between freshwater and salt water. This category includes anadromous, catadromous, and amphidromous fish such as sea-lampreys, sturgeons, salmons, and alewives. Migration should be cyclical and predictable.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.06 “Endangered animal” means “endangered species” as defined in RSA 212-A:2, IV, as reprinted in Appendix C.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wq 1802.07 “Endangered plants” means “endangered species” as defined in RSA 217-A:3, IV, as reprinted in Appendix C.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.08 “Exemplary natural communities” means “exemplary natural communities” as defined in RSA 217-A:3, VII, as reprinted in Appendix C.

Source. #12185, eff 5-25-17

Env-Wq 1802.09 “Mouth” means, for a tidal river, the lower end of the river where a line that forms a right angle with at least one bank of the river can be drawn across the river channel from bank to bank.

Source. #9657, eff 2-22-10; ss by #12185, eff 5-25-17

Env-Wq 1802.10 “NH natural heritage inventory” means the program within the department of resources and economic development established by Chapter 195, Laws of 1986.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.11 “Nomination” means the nomination of a river for designation into the program as outlined in Env-Wq 1803.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.12 “Public access” means the right of any person to enter a property on a non-discriminatory basis.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.13 “Recognized by local residents” means that there are community projects, activities or events based on the river or its corridor such as river clean-ups, canoe races, or a riverfest.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.14 “River” means a flowing body of water or a segment or tributary thereof.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.15 “Rivers coordinator” means the program administrator at the department of environmental services authorized by RSA 483:3.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.16 “River corridor” means the river and the larger of:

- (a) The land area located within a distance of 1,320 feet of the normal high water mark; or
- (b) The landward extent of the 100 year floodplain as designated by the Federal Emergency Management Agency.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wq 1802.17 “Significant aquatic habitat” means regions which are important to the survival of particular aquatic populations. Such regions include, but are not limited to, spawning beds and feeding areas.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.18 “Significant wildlife habitat” means regions which are important to the survival of particular wildlife populations. Such regions include, but are not limited to, deer wintering yards, waterfowl breeding or wintering areas, freshwater wetlands or riparian habitat, and saltwater wetlands associated with estuarine systems.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.19 “Sponsor” means any individual or organization submitting a nomination under this program.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1802.20 “Threatened animal” means “threatened species” as defined in RSA 212-A:2, V, as reprinted in Appendix C.

Source. #12185, eff 5-25-17

Env-Wq 1802.21 “Threatened plant” means “threatened species” as defined in RSA 212-A:2, XX, as reprinted in Appendix C.

Source. #12185, eff 5-25-17

Env-Wq 1802.22 “Tidal river” means a river whose salinity, flow, or level is influenced by the tides.

Source. #9657, eff 2-22-10; ss by #12185, eff 5-25-17 (from Env-Wq 1802.20)

PART Env-Wq 1803 NOMINATIONS

Env-Wq 1803.01 Nomination Requirements.

(a) To make a nomination to include a river or segment thereof in the program, a sponsor shall submit a nomination to the rivers coordinator on or before June 1 in order for it to be considered in the next legislative session.

(b) A nomination shall be submitted on a form obtained from the department and shall include the information required in Env-Wq 1803.02.

(c) In addition to the original nomination, a sponsor shall submit to the department one paper copy and one electronic copy of the nomination together with any supporting documentation.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

Env-Wq 1803.02 Information Required for Nomination. A sponsor shall provide the following information and documentation as part of the nomination:

(a) The name of the river;

(b) The location and length of the river or segment;

(c) The name, address, and daytime telephone number of the sponsor and the sponsor’s contact person if the sponsor is an organization;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(d) A description of significant resources which the sponsor believes are contained or represented in the river or segment and its corridor;

(e) A description and documentation of the community and public support which the sponsor believes exists for the nomination, including copies of any letters from elected and appointed local officials;

(f) Documentation of notification to riparian landowners and elected public officials of all municipalities through which each nominated river or segment flows;

(g) A recommendation on the appropriate classification or classifications for the river or segment, including the length in miles, start and end point of each segment, and the information necessary to determine if the recommended classification is appropriate under RSA 483:7-a;

(h) A map of the nominated river or segment and its corridor taken from a U.S. geological survey quadrangle(s) or equivalent in accuracy and detail, and an inset or locator map showing the location of the river or segment within the state;

(i) A map of the nominated river or segment indicating:

(1) Stream order, as determined using the New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, as specified in RSA 483-B:4, XVI(c); and

(2) Municipal boundaries, major roads, and tributary streams;

(j) A written acknowledgment stating that the sponsor understands that:

(1) All fourth order and higher segments are subject to RSA 483-B whether or not they are designated in accordance with this chapter;

(2) All third order and lower segments designated pursuant to RSA 483:15 prior to the 2017 effective date of this chapter, subject to exemptions specified therein, are subject to RSA 483-B; and

(3) All third order and lower segments approved for designation after the 2017 effective date of this chapter shall be subject to the standards and requirements in RSA 483-B applicable to those protected shorelands within 50 feet of the reference line, as specified in RSA 483-B:4, XV.

