

13946, (eff 4-27-24)

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

Env-Wt 701.01 Purpose. The purpose of this chapter is to establish the criteria and methods to be used to designate, map, and document prime wetlands, and to amend filed maps and designations of prime wetlands per RSA 482-A.

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

- (a) “Local authority” means the local body having authority to designate, map, and document prime wetlands pursuant to RSA 482-A:15, I(a), reprinted in Appendix D;
- (b) “Prime wetlands/buffer” means prime wetlands as defined in RSA 482-A:15, I-a and Env-Wt 100, or a duly-established 100-foot buffer as defined in Env-Wt 100, or both, as applicable in the context used; and
- (c) “Significant net loss” means a loss that is unlikely to be reversed through natural processes within one year.

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

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

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

Env-Wt 703.04 Acceptance by Department.

- (a) The department shall review the map(s) and report submitted by a local authority within 30 days of receipt to determine whether they meet the requirements of Env-Wt 703.02 and Env-Wt 703.03, respectively.

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(b) If the submission is incomplete or otherwise fails to comply with Env-Wt 703.02 and Env-Wt 703.03, the department shall notify the local authority of what is needed for the submission to meet the applicable requirements.

(c) A local authority that receives a notice from the department pursuant to (b), above, may resubmit the maps and report only if the deficiencies are corrected.

(d) Acceptance of maps and reports by the department shall not constitute department approval of the specific information contained therein.

Env-Wt 703.05 Discrepancies Between Mapped Prime Wetlands Boundaries and On-Site Delineations. When processing permit applications pursuant to RSA 482-A involving a property that contains designated prime wetlands, the department shall use on-site wetlands delineations rather than mapped prime wetland boundaries.

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

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

(b) As revised pursuant to Env-Wt 703.07.

Adopt Env-Wt 703.07 to read as follows:

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

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

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

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

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

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

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Env-Wt 704.03 Compensatory Mitigation.

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

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

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

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

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

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

Env-Wt 704.04 Public Hearing. A public, non-adjudicative hearing shall be held by the department in accordance with the provisions of Env-C 200 prior to approving an application for any project in a prime wetlands/buffer if required by Env-Wt 704.03(d) or RSA 482-A:8, unless the project is exempt pursuant to RSA 482-A:11, IV(d).

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

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

(a) The applicant for a waiver under Env-Wt 706.01(a) shall submit a request for a waiver to the department at the same time the applicant submits the notification for an SPN or PBN or an application for an EXP or standard permit, as applicable, by submitting a completed "Prime Wetlands Waiver Forestry & Other Activities", NHDES-W-06-088, dated April 2024.

(b) The waiver request shall include the following:

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

- a. A sketch of the property depicting the best approximate location of each prime wetlands/buffer in which work is proposed and the location of proposed work, including access roads;
- b. A written description of the work to be performed and a copy of the notice of intent to cut, if applicable; and
- c. A list of the prime wetlands values as identified by the municipality in designating each prime wetlands under RSA 482-A:15;

(2) Such information as is required to demonstrate that there will be no significant net loss of wetlands values identified by the municipality when the prime wetlands/buffer was designated;

(3) As authorized by RSA 482-A:11, IV(b)(4)(B), a filing fee of:

- a. \$200 for projects that would otherwise qualify for a minimum impact forestry notice if it

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was not located in or near a designated prime wetlands/buffer;

b. \$500 for minor impact projects that do not qualify under a., above, and are not major projects; and

c. \$1,250 for major impact projects classified regardless of prime wetlands designation.

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

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

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

APPENDIX A

Rule Section(s)	State Statute(s) Implemented
Env-Wt 701.01 Env-Wt 701.02	RSA 482-A:1; RSA 482-A:3; RSA 482-A:11; RSA 482-A:15
Env-Wt 703.02 Env-Wt 703.04 Env-Wt 703.05 Env-Wt 703.06 Env-Wt 703.07 (new)	RSA 482-A:15
Env-Wt 704.03 Env-Wt 704.04 Env-Wt 706.02	RSA 482-A:11

APPENDIX D: OTHER STATUTORY PROVISIONS

482-A:15 Local Option; Prime Wetlands. –

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