

Replace all text in current Env-Wt 300 with the following:

PART Env-Wt 301 PURPOSE; APPLICABILITY; ABBREVIATIONS AND ACRONYMS

Env-Wt 301.01 Purpose. The purpose of this chapter is to:

- (a) Identify activities within jurisdictional areas that are:
 - (1) Allowed and exempted from permit or notification requirements by RSA 482-A or rules adopted under RSA 482-A:11, VII;
 - (2) Prohibited or limited by RSA 482-A or rules adopted under RSA 482-A:11; or
 - (3) Allowed with prior approval from the department through a permit or notification issued in accordance with RSA 482-A and rules adopted under RSA 482-A:11.
- (b) Establish criteria for placing conditions on permits, notifications, or activities exempted from permitting applicable as necessary to ensure that the intent and purpose of RSA 482-A are met;
- (c) Establish procedures and criteria for filing notifications and permit applications;
- (d) Establish procedures and criteria for the department's review of submissions and rendering of decisions;
- (e) Establish post-issuance requirements, including but not limited to permit acceptance, recordation, duration, transfer, and procedures and criteria for permit amendments;
- (f) Establish procedures for the authorization and reporting of work conducted in emergency situations and the permitting of necessary long-term repairs; and
- (g) Establish the criteria and procedures for suspending, revoking, or modifying permits and notifications.

Env-Wt 301.02 Applicability. This chapter shall apply to any person who undertakes or proposes to undertake any dredge, fill, excavation, removal, or construction activities, or any combination thereof, in a jurisdictional area per RSA 482-A.

Env-Wt 301.03 Abbreviations and Acronyms. Abbreviations and acronyms used throughout this chapter shall have the meaning assigned in Env-Wt 100, as summarized in Appendix E.

PART Env-Wt 302 ACTIVITIES ALLOWED OR PROHIBITED BY LAW OR RULE

Env-Wt 302.01 Activities Exempted From Permit Requirements By Statute. Prior approval by permit or notification shall not be required for the following activities in jurisdictional areas:

- (a) The replacement or repair of legally existing structures in or adjacent to any waters of the state provided all work is conducted in the dry pursuant to RSA 482-A:3, IV(a);
- (b) The maintenance, repair, replacement, or modification of certain man-made features pursuant to RSA 482-A:3, IV(b) provided the requirements of Env-Wt 302.02(a) are met;

(c) The cleaning of legally constructed culverts pursuant to RSA 482-A:3, IV(c), provided the requirements stated in Env-Wt 302.02(a) are met;

(d) The removal of sand that has blown or drifted from sand dunes as allowed under RSA 482-A:3, VII;

(e) Panning for minerals in a riverbed, without the use of motorized equipment, pursuant to RSA 482-A:3, XI(b) with prior written permission from the riverbed owner provided that:

(1) Panning occurs during periods of low flow;

(2) Panning does not occur between October 1 and March 31 in areas documented as supporting a cold water fishery or threatened or endangered fishery;

(3) Panning does not occur in March or April for any area that is habitat for rainbow smelt, and;

(4) The panning activities do not result in a visible turbidity plume.

(f) As provided in RSA 210:9, II, the destruction or removal of a beaver dam or the installation of beaver pipes or beaver fences as defined in RSA 210:9, II-a by a landowner, the landowner's agent, or any town or municipal or state official or employee on property under that person's control to protect property, public highways, or bridges from damage or submersion, subject to the following conditions:

(1) Removal of the dam shall be done in a gradual manner such that it does not allow a sudden release of impounded water so as to cause erosion, siltation, or a safety hazard downstream;

(2) No machinery shall enter the water or otherwise create any disturbance by filling or dredging in or adjacent to surface waters, wetlands, or the banks thereof; and

(3) All dredged materials shall be placed out of jurisdictional areas.

(g) The repair of inland non-tidal docking structures duly registered in accordance with Env-Wt 1000.

(h) Removal of trash, woody debris, or blockages from culverts, bridges, or the channels of watercourses pursuant to RSA 482-A:3, IV(b).

Env-Wt 302.02 Clarification of Statutory Exemptions.

(a) The activities specified in RSA 482-A:3, IV(b) and (c) may be undertaken without a permit only if:

(1) The exempted facility, area, or feature was not constructed as compensatory mitigation under a wetlands permit or as part of a settlement agreement;

(2) The exempted facility, area, or feature is not extended into any jurisdictional area;

(3) Dredged materials are deposited outside of all jurisdictional areas;

- (4) Wetlands or surface waters outside the limits of the exempted facility, area, or feature are not disturbed or degraded;
- (5) Best management practices (BMPs) are followed;
- (6) The work does not infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners; and
- (7) Activities are intended to preserve the intended use for which it was originally constructed.

(b) All exempt activities shall be conducted in accordance with all applicable BMPs, Env-Wt 309.04, and Env-Wt 309.05.

(c) A temporary seasonal dock on any lake or pond installed after the submission of a completed Form NHDES-W-06-035, "Seasonal Dock Notification", dated September 2023, is exempt from permitting, provided that all requirements of RSA 482-A:3, IV-a continue to be met.

(d) The repair of inland non-tidal docking structures registered in accordance with Env-Wt 1000 is exempt from permitting provided that the structures have not been modified without an approval issued in accordance with RSA 482-A:3.

Env-Wt 302.03 Projects Conditionally Exempted from Permitting by Rule. As authorized by RSA 482-A:11, VII, the following activities may be undertaken without prior approval, provided the applicable conditions in Env-Wt 309 and the conditions stated below are met:

(a) Forestry, harvesting, and utility maintenance operations in a wet meadow or swamp subject to the following conditions:

- (1) The roots of the vegetation shall not be disturbed;
- (2) The ground shall be frozen or sufficiently dry to avoid making ruts; and
- (3) No structures or fill is placed in a jurisdictional area to facilitate access.

(b) Placement of a boat mooring, swim raft, or swim line in waters of the state, provided that the mooring, raft, or line complies with the rules adopted by the department of safety or has a permit from the harbor master, as applicable;

(c) Temporary placement of a fabric barrier on the bottom of a lake or pond by or under the direction of the department for the control of exotic aquatic weeds as authorized by RSA 487:17, subject to the following conditions:

- (1) The area shall not exceed 10,000 square feet (SF); and
- (2) The project shall not be located in an area having a predominance of native aquatic species or a documented presence of threatened or endangered species;

(d) Installation of a stream crossing in an ephemeral stream provided no more than 20 linear feet of stream are impacted;

- (e) Use of piezometers, staff gauges, flow meters, or hand tools such as augers or tile spades for:
 - (1) Determining limits of jurisdictional wetlands;
 - (2) Determining stability of shoreline for data to be included in a wetlands application;
 - (3) Educational purposes; or
 - (4) Monitoring hydrology;
- (f) Hand raking of leaves or other organic debris from the shoreline or lakebed, subject to the following conditions:
 - (1) All raking shall be done in the dry in an area exposed by drawdown or other low-water conditions;
 - (2) The raking shall not disturb vegetative roots; and
 - (3) The raking shall be limited to an area no larger than 900 SF;
- (g) The planting of non-invasive plants to enhance wetlands using hand-held, non-motorized tools;
- (h) Any stream crossing built in a manner that requires no excavation, dredging, removal, filling, or construction within jurisdictional areas other than an elevated structure spanning over the protected resources;
- (i) Drilling geotechnical borings during the design of a project, borings and excavation for the purpose of wetland delineation or geologic sampling, drilling test wells or installing monitoring wells for purposes of exploring for public water supplies, drilling drinking water wells for public or private use, and drilling test wells or installing monitoring wells to investigate or monitor soil or groundwater contamination, provided:
 - (1) The applicant provides the landowner, the department, the local governing body, and the municipal conservation commission, if any, with written notification of the general location and the type of work to be conducted prior to its commencement;
 - (2) All applicable conditions from Env-Wt 309 are met;
 - (3) Drilled holes:
 - a. Do not exceed 8 inches in diameter; and
 - b. Are back-filled with drill spoil or are filled with clean material or grout;
 - (4) Drill cuttings are removed out of department jurisdiction, unless they are used as provided in (3)b., above;
 - (5) Any drilling in surface waters is done using machinery operated from a barge, from the ice, or from adjacent uplands; and

- (6) No work is done in bogs, marshes, tidal wetlands, designated prime wetlands, a duly-established 100-foot buffer, or in surface waters except as provided in (5), above;
- (j) Test pitting by backhoe or other heavy equipment in the banks of surface waters or in the upland tidal buffer zone for the purpose of gathering geotechnical information for the design of a project provided all applicable conditions from Env-Wt 309 are met;
- (k) Undertaking site remediation activities approved by the department pursuant to Env-Or 600, subject to the following additional conditions:
- (1) The information submitted to the department on which the approval for the activities was issued shall have:
- a. Clearly identified all jurisdictional areas; and
 - b. Clearly described the activities that will occur within jurisdictional areas; and
- (2) The entity undertaking the activities shall provide the department's wetlands bureau and the local governing body with written notice of the commencement of work as soon as practicable, but in no event later than 5 working days after commencing work;
- (l) Projects solely for the removal of exotic aquatic weeds (EAW), subject to the following:
- (1) The project shall be conducted in accordance with a long-term management plan designed pursuant to Env-Wq 1305.03;
- (2) In flowing waters, harvesting shall be initiated only at the most upstream location of the infestation, where practicable;
- (3) The work shall be conducted by divers who have received training in EAW control diving from a diving instructor who is listed with the department's invasive species coordinator;
- (4) The vegetation control shall be done in a manner that avoids impacts that would cause degradation of water quality;
- (5) The project:
- a. Complies with RSA 487:15 through 25, the New Hampshire Clean Lakes Program; and
 - b. Uses a construction sequence that minimizes impacts to any adjacent native vegetation and nesting and nursery habitat areas; and
- (m) Placement of temporary mats within existing trails or roads for a period limited to within one single growing season, provided that:
- (1) Their installation does not:
- a. Restrict water flow;
 - b. Impact very poorly drained soils, exemplary natural communities, or vernal pools; and

c. Adversely affect threatened or endangered species; and

(2) Any associated impacts to jurisdictional areas are completely restored within two weeks of removal.

Env-Wt 302.04 Activities Prohibited By Statute.

(a) Operation of vehicles in sand dunes except as specified in RSA 482-A:3, VIII.

(b) Construction or modification of any structure to be suitable for use as a dwelling if the structure or any part of the structure extends beyond the shoreline of any public water or publicly-owned water body as specified in RSA 482-A:26.

(c) Activities that, alone or in conjunction with other activities, shall result in significant net loss to the values of prime wetlands as specified in RSA 482-A:11, IV.

(d) Activities that shall infringe on the property rights or unreasonably affect the value or enjoyment of property of abutting owners as specified RSA 482-A:11, II.

PART Env-Wt 303 **ACTIVITIES REQUIRING DEPARTMENT APPROVAL AND ABUTTER NOTIFICATION REQUIREMENTS**

Env-Wt 303.01 Activities Eligible for a Standard Permit; When Standard Permits Are Required.

(a) All projects or activities regulated under RSA 482-A, in jurisdictional areas identified under RSA 482-A, that require an approval are eligible to apply for a standard permit provided the project or activity is not prohibited by RSA 482-A.

