

# TITLE L

## WATER MANAGEMENT AND PROTECTION

### CHAPTER 483-B

#### SHORELAND WATER QUALITY PROTECTION ACT

##### Section 483-B:1

###### **483-B:1 Purpose. –**

The general court finds that:

- I. The shorelands of the state are among its most valuable and fragile natural resources and their protection is essential to maintain the integrity of public waters.
  - I-a. A natural woodland buffer, consisting of trees and other vegetation located in areas adjoining public waters, functions to intercept surface runoff, wastewater, subsurface flow, and deeper groundwater flows from upland sources and to remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants and to moderate the temperature of the near-shore waters.
  - I-b. Scientific evidence has confirmed that even small areas of impervious surface coverage can have deleterious impacts on water quality and the aesthetic beauty of our lakes and rivers if not properly contained or managed within each watershed. These impacts are known to reduce recreational opportunity, reduce property values, and pose human health risks.
- II. The public waters of New Hampshire are valuable resources held in trust by the state. The state has an interest in protecting those waters and has the jurisdiction to control the use of the public waters and the adjacent shoreland for the greatest public benefit.
- III. There is great concern throughout the state relating to the utilization, protection, restoration and preservation of shorelands because of their effect on state waters.
- IV. Under current law the potential exists for uncoordinated, unplanned and piecemeal development along the state's shorelines, which could result in significant negative impacts on the public waters of New Hampshire.

**Source.** 1991, 303:1. 2002, 263:1. 2008, 171:15, eff. July 1, 2008.

##### Section 483-B:2

###### **483-B:2 Minimum Standards Required. –**

To fulfill the state's role as trustee of its waters and to promote public health, safety, and the general welfare, the general court declares that the public interest requires the establishment of standards for the subdivision, use, and development of the shorelands of the state's public waters. The development standards provided in this chapter shall be the minimum standards necessary to protect the public waters of the state of New Hampshire. These standards shall serve to:

- I. Further the maintenance of safe and healthful conditions.
- II. Provide for the wise utilization of water and related land resources.
- III. Prevent and control water pollution.
- IV. Protect fish spawning grounds, aquatic life, and bird and other wildlife habitats.
- V. Protect buildings and lands from flooding and accelerated erosion.
- VI. Protect archaeological and historical resources.
- VII. Protect commercial fishing and maritime industries.
- VIII. Protect freshwater and coastal wetlands.
- IX. Control building sites, placement of structures, and land uses that may potentially damage the public waters.
- X. Conserve shoreline cover and points of access to inland and coastal waters.
- XI. Preserve the state's lakes, rivers, estuaries and coastal waters in their natural state.
- XII. Promote wildlife habitat, scenic beauty, and scientific study.

- XIII. Protect public use of waters, including recreation.
- XIV. Conserve natural beauty and open spaces.
- XV. Anticipate and respond to the impacts of development in shoreland areas to the extent they may potentially damage the public waters.
- XVI. Provide for economic development in proximity to waters.

**Source.** 1991, 303:1. 1992, 235:1, 2. 1994, 383:1. 2011, 224:383, 384, eff. June 29, 2011.

### **Section 483-B:3**

#### **483-B:3 Consistency Required. –**

- I. All state agencies shall perform their responsibilities in a manner consistent with the intent of this chapter. State and local permits for work within the protected shorelands shall be issued only when consistent with the policies of this chapter.
- II. When the standards and practices established in this chapter conflict with other local or state laws and rules, the more stringent standard shall control.
- III. All agricultural activities and operations in the state as defined in RSA 21:34-a and as governed by RSA 430, including the use of animal manure, lime, wood ash, irrigation, and the clearing of land for agricultural utilization, and other agricultural technologies, shall be exempt from the provisions of this chapter, provided such activities and operations are in conformance with the most recent best management practices determined by the United States Department of Agriculture Natural Resources Conservation Service, the United States Department of Agriculture Cooperative Extension Service and the department of agriculture, markets, and food. Persons carrying out such agricultural activities and operations in the protected shoreland shall work directly with the local representatives of the above agencies for their particular property.

**Source.** 1991, 303:1. 1992, 235:21. 1995, 130:8, eff. July 23, 1995; 206:2, eff. Aug. 11, 1995.

### **Section 483-B:4**

#### **483-B:4 Definitions. –**

In this chapter:

- I. "Abutter" means any person who owns property that is immediately contiguous to the property on which the proposed work will take place, or who owns flowage rights on such property. The term does not include those properties separated by a public road or more than 1/4 mile from the limits of the proposed work. If contiguous properties are owned by the person who is proposing the work, then the term includes the person owning the next contiguous property, subject to the 1/4 mile limitation.
- II. "Accessory structure" means a structure, as defined in paragraph XXII of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph XIV of this section; or a use, including but not limited to paths, driveways, patios, any other improved surface, pump houses, gazebos, woodsheds, garages, or other outbuildings.
- III. [Repealed.]
- IV. "Commissioner" means the commissioner of the department of environmental services or designee.
- V. "Department" means the department of environmental services.
- VI. "Disturbed area" means an area in which natural vegetation is removed, exposing the underlying soil.
- VII. "Ground cover" means any herbaceous plant or any woody seedling or shrub generally less than 3 feet in height. Ground cover shall not include lawns, landscaped areas, gardens, invasive species as listed by the department of agriculture, markets, and food in accordance with RSA 430:53, III, exotic species as designated by rule of the department of environmental services in accordance with RSA 487:24, VII, imported organic or stone mulches, or other artificial materials.
- VII-a. [Repealed.]
- VII-b. "Impervious surface" means any modified surface that cannot effectively absorb or infiltrate water. Examples of impervious surfaces include, but are not limited to, roofs, and unless designed to effectively absorb or infiltrate water, decks, patios, and paved, gravel, or crushed stone driveways, parking areas, and walkways.
- VII-c. "Horticultural professional" means any arborist, landscape architect, or gardening consultant whose

function is that of providing services relative to horticulture.

VIII. "Lot of record" means a legally created parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

IX. [Repealed.]

X. "Municipality" means a city, town, village district if specifically authorized to zone by the legislature, or county in respect to unincorporated towns or unorganized places or any combination thereof pursuant to RSA 53-A.

X-a. [Repealed.]

X-b. [Repealed.]

