

CHAPTER Env-Wt 700 PRIME WETLANDS

Statutory Authority: RSA 482-A:11, I, IV; RSA 482-A:15, I-b

REVISION NOTE #1:

Pursuant to a rules reorganization plan approved by the Director of the Office of Legislative Services on September 7, 2005, Department rules in Wt 700 filed under Document #8341, effective 4-25-05, were editorially renumbered subsequently with subtitle Env-Wt denoting the wetlands program area. The title Wt was discontinued.

REVISION NOTE #2:

Document #12807, effective 12-15-19, readopted with amendment all of the rules in Chapter Env-Wt 700 under the chapter heading “Prime Wetlands”.

Document #12807 replaces all prior filings for rules in the former Chapters Wt 700 and Env-Wt 700.

The prior filings for former Chapter Wt 700 up through Document #8341, effective 4-25-05, included the following documents:

- #1825, eff 10-5-81
- #2512, eff 10-19-83
- #2924, eff 12-11-84
- #5028, eff 12-20-90
- #5486, eff 10-14-92
- #6404, INTERIM, eff 12-21-96, EXPIRED 4-20-97
- #6498-B, eff 4-23-97
- #8341, eff 4-25-05

The prior fillings for former Chapter Env-Wt 700 after Document #8341 was effective 4-25-05 included the following documents:

- #10367, eff 6-26-13

PART Env-Wt 701 PURPOSE; DEFINITIONS; STATUTORY PARAMETERS; ABBREVIATIONS AND ACRONYMS

Env-Wt 701.01 Purpose. The purpose of this chapter is to establish the criteria and methods to be used to designate, map, and document prime wetlands, which are wetlands that are worthy of extra protection because their uniqueness, fragility, and/or unspoiled character give them significant value.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 701.02 Definitions. For purposes of this chapter, the following definitions shall apply:

- (a) “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;
- (b) “Local authority” means the local body having authority to designate, map, and document prime wetlands pursuant to RSA 482-A:15, I(a), reprinted in Appendix D;
- (c) “Prime wetlands” means “prime wetlands” as defined in RSA 482-A:15, I-a, reprinted in Appendix C;

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(d) “Prime wetlands/buffer” means prime wetlands or a duly-established 100-foot buffer or both, as applicable in the context used; and

(e) “Significant net loss” means a loss that is unlikely to be reversed through natural processes within one year.

[Source.](#) (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 701.03 Applicable Statutory Parameters. The statutory parameters that apply to a prime wetlands designated pursuant to RSA 482-A:15 or its predecessor statute shall be determined based on the date of the designation, as summarized in Table 701-1, below:

Table 701-1: Prime Wetlands Parameters

Session Law	Effective Date	Statutory Parameters
1979, 431:5-6	Aug. 22, 1979	<ul style="list-style-type: none"> <li>• Municipalities authorized to designate prime wetlands</li> <li>• NH Wetlands Board must notify local authority prior to issuing a permit for a project “in or adjacent to” designated prime wetlands</li> <li>• Board adopts rules to implement, establish criteria (OLS document #1825, eff. 10-5-81; see OLS Revision Notes for subsequent history)</li> <li>• No fixed buffers for prime wetlands, but rules establish requirements that apply to proposed work/activities that may impact prime wetlands, including no significant net loss of wetland function</li> <li>• “Adjacent” not defined</li> </ul>
2007, 211: 2	Aug. 24, 2007	<ul style="list-style-type: none"> <li>• “in or adjacent to” changed to “in or within 100 feet of”</li> </ul>
2009, 185:2	Sept. 11, 2009	<ul style="list-style-type: none"> <li>• Department must notify local authority prior to issuing a permit for projects “in or within 100 feet of” a designated prime wetlands</li> <li>• Waivers authorized for forest management work</li> </ul>
2012, 235:2	Aug. 17, 2012	<ul style="list-style-type: none"> <li>• Requirements established for a prime wetlands to be at least 2 acres in size; to not consist of a water body only; to have at least 4 primary wetland functions, one of which must be wildlife habitat; and to be at least 50 feet wide at its narrowest point</li> <li>• Department must notify local authority prior to issuing a permit for projects in a designated prime wetlands or within 100 feet of any prime wetlands where a 100-foot buffer was required at the time of designation (<i>i.e.</i>, on or after Sept. 11, 2009 but before Aug. 17, 2012)</li> </ul>