(b) A standard permit as required by RSA 482-A:3, I shall be obtained from the department prior to undertaking an activity in any jurisdictional area that does not qualify for:

- (1) A statutory permit-by-notification (SPN) under Env-Wt 303.02;
- (2) A Small Motor Mineral Dredging (SMMD) Permit under Env-Wt 303.03;
- (2) A permit-by-notification (PBN) under Env-Wt 303.04; or
- (3) An expedited permit (EXP) under Env-Wt 303.05.

Env-Wt 303.02 Activities Eligible for a Statutory Permit by Notification. A project shall be eligible to submit a notification for a SPN if it meets the qualifying criteria of RSA 482-A:3, V, XII, XV, or XVI and meets the applicable classification criteria for a minimum impact project in Env-Wt 500.

Env-Wt 303.03 Activities Eligible for a Small Motor Mineral Dredging (SMMD) Permit. A project shall be eligible to submit an application for a SMMD permit if it meets the qualifying criteria of RSA 482-A:3, XI.

Env-Wt 303.04 Activities Eligible For a Permit By Notification (PBN). Projects classified as minimum impact and listed in Env-Wt 304.09(a) shall be eligible to apply for PBN.

Env-Wt 303.05 Activities Eligible for an Expedited Permit (EXP). Projects classified as minimum impact shall be eligible to apply for an EXP.

Env-Wt 303.06 Activities Commenced Without Prior Approval. Activities in jurisdictional areas initiated prior to obtaining approval from the department shall only be eligible for the standard permit process.

Env-Wt 303.07 Abutter Notification.

(a) Unless exempted pursuant to (c), below, the applicant shall notify abutters prior to filing an application or notification.

(b) As required by RSA 482-A:3, I(e)(1), notice shall be provided in writing by certified mail or other delivery method that provides proof of receipt.

(c) Abutter notification shall not be required for:

- (1) Any project conducted under an SPN;
- (2) Public highway construction, maintenance, or repair projects located completely within a public right of way; or
- (3) Utility projects located completely within a utility right-of-way.

PART Env-Wt 304 SPNs, SMMD PERMITS, and PBNs

Env-Wt 304.01 Applicability. This part shall apply to those activities that meet the appropriate qualifying criteria and for which the permitting requirements will be met through the filing of an SPN, SMMD Permit, or PBN application.

Env-Wt 304.02 SPN Filing Requirements; Processing of SPNs by the Department.

(a) Persons seeking to satisfy the permitting requirements of RSA 482-A:3 through the filing of an SPN shall submit to the department:

- (1) A completed notification form appropriate to the project type as identified in Table 304-1, below:
- (2) The NHB DataCheck identification number and an affirmation that recommendations from NHF&G and NHB, as applicable, have been received; and
- (3) Documentation and evidence the project meets the applicable minimum impact classification criteria in Env-Wt 500; and

Table 304-1: SPN Notification Forms

Cross-Reference	Type of SPN	Document Name, Identification	Document Date
RSA 482-A:3, V	Timber harvesting (Forestry)	Forestry Notification, NHDES-W-06-008	Oct. 2024
RSA 482-A:3, XII	Recreational trails	Trails Notification, NHDES-W-06-040	Oct. 2024
RSA 482-A:3, XV	Utilities	Utility Notification, NHDES-W-06-042	Oct. 2024

Cross-Reference	Type of SPN	Document Name, Identification	Document Date
RSA 482-A:3, XVI	Repairs or replacement of stream crossing structures	Stream Crossing Repair-Replacement Notification, NHDES W-06-033	Oct. 2024

(b) The person responsible for the activity shall:

- (1) Sign and certify the notification form in accordance with Env-Wt 306.06; and
- (2) Affirm that the project is not located in a:
 - a. Bog;
 - b. A floodplain wetland contiguous to watercourse having a contributing watershed greater than 640 acres;
 - c. A designated prime wetland or duly-established 100-foot buffer; or
 - d. A tidal wetland, tidal water, or undeveloped tidal buffer zone.

(c) If the department determines that a notification is administratively complete and that the project as described meets the requirements for an SPN, the department shall, within 5 working days of receipt of the notification, post on its website:

- (1) A notice that the notification was complete and that the project as described conforms with all applicable requirements; and
- (2) The effective date of the SPN, which shall be the date the SPN is posted by the department on its website.

(d) For any forestry SPN issued as noted in (c), above, the department shall provide:

- (1) A copy, suitable for posting at the job site, to the applicant;
- (2) A letter to the property owner that confirms the forestry SPN as filed was complete and met the qualifying criteria and identifies the conditions applicable to the project; and
- (3) A copy of the letter required by (2), above, to the town municipal offices, conservation commission if any, and NH department of natural and cultural resources (DNCR) district forest ranger.

(e) If the department determines that a notification is incomplete or that the project as described does not meet the requirements for an SPN, the department shall send a written notice to the person responsible for the project that:

- (1) States the permitting requirements of RSA 482-A have not been satisfied and that no work may be conducted until an approval is obtained;
- (2) Identifies each deficiency of the filing; and
- (3) Informs the person that in order to proceed, the person shall:

- a. File a new, complete, and appropriate notification, if the project as described could meet the qualifying criteria for an SPN; or
- b. Obtain a PBN, EXP, or standard permit, if the project as described does not appear to meet the qualifying criteria for an SPN.

Env-Wt 304.03 Conditions for SPNs. All work done pursuant to an SPN shall be subject to the following conditions:

- (a) The work shall be done in compliance with all applicable conditions in Env-Wt 309;
- (b) Any work done in shorelands protected under RSA 483-B shall comply with the requirements established therein;
- (c) All SPN projects shall be carried out in accordance with the applicable BMPs in RSA 482-A and Env-Wt 500; and
- (d) Conduct all activities within jurisdictional areas in accordance with any recommendations received from NHB and NHF&G, as applicable.

Env-Wt 304.04 Additional Requirements for SPNs other than Utility Project SPNs

- (a) Prior to commencing the work covered by the SPN, the person responsible for a project, other than a utility project, shall post a copy of the document issued by the department confirming its acceptance of the SPN at the site.
- (b) Within 10 days following completion of the work covered by an SPN, other than a utility project, the person responsible for the project shall submit to the department written confirmation of completion of the project.

Env-Wt 304.05 Applications for SMMD Permits. To apply for an SMMD permit in accordance with RSA 482-A:3, XI, the following shall be submitted to the department:

- (a) A complete Form NHDES-W-06-030, "Small Motor Mineral Dredging Permit Application", dated September 2023.
- (b) In addition to the certifications specified in Env-Wt 306.06, certification that the applicant's intended activities do not exceed any of the limits established in RSA 482-A:3, XI(a).
- (c) For any applicant claiming New Hampshire residency:
 - (1) A clear photocopy of their New Hampshire driver's license or New Hampshire non-driver ID; and
 - (2) A clearly printed license or ID number on the application.
- (d) If the applicant is not claiming New Hampshire residency, a clear photocopy of their driver's license, non-driver ID, or other documentation issued by a government entity that shows the applicant's date of birth.
- (e) Payment of the filing fee required by RSA 482-A:3, XI(h).

Env-Wt 304.06 Issuance of SMMD Permit.

(a) The department shall issue a SMMD permit to any individual who:

- (1) Submits a complete application as specified in Env-Wt 304.05(a); and
- (2) Demonstrates that he or she is 18 years of age or older.

(b) Each individual 18 years of age or older who is participating in SMMD shall have his or her own permit.

(c) Individuals who are 17 years of age or younger may participate in SMMD only if accompanied by an individual who possesses a valid SMMD permit and only to the extent allowed by such individual.

Env-Wt 304.07 Cold Water Fisheries Protected. As authorized by RSA 482-A:3, XI(e), all permits shall be subject to the following conditions and restrictions:

- (a) Dredging shall not occur between October 1 and March 31 in areas documented as supporting a cold water fishery or threatened or endangered fishery;
- (b) Dredging shall not occur in March or April for any area that is habitat for rainbow smelt; and
- (c) Dredging shall not result in a visible turbidity plume.

Env-Wt 304.08 Post-Issuance Requirements for SMMD Permits. All holders of SMMD permits shall have the original permit or a clear copy thereof in their possession and available for inspection upon request of the landowner or government officials whenever they are engaged in activities authorized by the permit.

Env-Wt 304.09 Availability of Permit-by-Notification (PBN). Any person intending to undertake activities in a jurisdictional area may do so under a PBN as authorized by RSA 482-A:11, VI if the project is:

(a) A minimum impact project that is:

- (1) Exotic aquatic weed control activities not exceeding one acre that comply with Env-Wt 510.08(a);
- (2) Replenishment of an existing beach that complies with Env-Wt 511.07(a);
- (3) Repair or replacement of an existing legal deck or patio that complies with Env-Wt 511.08(a);
- (4) Construction, installation, or modification of docking structures that complies with Env-Wt 513.24(a);
- (5) Repair or replacement of an existing legal docking structure that complies with Env-Wt 513.25 or Env-Wt 515.07;
- (6) Installation of a new canopy that complies with Env-Wt 513.26(a);
- (7) Repair or replacement of an existing legal retaining wall that complies with Env-Wt 514.07(a)(3);
- (8) Repair or replacement of an existing legal boat launch under Env-Wt 518.07(b)(1);

- (9) Installation or maintenance of a dry hydrant that complies with Env-Wt 518.07(a)(1);
 - (10) Forestry activities that:
 - a. Are not eligible for an SPN; and
 - b. Comply with Env-Wt 520.05(a);
 - (11) Utility activities that comply with Env-Wt 521.06(a);
 - (12) Installation of residential utilities to a single-family home that complies with Env-Wt 521.06(a)(7);
 - (13) Agricultural activities that comply with Env-Wt 522.06(a);
 - (14) A temporary coffer dam that complies with Env-Wt 526.06(f);
 - (15) Maintenance of an existing legal tidal docking structure that complies with Env-Wt 606.17(b);
 - (16) Repair of an existing legal tier 1 or tier 2 stream crossing that complies with Env-Wt 903.01(e)(2);
 - (17) Repair of an existing legal tier 3 stream crossing that complies with Env-Wt 903.01(e)(3);
 - (18) Replacement of an existing legal tier 1 stream crossing that complies with Env-Wt 903.01(e)(4);
 - (19) Installation of a temporary tier 1 or tier 2 crossing that complies with Env-Wt 903.01(e)(5);
 - (20) Pond maintenance project that complies with Env-Wt 519.09(a); ~~or~~
 - (21) A new, single lot, residential driveway that complies with Env-Wt 524.06 (?),
 - (22) Projects classified as minimum in accordance with Env-Wt 524.06(a);
 - (23) Removal of sediments surrounding an intake or outflow structure in accordance with Env-Wt 607.10(b); or
 - (24) Tidal shoreline stabilization projects that comply with Env-Wt 609.10(a)(1); and
- (b) Meets the applicable provisions of Env-Wt 500, Env-Wt 600, or Env-Wt 900.

