

*Amend Env-Wt 303.02 intro, eff. 4-25-05 (doc. #8341), to read as follows:*

Env-Wt 303.02 Major Projects. A major project shall be any project that meets any one or more of the following criteria:

*Amend Env-Wt 303.02, eff. 4-25-05 (doc. #8341), by inserting paragraph (p) to read as follows:*

(p) Any project that includes any stream crossing which meets the criteria for a tier 3 stream crossing as specified in Env-Wt 904.04.

*Amend Env-Wt 303.03 intro, eff. 4-25-05 (doc. #8341), to read as follows:*

Env-Wt 303.03 Minor Projects. A minor project shall be any project that meets any of the following criteria and does not meet any of the criteria specified in Env-Wt 303.02:

*Amend Env-Wt 303.03, eff. 4-25-05 (doc. #8341), by inserting paragraphs (n) and (o) to read as follows:*

(n) Any project located within the right-of-way of a public road that meets the criteria of Env-Wt 303.04(j) except that the project includes one or more new tier one stream crossings;

(o) Any project that includes any stream crossing which meets the criteria for a tier 2 stream crossing as specified in Env-Wt 904.03.

*Amend Env-Wt 303.04 intro and (g) through (j), eff. 4-25-05 (doc. #8341), to read as follows:*

Env-Wt 303.04 Minimum Impact Projects. A minimum impact project shall be any project that meets any of the following criteria and does not meet any of the criteria specified in Env-Wt 303.02 or Env-Wt 303.03:

...

(g) Installation of a culvert, pole, or rock ford and associated fill to permit vehicular access to a piece of property for forest management provided:

- (1) Access shall not be used for subdivision, development, or other land conversion to non-forestry uses;
- (2) Roadway width at the crossing shall not exceed 20 feet;
- (3) Fill width, measured at toe of roadway side slopes, shall be minimized, and shall not exceed 50 feet;
- (4) Fill for any single wetland crossing shall not exceed 50 feet in length, measured along the proposed access way; and
- (5) Crossings shall be limited to those that:
  - a. Do not impact bogs, marshes, sand dunes, tidal wetlands, or undisturbed tidal buffer zone;
  - b. Are not located in or ~~adjacent to~~ ***within 100 feet of*** prime wetlands;
  - c. Do not meet the criteria of Env-Wt 303.02(k);
  - d. If crossing a stream, cross channels less than ~~5-8~~ feet wide; and
  - e. If crossing a swamp or wet meadow, cross those that have no standing water for 10 months of the year;

(h) Any project that includes any new stream crossing which meets the criteria for a tier one stream crossing as specified in Env-Wt 904.02;

(i) Construction of a temporary crossing of a brook, stream, or river for the transportation of forest products or the construction or maintenance of utility pipes or lines, provided the crossing:

- (1) Is not in or ~~adjacent to~~ ***within 100 feet of*** prime wetlands;
- (2) Is not within 100 feet of the highest observable tide line;
- (3) Does not meet the criteria of Env-Wt 303.02(k); and
- (4) Does not access property that has been converted to non-forestry uses;

(j) Any project located within the right-of-way of a public road, provided the project:

- (1) Does not impact bogs, marshes, sand dunes, tidal wetlands, or undisturbed tidal buffer zone;
- (2) Is not in or ~~adjacent to~~ ***within 100 feet of*** prime wetlands;
- (3) Does not meet the criteria of Env-Wt 303.02(k); and
- (4) Does not exceed any of the following criteria:
  - a. Drainage structures shall not exceed 3,000 square feet of dredge or fill in area;
  - b. Replacement culverts shall not cross streams ~~5-8~~ feet wide or greater, measured from base of bank slope to base of bank slope;
  - c. No new stream crossings are included in the project;
  - ed.*** Swamps or wet meadows crossed shall have no standing water for 10 months of the year and shall not exceed 50 feet across, measured along the roadway, and the fill width measured at the base of the roadway side slopes shall not exceed 50 feet; and
  - de.*** Shoulder widening shall not exceed 3 cubic yards of fill per linear foot in wetlands that have no standing water for 10 months of the year, and shall not exceed 10 feet of additional encroachment measured from base of slope;

