



The State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

MEMO

TO: Wetlands Council  
FR: Collis Adams *MTF CGA*  
Wetlands Bureau Administrator  
DT: June 7, 2007  
RE: Proposed Vernal Pool Rules

*July 16th*

Attached are the proposed Vernal Pool Rules. For the past nine months, a stakeholder workgroup has met monthly to work out the requirements for these rules. The rules are divided into two – a “definitions” rule and a “substantive” rule. Please review these at your earliest convenience and submit written comments to the wetlands bureau on or before June 16th, so we can start the rulemaking process.

*Fed RGP Land*  
① Projects w/in 200' limiting cutting w/in 750' will be reviewed.  
② zndary impacted waters  
③ Deemed approved = Permt. HB 2  
Shoreland April 1, 08  
Permt. CG3  
CG3  
not in these

Adopt new Env-Wt 101.70, and renumber existing Env-Wt 101.70 through Env-Wt 101.79 as Env-Wt 101.71 through Env-Wt 101.80, cited and to read as follows:

***Env-Wt 101.70 "Primary vernal pool indicators" means the presence or physical evidence of breeding by marbled salamander, wood frog, spotted salamander, jefferson-blue spotted salamander complex, or fairy shrimp.***

Adopt new Env-Wt 101.81, and renumber existing Env-Wt 101.80 through Env-Wt 101.96 as Env-Wt 101.82 through Env-Wt 101.98, to read as follows:

***Env- Wt 101.81 "Secondary vernal pool indicators" means physical evidence used by wildlife biologists or certified wetlands scientists who are familiar with vernal pool habitats as evidence of the presence of a vernal pool, if primary vernal pool indicators are absent and other vernal pool characteristics suggest vernal pool habitat. Secondary vernal pool indicators include, but are not limited to:***

- (a) Caddisfly larvae and cases;***
- (b) Clam shrimp and clam shells;***
- (c) Fingernail clams and their shells;***
- (d) Aquatic beetle larvae; and***
- (e) Dragonfly larvae and exuviae.***

Adopt new Env-Wt 101.99, and renumber existing Env-Wt 101.97 through Env-Wt 101.103 as Env-Wt 101.100 through Env-Wt 101.106, to read as follows:

***Env- Wt 101.99 "Vernal pool" means a surface water or wetland, excluding areas resulting from man-made activities such as gravel pit operations, logging equipment rutting, sedimentation ponds, or detention ponds but including areas intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by these pools and which:***

- (a) Cycle annually from flooded to dry conditions, although their hydroperiod, size, and shape might vary from year to year;***
- (b) Typically have the following characteristics:***
  - (1) Formed in a shallow depression or basin;***
  - (2) Have no permanently flowing outlet;***
  - (3) Hold water for at least 2 continuous months following spring ice-out;***
  - (4) Lack a viable fish population; and***
  - (5) Support one or more primary vernal pool indicators, or 3 or more secondary vernal pool indicators.***

**APPENDIX**

<b>Rule Section(s)</b>	<b>Statute(s) Implemented</b>
Env-Wt 101.70	RSA 482-A:1 and 3
Env-Wt 101.81	RSA 482-A:1 and 3
Env-Wt 101.99	RSA 482-A:1 and 3

Amend Env-Wt 301.01, eff. 4-25-05 (doc. #8341), by adding a new paragraph (g) and renumbering the current paragraph (g) to be (h), cited and to read as follows:

Env-Wt 301.01 Delineation of Wetlands Boundaries.

...

***(g) Vernal pools on the applicant's property shall be delineated and labeled on all plans accompanying standard wetlands dredge and fill applications for minor and major impact projects.***

Amend Env-Wt 301.02, eff. 4-25-05 (doc. #8341), by adding a new paragraph (c), cited and to read as follows:

Env-Wt 301.02 Classification of Wetland Boundary Types.

...

***(c) For minor or major projects, natural communities located in jurisdiction on the applicant's property shall be classified by the applicant and noted on the plans in accordance with the "Natural Community Systems of New Hampshire", published by the New Hampshire department of resources and economic development, natural heritage bureau (DRED-NHB), and The Nature Conservancy (TNC), dated December 2005.***

Amend Env-Wt 302.04, eff. 4-25-05 (doc. #8341), by amending the introductory language of (a)(7) and adding a new subparagraph (a)(7)f., cited and to read as follows:

Env-Wt 302.04 Requirements for Application Evaluation.

(a) For any major or minor project, the applicant shall demonstrate by plan and example that the following factors have been considered in the project's design in assessing the impact of the proposed project to areas and environments under the department's jurisdiction:

...

(7) The impact on plants, fish and wildlife including, ***but not limited to:***

- a. Rare, special concern species;
- b. State and federally listed threatened and endangered species;
- c. Species at the extremities of their ranges;
- d. Migratory fish and wildlife; ~~and~~
- e. Exemplary natural communities identified by the New Hampshire natural heritage program in the department of resources and economic development ***DRED-NHB; and***
- f. Vernal pools.***

Readopt with amendment Env-Wt 304.05, eff. 4-25-05 (doc. #8341), to read as follows:

Env-Wt 304.05 Logging Operations.

***(a) Impacts to surface waters and wetlands shall be avoided or minimized in accordance with Env-Wt 302.04(b) and (c).***

~~(ab)~~ All skid trails, truck roads, and log landings shall be located far enough from ~~streams or ponds~~ ***surface waters and wetlands*** so that waterborne soil particles will settle out before reaching the ~~streams or ponds~~ ***surface waters or wetlands***.

~~(bc)~~ All ~~s~~Skid trails, ~~and~~ truck roads, ***and log landings*** shall be laid out using appropriate erosion control devices, as outlined in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, department of resources and economic development, April 1996, updated February 2000, so that the grade approaching a ~~stream or pond~~ ***surface water or wetland*** is broken, and surface water ~~run-off~~ is dispersed. ~~Crossings of streams and wetlands shall be kept to a minimum and shall be located to minimize impact in accordance with Env-Wt 302.04(b) and (c).~~

~~(ed)~~ Culverts, bridges, pole fords, or other crossings shall be installed on skid trails and temporary truck roads at all stream crossings in accordance with procedures outlined in the Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, department of resources and economic development, April 1996, updated February 2000, except when road and stream banks are sufficiently frozen to avoid rutting or destabilization. Said crossings shall be removed when logging is completed in the area serviced by the crossing. Corduroy crossings at locations where there is no defined channel may be left in place. Corduroy crossings means logs, limbs or branches placed to provide support for logging equipment crossing a wet area which has no standing water and no defined channels.

~~(de)~~ All permanent crossings on truck roads shall be adequate to handle a 25-year flood, the peak flow that statistically would occur once in 25 years.

#### APPENDIX

Rule Section(s)	Statute(s) Implemented
Env-Wt 301.01(g)	RSA 482-A:1, 3 and 4, II
Env-Wt 301.02(c)	RSA 482-A:1, 3 and 4, II
Env-Wt 302.04(a)(7)	RSA 482-A:1, 3 and 4, II
Env-Wt 304.05	RSA 482-A:1 and 3