Env-Wt 304.10 PBN Application Requirements. To obtain a PBN, the applicant shall submit a complete PBN package to the department, which shall include:

- (a) A completed Form NHDES-W-06-27, "Wetlands Permit-By-Notification", as amended September 2023;
- (b) A copy of the town tax map showing the location of the proposed project in relation to abutters;
- (c) A copy of the appropriate US geological survey map with the property and project located;

(d) Original or digital photos, clearly showing the area to be impacted, mounted no more than 2 per sheet, on 8.5 inches by 11 inches paper and annotated to explain impact;

(e) Identification of the applicable minimum impact project types in Env-Wt 304.09, and any required project-specific information, as applicable;

(f) A description of the project, including a list of the work items to be performed and detailed dimensions of the size of the impacts in jurisdictional areas;

(g) Identification of the type of landform to be affected, including the type of wetland and type of soils;

(h) An accurate drawing with dimensions clearly shown to document existing site conditions and to show the location of the property;

(i) An accurate drawing to show the impact of the proposed activity on jurisdictional areas, including the following:

(1) An overview of the property and proposed impact areas in relation to property lines;

(2) The scale, if any, used on the plan;

(3) If the drawing is not to scale, the dimensions of all existing and proposed structures and all other relevant features necessary to clearly define the project;

(4) A labeled north-pointing arrow to indicate orientation;

(5) A legend that clearly indicates all symbols, line types, and shading used on the plan;

(6) The location of jurisdictional areas delineated in accordance with Env-Wt 400;

(7) Proposed sequence of construction including pre-construction through post-construction activities and the relative timing and progression of all work;

(8) The location and type of siltation and turbidity controls indicated graphically and labeled, or annotated as necessary; and

(9) For any project using a temporary coffer dam and for any repair of a tier 3 stream crossing, the date, signature, and seal of the licensed professional engineer who prepared or had responsibility for the plan(s);

(j) Any additional information required by the applicable section in Env-Wt 500, Env-Wt 600, or Env-Wt 900; and

(k) The plan date, latest revision date, and preparer's name;

(l) Receipts verifying that notification of the application filing was sent to each abutter pursuant to RSA 482-A:3, I, (e).

(m) A signed statement by the applicant certifying, in addition to the certifications specified in Env-Wt 306.06, that:

- (1) All work conducted under the PBN shall comply with the applicable conditions in Env-Wt 309 and the applicable minimum impact project rule;
 - (2) If the project is to repair or replace a docking structure, the docking structure is an existing legal structure; and
 - (3) The proposal is the alternative with the least adverse impact to jurisdictional areas, as required by Env-Wt 306.03(a).
- (n) The application fee for minimum impact projects as required by RSA 482-A:3, I;
- (o) A statement signed by the town or city clerk of the municipality in which the proposed impacts will be located or, if the proposed impacts will be located in more than one municipality, by the city or town clerk of each such municipality, certifying that the municipality has received the required copies of the application including all attachments;
- (p) A signed statement by the county conservation district or certified wetland scientist, if required by the appropriate minimum impact project rule, certifying compliance with all conditions of that rule;
- (q) In addition to the information required in (a) through (g) above, the applicant shall have the option to submit a signed statement from the conservation commission or, if there is no conservation commission, the local governing body, certifying that the right to intervene on the project granted in RSA 482-A:11 is waived, to qualify for review under Env-Wt 304.11(a)(1):
- (r) A signed statement from the LAC, if the project is within LAC jurisdiction, certifying that the LAC waives its right to intervene on the project.

Env-Wt 304.11 PBN Review Procedures.

- (a) The department shall review an application for a PBN for completeness and compliance with applicable department rules, including Env-Wt 306.04. If the application is complete and complies with applicable requirements, the department shall issue a permit and post it to its website:
- (1) Within 10 calendar days of receipt, where a written waiver of intervention from the municipal conservation commission, and from the LAC if applicable, as described in Env-Wt 304.10(q), has been received; or
 - (2) Within 25 calendar days of receipt if (1) does not apply.
- (b) If the PBN application is complete at filing but does not comply with the applicable rule requirements, the department shall deny the application and notify the applicant in writing of the reason(s) for denial within the timelines in (a) above.
- (c) If the PBN application is not complete, the department shall send a written request for more information to the applicant and the local governing body within the timelines in (a) above identifying any deficiencies and the information necessary to complete the application. The request for more information shall notify the applicant to submit all necessary information within 30 calendar days of the date of the written notice or the PBN application shall be denied.

(d) Within 30 calendar days of receipt of a complete response to a request for more information as described in (c), the department shall review the response for compliance with applicable department rules and take one of the following actions:

(1) If the complete application complies with applicable requirements, the department shall issue a permit and post it to its website within 30 calendar days of receiving the complete application; or

(2) If the complete application does not comply with the applicable requirements, the department shall deny the application and notify the applicant in writing of the reason(s) for denial within 30 calendar days of receiving the complete application.

Env-Wt 304.12 Conditions for PBNs.

(a) All work authorized by a PBN shall comply with all applicable conditions specified in Env-Wt 309.

(b) Impacts to jurisdiction areas shall not exceed those authorized by the PBN unless additional approval as required under RSA 482-A is obtained prior to the completion of said impacts.

(c) Within 10 days following completion of the work covered by a PBN, the person responsible for the project shall submit to the department written confirmation of completion of the project including photographs documenting the completed project site conditions.

Env-Wt 304.13 Work Subsequent to Activities Conducted Under a PBN; Reclassification.

Additional impacts to jurisdictional areas on the same property, or on contiguous properties and part of an overall scheme of development, to be conducted within 5 years of issuance of a PBN shall be eligible for coverage under a new PBN only if the combined impacts of the projects would meet the criteria to qualify for the PBN process. In all other circumstances the applicant shall file a Standard Dredge and Fill Application.

PART Env-Wt 305 EXPEDITED PERMITS (EXPs)

Env-Wt 305.01 EXP Submission Requirements. To obtain an EXP, the applicant shall submit a complete EXP application package containing:

(a) A completed Form NHDES-W-06-052, "Expedited Minimum Impact (EXP) Wetlands Permit Application", dated September 2023;

(b) A copy of town tax map showing the location of the proposed project in relation to abutters;

(c) A list of abutters' names and mailing addresses to cross-reference with the tax map;

(d) A copy of the appropriate USGS map with the property and project clearly marked;

(e) Photos that:

(1) Clearly show the area to be impacted;

(2) Are mounted or printed no more than 2 per sheet on 8.5 inches x 11 inches paper; and

- (3) Are annotated to explain impact;
- (f) A copy of the NHB Datacheck results and the NHB identification number;
- (g) Where the NHB Datacheck results document the occurrence of protected species, a copy of the recommendations from NHB and/or the results obtained from the consultation with NHF&G pursuant to Fis 1004.01, including any recommendation for actions necessary to prevent adverse impacts to species protected under Fis 1400;
- (h) An accurate drawing showing the precise location, with detailed dimensions clearly annotated to document existing site conditions and to show the proposed impacts to the jurisdictional areas;
- (i) An accurate drawing to show the impact of the proposed activity on jurisdictional areas, including the following:
 - (1) An overview of the property and proposed impact areas in relation to property lines;
 - (2) The scale, if any, used on the drawing;
 - (3) If the drawing is not to scale, the dimensions of all existing and proposed structures, existing and proposed topography, and all other relevant features necessary to clearly define the project;
 - (4) A labeled north-pointing arrow to indicate orientation;
 - (5) A legend that clearly indicates all symbols, line types, and shading used on the plan;
 - (6) The location of the jurisdictional areas delineated and associated wetland delineation notes, in accordance with Env-Wt 400;
 - (7) The proposed construction sequence including pre-construction through post-construction activities and the relative timing and progression of all work;
 - (8) The location and type of siltation and turbidity controls indicated graphically and labeled or annotated as necessary;
 - (9) For any project using a temporary coffer dam and for any repair of a tier 3 stream crossing, the date, signature, and seal of the licensed professional engineer who prepared or had responsibility for the plan(s);
 - (10) For restoration/enhancement projects, the information required to be shown on a map by Env-Wt 525;
 - (11) For tidal minimum impact projects, the information required to be shown on a map by Env-Wt 600;
 - (12) For minimum impact stream crossing projects, the information required to be shown on a map by Env-Wt 900; and
 - (13) The number of linear feet of shoreline frontage for projects located on water bodies;

- (14) The linear distance of the project from abutting property boundaries;
- (15) As applicable:
 - a. The type of dock construction;
 - b. The diameter of culvert(s) to be used for road or driveway crossings;
 - c. The additional information specified in Env-Wt 522 for minimum impact agricultural applications;
 - d. Plans for maintenance of retaining walls, as specified in Env-Wt 514;
 - e. Specifications and plans for maintenance of rip-rap, as required by Env-Wt 514; and
 - f. Any other project-specific plan, cross section, or information required under Env-Wt 500;
- (j) Documentation, including plans, explaining how impacts to jurisdictional areas have been avoided and minimized and the criteria of Env-Wt 306.03 have been met;
- (k) A signed statement by the applicant certifying, in addition to the certifications specified in Env-Wt 306.06, that:
 - (1) All abutters have been notified;
 - (2) If the project is to repair or replace a docking structure, the docking structure is an existing legal structure;
 - (3) None of the impacts within jurisdiction were completed prior to the filing of the application; and
 - (4) The applicant is aware of the limits of the EXP and understands and will comply with all conditions in the EXP and all applicable conditions in Env-Wt 309;
- (l) The application fee for minimum impact projects as required by RSA 482-A:3, I; and
- (m) A signed statement from the LAC, if the project is within LAC jurisdiction, certifying that the LAC has received a copy of the application from the applicant and waives its right to intervene on the project.

Env-Wt 305.02 EXP Review Procedures.

- (a) The department shall review the application for an EXP for administrative completeness and compliance with applicable department rules within 30 calendar days of receipt.
- (b) If the EXP application package fails to include all items required by Env-Wt 305.01 but the project qualifies for an EXP, the department shall send a written notice to the applicant informing them the application was found to be administratively incomplete and that:
 - (1) Identifies each item found to be missing; and

- (2) Informs the applicant that in order to proceed under the EXP, the applicant shall submit all necessary items within 20 days of the date of the notice or the application will be denied.
- (c) If the application is determined to be administratively complete, meets the criteria identified in Env-Wt 303.05 to qualify for the EXP review process, complies with applicable design requirements, and meets Env-Wt 306.04 the department shall approve and issue an EXP permit.
- (d) If the applicant receives a notice as described in (b), above, and wishes to proceed under an EXP, the applicant shall submit all of the required items identified as missing within 20 days of the date of the notice.
- (e) If the applicant does not submit all necessary items to the department within 20 days of the date of a notice sent pursuant to (c), above, the department shall deny the EXP.
- (f) If the application is administratively complete, meets the criteria identified in Env-Wt 303.05 to qualify for the EXP review process, but fails to meet the applicable design requirements or Env-Wt 306.04, the department shall send a request for more information, together with any written technical comments the department deems necessary, within 30 calendar days of receipt of the application, or the receipt of the missing items submitted pursuant to (d) above. Such request and technical comments shall be sent by electronic means if the applicant or applicant's agent has indicated that doing so is acceptable.
- (g) If the project proposed in the EXP application does not comply with applicable design requirements or fails to meet Env-Wt 306.04, the department shall deny the application and notify the applicant in writing of the reason(s) for the denial.
- (h) If the applicant wishes to proceed with the project, the applicant shall file:
- (1) An EXP application for a project that has been modified to conform to applicable design requirements; or
 - (2) An application for a standard permit as specified in Env-Wt 306.
- (i) Any request for additional information under (f), above, shall:
- (1) Specify that the applicant shall submit such information as soon as practicable; and
 - (2) Notify the applicant that if the requested information is not received within 60 days of the request, the department shall deny the application.

Env-Wt 305.03 Conditions for EXPs. All work done pursuant to an EXP shall comply with all applicable conditions specified in Env-Wt 309.

