

CHAPTER Env-Wt 100 DEFINITIONS; ACCESS TO RECORDS

Statutory Authority: RSA 482-A:11, I

REVISION NOTE #1:

Document #5536, effective 12-23-92, made extensive changes to the wording and numbering of rules containing definitions in Part Wt 101 in Chapter Wt 100. Document #5536 superseded all prior filings for the sections in Part Wt 101 and Parts Wt 102 and Wt 103. Document #5536 contained many definitions which amended or incorporated definitions in Part Wt 601, which was subsequently repealed by Document #5551, effective 1-5-93.

The prior filings for former Part Wt 101 included the following documents:

- #2271, eff 1-10-83
- #2923, eff 12-10-84
- #2924, eff 12-11-84
- #3072, eff 7-26-85
- #4039, eff 4-10-86
- #4292, eff 7-13-87
- #4386, eff 3-10-88
- #5028, eff 12-20-90

Please note that some of the rules in former Part Wt 101 had EXPIRED between 12-11-90 and 12-20-90.

REVISION NOTE #2:

Document #8340, effective 4-25-05, readopted, or readopted with amendments and renumbered, all the definitions in Part Wt 101. Document #8340 superseded all prior filings for the sections in this part.

The filings for former Part Wt 101 after Document #5536 and prior to Document #8340 included the following documents:

- #5739, eff 11-23-93
- #6199, eff 2-29-96
- #6404, INTERIM, eff 12-21-96, EXPIRED 4-20-97
- #6498-A, eff 4-23-97
- #7071, eff 8-13-99
- #7855, eff 3-21-03
- #8053, eff 2-28-04

REVISION NOTE #3:

Pursuant to a rules reorganization plan approved by the Director of the Office of Legislative Services on September 7, 2005, Department rules in Wt 100 filed under Document #8340, effective 4-25-05, or under prior documents that were still in effect, were editorially renumbered subsequently with subtitle Env-Wt denoting the wetlands program area. The title Wt was discontinued.

REVISION NOTE #4:

Document #12801, effective 12-15-19, adopted, readopted, readopted with amendment, or repealed all of the rules in Chapter Env-Wt 100, and changed the chapter heading from “Organizational Rules” to “Definitions; Access to Records.” Document #12801 also made extensive changes in the numbering of rules within the chapter.

Document #12801 replaces all prior filings for rules in the former Env-Wt 100. The prior filings affecting rules in the former Env-Wt 100, after Document #8340 was effective 4-25-05, included the following documents:

#9094, eff 2-23-08
#9131, eff 4-19-08
#9713, eff 5-12-10
#10999, eff 12-23-15
#12801, eff 12-15-19

As organizational rules the rules in Chapter Env-Wt 100 will not expire except pursuant to RSA 541-A:17, II.

PART Env-Wt 101 DEFINITIONS INCORPORATED

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

PART Env-Wt 102 DEFINITIONS: A THROUGH E

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

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

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

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

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 102.09 “Applicant” means a person having a legally-recognized interest in the land on which work in a jurisdictional area has been undertaken or is proposed to be undertaken that is sufficient for the person to have, or to obtain, an enforceable proprietary interest in the land and legally proceed with the project if the appropriate approval is issued, who has applied for a permit, permit modification, waiver, or other approval pursuant to subtitle Env-Wt and in whose name the permit will be issued if the application is approved.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19; ss by #12953, eff 12-24-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 102.30 “Bog” means a wetland distinguished by stunted evergreen trees and shrubs, peat deposits, poor drainage, highly acidic soil conditions, highly acidic water conditions, or any combination thereof, as determined using “Natural Communities of New Hampshire”, 2nd edition, published by UNH Cooperative Extension dated 2011, available as noted in Appendix B.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19 ; ss by #13106, eff 9-25-20*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 102.38 “Compensatory mitigation” means activities or projects designed to offset the unavoidable permanent impacts of a project through the preservation of land or the restoration, enhancement, or creation of a wetland, by replacing or partially replacing wetlands functions and values lost due to the project.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 102.48 “DataCheck tool” means an online data screening tool provided by NHB where the public can screen for known locations of rare species and exemplary natural communities, currently available at <https://www4.des.state.nh.us/NHB-DataCheck/>.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. *#12953, eff 12-24-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by *#12953*, (formerly Env-Wt 102.54)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-1*; renumbered by #12953, (formerly Env-Wt 102.55)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.56)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.57)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.58)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.59)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.60)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.61)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.62)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.63)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-91*; renumbered by #12953, (formerly Env-Wt 102.64)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.65)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.66)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.67)

