

* **Effective December 17, 2016, Env-Wq 1400 reads as follows:**

CHAPTER Env-Wq 1400 SHORELAND PROTECTION

Statutory Authority: RSA 483-B:17

PART Env-Wq 1401 PURPOSE AND APPLICABILITY

Env-Wq 1401.01 Purpose. The purpose of these rules is to implement RSA 483-B, the shoreland water quality protection act.

Env-Wq 1401.02 Applicability. These rules shall apply to all land areas that fall within the definition of protected shoreland in RSA 483-B:4, XV.

PART Env-Wq 1402 DEFINITIONS

Env-Wq 1402.01 “Abutter” means “abutter” as defined in RSA 483-B:4, I, as reprinted in Appendix B.

Env-Wq 1402.02 “Accessory structure” means “accessory structure” as defined in RSA 483-B:4, II, as reprinted in Appendix B.

Env-Wq 1402.03 “Commissioner” means “commissioner” as defined in RSA 483-B:4, IV, as reprinted in Appendix B.

Env-Wq 1402.04 “Construction” means, for the purpose of RSA 483-B:5-b, I(a):

- (a) The erection, demolition, reconstruction, or alteration of any structure; or
- (b) Any activity that results in an increase in the impervious surface area on a property.

Env-Wq 1402.05 “Department” means “the department of environmental services” as defined in RSA 483-B:4, V, as reprinted in Appendix B.

Env-Wq 1402.06 “Disturbed area” means “disturbed area” as defined in RSA 483-B:4, VI, as reprinted in Appendix B.

Env-Wq 1402.07 “Excavation” means, for the purpose of RSA 483-B:5-b, I(a), to dig, remove, form a cavity or a hole in, or otherwise remove material from an area within the department’s jurisdiction.

Env-Wq 1402.08 “Fertilizer” as used in RSA 483-B:9, means “fertilizer” as defined in RSA 431:3, VII, as reprinted in Appendix B.

Env-Wq 1402.09 “Fill” as a noun means any rock, soil, gravel, sand, or other material that has been deposited or caused to be deposited by human activity.

Env-Wq 1402.10 “Fill” as a verb means to place or deposit materials in or on a wetland, surface water body, or bank, or otherwise in or on an area within the jurisdiction of the department.

Env-Wq 1402.11 “Footprint” means:

(a) When used in RSA 483-B:11, I, the area of land surface that lies directly beneath the limits of the exterior walls of a structure, whether the structure rests directly on the ground or is raised above the ground surface; and

(b) For all other purposes, the area outlined by the vertical projection of an impervious surface onto the ground surface where it is or will be located.

Env-Wq 1402.12 “Ground cover” means “ground cover” as defined in RSA 483-B:4, VII, as reprinted in Appendix B.

Env-Wq 1402.13 “Impervious surface area” means, for purposes of the impervious surface limitation specified in RSA 483-B:9, V(g), the sum total of the footprint of each impervious surface that is located within the protected shoreland. The term includes “composed of impervious surfaces”.

- e. What revisions would be required to redesign the project to reflect the standards enacted to be effective July 1, 2008;
 - f. The cost of the revisions that would be needed; and
 - g. The relationship of the revisions to the full scope of the project as originally envisioned.
- (e) An exemption shall not be available under (a), above, if:
- (1) The applicant proposes changes to the activities from those that would otherwise be exempt under (a), above, and such changes would increase impacts in the natural woodland buffer established by RSA 483-B:9, V(b)(1); or
 - (2) The applicable permit, approval, variance, or redevelopment waiver expires or otherwise lapses prior to work commencing, or is revoked for cause by the issuing authority.

Env-Wq 1406.04 Activities in Protected Shoreland That Do Not Require a Shoreland Permit. 

(a) A person shall not be required to obtain a permit under RSA 483-B:5-b, I(a) prior to undertaking any activity listed in (c) or (d), below, in the protected shoreland, provided that the activity is conducted in accordance with the conditions noted.

(b) In any enforcement action against a property owner or contractor for actions arguably covered by (a), above, the burden of proving that the exemption applies shall be on the property owner or contractor, as applicable.

(c) Activities exempt pursuant to (a), above, because the activity does not constitute construction, excavation, or filling shall be as follows:

- (1) Trimming, pruning, and thinning of branches to the extent necessary to protect structures, maintain clearances, and provide views, as allowed by RSA 483-B:9, V(a)(2)(D)(vi);
- (2) Removal of trees, limbs, saplings, or shrubs in accordance with Env-Wq 1403.04 or removal of trees or saplings in accordance with Env-Wq 1403.05;
- (3) Maintenance, repair, or modification of an existing, legal, primary structure that does not:
 - a. Alter the footprint or impervious area of the structure;
 - b. Require, or result in, the alteration of previously unaltered areas;
 - c. Result in an increase in loading to an onsite sewage disposal system; or
 - d. Require, or result in, any excavation or filling within the protected shoreland;
- (4) Maintenance, repair, or modification of an existing, legal, accessory structure that does not:
 - a. Alter the footprint or impervious area of the structure;
 - b. Require, or result in, the alteration of previously unaltered areas;
 - c. Result in an increase in loading to an onsite sewage disposal system;
 - d. Require, or result in any excavation or filling within the protected shoreland; or
 - e. Exceed the criteria of Part Env-Wq 1405, if it is located within the waterfront buffer;
- (5) Maintenance of a grandfathered or altered open area, such as by mowing a lawn, raking leaves or pine needles, or mulching landscaped areas;
- (6) Hand-pulling or use of hand tools to remove invasive species or other noxious or harmful plants such as poison ivy, including root systems, provided that any area exceeding 10 square feet left without vegetation shall be subject to replanting with non-invasive, non-harmful species;