[Source.](#) (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 701.04 Abbreviations and Acronyms. Abbreviations and acronyms used throughout this chapter shall have the meaning assigned in Env-Wt 100, as summarized in Appendix E.

[Source.](#) (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

PART Env-Wt 702 CRITERIA AND PROCEDURES FOR DESIGNATION OF PRIME WETLANDS

Env-Wt 702.01 Identification of Wetlands for Consideration as Prime.

(a) A local authority undertaking a review of wetlands within its boundaries to determine whether to designate any of them as prime wetlands shall begin by identifying each wetland that meets the requirements established in RSA 482-A:15, I-a, reprinted in Appendix D.

(b) Wetlands shall be delineated using the methods specified in Env-Wt 406.01.

(c) The local authority shall then:

(1) Identify at least 4 primary wetlands functions from those identified in RSA 482-A:2, XI, one of which shall be wetland-dependent wildlife habitat as required by RSA 482-A:15, I-a; and

(2) Evaluate the wetlands identified and delineated pursuant to (a) and (b), above, for each of the primary wetlands functions identified pursuant to (c)(1), above, using:

a. For non-tidal wetlands, the “Method for Inventorying and Evaluating Wetlands in New Hampshire” dated 2015, available as noted in Appendix B;

b. For tidal wetlands, the “Method for the Evaluation and Inventory of Vegetated Tidal Marshes in New Hampshire” dated 1993, available as noted in Appendix B; or

c. An alternative method, in which case the local authority shall identify the alternative method and explain the reasons for using it.

(d) A wetland that does not meet or exceed the statutory conditions shall not be considered for designation as a prime wetlands, but disqualification from being designated as prime wetlands shall not disqualify wetlands from any other federal, state, or local protections that may be available, especially if the wetlands support a rare species, provide critical wildlife habitat, or provide critical wetland functions as identified in RSA 482-A:2, XI.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 702.02 Selection of Primary Wetlands Functions for Evaluation. The primary wetlands functions used in the evaluation of the identified wetlands shall include wetland-dependent wildlife habitat and 3 or more of the following, as listed in RSA 482-A:2, XI:

(a) Ecological integrity;

(b) Fish and aquatic life habitat;

(c) Scenic quality;

(d) Educational potential;

(e) Wetland-based recreation;

(f) Flood storage;

(g) Groundwater recharge;

(h) Sediment trapping;

(i) Nutrient trapping, retention, and transformation;

- (j) Shoreline anchoring; and
- (k) Noteworthiness.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 702.03 Designation of Prime Wetlands. The local authority shall comply with all applicable procedures, including the notice requirements of RSA 482-A:15, I(a) and (b), in designating prime wetlands.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

#### PART Env-Wt 703 SUBMISSION OF MAPS AND DOCUMENTATION

Env-Wt 703.01 Required Information. Any local authority authorized to file information with the department pursuant to RSA 482-A:15, II, shall submit:

- (a) A map that meets the requirements of Env-Wt 703.02;
- (b) A written report that meets the requirements of Env-Wt 703.03; and
- (c) Documentation of the approval required by RSA 482-A:15, II.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 703.02 Map Requirements. Any local authority authorized to file information with the department pursuant to RSA 482-A:15, II, shall comply with the following:

- (a) The local authority shall:
  - (1) Use the most accurate maps available, verifying the boundaries of proposed prime wetlands with an on-site review where landowner permission is provided;
  - (2) Mark state plane coordinate reference points based on the State Plane Coordinate System 1983 on the map;
  - (3) Clearly identify and separately label each prime wetlands on the map; and
  - (4) Use blue or black ink to denote the boundaries of the prime wetlands;
- (b) Each map shall be on one or more sheets that:
  - (1) Do not exceed 28 inches by 40 inches; and
  - (2) Have a one-inch border and a title block with scale and legend;
- (c) The scale of the map shall be one inch equals 1,000 feet or a scale that provides greater detail; and
- (d) The map(s) shall show:
  - (1) The exterior boundary of each delineated prime wetlands; and

- (2) Property boundaries and parcel ID numbers.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 703.03 Report Requirements. The written report required by Env-Wt 703.01(b) shall:

- (a) Correlate each prime wetlands by name or number to the map(s) submitted pursuant to Env-Wt 703.01(a);
- (b) Describe the methods used to delineate the boundaries of the prime wetlands and evaluate the functions and values of the prime wetlands;
- (c) Present the specific functions and values evaluation data for each prime wetland;
- (d) Provide baseline documentation of the existing wetland condition that includes the following:
- (1) Photos of each prime wetlands showing representative natural community systems; and
  - (2) The location of protected lands, town parks, town forests, buildings, and infrastructure in relation to the prime wetlands being designated.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 703.04 Acceptance by Department.

- (a) The department shall review the map(s) and report submitted by a local authority to determine whether they meet the requirements of Env-Wt 703.02 and Env-Wt 703.03, respectively.
- (b) If the submission is incomplete or otherwise fails to comply with Env-Wt 703.02 and Env-Wt 703.03, the department shall notify the local authority of what is needed for the submission to meet the applicable requirements.
- (c) A local authority that receives a notice from the department pursuant to (b), above, may resubmit the maps and report only if the deficiencies are corrected.
- (d) Acceptance of maps and reports by the department shall not constitute department approval of the specific information contained therein.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 703.05 Challenges to Prime Wetlands Boundaries.

- (a) An applicant whose proposed project is adversely affected by a boundary of a prime wetlands, or who desires a more precise delineation of that boundary at a project site than provided pursuant to Env-Wt 703.02(c)(1), may present data, delineations, and other evidence to the department and to the local authority responsible for the initial delineation to show an alternative location of the boundary.
- (b) Subject to (c), below, within 90 days of receipt of information provided pursuant to (a), above, the local authority shall review the information and:
- (1) Notify the applicant and the department of whether or not they agree that the boundary should be changed; and

(2) If so, submit new or revised maps and documentation as required by Env-Wt 703.01 for the new boundary.

(c) If snow covers the existing boundary, the proposed boundary, or both when the information is submitted, the local authority shall act as specified in (b), above, within 90 days of the date on which the ground is visible.

(d) In the event of a dispute, the department shall make the final delineation based on the data and evidence submitted and an on-site review of the area with the applicant and representatives of the local authority responsible for the delineation.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 703.06 Use of Delineated Prime Wetlands Boundaries. The application for a project in a prime wetlands or a duly-established 100-foot buffer for which boundaries have been delineated under this chapter shall show the boundaries:

(a) As submitted to and accepted by the department pursuant to Env-Wt 703.04, if no revisions have been made; or

(b) As revised pursuant to Env-Wt 703.05(d).

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

#### PART Env-Wt 704 SUPPLEMENTARY INFORMATION AND CRITERIA FOR PROJECTS PROPOSED IN PRIME WETLANDS/BUFFER

Env-Wt 704.01 Applicability. Subject to the availability of waivers under RSA 482-A:11, IV(b)-(c) and Env-Wt 706, this part shall apply in addition to all applicable criteria in Env-Wt 300 through Env-Wt 600 and Env-Wt 900 to any project proposed in a prime wetlands/buffer.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 704.02 Supplementary Information and Criteria for Approval. An applicant for a project in a prime wetlands/buffer shall submit a functional assessment and impact analysis to demonstrate, by clear and convincing evidence as required by RSA 482-A:11, IV(a), that the criteria in RSA 482-A:11, IV(a) are met, namely that the proposed project, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1, reprinted in Appendix D.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 704.03 Supplementary Information; Criteria for Compensatory Mitigation.

