

CHAPTER Env-Wt 100 DEFINITIONS; ACCESS TO RECORDS

Statutory Authority: RSA 482-A:11, I

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.

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.

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.

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>.

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.

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

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.

Env-Wt 102.05 “Accessory docking structure” means 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.

*amended effective 04-27-2024*

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.

*amended effective 04-27-2024*

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.

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

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.

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.

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.

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). *amended effective 12-24-2019*

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.

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.

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.

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

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.

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.

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.

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.

Env-Wt 102.21 “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.

Env-Wt 102.22 “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.

Env-Wt 102.23 “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.

Env-Wt 102.24 “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.

Env-Wt 102.25 “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.

Env-Wt 102.26 “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.

*amended effective 04-27-2024*

Env-Wt 102.27 “Boat slip” means “boat slip” as defined by RSA 482-A:2,VIII, reprinted in Appendix C.

Env-Wt 102.28 “Boathouse” means a docking structure having a permanent roof covering one or more boat slips, that may have permanent or removable sidewalls.

Env-Wt 102.29 “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”, 2<sup>nd</sup> edition, published by UNH Cooperative Extension dated 2011, available as noted in Appendix B.

*effective 9-25-2020*

Env-Wt 102.30 “Breakwater” means a structure 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.

*amended effective 04-27-2024*

Env-Wt 102.31 “Bulkhead” means a retaining wall built along a waterfront to contain fill.

Env-Wt 102.32 “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.

Env-Wt 102.33 “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.

Env-Wt 102.34 “Certified wetland scientist” means “certified wetland scientist” as defined in RSA 310-A:76, II-a, reprinted in Appendix C.

Env-Wt 102.35 “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.

Env-Wt 102.36 “Commissioner” means the commissioner of the department of environmental services.

Env-Wt 102.37 “Compensatory mitigation” means activities or projects designed to offset the unavoidable permanent impacts to jurisdictional areas through the preservation of land or the restoration, enhancement, or creation of a wetland, by replacing or partially replacing functions and values of jurisdictional areas lost due to the project impacts.

*amended effective 04-27-2024*

Env-Wt 102.38 “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.

Env-Wt 102.39 “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.

Env-Wt 102.40 “Conservation project” means a project to access, maintain, improve, or further protect a conservation area.

Env-Wt 102.41 “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.

Env-Wt 102.42 “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.

Env-Wt 102.43 “Corduroy” 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.

Env-Wt 102.44 “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.

Env-Wt 102.45 “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.

Env-Wt 102.46 “DataCheck” means the results of using the DataCheck tool.

Env-Wt 102.47 “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://www2.des.state.nh.us/nhb\\_datacheck](https://www2.des.state.nh.us/nhb_datacheck).

Env-Wt 102.48 “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.

Env-Wt 102.49 “Deck area” means the total surface area of a deck that is suitable for supporting the intended activity.

Env-Wt 102.50 “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.

Env-Wt 102.51 “Department” means the department of environmental services.

Env-Wt 102.52 “Design fetch” means the average of at least 11 radials evenly distributed across a 30 degree arc.

Env-Wt 102.53 “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. *effective 12-24-2019*

Env-Wt 102.54 “Designated river” means “designated river” as defined in RSA 483:4, VIII, reprinted in Appendix C.

Env-Wt 102.55 “Director” means the director of the division of water within the department.

Env-Wt 102.56 “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”.

Env-Wt 102.57 “Dock” as a verb means to secure watercraft adjacent to a structure.

Env-Wt 102.58 “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.

Env-Wt 102.59 “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.

Env-Wt 102.60 “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.

Env-Wt 102.61 “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.

Env-Wt 102.62 “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.

Env-Wt 102.63 “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.

Env-Wt 102.64 “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.

Env-Wt 102.65 “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 blanket, diversion, and slope drain.

Env-Wt 102.66 “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.

Env-Wt 102.67 “Excavate” means to dig out and remove material to create or enlarge a cavity in, or to otherwise remove material from, a jurisdictional area.

Env-Wt 102.68 “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.

*amended effective 04-27-2024*

Env-Wt 102.69 “Exotic aquatic weeds” means “exotic aquatic weeds” as defined in RSA 487:16, II, reprinted in Appendix C, and listed in Env-Wq 1300.

*amended effective 04-27-2024*

Env-Wt 102.70 “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.