XI. "Natural woodland" means a forested area consisting of various species of trees, saplings, shrubs, and ground covers in any combination and at any stage of growth.

XI-a. [Repealed.]

XI-b. [Repealed.]

XI-c. "Nonconforming lot of record" means an existing lot which does not conform to the provisions of this chapter.

XI-d. "Nonconforming structure" means a structure that, either individually or when viewed in combination with other structures on the property, does not conform to the provisions of this chapter, including but not limited to the impervious surface limits of RSA 483-B:9, V(g).

XI-e. "Ordinary high water mark" means the line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high water mark is not easily discernable, the ordinary high water mark may be determined by the department of environmental services.

XII. "Person" means a corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and any political subdivision of a state or any agency or instrumentality thereof.

XII-a. "Pervious surface" means any surface, whether natural, man-made, or modified, that can effectively absorb or infiltrate water including, but not limited to, vegetated surface, such as woodlands, planted beds, and lawns, and those pavements specifically designed and maintained to effectively absorb and infiltrate water.

XIII. "Primary building line" means a setback for primary structures of 50 feet from the reference line.

XIV. "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

XV. "Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, except private garden water features and ponds of less than 10 acres, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters. For river segments of third order or lower designated as protected under RSA 483:15 which are either designated after or for which specific exemptions are repealed after December 31, 2015, "protected shoreland" means all land located within 50 feet of the reference line of public water.

XVI. "Public waters" shall include:

(a) All lakes, ponds, and artificial impoundments greater than 10 acres in size.

(b) Coastal waters, being all waters subject to the ebb and flow of the tide, including the Great Bay Estuary and the associated tidal rivers.

(c) Rivers, meaning all year-round flowing waters of fourth order or higher and all rivers and river segments designated as protected under RSA 483:15. Stream order shall be determined using the New Hampshire hydrography dataset archived by the geographically referenced analysis and information transfer system (GRANIT) at the complex systems research center of the university of New Hampshire, and developed by GRANIT in collaboration with the department of environmental services. A listing of the streams of fourth order and higher shall be prepared and periodically updated by the GRANIT at the complex systems research center of the university of New Hampshire and delivered to the commissioner 30 days after the effective date of this subparagraph.

XVII. "Reference line" means:

(a) For all lakes, ponds, and artificial impoundments greater than 10 acres in size, the surface elevation as listed in the Consolidated List of Water Bodies subject to the shoreland water quality protection act as maintained by the department.

(b) For coastal waters, the highest observable tide line, which means a line defining the furthest landward limit of tidal flow, not including storm events, which can be recognized by indicators such as the presence of a strand line of flotsam and debris, the landward margin of salt tolerant vegetation, or a physical barrier that blocks further flow of the tide.

(c) For rivers, the ordinary high water mark.

XVIII. "Removal or removed" means girdled, felled, cut, sawed, pruned, pushed over, buried, burned, or any other activity conducted to the extent that it otherwise kills the vegetation.

XVIII-a. "Repeat violation" means a violation that occurs within 3 years of notification by the department of a prior violation, as defined in RSA 483-B:18, I, whether on the same site or by the same person or entity on a second site. Each day of continuing violation after notification of that violation shall be considered a repeat violation.

XVIII-b. "Repair" means work conducted to restore an existing, legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so at the conclusion of construction.

XVIII-c. "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part.

XVIII-d. "Replacement system" means a septic system that is not considered new construction under RSA 485-A:29-44 and rules adopted to implement it.

XIX. "Residential unit" means a structure, or portion thereof, providing complete and independent living facilities, including permanent facilities for living, sleeping, eating, cooking, and sanitation which are used in common by one or more persons.

XX. "Sapling" means any woody plant which normally grows to a mature height greater than 20 feet and has a diameter less than 6 inches at a point 4 1/2 feet above the ground.

XX-a. "Shoreland frontage" means the actual shoreland frontage along the water front measured at the reference line.

XXI. "Shrub" means any multi-stemmed woody plant which normally grows to a mature height of less than 20 feet.

XXII. "Structure" means anything constructed or erected for the support, shelter or enclosure of persons, animals, goods, or property of any kind, with a fixed permanent location on or in the ground, exclusive of fences.

XXIII. "Subdivision" means subdivision as defined in RSA 672:14.

XXIV. "Tree" means any woody plant which normally grows to a mature height greater than 20 feet and which has a diameter of 6 inches or more at a point 4 1/2 feet above the ground.

XXIV-a. [Repealed.]

XXIV-b. "Unaltered state" means native vegetation allowed to grow without cutting, limbing, trimming, pruning, mowing, or other similar activities except as needed for renewal or to maintain or improve plant health.

XXV. "Urbanization" means the concentrated development found in the sections of towns or cities where there has been an historic pattern of intensive building for residential, commercial, industrial, or mixed uses such that it contributes to or constitutes the municipality's downtown, community center, or central business district and wherein all vegetative buffers have been depleted, impervious surfaces are in excess of 50 percent, and residential uses are of at least 10 dwelling units per acre.

XXVI. "Water dependent structure" means a structure that is a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp or other similar structure, or any part thereof, built over, on, or in the waters of the state.

XXVII. "Woodland buffer" means all protected shorelands within 150 feet of the reference line including those protected shorelands within 50 feet of the reference line more specifically designated as the waterfront buffer.

**Source.** 1991, 303:1. 1992, 235:3-7, 22. 1994, 383:2-5, 22, I. 1996, 17:1, 2; 228:65. 2002, 169:1; 263:2-7. 2003, 319:9. 2004, 257:44. 2007, 267:1-6. 2008, 5:5, III-VI, 6, 7, 13-18; 171:13, 17. 2009, 218:1-8, 23, I. 2011, 224:385-393, 409, eff. June 29, 2011. 2013, 153:1, 2, 9, eff. Aug. 27, 2013. 2016, 287:37, eff. Aug. 20, 2016. 2017, 38:1, eff. May 9, 2017; 225:1, 2, eff. Sept. 9, 2017.

## Section 483-B:5

**483-B:5 Enforcement by Commissioner; Duties; Woodland Buffer. –**

I. The commissioner, with the advice and assistance of the office of strategic initiatives, department of natural and cultural resources and department of agriculture, markets, and food, shall enforce the provisions of this chapter.