(a) For any project proposed in a prime wetlands/buffer, compensatory mitigation for unavoidable impacts shall meet the requirements of Env-Wt 800, subject to (b) and (c), below.

(b) Any applicant proposing a project in a prime wetlands/buffer that requires compensatory mitigation shall undertake on-site mitigation if practicable.

(c) The applicant shall obtain concurrence from the local conservation commission, if any, or the local governing body for any proposed mitigation plan for impacts to designated prime wetlands/buffer.

(d) If the applicant is not able to obtain concurrence as specified in (c), above, the department shall hold a public hearing to receive comments, impact analysis, and wetlands evaluation on the mitigation proposal.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 704.04 Public Hearing. A public hearing shall be held by the department in accordance with the provisions of Env-C 200 that apply to non-adjudicative proceedings prior to approving an application for any project in a prime wetlands/buffer if required by Env-Wt 704.03(d) or RSA 482-A:8.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 704.05 Consideration of Public Input; Decision on Application.

(a) The department shall consider all comments received at the public hearing when determining whether to approve the application and issue a permit or to deny the application.

(b) If the department determines that the criteria for issuing a permit have been met, the department shall proceed as specified in Env-Wt 705.

(c) If the department determines that the criteria for issuing a permit have not been met, the department shall:

- (1) Deny the application; and
- (2) Notify the applicant in writing of the decision.

(d) The written notification sent pursuant to (c)(2), above, shall specify the reason(s) for the denial.

(e) If the applicant wishes to appeal the decision to deny the application, the applicant shall do so in accordance with RSA 21-O:14.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

#### PART Env-Wt 705 NOTIFICATION; PERMIT ISSUANCE; APPEAL

Env-Wt 705.01 Notice Prior to Permit Issuance.

(a) As required by RSA 482-A:11, IV(a), the department shall not issue a permit for a proposed project in a prime wetlands/buffer without first notifying the local governing body, the planning board, if any, and the conservation commission, if any, of the department's intent to issue a permit.

(b) At the same time notice is provided pursuant to (a), above, the department also shall notify the applicant and any other individual who submitted an email address and requested to be notified.

(c) Any recipient of a notice under (a) or (b), above, who wishes to submit written comments to the department shall do so within 20 calendar days of the date of the notice.

(d) The department shall not wait the full 20 days to issue the permit if it receives written notice sooner from each person required to be notified pursuant to (a) and (b), above, that the person has no objection to the permit being issued.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 705.02 Review of Comments; Permit Issuance. The department shall:

(a) Review any comments received in response to the notices provided pursuant to Env-Wt 705.01 within 30 days of the deadline for comments;

(b) Determine whether to revise the permitting decision in response to the comments; and

(c) Provided the comments have not caused the department to reverse its decision to issue the permit, issue the permit with a summary of comments received and the department's responses thereto.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 705.03 Appeal. Any person aggrieved by a decision to issue a permit for a proposed project under this chapter who wishes to appeal the decision shall do so in accordance with RSA 21-O:14.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

#### PART Env-Wt 706 WAIVERS FOR ACTIVITIES IN PRIME WETLANDS/BUFFERS

Env-Wt 706.01 Availability of Waivers for Activities in Prime Wetlands/Buffers.

(a) As provided in RSA 482-A:11, IV(b)(1), a property owner may request from the department a waiver to perform forest management work and related activities, in the forested portion of a prime wetlands/buffer, that do not qualify under the notification process for forest management or timber harvest activities having minimum wetlands impacts because of the prime wetlands designation.

(b) As provided in RSA 482-A:11, IV(c), a property owner may request from the department a waiver to perform work not addressed by (a), above, in any portion of a duly-established 100-foot buffer (buffer) on his or her property.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 706.02 Requirements for Waiver Requests for Forestry Activities.

