

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(g) Work shall be confined to the beds of streams with no disturbances to the banks adjacent to waters of the state.

Source. (See first Revision Note at chapter heading for Env-Wt 300) #5186, eff 7-23-91; ss by #5549, eff 1-5-93; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (See second Revision Note at chapter heading for Env-Wt 300)

Env-Wt 304.15 Coffer Dams. Coffer dams and other temporary water control devices shall be removed upon completion of the project.

Source. (See first Revision Note at chapter heading for Env-Wt 300) #5186, eff 7-23-91; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (See second Revision Note at chapter heading for Env-Wt 300)

CHAPTER Env-Wt 400 SHORELINE STRUCTURES

REVISION NOTE:

Pursuant to a rules reorganization plan approved by the Director of the Office of Legislative Services on September 7, 2005, Department rules in Wt 400 filed under Document #8341, effective 4-25-05, have been editorially renumbered with subtitle Env-Wt denoting the wetlands program area. The title Wt has been discontinued.

PART Env-Wt 401 STATEMENT OF PURPOSE AND EVALUATION

Env-Wt 401.01 Purpose. The purpose of this chapter is to protect the public trust and other interests of the state of New Hampshire, by:

(a) Establishing requirements for the design and construction of structures in order to prevent unreasonable encroachment on surface waters of the State;

(b) Preserving the integrity of the surface waters of the state by requiring all structures to be constructed so as to insure safe navigation, minimize alterations in prevailing currents, minimize the reduction of water area available for public use, avoid impacts that would be deleterious to fish and wildlife habitat, and avoid impacts that might cause erosion to abutting properties; and

(c) Ensuring that all projects are constructed using the least impacting alternatives, in a manner that meets the requirements of RSA 483-B and shoreline and bank alteration or stabilization requirements.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; ss by #5740, eff 11-23-93; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400); ss by #9095, eff 2-23-08

Env-Wt 401.02 Evaluation. In addition to the requirements of this chapter, evaluation of applications for shoreline projects shall be subject to the applicable requirements of Env-Wt 300.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

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New. #5028, eff 12-20-90; ss by #5740, eff 11-23-93; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

PART Env-Wt 402 DESIGN AND CONSTRUCTION CRITERIA

Env-Wt 402.01 Configuration. Approvable configurations for all docks located on lakes, ponds, rivers, and streams shall include:

(a) A standard configuration that is narrow, rectangular, and:

- (1) If in a lake or pond, erected perpendicular to the shoreline; and
- (2) If in a river or stream, erected parallel to the bank; and

(b) A nonstandard configuration shaped like the letter L, T, F, or U, when the applicant establishes through documentation that:

- (1) The standard configuration would cause a safety hazard due to wind, other weather conditions, or other natural conditions such as water depth unique to the property;
- (2) The nonstandard configuration chosen for the dock provides the least environmental impact on shoreline and water body; and
- (3) The nonstandard configuration does not interfere with boat traffic safety.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84; ss by #3075, eff 7-26-85; ss by #5028, eff 12-20-90; ss by #5740, eff 11-23-93; ss by #6498-B, eff 4-23-97; ss by #7158, eff 12-17-99; ss by #7988, eff 11-21-03; ss by #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.02 Navigation Space. The design and construction of docking facilities shall allow for a maximum of 2 feet of navigation space between a boat slip and any other structure or boat slip.

Source. #9095, eff 2-23-08

Env-Wt 402.03 Dimensions.

(a) Approvable standard dimensions for a dock shall not exceed the following dimensions:

- (1) In lakes and ponds of 1,000 acres or more:
 - a. For seasonal docks, a deck width of 6 feet and deck length of 40 feet, measured from normal high water mark; and
 - b. For permanent docks, a deck width of 6 feet and deck length of 30 feet, measured from normal high water mark;
- (2) In lakes and ponds of less than 1,000 acres, for all docks a deck width of 6 feet and deck length of 30 feet, measured from normal high water mark;
- (3) In rivers and streams, for seasonal docks a deck width of 6 feet and deck length of 40 feet, measured along the shoreline.