Env-Wt 305.04 Work Subsequent to Activities Conducted Under a EXP; Reclassification. Additional impacts to jurisdictional areas on the same property, or on contiguous properties and part of an overall scheme of development, to be conducted within 5 years of issuance of a EXP shall be eligible for coverage under a new EXP only if the combined impacts of the projects would meet the criteria to qualify for the EXP process. In all other circumstances the applicant shall file a Standard Dredge and Fill Application

PART Env-Wt 306 APPROVAL STANDARDS FOR ALL PROJECTS

Env-Wt 306.01 Jurisdictional Areas. Applicants for a PBN, EXP, or standard permit shall identify all jurisdictional areas on the project site in accordance with Env-Wt 406.

Env-Wt 306.02 Functional Assessment.

(a) Except as exempt per (c), below, an applicant for a standard permit shall complete a functional assessment of all wetlands on the subject property, including vernal pools and wetlands contiguous to surface waters, that shall:

- (1) Be performed by a certified wetland scientist;
- (2) Be completed using the US ACE Highway Methodology Workbook, dated 1993, together with the US ACE New England District Highway Method Workbook Supplement, dated 1999, both available as noted in Appendix B;
- (3) Evaluate the ecological integrity of the wetlands on the project site and their relationship to the integrity of contiguous wetlands on abutting properties; and
- (4) Identify the highest and most valuable functions and values provided by the each of the wetlands on the project site.

(b) In addition to the requirements of (a) above, the functional assessment for projects impacting tidal areas shall be:

- (1) Performed by a certified wetland scientist that is a qualified coastal professional as defined in Env-Wt 602; and
- (2) Completed as specified in Env-Wt 600.

(c) An applicant shall not be required to perform a functional assessment of wetlands on the site if:

- (1) The project is classified as a minimum impact project; or
- (2) There are no proposed impacts to wetlands.

Env-Wt 306.03 Avoidance and Minimization.

(a) Applicants for all notifications and permits shall avoid and minimize impacts so that there is no practicable alternative that would have a less adverse impact on jurisdictional areas.

(b) After locating all jurisdictional areas on-site pursuant to Env-Wt 306.01 and completing the functional assessment of wetlands pursuant to Env-Wt 306.02, applicants for a standard permit shall comply with (c) through (e), below, to ensure that impacts to jurisdictional areas are avoided and minimized.

(c) Applicants for a standard permit shall:

- (1) Locate and orient the proposed project's impacts to avoid and minimize adverse effects on jurisdictional areas;

- (2) Utilize structures, materials, and technologies in the project design to avoid and minimize the project's adverse impacts to jurisdictional areas;
 - (3) Prioritize the protection and preservation of highest and most valuable jurisdictional areas pursuant to (d) and (e), below; and
 - (4) Identify and avoid any impacts contrary to the public purpose statement in RSA 482-A:1.
- (d) To meet the requirements of (c), above, the project design, exclusive of non-tidal shoreline structures, shall:
- (1) Prioritize the avoidance and minimization of impacts to:
 - a. Tidal marshes and non-tidal marshes because they provide sources of nutrients for finfish, crustacea, shellfish, and wildlife of significant value;
 - b. Areas of jurisdiction in which there are exemplary natural communities, vernal pools, protected species and habitat, documented fisheries, or any combination thereof;
 - c. Bogs and fens;
 - d. Floodplain wetlands;
 - e. Natural riverine forested wetland systems and scrub-shrub marsh complexes of high ecological integrity; and
 - f. Jurisdictional areas where the impacts would be detrimental to adjacent drinking water supply and groundwater aquifer levels; and
 - (2) Maintain hydrologic connections between adjacent wetlands and between wetlands and adjacent surface waters;
 - (3) Avoid and minimize impacts that eliminate, depreciate, or obstruct public commerce, navigation, or recreation; and
 - (4) Avoid and minimize adverse impacts to stream channels and preserve the ability of such channels to handle runoff of waters.
- (e) To meet the requirements of (c), above, the project design for any project involving the construction or modification of non-tidal shoreline structures over areas of surface waters having an absence of wetland vegetation:
- (1) The structures shall be designed to use the minimum construction surface area over surface waters necessary to meet the stated purpose of the structures;
 - (2) The construction method and layout proposed shall be the least intrusive upon the public waters that will ensure safe navigation and docking on the frontage;
 - (3) The structures shall be designed to avoid and minimize impacts on ability of abutting owners to reasonably use and enjoy their properties;

- (4) The structures shall be designed to avoid and minimize impacts to the public's right to navigation, passage, and use of the resource for commerce and recreation;
- (5) The structures shall be designed, located, and configured to avoid impacts to water quality, aquatic vegetation, and wildlife and finfish habitat; and
- (6) The structures shall be designed to avoid and minimize the removal of vegetation, the number of access points through wetlands or over the bank, and activities that may have an adverse effect on shoreline stability.

Env-Wt 306.04 Criteria for Approval of Applications.

- (a) The department shall not approve an application or accept a notification if the department finds that:
 - (1) The proposed project fails to meet the applicable criteria in Env-Wt 306.03 to the maximum extent practicable; and
 - (2) The cumulative impact of allowing all owners of similar adjacent parcels to complete the same or similar impacts would be adverse to the public purposes of RSA 482-A:1.
- (b) The department shall not approve the placement of fill in a jurisdictional area to achieve a setback established in Env-Wq 1000 or in local ordinance between the jurisdictional area and the effluent disposal area of an individual sewage disposal system.
- (c) The department shall not approve impacts to bogs or fens unless:
 - (1) Necessary for the maintenance, repair, or replacement of structures or roadways in existing utility rights-of-way or easements; or
 - (2) For publicly-funded educational boardwalks open to the public.
- (d) The department shall not approve impacts to floodplain wetlands contiguous to a watercourse where the contributing watershed is at least 640 acres if the department finds:
 - (1) The project will result in a reduction in flood storage capacity; or
 - (2) The project will sever existing hydrological connections to the watercourse.
- (e) The department shall not approve impacts to jurisdictional areas where the result of those impacts would be inconsistent with the department's obligations in RSA 212-A or RSA 217-A.
- (f) The department shall not approve an application that fails to meet the requirements of RSA 482-A, including those where the applicant has failed to submit a complete application or provide a complete response to a request for more information pursuant to RSA 482-A:3, XIV, (a)(1) or (2).
- (g) The department shall not approve an application that fails to meet the applicable project-specific design and approval criteria established in Env-Wt 500, 600, and 900.
- (h) The department shall not approve random or unnecessary impacts to jurisdictional areas.

Env-Wt 306.05 When Compensatory Mitigation is Required.

(a) Compensatory mitigation shall be required for impacts associated with all projects classified as major unless:

- (1) There are no proposed permanent impacts to:
 - a. A bog or fen;
 - b. Floodplain wetlands contiguous to a watercourse where the contributing watershed is at least 640 acres;
 - c. Designated prime wetlands or a duly-established 100-foot buffers; or
 - d. Any sand dune, tidal wetland, tidal water, or undeveloped tidal buffer zone; and
- (2) The project is limited to:
 - a. The construction of a wildlife pond that will impact less than 20,000 SF of non-tidal wetlands;
 - b. The construction of a tidal docking structure where the combined total of all docking structure surface area is less than 2,000 SF; and
 - c. The modification or construction of docking structures, including accessory docking structures, that will result in an increased permanent footprint on the frontage of less than 2,000 SF.

(b) The following activities shall be exempt from inclusion when determining the amount of required compensatory mitigation, even if part of a major project requiring mitigation:

- (1) Bank stabilization to protect existing infrastructure such as highways, bridges, dams, or buildings;
- (2) Watercourse stabilization necessary to address damage directly resulting from legal, hydraulically deficient stream crossings;
- (3) Bank stabilization using bio-engineering methods;
- (4) Temporary impacts that are not intended to remain after the project is completed, provided the areas are restored in accordance with provisions shown in the approved project plans;
- (5) Wetland restoration or enhancement activities as defined in Env-Wt 104.56, Env-Wt 104.59, and Env-Wt 525;
- (6) Stream restoration or enhancement activities as defined in Env-Wt 104.29 and Env-Wt 902.31 and conducted in accordance with Env-Wt 407.04(b) and Env-Wt 525;
- (7) Maintenance activities such as piling replacement, in-kind structure reconstruction, and sediment displacement from intake structures as described in Env-Wt 516 that meet minimum impact classification criteria established in Env-Wt 300, 500, or 900;

- (8) Maintenance dredge of a federal navigation project (FNP) that is on an active dredge cycle or maintenance dredge of existing, legal boat slips;
- (9) A living shoreline project using non-structural vegetated approaches to hybrid hard structural natural methods that address erosion and inundation in a manner that improves or protects the ecological condition of the coastline or replaces lost tidal marsh functions;
- (10) A project that is limited to sand dune replacement or restoration;
- (11) Impacts to developed upland tidal buffer zone as defined in Env-Wt 602.12(a); and
- (12) Impacts associated with the repair or replacement of a dam that has maintained registration with the NHDES Dam Bureau.

Env-Wt 306.06 Required Signatures and Certifications. Any application required to be filed under this chapter shall be signed, dated, and certified as follows:

- (a) If the applicant is an individual, the applicant shall sign and date the application;
- (b) If the applicant is an organization or other legal entity, the official of the applicant who has been authorized to sign the application shall sign and date the application and print or type their name and title on the application;
- (c) If the applicant has an authorized agent, the authorized agent also shall sign and date the application and print or type their name and title on the application;
- (d) If the applicant is not the owner of the property, each property owner also shall sign and date the application. This provision shall not apply to public transportation projects adjacent to existing rights-of-way where an easement will be obtained prior to the start of construction nor to applications for SMMD SPNs;
- (e) Each signature provided pursuant to (a)-(c), above, shall constitute certification by the signer that:
 - (1) To the best of the signer's knowledge and belief, all required notifications have been provided;
 - (2) The information submitted on or with the application is true, complete, and not misleading to the best of the signer's knowledge and belief; and
 - (3) The signer understands that the submission of false, incomplete, or misleading information constitutes grounds for the department to:
 - a. Deny the application;
 - b. Revoke any approval that is granted based on the information; and

c. If the signer is a certified wetland scientist, licensed surveyor, or professional engineer licensed to practice in New Hampshire, refer the matter to the office of professional licensure and certification established by RSA 310;

(f) Each signature provided pursuant to (d), above, shall constitute certification by the signer that they are aware of the application being filed and do not object to the filing.

PART Env-Wt 307 STANDARD PERMITS

Env-Wt 307.01 Pre-Application Meetings.

(a) Pre-application meetings shall not be required for any application type.

(b) Where an applicant opts to request a pre-application meeting, the request shall include:

(1) A completed Form NHDES-W-06-012, Request for Pre-Application Meeting, dated January 2024 available at _____;

(2) The results obtained through the NHB DataCheck;

(3) A plan, that is either completely dimensioned or drawn to scale, illustrating the existing conditions of the property on which the project will occur showing:

(4) A plan, that is either completely dimensioned or drawn to scale, illustrating the proposed project impacts; and

(5) Ground-level photographs of the wetlands, surface waters, and other jurisdictional areas proposed to be impacted as well as aerial photographs of the proposed project site.

(c) Within two weeks of receipt of a complete request for a pre-application meeting the department shall either:

(1) Schedule the requested pre-application meeting; or

(2) Provide written technical comments on the proposal and advise the applicant on the readiness of the application and any associated compensatory mitigation proposal for submittal. Written comments shall be understood to be advisory only and not binding.

(d) If the department receives an incomplete request for a pre-application, the department shall notify the requestor in writing of the deficiencies of the request that shall be remedied before a meeting is scheduled.