#### 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.

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.

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

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.

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.

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

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

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

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

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

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.

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

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.

*effective 04-27-2024*

Env-Wt 103.14 “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.

Env-Wt 103.15 “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.

Env-Wt 103.16 “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.

Env-Wt 103.17 “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.

Env-Wt 103.18 “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.

Env-Wt 103.19 “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.

Env-Wt 103.20 “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.

Env-Wt 103.21 “In the dry” means not in standing or flowing water.

Env-Wt 103.22 “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.

Env-Wt 103.23 “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.

*amended effective 04-27-2024*

Env-Wt 103.24 “In writing” 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. This term includes the term “written”.

*effective 04-27-2024*

Env-Wt 103.25 “Jetty” means a 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.

*amended effective 04-27-2024*

Env-Wt 103.26 “Jurisdiction” means the regulatory authority conferred by RSA 482-A.

Env-Wt 103.27 “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.

Env-Wt 103.28 “Light detection and ranging (LiDAR)” means a 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.

*amended effective 04-27-2024*

Env-Wt 103.29 “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.

*effective 09-25-2020*

Env-Wt 103.30 “Local advisory committee (LAC)” means a local river management advisory committee established pursuant to RSA 483:8-a.

Env-Wt 103.31 “Local governing body” means “local governing body” as defined in RSA 672:6, reprinted in Appendix C.

Env-Wt 103.32 “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 a structure to which a watercraft could be secured.

*amended effective 04-27-2024*

Env-Wt 103.33 “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.

Env-Wt 103.34 “Maintenance” means routine activities undertaken at a sufficient frequency that the structure being maintained remains intact and functional for its intended purpose.

Env-Wt 103.35 “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 boatslips; or
- (c) Is associated with a breakwater.

*effective 9-25-2020*

Env-Wt 103.36 “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”.

Env-Wt 103.37 “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.

Env-Wt 103.38 “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.

Env-Wt 103.39 “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.

Env-Wt 103.40 “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.

Env-Wt 103.41 “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.

Env-Wt 103.42 “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.

Env-Wt 103.43 “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.

Env-Wt 103.44 “Mooring” as a noun means “mooring” as defined in RSA 270:59, III, reprinted in Appendix C.

Env-Wt 103.45 “Municipality” means “municipality” as defined in RSA 482-A:2, V, reprinted in Appendix C.

Env-Wt 103.46 “Natural heritage bureau (NHB)” means the natural heritage bureau of the department of natural and cultural resources (DNCR).

Env-Wt 103.47 “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.

Env-Wt 103.48 “NH Method” means the “Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire” published by the University of New Hampshire Cooperative Extension, available as noted in Appendix B.

*amended effective 04-27-2024*

Env-Wt 103.49 “Non-tidal wetland” means a wetland that is not subject to periodic inundation by tidal waters.

Env-Wt 103.50 “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.

Env-Wt 103.51 “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.

*amended effective 04-27-2024*

Env-Wt 103.52 “Ordinary high water mark” means “ordinary high water mark” as defined in RSA 483-B:4, XI-e, reprinted in Appendix C.

Env-Wt 103.53 “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.

*amended effective 04-27-2024*

Env-Wt 103.54 “Person” means “person” as defined in RSA 482-A:2, VI, reprinted in Appendix C.

Env-Wt 103.55 “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.

Env-Wt 103.56 “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.

Env-Wt 103.57 “Permanent impacts” means impacts resulting from activities in jurisdictional areas that are intended to remain, or that do remain, after the activities have ceased.

Env-Wt 103.58 “Permit action” means an action initiated by the department to suspend, revoke, or modify a permit or other approval issued under RSA 482-A.

Env-Wt 103.59 “Permit-by-notification (PBN)” means a lower scrutiny approval obtained pursuant to Env-Wt 309.05.

Env-Wt 103.60 “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. *amended effective 12-24-2019*

Env-Wt 103.61 “Pier” means a docking structure.

Env-Wt 103.62 “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.

Env-Wt 103.63 “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.

Env-Wt 103.64 “Practicable” means “practicable” as defined at 40 CFR 230.3(l), reprinted in Appendix D.

Env-Wt 103.65 “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.

Env-Wt 103.66 “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.