(b) The dimensions in (a) above may be exceeded when the department determines, based on information provided by the applicant, that:

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- (1) Application of the standard dimensions would represent a safety hazard due to wind or other weather conditions;
- (2) The property has a unique physical hardship, such as, insufficient water depth, not shared generally by nearby properties, that requires larger dimensions;
- (3) The applicant has a permanent disability that requires larger dimensions in order to safely use the water; or
- (4) Exception from the standard maximum dimensions by use of clustering of structures in one location would result in less environmental impact to the shoreline and water body than would standard dimensions.

(c) For a property with less than 75 feet of water frontage, docks or piers shall be no longer than 4 feet by 24 feet, in accordance with Env-Wt 402.12.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97; ss by #7158, eff 12-17-99; ss by #7988, eff 11-21-03; ss by #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.04 Setbacks. As required by RSA 482-A:3, XIII(a), all docks shall be located at least 20 feet from any abutting property line or imaginary extension of the property line over surface water, unless the provisions of RSA 482-A:3, XIII(c) or (d) are met.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97; ss by #7988, eff 11-21-03; ss by #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.05 Seasonal Docks.

(a) A seasonal dock shall be:

- (1) Designed to be installed at the beginning and removed at the end of the boating season;
- (2) Removed from the water for a minimum of 5 months of every calendar year;
- (3) Designed and placed in the water so as not to obstruct navigation;
- (4) Removed from the water for the purpose of applying paint, stain, or other preservatives; and
- (5) Installed only if in compliance with RSA 482-A:3, IV-a or otherwise permitted under RSA 482-A.

(b) In order to qualify for permit by notification under Env-Wt 506, seasonal docks on rivers and streams shall, in addition to the requirements in (a) above:

- (1) Be located on a property having at least 75 feet of shoreline frontage;
- (2) Be the only structure on the property's shoreline frontage;

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(3) Conform with the standard configuration set forth in Env-Wt 402.01(a); and

(4) Conform with the standard dimensional criteria set forth in Env-Wt 402.02(a)(3).

(c) Seasonal docks, once permitted, shall require no further action unless there is a change in size, location, or configuration.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84; ss by 3075, eff 7-26-85; ss by #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97; ss by #7158, eff 12-17-99; ss by #7988, eff 11-21-03; ss by #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.06 Permanent Docks.

(a) Subject to (b) and (m), below, an application for a permanent dock shall be approved only when an applicant establishes that:

(1) The proposed permanent dock will be located on a lake of over 1,000 acres; and

(2) The proposed site for the dock is exposed to a design fetch of at least 1 mile between compass headings 245 to 340 degrees, or a design fetch of at least 2 miles between compass headings 341 to 0 or 0 to 244 degrees, as measured from true north.

(b) When the applicant does not meet the requirements of (a), above, the department shall approve the permanent dock provided the applicant documents the occurrence of 1 foot high waves as measured from trough to crest in water at least 3 feet deep, at the location of the proposed dock on at least 4 separate occasions, lasting 4 hours each, between the dates of May 15 and October 15.

(c) To qualify under (b), above, the applicant shall provide the following:

(1) Dated photographs and a summary of the wave heights measured, the dates measured, and the frequency of measurement during the 4 hour periods; or

(3) Written site measurements completed during the relevant period and verified as accurate by department staff.

(d) The frequency of wave height measurements shall be high enough to show, in conjunction with the pictures, that the wave activity is essentially continuous throughout the 4-hour periods.

(e) All applications for permanent installations shall indicate that reasonable investigations have been undertaken to determine the impossibility of driving pilings before alternate construction methods shall be approved.

(f) Such investigations may include trial driving by commercial equipment, probings, and experience in construction of adjacent wharves or docks.

(g) The minimum spacing for pile bents shall be 12 feet center to center.

(h) After an applicant has demonstrated that pilings cannot be driven and that a seasonal structure cannot be maintained on the frontage, a crib dock shall be approved.

(i) The maximum size of cribs for water depths of up to 6 feet shall not exceed 6 feet long by 6 feet wide and of such height as is necessary to support the wharf above the water level.