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; renumbered by #12953, (formerly Env-Wt 102.68)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* ; renumbered by #12953, (formerly Env-Wt 102.69)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-1*; renumbered by #12953, (formerly Env-Wt 102.70)

PART Env-Wt 103 DEFINITIONS: F THROUGH P

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19; ss by 13106, eff 9-25-20*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

- (a) Is a commercial docking structure, a public docking structure, or one in which docking structures impact 100 or more linear feet of shoreline;
- (b) Provides 5 or more boat slips; or
- (c) Is associated with a breakwater.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19; ss by #13106, eff 9-25-20*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 103.36 “Marina” means a waterfront facility whose principal function is to provide watercraft-related services such as the securing, launching, storing, fueling, servicing, or repairing of watercraft, or any

combination thereof, whether such services are available to the public or only to members of an organization or association.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19; ss by #13106, eff 9-25-20*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

- (a) For projects in or adjacent to tidal wetlands, any project occurring after June 22, 1967;
- (b) For projects in or adjacent to non-tidal wetlands, any project occurring after July 2, 1969;
- (c) For seasonal structures in tidal or non-tidal waters, any project occurring after September 4, 1978; and
- (d) For projects in a duly-established 100-foot buffer, the date of designation of the associated designated prime wetlands.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19 ; ss by #12953, eff 12-24-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19 ; ss by #12953, eff 12-24-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) *#12953, eff 12-24-19*

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

- (a) Has documented occurrences of protected species or habitat;
- (b) Is a bog;
- (c) Is a floodplain wetland contiguous to a tier 3 or higher watercourse;
- (d) Is a designated prime wetlands;
- (e) Is a duly-established 100-foot buffer of a designated prime wetlands;
- (f) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or

(g) Is any combination of (a) through (f), above.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*; ss by #12953, eff 12-24-19 (formerly Env-Wt 103.65)

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

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

(b) Maintained by a homeowners’ or condominium owners’ association for the personal use of the home or condominium owners and the owners’ invitees.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.66)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.67)

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

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.68)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.69)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.70)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.71)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.72)

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19* (formerly Env-Wt 103.73)

PART Env-Wt 104 DEFINITIONS: Q THROUGH Z

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 104.04 “Reference line” means:

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

(b) For a surface water that is not subject to RSA 483-B, the line that would have constituted the

reference line as established under RSA 483-B:4, XVII, if RSA 483-B applied.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19; ss by #12953, eff 12-24-19*

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 104.31 “Subject property” means:

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

(b) For all other projects for which any kind of permit is required, the parcel(s) of land on which the project will occur or has occurred.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19 ; ss by #12953, eff 12-24-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 104.39 “Turbidity control” means a water quality control measure, such as a coffer dam or turbidity curtain, used in water to contain silt and sediment suspended in the water column so as to prevent water cloudiness outside of the contained area.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19; ss by #13106, eff 9-25-20*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

(a) Is not the result of on-going anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to:

(1) Gravel pit operations in a pit that has been mined at least every other year; and

(2) Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and

(b) Typically has the following characteristics:

- (1) Cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year;
- (2) Forms in a shallow depression or basin;
- (3) Has no permanently flowing outlet;
- (4) Holds water for at least 2 continuous months following spring ice-out;
- (5) Lacks a viable fish population; and
- (6) Supports one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 104.46 “Water access structure” means a structure without a roof or cover that typically would be an accessory structure under RSA 483-B and that, as a matter of operational necessity, is located adjacent to the shoreline because its purpose is to provide a means of entry to a surface water for swimming and similar water-related recreational activities other than boating or a location for the direct observation of swimmers or other individuals engaged in water-related recreational activities. The term includes beaches, decks and patios, but does not include docking structures.

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19 ; ss by #12953, eff 12-24-19; ss by #13106, eff 9-25-20*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

[Source.](#) (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 104.49 “Watercraft” means any type or size of vessel or craft that is moved by any means, including but not limited to wind, motors, oars, or paddles, that is intended to be used or that is actually used to

carry one or more individuals or cargo, or a combination thereof, across water, whether such individuals or cargo are atop, on, or in the vessel or craft.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 104.58 “Wetland permit planning tool (WPPT)” means a geographic information systems tool that provides access to data for planning projects near or in jurisdictional areas, available at <https://nhdeswppt.unh.edu>.

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

PART Env-Wt 105 MAINTENANCE OF AND ACCESS TO FILES

Env-Wt 105.01 Retention of Files.

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

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

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

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Env-Wt 105.02 Access to Files.