Env-Wt 103.67 “Prime wetlands” means “prime wetlands” as defined in RSA 482-A:15, I-a, reprinted in Appendix C. *effective 12-24-2019*

Env-Wt 103.68 “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. *amended effective 12-24-2019*

Env-Wt 103.69 “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.

Env-Wt 103.70 “Professional engineer” means “professional engineer” as defined in RSA 310-A:2, II, reprinted in Appendix C.

Env-Wt 103.71 “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.

Env-Wt 103.72 “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.

Env-Wt 103.73 “Public hearing” means a public non-adjudicative proceeding conducted for the purpose of receiving input from the public on a proposed project.

Env-Wt 103.74 “Public infrastructure” means public roads, facilities, and constructed landscape that is open to and maintained for the use of the general public.

Env-Wt 103.75 “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.

Env-Wt 103.76 “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.

#### 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.

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.

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.

Env-Wt 104.04 “Reference line” means for a surface water that is subject to RSA 483-B, the reference line as established under RSA 483-B:4, XVII.

*amended effective 04-27-2024*

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.

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 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. For the replacement of poles or piles, the new pole or pile may be placed immediately adjacent to the pole or pile being replaced.

*amended effective 04-27-2024*

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

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.

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.

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.

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

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.

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.

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.

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, Halplidae, 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.

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

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.

Env-Wt 104.18 “Shoreline frontage” means the average of 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.

*amended effective 04-27-2024*

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

*effective 04-27-2024*

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

*effective 04-27-2024*

Env-Wt 104.21 “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 3 acres of wetlands:
    - a. The widening of transportation infrastructure and expansions of existing transportation infrastructure; 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) Drain a public drinking water supply.

*amended effective 04-27-2024*

Env-Wt 104.22 “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.

Env-Wt 104.23 “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 and functions primarily to slow and pond the water to allow soil particles to settle.

*amended effective 04-27-2024*

Env-Wt 104.24 “Sluice” means an inclined trough that conveys water and sediments to a rocker box for separating gold and other minerals from lighter sediments.

Env-Wt 104.25 “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.

Env-Wt 104.26 “Standard permit” means a permit issued under RSA 482-A based on an application filed pursuant to Env-Wt 311 or equivalent predecessor rules.

Env-Wt 104.27 “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.

Env-Wt 104.28 “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.

Env-Wt 104.29 “Stream channel” means a channel that carries the bankfull flow of a watercourse.

Env-Wt 104.30 “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.

Env-Wt 104.31 “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.

Env-Wt 104.32 “Structure” means “structure” as defined in RSA 482-A:2, IX, reprinted in Appendix C.

Env-Wt 104.33 “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.

Env-Wt 104.34 “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.

Env-Wt 104.35 “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.

*amended effective 12-24-2019*

Env-Wt 104.36 “Surface waters of the state” means “surface waters of the state” as defined in RSA 485-A:2, XIV, reprinted in Appendix C.

Env-Wt 104.37 “Swamp” means a forested wetland that is dominated by trees, as determined using the federal classification method.

Env-Wt 104.38 “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.

*amended effective 04-27-2024*

Env-Wt 104.39 “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.

Env-Wt 104.40 “Turbidity barrier” means a temporary in-water barrier consisting of a continuous 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.

*amended effective 04-27-2024*

Env-Wt 104.41 “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.

*effective 9-25-2020*

Env-Wt 104.42 “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.

Env-Wt 104.43 “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.

Env-Wt 104.44 “Upland” means an area of land that is not a wetland.

Env-Wt 104.45 “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.

Env-Wt 104.46 “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.

Env-Wt 104.47 “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.

Env-Wt 104.48 “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 stairs, steps, or docking structures.

*effective 09-25-2020*

Env-Wt 104.49 “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.

Env-Wt 104.50 “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.

Env-Wt 104.51 “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.

Env-Wt 104.52 “Watershed” means a geographical area in which all water drains to a given stream, river, lake, wetland, pond, estuary, or ocean.

Env-Wt 104.53 “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.

Env-Wt 104.54 “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.

Env-Wt 104.55 “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.

Env-Wt 104.56 “Wetland” means “wetlands” as defined in RSA 482-A:2, X, reprinted in Appendix C.

Env-Wt 104.57 “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.

Env-Wt 104.58 “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.

Env-Wt 104.59 “Wetland functions” means “wetland functions” as defined in RSA 482-A:2, XI, reprinted in Appendix C.