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(j) The crib itself shall be of timber, prefabricated concrete, or other approved materials securely fastened together and of such size and spacing necessary to completely contain the stone ballast or other fill material.

(k) The side dimensions of cribs may be increased one foot for every additional foot of water depth above 6 feet. The minimum clear spacing between cribs shall be 12 feet.

(l) Special designs such as caissons, concrete supports, or prefabricated cofferdams are of a highly specialized nature and shall be considered on an individual basis by the department.

(m) A permanent dock shall be approved regardless of the design fetch when at least one of the following requirements is met:

- (1) The dock will be located on an island accessible only by watercraft;
- (2) The dock will be subjected to unusually heavy loading where a permanent dock is needed for safety, such as a dock at a commercial facility that is used to convey heavy equipment or freight; or
- (3) The dock will provide a significant public benefit, such as a docking facility that is open to the general public for transient use.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97; ss by #7158, eff 12-17-99; rpld and rsvd by #7988, eff 11-21-03

New. #8341, eff 4-25-05 (from Env-Wt 402.06) (See Revision Note at chapter heading for Env-Wt 400); amd by #9095, eff 2-23-08

Env-Wt 402.07 Breakwaters.

(a) Breakwaters shall be considered major projects pursuant to Env-Wt 303.02.

(b) Subject to (c), below, breakwaters shall only be approved when an applicant establishes that the following requirements are met:

- (1) The breakwater is proposed to be located in Lake Winnepesaukee;
- (2) The proposed site for the breakwater is exposed to a single radial fetch of at least 4 miles between compass headings 300 and 330 degrees as measured from true north, as illustrated in a map of Lake Winnepesaukee showing areas that meet these criteria, in Appendix A, of which larger copies are available at the department's wetlands bureau or on the department's website;
- (3) The breakwater is located in an area with no significant sand migration;
- (4) The property associated with the breakwater contains a minimum of 100 feet of shoreline frontage pursuant to Env-Wt 101.83; and
- (5) The breakwater is designed in accordance with the design and construction criteria in (d) through (l), below.

(c) When the applicant meets all requirements in paragraph (b), above, except for subparagraph (2), the department shall approve the breakwater provided:

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- (1) The applicant documents the occurrence of 2 foot high waves as measured from trough to crest in water at least 3 feet deep, at the location of the proposed breakwater on at least 4 separate occasions, lasting 4 hours each, between the dates of May 15 and October 15;
- (2) The applicant provides documentation, including:
 - a. Dated photographs and a summary of the wave heights measured, the dates measured, and the frequency of measurement during the 4 hour periods; or
 - b. Written site measurements completed during the relevant period and verified as accurate by department staff; and
- (3) The frequency of wave height measurements shall be high enough to show, in conjunction with the pictures, that the wave activity is essentially continuous throughout the 4 hour periods.
- (d) Construction shall be of stone, concrete, wood, or other inert materials consistent with the individual conditions of each site.
- (e) Breakwaters, when measured at normal full lake elevation, shall have:
 - (1) No point more than 50 feet from the natural shoreline; and
 - (2) A total length of no more than 70 feet.
- (f) The approved configuration for breakwaters shall be the least impacting alternative of breakwater construction for that site.
- (g) No portion of the breakwater, including any portion underwater, shall be placed within 20 feet of an abutting property line or its imaginary extension into the water.
- (h) No stockpiling of rocks shall be allowed in jurisdiction unless the applicant documents that the limited and difficult access to the site precludes stockpiling outside of jurisdiction and stockpiling is temporary.
- (i) Rocks from frontage may only be used as a source of breakwater material when removed from another structure on the frontage for the purpose of constructing the breakwater.
- (j) Slope shall be 1:1.5, rise to run, or greater.
- (k) Breakwaters shall have an irregular face to diffuse wave activity.
- (l) Applicants for breakwaters shall provide the following information in plan or cross-section:
 - (1) Toe of slope dimensions;
 - (2) The dimensions visible at normal high water level;
 - (3) The direction of prevailing wave activity;
 - (4) A minimum gap of 6 feet between the breakwater and shoreline;
 - (5) A reference line identifying the 50 foot distance from the shoreline;
 - (6) All docking structures on the property or otherwise associated with the property;
 - (7) Construction sequence;
 - (8) Cross-sections showing:
 - a. The breakwater height;
 - b. The breakwater slope; and

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c. Normal high water level; and

(9) A list of construction materials.