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

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

Source. (See Revision Notes #1, #2, #3, and #4 at Chapter heading for Env-Wt 100) *#12801, eff 12-15-19*

Appendix A: Statutes Implemented

Rule Section(s)	State Statute(S) Implemented	Federal Statutes. Regulations Implemented
Env-Wt 101	RSA 482-A:1 and 4	
Env-Wt 102	RSA 482-A:1, 2, 3, and 4,	
Env-Wt 102.30, 103.33, 103.49, 104.39, 104.47	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 103	RSA 482-A:1, 2, 3, 4, and 15	
Env-Wt 103.27	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483:8-a, III	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	RSA 482-A:1, 2, 3, 4, and 8	
Env-Wt 105	RSA 91-A; RSA 541-A:16, I(b)	

Appendix B: Incorporated References

Rule	Title, Date	Obtain From:
Env-Wt 102.17	Best Management Wetlands Practices for Agriculture, 2019	NH Dept. of Agriculture, Markets & Food PO Box 2042 - 25 Capitol Street Concord, NH 03302-2042 Phone: (603) 271-3551 Fax: (603) 271-1109 available at https://www.agriculture.nh.gov/publications-forms/documents/wetlands-bmp-manual.pdf
Env-Wt 102.18	Wetlands Best Management Practice Techniques For Avoidance and Minimization, 2019	New England Interstate Water Pollution Control Commission (NEWIPCC) Wannalancit Mills 650 Suffolk Street, Suite 410 Lowell, MA 01854 Phone: (978) 323-7929 Fax (978) 323-7919 Email: mail@neiwpcc.org available at http://neiwpcc.org/wp-content/uploads/2019/03/Wetlands-BMP-Manual-2019.pdf
		UNH Cooperative Extension Taylor Hall, 59 College Road Durham, NH 03824 Phone: (603)862-1520

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Rule	Title, Date	Obtain From:
Env-Wt 102.19	New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations, 2016	available at https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf
		NH Department of Transportation PO Box 483 7 Hazen Drive Concord, New Hampshire 03302-0483 Phone: (603) 271-3734 Fax: (603) 271-3914 Email: info@dot.nh.gov
Env-Wt 102.20	Best Management Practices for Control of Invasive and Noxious Plant Species, 2018	available at https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/FINAL-ENV1Manual1-InvasiveSpecies.pdf
Env-Wt 102.22	Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire (2019)	available at https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf
		NH Dept. of Natural & Cultural Resources 172 Pembroke Road Concord, NH 03301 Phone: (603) 271-3254 Fax: (603) 271-3553 Email: nhtrails@dncr.nh.gov
Env-Wt 102.23	Best Management Practices for Erosion Control During NH Trail Maintenance and Construction (2017)	available at https://www.nhstateparks.org/getmedia/3c45de00-e174-4df0-b678-4670b254290d/Best-Management-Practices-For-Erosion-Control-During-Trail-Maintenance-and-Construction.pdf
Env-Wt 102.24	Best Management Practices Manual Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire, 2019	available at https://www.nhdfl.org/DRED/media/Documents/New_Final_Utility_BMP_Manual_3_8_19.pdf

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Rule	Title, Date	Obtain From:
Env-Wt 102.30	Natural Communities of New Hampshire, 2nd Edition (2011)	UNH Cooperative Extension Taylor Hall 59 College Road Phone: (603) 862-1520 Download at no charge from: https://www.nh.gov/nhdfl/documents/webversion_tech-manual.pdf
Env-Wt 102.63	Level 2 Ecological Integrity Assessment Manual for New Hampshire: Wetland Systems”, Nichols and Faber-Langendoen, 2017	available at https://www.nhdfl.org/DRED/media/Documents/Natural%20Heritage/L2-EIA-Manual_NHB_2018-7-11-Public.pdf
Env-Wt 102.63 Env-Wt 103.46	Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire, 2013; revised 2015 and 2016	UNH Cooperative Extension Taylor Hall, 59 College Road Durham, NH 03824 Phone: (603)862-1520 available at https://extension.unh.edu/programs/nh-method-wetlands
Env-Wt 103.01	Classification of Wetlands and Deepwater Habitats of the United States, adapted from Cowardin, Carter, Golet and LaRoe (1979), Wetlands Subcommittee, Federal Geographic Data Committee, August 2013, FGDC-STD-004-2013	Federal Geographic Data Committee, Wetlands Subcommittee 12201 Sunrise Valley Drive MS 590 Reston, VA 20192 Email: fgdc@fgdc.gov available at https://www.fgdc.gov/standards/projects/wetlands/nwcs-2013
Env-Wt 103.02	Wetlands Delineation Manual, Technical Report Y-87-1, Corps of Engineers, January 1987	U.S. Army Corps of Engineers New England District 696 Virginia Road Concord, MA 01742-2751 (978)318-8338 available at https://www.lrh.usace.army.mil/Portals/38/docs/USACE%2087%20Wetland%20Delineation%20Manual.pdf