Env-Wt 104.60 “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 [http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH\\_DES/viewers/gvh/virtualdirectory/Resources/Config/Default](http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH_DES/viewers/gvh/virtualdirectory/Resources/Config/Default).

Env-Wt 104.61 “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.

Env-Wt 104.62 “Wetlands council” means the New Hampshire wetlands council established by RSA 21-O:5-a.

Env-Wt 104.63 “Wetlands rules” means all rules in subtitle Env-Wt.

Env-Wt 104.64 “Wharf” means a docking structure.

Env-Wt 104.65 “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>.

Env-Wt 104.66 “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.

Env-Wt 104.67 “Working day” means a calendar day that is not a Saturday, Sunday, or state holiday.

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

*effective 04-27-2024*

## 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.

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.

**APPENDIX A: STATE & FEDERAL STATUTES. FEDERAL REGULATIONS IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statutes Implemented</b>	<b>Federal Statutes, Regulations Implemented</b>
Env-Wt 101	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 102	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 - 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 104	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
Env-Wt 105	RSA 91-A; RSA 541-A:16, I(b)	

**APPENDIX B: INCORPORATED REFERENCES**

<b>Rule</b>	<b>Title (Date)</b>	<b>Obtain From:</b>
Env-Wt 102.17	Best Management Wetlands Practices for Agriculture (2019)	NH Department of Agriculture, Markets, and Food PO Box 2042   25 Capitol Street Concord, NH 03302-2042 Phone: (603) 271-3551  Download at no charge from: <a href="https://www.agriculture.nh.gov/publications-forms/documents/wetlands-bmp-manual.pdf">https://www.agriculture.nh.gov/publications-forms/documents/wetlands-bmp-manual.pdf</a>

Env-Wt 102.18	Wetlands Best Management Practice Techniques for Avoidance and Minimization (2019)	New England Interstate Water Pollution Control Commission (NEIWPCC) Wannalancit Mills 650 Suffolk Street, Suite 410 Lowell, MA 01854 Phone: (978) 323-7929 General Email: <a href="mailto:mail@neiwppcc.org">mail@neiwppcc.org</a>  Download at no charge from: <a href="https://neiwppcc.org/wp-content/uploads/2019/05/Wetlands-BMP-Manual-2019.pdf">https://neiwppcc.org/wp-content/uploads/2019/05/Wetlands-BMP-Manual-2019.pdf</a>
Env-Wt 102.19	New Hampshire Best Management Practices for Erosion Control on Timber Harvesting Operations (2016)	UNH Cooperative Extension Taylor Hall, 59 College Road Durham, NH 03824 Phone: (603) 862-1520  Download at no charge from: <a href="https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf">https://extension.unh.edu/resources/files/Resource000247_Rep266.pdf</a>
Env-Wt 102.20	Best Management Practices For the Control of Invasive and Noxious Plant Species (2018)	NH Department of Transportation PO Box 483   7 Hazen Drive Concord, NH 03302-0483 Phone: (603) 271-3734 Email: <a href="mailto:info@dot.nh.gov">info@dot.nh.gov</a>  Download at no charge from: <a href="https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/FINAL-ENV1Manual1-InvasiveSpecies.pdf">https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/FINAL-ENV1Manual1-InvasiveSpecies.pdf</a>
Env-Wt 102.21	Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire (2019)	NH Department of Transportation PO Box 483   7 Hazen Drive Concord, NH 03302-0483 Phone: (603) 271-3734 Email: <a href="mailto:info@dot.nh.gov">info@dot.nh.gov</a>  Download at no charge from: <a href="https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf">https://www.nh.gov/dot/org/projectdevelopment/environment/units/program-management/documents/RR_V.9_FINAL_3-14-19.pdf</a>
Env-Wt 102.22	New Hampshire Best Management Practices for Erosion Control During Trail Maintenance and Construction (2017)	NH Department of Natural and Cultural Resources, Division of Parks & Recreation; Bureau of Trails 172 Pembroke Road Concord, NH 03301 Phone: (603) 271-3254 Email: <a href="mailto:nhtrails@dncr.nh.gov">nhtrails@dncr.nh.gov</a>  Download at no charge from: <a href="https://www.nhstateparks.org/getmedia/3c45de00-e174-4df0-b678-4670b254290d/Best-Management-">https://www.nhstateparks.org/getmedia/3c45de00-e174-4df0-b678-4670b254290d/Best-Management-</a>