II. The commissioner or his or her designee may, for cause, enter upon any subject land or parcel at any reasonable time, provided he or she has obtained the oral or written permission of the property owner, attempted to notify the property owner or his or her agent either orally or in writing 24 hours prior to entry, or has observed, or received credible evidence of, the occurrence of activities regulated by this chapter that may impact water quality, to perform oversight and enforcement duties provided for in this chapter.

III. [Repealed.]

IV. To encourage coordination of state and local enforcement measures, the commissioner shall notify, at the time of issuance or filing, the local governing body of enforcement action undertaken by the state in respect to protected shoreland within the municipality by sending it copies of relevant administrative orders issued and pleadings filed.

V. The commissioner may issue an order to any person in violation of this chapter, of rules adopted under this chapter, or of any condition of a permit issued under this chapter.

**Source.** 1991, 303:1. 1992, 235:8, 9. 1994, 383:6, 22, II. 1995, 130:4. 2003, 319:9. 2004, 257:44. 2011, 224:394, eff. June 29, 2011. 2013, 153:3, eff. Aug. 27, 2013. 2017, 156:14, I, 64, eff. July 1, 2017.

**Section 483-B:5-a**

**483-B:5-a Permit Required: Exemption. –** [Repealed 2008, 5:5, I, II, eff. May 1, 2008.]

**Section 483-B:5-b**

**483-B:5-b Permit Required; Exemption. –**

I. (a) No person shall commence construction, excavation, or filling activities within the protected shoreland without obtaining a permit from the department to ensure compliance with this chapter. Projects which have no impact on water quality and which follow department rules shall qualify for a permit by notification. The owner may proceed with the proposed project immediately upon receipt of written notice from the department that a complete and accepted notification has been received by the department. A notification shall be complete and accepted provided it meets or exceeds all of the minimum standards under RSA 483-B:9, includes a notification form signed by the owner of property, the name and address of the property owner, the address of the site on which the work will occur, the name of the jurisdictional waterbody, the tax map and lot number on which the proposed work will occur, plans clearly and accurately depicting the work to be completed relative to the reference line of the jurisdictional waterbody, photographs of the area to be impacted, and identification of those project criteria listed below that would qualify the project for a permit by notification. Such project criteria shall include:

- (1) Construction, excavation, and filling, or other activity that impacts less than 1,500 square feet and adds no more than 900 square feet of impervious area within a protected shoreland area.
- (2) Construction, excavation, and filling, directly related to stormwater management improvements and erosion control projects or environmental restoration or enhancement projects.
- (3) Maintenance, repairs, and improvements of public utilities, public roads, and public access facilities.
- (4) Any similar activities defined as qualified for a permit by notification by rules of the department.

[Paragraph I(b) repealed by 2008, 5:27, I, effective July 1, 2019.]

(b) The permit application fee shall be \$100 plus \$.10 per square foot of area affected by the proposed activities and shall be deposited in the wetlands and shorelands review fund established under RSA 482-A:3, III. Such fees shall be capped as follows:

- (1) For projects that qualify for permit by notification under this paragraph or RSA 483-B:17, X, \$100 for restoration of water quality improvement projects and \$250 for all other permit by notification projects.

(2) For projects of 0-9,999 square feet, that do not qualify for a permit by notification, \$750.

(3) For projects of 10,000-24,999 square feet, \$1,875.

(4) For projects of 25,000 square feet or more, \$3,750.

(c) If the application is denied after relying on the recommendations of the department, the application fee shall be refunded to the applicant within 30 days of such denial.

II. Timber harvesting operations permitting requirements shall be in accordance with RSA 485-A:17, IV and therefore shall be exempt from the permitting requirement under paragraph I.

III. Applications for the construction of public roads, public utility lines and associated structures, facilities, public water access facilities, and projects solely funded by municipal, county, state, or federal entities shall be exempt from the permitting fees of paragraph I.

IV. Impacts in the protected shoreland that receive a permit in accordance with RSA 482-A and commercial or industrial redevelopment in accordance with RSA 485-A:17 shall not require a permit under this section.

IV-a. At the time of the permit application, the applicant shall provide postal receipts or copies, verifying that the governing body of the municipality or municipalities in which the property is located and the local river management advisory committee, if the project is within a designated river corridor defined in RSA 483:4, XVIII and contains river and river segments designated in RSA 483:15, and all abutters have been notified of the application by certified mail. Applicants for the construction of public roads, public utility lines and associated structures and facilities, and public water access facilities shall only be required to provide postal receipts or copies, verifying that the governing body of the municipality or municipalities in which the property is located, and the local river management advisory committee if the project is within a designated river corridor defined in RSA 483:4, XVIII and contains river and river segments designated in RSA 483:15, have been notified of the application by certified mail.

IV-b. No permits issued by the department pursuant to this chapter that involve private, non-federal undertakings shall require coordination with or clearance by the New Hampshire division of historical resources.

V. (a) Within 30 days of receipt of an application for a permit or 30 days of receipt of an application for a permit that will require a waiver of the minimum standards of RSA 483-B:9, the department shall request any additional information reasonably required to complete its evaluation of the application, and provide the applicant with any written technical comments the department deems necessary. Any request for additional information shall specify that the applicant submit such information as soon as practicable and notify the applicant that if all of the requested information is not received within 60 days of the request, the department shall deny the application.

(b) When the department requests additional information pursuant to subparagraph (a), the department shall, within 30 days of the department's receipt of the information:

(1) Approve the application and issue a permit; or

(2) Deny the application, and issue written findings in support of the denial; or

(3) Extend the time for rendering a decision on the application for good cause and with the written agreement of the applicant.

(c) Where no request for additional information is made, the department shall, within 30 days of receipt of the application for a permit or 30 days of receipt of an application for a permit that will require a waiver of the minimum standards of RSA 483-B:9, approve or deny the application with written findings in support of the decision.

(d) Within 5 business days of receipt of a permit by notification filing, the department shall issue a written notice to the property owner or agent stating that the notification has either been accepted or rejected. If the department does not respond within the 5-day period, the property owner or agent may submit to the department a written request for a response. A request submitted electronically by the applicant shall constitute a written request provided that the applicant has previously agreed to accept electronic communication. If the department fails to respond to the written request within an additional 5 days the property owner or agent shall be deemed to have a permit by notification and may proceed with the project as presented in the notification filing. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relative to water quality.