Env-Wt 307.02 Applications for Standard Permits. To apply for a standard permit, the applicant shall submit an application package, including:

(a) A completed and signed Form NHDES-W-06-012, Standard Dredge and Fill Wetlands Permit Application, dated September 2023 available at [Insert Website];

(b) A completed Form NHDES-W-06-0XX, Jurisdictional Impact Request Data Sheet, dated XX 2024, with wetland impacts quantified and identified by Cowardin Classification type;

- (c) The application fee, calculated as specified in RSA 482-A:3, I(b) or (c), as applicable, subject to any cap established by RSA 482-A:3, X;
- (d) The results of the NHB DataCheck containing the NHB identification number and any recommendations from NHB, NHF&G, or applicable federal agency for federally protected species;
- (e) A list containing the name, mailing address, and tax map/lot number(s) of each abutter to the subject property;
- (f) Copies of certified postal receipts or other proof of receipt of the notices that are required by RSA 482-A:3, I(d);
- (g) The project plans described in Env-Wt 307.03;
- (h) The attachments specified in Env-Wt 307.04;
- (i) A completed Form NHDES-W-06-0XX, NEW FORM NAME, explaining how the avoidance and minimization requirements of Env-Wt 306.03 have been met;
- (j) All project-specific information worksheets, as applicable, identified in Table 307 – 1 below:

Table 307-1: Project Specific Information Worksheets

Cross-Reference	Document Name, Identification	Document Date
Env-Wt 514 & Env-Wt 900	Stream Crossing Datasheet NHDES-W-06-071	XXX 2024
Env-Wt 511, 512, 513, 517	Shoreline Structures Datasheet NHDES-W-0X-0XX	XXX 2024

- (k) If applicable, the information regarding proposed compensatory mitigation specified in Env-Wt 307.05;
- (l) Any additional information specific to the type of resource as specified in Env-Wt 307.06;
- (m) For minor and major projects, a report describing the existing conditions of jurisdictional areas including a wetland function/value package as described on page 16 of the US ACE New England District Highway Method Workbook Supplement, dated 1999, available as noted in Appendix B, for each wetland on the project site;
- (n) Any additional project-specific information required by Env-Wt 500, Env-Wt 600, or Env-Wt 900, as applicable; and
- (o) If the application is being submitted for impacts that occurred prior to the issuance of a permit or where site conditions require the wetlands be delineated using Chapter 5 of the USACE delineation manual, the US Army Corps of Engineers, available as noted in Appendix B, the data sheets supporting the delineated wetland limits.

Env-Wt 307.03 Required Project Plans.

(a) The applicant shall provide the following information on one or more plan sheets that conform to (c), below:

- (1) The name of the applicant;
- (2) Except for the department of transportation, if the applicant has not yet acquired an enforceable proprietary interest in the property, the name of each owner of the subject property as of the date the application is prepared;
- (3) The tax map, block, unit, and lot number of each parcel in the subject property;
- (4) The date (month/day year) each plan was originally prepared and the date (month/day year) of each revision, if any;
- (5) The name and professional license number of the individual responsible for each portion of the plan, such as the wetland delineation, the survey, and the engineering as applicable;
- (6) An overview of the subject property and proposed impact areas in relation to property lines;
- (7) Any existing and proposed easement boundaries, including drainage and maintenance access easements, in relation to the property lines of the subject property;
- (8) For department of transportation applications of over 400 linear feet, roadway stations shown every 100 feet;
- (9) Any impacts proposed to a right-of-way over another's land;
- (10) The footprint and vertical dimensions of each existing structure, each proposed structure, and all other relevant features necessary to clearly define the project;
- (11) A labeled north-pointing arrow that points true or magnetic north to indicate orientation;
- (12) A legend that clearly identifies all symbols, line types, and shading used on the plan;
- (13) The location of jurisdictional areas on the property, delineated in accordance with Env-Wt 406, and whether any have been designated as prime wetlands in accordance with RSA 482-A:15;
- (14) Except for the department of transportation, the name and professional license number of the individual responsible for the delineation of jurisdictional areas, including but not limited to wetlands, streams, and vernal pools on the property, if other than the individual identified as being responsible for the plan pursuant to (5), above;
- (15) All shorelines and surface waters on or within 250 feet of the nearest impact area and, if applicable, all coastal features as described in Env-Wt 603 including but not limited to all sand dunes and all areas within 100 feet of the highest observable tideline;
- (16) The location of the 100-year floodplain, if any portion is within the subject property;

- (17) If the topography of the subject property is to be permanently altered, existing and proposed final contours at intervals not greater than 2 feet in all areas to be disturbed and within 250 feet of the proposed jurisdictional impacts on the subject property, relative to an identified reference elevation datum;
 - (18) Labeled and lightly shaded or stippled areas indicating limits of all temporary and permanent impacts in jurisdictional areas;
 - (19) Proposed methods of erosion, siltation, sedimentation, and turbidity control and management, indicated graphically and labeled with the type of control and the contractor responsible for monitoring the controls if known at the time of the application;
 - (20) If the project proposes the subdivision of land, the location of all proposed lot lines on one or more plans stamped by a land surveyor licensed pursuant to RSA 310-A;
 - (21) All information necessary to clearly delineate and describe the project, including any project-specific information specified in Env-Wt 500 or Env-Wt 600, as applicable.
- (b) Plans depicting wetland boundaries that are submitted with an application for a standard permit shall:
- (1) Show the location and number of the individual wetland boundary flags or other markings, as located by survey or by GPS;
 - (2) If prepared by a certified wetland scientist, be stamped by the certified wetland scientist who prepared the plan(s) or who oversaw the wetland boundary delineation if done by an apprentice or an associate who is not a certified wetland scientist;
 - (3) If not prepared by a certified wetland scientist, be accompanied by a report that includes an existing conditions plan that has been prepared and stamped by a certified wetland scientist;
 - (4) If prepared by a homeowner acting on his or her own behalf for the development of the homeowner's primary residence, be signed by the homeowner in accordance with Env-Wt 306.06;
 - (5) Include notes that specify:
 - a. The date(s) on which the wetlands delineation was performed; and
 - b. The method of delineation; and
- (c) Each plan sheet shall:
- (1) Include a title block in the lower right-hand corner that contains:
 - a. The information specified in (a)(1)-(4), above; and
 - b. The scale of the plan as specified in (3), below, with a graphical scale bar;

- (2) Be either submitted on, or formatted to fit on, white paper that is either 8.5 x 11 inches, 11 x 17 inches, or 22 x 34 inches;
- (3) Be at a scale of one inch equals 100 feet for subdivisions, otherwise at a scale of one inch equals 20 feet or a scale that provides greater detail;
- (4) Be numbered consecutively and include an index sheet if more than one sheet is to be provided; and
- (5) If submitted on paper that is larger than 8.5 x 11 inches, be folded as close to that size as possible with the title block facing up.

Env-Wt 307.04 Maps and Other Attachments. The applicant shall submit the following with the completed application form:

- (a) A copy of a town tax map showing the subject property, the location of the project on the property, and the location of abutting properties with each lot labeled with the tax map and lot number;
- (b) Dated and labeled color photographs that:
 - (1) Clearly depict:
 - a. All jurisdictional areas, including but not limited to portions of wetland, shoreline, or surface water where impacts have or are proposed to occur; and
 - b. All existing shoreline structures; and
 - (2) Are mounted or printed no more than 2 per sheet on 8.5 x 11 inch sheets;
- (c) A narrative that describes the work sequence, including pre-construction through post-construction, and the relative timing and progression of all work;
- (d) For all projects in the protected tidal zone, a copy of the recorded deed with book and page numbers for the property;
- (e) If the applicant is not the owner in fee of the subject property, documentation of the applicant's legal interest in the subject property, provided that for utility projects in a utility corridor, such documentation may comprise a list that:
 - (1) Identifies the county registry of deeds and book and page numbers of all of the easements or other recorded instruments that provide the necessary legal interest; and
 - (2) Has been certified as complete and accurate by a knowledgeable representative of the applicant;
- (f) The NHB memo containing the NHB identification number and results and recommendations from NHB as well as any the results of the consultation from NHF&G pursuant to Fis 1004.01, describing any recommendation for actions necessary to prevent adverse impacts to species protected under Fis 1400; and

(g) For projects in LAC jurisdiction, a statement of whether the applicant has received comments from the LAC and, if so, how the applicant has addressed the comments.

Env-Wt 307.05 Required Information for Projects Needing Compensatory Mitigation. For any project for which compensatory mitigation is required, the applicant shall submit the following as part of the application:

(a) If the applicant is proposing an in-lieu fee payment, the information required by Env-Wt 803 and a preliminary estimate of the in-lieu mitigation payment;

(b) Where restoration, enhancement, or creation aquatic resources is proposed as permittee-responsible compensatory mitigation, information showing that the proposal meets the criteria specified in Env-Wt 805 or Env-Wt 806, as applicable, together with all required plans and proposals;

(c) Where preservation of an upland buffer is being proposed as permittee-responsible compensatory mitigation, information showing that the proposal meets the criteria specified in Env-Wt 804 together with the following:

(1) A baseline documentation report that describes current property conditions and includes color photographs that have been taken in the absence of snow cover that clearly and accurately show the nature and condition of the buffer area;

(2) A copy of the proposed conservation easement language or language noting conveyance of fee simple ownership which protects the conservation values in perpetuity, in accordance with Env-Wt 808.14;

(3) A surveyed plan, in accordance with Env-Wt 808.11, showing the location of the proposed conservation area boundaries; and

(4) A statement from the landowner or prospective seller that it is willing to transfer the property, and proposed grantee indicating that the proposed grantee will accept the easement or fee simple deed;

(d) For any proposal calling for a transfer of easements or fee simple ownership, documentation showing that the proposed grantee is one of the following:

(1) A state natural resource agency such as NHF&G or NH DNCR;

(2) A municipality with a conservation commission in the town where the property is located;

(3) A conservation organization such as a state-wide, regional, or local conservation organization that can provide documentation from the United States Internal Revenue Service stating that it is an income tax-exempt, publicly supported corporation, pursuant to 501(c)(3) of the United States Internal Revenue Code; or

(4) A local river management advisory committee as established by RSA 483:8-a, authorized to accept and expend funds under RSA 483:13, that has tax exempt status pursuant to US Internal Revenue Code Section 170(a)(1);

(e) For any proposal calling for a transfer of easements or fee simple ownership to a conservation organization, documentation such as minutes of the meeting at which the standards and practices were adopted showing that the conservation organization has:

- (1) Accepted the Land Trust Alliance (LTA) standards and practices as specified in the “Land Trust Standards and Practices: Ethical and Technical Guidelines for the Responsible Operation of a Land Trust”, published by the Land Trust Alliance, dated 2017, available as noted in Appendix B; or
- (2) A record of holding easements and managing them in a manner that is consistent with the purposes of the easements;

Env-Wt 307.06 Required Resource-Specific Information.

(a) For projects in tidal areas, the applicant also shall submit the project-specific information required by Env-Wt 600.

(b) For projects affecting non-tidal surface water shoreline, the applicant also shall submit plans including the following:

- (1) The general shape of the shoreline at the normal high water elevation or ordinary high water mark as applicable, and the length of shoreline frontage;
- (2) The footprint of all existing and proposed structures within jurisdiction on the subject property;
- (3) The intended use of each proposed structure; and
- (4) The distance from existing and proposed work to abutting property lines and the location of boat slips relative to the imaginary extension of property lines over public waters, if applicable, pursuant to RSA 482-A:3, XIII.

