

Readopt with amendment Env-Wt 102.33, eff. 12-15-19 (Document #12801), to read as follows:

Env-Wt 102.33 “Canopy” means a seasonal structure having a roof that is not designed or constructed to withstand an average snow load for the location in which it is installed, ~~and that does not have side walls,~~ *and* which is erected to shelter watercraft during the boating season.

Readopt with amendment Env-Wt 513.24, effective 12-15-19 (Document #12805), as amended effective 10-13-23 (Document #13776), to read as follows:

Env-Wt 513.24 Docking Structure Construction, Installation, or Modification Project Classifications.

(a) The construction, installation, or modification of a docking structure, including accessory structures, shall be a minimum impact project only if:

(1) The project meets all of the following criteria:

- a. The proposed docking structure, including accessory structures, is seasonal and meets all applicable criteria specified in Env-Wt 513.03, Env-Wt 513.10 through Env-Wt 513.12, Env-Wt 513.14, and Env-Wt 513.22;
- b. No more than 2 slips, including previously existing slips, are proposed;
- c. Any anchoring pad is designed and installed as specified in Env-Wt 513.13;
- d. Any watercraft lift is designed and installed as specified in Env-Wt 513.05 and Env-Wt 513.21; and
- e. Any proposed canopy meets the criteria of Env-Wt 513.26 (a); or

(2) The project is limited to the installation of seasonal watercraft lifts within legally existing boat slips.

(b) The construction, installation, or modification of a docking structure, including accessory structures, shall be a minor project if the project does not meet the criteria specified in (a), above, for minimum impact projects and:

(1) No more than 4 boat slips, including previously existing boat slips, are proposed; ~~and~~

(2) The proposed docking structure, including accessory structures, will use no more than 100 feet of waterfront; ~~and-~~

(3) The structure is not regulated under Env-Wt 515.

(c) The construction, installation, or modification of a docking structure, including accessory structures, shall be a major project if:

(1) The project does not meet the criteria for minimum impact projects specified in (a), above, or for minor projects specified in (b), above;

(2) The docking structure, including accessory structures, is a major docking system; or

- (3) The docking structure, including accessory structures, is proposed to be adjacent to or attached to a breakwater.

Readopt with amendment Env-Wt 515.01, effective 12-15-19 (Document #12805), as amended effective 10-13-23 (Document #13776), to read as follows:

PART Env-Wt 515 ~~DUG-IN BASINS AND BOATHOUSES, AND~~ DUG-IN BASINS, *AND STRUCTURES REGULATED UNDER RSA 482-A:26*

Env-Wt 515.01 Applicability.

- (a) Subject to (b), below, the rules in this part shall apply to any person who wishes to:

(1) Construct a boathouse over an existing dug-in basin or over submerged public lands;

(2) Modify, repair, or replace a dug-in basin or boathouse in, over, or in the bank of, non-tidal waters; or

(3) Modify, repair, or replace including any structures regulated under RSA 482-A:26.

- (b) The rules in this part shall not apply to maintenance and repairs undertaken pursuant to thea statutory exemption as ~~described~~*clarified* in Env-Wt 308.02.

Readopt with amendment Env-Wt 515.02, effective 12-15-19 (Document #12805), as amended effective 10-23-20 (Document #13124), to read as follows:

Env-Wt 515.02 Definitions.

(a) “Dug-in basin” means an area of privately-owned land excavated to allow inundation by adjacent public waters to access a single public water at a single location along that water’s shoreline.

~~(b) “Existing dug in basin” means a dug in basin that was legally constructed prior to December 15, 2019 or for which a permit was issued prior to December 15, 2019.~~

~~—(c) “New dug in basin” means a dug in basin for which a permit was not issued as of December 15, 2019.~~

Readopt with amendment Env-Wt 515.03, Env-Wt 515.04, Env-Wt 515.05, Env-Wt 515.06, and Env-Wt 515.07, effective 12-15-19 (Document #12805), as amended effective 10-13-23 (Document #13776), to read as follows:

Env-Wt 515.03 Approval Criteria for ~~Dug In Basins and Boathouses,~~ *Dug-In Basins,* and Structures Regulated Under RSA 482-A:26.

(a) The department shall not approve any new dug-in basins.

(b) In addition to meeting all applicable criteria in Env-Wt 300 and Env-Wt 513, the department shall not approve a new dug in basin, boathouse or a structure regulated under RSA 482-A:26 unless the applicant demonstrates that:

(a) The boathouse will not be located over public submerged lands;

(b)(1) Alternative docking and storage solutions with less environmental impact are not

practicable;

~~(e)~~(2) All design and construction criteria in this part are met;

~~(d)~~(3) The proposed ~~construction~~***project will shall:***

~~(1)~~a. Not adversely impact the stability of the shoreline;

~~(2)~~b. Be sequenced and use such techniques so as to prevent water quality degradation;

~~(3)~~c. Be performed in such a manner so as to not cause any sedimentation along the shoreline or other adverse impact to the surface water, including existing movements of currents;

~~(4)~~d. Not impact wetlands, watercourses, or other jurisdictional areas exclusive of ***the banks of lakes or ponds;***

~~(5)~~e. Not result in any violations of applicable requirements in RSA 483-B or Env-Wq 1400;

~~(6)~~f. Be the least intrusive upon the public trust necessary to provide safe access to the surface water; ***and***

~~(7)~~g. ~~Be a single-story structure with a ridgeline height not to exceed 20 feet above the normal high water line; and~~

~~(8)~~ ~~Be designed so that no dug-in basin shall exceed 36 feet in width; and~~***Not require the construction of a new dug-in basin;***

(ec) No ~~construction, modification, or maintenance~~ activity that is contrary to RSA 482-A:26 shall be conducted.