(e)(1) The time limits prescribed by this paragraph shall supersede any time limits provided in any other provision of law. If the department fails to act within the applicable time frame established in subparagraphs (b) and (c), the applicant may ask the department to issue the permit by submitting a written request. If the applicant

has previously agreed to accept communications from the department by electronic means, a request submitted electronically by the applicant shall constitute a written request.

(2) Within 14 days of the date of receipt of a written request from the applicant to issue the permit, the department shall:

(A) Approve the application, in whole or in part, and issue a permit; or

(B) Deny the application and issue written findings in support of the denial.

(3) If the department does not issue either a permit or a written denial within the 14-day period, the applicant shall be deemed to have a permit by default and may proceed with the project as presented in the application. The authorization provided by this subparagraph shall not relieve the applicant of complying with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relating to water quality.

(4) Upon receipt of a written request from an applicant, the department shall issue written confirmation that the applicant has a permit by default pursuant to subparagraph (e)(3), which authorizes the applicant to proceed with the project as presented in the application and requires the work to comply with all requirements applicable to the project, including but not limited to requirements established in or under this chapter and RSA 485-A relating to water quality.

(f) All applications filed in accordance with the rules adopted by the department under RSA 483-B:17 and which meet the minimum standards of this chapter shall be approved and a permit shall be issued.

(g) The department may extend the time for rendering a decision under subparagraphs (b)(3) and (c)(3), without the applicant's agreement, on an application from an applicant who previously has been determined, after the exhaustion of available appellate remedies, to have failed to comply with this chapter or any rule adopted or permit or approval issued under this chapter, or to have misrepresented any material fact made in connection with any activity regulated or prohibited by this chapter, pursuant to an action initiated under RSA 483-B:18. The length of such an extension shall be no longer than reasonably necessary to complete the review of the application, and shall not exceed 30 days unless the applicant agrees to a longer extension. The department shall notify the applicant of the length of the extension.

(h) The department may suspend review of an application for a proposed project on a property with respect to which the department has commenced an enforcement action against the applicant for any violation of this chapter, RSA 482-A, RSA 485-A:17, or RSA 485-A:29-44, or of any rule adopted or permit or approval issued pursuant to this chapter, RSA 482-A, RSA 485-A:17, or RSA 485-A:29-44. Any such suspension shall expire upon conclusion of the enforcement action and completion of any remedial actions the department may require to address the violation; provided, however, that the department may resume its review of the application sooner if doing so will facilitate resolution of the violation. The department shall resume its review of the application at the point the review was suspended, except that the department may extend any of the time limits under this paragraph and its rules up to a total of 30 days for all such extensions. For purposes of this subparagraph, "enforcement action" means an action initiated under RSA 482-A:13, RSA 482-A:14, RSA 482-A:14-b, RSA 483-B:18, RSA 485-A:22, RSA 485-A:42, or RSA 485-A:43.

VI. All permits issued pursuant to this chapter shall be valid for a period of 5 years. Requests for extensions of such permits may be made to the department. The department shall grant one extension of up to 5 additional years, provided the applicant demonstrates all of the following:

(a) The permit for which extension is sought has not been revoked or suspended without reinstatement.

(b) Extension would not violate a condition of law or rule.

(c) The project is proceeding towards completion in accordance with plans and other documentation referenced by the permit.

(d) The applicant proposes reasonable mitigation measures to protect the shorelands and public waters of the state from deterioration during the period of extension.

VII. Maintenance and repair of state roadways undertaken by the department of transportation shall be exempt from the permitting requirements of this chapter, provided such roadway is not expanded.

VIII. The drilling of geotechnical borings and test wells undertaken by the department of transportation for the purpose of gathering design information shall be exempt from the permitting requirements of this chapter, provided that any vehicles used shall be operated in a manner that minimizes disturbance to the natural woodland buffer; drilling operations shall be managed to avoid impact on water quality; drill holes shall be backfilled with drill spoil or filled with clean material or grout; drill cuttings not used to backfill drill holes shall be removed or stabilized; and equipment shall be operated and maintained to avoid spillage of fluids including,

but not limited to, oil, gas, antifreeze, or hydraulic fluids.

IX. The commissioner of the department of environmental services may enter into a memorandum of agreement with the commissioner of the department of transportation for the construction of new roads, and the maintenance of existing roads, not covered by paragraph VII, provided that the department of transportation has incorporated appropriate protective practices in its projects which are substantially equivalent to the requirements established by the department of environmental services under this chapter.

**Source.** 2008, 5:12, 27, I, II; 171:18. 2009, 218:9-11. 2010, 295:5-7. 2011, 141:1, eff. Aug. 6, 2011; 143:3, eff. Aug. 6, 2011; 224:395-397, eff. June 29, 2011. 2017, 225:3, 4, eff. Sept. 9, 2017. 2018, 123:1, eff. July 29, 2018.

## **Section 483-B:6**

### **483-B:6 Other Required Permits and Approvals. –**

I. Within the protected shoreland, any person intending to:

(a) Engage in any earth excavation activity shall obtain all necessary local approvals in compliance with RSA 155-E.

(b) Construct a water-dependent structure, alter the bank, or construct or replenish a beach shall obtain approval and all necessary permits pursuant to RSA 482-A.

(c) Install a septic system as described in RSA 483-B:9, V(c) shall obtain all permits pursuant to RSA 485-A:29.

(d) Conduct an activity resulting in a contiguous disturbed area exceeding 50,000 square feet shall obtain a permit pursuant to RSA 485-A:17.

(e) Subdivide land as described in RSA 483-B:9, V(e) and (f) shall obtain approval pursuant to RSA 485-A:29.

(f) Conduct an activity regulated under a local zoning ordinance shall obtain all necessary local approvals.

II. In applying for approvals and permits, pursuant to paragraph I, applicants shall demonstrate that the proposal meets or exceeds the development standards of this chapter. The department shall develop minimum standards for information to be required on or with all applications under paragraph I. The department or municipality shall grant, deny, or attach reasonable conditions to approvals or permits listed in subparagraphs I(a)-(f), to protect the public waters or the public health, safety, or welfare. Such conditions shall be related to the purposes of this chapter.

III. The commissioner shall have the sole authority to issue variances and waivers of the provisions of this chapter as specifically authorized by this chapter.