*Amend Env-Wt 303.04(n), eff. 4-25-05 (doc. #8341), to read as follows:*

(n) Any project that alters the course of or disturbs less than 50 linear feet, measured along the thread of the channel, of an intermittent nontidal stream channel or its banks provided:

- (1) Construction is performed during periods of non-flow; and
- (2) No new stream crossings are included in the project;

*Amend Env-Wt 303.04(x) through (z), eff. 4-25-05 (doc. #8341), to read as follows:*

(x) Maintenance, repair, or replacement of a nondocking structure such as a culvert, headwall, bridge, dam, residential utility line, or rip-rap slope of less than 50 linear feet, provided:

- (1) No change in location, configuration, construction type, or dimensions is proposed;

- (2) No new stream crossings are included in the project; and
- (3) The applicant certifies in writing that the structure, in its current location, configuration, construction type and dimensions:
  - a. Was previously permitted by the department and has not been abandoned; or
  - b. Would be considered grandfathered under Env-Wt 101.43 and has not been abandoned;
- (y) Construction of trails in accordance with the “Best Management Practices for Erosion Control During Trail Maintenance and Construction”, N.H. department of resources and economic development, copyright 1994, updated 2004, provided there is less than 3,000 square feet of impact to wetlands per crossing and any stream crossings cross channels less than ~~5-8~~ feet wide;
- (z) Installation of a culvert or bridge and associated fill to permit vehicular access to a piece of property for a single family building lot or for noncommercial recreational uses, provided:
  - (1) The total jurisdictional impact shall not exceed 3,000 square feet;
  - (2) The roadway width at the crossing shall not exceed 20 feet;
  - (3) The fill width, measured at toe of roadway side slopes, shall be minimized, for example, by steepening the sideslopes and constructing walls, and not exceed 50 feet;
  - (4) Fill for any single wetland crossing shall not exceed 60 feet in length, measured along the centerline of the proposed access way; and
  - (5) Such projects shall be limited to crossings that:
    - a. Do not impact bogs, marshes, sand dunes, tidal wetlands, cedar swamps, or undisturbed tidal buffer zone;
    - b. Are not located in or ~~adjacent to~~ ***within 100 feet of*** prime wetlands as defined in RSA 482-A:15, I;
    - c. Do not meet the criteria of Env-Wt 303.02(k);
    - d. If crossing a stream, cross channels less than ~~5-8~~ feet wide; and
    - e. If crossing a swamps or wet meadows, cross those that have no standing water for 10 months of the year;

*Amend Env-Wt 303.04(ae), eff. 4-25-05 (doc. #8341), to read as follows:*

- (ae) Installation of residential utility lines and associated temporary impacts to bring utility services to a single family building lot, provided:
  - (1) The total jurisdictional impact shall not exceed 3,000 square feet;
  - (2) The impact width at the crossing shall not exceed 20 feet;
  - (3) Such projects shall be limited to those that:
    - a. Do not impact bogs, marshes, sand dunes, tidal wetlands, cedar swamps, or undisturbed tidal buffer zone;
    - b. Are not located in or ~~adjacent to~~ ***within 100 feet of*** prime wetlands;

- c. Do not meet the criteria of Env-Wt 303.02(k); and
  - d. If crossing a stream, cross channels less than ~~5-8~~ feet wide; and
  - e. If crossing a swamps or wet meadows, cross those that have no standing water for 10 months of the year; and
- (4) All disturbed areas are regarded to original contours and stabilized within 72 hours following completion of work;

*Amend Env-Wt 303.04, eff. 4-25-05 (doc. #8341), by inserting paragraph (ag) to read as follows:*

(ag) Replacement of an existing stream crossing to access a single family residence or building lot, or to access other property for noncommercial recreational uses, where the contributing watershed is 20 acres or less.

*Amend Env-Wt 303.05 intro, (a) intro, and (f), eff. 4-25-05 (doc. #8341), amd 2-23-08 (doc. #9095), to read as follows:*

Env-Wt 303.05 Projects in Jurisdiction That Do Not Require a Permit. The following activities shall not require a permit or, unless explicitly stated, a notification to the department:

(a) Repair or reconstruction of an existing legal structure, other than a stream crossing, that meets the following conditions:

{no change to (1)-(4)}

...

(f) Installation of a stream crossing in an ephemeral stream;

...