(a) The applicant for a waiver under Env-Wt 706.01(a) shall submit a request for a waiver to the department at the same time the applicant submits the notification for an SPN or PBN or an application for an EXP or standard permit, as applicable, by submitting a completed Prime Wetlands Waiver Forestry & Other Activities, NHDES-W-06-088, dated May 2020.

(b) The waiver request shall include the following:

(1) The information required by RSA 482-A:11, IV(b)(1), as follows:

a. A sketch of the property depicting the best approximate location of each prime wetlands/buffer in which work is proposed and the location of proposed work, including access roads;

- b. A written description of the work to be performed and a copy of the notice of intent to cut, if applicable; and
  - c. A list of the prime wetlands values as identified by the municipality in designating each prime wetlands under RSA 482-A:15;
- (2) Such information as is required to demonstrate that there will be no significant net loss of wetlands values identified by the municipality when the prime wetlands/buffer was designated;
- (3) As authorized by RSA 482-A:11, IV(b)(4)(B), a filing fee of:
- a. \$200 for projects that would otherwise qualify for a minimum impact forestry notice if it was not located in or near a designated prime wetlands/buffer;
  - b. \$500 for minor impact projects that do not qualify under a., above, and are not major projects; and
  - c. \$1,250 for major impact projects classified regardless of prime wetlands designation; and
- (4) Written comments on the application from the conservation commission or local governing authority, as applicable, stating that:
- a. The members have no objections to the requested waiver;
  - b. The members have no objections to a waiver if the conditions specified in the comments are met; or
  - c. The members object to the waiver for the reason(s) stated in the comments.

(c) As required by RSA 482-A:11, IV(b)(3), at the time the applicant submits the waiver request to the department, the applicant also shall submit, via certified mail, a copy of the waiver request and all supporting documentation to the local governing body, the planning board, if any, and the conservation commission, if any, of the municipalities in which any prime wetlands/buffer associated with the application are located.

(d) As also required by RSA 482-A:11, IV(b)(3), if a prime wetlands/buffer associated with the application extends into an abutting property, the property owner requesting the waiver shall provide a copy of the waiver request and all supporting documentation to the owner of that abutting property.

(e) The applicant shall send the notice required by (d), above, by certified mail.

Source. (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19; amd by #13124, eff 10-23-20

Env-Wt 706.03 Issuance of Waivers for Forestry Activities.

(a) As provided in RSA 482-A:11, IV(b)(3), the department shall not issue a waiver for forestry activities prior to 14 days after receipt of the waiver request, provided however that a municipal conservation commission may request an extension on such waiver issuance, not to exceed 14 days, which the department shall grant if requested.

(b) As provided in RSA 482-A:11, IV(b)(2), the department shall not issue a waiver unless the department determines that there will be no significant net loss of wetland values as identified:

- (1) By the local conservation commission or local governing authority per RSA 482-A:11, IV(b)(1)(C); and

(2) In RSA 482-A:1.

(c) If the department determines that the criteria for issuing a waiver are met, the waiver shall be issued as part of the SPN or permit, as applicable.

(d) If the department is unable to determine, based on the information submitted, that the proposed work will not cause a significant net loss of wetland values, the department shall notify the applicant of what additional information is needed and establish a deadline in consultation with the applicant for the submission of the additional information.

(e) If the department determines that the project would not cause a significant net loss of wetland values if certain conditions were met, the department shall place such conditions on the waiver as are necessary to protect the prime wetlands re [Source](#).

[Source](#). (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 706.04 Requirements for Waiver Requests for Other Activities in Buffers.

(a) The applicant for a waiver under Env-Wt 706.01(b) shall submit a request for a waiver to the department at the same time the applicant submits the notification for an SPN or application for a PBN, EXP, or standard permit, as applicable, by submitting a completed Prime Wetlands Waiver Forestry & Other Activities, NHDES-W-06-088, dated May 2020.