IV. No variance, permit, or approval issued by a municipality shall exempt the owner from obtaining any other necessary permit or approval from the department as required by this chapter.

**Source.** 1991, 303:1. 1992, 235:10. 1996, 17:3. 2002, 263:8. 2007, 267:7. 2008, 5:8, eff. May 1, 2008; 5:19, eff. July 1, 2008.

## **Section 483-B:7**

**483-B:7 Reporting; On-Site Inspections; Local Participation. –** The department may devise a system whereby municipal officials may voluntarily assist with the permitting process under RSA 483-B:6 and the subsequent enforcement of permit conditions, by performing certain reporting functions relative to on-site inspections. Utilization of such reports shall be at the department's discretion, but may, when appropriate, obviate the need for further on-site review by department staff.

**Source.** 1991, 303:1. 1992, 235:23, eff. Jan. 1, 1993.

## **Section 483-B:7-a**

**483-B:7-a National Pollutant Discharge Elimination System Study Commission. –** [Repealed 2017, 256:2, eff. Nov. 1, 2017.]

## **Section 483-B:8**



### **483-B:8 Municipal Authority. –**

- I. Municipalities may adopt land use control ordinances relative to all protected shorelands which are more stringent than the minimum standards contained in this chapter.
- II. Municipalities are encouraged to adopt land use control ordinances for the shorelands of water bodies and water courses other than public waters.
- III. Municipalities in which protected shoreland is situated may enforce the provisions of this chapter by issuing cease and desist orders and by seeking injunctive relief or civil penalties as provided in RSA 483-B:18, III(a) and (b). Civil penalties and fines collected by the court shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. Any municipality electing to enforce the provisions of this chapter shall send copies of any pleading to the attorney general at the time of filing. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.
- IV. The authority granted to municipalities under this chapter shall not be interpreted to extend to RSA 430:28-48.
- V. Municipalities bordering the same water body are encouraged to employ jointly a single code enforcement officer to monitor compliance.

**Source.** 1991, 303:1. 1992, 235:11, eff. Jan. 1, 1993.

## **Section 483-B:9**

### **483-B:9 Minimum Shoreland Protection Standards. –**

- I. The standards in this section are designed to minimize shoreland disturbance so as to protect the public waters, while still accommodating reasonable levels of development in the protected shoreland. Development outside the protected shoreland shall conform to local zoning and local ordinances and shall not be subject to standards established in this chapter.
- II. Within the protected shoreland the following restrictions shall apply:
  - (a) The establishment or expansion of salt storage yards, automobile junk yards, and solid or hazardous waste facilities shall be prohibited.
  - (b) Primary structures shall be set back behind the primary building line which is 50 feet from the reference line.
  - (c) A water dependent structure, meaning one which is a dock, wharf, pier, breakwater, or other similar structure, or any part thereof, built over, on, or in the waters of the state, shall be constructed only as approved by the department, pursuant to RSA 482-A.
  - (d) No fertilizer shall be applied to vegetation or soils located within 25 feet of the reference line of any public water. Beyond 25 feet, slow or controlled release fertilizer, as defined by rules adopted by department, may be used.
- III. Public water supply facilities, including water supply intakes, pipes, water treatment facilities, pump stations, and disinfection stations shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law. Private water supply facilities shall not require a permit.
- IV. The placement and expansion of public water and sewage treatment facilities shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.
  - IV-a. Hydro electric facilities, including, but not limited to, dams, dikes, penstocks, and powerhouses, shall be recognized as water dependent, and shall be permitted by the commissioner as necessary, consistent with the purposes of this chapter and other state law.
  - IV-b. Public utility lines and associated structures and facilities, public roads, and public water access facilities including boat ramps shall be permitted by the commissioner as necessary and consistent with the purposes of this chapter and other state law.
  - IV-c. An existing solid waste facility which is located within 250 feet of the reference line of public waters under this chapter may continue to operate under an existing permit, provided it does not cause degradation to an area in excess of that area under permit.
  - IV-d. No solid waste facility shall place solid waste within 250 feet of the reference line of public waters under this chapter except as expressly permitted under RSA 483-B:9, IV-c. However, any solid waste facility may be allowed, subject to permitting conditions under RSA 149-M:9, to erect accessory structures and conduct other activities consistent with the operation of the facility within 250 feet of the reference line of public waters under

this chapter, such as filling, grading and installing monitoring wells and other drainage structures as is consistent with its solid waste permit as issued by the department of environmental services. Under no circumstances shall the toe of any slope encroach within 150 feet of the reference line.

V. The following minimum standards shall apply to areas and activities within the protected shoreland with the exception of forest management that is not associated with shoreland development or land conversion, and is conducted in compliance with RSA 227-J:9; forestry conducted by or under the direction of a water supplier for the purpose of managing a water supply watershed; and agriculture conducted in accordance with best management practices as required by RSA 483-B:3, III:

(a) Maintenance of a Waterfront Buffer.

(1) The waterfront buffer shall be those protected shorelands within 50 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters while allowing homeowner discretion with regard to water access, safety, viewscape maintenance, and lot design.

(2) Within the waterfront buffer all of the following prohibitions and limitations shall apply:

(A) No chemicals, including pesticides or herbicides of any kind, shall be applied to ground, turf, or established vegetation except if applied by horticultural professionals who have a pesticide application license issued by the department of agriculture or as allowed under special permit issued by the division of pesticide control under rules adopted by the pesticide control board under RSA 541-A, or fertilizers of any kind except those specified in RSA 483-B:9, II(d).

(B) Rocks and stumps and their root systems shall be left intact in the ground unless removal is specifically approved by the department, pursuant to RSA 482-A or RSA 483-B:11, II or unless rocks are removed to improve runoff control or the planting in the waterfront buffer, and stumps that are removed are replaced with pervious surfaces, new trees, or other woody vegetation.

(C) No natural ground cover shall be removed except as necessary for a foot path to water and access ways as provided under RSA 483-B:9, V(a)(2)(D), (viii) and (ix), for normal maintenance, to protect the waterfront buffer, cutting those portions that have grown over 3 feet in height for the purpose of providing a view, to provide access to natural areas or shoreline, or as specifically approved by the department, pursuant to RSA 482-A or RSA 483-B.