*Readopt with amendment Env-Wt 304.07, eff. 4-25-05 (doc. #8341), to read as follows:*

Env-Wt 304.07 Embankments Adjacent to Culverts and Other Stream Crossings. Embankments adjacent to culverts and other stream crossings shall have appropriate slope protection, such as vegetated stabilization, rip-rap, or concrete or stone headwalls, where flowing water conditions exist.

*Amend Env-Wt 501.02, eff. 6-20-07 (doc. #8911), by inserting paragraph (e) to read as follows:*

(e) In addition to the information required in (a), above, for all stream crossing projects the applicant shall supply the information specified in Env-Wt 903.03.

*Amend Env-Wt 501.04(b), eff. 4-25-05 (doc. #8341), to read as follows:*

(b) Any minimum impact project that meets the criteria specified in Env-Wt 303.04(a) through (g) or (i) through (ag) shall be subject to expedited review.

*Amend Env-Wt 506.01(a)(8), eff. 4-25-05 (doc. #8341), to read as follows:*

(8) The replacement of a culvert or bridge and associated fill to permit vehicular access to a ~~a~~ **one** single family residence or building lot or to ~~another~~ **another** property for noncommercial recreational uses, upgraded if necessary to meet the general design considerations specified in Env-Wt 904.01, provided the crossing is located on a watercourse where:

- a. The contributing watershed is less than or equal to 20 acres; and
- b. The criteria in Env-Wt 303.04(z) are met;

*Amend Env-Wt 506.01, eff. 4-25-05 (doc. #8341), by inserting paragraph (c) to read as follows:*

- (c) Subdivisions shall not qualify for the permit by notification process.

*Amend Env-Wt 506.04(c), eff. 4-25-05 (doc. #8341), to read as follows:*

(c) For projects classified under Env-Wt 303.04(z) and Env-Wt 303.04(ae) involving stream impacts, the proposed project shall only impact a watercourse with a contributing watershed of 20 acres or less.

*Readopt with amendment Env-Wt 801.01, eff. 6-20-07 (doc. #8911), to read as follows:*

Env-Wt 801.01 Purpose. The purpose of this chapter is to establish the criteria and procedures for submission and review of compensatory mitigation proposals that compensate for the loss of wetland functions and values resulting from permitted permanent impacts to jurisdictional areas, including permanent impacts to stream banks and stream channels.

*Readopt with amendment Env-Wt 801.03, eff. 6-20-07 (doc. #8911), to read as follows:*

Env-Wt 801.03 Type of Compensatory Mitigation Required.

(a) The procedure for submittal and review of compensatory mitigation proposals shall be as specified in (b) and (c), below.

(b) The applicant shall first consider permittee-responsible mitigation opportunities and, if permittee-responsible mitigation is feasible, the applicant shall propose such mitigation.

(c) If permittee-responsible mitigation is not feasible for permanent wetlands impacts, the applicant shall provide:

- (1) The explanation and documentation relative to preservation of upland buffer specified in Env-Wt 803.07(b);
- (2) The explanation and documentation relative to restoration and creation of wetlands on the property specified in Env-Wt 803.07(c); and
- (3) Payment of an in-lieu fee that can be pooled with similar payments from other projects as contemplated by RSA 482-A:28.

(d) If permittee-responsible mitigation is not feasible for permanent stream crossing impacts, the applicant shall provide:

- (1) An explanation and documentation relative to stream restoration and enhancement activities on the property and within the Hydrologic Unit Code 12 (HUC-12) watershed, as developed by the USGS, as specified in Env-Wt 803.07(c);
- (2) An explanation and documentation relative to preservation of uplands specified in Env-Wt 803.07(b);
- (3) Payment of an in-lieu fee that can be pooled with similar payments from other projects as contemplated by RSA 482-A:28.