(b) The waiver request shall include the following:

- (1) A sketch of the property depicting the best approximate location of the duly-established 100-foot buffer in which work is proposed and the location of proposed work, including access roads;
- (2) A written description of the work to be performed;
- (3) A list of the prime wetlands values identified by the municipality when the prime wetlands associated with the buffer was designated;
- (4) Such information as is required to demonstrate that there will be no significant net loss of wetlands values identified by the municipality when the prime wetlands was designated; and
- (5) As authorized by RSA 482-A:11, IV(b)(4)(B), a filing fee of:
  - a. \$200 for projects that would otherwise qualify as a minimum impact project if it was not located in a designated prime wetlands buffer;
  - b. \$500 for projects that do not qualify under a., above, and are not major projects; and
  - c. \$1,250 for major projects.

(c) As required by RSA 482-A:11, IV(c):

- (1) At the time the applicant submits the waiver request to the department, the applicant also shall notify, by certified mail, the local governing body, the planning board, if any, and the conservation commission, if any, of the municipalities in which the waiver is being sought that the waiver is being requested; and

(2) If the buffer associated with the application extends onto an abutting property, the property owner requesting the waiver shall provide notice that the waiver is being requested to the owner of that abutting property.

(d) The applicant shall send the notice required by (c)(2), above, by certified mail.

[Source.](#) (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19; amd by #13124, eff 10-23-20

Env-Wt 706.05 Issuance of Waivers for Other Activities in Duly-Established 100-Foot Buffers.

(a) The department shall not issue a waiver under Env-Wt 706.01(b) prior to 14 days after receipt of the waiver request, provided however that a municipal conservation commission may request an extension on such waiver issuance, not to exceed 14 days, which the department shall grant if and as requested.

(b) The department shall not issue a waiver unless the department determines that there will be no significant net loss of wetland values as identified:

(1) By the local conservation commission or local governing authority; and

(2) In RSA 482-A:1.

(c) If the department determines that the criteria for issuing a waiver are met, the waiver shall be issued as part of the SPN or permit, as applicable.

(d) If the department is unable to determine, based on the information submitted, that the proposed work will not cause a significant net loss of wetland values, the department shall notify the applicant of what additional information is needed and establish a deadline in consultation with the applicant for the submission of the additional information.

(e) If the department determines that the project would not cause a significant net loss of wetland values if certain conditions were met, the department shall place such conditions on the waiver as are necessary to protect the prime wetlands re[Source.](#)

[Source.](#) (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

Env-Wt 706.06 Waiver Term; Extensions of Waivers.

(a) Any waiver issued under this part shall be valid for the term of the permit or SPN with which it is associated.

(b) If the person holding the permit or SPN wishes to extend the permit or SPN, the person shall do so in accordance with Env-Wt 314.05, provided that:

(1) The information necessary to support the request to extend the waiver shall be as specified in Env-Wt 706.02 or Env-Wt 706.04 for the initial request, as applicable; and

(2) The procedures and criteria for considering the request shall be as specified in Env-Wt 706.03 or Env-Wt 706.05 for the initial request, as applicable.

[Source.](#) (See Revision Notes #1 and #2 at chapter heading for Env-Wt 700) #12807, eff 12-15-19

**APPENDIX A: STATE STATUTES IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statute(S) Implemented</b>	
Env-Wt 700	RSA 482-A:1; RSA 482-A:3; RSA 482-A:4; RSA 482-A:11, RSA 482-A:15	
Env-Wt 706.02(a); 706.04(a)	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