(D) Starting from the northerly or easterly boundary of the property, and working along the shoreline, the waterfront buffer shall be divided into segments measuring 25 feet along the reference line and 50 feet inland. Owners of land within the waterfront buffer shall measure, calculate, and maintain the tree, sapling, shrub, and groundcover point score in each of these segments in accordance with the methods and standards described in subparagraphs (i) through (ix).

(i) Tree and sapling diameters shall be measured at 4 1/2 feet above the ground for existing trees and saplings, or by caliper at a height consistent with established nursery industry standards when nursery stock is to be used, and are scored as follows:

Diameter or Caliper-Score

1 to 3 inches-1

Greater than 3 to and including 6 inches-5

Greater than 6 to and including 12 inches-10

Greater than 12 inches- 15

(ii) For the purpose of replanting under RSA 483-B:9, V(g)(3), shrubs and groundcover plants shall be scored as follows:

Four square feet of shrub area-1 point.

Ground cover, not including mowed lawn-one point for every 50 square feet.

Shrub and groundcover shall count for at least 5 points and not more than 10 points in each full segment.

(iii) Dead, diseased, or unsafe trees or saplings shall not be included in scoring.

(iv) If the total tree and sapling score in any 25 foot by 50 foot segment exceeds 25 points, then trees, saplings, and shrubs over 3 feet in height may be removed as long as the sum of the scores for the remaining trees and saplings in that segment does not total less than 25 points. If for any reason there is insufficient area for a full segment, or the segment contains areas naturally incapable of supporting trees and saplings, such as areas of rock, ledge, or beaches, the point score requirement for the remaining vegetation in that partial segment shall be reduced proportionally to that required of a full segment. Vegetation shall not be removed from any segment which fails to meet the minimum point score for that segment. Owners are encouraged to take efforts to plan the maintenance of their waterfront buffer areas including the planting of additional non-invasive vegetation to

increase point scores within segments, thus providing sufficient points to allow the future removal of vegetation as may become necessary while still meeting the requirements of this paragraph.

(v) The department shall approve applications pursuant to RSA 482-A or RSA 483-B that include the planting of trees, saplings, shrubs, and groundcover as necessary to at least maintain either the existing point score or the minimum score required. The department shall not approve any application that would result in a combined vegetation score of less than the minimum score required where the segment initially meets the minimum score or would result in any reduction of the point score where the segment does not initially meet the minimum score.

(vi) Owners of lots and holders of easements on lots that were legally developed prior to July 1, 2008 may maintain but not enlarge cleared areas, including but not limited to existing lawns, gardens, landscaped areas, beaches, and rights-of-way for public utilities, public transportation, and public access, and may repair existing utility structures within the waterfront buffer. Conversion to or planting of cleared areas with non-invasive species of ground cover, shrubs, saplings, and trees is encouraged but shall not be required unless it is necessary to meet the requirements of subparagraph (g)(2) or (g)(3), or RSA 483-B:11, II. In addition, the commissioner of the department of natural and cultural resources may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of natural and cultural resources within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under subparagraph (iv), the commissioner of the department of natural and cultural resources shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

(vii) Normal trimming, pruning, and thinning of branches to the extent necessary to maintain the health of the planted area as well to protect structures, maintain clearances, and provide views is permitted provided such activity does not endanger the health of the plant.

(viii) When necessary for the completion of construction activities permitted in accordance with RSA 483-B:6, a temporary 12-foot wide access path shall be allowed. On those properties accessible only by water, this access path may be maintained provided it is stabilized with a surface that will infiltrate stormwater. On other properties the access path shall be completely restored and replanted with vegetation upon completion of construction except as allowed under subparagraph (ix).

(ix) A permanent 6-foot wide foot path as well as access to any docks, beaches, structures, existing open areas, and the water body, configured in a manner that will not concentrate storm water runoff or contribute to erosion, are allowed.

(b) Maintenance of Vegetation within the Woodland Buffer.

(1) The woodland buffer shall be those protected shorelands within 150 feet of the reference line. The purpose of the woodland buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland. The first 50 feet of this buffer is designated the waterfront buffer and is subject to the additional requirements of subparagraph (a).

(2)(A) On a given lot, at least 25 percent of the woodland buffer area located between 50 feet and 150 feet from the reference line shall be maintained as natural woodland. The vegetation, exclusive of lawn, within the natural woodland shall be maintained in an unaltered state or improved with additional vegetation. Owners of lots legally developed or landscaped prior to July 1, 2008 that do not comply with this standard are encouraged to, but shall not be required to, increase the percentage of the woodland buffer area to be maintained as natural woodland. The percentage of the woodland buffer area maintained as natural woodland on nonconforming lots shall not be decreased. In addition, the commissioner of the department of natural and cultural resources may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of natural and cultural resources within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities and endangers public safety. If such cutting will exceed that which is allowed under this subparagraph, the commissioner of the department of natural and cultural resources shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of any areas of the woodland buffer in which impacts would occur.

(C) Dead, diseased, or unsafe, trees, limbs, saplings, or shrubs that pose a hazard to structures or have the potential to cause personal injury may be removed regardless of any requirements that pertain to the maintenance of vegetation within the woodland buffer under this chapter. Such exemptions shall not be used to contravene the intent of the law.

(D) Maintenance and preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.

(E) Planting efforts that do not introduce exotic or invasive species and are beneficial to wildlife are encouraged.

(c) Septic Systems.

(1) [Repealed.]

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries, and the open ocean.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph (c)(2), to the maximum extent feasible.

(d) Erosion and Siltation.

(1) All new structures, modifications to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in a manner that incorporates appropriate protective practices which are substantially equivalent to those required under rules adopted by the department under RSA 541-A for terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit under RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

(e) Minimum Lots and Residential Development. In the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA 485-A and rules adopted to implement it.

(2) [Repealed.]

(3) No lot having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

(4) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

(f) Minimum Lots and Non-Residential Development. In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted under RSA 541-A.

(2) No lot having frontage on public water shall be created with less than 150 feet of shoreland frontage.

(3) Non-residential lots outside of the protected shoreland shall not be subject to this chapter.

(g) Impervious Surfaces.

(1) No more than 30 percent of the area of a lot located within the protected shoreland shall be composed of impervious surfaces, unless a stormwater management system designed and certified by a professional engineer is implemented. Such system design shall demonstrate that the post-development volume and peak flow rate based on the 10-year, 24-hour storm event, shall not exceed the pre-development volume and peak flow rate for flow off the property within the protected shoreland.