(c) If the applicant leases the property from the state pursuant to RSA 228:57-a or RSA 4:39-d, the applicant shall also:

- (1) Provide a copy of the lease to the department with the application;
- (2) Inform the department of any changes in the status of the lease, and whether such changes occur while the application is pending or after a permit has been issued; and
- (3) If the lease does not explicitly state that the applicant may place structures on the leased property, the applicant shall provide written authorization for placement of the proposed structure from the agency leasing the property.

(d) For projects within the protected shoreland as defined by RSA 483-B, the applicant also shall provide plans showing the following:

- (1) The reference line;
- (2) The location of all existing structures between the primary building line and the reference line;

- (3) The location of all proposed structures;
- (4) For projects adjacent to tidal waters, the landward limit of the 100-foot tidal buffer zone; and
- (5) The total jurisdictional area within the protected shoreland to be impacted as a result of the project.

(e) For all stream crossing projects, the applicant also shall submit the information specified in Env-Wt 903.

Env-Wt 307.07 After-the-Fact Applications.

(a) In addition to a complete application package as specified in Env-Wt 307.02, an after-the-fact application shall include the following:

- (1) A delineation of the pre-existing wetlands completed in accordance with Chapter 5 of the US ACE Regional Supplement, available as noted in Appendix B;
- (2) An existing conditions plan that clearly identifies all disturbances and construction performed within pre-existing jurisdictional areas without a permit;
- (3) A pre-existing conditions plan that clearly identifies all pre-existing structures and jurisdictional areas;
- (4) Copies of aerial photographs and other information to document the basis for the determination of pre-existing jurisdictional limits;
- (5) A restoration plan for all impacted jurisdictional areas to be restored, prepared by a licensed professional, with a wetland delineation stamped by a certified wetland scientist;
- (6) A monitoring plan designed to ensure and document successful restoration; and
- (7) An explanation as to why work was performed prior to obtaining a permit.

(b) Applications received after work is completed shall be subjected to the same technical review and criteria as any other standard application.

(c) The department's acceptance of an after-the-fact application shall not in any way preclude or limit the exercise of any enforcement authority conferred by law on the department, the attorney general, or any other federal, state, or local authority.

Env-Wt 307.08 Amendments to Applications.

(a) Prior to the department's issuance of a final decision on an application, the applicant may amend their application for a proposed project by submitting:

- (1) Form NHDES W-06-081, Amendment Request Form For Wetlands Application or Permit, dated May 2020, available at [Insert website]; and

(2) All information required by Env-Wt 307.02 that is modified as a result of the proposed amendment.

(b) Prior to filing the amended application with the department, the applicant shall provide notice to each person to whom notice of the original application was sent.

(c) The application amendment process is not available to the applicant if the changes constitute a significant amendment as defined in RSA 482-A:3, XIV(e).

(d) Where the department receives a request to amend an application, the department shall have an additional 30 days to review the amendment request prior to rendering a decision on the application unless:

(1) The request includes a new mitigation proposal, in which case the processing time shall be 50 days; or

(2) The request is for a project that proposes an acre or more of impact, in which case the processing time shall be 75 days.

PART Env-Wt 308 STANDARD PERMIT APPLICATION PROCESSING AND REVIEW

Env-Wt 308.01 Administrative Completeness Determination.

(a) An application shall be determined to be administratively complete if:

(1) The application form required by Env-Wt 307.02(a) is complete and signed as required;

(2) The application package contains the appropriate completed application forms with all plans, maps, and other attachments required by Env-Wt 307.02(b)-(i), as applicable; and

(3) The application package contains a proposal for compensatory mitigation as required in Env-Wt 307.05, as applicable.

Env-Wt 308.02 Review of After the Fact Applications. In accordance with RSA 482-A:3, XIV(d), the department shall not be required to adhere to the normal statutory timeframes for the review of applications filed after the initiation of regulated activities within jurisdictional areas unless those activities were completed in compliance with Env-Wt 312.

Env-Wt 308.03 Completeness Determination of Compensatory Mitigation Proposals.

(a) If the applicant submits proposal for permittee-responsible mitigation pursuant to Env-Wt 307.05(b) – (e), the department shall review the information to ensure the minimum necessary compensatory mitigation components are included for technical review of the proposal.

(b) If the applicant submits a proposal for permittee-responsible mitigation pursuant to Env-Wt 307.05(b) – (e), the department shall review the information to determine whether the information is sufficient for the department to understand the nature and appropriateness of the proposed mitigation.

(c) The department shall notify the applicant in writing of its determination under (a) or (b), above, as applicable. If the information does not meet the standard specified in (a) or (b), above, as applicable, the written notice shall specify the reason(s).

Env-Wt 308.04 Extension of Local Government Hold to Investigate.

(a) For the purposes of a written notice of intent to investigate permit application received pursuant to RSA 482-A:11, III(a), the department shall grant an extension of up to 40 days if the applicable municipal conservation commission, local river management advisory committee, or the New Hampshire Rivers Council provides sufficient information to support a finding of good cause.

(b) The following shall constitute “good cause” for the purpose of this Section:

- (1) Illness or unavoidable absence of a quorum of individuals, with the authority to issue the required written report in time for it to be filed by the deadline;
- (2) Inclement weather or other circumstances beyond the control of the applicable entity affecting filing by the deadline;
- (3) Additional time is needed to allow the commission, committee, or council to perform a site inspection if the applicant has provided permission to do so; or
- (4) Any other circumstance that a reasonable person would consider to be good cause.

Env-Wt 308.05 Requesting Additional Time for Response or Review.

(a) As provided in RSA 482-A:3, XIV(a)(2), an applicant may request additional time to respond to an RMI and the department shall grant the request. An applicant shall submit a written request for additional time to the department identifying the application by file number and communicating the date by which the information will be provided.

(b) If the department is unable to review an application within the time limits specified in RSA 482-A:3, XIV(a)(3) or (4), as applicable, the department shall ask the applicant to agree to an extension of time. If the applicant agrees to extend the time, the applicant and the department shall sign an extension agreement that identifies the deadline for department action.

Env-Wt 308.06 Permits by Default.

(a) If the department fails to take action on an application within the applicable time frame established in subparagraphs (a)(3), (a)(4), and (a)(5), and the applicant submits a written request to issue the permit to the department, the department shall proceed in accordance with the provisions of RSA 482-A:3, XVI (b).

(b) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to RSA 482-A:3, XIV(b)(3), the applicant may proceed with the project as presented in the application provided the work complies with all requirements applicable to the project, including but not limited to requirements established in or under RSA 482-A and RSA 485-A relating to water quality, and federal requirements.

Env-Wt 308.07 Permit Issuance; Permit Conditions.

(a) Subject to (b), below, if an application for a standard permit is approved, the department shall issue the permit to the named applicant provided the named applicant has an enforceable proprietary interest in the property.

(b) If an application is approved by the department, the approved plans, construction sequence, and specifications shall be considered part of the approved permit.

(c) If the application is for a major project located in a great pond or public-owned water body, the department shall:

(1) Submit the proposed permit to the governor and executive council as required by RSA 482-A:3, II(a); and

(2) Proceed as directed in RSA 482-A:3, II(b).

(d) The issued permit shall be subject to such conditions as imposed upon it by the department as necessary to ensure that the purposes of RSA 482-A shall be met.

(e) In addition to those conditions specifically imposed upon the permit, activities in jurisdictional areas shall be conducted in accordance with the applicable conditions in Env-Wt 309.

PART Env-Wt 309 CONDITIONS APPLICABLE TO ACTIVITIES IN JURISDICTIONAL AREAS

Env-Wt 309.01 Purpose and Applicability. The purpose of this part is to identify standard conditions that shall be complied with, as applicable, for all approvals or authorizations issued by the department for activities in jurisdictional areas, as necessary to ensure that the public purposes of RSA 482-A:1 are met.

Env-Wt 309.02 Adherence to Approved Plans Required. All work within jurisdictional areas shall be done in accordance with the issued permit, including the approved plans, construction sequence, and specifications.

Env-Wt 309.03 Project-Specific Conditions. The department shall insert additional project-specific conditions not listed in this Part onto permits or notifications as necessary to ensure that the authorized impacts are conducted and maintained in a manner compliant with RSA 482-A and the rules adopted under RSA 482-A:11.

Env-Wt 309.04 Protection of Water Quality Required.

(a) No activity shall be conducted in such a way as to cause or contribute to any violation of RSA 485-A, RSA 485-C, or RSA 483-B; and

(b) For projects where mechanized equipment shall be used in or adjacent to jurisdictional areas, the person in charge of construction equipment shall:

(1) Inspect such equipment for leaking fuel, oil, and hydraulic fluid each day prior to entering surface waters or wetlands or operating in an area where such fluids could reach

groundwater, surface waters, or wetlands;

(2) Repair any leaks prior to using the equipment in an area where such fluids could reach groundwater, surface waters, or wetlands;

(3) Maintain oil spill kits and diesel fuel spill kits, as applicable to the type(s) and amount(s) of oil and diesel fuel used, on site so as to be readily accessible at all times during construction; and

(4) Train each equipment operator in the use of the spill kits.

Env-Wt 309.05 Prevention of Erosion, Sedimentation, and Turbidity Required.

(a) Erosion and siltation control measures shall be adequate to prevent violations of the water quality standards adopted under RSA 485-A.

(b) Erosion and siltation control measures shall be installed prior to start of work, shall be maintained, and shall remain in place during construction until all disturbed surfaces are stabilized.

(c) Erosion and siltation control shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.

(d) Turbidity controls shall:

(1) Be installed prior to construction and maintained during construction such that no turbidity escapes the immediate work area; and

(2) Remain in place until suspended particles have settled and water at the work site has returned to normal clarity.

(e) Unless specifically approved as permanent impacts, all siltation, erosion, and turbidity controls shall be removed upon completion of work and permanent stabilization of adjacent soils

(f) In addition to meeting (a) through (e) above, activities that produce suspended sediment in areas contiguous to, or upgradient of, jurisdictional areas that provide value as bird migratory areas or fish and shellfish spawning or nursery areas, shall not:

(1) Occur between October 1 and March 31 if it impacts any watercourse with a documented occurrence of a cold water fishery or threatened or endangered fishery; or

(2) Occur in March or April if it impacts any area that is habitat for rainbow smelt;

(3) Not discharge sediment to spawning or nursery areas or to amphibian and migratory bird breeding areas during spawning or breeding seasons, as applicable.

(g) All siltation, erosion, and turbidity controls shall be comprised of wildlife-friendly materials.

(h) Any sediment collected by erosion, siltation, or turbidity controls shall be removed and placed in a location and manner that prevents its erosion and deposition into jurisdictional areas.

Env-Wt 309.06 Protection Against Invasive Species Required.

(a) Prior to the installation of swamp mats, the mats and any heavy machinery used to install them, shall be inspected for and cleaned of all vegetative matter by a method and in a location that prevents the spread of the vegetative matter to jurisdictional areas.

(b) Equipment to be used in surface waters shall be completely free of all aquatic and terrestrial invasive plants, seeds, and other propagules, and all exotic aquatic species of wildlife as defined in RSA 487:16, I-a.

(c) All applicable requirements of RSA 487:15-25 shall be met.

(d) No boat washing or rinsing shall occur in jurisdictional areas or in a location where run-off is likely to flow to any jurisdictional area.