Rule	Title, Date	Obtain From:
Env-Wt 103.02 Env-Wt 104.40	Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral and Northeast Region, Version 2.0, U.S. Army Corps of Engineers, January 2012	https://usace.contentdm.oclc.org/utis/getfile/collection/p266001coll1/id/7640
Env-Wt 104.15	Identifying and Documenting Vernal Pools in New Hampshire, 3rd Edition, 2016	NH Fish & Game Department 11 Hazen Drive Concord, NH 03301 Phone: (603) 271-3421 available at https://wildlife.state.nh.us/nongame/documents/vernal-pool-manual.pdf

APPENDIX C: STATUTORY DEFINITIONS

482-A:2

VIII. “Boat slip” means:

(a) On water bodies over 10,000 acres, means a volume of water 25 feet long, 8 feet wide, and 3 feet deep as measured at normal high water and located adjacent to a structure to which a watercraft may be secured.

(b) On water bodies of 10,000 acres or less, a volume of water 20 feet long, 6 feet wide, and 3 feet deep as measured at normal high water mark and located adjacent to a structure to which a watercraft may be secured.

I. “Commissioner” means the commissioner of environmental services.

I-b. “Department” means the department of environmental services.

IV. “Mean high tide” shall be determined according to the published tables and standards of the United States Coast and Geodetic Survey, adjusted to the locality from such tables.

V. “Municipality” shall include cities, towns, and village districts.

VI. “Person” shall mean any natural person, firm, partnership, association, corporation, company, organization or legal entity of any kind including municipal corporations, governmental departments and agencies, or their subdivisions.

VII. “Sand dune” shall mean a hill or ridge of sand pile up by the wind and commonly found on the seacoast.

IX. “Structure” means, notwithstanding any other provision of law, something installed, erected, or constructed, but shall not include a bench, landing with dimensions no larger than 10 feet wide by 10 feet long, or stairs with a width not exceeding 6 feet, provided that such benches, landings, or stairs are installed, erected, or constructed without regrading or recontouring of the shoreline and are not over water. Structures include, but are not limited to, the following: fence, dock, breakwater, post, pile, building, bridge, culvert, and wall.

X. “Wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

XI. “Wetland functions” means the practical measurable values of wetlands. The 12 primary wetland functions are ecological integrity, wetland-dependent wildlife habitat, fish and aquatic life habitat, scenic

quality, educational potential, wetland-based recreation, flood storage, groundwater recharge, sediment trapping, nutrient trapping/retention/transformation, shoreline anchoring, and noteworthiness.

483:4

VIII. “Designated river” means that portion of a perennial river which has been specifically designated by the general court pursuant to RSA 483:15.

XVIII. “River corridor” means the river and the land area located within a distance of 1,320 feet of the normal high water mark or to the landward extent of the 100 year floodplain as designated by the Federal Emergency Management Agency, whichever distance is larger.

483-B:4

XI-e. “Ordinary high water mark” means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

485-A:2

XIV. “Surface waters of the state” means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

487:16

II. The term “exotic aquatic weeds” includes only those species of vascular aquatic plants which were not part of New Hampshire’s native aquatic flora before 1950. *Cabomba caroliniana* and *Myriophyllum heterophyllum* are examples of exotic aquatic weeds.

270:59

III. “Mooring” when used as a noun, means a mooring anchor, or other fixed object or stationary point, with or without a mooring buoy together with attached chains, cables, ropes, and pennants and related equipment used for the purpose of securing watercraft.

310-A:2

II. “Professional engineer” means a person who by reason of advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice engineering, and who is licensed by the board or otherwise authorized by this subdivision to engage in the practice of engineering.

310-A:76

II-a. “Certified wetland scientist” means a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified to delineate wetland boundaries and to prepare wetland maps; to classify wetlands; to prepare wetland function and value assessments; to design wetland mitigation; to implement wetland mitigation; to monitor wetlands functions and values; and to prepare associated reports, all in accordance with standards for identification of wetlands adopted by the New Hampshire department of environmental services or the United States Army Corps of Engineers or their successors, and who has been duly certified by the board.

310-A:99

I-a. “Forester” means a person who practices forestry and is licensed under this subdivision, or a person specifically exempted from licensure under RSA 310-A:98, II.

672:6 Local Governing Body.