(2) If the impervious surface area will exceed 20 percent, but is less than 30 percent, a stormwater management system shall be implemented and maintained which is designed to infiltrate increased stormwater from development occurring after the effective date of this paragraph in accordance with rules established by the

department under RSA 485-A:17.

(3) If the impervious surface area will exceed 30 percent and the tree, sapling, shrub, and groundcover in the waterfront buffer does not meet the point score requirement of RSA 483-B:9, V(a)(2)(D) in any segment, then such segment shall be planted, as determined by rule of the department, with trees, saplings, shrubs, or groundcover in sufficient quantity, type, and location either to meet the minimum score or to provide at least an equivalent level of protection as provided by the minimum score and shall be maintained in accordance with RSA 483-B:9, V(a).

(h) Common Owners and Residential or Non-Residential Development. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed, but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

(i) The commissioner shall have the authority to grant waivers from the minimum standards of this section. Such authority shall be exercised if the commissioner deems that strict compliance with the minimum standards of this section will provide no material benefit to the public and have no material adverse effect on the environment or the natural resources of the state. Waivers shall also be granted to accommodate the reasonable needs of persons with disabilities.

**Source.** 1991, 303:1. 1992, 235:12-18, 28, I. 1994, 383:7-14. 1995, 32:1; 206:2; 299:16. 1996, 17:4, 5; 100:1; 228:66, 108; 251:22; 296:52, 53. 2002, 114:1; 263:9. 2007, 267:8, 9. 2008, 5:9, 10, 20, 21; 171:9-12. 2009, 218:12-19, 23, II. 2011, 224:398-401, 412. 2012, 137:1, 2, eff. Aug. 4, 2012. 2013, 153:4-7, eff. Aug. 27, 2013. 2017, 156:14, I, eff. July 1, 2017; 225:5-9, eff. Sept. 9, 2017.

## **Section 483-B:10**

### **483-B:10 Nonconforming Lots of Record. –**

Nonconforming, undeveloped lots of record that are located within the protected shoreland shall comply with the following restrictions, in addition to any local requirements:

I. Except when otherwise prohibited by law, present and successive owners of an individual undeveloped lot may construct a single family residential dwelling and appurtenant accessory structures on it, notwithstanding the provisions of this chapter. Conditions may be imposed which, in the opinion of the commissioner, more nearly meet the intent of this chapter, while still accommodating the applicant's rights.

II. Building on nonconforming lots of record shall be limited to single family residential structures and related facilities, including, but not limited to, appurtenant accessory structures such as walkways and driveways, and water dependent structures such as docks, piers, and breakwaters consistent with state law.

III. Consistent with RSA 674:39-a, a municipality shall not merge adjacent nonconforming lots in common ownership without the consent of the owner.

**Source.** 1991, 303:1. 1992, 235:19. 1994, 383:15. 2009, 218:20. 2011, 224:402, 403, eff. June 29, 2011.

## **Section 483-B:11**

### **483-B:11 Nonconforming Structures. –**

I. Except as otherwise prohibited by law or applicable municipal ordinance, nonconforming structures located within the protected shoreland may be repaired, replaced in kind, reconstructed in place, altered, or expanded. Repair, replacement-in kind, or reconstruction in place may alter or remodel the interior design or existing foundation of the nonconforming structure, but shall result in no expansion or relocation of the existing footprint within the waterfront buffer. However, alteration or expansion of a nonconforming structure may expand the existing footprint within the waterfront buffer, provided the structure is not extended closer to the reference line and the proposal or property is made more nearly conforming than the existing structure or the existing conditions of the property. This provision shall not allow for the enclosure, or conversion to living space, of any deck or open porch located between the primary structure and the reference line and within the waterfront buffer.

II. For the purposes of this section, a proposal that is "more nearly conforming" means alteration of the location or size of the existing footprints, or redevelopment of the existing conditions of the property, such that the structures or the property are brought into greater conformity with the design standards of this chapter. Methods

for achieving greater conformity include, without limitation, reducing the overall square footage of structural footprints, enhancing stormwater management, adding infiltration areas and landscaping, upgrading wastewater treatment, improving traffic management, or other enhancements that improve wildlife habitat or resource protection.

III. An expansion that increases the sewerage load to an onsite septic system, or changes or expands the use of a septic system, shall require a subsurface approval issued by the department.

IV. Under paragraph I, and except as otherwise prohibited by law or applicable municipal ordinance, primary nonconforming structures may be entirely demolished and reconstructed, with continued encroachment into the waterfront buffer, provided the replacement structure is located farther back from the reference line than the preexisting nonconforming structure.

V. Notwithstanding paragraphs I and IV, between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that a deck or open porch extending a maximum of 12 feet towards the reference line may be added to nonconforming structures erected prior to July 1, 1994.

**Source.** 1991, 303:1. 1992, 235:20. 1994, 383:16, 17. 1996, 17:6. 2002, 263:10. 2007, 267:10. 2008, 5:11, 22. 2011, 224:404. 2012, 276:2, 3, eff. June 19, 2012.

## **Section 483-B:12**

### **483-B:12 Shoreland Exemptions. –**

I. The governing body of a municipality may, in its discretion, request the commissioner to exempt all or a portion of the protected shoreland within its boundaries from the provisions of this chapter if the governing body finds that special local urbanization conditions as defined in RSA 483-B:4, XXV, exist in the protected shoreland for which the exemption is sought.

II. If the governing body of a municipality requests such an exemption, it shall submit evidence of existing and historical patterns of building and development in the protected shoreland in demonstration of the special local urbanization conditions. Such evidence shall address:

(a) Current and past building density.

(b) Commercial, industrial, or residential uses.

(c) Municipal or other public utilities.

(d) Current municipal land use regulations which affect the protected shoreland.

(e) Designation as a downtown, community center, central business district, or urbanized area or urban cluster as delineated by the United States Census Bureau.

(f) Any other information which the commissioner may reasonably require.

III. With the advice of the office of strategic initiatives, the commissioner shall approve or deny the request for an exemption and shall issue written findings in support of his decision. A request for an exemption shall be approved only if the municipality demonstrates, using the evidence required under paragraph II, that special conditions of urbanization exist along the portion of shoreland to be exempted.