(m) The owner of a breakwater that causes significant adverse effects on abutting property owners or on public use of the water shall modify the breakwater so as to eliminate such adverse effects. If modification is impossible or ineffective, the owner of the breakwater shall remove the breakwater.

(n) Breakwaters shall not exceed 3 feet above normal full lake elevation, and shall not exceed 3 feet in width at the highest point of the structure.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; amd by #6404, INTERIM, eff 12-21-96, EXPIRES: 4-20-97; amd by #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.07) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.08 Canopies. Canopies shall be constructed so as not to obstruct views from adjacent property or interfere with boating or swimming safety. The fabric covering of a canopy shall be removed from locations over surface waters during seasons of non-use.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84; amd by 3075, eff 7-26-85; ss by #5028, eff 12-20-90; amd by #6404, INTERIM, eff 12-21-96, EXPIRES: 4-20-97; amd by #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97; ss by #7072, eff 8-13-99; amd by #7303, eff 6-8-00; ss and moved by #8341, eff 4-25-05 (from Env-Wt 402.08) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.09 Structures Disallowed.

(a) Boathouses located in or over the waters shall not be approved.

(b) A boathouse located over a dredged inlet within the property of the applicant shall not be approved unless the applicant has shown through data supplied to the department that the following conditions have been met:

- (1) The proposed construction shall not adversely impact the stability of the shoreline;
- (2) The proposed construction sequence and techniques shall prevent water quality degradation;
- (3) The proposed construction shall be performed in such a manner so as to prevent adverse impact to existing movements of currents or sediment along the shore;
- (4) Alternative docking and storage solutions with less environmental impact do not exist; and
- (5) The proposed construction shall not impact wetlands, streams or similar areas.

(c) Structures over the waters shall not be allowed for the transfer of any activities usually associated with land, including but not limited to sunbathing and picnicking.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

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New. #5028, eff 12-20-90; ss by #5740, eff 11-23-93; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.09) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.10 Stairways. Stairways for access to or from legally-constructed docks shall be allowed as part of the dock permitting process, provided:

- (a) The stairway width does not exceed 6 feet; and
- (b) Construction over the bank does not require regrading or recontouring.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; ss by #5740, eff 11-23-93; amd by #6404, INTERIM, eff 12-21-96, EXPIRED: 4-20-97

New. #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.10) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.11 Maintenance. Any structures constructed under these criteria shall be maintained so as to be useable for its intended purpose.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84; ss by 3075, eff 7-26-85; ss by #5028, eff 12-20-90; rpld by #5740, eff 11-23-93; ss by #7158, eff 12-17-99; ss and moved by #8341, eff 4-25-05 (from Env-Wt 402.11) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.12 Frontage Less Than 75'. To lessen congestion, improve public safety and navigation, protect neighboring property values, and provide sufficient area for construction of facilities, docks or piers permitted on property with less than 75' of shoreline frontage shall be no larger than 4 feet x 24 feet.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84, EXPIRED: 12-11-90

New. #5028, eff 12-20-90; ss by #6404, INTERIM, eff 12-21-96, EXPIRED: 4-20-97

New. #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.13) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.13 Frontage Over 75'. To lessen congestion, improve public safety and navigation, protect neighboring property values, provide sufficient area for construction of facilities, provide adequate area for boat maneuvering, and protect health, safety, and general welfare, there shall be a minimum of 75' of shoreline frontage on the property for the first 2-slip structure and an additional 75' of shoreline frontage on the property for each additional boating slip or securing location on a structure for non-commercial use. This section shall not be interpreted to prevent construction of a dock on lots with less than 75' of shoreline frontage as provided in Env-Wt 402.12.