**APPENDIX B: INCORPORATED REFERENCES**

<b>Rule</b>	<b>Title (Date)</b>	<b>Obtain From:</b>
702.01(c)(2)a.	Method for Inventorying and Evaluating Wetlands in New Hampshire (2015)	University of New Hampshire Cooperative Extension Taylor Hall, 59 College Road Durham, NH 03824 Phone: (603) 862-1520 Available at no charge at: <a href="http://nhmethod.org/">http://nhmethod.org/</a>
702.01(c)(2)b.	Method for the Evaluation and Inventory of Vegetated Tidal Marshes in New Hampshire (1993)	Audubon Society of New Hampshire 84 Silk Farm Road Concord, NH 03301  Available at no charge at:  <a href="https://www.govinfo.gov/content/pkg/CZIC-qh87-3-m48-1993/pdf/CZIC-qh87-3-m48-1993.pdf">https://www.govinfo.gov/content/pkg/CZIC-qh87-3-m48-1993/pdf/CZIC-qh87-3-m48-1993.pdf</a>

**APPENDIX C: STATUTORY DEFINITION**

**482-A:15**

I-a. For the purposes of this chapter, “prime wetlands” shall mean any contiguous areas falling within the jurisdictional definitions of RSA 482-A:2, X and RSA 482-A:4 that, because of their size, unspoiled character, fragile condition, or other relevant factors, make them of substantial significance. A prime wetland shall be at least 2 acres in size, shall not consist of a water body only, shall have at least 4 primary wetland functions, one of which shall be wildlife habitat, and shall have a width of at least 50 feet at its narrowest point. The boundary of a prime wetland shall coincide, where present, with the upland edge of any wetland, as defined in RSA 482-A:2, X, that is part of the prime wetland. On-site verification of proposed prime wetland boundaries shall be performed where landowner permission is provided.

**APPENDIX D: OTHER STATUTORY PROVISIONS**

**482-A:1 Finding of Public Purpose.** – It is found to be for the public good and welfare of this state to protect and preserve its submerged lands under tidal and fresh waters and its wetlands, (both salt water and fresh-water), as herein defined, from despoliation and unregulated alteration, because such despoliation or unregulated alteration will adversely affect the value of such areas as sources of nutrients for finfish, crustacea, shellfish and wildlife of significant value, will damage or destroy habitats and reproduction areas for plants, fish and wildlife of importance, will eliminate, depreciate or obstruct the commerce, recreation and aesthetic enjoyment of the public, will be detrimental to adequate groundwater levels, will adversely affect stream channels and their ability to handle the runoff of waters, will disturb and reduce the natural ability of wetlands to absorb flood waters and silt, thus increasing general flood damage and the silting of open water channels, and will otherwise adversely affect the interests of the general public.

**482-A:11 Administrative Provisions.** –

I. (a) Any municipality, by its conservation commission, or, in the absence of a conservation commission, the planning board, or, in the absence of a planning board, the local governing body, may undertake to designate, map, and document prime wetlands lying within its boundaries, or if such areas lie only partly within its boundaries, then that portion lying within its boundaries. The conservation commission, planning board, or governing body shall give written notice to the owner of the affected land and all abutters 30 days prior to the public hearing, before designating any property as prime wetlands.

...

IV. (a) The department shall not grant a permit with respect to any project to be undertaken in an area mapped, designated, and filed as a prime wetland pursuant to RSA 482-A:15, or within 100 feet of any prime wetland where a 100 foot buffer was required at the time of designation, unless the department first notifies the local governing body, the planning board, if any, and the conservation commission, if any, in the municipality within which the wetlands lie, either in whole or in part, of its decision. Any such permit shall not be issued unless the department is able, specifically, to find clear and convincing evidence on the basis of all information considered by the department, and after a public hearing, if a public hearing is deemed necessary under RSA 482-A:8, that the proposed project, either alone or in conjunction with other human activity, will not result in the significant net loss of any of the values set forth in RSA 482-A:1. This paragraph shall not be construed so as to relieve the department of its statutory obligations under this chapter to protect wetlands not so mapped and designated.