IV. The Pease development authority, division of ports and harbors may request an exemption under this section for all or a portion of any land purchased, leased, or otherwise acquired by it pursuant to RSA 12-G:39.

**Source.** 1991, 303:1. 2001, 290:15. 2003, 319:9. 2004, 257:44. 2009, 218:21, eff. Sept. 13, 2009. 2017, 156:64, eff. July 1, 2017.

## **Section 483-B:13**

**483-B:13 Public Hearing and Notice to Abutter. –** [Repealed 1992, 235:28, II, eff. Jan. 1, 1993.]

## **Section 483-B:14**

**483-B:14 Rehearings and Appeals. –** Where the requirements of this chapter amend the existing statutory authority of the department or other agencies relative to certain established regulatory programs and shall be enforced under these established regulatory programs, the existing procedures governing contested cases and

hearings and appeals regarding these requirements shall apply. Where requirements of this chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedures set forth in RSA 541-A:31 for contested cases shall apply.

**Source.** 1991, 303:1. 1992, 235:24. 1994, 412:51, eff. Aug. 9, 1994.

### **Section 483-B:15**

**483-B:15 Gifts, Grants and Donations.** – The department is authorized to solicit, receive, and expend any gifts, grants, or donations made for the purposes of this chapter. Gifts of land or easements shall be assigned to the department of natural and cultural resources for management or assignment to another state agency or other public body, as appropriate.

**Source.** 1991, 303:1, eff. July 1, 1994. 2017, 156:14, I, eff. July 1, 2017.

### **Section 483-B:16**

**483-B:16 Assistance to Municipalities; Office of State Planning and Energy Programs.** – The office of strategic initiatives may assist municipalities with the implementation of local ordinances under this chapter, upon the request of an individual municipality.

**Source.** 1991, 303:1. 2003, 319:9. 2004, 257:44, eff. July 1, 2004. 2017, 156:64, eff. July 1, 2017.

### **Section 483-B:17**

#### **483-B:17 Rulemaking.** –

The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

- I. The content and structure of all forms, applications and permits to be received or issued by the department under this chapter, including information and other materials to be submitted by an applicant.
- II. Procedures for filing and review of requests for urbanized shoreland exemptions and standards for granting urbanized shoreland exemptions, including time frames for decisions.
- III. Implementation and enforcement of the minimum shoreland standards, including methods and timing of inspection and coordination with municipalities.
- IV. Procedures and criteria for the size and placement of small accessory structures such as storage sheds and gazebos, which are consistent with the intent of this chapter, between the reference line and the primary building line.
- V. Criteria governing the assessment of administrative fines.
- VI. Criteria governing low phosphate, slow release nitrogen fertilizer.
- VII. A methodology for identifying unsafe trees.
- VIII. [Repealed.]
- IX. Definitions of terms not defined in this chapter.
- X. Procedures and criteria for permitting under RSA 483-B:5-b, including permit by notification and the identification of those activities that may be conducted without obtaining a permit, all consistent with the provisions of this chapter.
- XI. Requests for extensions of permits for activities within the protected shoreland.

**Source.** 1991, 303:1. 1992, 235:25. 1994, 383:18. 1996, 100:2. 2002, 263:11. 2007, 267:11; 269:2. 2008, 5:23. 2009, 218:22, 23, III. 2011, 143:4, eff. Aug. 6, 2011; 224:405, eff. June 29, 2011.

### **Section 483-B:18**

#### **483-B:18 Penalties.** –

- I. The following shall constitute a violation of this chapter:

- (a) Failure to comply with the provisions of this chapter.
- (b) Failure to obey an order of the commissioner or a municipality issued relative to activities regulated or prohibited by this chapter.
- (c) Misrepresentation by any person of a material fact made in connection with any activity regulated or prohibited by this chapter.

II. Any person who violates this chapter and any person who purchases land affected by a violation of this chapter who knew or had reason to know of the violation shall be liable for remediation or restoration of the land affected to bring it into compliance with the provisions of this chapter.

III. Persons violating the provisions of this chapter and damaging the public waterway who, after notification by the department, fail to make a good faith effort at remediation and restoration shall be subject to the following:

- (a) Upon petition of the attorney general or of the municipality in which the violation occurred, the superior court may levy upon any person violating this chapter a civil penalty in an amount not to exceed \$5,000 for each continuing violation. The superior court shall have jurisdiction to restrain a continuing violation of this chapter, and to require remediation.
- (b) The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine of up to \$5,000 for each offense upon any person who violates this chapter. Rehearings and appeals relating to such fines shall be governed by RSA 541. Imposition of an administrative fine under this section shall not preclude the imposition of further civil penalties under this chapter.
- (c) Notwithstanding the \$5,000 fine limit in subparagraph (b), the administrative fine for each repeat violation of this chapter may be multiplied by a factor of 2 for every previous violation committed by the person or entity.

**Source.** 1991, 303:1. 1994, 383:19. 2002, 169:2. 2011, 224:406, eff. June 29, 2011. 2013, 153:8, eff. Aug. 27, 2013.

### **Section 483-B:19**

**483-B:19 Applicability.** – [Repealed 2007, 267:14, I, eff. April 1, 2008.]

### **Section 483-B:20**

**483-B:20 Designated Rivers.** – [Repealed 2007, 267:14, II, eff. April 1, 2008.]

### **Section 483-B:21**

**483-B:21 Shoreland Advisory Committee.** – [Repealed 2010, 306:2, eff. Dec. 31, 2015.]

### **Section 483-B:22**

**483-B:22 Coastal and Great Bay Region Reports.** – The commissioner of the department of environmental services shall convene representatives of the department of transportation, the division of homeland security and emergency management, the office of strategic initiatives, and other agencies as he or she deems appropriate, at least every 5 years, commencing July 1, 2019 to supervise an updating of storm surge, sea-level rise, precipitation, and other relevant projections recommended in the coastal risks and hazards commission 2014 report "Sea-Level Rise, Storm Surges, and Extreme Precipitation in Coastal New Hampshire: Analysis of Past and Projected Trends." This report shall be distributed to all state agencies, municipalities in the coastal and Great Bay region, the governor, the speaker of the house of representatives, the president of the senate and the chairs of the house and senate committees with jurisdiction over issues related to such projections.

**Source.** 2016, 121:1, eff. July 19, 2016. 2017, 156:64, eff. July 1, 2017.