

Notice Number 2023-269

Rule Number Env-Wt 100 various

<p>1. Agency Name &amp; Address:</p> <p><b>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</b></p>	<p>2. RSA Authority: <b>RSA 482-A:11, I, VI, VI-a, and VII; RSA 482-A:31</b></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u>  X  </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>  X  </u></p>
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5. Short Title: **Wetlands Definitions**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

**The existing rules in Env-Wt 100 establish definitions of terms used throughout the wetlands rules and address the maintenance of and access to files. The Department of Environmental Services is proposing to readopt with amendment several existing definitions and adopt five new definitions. The definitions being substantively amended are:**

- “Accessory docking structure”;
- “Administratively complete”;
- “Boardwalk”;
- “Breakwater”;
- “Compensatory mitigation”;
- “Existing legal structure”;
- “Exotic aquatic weeds”;
- “Invasive species”;
- “Jetty”;
- “Light detection and ranging (LiDAR)”;
- “Located adjacent to a structure to which a watercraft may be secured”;
- “Normal high water line”;
- “Perched beach”;
- “Reference line”;
- “Replacement structure”;
- “Shoreline frontage”;
- “Significant environmental impact”;
- “Silt fence”;
- “Temporary impacts”; and
- “Turbidity barrier”.

**The following definitions are proposed to be adopted as new rules:**

- “Functional and intact”;
- “In writing” or “written”;
- “Signature” or “signed”;
- “Signed statement” or “statement signed by”; and

- “Written notice” or “notification” or “notice”.

The following definitions are proposed for amendment solely to fix broken website links:

- “Best management practices for marinas (Marina BMPs)”; and
- “NH Method”.

6. (b) Brief description of the groups affected:

**The rules affect any person or entity who is required to seek a permit or other authorization for the activities listed in RSA 482-A:3.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Rule Section(s)</b>	<b>State Statutes Implemented</b>	<b>Federal Statutes, Regulations Implemented</b>
Env-Wt 102.05, Env-Wt 102.06, Env-Wt 102.21, Env-Wt 102.27, Env-Wt 102.31, Env-Wt 102.38, Env-Wt 102.69, Env-Wt 102.70, Env-Wt 103.13 (new), Env-Wt 103.23, Env-Wt 103.24 (new), Env-Wt 103.25, Env-Wt 103.28, Env-Wt 103.32, Env-Wt 103.48, Env-Wt 103.51, Env-Wt 103.53, Env-Wt 104.06, Env-Wt 104.18, Env-Wt 104.19 (new), Env-Wt 104.20 (new), Env-Wt 104.21, Env-Wt 104.23, Env-Wt 104.38, Env-Wt 104.40, Env-Wt 104.68 (new)	RSA 482-A:1 - 4, 6, 8 - 34	Clean Water Act, 33 U.S.C. Chapter 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 104.04	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483-B	Clean Water Act, 33 U.S.C. Chapter 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Darlene Forst**

Title: **Administrator, Wetlands Bureau**

Mailing Address: **Dept. of Environmental Services**

Phone #: **603-271-4054**

**29 Hazen Drive; P.O. Box 95  
Concord, NH 03302-0095**

Fax#: **603-271-6588**

E-mail: **darlene.c.forst@des.nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964  
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 PM on Friday, December 29, 2023**

☐ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, December 20, 2023, at 2:00 PM**

**Room 208C, DES Offices, 29 Hazen Drive, Concord, NH**

Physical  
Location:

**NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.**

**You also may attend the hearing via Microsoft Teams, which can be accessed through the following link:**

**[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_YzA4OTkzMzltNjhlMi00MTg2LWE3M2QtOTBmMjVmZWlyNDlh%40thread.v2/0?context=%7b%22Tid%22%3a%22992deae9-1c4c-42c8-a310-5088af55ba74%22%2c%22Oid%22%3a%22bbaa9077-e48d-4f82-810c-81f4ef416a17%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzA4OTkzMzltNjhlMi00MTg2LWE3M2QtOTBmMjVmZWlyNDlh%40thread.v2/0?context=%7b%22Tid%22%3a%22992deae9-1c4c-42c8-a310-5088af55ba74%22%2c%22Oid%22%3a%22bbaa9077-e48d-4f82-810c-81f4ef416a17%22%7d)**

Electronic  
Access (if  
applicable):

**Meeting number (access code): 276 369 804 496**

**Meeting password: rR4j6b**

**You also may join the meeting by phone:**

**Call in Number: 1-603-931-4944**

**Access Code: 419 463 620#**

**If any questions or technical issues, please contact Edward McKenna at 603-271-3503 or via email at [edward.p.mckenna@des.nh.gov](mailto:edward.p.mckenna@des.nh.gov)**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # 23:265, dated 11/01/2023

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules. Not applicable to Env-Wt 103.13, Env-Wt 103.24, Env-Wt 104.19, Env-Wt 104.20 and Env-Wt 104.68 which are new.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

**3. Cost and benefits of the proposed rule(s):**

There are no additional costs associated with the new sections Env-Wt 103.13, Env-Wt 103.24, Env-Wt 104.19, Env-Wt 104.20 and Env-Wt 104.68.

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

None.

**C. To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**The proposed rules modify an existing program or responsibility, but do not mandate any additional expenditure on the political subdivisions of the state and therefore do not violate Part I, Article 28-a of the N.H. Constitution.**