(k) For a tidal river or tidal river segment, the downstream extent of the nominated segment, located at or upstream of the mouth of the tidal river; and

(l) An inventory, description, and assessment of the statewide, regional, or local significance of the resources of the river or segment and its corridor, including but not limited to:

(1) Geologic resources;

(2) Wildlife resources, including endangered or threatened animals, animals identified as species of special concern in the New Hampshire Natural Heritage Bureau "Rare Animal List for New Hampshire", dated July 2013, available as noted in Appendix B, or animals otherwise identified as rare;

(3) Vegetation and natural communities, including:

a. Endangered or threatened plants;

b. Plants identified in the New Hampshire Natural Heritage Bureau "Rare Plants, Rare Animals and Exemplary Natural Communities in New Hampshire Towns" publication, dated July 2013, available as noted in Appendix B;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- c. Habitat for wildlife resources identified in (2), above, and fish resources identified in (4), below; and
 - d. Natural communities identified as exemplary;
- (4) Fish resources, including endangered or threatened animals, fish identified as species of special concern in the New Hampshire Natural Heritage Bureau “Rare Animal List for New Hampshire”, dated July 2013, available as noted in Appendix B, or fish otherwise identified as rare;
 - (5) Water quality as designated pursuant to RSA 485-A:9 or as shown by actual water quality analysis, if available;
 - (6) Water quantity;
 - (7) Riparian interests, including flowage rights;
 - (8) Existing and potential withdrawals and discharges;
 - (9) Existing and potential dams and hydroelectric resources;
 - (10) Hydrologic resources, including natural flow characteristics;
 - (11) Existing and potential recreational resources, including boating resources;
 - (12) Public access;
 - (13) Scenic characteristics;
 - (14) Cultural, historical, and archaeological resources;
 - (15) Open space;
 - (16) Community resources;
 - (17) Current land use and land use controls; and
 - (18) Scientific resources.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; amd by #9530, INTERIM, eff 8-26-09, EXPIRES: 2-22-10; amd by #9657, eff 2-22-10; ss by #12185, eff 5-25-17

Env-Wq 1803.03 Review for Completeness.

- (a) The rivers coordinator shall review each nomination to determine whether the nomination is complete.
- (b) The rivers coordinator shall determine that the nomination is complete if it contains all of the information and documentation required by Env-Wq 1803.01 and Env-Wq 1803.02.
- (c) Within 30 days of the submission of the nomination, the rivers coordinator shall notify the sponsor as to whether the nomination is complete or incomplete.
- (d) If the rivers coordinator determines that the nomination is incomplete, the rivers coordinator shall request the sponsor to provide the missing information, and the nomination shall not be deemed complete until such information is provided.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wq 1803.04 Review Procedures.

(a) The rivers coordinator shall forward complete nominations to the committee with a request to return a recommendation based on whether the nomination:

- (1) Meets the criteria listed in RSA 483:6, IV(a) and (b) and Env-Wq 1803.02(1); and
- (2) Is consistent with the policies and intent identified in RSA 483:1 and RSA 483:2.

(b) After a public hearing as required by RSA 483:6, III and receipt of the recommendation of the committee, the rivers coordinator shall make a recommendation to the commissioner to approve the nomination if:

- (1) The nomination has been deemed complete, as specified in Env-Wq 1803.03;
- (2) The committee has recommended that the nomination be approved; and
- (3) The nomination is supported by the public, as demonstrated by the public comments received at the public hearing held pursuant to RSA 483:6, III and the level of demonstrated public support for the nomination provided pursuant to Env-Wq 1803.02(e).