(e) To prevent the use of soil or seed stock containing nuisance or invasive species, the contractor responsible for work shall follow the Invasive Plant BMPs, available as noted in Appendix B.

Env-Wt 309.07 Protection of Rare, Threatened, or Endangered Species and Critical Habitat.

Permittees shall ensure that approved impacts within jurisdictional areas shall not result in a violation of the:

(a) Federal Endangered Species Act, 16 U.S.C. §1531 et seq.;

(b) State Endangered Species Conservation Act, RSA Chapter 212-A;

(c) New Hampshire Native Plant Protection Act, RSA Chapter 217-A.

Env-Wt 309.08 Structures Over Surface Waters.

(a) No structure built over surface waters shall be modified or used for the storage of chemicals, including pesticides, herbicides, and fertilizers.

(b) Where possible structures shall be removed from surface waters during any repainting, refinishing, or chemical treatment. Structural materials or components used in the repair or replacement of structures over surface waters shall be painted, finished, or chemically treated prior to incorporation into the structure being repaired.

Env-Wt 309.09 Dredging Activity Conditions. In addition to all other applicable conditions in this part, the following conditions shall apply to all dredging activities:

(a) Work shall be done during low flow or in the dry unless:

(1) A dredge dewatering, diversion, or cofferdam plan has been approved as part of the project;

(2) The project has specific approval based on water depth to operate from a barge; or

(3) The work will be conducted in a lake or pond and turbidity containment can be achieved using turbidity controls;

(b) Dredged materials shall be disposed of out of jurisdictional areas, unless other disposition is specifically permitted pursuant to (e), below;

(c) Dredged materials to be stockpiled in uplands shall be dewatered in sedimentation basins that are:

(1) Contained within turbidity controls that prevent turbid water from leaving the basins; and

(2) Located outside of any jurisdictional area;

(d) Subject to (e), below, in non-tidal waters, no dredging shall occur:

(1) Between October 1 and March 31 for any documented occurrence of a cold water fishery or threatened or endangered fishery; or

(2) In March or April for any area that is habitat for rainbow smelt;

(e) In addition to the limitations on tidal dredging in Env-Wt 600, no dredging shall occur in tidal waters during a fish migration or larval setting stage of fish and shellfish, which is between March 15 and November 15;

(f) Dredging shall not occur at a time, nor in a manner, that will impede fish migrations or interfere with spawning areas for fish;

(g) The permittee shall send prior notification of dredging activities to the PWS owner/operator by registered mail at least 30 days prior to dredging when done in a waterbody or other jurisdictional area within 500 feet of a public water supply intake.

Env-Wt 309.10 Filling Activity Conditions. In addition to all other applicable conditions in this part, the following conditions shall apply to all temporary and permanent filling activities:

(a) Fill shall be clean sand, gravel, rock, or other material that does not contain any material that could contaminate surface or groundwater or otherwise adversely affect the ecosystem in which it is used;

(b) Limits of fill shall be clearly identified prior to commencement of to ensure that fill is placed in accordance with the approved plans;

(c) Geotextile fabric shall be laid over the preconstruction wetland grade prior to the placement of any authorized temporary fill other than temporary mats or corduroy;

(d) Temporary mats shall be:

(1) In good condition to ensure proper installation, use, and removal; and

(2) Thoroughly cleaned before re-use; and

(3) Placed in the wetland from the upland or from equipment positioned on swamp mats if working within a wetland;

(4) Placed, not dragged into position, used, and removed prior to the end of the growing

season so as to minimize impacts to wetland areas;

- (5) Installed with adequate erosion and sediment controls at approaches to the mats to promote a smooth transition to, and minimize sediment tracking onto, the mats; and
- (6) Left in place for no longer than a single growing season if installed under any type of SPN; and

(e) All incidental impacts to jurisdictional areas resulting from the installation, use, and removal of temporary mats such as the displacement of soils shall be restored to pre-existing conditions prior to the expiration of the permit under which their installation was approved.

Env-Wt 309.11 Restoring Temporary Impacts; Site Stabilization. In addition to all other applicable conditions in this part, the following conditions shall apply to restoring all temporary impacts:

(a) Unless otherwise authorized, temporary impact areas shall be restored to their pre-impact conditions and elevation by replacing the removed soil and vegetation in their pre-construction location and elevation such that post-construction soil layering and vegetation schemes are as close as practicable to pre-construction conditions.

(b) Within 3 days of final grading or temporary suspension of work in an area that is in or adjacent to surface waters, all exposed soil areas shall be stabilized by:

- (1) Seeding and mulching, if during the growing season; or
- (2) Mulching with tackifiers on slopes less than 3:1 or netting and pinning on slopes steeper than 3:1 if not within the growing season;

(c) Upon completion of construction, all disturbed wetland areas shall be stabilized with wetland seed mix;

(d) Seed mix used within jurisdictional areas shall contain no invasive species seed;

(e) Mulch used within an area being restored shall be natural straw or equivalent non-toxic, non-seed-bearing organic material;

(f) Wetland soils from areas vegetated with invasive species shall not be used in areas being restored;

(g) If any temporary impact area that is stabilized with seeding or plantings does not have at least 75% successful establishment of wetlands vegetation after 2 growing seasons, the area shall be replanted or reseeded, as applicable, until the 75% level of success is achieved;

(h) Temporary impact areas restored by seeding or plantings shall:

- (1) Be deemed unsuccessful if the area is invaded by invasive species during the first full growing season following the completion of construction; and
- (2) Be remediated in accordance with a plan describing measures to be taken to eradicate the invasive species, approved by the department, during this same period;

(i) Unless otherwise authorized, any trees or shrubs cut in an area of authorized temporary impacts shall be cut at, or above, ground level with the shrub and tree roots left intact, to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area; and

Env-Wt 309.12 Rock Removal. In addition to all other applicable conditions in Env-Wt 500, the following conditions shall apply to removal of rocks from surface waters:

(a) Rocks removal shall be timed so as not to impact fish spawning; and

(b) If an applicant cannot relocate rocks in lakes or ponds to the approved location, the applicant shall request and receive authorization to use an alternative location or remove the rocks from the pond prior to doing so.

Env-Wt 309.13 Use of Heavy Equipment in Wetlands. In addition to all other applicable conditions in this part or in Env-Wt 500 or Env-Wt 600, the following conditions shall apply to the use of heavy equipment in wetlands:

(a) Heavy equipment shall not be operated in any jurisdictional area unless specifically authorized in the permit for the project;

(b) Mobile heavy equipment working in wetlands shall not be stored, maintained, or repaired in wetlands, except that repairing or refueling in a wetland is allowed if equipment cannot practicably be removed and secondary containment is provided;

(c) Where construction requires the operation of heavy equipment in wetlands, the equipment shall:

(1) Either have low ground pressure, namely less than 4 psi, or not be located directly on wetland soils and vegetation; or

(2) Be placed on timber or swamp mats that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation;

Env-Wt 309.14 Notice Required Prior to Initiating Construction. For minor and major projects, the permittee shall notify the department in writing at least one week prior to commencing any work under the permit.

Env-Wt 309.15 Compliance Assurance Requirements. The department shall require the submittal of plans and reports as necessary to document compliance with restoration of impacts or maintenance of wetlands functions and values, where necessary to ensure compliance with Env-Wt 306.

Env-Wt 309.16 Timing of Projects. The department shall place time limits on a project activity as a condition when the environmental impact of a project is reduced by doing so. For example, the department places conditions on dredging projects which require the project to be conducted either during drawdown or in a certain time period to account for spawning, fishery migration, and to decrease the degradation of the water quality.

PART Env-Wt 310 PERMIT ACCEPTANCE, RECORDATION, DURATION, EXTENSION, AND TRANSFER; POST-ISSUANCE REQUIREMENTS

Env-Wt 310.01 Acceptance of Permits.

- (a) Permits shall not be valid until signed by the permittee and the principal contractor who will build or install the project prior to start of construction; and
- (b) A copy of the signed permit shall be submitted to the department prior to start of construction to confirm acceptance of the permit and agreement to comply with all applicable conditions.

Env-Wt 310.02 Recordation of Certain Permits.

- (a) As required by RSA 482-A:3, VI:
 - (1) The permittee shall record, in the registry of deeds for the county or counties in which the real estate is located, each permit, including incorporated documents such as approved plans, granted under RSA 482-A for the installation, construction, or repair of a dock, docking facility, or marina;
 - (2) The permittee shall record, in the registry of deeds for the county or counties in which the real estate is located, each permit, including incorporated documents such as approved plans, granted under RSA 482-A for alteration of wetlands associated with a subdivision of 4 or more lots; and
 - (3) Such permit shall not be effective until so recorded.
- (b) The permittee shall provide the department with a copy of the permit stamped by the registry with the book and page and date of receipt.

Env-Wt 310.03 Permit Extensions.

- (a) A request for an extension of a permit as provided for in RSA 482-A:3, XIV-a(a) shall require the filing of a Request for Extension of Wetlands or Shoreland Permit, NHDES W-06-044, dated May 2020.
- (b) The request shall be received by the department prior to the expiration of the permit to be extended.
- (c) The request shall include the following:
 - (1) The length of the requested extension, not to exceed 5 years; and
 - (2) A statement, signed and certified in accordance with Env-Wt 306.06, that:
 - a. The permit for which extension is sought has not been revoked or suspended without reinstatement;
 - b. Extension of the permit would not violate a condition of law or rule;

- c. The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit; and
- d. The applicant proposes reasonable mitigation measures to protect the public waters of the state from deterioration during the period of extension.

(d) As specified in RSA 482-A:3, XIV-a(a), the department shall grant one extension of up to 5 additional years, provided:

- (1) The permittee has submitted the request as specified in (b) and (c), above; and
- (2) The mitigation measures proposed by the permittee are adequate to protect public waters from deterioration.

Env-Wt 310.04 Permit Transfers.

(a) For any project that has not been completed when ownership or legal authority to undertake the project is to be transferred, either the transferor or the transferee may initiate a transfer of the permit.

(b) To effect a transfer, the person initiating the transfer shall submit a completed Wetlands and Shoreland Request for Permit Transfer Form, NHDES-W-06-048, dated November 14, 2019.

(c) Subject to (d), below, the request submitted pursuant to (b), above, shall be signed and certified by the transferor and the transferee.

(d) If the transferor is no longer available to sign the request, the transferee shall submit a copy of the legal documentation that effected the transfer.

(e) The department shall transfer the permit within 5 working days after receipt of a request as specified in (b), above, unless:

- (1) An enforcement action is pending against the transferor or transferee, unless transferring the permit would facilitate a resolution of the action; or
- (2) The department has a reasonable basis to believe that grounds exist to suspend or revoke the permit due to non-compliance with the permit terms, unless transferring the permit would facilitate compliance.

(f) If the transfer is approved, the new permittee shall be advised of all conditions, limitations, and special considerations pertinent to the approved project.

(g) The department shall submit to the governor and executive council any request for the transfer of a permit for a major project that involves structures in great ponds or public-owned water bodies in the manner prescribed for permits under RSA 482-A:3, II.

Env-Wt 310.05 Permit Amendments.

(a) An applicant may request an amendment to an issued permit by filing:

- (1) An Amendment Request Form For Wetlands Application or Permit, NHDES W-06-081, dated May 2020, available at [Insert website];

- (2) any additional required filing fees for new impacts; and
- (3) updated versions of all plans and attachments required by Env-Wt 307.02.

(b) The applicant shall provide notice to each person to whom notice of the original application was sent prior to filing the amended application with the department.