Source. #2271, eff 1-10-83; ss by #2924, eff 12-11-84; rpld by #4038, eff 4-10-86

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New. #8341, eff 4-25-05 (from Env-Wt 402.14) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.14 Exceptions To Frontage Criteria. The standards in Env-Wt 402.12 and Env-Wt 402.13 shall be waived when evidence has been provided, in writing by the applicant, that:

- (a) Application of those standards would represent a hazard due to wind or other weather conditions;
- (b) The property has a hardship requiring the exception;
- (c) The sole practical method of transportation to the property is by boat;
- (d) The applicant's use of the waters is in the public interest; or
- (e) The construction has been modified to meet the considerations specified in Env-Wt 401.02, Env-Wt 402.12, and Env-Wt 402.13.

Source. #3075, eff 7-26-85; ss by #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.15) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.15 Commercial Use - Municipal Review.

(a) Any new docking facility or additional docking or similar improvement, excluding repairs or replacements without expansion, that has any portion under commercial use shall comply with all local land-use controls for marinas, or appropriate non-residential land-use classification.

(b) The applicant shall submit a copy of the local permit or approval, or a letter from the applicable local land use board or local governing body indicating that a permit or approval is not required under local regulations, to the department with the application or otherwise prior to the department making a decision on the application.

(c) Local regulations shall not restrict the sole and exclusive authority of the state to permit construction over, or dredge and fill in, great ponds or state-owned water bodies. If a municipality forwards a denial or does not respond to the department, the applicant may request a public hearing to waive the provisions of this section.

Source. #3075, eff 7-26-85; ss by 4038, eff 4-10-86; ss by #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.16) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.16 Marinas - Design Standards.

(a) Applicants for marina construction or expansion shall provide the department with evidence showing compliance with the following design standards:

- (1) All marinas shall be designed to:
 - a. Minimize visual impact;
 - b. Avoid damage to the environment due to leakage or spills of fuels, lubricants, waste products, or other pollutants; and

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c. Not represent a hazard to navigation or interfere with abutting property values; and

(2) The standard for marinas shall be one slip for every 25' of shoreline. More slips shall be permitted if the marina is enclosed by land of the applicant, or other evidence is provided to the department which indicates that the increase is in the public interest. High demand for slips shall be insufficient to establish a public interest. If evidence is provided which shows that the project would pose a navigational hazard, fewer slips shall be permitted.

(b) Applicants for marina construction or expansion shall provide the department with plans showing the following:

- (1) Designated wash areas for seasonal vessel cleaning;
- (2) Storm water runoff and treatment designs;
- (3) Location of pumpout facility;
- (4) Location of abrasive blasting, painting operations, and hull sanding; and
- (5) Location and disposal method for oil or other waste products.

Source. #3075, eff 7-26-85; ss by #5028, eff 12-20-90;
EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss
by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.17) (See
Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.17 Contiguous Frontage. All frontage considered in the application of Env-Wt 402.12, Env-Wt 402.13 and Env-Wt 402.16 shall be contiguous and owned by the same person.

Source. #4038, eff 4-10-86; ss by #5028, eff 12-20-90; ss by
#6404, INTERIM, eff 12-21-96, EXPIRED: 4-20-97

New. #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.18) (See
Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.18 Ownership.

(a) An applicant for a shoreline structure defined as major shall be the owner in fee of the affected frontage, unless the applicant has leased the property from the state pursuant to RSA 228:57-a.

(b) If the applicant leases the property from the state pursuant to RSA 228:57-a, the applicant shall:

- (1) Provide a copy of the lease to the department with the application; and
- (2) Inform the department of any changes in the status of the lease, whether such changes occur while the application is pending or after a permit has been issued.

(c) If the lease does not explicitly state that the applicant may place a shoreland structure defined as major on the leased property, the applicant shall provide written authorization for placement of the proposed structure from the New Hampshire department of transportation.

