

Readopt with amendment Env-Wt 701.01 and Env-Wt 701.02, effective 12-15-19 (Document #12807), to read as follows:

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, ***and to amend filed maps and designations of prime wetlands per RSA 482-A:15*** ~~which are wetlands that are worthy of extra protection because their uniqueness, fragility, and/or unspoiled character give them significant value.~~

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)~~ (a) “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;~~

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

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

Readopt with amendment Env-Wt 703.02, Env-Wt 703.04, Env-Wt 703.05, and Env-Wt 703.06, effective 12-15-19 (Document #12807), to read as follows:

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 ***a*** blue or black ~~ink~~***line*** 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.

Env-Wt 703.04 Acceptance by Department.

- (a) The department shall review the map(s) and report submitted by a local authority ***within 30 days of receipt*** 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.

Env-Wt 703.05 ~~Challenges~~***Discrepancies Between Mapped to Prime Wetlands Boundaries and On-Site Delineations.*** — (a) — ~~An applicant whose proposed project is adversely affected by a boundary of a prime wetlands, or who desires a 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.~~ ***If the local authority responsible for the initial designation disputes the delineated boundary of a prime wetland on the site of a proposed project, such local authority shall provide written notification pursuant to RSA 482-A:11, III(a). The department shall follow all requirements in RSA 482-A:11, III(a) in response to the notification and any written report received.***

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~~***designated*** 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)~~***703.07***.

Adopt Env-Wt 703.07 to read as follows:

Env-Wt 703.07 Corrections to the Prime Wetlands Boundaries. The local authority who filed the original prime wetland designation may present evidence to the department to support a correction of the official designated prime wetland mapped boundary consistent with the intent of the original prime wetlands designation by following the process in (a)-(c) below.

(a) To re-evaluate the boundaries of a prime wetland, the local authority shall:

- (1) Retain a certified wetland scientist to determine whether any corrections to the prime wetland boundaries are needed; and
- (2) Notify affected landowners that the prime wetlands boundary is being re-evaluated and may change and provide them with the opportunity to comment on any revised maps developed as a result of (b)(1).

(b) To request a correction, the local authority shall submit to the department new or revised maps, electronic Geographic Information system files of the prime wetland boundary, if available, and a report with a narrative describing each of the changes in addition to any other documentation as required by Env-Wt 703.01 through 703.03 for the new boundary.

(c) The department shall review the submitted information in accordance with Env-Wt 703.04. If accepted, the department shall notify the local authority and publish the new maps for official state and public use in any pending or proposed wetlands application.

Readopt with amendment Env-Wt 704.03 and Env-Wt 704.04, effective 12-15-19 (Document #12807), to read as follows:

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

(a) ***To meet the requirement of no significant net loss pursuant to RSA 482-A:11, IV, no form of off-site compensatory mitigation or in-lieu fee mitigation payment is allowed for any project proposed to have impacts to a prime wetlands/buffer.***

(b) 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)~~ ***through (f)***, below.

~~(b)~~ (c) Any applicant proposing a project in a prime wetlands/buffer that requires compensatory mitigation shall undertake on-site mitigation ~~if practicable~~ ***to ensure compliance with RSA 482-A:11, IV.***

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

(f) ***Any project that is exempt pursuant to RSA 482-A:11, IV(d) shall not be required to provide mitigation for unavoidable impacts that are less than the level of significant net loss.***

Env-Wt 704.04 Public Hearing. A public, ***non-adjudicative*** 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, ***unless the project is exempt pursuant to RSA 482-A:11, IV(d).***

Readopt with amendment Env-Wt 706.02, effective 12-15-19 (Document #12807), as amended effective 10-23-20 (Document #13124) to read as follows:

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~~ ***November 2023***.

(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.

APPENDIX

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