(c) If the proposed change constitutes a “significant amendment” as provided in RSA 482-A:3, XIV(e), the change is not eligible for a permit amendment and the applicant shall file a new application.

Env-Wt 310.06 Notice of Completion and Certificate of Compliance Required.

(a) The permittee shall file a completed notice of completion and certificate of compliance with the department within 10 working days of completing the work authorized by the permit.

(b) The notice of completion and certificate of compliance shall:

- (1) Identify the permit number and the date of permit issuance;
- (2) Specify the date the work was completed;
- (3) Be signed and certified by the permittee as specified in Env-Wt 306.06; and
- (4) For projects other than forestry projects, provide photos showing resource impact areas upon completion.

(c) In addition to the certifications in Env-Wt 306.06, the permittee’s signature shall constitute certification that the project was completed in compliance with all conditions of the permit.

PART Env-Wt 311 PROCEDURES TO ADDRESS EMERGENCIES

Env-Wt 311.01 Definitions. For purposes of this part:

(a) “Public agency” means a federal agency, state agency, or municipal or county public works department that is responsible for maintaining public infrastructure.

(b) “Disaster” means a situation in which unanticipated occurrences result in widespread emergency conditions.

(c) “Disaster event” means the period of time extending from the onset of disaster conditions through the damage assessment period immediately following the abatement of those conditions.

(d) “Emergency” means a situation in which occurrences beyond the control of the requestor result in conditions that pose a threat:

- (1) To public safety or public health; or
- (2) Of significant damage to property.

Env-Wt 311.02 Actions During Emergencies.

(a) When an emergency results in an imminent threat that is likely to escalate if mitigating actions are not taken in the short-term, an emergency authorization allowing work in jurisdictional areas may be requested in accordance with Env-Wt 311.03.

(b) When an emergency results in an immediate and ongoing threat that requires mitigating actions to prevent loss of life, infrastructure, or property, such work as is necessary to mitigate the immediate and ongoing threat may be taken and reported after the fact in accordance with Env-Wt 311.05. Work in jurisdictional areas completed under this provision shall be subject to review for compliance with applicable design standards and may require additional corrective actions under an application for permit in accordance with Env-Wt 307.

(c) Activities in jurisdictional areas proposed and taken under (a) and (b), above, shall be limited to the minimum necessary to address the existing threat.

(d) Unnecessary activities in jurisdictional areas may be subject to compliance actions.

Env-Wt 311.03 Emergency Authorizations.

(a) A person or public agency may request a written authorization to conduct activities in jurisdictional areas prior to filing an application per Env-Wt 307 necessary to mitigate and imminent threat provided:

- (1) The request for the emergency authorization is made within 2 weeks of discovering the need for the emergency authorization;
- (2) The emergency work in jurisdictional areas shall be completed within 30 days, or 60 days for emergencies requiring approval from the department's waste management division; and
- (3) Work completed under an emergency authorization shall be limited the minimum necessary for the temporary stabilization of the site or mitigation of the threat posed with the exception that permanent repairs to public infrastructure may be made by a public agency pursuant to an emergency authorization under this section if:
 - a. Repairs to stream crossings meet all applicable requirements of Env-Wt 900;
 - b. No permanent impacts to jurisdictional areas occur outside of the footprint of the area already impacted by the infrastructure being repaired unless necessary to comply with Env-Wt 900, provided that channel blockages may be removed so long as the removal minimizes the disturbance of sediments; and
 - c. The public agency subsequently obtains the appropriate permit in accordance with Env-Wt 304 through Env-Wt 307.

(b) The requestor or their agent shall request an emergency authorization by providing the following information to the department by completing a Wetlands Emergency Authorization Request Form, NHDES-W-06-085, dated August 2021 and providing the following:

- (1) A description of the cause of the emergency authorization and the threat to be addressed;
- (2) The location of the work to be completed;
- (3) A description of the work to be performed including list of structures proposed to be replaced, repaired, or stabilized;
- (4) A dimensioned or scaled plan or sketch of the work to be completed within jurisdictional areas;
- (5) Projected start and completion dates for the work;
- (6) Photographs of the existing conditions; and a dimensioned sketch of the work to be completed.

(c) Where the department finds the request meets (a) and (b) above, the department shall issue a written emergency authorization, no later than 3 working days after receipt of the written request.

(d) Where the department finds the request does not meet (a) or (b) above, the department shall notify the requestor in writing that the requested emergency authorization shall not be granted. Such notification shall identify the requirements of (a) or (b) above that were not met.

(e) If additional work is necessary to permanently stabilize the site or meet applicable design standards, it shall be completed only after the appropriate permit has been applied for and obtained in accordance with Env-Wt 304 through Env-Wt 307.

Env-Wt 311.04 Emergency Authorization Tracking, Follow-Up Work.

(a) The department shall create a record of each emergency authorization that includes the completed Wetlands Emergency Authorization Request Form, NHDES-W-06-085 and all required attachments.

(b) Where it is necessary to perform additional repair or stabilization work beyond the emergency abatement or to restore jurisdictional areas impacted by the emergency abatement work, the applicant shall submit an application in accordance with Env-Wt 304 through Env-Wt 307, as applicable, for the required additional impacts.

(c) Where the department determines that additional work is necessary to meet applicable design standards or restore unnecessary impacts to jurisdictional areas, the applicant shall submit an application in accordance with Env-Wt 304 through Env-Wt 307, for the corrective actions or restoration, as applicable.

Env-Wt 311.05 Work During Emergencies Without Prior Authorization.

(a) Subject to (b) and (c) below, work without prior approval from the department shall be allowed during a disaster event provided the work is strictly limited to that work necessary to mitigate an immediate threat to property, public health, or safety.

(b) If work is done pursuant to (a), above, on private property, the owner of the property where such work occurred, or the property owner's agent, shall file a Disaster Event After-Action Report, NHDES-W-0X-0XX, with the department as soon as practicable but no later than 30 days after the disaster event. The report shall include:

- (1) The name of the property owner with their daytime telephone number including area code, and, if available, an e-mail address through which they may be contacted;
- (2) The name and daytime telephone number including area code of the individual reporting the information, and, if available, an e-mail address for that individual;
- (3) The location of the work which occurred identified by a street address, coordinates, or both;
- (4) A description the work completed during the disaster event and the jurisdictional areas impacted; and
- (5) Photographs of the site showing the work completed to mitigate the immediate threat and, when possible the damage prior to the work documenting the threat which existed.

(c) If work is done pursuant to (a), above, on public infrastructure, the public agency file a Disaster Event After-Action Report, NHDES-W-0X-0XX, with the department as soon as practicable but no later than 30 days after the disaster event. The report shall include:

- (1) The name of the public agency that conducted the work with the name of individual at that agency designated as a point of contact, their daytime telephone number including area code, and an e-mail address through which they may be contacted;
- (2) The location of the work which occurred identified by a street address, coordinates, or both;
- (3) A description the work completed during the disaster event and the jurisdictional areas impacted; and
- (4) Photographs of the site showing the work completed to mitigate the immediate threat and, when possible, the damage prior to the work documenting the threat which existed.

Env-Wt 311.06 Processing of Disaster Event After-Action Reports; Additional Permitting Required.

- (a) The department shall create a record of each Disaster After-Action Report received.
- (b) Where the department determines that the work conducted during a disaster event was either not within jurisdictional areas or consisted of activities not regulated under RSA 482-A, the department shall notify the individual that filed the report that the work completed was not regulated under RSA 482-A and no further action is required.
- (c) Where the department determines that the work conducted during a disaster event consisted of regulated activities within jurisdictional areas and qualifies under Env Wt 311.05 (a) above, the department

shall notify the individual that filed the report that the work completed complied with the requirements RSA 482-A and either that:

- (1) No further permitting is required where the site is stable and design requirements have been met; or
- (2) Additional permitting is required and identifies the type of application to be filed, area of insufficient stabilization to be addressed, or the design criteria that have not been met.

(d) Where the department determines that the work conducted during a disaster event consisted of regulated activities within jurisdictional areas but failed to qualify under Env Wt 311.05 (a) above, the department shall notify the individual that filed the report that the work completed failed to comply with RSA 482-A and shall direct them to either:

- (1) File a Standard Dredge and Fill Application to retain the reported impacts; or
- (2) Submit restoration plans with a construction sequence, and schedule for the completion of work as necessary to comply with the requirements of RSA 482-A.

Env-Wt 311.07 Authorizations under Federal Law.

(a) Nothing in this part shall relieve any person from the obligation to comply with federal law relative to work done on an emergency basis.

(b) The US ACE might require that a separate federal permit be obtained for:

- (1) Work that exceeds in-kind maintenance or repairs; and
- (2) Activities that exceed those classified as minimum impact.

PART Env-Wt 312 PERMIT SUSPENSION, REVOCATION, OR MODIFICATION

Env-Wt 312.01 Purpose. The purpose of this part is to establish the criteria and procedures for suspending, revoking, or modifying an approval issued under RSA 482-A or the wetlands rules.

Env-Wt 312.02 Definition. For purposes of this part, “approval” means an SPN, EXP, standard permit, or waiver, as applicable to the specific situation.

Env-Wt 312.03 Modification, Suspension, or Revocation of Approvals.

(a) Before initiating a proceeding to modify, suspend, or revoke an approval, the department shall:

- (1) Possess credible information that supports a conclusion that the approval was issued based on false, incomplete, or misleading information;
- (2) Attempt to obtain voluntary compliance; and
- (3) Conclude that the attempts to obtain compliance by other means have not been successful, subject to (b), below.

(b) If the work being done poses an immediate and substantial threat to the environment or to public health or safety, the department shall not be required to attempt to obtain compliance by other means.

(c) To initiate the proceeding, the department shall notify the owner of the property on which the work is occurring and the person(s) doing the work, if known to the department, in writing of:

- (1) The intention to suspend or revoke the approval, as applicable;
- (2) The facts on which the proposed action is based; and
- (3) The deadline for requesting a hearing to show cause why the proposed action should not be taken.

(d) If a hearing is requested, the hearing shall be conducted in accordance with the provisions of RSA 541-A and Env-C 200 that apply to adjudicative proceedings.

(e) After the hearing, if one is held, or after the deadline for requesting a hearing if a request is not received, the department shall:

- (1) Revoke the approval, if the department determines that:
 - a. The approval would not have been issued if the information submitted had been true, complete, and not misleading; and
 - b. The project for which the permit was obtained cannot be made to conform to applicable requirements; or
- (2) Suspend the permit, if the department determines that:
 - a. The approval would have been issued if the information submitted had been true, complete, and not misleading; and
 - b. The project for which the approval was obtained can be made to conform to applicable requirements.

(f) If an approval is suspended pursuant to (e)(2), above, the department shall reinstate the approval upon receiving proof from the respondent that the project meets applicable requirements.

Env-Wt 312.04 Modification of Approvals. The department shall issue a modified permit if it determines, as a result of a hearing conducted pursuant to Env-Wt 312.03, that:

(a) A modification of the approval is necessary to bring the project into compliance with applicable requirements; and

(b) The modified approval meets all applicable criteria for issuance and does not constitute a significant amendment as defined in RSA 482-A:3, XIV(e).

Env-Wt 312.05 Notice of Decisions; Appeals.

(a) The department shall notify the respondent in writing of its decision. If the decision is to suspend, revoke, or modify the approval, the department shall specify the reason(s) for the decision.

(b) Any person aggrieved by the decision who wishes to appeal the decision shall file an appeal with the wetlands council as specified in Env-Wt 203.