Env-Wt 515.04 ~~Application Requirements for Boathouses Over Dug-In Basins~~. In addition to meeting the application requirements of Env-Wt 513, the project-specific information required for all ***activities covered by this Part*** ~~boathouses over a dug-in basin~~ shall be as follows:

(a) ***Existing and proposed*** floor plans showing:

(1) The footprints and dimensions of all dock and walkway surfaces;

(2) The location and dimensions of all boat slip areas; and

(3) The location and designated use of all interior spaces;

(b) A plan showing the location and dimensions of the foundation, footings, and all support structures; and

(c) A profile plan ~~of the proposed boathouse~~ showing the dimensions and elevations of the foundation, footings, all support structures, and the proposed roof height ***relative to the normal high water line.***

Env-Wt 515.05 Construction, ***Modification, Repair,*** and Maintenance Requirements for ~~Dug-In Basins~~ and Boathouses, ***Dug-In Basins,*** and Structures Regulated Under RSA 482-A:26.

(a) All structures shall be constructed as shown in the approved plans and specifications.

(b) The sides of the dug-in basin shall be stabilized prior to the inundation of the basin.

(c) ~~Construction~~**Project** impacts shall be limited to areas within 15 feet of the proposed structure's footprint.

(d) All disturbed areas shall be revegetated with native non-invasive species in accordance with Env-Wq 1412.05 relative to a planting matrix for restoring the waterfront buffer.

Env-Wt 515.06 ~~Dug-In Basins, and Boathouses,~~ and Structures Regulated Under RSA 482-A:26 Construction or Modification Project Classification.

(a) The construction or modification of a boathouse over an ~~an~~ **pre-existing** dug-in basin shall be a minimum impact project only if all of the following criteria are met:

(1) The construction or modification is in accordance with Env-Wt 515.05;

(2) **For a modification project,** ~~The boathouse and any associated docking structures are~~ existing legal structures;

(3) No portion of ~~the an~~ existing boathouse was made suitable for use as a dwelling contrary to RSA 482-A:26 prior to or subsequent to the effective date of the original prohibition, May 28, 1969;

(4) No additional boat slips will be provided as a result of the project; and

(5) **There is no dredging associated with the project** ~~will be limited to areas within the dug-in basin.~~

(b) The modification of a boathouse over public submerged lands shall be a minimum impact project only if all of the following criteria are met:

(1) There is no increase in the exterior dimensions of the boathouse;

(2) The boathouse and any associated docking structures are existing legal structures;

(3) No portion of the existing boathouse was made suitable for use as a dwelling contrary to RSA 482-A:26 prior to or subsequent to the effective date of the original prohibition, May 28, 1969;

(4) No additional boat slips will be created as a result of the project; and

(5) The boathouse modification does not include dredging.

(c) The construction or modification of a boathouse over an ~~an~~ **pre-existing** dug-in basin shall be a minor impact project if all of the criteria of (a), above, are met with either of the following exceptions:

(1) Additional boat slips will be provided as a result of the project but the total number of existing and proposed slips on the property will not exceed 4; or

(2) Less than 20 CY of material will be dredged ~~from areas outside the dug-in basin.~~

~~(d) The modification of a boathouse over public submerged lands shall be a minor impact project if all of the criteria of (b), above, are met and less than 20 CY of material will be dredged.~~

~~(e)~~ The construction or modification of a dug-in basin or boathouse that does not meet any of the classification criteria of (a) through ~~(d)~~, above, shall be a major project.

Env-Wt 515.07 ~~Dug-In Basins and Boathouses, ***Dug-In Basins***, and Structures Regulated Under RSA 482-A:26 Maintenance and Repair Project Classification.~~ ~~The maintenance and repair of any boathouse or dug-in basin shall be a minimum impact project only if all of the following criteria are met:~~

(a) ***The maintenance and repair of a boathouse or dug-in basin shall be a minimum impact project only if all of the following criteria are met:***

- (1) There is no change in the height, footprint, location, or configuration of the existing structures;
- (b2) The boathouse and any associated docking structures are existing legal structures;
- (e3) Where the structure is subject to RSA 482-A:26, the requirements and limitations of RSA 482-A:26 are fully met; and
- (d4) No material will be dredged from areas that were flowed over by public waters ~~prior to the dug-in basin being constructed.~~

(b) ***The maintenance and repair of a boathouse or dug-in basin shall be a minor impact project only if all of the following criteria are met:***

- (1) ***There is no increase in the height or area of, or number of slips provided by, the existing structures;***
- (2) ***The boathouse and any associated docking structures are existing legal structures;***
- (3) ***Where the structure is subject to RSA 482-A:26, the requirements and limitations of RSA 482-A:26 are fully met; and***
- (4) ***Not more than 20 CY of material will be dredged from areas that were flowed over by public waters.***

(c) ***The maintenance and repair of any boathouse or dug-in basin that fails to meet the criteria of (a) or (b) above shall be a major impact project.***

Readopt with amendment Env-Wt 523.02, effective 12-15-19 (Document #12805), to read as follows:

Env-Wt 523.02 Criteria for Approval of Dredging Projects. In addition to meeting the requirements established in Env-Wt 300, the department shall approve a dredging project only if the dredging project is:

- (a) Necessary to maintain an existing navigable passageway, fire pond, or infrastructure facility;
- (b) Part of a previously-constructed maintenance dredge project that is not abandoned or an active man-made pond; or
- (c) Part of an approved project for ***the maintenance of a pre-existing*** dug-in boathouse.