(c) The rivers coordinator shall forward his or her own recommendation and the recommendation made by the committee to the commissioner, together with the nomination, within 120 days of receipt of the complete nomination.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

PART Env-Wq 1804 NOMINATION APPROVAL

Env-Wq 1804.01 Nomination Criteria. The commissioner shall consider the following factors when deciding whether to forward a river nomination to the general court for its review:

- (a) The criteria listed in RSA 483:6, IV(a) and (b) and Env-Wq 1803.02(1);
- (b) The recommendation prepared by the rivers coordinator;
- (c) The recommendation prepared by the committee;
- (d) The public comments on the nomination received in public hearings held pursuant to RSA 483:6, III and the level of demonstrated public support for the nomination as provided pursuant to Env-Wq 1803.02(e);
- (e) For a tidal river or tidal river segment, the recommendation of the Piscataqua Region Estuaries Partnership and the NH fish and game department relative to the downstream extent of the nominated segment.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; amd by #9530, INTERIM, eff 8-26-09, EXPIRES: 2-22-10; amd by #9657, eff 2-22-10; ss by #12185, eff 5-25-17

Env-Wq 1804.02 Legislative Review and Approval.

(a) If the commissioner, after considering the factors under Env-Wq 1804.01, determines that a river nomination is consistent with the policies and intents identified in RSA 483:1 and RSA 483:2, the commissioner shall:

- (1) Approve the nomination; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(2) Forward the nomination to the next regular session of the legislature for review and approval according to RSA 483:7.

(b) If the commissioner does not approve a river nomination, the commissioner shall notify the sponsor in writing within 30 days of the receipt of the recommendation of the rivers coordinator and any recommendation of the committee and shall inform the sponsor of the reasons for that decision.

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #12185, eff 5-25-17

PART Env-Wq 1805 RESERVED

Env-Wq 1805.01

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; ss by #9657, eff 2-22-10; repealed by #12185, eff 5-25-17

Env-Wq 1805.02

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; repealed by #12185, eff 5-25-17

Env-Wq 1805.03

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; repealed by #12185, eff 5-25-17; repealed by #12185, eff 5-25-17

Env-Wq 1805.04

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; repealed by #12185, eff 5-25-17

Env-Wq 1805.05

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; amd by #9530, INTERIM, eff 8-26-09, EXPIRES: 2-22-10; amd by #9657, eff 2-22-10; repealed by #12185, eff 5-25-17

Env-Wq 1805.06

Source. (See Revision Note at chapter heading) #8326, eff 4-21-05; ss by #9330, eff 11-26-08; repealed by #12185, eff 5-25-17

APPENDIX A: STATUTES IMPLEMENTED

Rule Sections	Statute Implemented
Env-Wq 1801	RSA 483:6
Env-Wq 1802	RSA 483:6
Env-Wq 1803	RSA 483:6
Env-Wq 1804	RSA 483:6

APPENDIX B: INCORPORATED REFERENCES

Rule (Env-Wq)	Reference [Date/Edition]	Obtain From (Cost)
1803.02(1)(2) 1803.02(1)(4)	New Hampshire Natural Heritage Bureau "Rare Animal List for New Hampshire", dated July 2013	NH Division of Forests and Lands, Natural Heritage Bureau 172 Pembroke Road Concord, New Hampshire 03301 172 No cost to download from: http://www.nhdf.org/library/pdf/Natural%20Heritage/TrackingList-AnimalGeneral.pdf
1803.02(1)(3)b.	New Hampshire Natural Heritage Bureau "Rare Plants, Rare Animals and Exemplary Natural Communities in New Hampshire Towns", dated July 2013	NH Division of Forests and Lands, Natural Heritage Bureau 172 Pembroke Road Concord, New Hampshire 03301 172 No cost to download from: http://www.nhdf.org/library/pdf/Natural%20Heritage/Townlist.pdf

APPENDIX C: STATUTORY DEFINITIONS

RSA 212-A:2

IV. "Endangered species" means any species of native wildlife whose continued existence as a viable component of the state's wild fauna is determined to be in jeopardy and includes any species of wildlife determined to be an endangered species pursuant to the endangered species act.

V. "Threatened species" means any species of wildlife which appears likely, within the foreseeable future, to become endangered. The term shall also include any species of wildlife determined to be a threatened species under the endangered species act.

RSA 217-A:3

IV. "Endangered species" means any species of plant that is in danger of extinction throughout all or a significant portion of its range within the state, or any species determined to be an endangered species pursuant to the Endangered Species Act.

VII. "Exemplary natural community" means a viable occurrence of a rare natural community type or a high quality example of a more common natural community type as designated by the natural heritage bureau based on community size, ecological condition, and landscape context.

XX. "Threatened species" means any species of plant likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the state, or any species of plant determined to be a threatened species pursuant to the Endangered Species Act.