*Amend the introductory language of Env-Wt 803.01(a), eff. 6-20-07 (doc. #8911), to read as follows:*

- (a) For a wetland impact project, a plan and a report, prepared by a qualified professional, that:

*Amend Env-Wt 803.01, eff. 6-20-07 (doc. #8911), by inserting paragraph (b) and renumbering paragraph (b) as paragraph (c), so that new paragraph (b) reads as follows:*

- (b) For a stream impact project, a plan and a report, prepared by a qualified professional, that:
  - (1) Identifies the size and type(s) of jurisdictional area(s) to be impacted;
  - (2) Identifies the location of the mitigation site with an explanation of how the site meets the goals stated in Env-Wt 803.03;
  - (3) Explains how the compensatory mitigation proposal adds value to the aquatic resource;
  - (4) Includes a detailed account of the compensatory mitigation recommendations provided by the conservation commission or governing body from the town in which the project is located, if any; and
  - (5) For a project having impacts within a designated river corridor as defined by RSA 483:4, XVIII, includes a detailed account of the recommendations provided by the local river management advisory committee established pursuant to RSA 483:8-a; and

*Amend the introductory language of Env-Wt 803.01(b), eff. 6-20-07 (doc. #8911), renumbered as paragraph (c) due to the insertion of new paragraph (b), so that the introductory language of Env-Wt 803.01(c) reads as follows:*

(c) For a wetland impact project or a stream impact project, a functional assessment, prepared by a qualified professional, of the impacted jurisdictional area(s) and proposed mitigation site(s) using:

*Readopt with amendment Env-Wt 803.03, eff. 6-20-07 (doc. #8911), to read as follows:*

Env-Wt 803.03 Compensatory Mitigation Site Location.

- (a) For a project for which permittee-responsible mitigation is proposed, the applicant shall give preference to any mitigation site that:
  - (1) Is located in the same watershed, as defined in Env-Wt 101, as the impacted jurisdictional area(s); and
  - (2) Abuts land that already is subject to a conservation interest.
- (b) If a stream crossing project is not a replacement for an existing tier 3 stream crossing, the applicant may propose, as mitigation, upgrading a similar tier 2 or tier 3 stream crossing within the same watercourse or in the same town as the project.

*Readopt with amendment Env-Wt 803.05, eff. 6-20-07 (doc. #8911), to read as follows:*

Env-Wt 803.05 Compensatory Mitigation Ratios.

- (a) For permittee-responsible mitigation other than for stream impacts, the applicant shall demonstrate that the compensatory mitigation plan meets or exceeds the ratios listed in Table 800-1, relative to the amount of impacted jurisdictional areas:

TABLE 800-1 Minimum Compensatory Mitigation Ratios

Resource Type	Creation	Restoration	Preservation of Upland Buffer
Bog	N/A	2:1	15:1
Tidal Wetlands	3:1	2:1	15:1
Forested	1.5:1	1.5:1	10:1
Undeveloped Tidal Buffer Zone	N/A	2:1	3:1
All Other Jurisdictional Areas	1.5:1	1:1	10:1

(b) For permittee-responsible mitigation for stream impacts, the applicant shall demonstrate that the total amount of compensatory mitigation area meets or exceeds the total amount of impacted stream area, including the stream bottom and associated stream banks.

*Readopt with amendment Env-Wt 804.02, eff. 6-20-07 (doc. #8911), to read as follows:*

Env-Wt 804.02 Dimensions.

(a) Subject to (b), below, an upland buffer shall be a minimum of 100 feet wide and contiguous with the protected resource(s).

(b) For permittee-responsible stream mitigation, an upland riparian buffer shall be a minimum of 300 feet in length, as measured parallel to the centerline of the stream, and 100 feet in width, as measured from the top of bank, on both sides of the watercourse.

**APPENDIX**

<b>Rule Section(s)</b>	<b>Statute(s) Implemented</b>
Env-Wt 303.02 intro & new (p); Env-Wt 303.03 intro, new (n) & (o); Env-Wt 303.04 intro, (g)-(j), (n), (x), (y), (z), (ae) & new (ag); Env-Wt 303.05 intro, (a) intro & (f); Env-Wt 304.07	RSA 482-A:1 & 3; RSA 482-A:11
Env-Wt 501.02 new (e); Env-Wt 506.01(a)(8) & (c); Env-Wt 506.04(c)	RSA 482-A:1 & 3; RSA 482-A:11
Env-Wt 801.01; Env-Wt 801.03; Env-Wt 803.01(a) intro, new (b), & (c) intro; Env-Wt 803.03; Env-Wt 803.05; Env-Wt 804.02	RSA 482-A:3, I; RSA 482-A:11; RSA 482-A:28-33