

Readopt with amendment Env-Wt 102.05, Env-Wt 102.06, Env-Wt 102.21, Env-Wt 102.27, Env-Wt 102.31, Env-Wt 102.38, Env-Wt 102.69, and Env-Wt 102.70, eff. 12-15-19 (Document #12801), to read as follows:

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~~ ***but is not used to load or unload passengers or goods***, such as, for example, a canopy, dolphin, ice cluster, personal watercraft lift, or watercraft lift.

Env-Wt 102.06 “Administratively complete” means that the application or notification package contains all items and information required by the applicable provisions in ***Env-Wt 308.06, Env-Wt 309.05, Env-Wt 309.07, Env-Wt 309.08, Env-Wt 310.01, Env-Wt 310.02, Env-Wt 311.12, Env-Wt 311.13, Env-Wt 312.02, and Env-Wt 312.05***~~Env-Wt 309.~~

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-assistancehttps://www.des.nh.gov/sites/g/files/ehbemt341/files/inline-documents/sonh/nhdes-wd-01-12.pdf>.

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 ***generally constructed on a series of widely spaced bents or piers, effectively comprising a series of connected bridges.***

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”~~ ***extending generally perpendicular from the shore into surface waters of the state that is designed to protect sections of shoreline, docks, wharves, or anchorage areas from erosion or damage from waves or currents.***

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

Env-Wt 102.69 “Existing legal structure” means a structure ***that has not been abandoned, as defined in Env-Wt 102, and*** that:

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

Env-Wt 102.70 “Exotic aquatic weeds” means “exotic aquatic weeds” as defined in RSA 487:16, II, reprinted in Appendix C, ***and listed in Env-Wq 1300.***

Adopt Env-Wt 103.13 and renumber Env-Wt 103.13-Env-Wt 103.22 as Env-Wt 103.14-Env-Wt 103.23, so that Env-Wt 103.13 reads as follows:

Env-Wt 103.13 “Functional and intact” means that a structure is in its original shape, is structurally sound, and can be used for its originally intended purpose.

Readopt with amendment and renumber Env-Wt 103.22, eff. 12-15-19 (Document #12801), as Env-Wt 103.23, to read as follows:

Env-Wt 103.2223 “Invasive species” means any species on the New Hampshire prohibited invasive species list *in Agr 3800*, prepared pursuant to RSA 430:53, III, and any exotic aquatic weeds.

Adopt Env-Wt 103.24 and renumber Env-Wt 103.23-Env-Wt 103.74 as Env-Wt 103.25-Env-Wt 103.76, so that Env-Wt 103.24 reads as follows:

Env-Wt 103.24 “In writing” or “written” means in the form of a hardcopy, electronic document, or electronic statement on the department website, including but not limited to hardcopies, letters, pdfs, emails, posting on the department website, and other electronic communications, unless specified otherwise.

Readopt with amendment Env-Wt 103.23, Env-Wt 103.26, Env-Wt 103.30, and Env-Wt 103.46, and Env-Wt 103.30, effective 12-15-19 (Document #12801), and renumber as Env-Wt 103.25, Env-Wt 103.28, Env-Wt 103.32, and Env-Wt 103.48, to read as follows:

Env-Wt 103.2325 “Jetty” means a ~~breakwater, commonly used when referring to tidal waters~~*structure extending into a body of water that is designed to prevent shoaling of a channel and to direct and confine the stream or tidal flow. Jetties are generally built at the mouths of rivers or tidal inlets to maintain the depth of and stabilize a channel.*

Env-Wt 103.2628 “Light detection and ranging (LiDAR)” means a ~~surveying~~*remote sensing* method that measures distance to a target by illuminating the target with pulsed laser light and measuring the reflected pulses with a sensor, ~~with the differences in laser return times then being used to make digital 3-D representations of the target.~~

Env-Wt 103.3032 “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 *boat slip, as defined in RSA 482-A:2, VIII*, is *located* along the length of the ~~structure that causes the water volume to be a boat slip to which a watercraft could be secured.~~

Env-Wt 103.4648 “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/http://nhmethod.org/> and as noted in Appendix B.