(b)(1) A property owner may request from the department a waiver from subparagraph (a), under rules adopted by the department, to perform forest management work and related activities in the forested portion of a prime wetland or its 100-foot buffer, where such buffer was required at the time of designation, that do not qualify under the notification of forest management or timber harvest activities having minimum wetlands impact process. The request for the waiver shall include, but not be limited to:

(A) A sketch of the property depicting the best approximate location of each prime wetland and its 100-foot buffer, where such buffer was required at the time of designation, in which work is proposed and the location of proposed work, including access roads;

(B) A written description of the work to be performed and a copy of the notice of intent to cut, if applicable; and

(C) A list of the prime wetland values as identified by the municipality in designating each prime wetland under RSA 482-A:15.

(2) A waiver shall be issued only when the department is able to determine there will be no significant net loss of wetland values as identified in subparagraph (b)(1)(C) and RSA 482-A:1. If the department determines that the proposed work may cause a significant net loss of wetland values, the department may require the submittal of additional information. The department may place conditions on the waiver that it deems necessary to protect the prime wetland resource and shall set the term of the permit.

(3) At the time that the waiver request is submitted to the department, the applicant shall also submit a copy of the waiver request and all supporting documentation, via certified mail, to the local governing body, the planning board, if any, and the conservation commission, if any, of the municipalities in which any prime

wetlands associated with the application are located. Where a prime wetland associated with the application extends into an abutting property, the property owner requesting the waiver shall provide notice to the owner of that abutting property. A waiver shall not be issued by the department prior to 14 days from its receipt of the waiver request. A municipal conservation commission may request an extension on such waiver issuance, not to exceed 14 days.

(4) The department shall adopt rules under RSA 541-A relative to:

(A) The process and criteria for considering and granting waiver requests made pursuant to RSA 482-A:11, IV(b)(1), including:

(i) Methods for determining whether a proposed forest management project may result in a significant net loss of wetland values.

(ii) Conditions that may be placed on a waiver when deemed necessary to protect the prime wetland [reSource](#).

(iii) Criteria for granting extensions of waiver issuances pursuant to RSA 482-A:11, IV(b)(3).

(iv) Specified criteria for identifying abutters and subsequent notification.

(B) Filing fees for waiver applications.

(c) A property owner may request a waiver from the department, under rules adopted by the department under RSA 541-A, from the provisions of this chapter to perform work not addressed under subparagraph (b) within a portion of any 100-foot buffer of a prime wetland on his or her property as provided in subparagraph (a). At the time of the waiver request, the property owner shall notify, by certified mail, the local governing body, the planning board, if any, and the conservation commission, if any, of the municipalities in which the waiver is being sought that a waiver is being sought from the department. Where a buffer associated with the application extends into an abutting property, the property owner requesting the waiver shall provide notice to the owner of that abutting property.

**APPENDIX E: SUMMARY OF ABBREVIATIONS AND ACRONYMS**

<b>Term</b>	<b>Meaning</b>
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

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<b>Term</b>	<b>Meaning</b>
HOTL	Highest Observable Tide Line
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 <a href="https://nhmethod.org/">https://nhmethod.org/</a>
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: <ul style="list-style-type: none"> <li>(a) Has documented occurrences of protected species or habitat;</li> <li>(b) Is a bog;</li> <li>(c) Is a floodplain wetland contiguous to a tier 3 or higher watercourse;</li> <li>(d) Is a designated prime wetlands or a duly-established 100-foot buffer zone;</li> <li>(e) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or</li> <li>(f) Is any combination of (a) through (e), above.</li> </ul>
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, <b>and who is licensed by the board or otherwise authorized by this subdivision to engage in the practice of engineering.</b>
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)
Subject property	<ul style="list-style-type: none"> <li>(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</li> <li>(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.</li> </ul>
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

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Term	Meaning
Utility BMPs	“Best Management Practices Manual, Utility Maintenance in and Adjacent to Wetlands and Waterbodies in New Hampshire” dated 2019, published by the NH DPCR
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 <a href="https://nhdeswppt.unh.edu/Html5Viewer/index.html?viewer=WPPT.gvh">https://nhdeswppt.unh.edu/Html5Viewer/index.html?viewer=WPPT.gvh</a>