(d) The recipient of a permit to construct a shoreline structure(s) on property leased from the state pursuant to RSA 228:57-a shall:

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(1) At the permittee's own cost and expense, remove the dock(s), all footings, appurtenances, related structures, equipment, and other personal property from any state land and the lake within 30 days of the earlier of:

- a. The termination or expiration of the dock permit; or
- b. A default under, termination, or expiration of the state lease; and

(2) Restore the lakebed and the leased state land to its original condition within 30 days of removing the dock(s), all footings, appurtenances, related structures, equipment, and other personal property from any state land and the lake.

(e) No permit shall be effective unless approved by the governor and executive council.

Source. #4038, eff 4-10-86; ss by #5028, eff 12-20-90; ss by #6404, INTERIM, eff 12-21-96, EXPIRED: 4-20-97

New. #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.19) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.19 Deed Restriction.

(a) Upon receipt of a permit, the applicant for a major docking facility in public waters shall file a deed restriction with the appropriate registry of deeds which limits the use of the docking facility to permitted conditions and dedicates an amount of shore frontage to that facility.

(b) The applicant shall provide a copy of the recorded deed restriction to the department.

Source. #4672, eff 9-14-89; ss by #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.20) (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 402.20 Registration.

(a) All permits for docking structures shall be recorded by the applicant with the appropriate registry of deeds in accordance with RSA 482-A:3, VI.

(b) The applicant shall provide the department with a copy of the permit stamped by the registry with the book and page and date of receipt.

Source. #4672, eff 9-14-89; ss by #5028, eff 12-20-90; EXPIRED: 12-20-96

New. #6429, INTERIM, eff 1-18-97, EXPIRES: 5-18-97; ss by #6498-B, eff 4-23-97; ss by #8067, eff 4-2-04; ss by #8341, eff 4-25-05 (from Env-Wt 402.21) (See Revision Note at chapter heading for Env-Wt 400)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wt 402.21 Modification of Existing Structures. The department shall not approve any change in size, location, or configuration of an existing structure unless the applicant demonstrates, and the department finds, that the modification is less environmentally-impacting or provides for fewer boat slips and less construction surface area over public submerged lands than the current configuration.

Source. #4672, eff 9-14-89; ss by #5028, eff 12-20-90; ss by #5740, eff 11-23-93; ss by #6404, INTERIM, eff 12-21-96, EXPIRED: 4-20-97

New. #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (from Env-Wt 402.22) (See Revision Note at chapter heading for Env-Wt 400)

PART Env-Wt 403 CRITERIA FOR INTAKE AND OUTFLOW STRUCTURES

Env-Wt 403.01 Intake Structures. An applicant shall demonstrate that intake structures meet the following criteria:

- (a) Inflow shall not lower water levels so that the habitat of finfish, crustacean, or shellfish is harmed;
 - (b) Inflow shall not cause scouring or endanger vegetation, finfish, crustacea, shell-fish or wildlife;
- and
- (c) The structure shall not endanger navigation, recreation, or commerce.

Source. #5740, eff 11-23-93; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 403.02 Outflow Structures. An applicant shall demonstrate that outflow structures shall meet the following criteria:

- (a) Outflow shall not cause scouring or endanger vegetation, finfish, crustacea, shellfish or wildlife;
- and
- (b) The structure shall not endanger navigation, recreation, or commerce.

Source. #5740, eff 11-23-93; ss by #6498-B, eff 4-23-97, EXPIRED: 4-23-05

New. #8341, eff 4-25-05 (See Revision Note at chapter heading for Env-Wt 400)

Env-Wt 403.03 Dikes, Tide Dams, and Tide Gates. An applicant shall demonstrate that a project for a dike, tide dam, or tide gate meets the following criteria:

- (a) Flooding, loss of salinity, or de-watering shall not damage or destroy indigenous hydrophytic vegetation or habitat of finfish, crustacea, shellfish, or wildlife;
- (b) Adequate passage and rate of flow shall be maintained at appropriate times to allow migration of fish and other marine life;
- (c) The conveyance of runoff and flood waters shall not be prevented;
- (d) Projects shall not cause the permanent inundation of tidal wetlands; and