“Local governing body” means, in addition to any other appropriate title:

- I. Board of selectmen in a town;
- II. City council or board of aldermen in a city;
- III. Village district commissioners in a village district; or
- IV. County commissioners in a county in which there are located unincorporated towns or unorganized places.

APPENDIX D: FEDERAL DEFINITIONS**40 CFR §230.3 Definitions.**

(I) The term *practicable* means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

APPENDIX E: SUMMARY OF ABBREVIATIONS AND ACRONYMS

Term	Meaning
Agriculture BMWPs	“Best Management Wetlands Practices for Agriculture” dated 2019, published by the NH Department of Agriculture, Markets, and Food
A/M BMPs	“Wetlands Best Management Practice Techniques For Avoidance and Minimization” dated 2019, published by the New England Interstate Water Pollution Control Commission
CPESC specialist	Certified Professional Erosion and Sediment Control specialist - an individual certified by EnviroCert International, Inc.® as competent to develop and implement erosion and sediment control practices
CY	Cubic Yard
Federal classification method	Method established in “Classification of Wetlands and Deepwater Habitats of the United States”, adapted from Cowardin, Carter, Golet and LaRoe (1979), August 2013, FGDC- STD-004-2013
Federal delineation method	Method established in “Wetlands Delineation Manual”, Technical Report Y-87-1, Corps of Engineers, January 1987, and “Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral and Northeast Region”, Version 2.0, U.S. Army Corps of Engineers, January 2012
Forestry BMPs	“New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations” dated 2016, published by the University of New Hampshire Cooperative Extension
HOTL	Highest Observable Tide Line

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Term	Meaning
Invasive Plant BMPs	“Best Management Practices For the Control of Invasive and Noxious Plant Species” dated 2018, published by the NHDOT
Marina BMPs	“Best Management Practices For New Hampshire Marinas” dated 2001, published by the NHDES Pollution Prevention Program
LAC	Local [River] Advisory Committee
LiDAR	Light Detection and Ranging - A surveying method that measures distance to a target by illuminating the target with pulsed laser light and measuring the reflected pulses with a sensor, with the differences in laser return times and wavelengths then being used to make digital 3-D representations of the target.
LF	Linear Foot
NH Method	“Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire” dated 2013 and revised 2015 and 2016, available at https://nhmethod.org/
NHB	Natural Heritage Bureau of the NH DNCR
NH DNCR	NH Department of Natural and Cultural Resources
NHF&G	NH Fish and Game Department
NHDOT	NH Department of Transportation
NRCS	Natural Resources Conservation Service of the U.S. Department of Agriculture
PBN	Permit-by-Notification (created in the rules)
PRA	Priority Resource Area - a jurisdictional area that: (a) Has documented occurrences of protected species or habitat; (b) Is a bog; (c) Is a floodplain wetlands contiguous to a tier 3 or higher watercourse; (d) Is a designated prime wetland or a duly-established 100-foot buffer; (e) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or (f) Is any combination of (a) through (e), above.
Professional engineer	RSA 310-A:2, II. “Professional engineer” means a person who by reason of advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice engineering, and who is licensed by the board or otherwise authorized by this subdivision to engage in the practice of engineering.
Routine Roadway BMPs	“Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire” dated 2019, published by the NHDOT
SF	Square Foot
SPN	Statutory Permit-by-Notification (established in RSA 482-A)

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Term	Meaning
Subject property	<p>(a) For projects in surface water for which any kind of permit is required, the parcel(s) of land adjacent to and associated with the area in which the project will occur or has occurred; or</p> <p>(b) For all other projects for which any kind of permit is required, the parcel(s) of land on which the project will occur or has occurred.</p>
Trail BMPs	“New Hampshire Best Management Practices for Erosion Control During Trail Maintenance and Construction” dated 2017, published by the NH DNCR
US ACE	U.S. Army Corps of Engineers
USGS	United States Geological Survey
Utility BMPs	“Best Management Practices Manual, Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire” dated 2019, published by the NH DNCR
WAP	Wildlife Action Plan prepared and published by NHF&G
Water Quality BMPs	Recommended practices for minimizing or preventing the direct or indirect discharge of sediment or other pollutants into surface waters and wetlands, including those listed in Env-Wt 307 and the Agriculture BMPs, Forestry BMPs, Marina BMPs, Invasive Plant BMPs, Roadway Maintenance BMPs, Trail BMPs, and Utility BMPs, as applicable
WPPT	Wetlands Permit Planning Tool - a GIS tool that provides access to data for planning projects near or in jurisdictional areas, available at https://nhdeswppt.unh.edu