		<a href="#">Practices-For-Erosion-Control-During-Trail-Maintenance-and-Construction.pdf</a>
Env-Wt 102.23	Utility Maintenance In and Adjacent to Wetlands and Waterbodies in New Hampshire - Best Management Practices Manual (March 2019)	NH Department of Natural and Cultural Resources, Division of Forests and Lands 172 Pembroke Road Concord, NH 03301 Phone: (603) 271-2214  Download at no charge from: <a href="https://www.nh.gov/nhdf/documents/new_final_utility_bmp_manual_3_8_19.pdf">https://www.nh.gov/nhdf/documents/new_final_utility_bmp_manual_3_8_19.pdf</a>
Env-Wt 102.63	Level 2 Ecological Integrity Assessment Manual for New Hampshire: Wetland Systems, Nichols and Faber-Langendoen, 2017	NH Department of Natural and Cultural Resources, Division of Forests and Lands 172 Pembroke Road Concord, NH 03301 Phone: (603) 271-2214  Download at no charge from: <a href="https://www.nh.gov/nhdf/documents/12-eia-manual_nhb_2018-7-11-public.pdf">https://www.nh.gov/nhdf/documents/12-eia-manual_nhb_2018-7-11-public.pdf</a>
	Section 3.B.1. of the “Method for Inventorying and evaluating freshwater Wetlands in New Hampshire” (2016)	<a href="https://nhmethod.org/">https://nhmethod.org/</a>
Env-Wt 103.01	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 Geographic Data Committee, Wetlands Subcommittee 12201 Sunrise Valley Drive MS 590 Reston, VA 20192 Email: <a href="mailto:fgdc@fgdc.gov">fgdc@fgdc.gov</a>  Download at no charge from: <a href="https://www.fgdc.gov/standards/projects/wetlands/nwcs-2013">https://www.fgdc.gov/standards/projects/wetlands/nwcs-2013</a>
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
Env-Wt 104.42	“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	Download at no charge from: <a href="https://www.lrh.usace.army.mil/Portals/38/docs/USACE%2087%20Wetland%20Delineation%20Manual.pdf">https://www.lrh.usace.army.mil/Portals/38/docs/USACE%2087%20Wetland%20Delineation%20Manual.pdf</a> Download at no charge from: <a href="https://usace.contentdm.oclc.org/utis/getfile/collection/p266001coll1/id/7640">https://usace.contentdm.oclc.org/utis/getfile/collection/p266001coll1/id/7640</a>
Env-Wt 103.48	Method for Inventorying and Evaluating Freshwater Wetlands in New Hampshire (revised 2023)	UNH Cooperative Extension Taylor Hall, 59 College Road Durham, NH 03824 Phone: (603)862-1520

		Download at no charge from: <a href="https://extension.unh.edu/nh-method">https://extension.unh.edu/nh-method</a>
Env-Wt 104.15	Identifying and Documenting Vernal Pools in New Hampshire, 3 <sup>rd</sup> Edition	NH Department of Fish & Game 11 Hazen Drive Concord, NH 03301 Phone: (603) 271-3421  Download at no charge from: <a href="https://wildlife.state.nh.us/nongame/documents/vernal-pool-manual.pdf">https://wildlife.state.nh.us/nongame/documents/vernal-pool-manual.pdf</a>

### APPENDIX C TO ENV-WT 100: STATUTORY DEFINITIONS

#### **482-A:2**

- 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.
- 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.
- 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.

(l) 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
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

<b>Term</b>	<b>Meaning</b>
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 wetlands contiguous to a tier 3 or higher watercourse;</li> <li>(d) Is a designated prime wetlands;</li> <li>(e) Is a duly-established 100-foot buffer zone of a designated prime wetlands;</li> <li>(f) Is a sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; or</li> <li>(g) Is any combination of (a) through (f), 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
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 <a href="http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH_DES/viewers/gvh/virtualdirectory/Resources/Config/Default">http://des3.sr.unh.edu/Html5Viewer/Index.html?configBase=http://jointagencyvm.sr.unh.edu/Geocortex/Essentials/des3.sr.unh.edu/REST/sites/NH_DES/viewers/gvh/virtualdirectory/Resources/Config/Default</a>