

Notice Number 2023-271

Rule Number Env-Wt 700 various

1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	RSA 482-A:15, I-b; RSA 482-A:31
	3. Federal Authority:	
	4. Type of Action:	
	Adoption	<u>X</u>
	Repeal	
	Readoption	
	Readoption w/amendment	<u>X</u>

5. Short Title: **Prime Wetlands**

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

The existing rules in Env-Wt 700 establish the criteria and methods to be used to designate, map, and document prime wetlands pursuant to RSA 482-A:15, I-b. The Department of Environmental Services is proposing, as described below, to adopt a new rule Env-Wt 703.07 and readopt with amendment various existing rules in Env-Wt 700.

The proposed changes to Env-Wt 700:

- **Remove a redundant process in Env-Wt 703.05 for an applicant to challenge boundaries of a prime wetlands and direct the local municipality to rely on the existing process in RSA 482-A:11, III(a) if they disagree with the delineated boundaries of a prime wetlands in a permit application compared to mapped boundaries of designated prime wetlands;**
- **Add a process in Env-Wt 703.07 for updating previously filed maps with more accurate documents and correcting the boundaries of designated prime wetlands when there is evidence that the boundaries on the currently filed maps are inaccurate;**
- **Clarify when compensatory mitigation is required for impacts to prime wetlands or any duly-established buffer and in what form (Env-Wt 704.03);**
- **Address legislative changes from the 2023 session to RSA 482-A:11, IV (2023, 79:102, effective 7-1-23) relevant to the NH Department of Transportation by proposing changes to Env-Wt 704.03 and Env-Wt 704.04;**
- **Amend Env-Wt 701.01 to reflect the proposed changes to other section of the chapter;**
- **Remove definitions in Env-Wt 701.02 that already exist in Env-Wt 100;**
- **Include minor amendments to Env-Wt 703.02 and Env-Wt 703.04 to clarify the process for submitting prime wetlands designation maps and documentation to the Department; and**
- **Revise the requirements in Env-Wt 706.02(b) for the content of waiver requests made under RSA 482-A:11, IV(b).**

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

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

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

Rule Section(s)	State Statute(s) Implemented
Env-Wt 701.01, Env-Wt 701.02, Env-Wt 703.02, Env-Wt 703.04, Env-Wt 703.05, Env-Wt 703.06, Env-Wt 703.07 (new), Env-Wt 704.03, Env-Wt 704.04, Env-Wt 706.02	RSA 482-A:1, RSA 482-A:3; RSA 482-A:4; RSA 482-A:11, RSA 482-A:15

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

Name: **Darlene Forst** Title: **Administrator, Wetlands Bureau**
Mailing Address: **Dept. of Environmental Services** Phone #: **603-271-4054**
29 Hazen Drive; P.O. Box 95 Fax#: **603-271-6588**
Concord, NH 03302-0095 E-mail: **darlene.c.forst@des.nh.gov**

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

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

☐ Fax ☒ E-mail ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, December 20, 2023, at 2:00 PM**
Room 208C, DES Offices, 29 Hazen Drive, Concord, NH
Physical Location: **NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.**
You also may attend the hearing via Microsoft Teams, which can be accessed through the following link:

Electronic Access (if applicable): https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzA4OTkzMzItNjhIMi00MTg2LWE3M2QtOTBmMjVmZWlyNDlh%40thread.v2/0?context=%7b%22Tid%22%3a%2292deae9-1c4c-42c8-a310-5088af55ba74%22%2c%22Oid%22%3a%22bbaa9077-e48d-4f82-810c-81f4ef416a17%22%7d

Meeting number (access code): 276 369 804 496

Meeting password: rR4j6b

You also may join the meeting by phone:

Call in Number: 1-603-931-4944

Access Code: 419 463 620#

If any questions or technical issues, please contact Edward McKenna at 603-271-3503 or via email at edward.p.mckenna@des.nh.gov

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

FIS # 23:267 , dated 11/01/2023

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

There is no difference in cost when comparing the proposed rules to the existing rules.
Not applicable to Env-Wt 703.07 which is new.

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

No federal mandate, no impact on state funds.

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

There is no additional cost or benefit attributable to Env-Wt 703.07.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

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

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