Readopt with amendment and renumber Env-Wt 103.49, effective 09-25-20 (Document #13106), as Env-Wt 103.51, to read as follows:

Env-Wt 103.49~~51~~ “Normal high water line” for lakes or ponds means the natural mean high water elevation *or the full lake operational level for impoundments controlled by dams.*

Readopt with amendment and renumber Env-Wt 103.51, effective 12-15-19 (Document #12801), as Env-Wt 103.53, to read as follows:

Env-Wt 103.51~~53~~ “Perched beach” means a man-made beach that is designed to prevent the beach material from reaching the water *by means of a physical barrier.*

Readopt with amendment Env-Wt 104.04, Env-Wt 104.06, and Env-Wt 104.18, effective 12-15-19 (Document #12801), to read as follows:

Env-Wt 104.04 “Reference line” means:

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

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

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

Env-Wt 104.18 “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~~ *actual natural navigable shoreline frontage and a straight line drawn between property lines, both of which are measured at the normal high water line along lakes and ponds or the ordinary high water mark along rivers.*

Adopt Env-Wt 104.19 and Env-Wt 104.20 and renumber Env-Wt 104.19-Env-Wt 104.65 as Env-Wt 104.21-Env-Wt 104.67, so that Env-Wt 104.19 and Env-Wt 104.20 read as follows:

Env-Wt 104.19 “Signature” or “signed” includes a wet signature, a copy of a wet signature, and an electronic signature, as defined in RSA 294-E:2, VIII.

Env-Wt 104.20 “Signed statement” or “statement signed by” means a statement signed on a hardcopy or with an electronic signature, as defined in RSA 294-E:2, VIII.

Readopt with amendment and renumber Env-Wt 104.19, effective 12-24-19 (Document #12953), as Env-Wt 104.21, to read as follows:

Env-Wt 104.1921 “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, *excluding the following projects if the applicant proposes impacts to less than three acres of wetlands:*
 - a. The widening of transportation projects and expansions of existing transportation projects; or*
 - b. Temporary fill for construction access;*
 - (2) More than one-half mile of a watercourse; or
 - (3) One-half acre or more of tidal wetlands; or
- (b) ~~Will~~**Adrain** a public drinking water supply.

Readopt with amendment and renumber Env-Wt 104.21, Env-Wt 104.36, and Env-Wt 104.38, effective 12-15-19 (Document #12801), as Env-Wt 104.23, Env-Wt 104.38, and Env-Wt 104.40, to read as follows:

Env-Wt 104.2123 “Silt fence” means a sediment barrier consisting of filter fabric attached to supporting posts entrenched into the soil and installed across or at the toe of a slope to intercept and retain small amounts of sediment from disturbed or unprotected areas, ~~which has a useful life of one season and functions primarily to slow and pond the water to allow soil particles to settle.~~

Env-Wt 104.3638 “Temporary impacts” means adverse conditions or effects that will be reversed when the authorized work has been completed and pre-construction conditions have been re-established. ~~The term includes but is not limited to ruts caused by heavy machinery that are smoothed when the work is completed and the installation and subsequent removal of swamp mats, construction mats, geotextile fabric, or other erosion or sediment control practices.~~

Env-Wt 104.3840 “Turbidity barrier” means a temporary in-water ~~fence~~**barrier** consisting of a continuous ~~geotextile fabric~~**impermeable** 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.

Adopt Env-Wt 104.68 so that Env-Wt 104.68 reads as follows:

Env-Wt 104.68 “Written notice” or “notification” or “notice” means a hardcopy or electronic copy of a notice, which may also include information submitted on an electronic form.

APPENDIX

Rule Section(s)	State Statutes Implemented	Federal Statutes, Regulations Implemented
Env-Wt 102.05, Env-Wt 102.06, Env-Wt 102.21,	RSA 482-A:1 - 4, 6, 8 - 34	Clean Water Act, 33 U.S.C. Chapter 26, Subchapter IV, § 1344 (Permits for

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